

Appeals

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

APPEAL NO. CAS-02688-Q5F5F6 (1986)
APPLICATION NO. ENF/48/22/ACK

APPELLANT KARA TOBIN

SUBJECT OF APPEAL ALLEGED UNAUTHORISED PORCH: 12 PENYLAN LITCHARD BRIDGEND

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL ENFORCEMENT NOTICE

APPEAL NO. CAS-02690-P6Z3N2 (1987)
APPLICATION NO. ENF/48/22/ACK

APPELLANT EMMA DAVIES

SUBJECT OF APPEAL ALLEGED UNAUTHORISED PORCH: 12 PENYLAN LITCHARD BRIDGEND

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL ENFORCEMENT NOTICE

APPEAL NO. CAS-02850-K6N4H4 (1990)
APPLICATION NO. ENF/171/22/ACK

APPELLANT MR J & MRS S CULLEN

SUBJECT OF APPEAL UNAUTHORISED INCLUSION OF LAND INTO GARDEN CURTILAGE: 36 LLWYN HELIG KENFIG HILL

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL ENFORCEMENT NOTICE

APPEAL NO. CAS-02850-K6N4H4 (1991)
APPLICATION NO. P/23/22/FUL

APPELLANT MR J CULLEN

SUBJECT OF APPEAL UNAUTHORISED INCLUSION OF LAND INTO GARDEN CURTILAGE: 36 LLWYN HELIG KENFIG HILL

PROCEDURE HOUSEHOLDER

DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reason:

1. The proposed development constitutes an unjustified, undesirable and sporadic urbanising intrusion into the open countryside that cannot be deemed to be a reasonable rounding off of the defined settlement boundary. It is prejudicial to the established character of the adjoining countryside and would set an undesirable precedent for further applications for similar development in this locality, contrary to the provisions of Policies SP2, PLA1 and ENV1 of Bridgend County Borough Council's adopted Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 11, 2021).

APPEAL NO. CAS-02978-D8C2G7 (1995)
APPLICATION NO. P/23/354/FUL

APPELLANT MR A PRICE

SUBJECT OF APPEAL SINGLE STOREY SIDE/REAR EXTENSION AND HIP TO GABLE
DORMER LOFT CONVERSION: 11 HEOL Y FOELAS BRIDGEND

PROCEDURE HOUSEHOLDER

The application was refused for the following reason:

1. The proposed development, by reason of its siting, scale and design, constitutes an insensitive and unsympathetic form of development in a prominent location that would unbalance an existing short terrace of dwellings to the detriment of the visual amenities of the locality. Furthermore, the proposed dormer extension is considered to be an excessive, incongruous and overly prominent feature that will have a detrimental impact on the character of the property and the appearance of the streetscene, as well as the general character of the residential area, contrary to Policy SP2 of the Local Development Plan (2013), Supplementary Planning Guidance Note 02: Householder Development (2008) and advice contained within Planning Policy Wales (Edition 11, February 2021).

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

APPEAL NO. CAS-02309-B6J3Q8 (1974)
APPLICATION NO. P/22/81/OUT

APPELLANT MR J DAVIES

SUBJECT OF APPEAL DETACHED DWELLING ON LAND TO SIDE: SOUTHLANDS
FUNERAL HOME 59 SOUTH ROAD PORTHCAWL

PROCEDURE WRITTEN REPRESENTATIONS

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. APPLICATION NO.	CAS-02534-G8P7S6 (1984) P/22/698/FUL
APPELLANT	MRS S WILLIAMS
SUBJECT OF APPEAL	SINGLE STOREY SIDE EXTENSION: 79 WOODSTOCK GARDENS PENCOED
PROCEDURE	HOUSEHOLDER
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**

APPEAL NO. APPLICATION NO.	CAS-02584-S0R7H6 (1988) P/22/719/FUL
APPELLANT	MR C ABRAHAM
SUBJECT OF APPEAL	RETENTION OF DETACHED OUTBUILDING (USED AS A HOME OFFICE AND MEETING PLACE FOR EMPLOYEES): SANDBANKS, 32 THE GREEN AVENUE PORTHCAWL
PROCEDURE	HOUSEHOLDER
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 joint appeal decision is attached as **APPENDIX C**

APPEAL NO. APPLICATION NO.	CAS-02582-D3Q8D0 (1989) ENF/175/22/ACK
APPELLANT	MR & MRS C ABRAHAM
SUBJECT OF APPEAL	ALLEGED UNAUTHORISED BUSINESS USE OF GARAGE: SANDBANKS, 32 THE GREEN AVENUE PORTHCAWL
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 VARIED BUT UPHELD.

