

## **APPEALS**

Since my last report the Planning Inspectorate's name has changed to PEDW - Planning and Environment Decisions Wales. The email address for all correspondence regarding appeals is [PEDW.Casework@gov.wales](mailto:PEDW.Casework@gov.wales) quoting the appeal reference (not the number in brackets).

### **The following appeals have been received since my last report to Committee:**

|                          |   |
|--------------------------|---|
| <b>APPEAL NO.</b>        | CAS-01415-N2D3V6 (1935)   |
| <b>APPLICATION NO.</b>   | P/21/328/FUL  |
| <b>APPELLANT</b>         | MR M WALDRON  |
| <b>SUBJECT OF APPEAL</b> | CONVERSION OF AN EXISTING AGRICULTURAL BARN TO<br>CREATE A SINGLE DWELLING<br>LAND OFF DYFFRYN MADOC, MAESTEG |
| <b>PROCEDURE</b>         | WRITTEN REPRESENTATIONS   |
| <b>DECISION LEVEL</b>    | DELEGATED OFFICER   |

The application was refused for the following reasons:

1. The proposal, by reason of its countryside location, constitutes an unjustified and inappropriate form of development outside of the defined settlement boundary, which would detract from the site's rural appearance and the character of the surrounding countryside. The proposal is therefore contrary to Policy ENV1 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 11, February 2021) and Future Wales – the National Plan 2040 (Feb 2021).
2. The proposed development, by reason of its design, scale and materials, would be out of keeping with the traditional appearance of a dwelling house located in the open countryside, having a detrimental visual impact on the landscape character of this countryside and rural location contrary to Policies ENV1 and SP2 of the Bridgend Local Development Plan (2013) and Supplementary Planning Guidance SPG02: Householder Development together with and advice contained within and Technical Advice Note 12: Design (2016), Planning Policy Wales (Edition 11, February 2021) and Future Wales – the National Plan 2040 (Feb 2021).
3. The proposed highway and access road leading to the site is unsuitable to serve the proposed development, which will generate increased traffic onto this route resulting in a potential increase in vehicular and pedestrian/vehicle conflicts to the detriment of the safety and free flow of traffic in and around the site. The proposal is therefore contrary to Policy SP2 and Policy SP3 of the Bridgend Local Development Plan (2013) and advice contained within Technical Advice Note (TAN) 18: Transport (2007), Planning Policy Wales (Edition 11, February 2021) and Future Wales – the National Plan 2040 (Feb 2021).
4. The proposed development is situated in a remote, unsustainable location that is not accessible by a range of different transport modes and will overly rely on the use of the private motor vehicle. The proposal is therefore contrary to Policy SP2 and Policy SP3 of the BLDP(2013), and advice contained within Technical Advice Note (TAN) 18 – Transport (2007), Planning Policy Wales (Edition 11, February 2021), Future Wales – the National Plan 2040 (Feb 2021), Active Travel (Wales) Act 2013 and Wellbeing of Future Generations (Wales) Act 2015.

5. Insufficient information has been submitted with the planning application to allow a full and comprehensive assessment of the impact of the development on the biodiversity and ecology characteristics of the site contrary to Policies ENV6 of the Bridgend Local Development Plan 2013 and advice contained within Planning Policy Wales (Edition 11, February 2021) and Future Wales – the National Plan 2040 (Feb 2021).

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**APPEAL NO.** A/21/3275855 (1936)  
**APPLICATION NO.** P/21/103/FUL

**APPELLANT** MRS A HARRIES

**SUBJECT OF APPEAL** CHANGE INTERNAL GARAGE INTO A DOG GROOMING SALON  
5 RHYD Y NANT, PENCOED

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. The proposed development, by reason of its location and form, is contrary to Policy PLA6 of the Local Development Plan (2013) (paragraphs 3.3.13-3.3.15) as the nature of the business and the number of expected customer visits would generate a net increase in vehicular movements and would exacerbate existing problems of congestion at the approaches to the level-crossing and the Penprysg Road Rail Bridge in advance of the completion of the Penprysg Road Bridge Improvement (Relief Road Phase 2) to the detriment of the safety and free flow of traffic on the highway network.

*Since receiving the appeal I have been informed by PEDW that it is invalid due to insufficient information being received and the case is now closed.*

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**APPEAL NO.** CAS-01518-M3N6L8 (1939)  
**APPLICATION NO.** P/21/263/OUT

**APPELLANT** MR A PHILLIPS

**SUBJECT OF APPEAL** OUTLINE PLANNING APPLICATION TO CONSTRUCT A  
DETACHED DORMER BUNGALOW  
LAND ADJACENT TO 7 FAIRWAYS, NORTH CORNELLY

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed dwelling, by reason of its proposed scale parameters and siting, constitutes an overdevelopment of the site that would not preserve an adequate level of private outdoor amenity space for the occupiers of the host property (7 Fairways), contrary to Policy SP2 of the Council's Local Development Plan (2013), Note 8 of the Council's Supplementary Planning Guidance 02: Householder Development (2008)

and advice contained within Planning Policy Wales (2021).

