

APPEALS

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

APPEAL NO.	A/20/3254083 (1896)
APPLICATION NO.	P/19/580/FUL
APPELLANT	MR ROBERTS & MRS PREECE
SUBJECT OF APPEAL	2 STATIC RESIDENTIAL GYPSY CARAVANS, 2 DAY/ UTILITY ROOMS, 2 TOURING CARAVANS, IMPROVED ACCESS, INTERNAL DRIVEWAY & PARKING AREA, FENCING, RETENTION OF HARDCORE AREA & INSTALLATION OF SEPTIC TANK: LAND EAST OF ZOAR CHAPEL WERN TARW ROAD, RHIWCEILIOG, PENCOED
PROCEDURE	HEARING
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposal, by reason of its siting, layout design and scale, represents an inappropriate and unjustified form of development in this countryside location that would detract from the rural character and appearance of the area contrary to Policy COM6-Gypsy and Travellers Sites and Policy SP2 – Design and Sustainable Place Making of the Bridgend County Borough Council Local Development Plan 2006-2021; and advice contained in Planning Policy Wales Ed.10 (December, 2018), TAN12-Design and Welsh Government Circular 30/2007 Planning for Gypsy and Traveller Caravan Sites (December 2007).
2. The proposed development would result in the unjustified loss of part of Hendre Uchaf Site of Importance for Nature Conservation (SINC) that would result in disruption to habitat connectivity, compromising the biodiversity value of this 'Green Infrastructure' and therefore contrary to Policies SP2, ENV4, ENV6 of the Bridgend Local Development Plan 2013 and paragraphs 6.4 of Planning Policy Wales – Edition 10 – December 2018.
3. The proposed development, by reason of its siting in a remote, unsustainable location that is not accessible by a range of different transport modes, will wholly rely on the use of private motor vehicles contrary to policy SP2 (6) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 10, 2018).
4. The proposed development, by reason of its form, type and location, would generate pedestrian movements along Church Road towards Brynna and Minffrwd Road towards Pencoed where there are no pedestrian footways generating a risk of pedestrian/vehicular conflict to the detriment of highway safety. The proposal is therefore contrary to Policies SP2 and SP3 of the Bridgend Local Development Plan (2013), advice contained within Planning Policy Wales, Edition 10, 2018 and Circular 005/2018.

APPEAL NO.	C/21/3269231 (1951)
ENFORCEMENT NO.	ENF/51/19/ACK
APPELLANT	MR & MRS TOM & MONTENNA ROBERTS
SUBJECT OF APPEAL	UNAUTHORISED TRAVELLER SITE LAND EAST OF ZOAR CHAPEL, WERN TARW ROAD, RHIWCEILIOG, PENCOED

PROCEDURE HEARING
DECISION LEVEL ENFORCEMENT NOTICE

APPEAL NO. CAS-02051-R7H6K0 (1958)
APPLICATION NO. P/22/205/RLX
APPELLANT C SELFRIDGE-POOR
SUBJECT OF APPEAL VARY CONDITION 1 OF P/21/420/FUL – AMENDED DESIGN OF GRANNY ANNEX
15 WEST DRIVE, PORTHCAWL
PROCEDURE WRITTEN REPRESENTATIONS
DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reasons:

1. The development, by reason of its siting, design and amended roof form, would represent an unsympathetic and incongruous addition to the property and wider street scene having a detrimental impact on local visual amenities, contrary to Policy SP2 of the Bridgend Local Development Plan (2013), Supplementary Planning Guidance Note 02: Householder Development (2008) and advice contained within Planning Policy Wales (Edition 11, 2021).
 2. The development, by reason of its siting, design and revised roof form would have an unreasonably dominant, unneighbourly and imposing impact on neighbouring residential properties, particularly Brandon, to the detriment of the residential amenities enjoyed by the occupiers of neighbouring properties. The proposal is therefore contrary to Policy SP2 of the Bridgend Local Development Plan (2013), the principles of Supplementary Planning Guidance 02: Householder Development (2008) and advice contained within Planning Policy Wales (Edition 11, 2021).
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APPEAL NO. CAS-02058-H2T2R2 (1959)
APPLICATION NO. P/21/988/FUL
APPELLANT MR J BARBER
SUBJECT OF APPEAL CHANGE OF USE FROM USE CLASS B1/B2 TO USE CLASS D1 (HEALTH CLINIC)
UNIT 1A AND 2A HEOL FFALDAU, BRACKLA INDUSTRIAL ESTATE, BRIDGEND
PROCEDURE WRITTEN REPRESENTATIONS
DECISION LEVEL COMMITTEE

The application was refused for the following reasons:

1. The use of Units 1 and 2 as a chiropractic clinic falling within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 conflicts with Policy REG1 (18) which allocates and protects the land for employment purposes (Classes B1, B2 and B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987) in that the use is not considered to be complementary to nor ancillary to the industrial uses on Brackla Industrial Estate. Therefore,

the proposal does not comply with Policies SP2 and REG2 of the Local Development Plan (2013), Supplementary Planning Guidance 21: Safeguarding Employment Sites and guidance contained within Planning Policy Wales (Edition 11, February 2021).

2. The proposed development fails to provide sufficient on-site parking to serve the D1 use and would generate on-street parking in close proximity to a bend and junction to the detriment of highway safety, out of accord with Policy PLA11 of the Local Development Plan (2013), guidance contained within Supplementary Planning Guidance 17: Parking Standards and guidance contained within Planning Policy Wales (Edition 11, February 2021).
3. The proposed use would also be sited within a relatively unsustainable location that is not accessible by a range of transport modes such as walking, cycling and public transport leading to an excessive reliance on the private car, out of accord with Policy SP2 of the Local Development Plan (2013) and guidance contained within Planning Policy Wales (Edition 11, February 2021).

APPEAL NO.	CAS-02130-Q2Z4J5 (1965)
APPLICATION NO.	P/21/909/RLX
APPELLANT	MR R DERRICK
SUBJECT OF APPEAL	VARY CONDITION 1 & REMOVE CONDITION 4 OF P/19/371/FUL (PROPOSED CONVERSION (INCLUDING EXTENSIONS) OF 2 STONE BARNS & ASSOCIATED LAND TO 2 DWELLINGS WITH PRIVATE GARDEN SPACE & COURTYARD AREA FOR ACCOMMODATING ASSOCIATED PARKING SPACES) LAND BETWEEN PYLE ROAD & FULMAR ROAD, NOTTAGE, PORTHCAWL
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	COMMITTEE

The application was refused for the following reasons:

1. The proposed removal of Condition 4 and subsequent variation of Condition 1 imposed upon planning permission reference P19/371/FUL is contrary to the provisions of Planning Policy Wales (Edition 11, February 2021) in that it does not provide 'the right environments and infrastructure to make it easier for people to walk and cycle' by prioritising and increasing active travel and public transport, reducing reliance on travel by private car, and the adverse impacts of motorised transport on the environment and people's health (paragraph 4.1.29).
2. The proposed reduction of the north eastern stone boundary wall to a height of 600mm, required to satisfy the vision splay requirements, has a detrimental adverse visual impact upon Nottage Conservation Area, contrary to the provisions of Policy SP5 of the Local Development Plan (2013) and Planning Policy Wales (Edition 11, February 2021) (paragraphs 6.1.4 – 6.1.9).
3. Insufficient information is submitted in respect of the proposed wall height, footway levels and site ground levels to enable an assessment of highway and pedestrian safety, fall from height considerations to be made.

APPEAL NO.	CAS-02159-S2N0T9 (1971)
APPLICATION NO.	P/22/228/FUL
APPELLANT	MR R RICHARDSON

SUBJECT OF APPEAL DINING ROOM EXTENSION
9 DUFFRYN OAKS DRIVE, PENCOED

PROCEDURE HOUSEHOLDER

DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed extension, by reason of its scale, design and siting, is not in keeping with the proportions of the main house, having a significant detrimental impact on the appearance of the property in the streetscene, contrary to policy SP2 of the Bridgend Local Development Plan (2013) and advice contained at Notes 11 and 12 of SPG2 – Householder Development and within Planning Policy Wales 11.
2. The proposed extension, by reason of its scale and siting, fails to retain a sufficient amount of useable outdoor amenity space for the future occupiers of the dwelling contrary to Policy SP2 of the Bridgend Local Development Plan 2013 and advice contained within Note 8 of SPG2 – Householder Development and Planning Policy Wales 11.