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

RECOMMENDATION

That the report of the Corporate Director Communities be noted.

JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES

Background Papers (see application reference number)



Appeal Decision

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 18.10.2023

Appeal reference: CAS-02309-B6J3Q8

Site address: Southlands Funeral Home, 59 South Road, Porthcawl CF36 3DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Davies against the decision of Bridgend County Borough Council.
 - The application Ref P/22/81/OUT, dated 1 February 2022, was refused by notice dated 12 July 2022.
 - The development proposed is detached dwelling.
 - A site visit was made on 4 July 2023.
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Decision

1. The appeal is allowed, and planning permission is granted for a detached dwelling on land to the side of Southlands Funeral Home, 59 South Road, Porthcawl CF36 3DA in accordance with the terms of the application, Ref P/22/81/OUT, dated on 1 February 2022 and the plans submitted with it, subject to the conditions set out in the schedule of conditions to the decision.

Procedural and preliminary matters

2. The planning application is submitted in outline with all matters reserved for later determination. The appellant has provided 'indicative' plans illustrating a three-storey six-bedroom detached dwelling on land to the side of No. 59. Height, width, and depth parameters have also been provided for consideration. This is the side garden of No. 59 on the east side of the appeal site.
3. The submitted plans (excluding the red line site location plan) are marked as 'indicative' and are treated as such. They show how the site might be developed, but they do not form part of the outline application. The scale parameters are described for the dwelling as height between 10.5 m to 12 m. Width is described as between 12 m to 14.5 m, and depth as between 12 m to 13.5m. The appeal is considered on this basis, although the 'indicative' plans may not be the only way in which to develop the site.
4. The appellant has provided the submitted plans for the adjoining plot No. 59. These are clearly not the submitted plans for the planning application the subject of this appeal. Clarification was sought from the parties on this matter, and the Council has provided the plans which were considered and was published for this appeal development. I am

satisfied that I have the correct plans which relate to the appeal, and which was considered by the Council. The appellant has not responded to the request. However, I am satisfied that I have the correct plans and submissions pertaining to the appeal development, and no prejudice should arise to any party. The appeal is considered accordingly.

5. Planning permission has been granted under reference P/21/62/FUL in June 2021 for the change of use from funeral home and 2 flats into a pair of semi-detached houses with Juliet balconies and decking, and construction of rear extension to one dwelling and demolition of outbuildings at 59 South Road. This planning permission relates to the existing building on the west side of the appeal site.
6. I noted that works were on-going on the appeal site (No. 59) and that new glazed doorways had been installed on the first and second floor front elevation of the building in accordance with the June 2021 planning permission. I also note that this permission had no pre-commencement condition restricting the development. I therefore view this permission as instigated.
7. The red-line site for the appeal development includes both access points and the driveway but excludes the parking area for six spaces to be laid out in connection with the June 2021 planning permission.
8. The Council has referred to the grant of planning permission reference P/23/12/OUT in May 2023. This outline permission reserved all matters for later determination, but the 'indicative' plan shows a two-storey dwelling with alterations to the existing access arrangements.
9. The appeal is determined in accordance with the Bridgend Local Development Plan 2006-2021 (LDP) having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004. Future Wales, The National Plan 2040 (FW) forms part of the development plan for the purposes of Section 38(6).

Main Issues

10. The main issues in this case are:

- The effect of the proposed development on the character and appearance of the area, and
- The effect of the proposed development on the living conditions of occupiers of No. 59 South Road in relation to outlook, and
- The effect of the proposed development on highway safety.

Reasons

Character and appearance

11. The area is characterised with three-storey detached properties on the west side of South Road. Two-storey properties are evident on the east side of South Road. Two-storey houses adjoin No. 59 to the west on South Place. Further west on South Place there are two-storey semi-detached properties. On the corner of South Place and South Road the three storey properties are positioned up-close to the pavement edge. The appeal site is dominated by the existing three-storey building which faces South Place and South Road because of its corner site position. The land to the east of this building (the appeal site) is relatively open, but there are three single-storey garages positioned on the northern boundary of the appeal site. The south and east boundaries of the appeal site comprise of high stone walls, pillars, and access points.