- Insufficient information has been submitted with the planning application to determine the impact of the scheme on protected species (bats). As such, the proposal is considered contrary to Policies SP2 (10), SP4 and ENV6 of the Bridgend Local Development Plan (2013), and advice contained within Planning Policy Wales (2021).
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**The following appeals have been decided since my last report to Committee:**

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|--------------------------|--|
| <b>APPEAL NO</b>         | A/21/3277328 (1925)  |
| <b>APPLICATION NO.</b>   | P/21/285/FUL   |
| <b>APPELLANT</b>         | MR G BAYLISS   |
| <b>SUBJECT OF APPEAL</b> | DEMOLISH EXISTING GROUND FLOOR BATHROOM/WC AND STORE; CONSTRUCT TWO STOREY SIDE/REAR EXTENSION; SINGLE STOREY REAR EXTENSION WITH BALCONY ABOVE; SINGLE STOREY SIDE EXTENSION; DETACHED GARAGE GLANDYRUS, CAEHELIG, BRYNCETHIN |
| <b>PROCEDURE</b>         | HOUSEHOLDER  |
| <b>DECISION LEVEL</b>    | DELEGATED OFFICER  |
| <b>DECISION</b>          | THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED. THE COSTS APPLICATION WAS ALSO DISMISSED.   |

A copy of the appeal and costs decisions are attached as **APPENDIX A**

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|--------------------------|--|
| <b>APPEAL NO.</b>        | A/21/3280373 (1926)  |
| <b>APPLICATION NO.</b>   | P/20/898/RLX   |
| <b>APPELLANT</b>         | ALDI STORES LIMITED  |
| <b>SUBJECT OF APPEAL</b> | VARIATION OF CONDITION 1 OF PLANNING PERMISSION REF. P/14/65/RLX TO ALLOW DELIVERIES TO THE STORE BETWEEN THE HOURS OF 06:00 HOURS – 22:00 HOURS MONDAY TO SATURDAY AND 07:00 HOURS – 20:00 HOURS ON SUNDAYS AND BANK HOLIDAYS FOR A PERIOD OF 6 MONTHS ALDI, LLYNFI ROAD, MAESTEG |
| <b>PROCEDURE</b>         | WRITTEN REPRESENTATION   |
| <b>DECISION LEVEL</b>    | DELEGATED OFFICER  |
| <b>DECISION</b>          | THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED SUBJECT TO CONDITIONS  |

A copy of the appeal decision is attached as **APPENDIX B**

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**APPEAL NO.** A/21/3271534 (1927)  
**APPLICATION NO.** P/20/1024/FUL (1927)

**APPELLANT** MR M KHALIQ

**SUBJECT OF APPEAL** RETENTION OF LOCKABLE STEEL CONTAINER  
LAND AT THE REAR OF 1 & 2 JUBILEE GARDENS AND  
ADJACENT TO THE BARN, PORTHCAWL

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS  
TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL  
BE DISMISSED.

A copy of the appeal decision is attached as **APPENDIX C**

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**APPEAL NO.** A/21/3278527 (1928)  
**APPLICATION NO.** P/20/1027/FUL

**APPELLANT** MR M KHALIQ

**SUBJECT OF APPEAL** CHANGE OF USE FROM POTATO STORE TO BUILDERS YARD  
AND WORKSHOP  
LAND AT THE REAR OF 1 & 2 JUBILEE GARDENS AND  
ADJACENT TO THE BARN, PORTHCAWL

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS  
TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL  
BE DISMISSED.

A copy of the appeal decision is attached as **APPENDIX C**

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**APPEAL NO.** D/21/3281863 (1929)  
**APPLICATION NO.** P/21/239/FUL

**APPELLANT** MR S ANKERS

**SUBJECT OF APPEAL** TWO STOREY/SINGLE STOREY REAR EXTENSIONS  
4 BOWER STREET, KENFIG HILL

**PROCEDURE** HOUSEHOLDER

**DECISION LEVEL** DELEGATED OFFICER

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS

TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL  
BE ALLOWED SUBJECT TO CONDITIONS

A copy of the appeal decision is attached as **APPENDIX D**

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| <b>APPEAL NO.</b>        | A/21/3281824 (1930)  |
| <b>APPLICATION NO.</b>   | P/21/385/TPN   |
| <b>APPELLANT</b>         | HUTCHISON UK LTD   |
| <b>SUBJECT OF APPEAL</b> | PRIOR NOTIFICATION FOR PROPOSED 20.0M PHASE 8<br>MONOPOLE WITH WRAPAROUND CABINET AT BASE AND<br>ASSOCIATED ANCILLARY WORKS<br>LAND NEXT TO FARM FOODS, PENTRE FELIN RETAIL PARK,<br>TONDU |
| <b>PROCEDURE</b>         | WRITTEN REPRESENTATIONS  |
| <b>DECISION LEVEL</b>    | DELEGATED OFFICER  |
| <b>DECISION</b>          | THE INSPECTOR APPOINTED BY THE WELSH MINISTERS<br>TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL<br>BE DISMISSED.   |

A copy of the appeal decision is attached as **APPENDIX E**

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**RECOMMENDATION**

That the report of the Corporate Director Communities be noted.