The following appeals have been decided since my last report to Committee:

APPEAL NO. A/20/3253547 (1895)

APPLICATION NO. P/19/114/FUL

APPELLANT MR NATHAN & MRS SOPHIE PRICE

SUBJECT OF APPEAL ONE STATIC RESIDENTIAL GYPSY CARAVAN TOGETHER WITH THE ERECTION OF A DAY/UTILITY ROOM, ONE TOURING CARAVAN, REPLACEMENT STABLE BLOCK, CAR PARKING AREA AND INSTALLATION OF A SEPTIC TANK LAND AT THE BARN, SMALLHOLDINGS LANE, COITY, BRIDGEND

PROCEDURE HEARING

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 A**

APPEAL NO. C/21/3278601 (1933)

APPLICATION NO. ENF/311/19/TAC

APPELLANT M BARZEWICZ-DOWER

SUBJECT OF APPEAL UNAUTHORISED FELLING OF TPO TREES
10 LLYS BRIALLEN, BRACKLA, BRIDGEND

PROCEDURE ENFORCEMENT NOTICE

DECISION LEVEL DELEGATED OFFICER

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE ENFORCEMENT NOTICE BE UPHeld AND AMENDED.

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

APPEAL NO. A/21/3275105 (1946)
APPLICATION NO. P/20/581/FUL

APPELLANT M BARZEWICZ-DOWER

SUBJECT OF APPEAL ERECTION OF RETAINING WALL AND STEPS, RAISED PATIO, GARDEN ROOM AND WIND TURBINE TO REAR GARDEN 10 LLYS BRIALLEN, BRACKLA, BRIDGEND

PROCEDURE WRITTEN REPRESENTATIONS

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 B**

An application for costs was also submitted by the Appellant, which was refused, and is also included at the end of **APPENDIX B**.

APPEAL NO. A/21/3283050 (1934)
APPLICATION NO. P/21/85/FUL

APPELLANT MR A WATKINS

SUBJECT OF APPEAL CHANGE OF USE OF GROUND FLOOR TO RESIDENTIAL ACCOMMODATION TO BE USED WITH EXISTING FIRST FLOOR RESIDENTIAL ACCOMMODATION (ONE RESIDENTIAL UNIT) WHITE HART INN, BRIDGEND ROAD, MAESTEG

PROCEDURE WRITTEN REPRESENTATIONS

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**

APPEAL NO. CAS-01665-W4K9P2 (1944)
ENFORCEMENT NO. ENF/70/21/ACK

APPELLANT BPM TECHNOLOGY CORP LTD

SUBJECT OF APPEAL ALLEGED UNAUTHORISED SITING OF CONTAINERS AND DEPOSIT OF RUBBISH
FORMER 7777 SITE, LLANGYNWYD, MAESTEG

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL ENFORCEMENT NOTICE

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE ENFORCEMENT NOTICE BE UPHELD

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

APPEAL NO. CAS-01665-W4K9P2 (1945)
ENFORCEMENT NO. P/21/482/FUL

APPELLANT BPM TECHNOLOGY CORP LTD

SUBJECT OF APPEAL RETENTION OF 2 STORAGE CONTAINERS
LAND SOUTH OF PONT RHYD-Y-CYFF, MAESTEG

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL DELEGATED

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 D**

APPEAL NO. CAS-02097-T1X2Y0 (1964)
APPLICATION NO. P/22/346/FUL

APPELLANT MR D BAKER

SUBJECT OF APPEAL TWO STOREY EXTENSION TO SIDE & REAR OF EXISTING HOUSE, PORCH TO FRONT & NEW RENDERED BLOCKWORK EXTERNAL SKIN
1 MOUNT EARL CLOSE, BRIDGEND

PROCEDURE HOUSEHOLDER

DECISION LEVEL DELEGATED OFFICER

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS

TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL
BE PART ALLOWED/PART DISMISSED.

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

APPEAL NO.	CAS-02162-X2D1M5 (1969)
APPLICATION NO.	P/22/268/RLX
APPELLANT	MR K FIELD
SUBJECT OF APPEAL	REMOVE CONDITION 2 OF P/17/456/FUL (OBSCURE GLAZING) SEAWYNDS, CARLTON PLACE, PORTHCAWL
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 F**

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

Gwrandawriad a gynhaliwyd ar 05/10/22

Ymweliad â safle a wnaed ar 12/10/22

gan Janine Townsley LLB (Hons)
Cyfreithiwr (Nad yw'n ymarfer)

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 22/11/2022

Appeal Decision

Hearing held on 05/10/22

Site visit made on 12/10/22

by Janine Townsley LLB (Hons)
Solicitor (Non-practising)

an Inspector appointed by the Welsh
Ministers

Date: 22/11/2022

Appeal Ref: APP/F6915/A/20/3253547

Site address: Land at The Barn, Smallholdings Lane, Coity, Bridgend, CF35
6BW.

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 and Mrs Nathan and Sophie Price against the decision of Bridgend County Borough County Council.
- The development proposed is one static residential Gypsy caravan together with the erection of a day/utility room, one touring caravan, replacement stable block, car parking area and installation of a septic tank.

Decision

1. The appeal is allowed and planning permission is granted subject to the conditions set out in the schedule attached to this decision.

Procedural Matters

2. The Council confirmed at the hearing that there is no dispute that the appellants meet the definition of Gypsies as set out in Section 108 of the Housing Wales Act 2014 (HWA). Some interested party correspondence questions whether Mrs Price meets the statutory definition as she has indicated an intention to settle at the appeal site. Welsh Government Circular *Planning for Gypsy, Traveller and Travelling Showpeople Sites* 005/2018 makes it clear that it is possible for people to fall within the statutory definition when they have ceased to travel permanently. I heard from Mrs Price that she and her husband come from long-established Gypsy families, that her husband travels for work and that it is only their physical separation that prevents them from travelling to Gypsy fairs. I understand and accept Mrs Price's reasons for wishing to live a settled life are related largely to her health. I am satisfied that all the intended occupants of the appeal

site; the appellants and their children, are Gypsies within the statutory definition as set out in the HWA.

3. Land Registry documents show there has been a change in ownership of the land since the application for planning permission was made. Mrs Price confirmed at the hearing that the appeal site had previously been owned by her father, that he had gifted her the land and that the gift transaction has been registered with the Land Registry. I am satisfied that, at the time the application was made, all those with an interest in the land would have been aware the planning application had been made.
4. The appellants' agent submitted late evidence at the hearing comprising a report and summary from Senedd Cymru "Welsh Government and local authorities failing Traveller communities" 10/08/22 together with consultation responses. Those present had the opportunity to comment and I have had regard to these documents in the determination of this appeal.
5. The personal circumstances of the appellants have been included in written evidence and were discussed at the hearing, however, as I have found that the proposed development would accord with the development plan and national policy, it has not been necessary to set those circumstances out in this decision.

Main Issues

6. This is whether, or to what extent, the proposed development complies with the development plan and with national policy set out in Planning Policy Wales, Edition 11 (PPW) in relation to new residential development in the countryside with particular reference to:
 - The need for sites in the area together with current and likely future levels of provision.
 - The sustainability of the location of the site.
 - The effect of the proposed development on highway safety.
 - The effect of the proposal on the character and appearance of the area.
 - Personal circumstances which are relevant to the decision.

Reasons

7. The appeal site comprises a rectangular parcel of land amounting to approximately 0.13 hectares. The site is occupied by an agricultural style metal barn sited adjacent to the highway access and a smaller timber stable structure at the southern side of the site. Both the barn and the stable were constructed with planning permission. The site is generally level and hard surfaced. At the time of my visit there was some vegetation growth, some earth mounds and some miscellaneous items including metal fencing panels present.
8. The application is for the change of use of the site to a residential use for the appellants and their children. The proposal includes the siting of a static caravan, a day/utility room, a touring caravan, two parking spaces and the replacement and re-siting of the stable block with a larger structure.
9. Policy ENV 1 of the Bridgend County Borough Council Local Development Plan (2006-2021) (LDP) *Development in the Countryside* states that within the countryside development will be strictly controlled but may be acceptable for, amongst other things, the provision of Gypsy Traveller Accommodation. Policy COM 6 *Gypsy and Traveller*

Sites sets out a number of criteria when sites and/or pitches will be permitted including where there is an identified need for a site.

Site Availability

10. Section 101 of the Housing (Wales) Act 2014 requires local housing authorities to assess Gypsy and Traveller housing needs every 5 years. Paragraph 16 of WG Circular 005/2018 confirms that Gypsy Traveller Accommodation Assessments (GTAAAs) will be a key part of the evidence underpinning and informing development plans. The existing GTAA for Bridgend Council is time expired and work has commenced on a replacement, however, there have been delays caused in part by the pandemic. The new GTAA has not been approved and has no formal status. Therefore, I have attributed little weight to it.
11. Policy COM6 of the LPD provides that sites and/or pitches to accommodate Gypsies will be permitted where the criteria set out in the policy is met. The first two criteria require there to be an identified need and it should be demonstrated that there are no suitable sites within settlement boundaries and, if this cannot be shown, that there are none available within the curtilage of an existing development in the countryside.
12. By reference to the expired GTAA for the area, there is no shortfall in Gypsy accommodation, however, the Council was clear at the hearing that this is not the case at present and that there is an unquantified need for Gypsy accommodation. Proposals to address this need cannot progress until the replacement GTAA is adopted and there is no available timescale for this. The result for the purposes of this appeal is that there is an acknowledged need for additional pitches and no timescale for delivery.
13. In terms of alternatives to a new site in the countryside, the appellants have not provided any evidence of consideration of alternative options.
14. Regional working between Councils was explored at the hearing, but the Council witness was unaware of any such work and so there is no indication that pitches in neighbouring authorities may be available. The Council has confirmed that no alternative sites have been identified.
15. Neither party has demonstrated a consideration of alternative sites. The evidence for the Bridgend administrative area is that no alternatives are known to be available and there is nothing to suggest alternatives for the family would be available elsewhere. There is nothing to indicate from the appellants that they have access to any land other than the appeal site. In general terms I concur with the Council that there is an unmet need for additional sites in the area, but it is not possible for the level of need to be quantified.