**Janine Nightingale**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background Papers** (see application reference number)



## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 16/09/21

gan Nicola Gulley MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17/12/2021

## Appeal Decision

Site visit made on 16/09/21

by Nicola Gulley MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 17/12/2021

**Appeal Ref: APP/F6915/A/21/3277328**

**Site address: Glandyris, Caehelig, Bryncethin, Bridgend CF32 9YD**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr G. Bayliss against the decision of Bridgend Borough County Council.
- The development proposed is to demolish the existing ground floor bathroom/wc and store, construct two storey side/rear extension, a single storey rear extension with balcony above, single storey side extension and detached garage.

### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Mr G. Bayliss against Bridgend County Council. This application will be the subject of a separate decision.

### Procedural Matters

3. I note that the description of development on the application differs from that on the appeal form. The Council has determined the application on the basis of the description on the appeal form and I shall do the same.
4. The appeal was lodged against the failure of the Council to determine the application within the period prescribed in the Town and Country Planning Act 1990. I am mindful however, that the Council determined the application within the dual jurisdiction period and, as a consequence, I will consider the appeal on the basis that it is made against the refusal of planning permission.

### Main Issues

5. The main issues are the impact of the proposed development on the character and appearance of the appeal dwelling and surrounding area.

### Reasons

6. The appeal site is located in the countryside outside the settlement of Bryncethin, Bridgend. The site comprises a traditional, detached two-storey dwelling with a number of single storey extensions, which is in a poor state of repair. The appeal dwelling is set in a modest sized garden which is enclosed by low, dressed stone wall. The area surrounding

the site is characterise by isolated rural dwellings and farm complexes, such as that of the neighbouring property of Manor Edwin, set in attractive open countryside.

7. Policies SP2 and ENV1 of the Adopted Bridgend Local Development Plan (LDP) (2013) seek, amongst other things, to ensure that all new development contributes towards creating high quality, attractive, sustainable places, respects and enhances local character and distinctiveness and is of an appropriate scale, size and prominence. In the case of development in the countryside, Policy ENV1 makes clear that it will be strictly controlled and that the limited extension of existing structurally sound rural buildings may be acceptable where the development is modest in scale and clearly subordinate to the original structure.
8. Additional guidance is contained in the Householder Development Supplementary Planning Guidance (SPG) (2008) which requires that extensions to dwellings in the countryside do not exceed the limits set by the Town and Country Planning (General Permitted Development) Order 1995 or 25% of the gross residential floor area of the original dwelling. Whilst I note that the SPG was approved sometime before the LDP was adopted, I consider that the guidance provided by the document still broadly aligns with the objectives of national policy and policies SP2 and ENV1. As such, I will afford the SPG weight in the determination of this appeal.
9. The development proposes to demolish the existing single storey extensions and to construct a two storey side extension with a pitched roofline, a single storey rear extension with balcony above, a single storey mono-pitched side and front extension and a detached garage. I am advised by the appellant that the proposal would increase the gross internal floor area of the appeal dwelling from 135 square metres to 276 square metres. The proposed extensions would be finished in a combination of smooth render, timber cladding, glazing panels and have a slated roof.
10. The basis of the Council's concerns are that the proposal would: be an excessive, incongruous and overly prominent form of development in the countryside that would have a harmful impact on the character and appearance of the appeal dwelling; and that the proposed materials and finishes would be out of keeping with the appeal dwelling and result in the loss of the character of the original cottage.
11. Conversely, the appellant maintains that the proposal would ensure the preservation of the appeal dwelling in a manner that would not be overly prominent, but would enhance and integrate with the existing character of the original building and would meet the needs of his family. It is further suggested that the scale and design of the proposed development is necessary to improve the environmental performance of the building and achieve the carbon neutrality sought by the appellant.
12. Although I note the appellant's comments, I consider that the scale and design of the proposed extensions, which would enclose the appeal dwelling on three sides, coupled with the increase in the ground floor area of the development, which would be twice that of the existing property, would result in a form of development that would fail to respect the modest scale, form and character of the appeal dwelling. Moreover, the nature of the proposed materials and finishes would in my view be overtly modern and be in stark contrast to the simple, traditional materials of the neighbouring property of Manor Edwin and the character and appearance of the rural dwellings in the area surrounding the appeal site.
13. As such, I consider that the proposal would have a detrimental effect on the character and appearance of the appeal dwelling and the surrounding area and be contrary to the objectives of Policies SP2 and ENV1 of the LDP and the SPG.

## Other Matters

14. In support of the proposal the appellant has drawn my attention to a number of other developments within the County Borough which it is contended are similar to that proposed. Whilst the examples provided are noted, I am conscious that the nature of these developments, specifically in relation to the scale, siting and relationship with the host dwelling, differ from that of the appeal proposal. I have in any case determined the appeal on its own merits.

## Conclusions

15. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

16. I have also had regard to all the matters raised in support of the scheme. However, none of these factors are sufficient to alter my overall conclusions that the proposed development would have a harmful impact on the character and appearance of the appeal dwelling and surrounding area.

17. For the reasons given above, I conclude that the appeal should be dismissed.

*Nicola Gulley*

Inspector





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## Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 16/09/21

gan Nicola Gulley MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 10/01/2022

## Costs Decision

Site visit made on 16/09/21

by Nicola Gulley MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 10/01/2022

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**Costs application in relation to Appeal Ref: APP/F6915/A/21/3277328**

**Site address: Glandyris, Caehelig, Bryncethin, Bridgend CF32 9YD**

**The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
  - The application is made by Mr G. Bayliss against the decision of Bridgend Borough County Council.
  - The appeal was against the failure to determine the application to demolish the existing ground floor bathroom/wc and store, construct a two storey side/rear extension, a single storey rear extension with balcony above, single storey side extension and detached garage.
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## Decision

1. The application for a full award of costs is refused.

### The submissions for Mr G. Bayliss

2. The appellant's case was submitted in writing.

### The response by Bridgend County Council.

3. No response has been submitted by the Council.

## Reasons

4. The Development Management Manual (DMM), Section 12 Annex: Award of Costs advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
  5. The appellant contends that the Council has behaved unreasonably because it has failed to determine the above application within the statutory 8 week period.
  6. The evidence submitted as part of the appeal process suggests that the application was submitted on the 29 March 2021 and determined on 15 July 2021. A total of nearly 17 weeks.
  7. Article 22 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 makes clear that local planning authorities have a period of eight weeks to determine an application starting from the date on which an application was received. The DMM, paragraph 9.3.3 explains that the statutory determination period should apply unless a longer period has been agreed in writing between the applicant and local planning authority. No evidence has been presented that explains the delay in the determination of the application or seeks the appellant's agreement to extend the determination period for the application.
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8. Whilst I am mindful that these are unprecedented times and that the Welsh Government acknowledge that statutory timescales will not be met in all cases<sup>1</sup>, I consider that the Council's failure to determine the application within the statutory period and the absence of any reasonable explanation for the delay, constitutes of unreasonable behaviour. That said, based on the evidence submitted by both parties as part of the appeal, it is clear that communication between the appellant and the Council would not have resulted in a different decision. As such the Council's failure to determine the application within the statutory period, whilst unreasonable behaviour, did not result in unnecessary or wasted expense.

**Conclusion**

9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the DMM, Section 12 Annex: Award of Costs, has not been demonstrated.

*Nicola Gulley*

INSPECTOR

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<sup>1</sup> Letter from the Chief Planning Officer, Welsh Government to Heads of Planning, dated the 29 April 2020.



## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 04/11/21

gan Richard E. Jenkins BA (Hons) MSC  
MRTPI

Arolygydd a benodir gan Weinidogion  
Cymru

Dyddiad: 23/12/2021

## Appeal Decision

Site visit made on 04/11/21

by Richard E. Jenkins BA (Hons) MSC  
MRTPI

an Inspector appointed by the Welsh  
Ministers

Date: 23/12/2021

Appeal Ref: APP/F6915/A/21/3280373

Site Address: Aldi, Unit 1, Llynfi Walk, Llynfi Road, Maesteg, CF34 9DS

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under Section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Aldi Stores Limited against the decision of Bridgend County Borough Council.
- The application Ref: P/20/898/RLX, dated 12 November 2020, was refused by notice dated 15 April 2021.
- The application, as amended, sought planning permission for the variation of condition No.1 of planning permission Ref: P/14/65/RLX to allow deliveries to the store between the hours of 06:00 hours – 22:00 hours Monday to Saturday and 07:00 hours and 20:00 hours on Sundays and Bank Holidays for a period of 6 months.
- The condition in dispute is No.1 which states that the unloading of delivery vehicles to the Aldi store shall not take place outside of the following times: 07:00 hours and 20:00 hours.
- The reason given for the condition is: In the interest of residential amenities and for the avoidance of doubt as to the scope of the consent.

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. I have taken the description of development from the Council's Notice of Decision. As this is consistent with that outlined on the Appeal Form, there is no prejudice in this respect.

### Main Issue

3. This is whether the variation of condition is justified, having particular regard to the effect of the proposed development upon the living conditions of the occupiers of the residential

properties located along Llynfi Road, with specific reference to levels of noise and general disturbance.