Site Location

16. The third criteria set out in policy COM6 is that the site should be well related to community services and facilities. The Council states that the appeal site is in an unsustainable location and intended occupiers would be reliant on car travel in conflict with policy SP2(6) of the LDP which requires development to have good walking, cycling, public transport and road connections within and outside the site.
17. I note that the appeal site is approximately 1km from the nearest village, Coity, which has a limited range of services including a pub, a post office, a church and a florist shop. As set out in the *highway safety* section below, the rural road network serving the site is generally single track, the access to the site is unlit, narrow and unevenly surfaced with no separate footway. These conditions together with the lack of a range of goods and services within walking distance would be a deterrent to prospective occupiers choosing to walk or cycle from the site. It is likely there would be a reliance on the use of a car.

18. The appellants have stated that there is a registered footpath close to the site which leads to Coity although due to Mrs Price's health issues, she would not be able to walk to the village.
19. Policy ENV 1 gives scope for certain residential development including Gypsy sites in the countryside. The Council acknowledged at the hearing that the fact that the site is not within walking distance to goods and services does not mean that permission should be withheld for that reason alone. It follows, therefore, that the highway conditions being generally unsuitable for walking does not mean that the site is inaccessible. The site falls outside the settlement and there is consensus between the parties that car use would be necessary for most daily trips. In this case, the site is not so far removed from the settlement that those car journeys would be significant.
20. I heard that there is no bus service for Coity, however, the Council confirmed that there is a regular service every 20 minutes which serves Porthcawl, Bridgend and Talbot Green, all large centres with a full range of facilities and services. The nearest bus stop to the site is at Brackla which the Council confirmed to be a short drive away from the site. The appellant confirmed that schools and a hospital are in comfortable driving distance.
21. Overall, I am satisfied that the location of the site could be considered acceptable subject to the development meeting other planning policy requirements. In reaching this conclusion I am mindful of the advice set out at paragraph 39 of WG Circular 005/2018 for a realistic approach to considering alternatives to car use in countryside locations and that an over-rigid application of planning policies which seek a reduction in car borne travel should be avoided.

Highway Safety

22. Access to the site is obtained directly off Smallholdings Lane which is an unadopted cul-de-sac serving a dwelling near the junction with Hendre Road, the appeal site and a small cluster of dwellings at the head of the cul-de-sac. The lane is narrow with sufficient width for only one vehicle to traverse. Even two small cars would not be able to pass in opposite directions. Mature tall hedges line each side of the lane such that vehicles cannot pull onto a verge. There are no clear passing places between the junction with Hendre Road (a distance of approximately 250 metres) and the appeal site albeit there is a recess adjacent to the gated access to the appeal site which allows space for a vehicle to pull-over. Other than this space, the only option when a vehicle meets another travelling in the opposite direction is for one to reverse.
23. The need to reverse for a distance would be inconvenient to drivers, however, the alignment of the lane between the junction with Hendre Road and the appeal site is generally straight and there is no reason to suggest the reversing manoeuvres would have restricted visibility. The characteristics of the lane mean it is unlikely vehicles would be travelling fast and the forward visibility on this section of the lane means drivers would be able to see ahead enough to see a car travelling towards them to allow them to stop once a car is seen. This would limit the distance vehicles would need to reverse to either the area near the junction or the area adjacent to the appeal site to well below the 250 metre length of this stretch of the lane.
24. Hendre Road is generally single track and although I heard from interested parties at the hearing that there are times when this can get very busy, it has a width and alignment which appears typical of many in rural areas and it passes through a residential area. At the time of my visit there were few cars using this road although I recognise that there will be times when the road is busy. In any event, the increased traffic caused by one residential development would be modest and the proportionate increase in traffic would

be lower if busier. The Council's officer report refers to a history of vehicle conflict on Hendre Road but gives no further detail and no evidence has been put forward by the Council to suggest that a single pitch would generate an unacceptable increase in traffic.

25. The council confirmed at the hearing that there is no concern with junction visibility, however my observations were that visibility when turning left into Smallholdings Lane from Hendre Road was difficult. I accept, however, that drivers would be likely to be driving at slower speeds due to the limited width of the highways on the approach to the junction.
26. I accept that the proposal is for a static caravan and a touring caravan to be sited and due to the restricted width of the lane, moving them onto the site could cause greater inconvenience to other drivers. However, the static caravan would only be moved onto the site once and the touring caravan would not be used daily. The proposal is for a single family to reside at the site. This means that the additional traffic associated with a residential use of the site would be modest. I am satisfied, therefore, that despite the limited width of the lane, that it could be used in association with the proposed development without risk to highway safety. A number of conditions have been proposed by the Council which would limit the use of the site to a single pitch and restrict commercial use of the site. I am also satisfied that the site could be adequately served by utilities including waste disposal and recovery in accordance with criterion 4 of policy COM6 of the LDP. Overall, I am satisfied that the proposed development would not pose an unacceptable risk to highway safety and would not conflict with policy SP3 of the LDP.
27. I have already found that there would be a reliance on car journeys for prospective occupiers and have set out the reasons why pedestrian access to the site would be unlikely. For this reason, I consider the risk of pedestrians using the site coming into conflict with vehicles would be low.

Character and Appearance

28. The site is in a countryside location with some sporadic residential development. The site itself has a large metal agricultural barn adjacent to the entrance which is clearly visible from the highway. The site also contains a more modestly sized stable building which is screened from public views by the hedge which is mature and over 2m high. Consequently, the existing character of the site itself is neither open nor undeveloped. It is against this existing character that I have assessed the impact of the proposed development.
29. The proposal includes the removal of the existing stable building and its replacement with a larger stable to be sited adjacent to the metal barn. At this location it would be screened from public views by the existing barn and the revised siting would facilitate the siting of the static caravan, touring caravan, and utility building in its place. This would mean that the structures to support the residential use of the site would be at the furthest point from the site entrance and this would minimise views of the caravans and utility building when viewed from the entrance to the site. Views of this part of the site from the highway are already well screened by the hedge between the site and highway. In this sense, the siting proposals are considered and logical.
30. The Council's concern is that the introduction of a residential use at the site would result in a change in character because of the introduction of domestic items. At the hearing, the Council witness stated that the introduction of caravans and other structures would introduce visual clutter creating an urbanised appearance.
31. Notwithstanding this, there are some permitted exceptions to policy ENV1 which allow residential development in the countryside including Gypsy sites. It is inevitable that a

change to a residential use of land will result in a change of character, but the Council has not pointed to any particular feature of this proposed development which would differ from any other new residential development. The fact that the building and caravans may be visible from certain viewpoints does not, in my view, mean that the change in character would be visually harmful particularly as there are existing structures present. Likewise, the presence of domestic apparatus such as washing lines would be expected in any residential use, certain categories of which could be permitted under policy ENV1. For this reason, the Council has not persuaded me that the development proposed would result in an unacceptable visual impact on the character and appearance of the area.

32. Furthermore, I am satisfied that the existing tall and mature hedging between the site and the highway offers sufficient screening of the site and prevents direct views from the public realm into the site. Accordingly, I am satisfied that a residential use at the site could be accommodated without detriment to the character of the area, satisfying criterion 5 of policy COM6 of the LDP.

Conditions

33. I have considered the conditions suggested by the Council and discussed at the hearing in the light of circular 016/2014 *The Use of Planning Conditions for Development*.

34. A condition requiring an arboricultural statement was agreed to be unnecessary as the development does not involve the removal of any trees. Conditions relating to off-site highways works were agreed to be unenforceable as they would have required improvement to land outside the control of the appellants. These have not been included.

35. A landscaping condition has been included so any additional planting and maintenance can be considered to maintain the screening which is provided by the existing hedge between the site and the highway. This should also include biodiversity enhancement such as the bat boxes the appellant has suggested.

36. I have added a condition to prevent the commercial use of the replacement larger stables to ensure a commercial element is not added to this development at a location where the local highway network would be sensitive to any further intensification of use.

Conclusion

37. I have considered this appeal against local planning policy related to the provision of Gypsy accommodation, and for the reasons set out above, consider that the proposal meets the criteria set out. Accordingly, the appeal should be allowed.

38. 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.

Janine Townsley

Inspector

Schedule of Conditions

- 1) The development shall begin not 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 development shall be carried out in accordance with the following approved plans and documents:
Plan/Drawing Nos. 04a,05a,06a,07a received on 20 February 2019; Amended Site Location/Block Plan Drawing No. 01c received on 22 July 2021; Amended Site Plan and Muck Heap Details Drawing Nos 03d and 08 received on 7 October 2019.
Reason: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.
- 3) The occupation of the site shall only be by Gypsies and Travellers as defined by Welsh Government Circular 0005/2018.
Reason: The residential use of the site in this rural location would not be permitted unless occupied by a Gypsy or Traveller, and in order to ensure that the site is kept available to meet the needs of other Gypsies or Travellers in the future.
- 4) No more than two vehicles shall be kept on the land for use by the occupiers of the caravans hereby permitted and none of those vehicles should exceed 3.5 tonnes in weight.
Reason: To safeguard highway safety and to comply with Policies SP2 and SP3 of the Bridgend Local Development Plan.
- 5) No commercial activities shall take place on the land including the storage of commercial plant, machinery or vehicles.
Reason: To protect the character and appearance of the area and to comply with Policies SP2 and SP3 of the Bridgend Local Development Plan.
- 6) The stables shall be used for the private stabling / use of horses incidental to the residential use of the site and shall not be used for livery or any commercial purpose.
Reason: To ensure that the highways use of the site is limited to residential use for highway safety and to comply with Policies SP2 and SP3 of the Bridgend Local Development Plan.
- 7) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, comprising of one static caravan and one touring caravan shall be stationed on the site at any time.
Reason: To ensure single family occupancy of the site, to protect the character and appearance of the area and to comply with Policy SP2 of the Bridgend Local Development Plan.
- 8) No development shall take place until full details of both hard and soft landscape works have been submitted and agreed in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include all proposed planting and landscaping such as a schedule of plants/trees, species and number/densities, hard surfacing materials, means of enclosures and implementation programme.
Reason: To maintain and improve the appearance of the area in the interests of visual amenity, to promote nature conservation and to comply with Policy SP2 and ENV6 of the Bridgend Local Development Plan.

- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity, to promote nature conservation and to comply with Policy SP2 and ENV6 of the Bridgend Local Development Plan.

- 10) The existing hedgerow located along the eastern boundary of the site shall be retained at all times.

Reason: To protect the visual and local amenities of this countryside location and to comply with Policy SP2 of the Bridgend Local Development Plan.

- 11) No development shall take place until details of any external lighting and a programme for its implementation, have been submitted to and approved in writing by the local planning authority. All external lighting shall accord with the approved details.

Reason: To safeguard local visual amenities and to comply with Policy SP2 and ENV6 of the Bridgend Local Development Plan.

APPEARANCES

FOR THE APPELLANT:

Mr A Vaughan-Harries Agent

Mrs L Price Appellant

Ms Garnett

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Thomas Planning Officer

Mr R Morgan Highways Officer

INTERESTED PARTIES:

Mrs S Williams Neighbour

Mr Williams

DOCUMENTS SUBMITTED AT THE HEARING

1. Report and Summary Information from Senedd Cymru “Welsh Government and local authorities failing Traveller communities” 10/08/22 together with consultation responses.



Penderfyniadau ar yr Apêl

Ymweliad safle a wnaed ar 24/8/22

gan H W Jones BA (Hons) BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 01/12/2022

Appeal Decisions

Site visit made on 24/8/22

by H W Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 01/12/2022

Appeal A Ref: APP/F6915/C/21/3278601

Site address: Land to the rear of 10 Llys Briallen, Brackla, Bridgend, CF31 2BG

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

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mark Barzewicz-Dower against an enforcement notice issued by Bridgend County Borough Council.
- The Enforcement Notice, numbered ENF/311/19/TAC, was issued on 28 May 2021.
- The breach of planning control as alleged in the notice is: Without Planning Permission the raising of the ground level at the Land Affected including the alteration to increase the height of a retaining wall and steps.
- The requirements of the Notice are:
 - (i) Remove all imported hardcore from the land;
 - (ii) Reinststate the rear area with top soil and allow to vegetate naturally for a distance of 23.5m from the rear boundary of the land towards the property.
 - (iii) Reduce the retaining wall to the former height of 0.8m and remove steps.
 - (iv) Infill the area for a distance of 7.5m from the reduced retaining wall towards the rear of the garden with soil to form a slope between the two levels and seed with grass as shown in green on the attached plan marked as Appendix B. (The plan is not drawn to scale and is for reference only.)
- The period for compliance with the requirements is: 3 months after the Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (e), (f) and (g) of the Town and Country Planning Act 1990, as amended.

Appeal B Ref: APP/F6915/A/21/3275105

Site address: 10 Llys Briallen, Brackla, Bridgend, CF31 2BG

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 Mark Barzewicz-Dower against the decision of Bridgend County Borough Council.
 - The development proposed is the erection of retaining wall and steps, raised patio, garden room and wind turbine.
-

Decisions

Appeal A

1. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of “3 months” and the substitution of “5 months” as the period for compliance. Subject to this variation the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. An application for costs was made by Mr Mark Barzewicz-Dower against Bridgend County Borough Council in relation to both appeals. This application is the subject of a separate Decision.
4. The rear part of the appeal property is part of an area of woodland covered by a Tree Preservation Order. In its Statement of Case the Council requests that I note that the appellant has “removed a significant number of protected trees” to implement the unauthorised works. It provides no detail of the extent of the impact on the trees nor does it explain whether it proposes to pursue the matter. The appellant disputes this and points to a consent issued by the Council to remove overhanging branches and cut our dead wood. As this is a matter that is not part of either appeal I shall make no comment on whether the protective provisions of the designation have been breached; that is a matter for the Council.
5. In its Statement of Case the Council explains that it seeks to rely primarily on its Officer’s delegated report which it states is dated 5 May 2021. The appellant has pointed out that he has not had sight of such a report. It seems to me that the Council’s reference should have been to a report dated 10 August 2020. As a copy of that report has been submitted in the appellant’s initial bundle of appeal documents, I am satisfied that he has not been prejudiced by the Council’s apparently erroneous reference.

Appeal A, ground (e)

6. The appellant explains that the Council used the wrong name in referring to the appellant’s wife when serving the enforcement notice (EN) which has caused them distress. However, there is no suggestion that the notice was not properly served on everyone with an interest in the land. Accordingly, this ground of appeal must fail.

Appeal A, ground (a) and Appeal B

Preliminary Matters

7. The works already undertaken on the site include those identified in the EN, that is the retaining wall, a flight of steps and the raising of the ground by infilling material between the retaining wall and the higher level garden. These are the subject of the deemed planning application that fall to be considered under Appeal A. Other works have been undertaken, most notably screening enclosures. They do not form part of the deemed application, but as they are intended as mitigation measures I have taken them into account in my assessment.
8. Appeal B seeks planning permission for the works the subject of the deemed planning application that falls to be considered under Appeal A. To this extent it seeks retrospective permission. It also seeks permission for proposed works, which includes completing the patio area and the erection of fencing (to replace temporary screens) along a side boundary as well as a balustrade along the top of the retaining wall, the constructing a garden room and the erection of a wind turbine.
9. The appellant takes issue with some of the Council's descriptions of the works undertaken and the pre-existing site conditions, including the precise height of the original retaining wall and the volume of material that has been brought onto the site. I have also noted inconsistencies in the some of the detail provided by the appellant in relation to existing and proposed works. However, I am satisfied that I have been able to assess the subject works with sufficient accuracy such that any discrepancy or ambiguity does not affect my findings.
10. The appellant has suggested means of amending aspects of the works to overcome concerns, however my consideration must be limited to the works undertaken and those proposed and detailed in the application considered by the Council even if, as the appellant suggests, some of the details shown were of the architect's design rather than his own preference.

Main Issues

11. The main issue in relation to the deemed planning application that arises under Appeal A is the effect of the raised patio area on the living conditions of neighbouring residents, particularly in terms of privacy and any visual intrusion.
12. There are 2 main issues that arise under Appeal B. The first one is as described above for Appeal A, and the second is the effect of the proposed wind turbine on the character and appearance of the area.

Reasons

13. The appeal property is one of a short row of two-storey detached dwellings that have rear boundaries fronting Wyndham Close. The elongated grounds of these properties include the main garden areas - that are closest to the dwellings and serve as the main amenity space for the residents - as well as a woodland strip that lies closest to the highway. The woodland provides an attractive local feature. It lies at a markedly higher level than the garden areas closest to the houses, with steeply sloping ground marking the change in levels
14. The trees form a dense canopy over most of the gardens. My visit revealed that some other property owners were using parts of the wooded area in association with their main rear gardens with paraphernalia such as patio furniture and children's play equipment visible. In contrast to this pattern, many of the trees within the appeal property have been felled or heavily cut back creating a swathe through the band of otherwise dense tree

cover. Gates have been recently erected in the rear garden fence which provides vehicular access via dropped kerbs onto the highway as well as a separate pedestrian access.