## Reasons

4. The appeal relates to the existing Aldi store located at Llynfi Walk in Maesteg. Delivery procedures at the retail store are currently restricted by Condition No.1 of planning permission Ref: P/14/65/RLX to between 07:00 hours and 20:00 hours daily. The appeal proposal seeks to vary such restrictions for a temporary period of 6 months to allow deliveries to the store between the hours of 06:00 and 22:00 hours on Mondays to Saturdays and 07:00 and 20:00 hours on Sundays and Bank Holidays. The evidence indicates that the change is sought to provide greater operational flexibility, with the temporary period proposed to enable the relevant bodies to review the impact of the prospective early morning deliveries on the residential amenities of the occupiers of neighbouring residential properties.
5. The application was supported by an Acoustic Report prepared by specialist acoustic consultants that concludes that the deliveries themselves would not cause an adverse impact during the unloading of goods to the rear of the store. I have not seen any evidence to lead me to a different conclusion on this point. Nevertheless, the appellant's own consultant accepts that there would be peak noise levels associated with the delivery vehicle pass-bys on Llynfi Road as they approach and depart from the retail complex. Although not directly assessed as part of the original Acoustic Report, the appellant's consultants accepted at that time that delivery vehicle pass-by noise would be expected to be in the region of 70 to 75dB LAmax, with that prediction confirmed to be the case through the survey of delivery pass by events undertaken to inform the appellant's Appeal Statement.
6. Whilst such peak noise levels are above the WHO peak noise guideline value of 60dB LAmax, the appellant notes that the WHO guideline noise value of 60dB LAmax is the level at which sleep disturbance may occur and does not mean that such noise levels would necessarily awake nearby occupiers. Rather, it is submitted that the process of restorative sleep may be affected where, for example, the depth of sleep may vary or eyelids may flicker. However, whilst I have no reason to dispute such advice, the evidence indicates that pass-by noise levels, particularly at the properties nearest to the vehicular entrance to the Aldi/ Iceland complex, would be significantly above the 60dB LAmax guideline value referred by WHO. I therefore remain concerned that the proposed variation of condition could lead to unacceptable adverse impacts on the amenities of nearby residential properties. It is also important that such concerns are considered within the context that such pass-by noise would not be subject of the Council's statutory nuisance powers given that it would be generated on a public highway.
7. I have considered the fact that the evidence illustrates that, from 06:00 hours, there is an increasing number of peak noise events that exceed the WHO peak noise guideline value of 60dB LAmax<sup>1</sup>. However, this simply serves to reinforce my overall concerns, not least because the appellant's own evidence points to advice that indicates that, for good sleep, indoor sound pressure levels should not exceed peak noise levels more than 10-15 times a night. Indeed, whilst the proposal would not in itself generate such a quantum of deliveries, it would clearly add to the existing proliferation of peak noise level instances prior to 07:00 hours which represents the delivery time permissible under the extant planning permission.

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<sup>1</sup> Refer Figure 2 of appellants Appeal Statement

8. Much of the appellant's case relates to the fact that Aldi has had regular deliveries to the store between 05:00 and 07:00 hours during the COVID pandemic, with no noise complaints received from the occupier of nearby residential properties. However, the evidence indicates that such early morning deliveries largely took place during winter months when the residents of Llynfi Road would be likely to have their windows closed. A delivery schedule between the warmer months of April and July has not been made available. Notwithstanding such matters, objections on noise grounds have been received from interested parties in respect of the current proposal, with pass-by traffic noise cited as a concern.
9. The Council's Environmental Health Officer advised the Case Officer at the time of the planning application that, should the application be recommended for approval, permission should only be granted on a temporary basis so that any impact can be monitored. Nevertheless, whilst I recognise that the temporary permission sought through the terms of the application would provide an opportunity to measure such impacts, Welsh Government Circular 016/2014: *The Use of Planning Conditions for Development Management* (Circular 16/2014) (October 2014) is clear that, where objections to a development arise in response to its effect on, for example, the quality of life of the occupants of nearby residential properties, they should, if necessary, be met by conditions that would safeguard that amenity. If it is not possible to devise such conditions, and if the damage to amenity cannot be accepted, then the only course open is to refuse permission.
10. I have concluded above that the proposed variation of condition would have potential to contribute to a significant adverse noise impact at nearby residential properties and, therefore, cause material harm to the living conditions of the neighbouring occupiers. I have not seen anything to suggest that such harm could be safeguarded through the use of conditions. As such, and bearing in mind the fact that a 6 month period is not an insignificant period of time, I find that the proposal remains unjustified in this instance. The appeal proposal would therefore conflict with the aims of Policy SP2 of the adopted Bridgend County Borough Council Local Development Plan (LDP) (2013) which, amongst other things, seeks to ensure that proposals avoid or minimise noise pollution and do not adversely affect the amenity of neighbouring occupiers. For the same reasons, it would also conflict with the thrust of the well-being principles that underpin national policy.
11. For these reasons, and having considered all matters raised, I conclude that the appeal should be dismissed. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

*Richard E. Jenkins*

INSPECTOR



## enderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 04/11/21

gan **Richard E. Jenkins BA (Hons) MSC MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: **04/01/2022**

## Appeal Decision

Site visit made on 04/11/21

by **Richard E. Jenkins BA (Hons) MSC MRTPI**

an Inspector appointed by the Welsh Ministers

Date: **04/01/2022**

### Appeal A - Ref: APP/F6915/A/21/3278527

Site address: Land at rear of 1 and 2 Jubilee Gardens and adjacent to the Barn, CF36 3TB

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Khaliq against the decision of Bridgend County Borough Council.
- The development proposed is the change of use from potato store to builders yard and workshop.

### Appeal B - Ref: APP/F6915/A/21/3278542

Site address: Land at rear of 1 and 2 Jubilee Gardens and adjacent to the Barn, CF36 3TB

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Khaliq against the decision of Bridgend County Borough Council.
- The development proposed is the retention of lockable steel container.