15. At the rear of the house is a modestly sized patio area at a similar level to the ground floor of the dwelling. A marquee extends over much of the patio area and provides cover for domestic paraphernalia and other items including tools and equipment. At the rear of this area a tall retaining wall, measured by the appellant as 2.3m high, has been erected along the width of the garden other than adjacent to one side boundary where a flight of shallow steps provides access to the higher part of the garden. A tall timber fence flanks the side of the steps which bounds the neighbouring garden of No. 11.
16. It is evident that the pre-existing higher garden level has been effectively extended towards the house and terminates at the retaining wall. I observed steel work in the ground and on the top of the retaining wall which form part of the measures to secure structural stability described by the appellant. Both sides of the raised patio area are flanked by dense netting hanging from wires suspended between poles that appear to be intended to provide a visual screen. The same netting has been suspended over the steps. This netting, which is not included in the EN, has the appearance of being a temporary measure. A metal pole supported by posts runs along the top of the retaining wall which is intended as a temporary safety barrier.

Living Conditions

17. I shall firstly focus on the works that have already been undertaken. The introduction of the raised garden area closer to the house has created an area which is elevated considerably above the adjacent ground level of the neighbours' main outdoor amenity areas and their ground floor windows. As a consequence, it has introduced significantly more intrusive levels of overlooking of the affected areas and rooms than would have previously been experienced. This includes introducing more direct lines of sight into first floor bedroom windows. In reaching this finding I acknowledge that the netting that has been provided serves as screening from some parts of the raised area as does the fence alongside the steps. As I have explained, whilst these screening measures are not identified in the EN I taken them into account as they provide potential mitigation for the privacy impact of the subject works.
18. The appellant draws my attention to the Tate Modern judgment. I am satisfied that the case, *Fearn & Ors v The Board of Trustees of the Tate Gallery* [2020] EWCA Civ 104, was concerned with a claim of private nuisance rather than a planning decision and, as such, it does not alter my view that overlooking and loss of privacy is a relevant material consideration in this case.
19. The extent to which the timber fence is elevated above the neighbouring property, No. 11, means that it is a visually intrusive feature which would create an oppressive impact when viewed from their closest windows and the main outdoor amenity space.
20. The other neighbouring dwelling, No. 9, is not orientated in the same direction as Nos 10 and 11. It has an elevation, which contains several large, glazed openings at ground and first floors, which face directly towards the rear garden of the appeal site. When viewed from these rooms and the patio area the screening measures are visually intrusive and serve to exacerbate the overbearing impact of the raised patio.
21. Appeal B proposes additional works which includes surfacing the raised ground to provide the finished patio area, the provision of a 1.1m high glass panelled balustrading on top of the retaining wall and alongside the steps and proposes a 1.2m high timber fence along the side boundaries effectively. In addition, it is proposed to erect a single-storey, flat-

roofed outbuilding on the pre-existing higher garden level that would extend to almost the full width of the garden and would contain large, glazed doors that would open onto the raised patio.

22. The effect of the Appeal B works on the privacy and the visual amenity of the neighbours would be similar to that already described in the above assessment of the works already undertaken. However, the potential for overlooking would be greater in the case of the appeal B scheme given that a surfaced patio area would facilitate its use as outdoor recreational space. Moreover, the proposed large, glazed openings in the garden room would also add to the intrusive degree of overlooking. The elevated position, size and proximity of the outbuilding to neighbouring receptors, would also add to the harmful visual intrusion that has already been identified.
23. I have noted the appellant's comments in relation to the effects on neighbours. Of those that are related to the planning merits of the schemes I accept that there is a degree of overlooking in both directions that may have occurred before the works were undertaken. Nonetheless, as I have explained, the works have significantly altered the impact to an unacceptable degree. My findings in this respect are not based on the behaviour of the residents of the appeal property or their neighbours but rather on the physical environment that has been created and the reasonable enjoyment that any householder can expect in this location. The appellant refers to alterations that have been undertaken to neighbouring properties. However, the appeal schemes must be assessed against the present context.
24. On the first main issue I conclude that the subject works are significantly harmful to the living conditions of the neighbouring residents, both by reason of loss of privacy and visual intrusion. The works are contrary to policy SP2 of the Bridgend Local Development Plan (LDP) which includes that all development should ensure the amenity of neighbouring occupiers are not adversely affected by development proposals. The failure to respect the privacy of neighbours and the unreasonably dominant effect on outlook mean that the schemes are at odds with Note 6 and Note 1 respectively of the Council's supplementary planning guidance (SPG) 02, Householder Development. There are no effective mitigation measures that could be reasonably secured by the imposition of planning conditions to overcome the identified harm.

Character and Appearance

25. In addition to the works already described and assessed under the first main issue, Appeal B also proposes a wind turbine which gives rise to the second main issue, which is the effect of the turbine on the character and appearance of the area.
26. The turbine is shown on one drawing to be 8m high to the hub with a blade sweep path of 2.4m in diameter. Although the appellant has suggested that it could be much lower, I have considered the detail presented. It would be located towards the rear of the property, within the swathe of open land which has been created within the woodland. The erection of a turbine would serve to draw attention to this gap in the landscaping belt and erode its positive contribution to the character of the area, particularly when viewed from the adjacent highway and the new housing estate that faces it. The appellant in his appeal submission accepts that the site is not an appropriate one for a turbine.
27. No details have been provided of the potential renewable energy benefit of the scheme, or whether the proximity of the tree canopy would affect local wind speeds thereby impacting on its energy generation. In any event any such benefit is likely to be modest and does not justify the harm that I have identified.

28. On this second main issue I conclude that the turbine would be an unduly prominent and intrusive feature within the attractive woodland belt of trees and thus harmful to the character and appearance of the area. Such harm is further demonstration of conflict with LDP policy SP2, which seeks that all development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located. As it would have an unacceptable visual impact it would run counter to Note 21 of the Council's SPG 02.

Other Matters

29. The Council's third reason for refusing the application related to concerns over the structural soundness of the retaining wall and the foundations of the proposed turbine. Policy SP2 of the LDP and Planning Policy Wales, Edition 11, confirms that, where relevant, land stability should be addressed. In response to the Council's concerns, the appellant has provided some details of the works undertaken to ensure structural stability. In the absence of any response from the Council, I am not in a position to reach a finding on this matter. Given that my conclusions on the main issues lead me to conclude that planning permission should not be granted, it is not necessary for me to consider this matter any further.
30. The appellant explains that the flight of steps is needed to facilitate the installation of a chair lift to enable one of the residents to access the higher ground by wheelchair. The garden room is intended to provide space to support the residents' well-being as part of an intention to provide a 'floating living garden' which would facilitate meditation and exercise in association with the establishment of a wild flower garden. I note that such benefits would be particularly valued given the personal circumstances that have been described. However, neither these benefits nor the stress that pursuing the enforcement action has caused to the household at a difficult time justify permitting the continuation of the significantly harmful impacts on the neighbours' living conditions that I have identified. In reaching this view I am mindful that there is likely to be other ways in which the garden can be accessed and reasonably enjoyed without giving rise to the impacts described.
31. The appellant refers to local features and acts of development nearby. However, I must confine my consideration to the facts and the planning merits of this case, which have been assessed in the context of the site's surroundings.
32. Concern is expressed by the appellant over issues such as the way his architect, the Council and others have behaved. Such matters are outside the scope of the considerations that are material to my determination of the planning merits of the schemes. I have noted all of the many other matters raised in support of both appeals by the appellant.
33. Whilst other concerns have been raised by local residents, none of these would have justified withholding permission had I found the schemes acceptable in relation to the main issues. Indeed, as the Council has pointed out, some of the matters raised are outside the scope of the schemes for which permission is sought, and others are not material to a planning decision or fall to be considered by other legislation.
34. I conclude that the harms identified in relation to the main issues outweigh the benefits identified and all the other matters raised in support of the schemes. I shall therefore dismiss appeal B and refuse the deemed planning application under Appeal A.

Appeal A, ground (f)

35. This ground of appeal is that the requirements of the notice are excessive and that lesser steps would overcome the objections. In support of this ground the appellant relies on arguments to support the granting of planning permission, the impacts of compliance with the notice and explains that he would be willing to compromise on detailed aspects of the works.
36. The appellant suggests that the removal of the deposited material from the site could harm the roots of trees. As the trees of greatest amenity value are protected, the appellant would be required to ensure that such removal is undertaken carefully to avoid such damage.
37. It is clear from the reasons set out for issuing the notice that it seeks to remedy the impact on the residential amenities of neighbouring residents. The harm caused have been set out in my assessment of the planning merits of the schemes and I am satisfied that there are no lesser steps that could be reasonably imposed that would satisfy the stated reason. As such this ground of appeal does not succeed.

Appeal A, ground (g)

38. The appellant suggests that the time for compliance set out in the notice is too short on the basis of the time taken to determine the planning application and that health considerations affect his ability to carry out work on the site.
39. The appellant has not suggested a longer period of compliance, nor detailed the difficulties envisaged in meeting the 3 month period. However, whereas the original time frame set out in the EN would have spanned the summer months, the same time period will now extend over the winter season when inclement weather may hinder progress. It would therefore be reasonable to extend the compliance period by a further 2 months and which would include months when weather conditions would be generally more favourable. In reaching this finding I am mindful of the need to avoid unduly prolonging the harmful impact experienced by neighbouring residents. I shall vary the period to 5 months. To this extent the ground (g) appeal succeeds.

Conclusions

40. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 which sets out the relevant protected characteristics which includes disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. There would be an adverse impact on individuals with a protected characteristic who may not be able to fully enjoy their garden and the associated wellbeing benefits. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing grounds (a) and (f) of Appeal A and dismissing Appeal B on those with protected characteristics would be justified and the decision would be necessary and appropriate, having regard to the harmful effect of the proposed development in relation to the impact on neighbours.
41. Dismissing the appeals would interfere with the appellant's and his family's rights to peaceful enjoyment of their possessions, and to a private and family life and home, under Article 1 of the First Protocol and Article 8 as set out under the Human Right Act 1998. However, those are qualified rights; interference with them in this instance would be in accordance with the law and in pursuance of a well-established and legitimate aim of protecting the living conditions of neighbouring residents. It is proportionate and

necessary to refuse to grant planning permission. There will be no violation of the appellant's or his family's human rights. The protection of the public interest cannot be achieved by means that are less interfering with their rights.

42. For the above reasons and having regard to all other matters raised, I conclude in relation to Appeal A that the period for compliance should be extended and shall vary the enforcement notice accordingly, prior to upholding it. I shall refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended. I shall dismiss Appeal B.
43. In reaching my decisions, 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.

H W Jones

Inspector



Penderfyniad ar gostau

Ymweliad safle a wnaed ar 24/8/22

gan **H W Jones, BA (Hons) BTP MRTPI**

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 01/12/2022

Costs Decision

Site visit made on 24/8/22

by **H W Jones, BA (Hons) BTP MRTPI**

**an Inspector appointed by the Welsh
Ministers**

Date: 01/12/2022

**Costs application in relation to Appeals Ref: APP/F6915/C/21/3278601 &
APP/F6915/A/21/3275105**

Site address: 10 Llys Briallen, Brackla, Bridgend, CF31 2BG

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

- The application is made under the Town and Country Planning Act 1990, sections 78, 174, 322C and Schedule 6.
 - The application is made by Mr Mark Barzewicz-Dower for a full award of costs against Bridgend County Borough Council.
 - The appeals were against an enforcement notice alleging, without planning permission, the raising of the ground level at the land affected including the alteration to increase the height of a retaining wall and steps, and the refusal of a planning application for the erection of retaining wall and steps, raised patio, garden room and wind turbine.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is made on the basis that the Council has delayed the grant of planning permission and has caused the applicant stress and costs of materials and loss of income. He cites 7 alleged failings by the Council but these are a summary of some of the examples of unreasonable behaviour set out in the Manual; no elaboration on these by reference to case specific details is provided in the application. Indeed, it is clear that some of the examples are not relevant, the most obvious being attending a hearing or an inquiry and the payment of witnesses.

4. The applicant itemises the costs that he has incurred. However, the amount of any award is not a matter for me to consider; I am concerned only with the principle of whether costs should be awarded. In terms of the items listed, most are related to the cost of pursuing the planning application which, as the applicant acknowledges, cannot be included in a claim for costs. Reference is made to the stress experienced by the applicant and his wife and to loss of income generation from the wind turbine but, as paragraph 2.9 of the Manual explains, indirect losses arising from the delay cause by pursuing the appeals, are not matters related to the application or appeal process and as such are not matters for me.
5. As is made clear in my decisions on the appeals I have found the substance of the Council's case in relation to both appeals to have been sound, and its behaviour in refusing planning permission and issuing an enforcement notice was reasonable. There are no procedural shortcomings in the Council's behaviour in relation to either appeal which has caused the applicant to have incurred unnecessary or wasted expense in pursuing the appeals.

Conclusion

6. For the foregoing reasons the application for costs is refused.

H W Jones

Inspector



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 07/07/22

gan C MacFarlane BSc(Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 24.08.2022

Appeal Decision

Site visit made on 07/07/22

by C MacFarlane BSc(Hons) MSc
MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 24.08.2022

Appeal Ref: APP/F6915/A/21/3283050

Site address: White Hart Inn, 42 Bridgend Road, Garth, Maesteg CF34 0NN

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 Andrew Watkins against the decision of Bridgend County Borough Council.
 - The development proposed is change of use of ground floor to residential accommodation to be used with existing first floor residential accommodation (property to become one residential unit).
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the description of development given in the Council's decision notice as this accurately and succinctly reflects the proposal.

Main Issue

3. The main issue is whether the proposed development would be acceptable in terms of local planning policies relating to social and community facilities.

Reasons

4. White Hart Inn sits within a terrace of dwellings facing Bridgend Road. The surrounding area is mainly residential in use. As I understand from the information before me, the pub ceased trading at some point in 2020, having closed during restrictions arising from the global Covid-19 pandemic, although a specific date has not been provided.
5. Policy SP13 of the Bridgend Local Development Plan 2006-2021 (LDP) identifies various types of community uses and facilities which will be retained or enhanced in recognition of their contribution towards maintaining and improving the quality of life of residents. In highlighting the importance of such uses and facilities in creating viable and sustainable

local communities, the explanatory text at LDP paragraph 6.2.1 clarifies that social and community facilities cover a broad range of activities and services, and paragraph 6.2.2 provides a more detailed list of the types of facilities which may be included, with reference to 'in some cases privately owned community buildings such as...public houses' and that 'a local pub could be regarded as a community building'. This approach is supported by LDP Policy COM7, which resists the loss of community facilities unless the existing facility is no longer required for the current use, or any other social or community use, or there is already an excess of such provision in the area.

6. Much of the appellant's position rests on the argument that the financial evidence provided demonstrates that the pub business is unsustainable and unnecessary, and therefore cannot be considered as being of sufficient value to the area as to constitute a community facility for the purposes of Policies SP13 and COM7. Some general explanation of rising costs and changing customer trends has also been provided, of which I have taken account.
7. Whilst the profit and loss accounts provided show losses for several years during the period since 2010, several years have generated a profit, albeit not recently. The appellant's evidence also indicates that several offers of purchase have been made and I note that a petition and responses in support of retaining the pub use have been received from local residents. To my mind, this indicates that there is some local value and interest in the facility and that, when considered alongside the relatively recent closure of the premises, the evidence provided is insufficient to confidently conclude that the business could not be made viable in the future or under different management. Therefore, taking account of the broad range of facilities covered by Policies SP13 and COM7, and the absence of compelling justification to the contrary, I consider that the aforementioned policies are applicable, and the proposal would result in the loss of a community facility.
8. Turning specifically to criterion 2 of Policy COM7, in seeking to demonstrate that the business is no longer required for the current use, the appellant has marketed the property for approximately 6 months. I acknowledge that some of the offers received encountered funding difficulties and others were lower than the appellant wished to accept. However, this indicates a level of interest in the business, which, when considering the generally resistant approach of the LDP to the loss of community facilities, would warrant a longer period of marketing to demonstrate that the current use is no longer required. Moreover, there is a lack of information provided regarding the methods and extent of advertising, the terms on which the business was offered during the marketing period, and whether any other social and community uses have been considered in line with the requirements of criterion 2.
9. Finally, when considering whether there is an excess of provision in the area, the appellant points to a number of hospitality businesses within walking distance of the property. However, there is a lack of information provided regarding the trading status, operating hours and nature of these other businesses in order to carry out any meaningful comparison as to whether these constitute realistic alternative provision, even without consideration of whether this may be considered an 'excess' of provision.
10. In conclusion, I find that, due to the lack of information provided and limited marketing period carried out, insufficient justification has been made to support the loss of a social and community facility. The proposal would therefore be unacceptable with regard to local planning policies relating to social and community facilities and fail to comply with LDP Policies SP13 and COM7.