## Decisions

### *Appeal A - Ref: APP/F6915/A/21/3278527*

1. **The appeal is dismissed.**

### *Appeal B - Ref: APP/F6915/A/21/3278542*

2. **The appeal is dismissed.**

## Procedural Matters

3. As set out above, there are two appeals at the above address. To avoid duplication, I shall deal with both appeals together in this single document, albeit with separate formal decisions.
4. I have taken the description of development for both appeals from the respective Decision Notices. As these are broadly consistent with those described on the corresponding application and appeal forms, I am satisfied that there is no prejudice in this respect.
5. Whilst the description of development in respect of Appeal B relates to the retention of a lockable steel container, it was clear at the time of my site visit that the container has been removed from the site. A description of the storage container and approximate dimensions have been provided. The wider evidence also incorporates photographs of the structure. I shall consider the appeal on the basis of the available information.

## Main Issues

6. Having regard to the principal matters of dispute, the main issues in the determination of the appeal are: whether the development would be acceptable in principle, having regard to the planning policy framework; the effect of the proposed development upon the living conditions of neighbouring residential properties, having regard to levels of noise and general disturbance; and the effect of the proposed development upon pedestrian and highway safety.

## Reasons

7. The appeals relate to a parcel of land located to the rear of Nos.1 and 2 Jubilee Gardens, Porthcawl. The site is accessed via an existing access road that runs directly between Nos.2 and 3 Jubilee Gardens and incorporates a detached single storey building that was erected under permitted development rights as an agricultural building, rest room and garage for the storage of potato harvest machinery<sup>1</sup>. Appeal A seeks retrospective planning permission, under Section S.73A(2)(a) of the Act, for the change of use of the land to a builders yard and associated workshop<sup>2</sup>. As set out above, Appeal B seeks planning permission for the siting of a metal storage container that would be used in connection with the wider use proposed under Appeal A.

### *Principle of Development*

8. The site is located outside of the settlement boundaries defined by the adopted Bridgend Local Development Plan 2006- 2021 (Adopted September 2013) (LDP)<sup>3</sup> and is therefore classified as countryside for the purposes of planning policy. Policy ENV1 of the adopted LDP outlines the policy framework for proposals in the countryside and I have not seen anything to suggest that the development proposed in this instance would satisfy the provisions of that policy. I have also not seen anything to lead me to conclude that the proposal would represent a sustainable form of development. The development proposed by both Appeal A and Appeal B would therefore run counter to the aims of Policies PLA1 and ENV1 of the adopted LDP which collectively seek to strictly control development within the countryside.
9. It follows that the proposed building yard and associated storage container would represent an unjustified incursion into the countryside and there is no doubt that such

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<sup>1</sup> LPA Ref: P/04/1366/APN

<sup>2</sup> LPA Ref: P/20/1027/FUL

<sup>3</sup> Policy PLA1 and the associated Proposals Map of the adopted LDP

developments would conflict with the rural character of the immediate surroundings. In coming to this conclusion, I have considered the existing developments within the area. However, the site clearly extends beyond the built form of Jubilee Gardens and the existing building on site is lawfully associated with an agricultural use. Such factors do not, therefore, justify the proposed developments. Similarly, the wider land uses in the area, including the stable blocks and associated paddock, incorporate inherent rural characteristics. The developments would also, therefore, conflict with the aims of Policy SP2 of the adopted LDP.

10. For the aforementioned reasons, I find that the developments subject of both Appeal A and Appeal B would be unacceptable in principle and contrary to the thrust of national and local planning policy.

#### *Living Conditions*

11. I was able to confirm at the time of my site inspection that the appeal site, and in particular the proposed workshop, is located within close proximity to the shared boundaries with Nos.1 and 2. As such, there is little doubt in my mind that the use of the site as a building yard with workshop, and indeed the use of the storage container in association with that use, would have potential to result in significant levels of noise and disturbance that would be incompatible with the adjacent residential uses. Indeed, the nature of the development could in itself cause significant disruption, whilst associated traffic utilising the access road between Nos.2 and 3 could have potential to significantly exacerbate such impacts, particularly should the use attract heavy goods vehicles.
12. I have not seen anything to lead me to believe that such concerns could be reasonably mitigated through the imposition of suitably worded planning conditions. As such, I find that the development proposed by both Appeal A and Appeal B would have potential to cause material harm to the living conditions of the occupiers of neighbouring residential properties by reason of levels of noise and general disturbance. The development would, in this respect, conflict with Policy SP2 and ENV7 of the adopted LDP, as well as the policy framework set at a national level.

#### *Pedestrian and Highway Safety*

13. I have not seen any cogent evidence to indicate that the steel container proposed under Appeal B would, in itself, represent a risk to either pedestrian or highway safety in the area. Nonetheless, the wider change of use proposed under Appeal A would clearly result in an intensification of use of the access route leading to the site and, having regard to the types of vehicles likely to be associated with such a use, I consider that the development would undermine both pedestrian and highway safety in the area. In coming to this conclusion, I have been mindful of the lack of detailed information regarding the turning of large vehicles on site. I was also able to experience difficulty egressing from Jubilee Gardens on to the A4229 at the time of my site visit. As such, and bearing in mind the personal injury accident data for the area, I concur with the Council's assessment that the development would, on the basis of the available evidence, represent a threat to both pedestrian and highway safety and, therefore, run counter to the aims of Policy SP2 and SP3 of the adopted LDP.