Other Matters

11. I have taken account of the personal financial circumstances referred to by the appellant and the desire to provide family accommodation. However, such considerations would not outweigh the wider harm in respect of the loss of a social and community facility. Comments relating to unfair treatment of the application have also been made by the appellant, but these are unspecified in nature. In any event, this does not alter my assessment of the planning merits of the appeal proposal.
12. In reaching my decision, 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

Conclusion

13. For the reasons given above, the appeal is dismissed.

Claire MacFarlane

INSPECTOR



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 25/10/22

**gan Janine Townsley LLB (Hons)
Cyfreithiwr (Nad yw'n ymarfer)**

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 2022-12-06

Appeal Decision

Site visit made on 25/10/22

**by Janine Townsley LLB (Hons)
Solicitor (Non-practising)**

**an Inspector appointed by the Welsh
Ministers**

Date:2022-12-06

APPEAL A

Appeal Ref: CAS-01665-W4K9P2

Site address: Land south of Pontrhydycyff, Maesteg, CF34 9RW.

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

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act.
 - The appeal is made by BPM Technology Corp Ltd against an enforcement notice issued by Bridgend County Borough Council.
 - The enforcement notice, numbered ENF/70/21/ACK, was issued on 1 December 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission change of the use of the said land from a nil use to a B8 use for the siting of two storage containers.
 - The requirements of the notice are: remove and keep removed the containers from the land outlined in red on the attached plan.
 - The period of time for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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APPEAL B

Appeal Ref: CAS-01684-S3R9M9

Site address: Land south of Pontrhydycyff, Maesteg, CF34 9RW.

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 BPM Technology Corp Ltd against the decision of Bridgend County Borough Council.
 - The development proposed is retrospective planning permission for the temporary siting of 2 no. shipping containers on the site.
-

Decision – Appeal A

The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Decision - Appeal B

The appeal is dismissed.

Procedural Matter

1. Two appeals are before me, an appeal against an enforcement notice (“Appeal A”) and an appeal against a refusal of planning permission (“Appeal B”). The development under consideration for both appeals is the same as is the evidence presented by the parties in relation to Appeal B and the ground (a) appeal under Appeal A. Notwithstanding this, I have considered the two appeals individually. However, since the reasons given by the Council for the refusal of planning permission on Appeal B, and the reasons given for taking action in the enforcement notice (EN) on Appeal A are broadly the same, I have addressed the ground (a) appeal of Appeal A and Appeal B together.

The Ground (c) Appeal – Appeal A

2. For the appeal on ground (c) to succeed the onus of proof is on the appellant to demonstrate that there has been no breach of planning control. The questions are whether what has taken place on the land represents development for which planning permission is required and, if so, whether planning permission has been granted. This ground of appeal is that the development set out in the EN does not amount to a breach of development control.
 3. The meaning of development is set out in s55(1) of the Act and includes operations affecting land and changes of use of land.
 4. The EN seeks to enforce against a material change of use of the land. The appellant has made some submissions that the development does not amount to operational development, however, I see no indication from the EN that operational development is alleged by the Council and accordingly I have not addressed this matter further.
 5. In the alternative, the grounds of appeal state that the use of the land for the storage of containers is not a material change of use. I note that the containers have two purposes- as a physical barrier preventing unwanted access to the wider site and as storage for the appellant’s business. The evidence is clear that the containers are intended for use for a temporary period, however, the appellant has not set out under what provision he considers that this would not require planning permission. The Town and Country Planning (General Permitted Development) Order 1995 allows some development to be permitted without a grant of planning permission including some temporary development related to operations taking place or adjoining the land however as there are no operations taking place on the land and so this provision would not apply. It follows that I do not consider any permitted development rights exist for the change of use of the land.
-

6. Turning to the nature of the development, the site falls outside the settlement within the countryside. The appellant states that the containers are small scale but this does not accord with what I saw on site to be two shipping type containers which are conspicuous at this location due to their proximity to the highway and their size. The fact that the containers can be moved, and the appellant's intention is to remove them after an undisclosed period of time does not ameliorate the impact of the containers at this location. The physical change to the land which by the change of use for the siting of two shipping containers is significant and, for the reasons set out above, material.
7. From all I have seen and read, I consider that a material change of use has occurred for which planning permission has not been granted. Thus, there has been a breach of planning control and the appeal on ground (c) therefore fails.

Appeal B and The Ground (a) Appeal – Appeal A

8. This ground of appeal is that the development alleged in the enforcement notice ought to be granted planning permission. In this respect, the main issue for consideration is:
 - The effect of the development on the character and appearance of the area.

Reasons

9. The site falls outside the settlement boundary and comprises a parcel of land adjacent to the A4063 generally opposite a secondary school and sports pitches.
10. The site is currently vacant albeit the evidence points to previous development on the land and there appears to be no dispute between the parties on this point. The area where the containers have been positioned is hardstanding with grassland beyond.
11. The two containers have been sited close together upon the hardstanding near the perimeter of the site where it meets the highway.
12. Policy ENV1 of the Bridgend Local Development Plan 2006-2021 (LDP) states that development in the countryside will be strictly controlled and lists exceptions to the presumption against development, none of which apply to the development before me. As such, the development conflicts with local planning policy.
13. The appellant states that the containers have been positioned to prevent unauthorised access to the site and they are also used for business storage, however, I also observed security fencing along the perimeter of the site in the vicinity of the containers and there was a gap between that and the adjacent container which would have compromised any security function. No justification has been put forward for the need to use a structure as large as a container to secure the boundary as opposed to other means.
14. The containers have the appearance of a traditional shipping container: they are large, of metal construction and have a utilitarian/industrial appearance which conflicts with the verdant character of the area. Aside from the school opposite the site, the surrounding area has a countryside appearance with tree lined field parcels. There are some trees lining the A4063 which runs adjacent to the site, however, a break in the trees allows clear, uninterrupted views of the containers for all passing motorists. Their size and utilitarian appearance at this prominent location has a harmful visual impact which jars with the character and appearance of the area and therefore conflicts with policy SP2 of the LDP which requires that all development should respect and enhance local character and distinctiveness and landscape character.
15. My attention has been drawn to the site being put forward as a candidate site for the forthcoming replacement local development plan for housing, however, this has no

relevance to the development before me. I am also mindful that the appellant has stated that the development is intended to be temporary, however, the harm I have identified is such that the temporary change of use of the land for the siting of the containers cannot be justified.

Conclusion – Appeal B and the Ground (a) Appeal – Appeal A

16. For the above reasons, I conclude that Appeal B and the Ground (a) appeal made in relation to Appeal A should be dismissed. 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.

The appeal on ground (f) – Appeal A

17. The ground of appeal is that the steps required by the notice to be taken or the activities required by the notice to cease, exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in Section 173(4) of the Act and are to remedy the breach of planning control (s173(4) (a)) or to remedy injury to amenity (s173(4)(b)). Since the EN requires the unauthorised storage use to cease the purpose of the EN is to remedy the breach.

18. The ground (f) appeal put forward reiterates the ground (c) appeal that no breach of planning permission has occurred. I have concluded that the ground (c) appeal fails. No lesser or alternative steps have been put forward in this case and there is no implication that some lesser steps than the removal of the containers from the land could remedy the breach. I conclude that the steps are not excessive to remedy the breach of planning control and the appeal on ground (f) fails.

The appeal on Ground (g)

19. This ground of appeal is that the time given in the EN for compliance is inadequate and that additional time for compliance should be given.

20. The appellant accepts that the containers could be moved with ease but states that time will be needed to find an alternative site which complies with planning policy and is close to the appellant's residence for convenience. No evidence has been submitted to demonstrate attempts to find an alternative location, nor has it been demonstrated that such availability is likely to arise within a six-month as opposed to two-month period. Since containers are often transported and relocated, a two-month period for compliance does not seem unreasonable. Accordingly, the ground (g) fails.

Decision

21. For the aforementioned reasons, and taking into account all matters raised I consider that both Appeal A and Appeal B should be dismissed as set out in my formal decision above.

Janine Townsley

Inspector



Penderfyniad ar yr Apêl	Appeal Decision
Ymweliad â safle a wnaed ar 08/11/22	Site visit made on 08/11/22
gan R Duggan BSc (Hons) DipTP MRTPI	by R Duggan BSc (Hons) DipTP MRTPI
Arolygydd a benodir gan Weinidogion Cymru	an Inspector appointed by the Welsh Ministers
Dyddiad: 21.11.2022	Date: 21.11.2022

Appeal Ref: CAS - 02097

Site address: 1 Mount Earl Close, Bridgend CF31 3HA

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 Daniel Baker against the decision of Bridgend County Borough Council.
- The development proposed is a two storey extension to side and rear of existing house, porch to front, and new rendered blockwork external skin.

Decision

1. The appeal is dismissed insofar as it relates to the two storey extension to the side and rear of the house. The appeal is allowed, however, insofar as it relates to the remainder of the application and planning permission is granted for the porch to the front at 1 Mount Earl Close, Bridgend CF31 3HA in accordance with the terms of the application Ref: P/22/346/FUL, dated 12 May 2022, subject to the conditions set out in the attached schedule.

Main Issue

2. I consider the main issue to be the impact of the development on the character and appearance of the host dwelling and street scene.