### **Overall Conclusions**

14. Based on the foregoing analysis, I have found that the development subject of the above appeals would be unacceptable in principle and would have potential to cause significant harm to the living conditions of the occupiers of neighbouring residential properties, with particular reference to levels of noise and general disturbance. I have also found that the change of use proposed under Appeal A would represent a material



risk to pedestrian and highway safety. The proposals therefore conflict with the aims of the adopted LDP and, for the same reasons, also conflict with the placemaking and well-being principles that underpin national policy. I consider such harm and associated policy conflict to represent compelling reasons why planning permission should be withheld in this instance. Indeed, such harm would not be outweighed, either individually or cumulatively, by the matters advanced in favour of the development, including the economic benefits that would be associated with the proposed use.

15. For these reasons, and having considered all matters raised, I conclude that both Appeal A and Appeal B should be dismissed. In coming to these decisions, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. They are also in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives, as required by section 8 of the WBFG Act.

*Richard E. Jenkins*

INSPECTOR



## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 19/10/21

gan **Melissa Hall BA(Hons), BTP, MSc, MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 09/12/2021

## Appeal Decision

Site visit made on 19/10/21

by **Melissa Hall BA(Hons), BTP, MSc, MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 09/12/2021

**Appeal Ref: APP/F6915/D/21/3281863**

**Site address: 4 Bower Street, Kenfig Hill, Bridgend CF33 6NE**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr S Ankers against the decision of Bridgend County Borough Council.
- The development proposed is two storey / single storey extensions.

### Decision

1. The appeal is allowed and planning permission is granted for two storey / single storey extensions at 4 Bower Street, Kenfig Hill, Bridgend CF33 6NE in accordance with the terms of the application, Ref. P/21/239/FUL, dated 18 February 2021, subject to the following conditions:
  1. The development hereby permitted shall begin no later than five years from the date of this decision.  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
  2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.  
Reason: To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area.
  3. The development hereby permitted shall be carried out in accordance with the approved plans.  
Reason: To ensure compliance with the approved plans and clearly define the scope of the permission.

### Procedural and Preliminary Matters

2. The description of development on the planning application form reads 'Ground and first floor rear extension'. The Council changed the description to 'Two storey / single storey extensions' prior to its determination of the application. I am satisfied that the amended description accurately reflects the development proposed. I have therefore used the amended description for the purposes of my decision, and no party is prejudiced by my doing so.

3. I note that the scheme was amended during the course of the application, which comprised the re-location of the first floor window on the rear elevation. The Council made its decision on the amended scheme and it is on this basis that I determine the appeal.
4. The Council's reason for refusal refers to the siting, scale and design of the proposed development and its effect on the residential amenities enjoyed by the occupiers of the neighbouring property, 6 Bower Street. Nevertheless, its officer's report outlines concerns solely in relation to the effect of the first floor bedroom window in the two storey element on the privacy of the occupiers of this neighbouring dwelling. The Council makes clear in the same report that it does not take issue with the single story extensions. Neither does it raise any concern regarding the physical impact of the development on the amenities of the occupiers of any neighbouring properties.

### Main Issue

5. In the context of the above, the main issue in this case is the effect of the proposed two storey extension on the living conditions of neighbours, with particular regard to privacy.

### Reasons

6. The siting of the appeal property is such that its rear elevation is angled towards the neighbouring dwelling to the south at 6 Bower Street, albeit from a position further back in its site than No 6 when seen from the rear garden. The effect of this siting relationship is that the outlook from the rear facing habitable room windows of the appeal property is not only over its own rear garden but also towards the conservatory and private rear amenity space of No 6. As such, the privacy of the occupants of No 6 is already affected to a greater extent than that normally experienced between neighbouring residential properties.
7. I do not dispute that the outlook from the first floor habitable room window of the proposed extension would result in views of the rear garden of the neighbouring property from a closer proximity than is currently the case. Nevertheless, the amended position of the window is such that a distance in the order of 10.5 metres would be maintained between the window and the boundary when taken in a straight line. In this regard, my attention has been drawn to the Council's Supplementary Planning Guidance '*SPG 02 Householder Development*' (SPG), which advises that '*To reduce the loss of privacy it is recommended that the minimum distance from the new habitable room window to the boundary should be 10.5 metres.....*'<sup>1</sup>. I therefore consider that, overall, the proposal would comply with the advice in the SPG. Whilst I acknowledge that there would be an angled view of the neighbour's garden that would not achieve the separation distance referenced in the SPG, given the siting relationship that I have described and that the overlooking would not be direct, I do not find that it would result in additional harm to the living conditions of the occupiers of No 6 that could justify the refusal of planning permission.
8. Turning to the conservatory, I have already noted that there are views into the space from the habitable room windows of the existing dwelling. Although I accept that the extension would bring the conservatory into closer proximity, the viewing angle from the habitable room window would change from that which currently exists given the siting relationship and the extension's projection.
9. The Council's argument is that the proposed first floor bedroom window would afford views into the neighbour's conservatory, failing to meet the required 21 metre separation distance referred to in the SPG. However, from my reading of Note 6 of the SPG to which the Council refers and which deals with privacy, the 21 metres relates specifically to the minimum distance between directly facing habitable room windows in adjacent properties (my emphasis). That is not the case here.
10. The outlook from the first floor window in the two storey extension would be at an oblique angle rather than increasing the direct line of sight of the neighbours' conservatory. Hence, I do not consider that the outlook towards the conservatory would be altered to a significant degree such

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<sup>1</sup> Paragraph 4.6.3 of the SPG

that there would be any material impact on the privacy of the occupants of No 6 over and above that of the existing situation.