Reasons

3. The appeal property is a two-storey, semi-detached property located on a prominent corner plot in a residential area containing a mix of mainly semi-detached dwellings which display uniformity in terms of architectural style, proportions and spacing. The separation distances and spaces between properties are relatively constant and set a regular pattern of built development which creates a strong uniform layout to the area. The character and appearance of well spaced properties is maintained by the use of single storey side and rear extensions as well as garages to the side of some of the houses. The houses are characterised by being set back from the road with an established building line thus creating a regular and coherent street scene, and the appeal property contributes to that regularity and coherence.

4. It is proposed to erect a two-storey extension on the side elevation set back from the front elevation by approximately 1m at first floor level and flush with the front elevation at ground floor level. The ridge height would be set down from the existing ridge while the eaves of the extension would be at a similar height as the existing dwelling. Although the Council considers that the extension would be acceptable in design terms, it is, however, critical of the fact that the rearmost element of the extension would extend back beyond the rear elevation of the property by approximately 3.6 metres and effectively create a two-storey gable extension to the rear of the house.
5. The Council has referred me to its Supplementary Planning Guidance (SPG02) Householder Development. Note 12 of SPG02 states that an extension should be in scale with the existing dwelling, and Note 17 states that a side extension to a semi-detached property should respect the original symmetry of the pair of buildings. Although the proposed development would run counter to the general thrust of the advice contained within the Council's SPG, I have treated the document as providing no more than guidance which can assist in the assessment of planning applications including the application of the policies of the development plan. I consider that the advice set out in the SPG should not be treated as prescriptive.
6. Nevertheless, as the site sits higher than the adjoining highway and the adjacent property of No. 35 Mount Earl, the rear section of the extension would appear as a bulky addition to the appeal building, extending out from the rear elevation to a significant degree. It would be seen as a dominant feature attached to the rear of the house, compounded by its prominent and elevated corner position on the street. By reason of its dominance, the extension when viewed from Mount Earl would appear as an incongruous addition which would unbalance and adversely affect the character and appearance of the host building.
7. Overall, the rear part of the two-storey extension would add significant bulk to the finished property and would stand out as a discordant element in the street scene at odds with the scale and design of this pair of dwellings and would be seen as an awkward addition to the prevailing built form.
8. Having regard to the above, I conclude that the two-storey extension would have a harmful impact on the character and appearance of the host dwelling and street scene and would conflict with Policy SP2 of the Adopted Bridgend Local Development Plan (LDP) 2013. This policy requires all development to contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by having a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness and landscape character (criterion 2).
9. The Appellant has drawn my attention to a number of other extensions in the area, including the single-storey extension and detached garage at the neighbouring dwelling. However, whilst I accept that these developments exist, I have been provided with limited information relating to their planning history. Nevertheless, whatever the background, their existence is not an appropriate justification for permitting the proposed development here.
10. The Council does not raise any objections to the erection of the front porch, and I agree. As this element of the scheme can be clearly severed from the remainder of the proposed development it is possible for me to separate them in my decision.

Conditions

11. I have considered the suggested conditions put forward by the Council having regard to the advice in Welsh Government Circular 016/2014: *The Use of Planning Conditions for Development Management* (October 2014). In addition to the standard conditions, I shall

impose a condition requiring the materials on the development to be agreed with the Council to safeguard the visual amenity of the area. I have also added a condition regarding ecological enhancement measures to provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales.

Conclusions

12. Having regard to the above, I conclude that the appeal should be dismissed insofar as it relates to the two-storey extension to the side and rear of the house. However, the remainder of the proposed development, namely the erection of a front porch, would be acceptable and I shall allow this element of the proposal subject to the schedule of conditions attached to this decision.
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 objectives of building a stronger, greener economy as we make maximum progress towards decarbonisation, making our cities, towns and villages even better places in which to live and work and embedding our response to the climate and nature emergency in everything we do.

R. Duggan

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not 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 development shall be carried out in accordance with the following approved plans and documents: Location Plan 001; Plans as existing 002; Proposed floor plans 102 rev D; Proposed elevations 103 rev E; Section as existing 004; Proposed section through original house 104 rev B.
Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application.
- 3) Prior to the commencement of the development hereby approved, details of the external materials to be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details unless otherwise agreed in writing by the local planning authority.
Reason: To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area as required by Policies SP2 and SP5 of the Adopted Local Development Plan.
- 4) Prior to the commencement of development, a scheme of Ecological Enhancement Measures and a Detailed Implementation Timetable shall be submitted to and approved in writing by the Local Planning Authority. The Ecological Enhancement

shall thereafter be undertaken in accordance with the approved scheme and Implementation Timetable and retained thereafter for the lifetime of the development.

Reason: In the interests of biodiversity and to provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales and Policies SP4 and ENV6 of the Adopted Local Development Plan.



Penderfyniad ar yr Apêl	Appeal Decision
Ymweliad â safle a wnaed ar 08/11/22	Site visit made on 08/11/22
gan R Duggan BSc (Hons) DipTP MRTPI	by R Duggan BSc (Hons) DipTP MRTPI
Arolygydd a benodir gan Weinidogion Cymru	an Inspector appointed by the Welsh Ministers
Dyddiad: 22.11.2022	Date: 22.11.2022

Appeal Ref: CAS - 02162

Site address: Seawyns, Carlton Place, Porthcawl CF36 3ET

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 grant of planning permission subject to conditions.
- The appeal is made by Mr Kevyn Morris Field & Karen Christine Taylor against the decision of Bridgend County Borough Council.
- The application Ref P/17/456/FUL, dated 23 May 2017, was approved on 11 July 2017 and planning permission was granted subject to conditions.
- The development permitted is described as *“Demolish garage & conservatory, construct two storey side extension, front porch extension, detached garage to rear with new crossover”*.
- The condition in dispute is No 2 which states that:
“Notwithstanding the requirements of condition no.1, the first floor rear window openings positioned within the west facing elevation (facing no. 14 Carlton Place) of the extension shall be fitted with obscure glazing to a minimum of level 5 on the Pilkington index of obscurity. The windows shall be fitted prior to the beneficial use of the extension hereby approved commencing and shall then be retained in perpetuity”.
- The reasons given for the condition is:
- *“In the interests of privacy and residential amenities”*.

Decision

1. The appeal is allowed and the planning permission Ref P/17/456/FUL granted on 11 July 2017 is varied by deleting condition No 2.

Main Issue

2. I consider the main issue to be the effect of removing condition 2 on the living conditions of the occupiers of No. 14 Carlton Place in terms of overlooking and loss of privacy.

Reasons

3. The appeal property is a detached, two-storey dwelling located on a corner plot at the junction of Carlton Place and Doddridge Way. The two-storey side extension to the house has been built and I saw that the first-floor rear bedroom window located within the west

facing elevation has been fitted with clear glass in conflict with condition 2 of the permission.

4. The recently constructed two-storey side extension is sited approximately 4 - 5 metres away from the common boundary with No. 14 Carlton Place and the window in dispute serves a bedroom at first-floor level. The first-floor window runs parallel with the tall boundary fence between the appeal site and the rear garden of No. 14, and I saw that there is another window serving the bedroom to give unrestricted natural light and outlook to the occupiers of Seawynds.
5. The rear gardens of No's 14 and 15 Carlton Place are not completely private, since each is overlooked from the upper windows of each other's houses, as well as the high-level dormer windows on The Shieling and No 142 Victoria Avenue. In addition, I was able to see on my visit that the view into the garden of No. 14 from the appeal window is significantly screened by the flat roofs of an extension and outbuildings to the rear of No. 14. As such, any view would be over or through a small gap between these structures.
6. The extension at the appeal property adds to the number of overlooking bedroom windows, but it does not in my estimation significantly harm the already low levels of privacy in the rear garden of No. 14. I do however recognise that a perceived increase in overlooking from the appeal property is understandable. Nevertheless, from what I saw, I am satisfied that there would be no direct views into any habitable rooms and only restricted views into the private garden area, and I do not think there is any demonstrable harm by the window having standard clear glazing. It is not normal to require bedroom windows to have obscure glazing and, in this case, I do not think that it is either reasonable or necessary to insist upon it through the continued imposition of condition 2.
7. For the above reasons, the first floor rear window opening positioned within the west facing elevation of the appeal property does not have a harmful impact on the living conditions of the occupiers of No. 14 Carlton Place. As such, there is no conflict with Supplementary Planning Guidance 02: Householder Development (2008) or with Policy SP2 of the Adopted Bridgend County Borough Council Local Development Plan which, amongst other things, seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected.
8. Having regard to the above and considered all other matters raised, I conclude that the appeal should be allowed.
9. 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 objectives of building a stronger, greener economy as we make maximum progress towards decarbonisation, making our cities, towns and villages even better places in which to live and work and embedding our response to the climate and nature emergency in everything we do.

R Duggan

INSPECTOR