11. Accordingly, the proposal would accord with the requirements of Policy SP2 of the adopted Bridgend Local Development Plan, which *inter alia* seeks to ensure that the amenity of neighbouring uses and occupiers is not adversely affected. It would also be consistent with the advice in the SPG, Technical Advice Note 12 '*Design*', Planning Policy Wales and Future Wales in terms of the need to protect the living conditions of neighbours.

### **Conclusions**

12. For the reasons I have given, and having regard to all matters raised, the appeal is allowed.
13. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of making our cities, towns and villages even better places in which to live and work.

*Melissa Hall*

Inspector



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|---|---|
| <b>Penderfyniad ar yr Apêl</b>            | <b>Appeal Decision</b>                        |
| Ymweliad â safle a wnaed ar 10/11/2021    | Site visit made on 10/11/2021                 |
| gan A L McCooey BA (Hons) MSc             | by A L McCooey BA (Hons) MSc                  |
| Arolygydd a benodir gan Weinidogion Cymru | an Inspector appointed by the Welsh Ministers |
| Dyddiad: 09/12/2021                       | Date: 09/12/2021                              |

**Appeal Ref: APP/F6915/A/21/3281824**

**Site address: Land adj. Farm Foods, Pentre Felin Retail Park, Tondu CF32 9GP**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval under the provisions of Part 24 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended.
- The appeal is made by Hutchison UK Ltd against the decision of Bridgend County Borough Council.
- The development proposed is a 20m Phase 8 Monopole with wraparound cabinet at base and associated ancillary work.

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. Part 24 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) grants planning permission for certain classes of development subject to standard conditions. The appeal relates to an application for prior approval under such provisions, meaning that the principle of development is already established by law. The provisions do however require Local Planning Authorities (LPAs) to assess such developments on the basis of their siting and appearance. I shall consider the appeal accordingly. The LPA determined that Prior Approval was required for the siting and appearance of the development and that such approval was refused on the basis that the proposed siting would conflict with Council Policy and guidelines with the scheme raising highway safety concerns.

## Main Issue

3. The main issue is the effect of the proposed equipment on highway safety and the provisions and allocations of the Local Development Plan.

## Reasons

4. The mast and ancillary development is to be sited on a grassed area between the above retail park and the A4063, close to its junction with the A4065. The LPA confirmed that the parcel of land has been provided to the Highway Authority for highway improvements as part of a major development nearby, allocated under Policy PLA3 (10) of the Local Development Plan. Policy PLA8 (3) provides for the associated highway improvements to the A4063 involving the site and adjoining land. Outline planning permission and reserved matters consent have been granted for the development and associated highway improvement affecting the appeal proposal. The implementation of the associated highway improvements are an essential part of the overall development. The Council and the developer of the allocated site (the developer) have confirmed their commitment to the scheme. The relevant planning permissions are in place and the details required by conditions have been approved. It has been demonstrated that the developer is progressing the delivery of the approved development.
5. The proposed siting would be within the area subject to highway improvements. The developer has objected to the proposal and has provided the approved detailed plans of the highway works. The location of the proposal as submitted has been superimposed on the approved highway layout plan. This shows that the mast and ancillary development would be close to the new footway in an area required for forward visibility. Any obstacles to visibility in these splays are not permitted because they would be detrimental to highway safety. The appellant has provided a plan (Figure 2.1) purporting to show that the proposal would be outside the area. However, the location shown on this plan does not accord with the plans submitted with the application. As the Council points out the location shown in the appellant's Figure 2.1 is to the south and west of the actual application siting. I must deal with the appeal on the basis of the information that was before the Council when it made its determination. The evidence of the Council and the developer clearly demonstrates that the proposal would prejudice the implementation of the required highway improvements for the reasons given. This would be detrimental to highway safety and to the relevant policies of the Local Development Plan.
6. In addition, were the proposal to be constructed as submitted then it would have to be re-located when the highway scheme is implemented. This would both delay the scheme and temporarily affect the appellant's network coverage and customers. There would also be the associated financial and environmental costs of relocation.
7. I have taken into account the policy and government support for improvements to telecommunications infrastructure (especially 5G technology), and the benefits such technology brings, as outlined in the submissions. I give these matters significant weight in this decision. However, they do not outweigh the issues identified above.
8. The alternative options and locations considered prior to the submission of the application have been supplied and are noted. However, no consideration has been given to amending the proposed siting within the immediate vicinity in order to avoid the identified highway safety problems. The developer has indicated that this may be possible and has stated a willingness to work with the appellant to resolve the siting issue. The agent has supplied information on several other issues that are not in dispute in this case and do not form part of the reasons for refusal. This information is not relevant to the identified main issue.

## **Conclusion**

9. Having taken all relevant matters into consideration, I conclude that the appeal should be dismissed for the reasons given above.
10. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

*A L McCooey*

Inspector