12. As all matters are reserved for later determination, any analysis on the external appearance of the proposed development is not before me. Layout, scale, access, and landscaping are also reserved for later determination. However, the scale and layout parameters provide an indication of the likely form of development as a minimum and maximum range. It is probable that the form of the proposed dwelling would be along the lines shown on the 'indicative' plans because of the minimum size parameters that have been submitted for consideration.
13. On the corner of these two roads the buildings are three-storey in height. These provide a focal point and represent a form of development that is often seen in traditional street scenes. I note the position of No. 57 opposite the appeal site, positioned tight to the carriageway edge. I therefore do not consider the height of the proposal at odds with this prevailing character when seen in the context of No. 59 and the development opposite.
14. The Council is critical of the fact that this would develop open garden land which acts as a buffer. However, when considering the layout of buildings of the same scale opposite the appeal site the position is very near to the street corner. I see no difference to what this proposal seeks to achieve. This is not a site where the garden land is protected. In my view, it would benefit the street scene if the form of this broadly three-storey building, fills this undeveloped gap. The appeal land is not visually important so to be retained as open and undeveloped. The proposed development as shown on the 'indicative' plans is not excessive in height or layout. I accept it is a prominent site, but a diminutive, scaled property, in my view, would appear incongruous in the street scene.
15. I note that the Council has granted outline permission for a two-storey development on the appeal site. Therefore, the 'spatial gap' as noted by the Council would be filled, in any event. Having considered that this site has planning approval, in character and appearance terms, I do not consider that the appeal development would be materially excessive in terms of scale, height or layout when considering the contextual character of the site.
16. I therefore consider that the proposed development would not conflict with Policy SP2 of the LDP. SP2 requires that all development should contribute to creating high quality, attractive, sustainable places which enhance the community having regard to the natural, historic, and built environment. The policy requires that the design of development respects and enhances local character and distinctiveness and be appropriate in scale, size, and prominence. I consider the proposal respects these matters and is appropriate.
17. Planning Policy Wales Edition 11 (PPW) and FW deal with national sustainable placemaking outcomes, the plan-led approach to the delivery of sustainable places principles and the process of improving the economic, social, environmental, and cultural well-being in accordance with the sustainable development principle. Technical Advice Note 12 Design (TAN 12) indicates that a contextual approach should be considered in relation to the design of developments. Good design forms part of the themes that collectively contribute to placemaking and making better places. PPW recognises that design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and go beyond aesthetics and include social, economic, environmental, cultural aspects of the development. I consider that the proposed development is acceptable having regard to this guidance.
18. As the proposed development is submitted in outline the Council has the final control on the appearance, scale, and layout of the development within the context of the submitted parameters.
19. I conclude that the proposed development would not harm the character and appearance of the area.

Living conditions

20. As I have been referred to P/21/62/FUL granted in June 2021 (No. 59), and P/23/12/OUT granted in May 2023 (on the appeal site), I have considered these as evidence tendered to aid a comparison to be made between what has permission on these sites against the appeal development. In all, the affected windows of what are identified as the host dwelling (No. 59) in the reason for refusal would be inhibited to a similar extent in both P/23/12/OUT and the appeal development now under consideration. I come to this conclusion because the maximum height of the approved outline P/23/12/OUT scale parameter would obscure the aspect of these identified windows as much as the appeal development. The distance between buildings would be similar due to the configuration of the site. Whilst 'indicative' proposed elevations are shown for the appeal development, the roof form is shown as hipped, and the approved roof form on the 'indicative' plan for P/23/12/OUT is an end gable ridge.
21. The impact, in my view, would be similar and therefore the concern on living conditions is not sustained, given what may be built is similar in effect. There would be no worsening effect on outlook, overshadowing or diminution of diffused light and daylight over and above that which has already been given planning approval under P/23/12/OUT.
22. No other adverse effect on living conditions from the Council and interested parties have been mentioned in this appeal and I am satisfied that the proposal would not conflict with LDP Policy SP2 (criterion 12).
23. I conclude that the proposed development would not harm the living conditions of occupiers of No. 59 South Road in relation to outlook.

Highway safety

24. The appeal site is served by two established accesses. The access onto South Road has a reduced visibility being situated on the turn in the road and due to the alignment of the wall which exceeds the visibility height for drivers when looking to the north and attempting to exit the access. Parked cars on South Road reduces the carriageway width and drivers traveling south would in probability be positioned on the near side carriageway on the same side of the road as drivers exiting the access onto the road. There will be circumstances where vehicles are not parked there, and the carriageway width would be wider whereby the position of oncoming traffic towards the access would be on the far side of the road.
25. The access onto South Place has no impediment to visibility and this is recognised by the Council's Transportation Policy and Development Section (the Council's Highway Officer). I have considered the appeal in relation to the lower national speed limit for urban areas which is now 20 mph, and the consequent lowering of the sight stopping distances in built up areas.
26. The appeal development shows a provision to utilise both access points to serve the combined developments of the appeal site and No. 59. There is an indication on the submitted plan that an 'in' and 'out' arrangement would be adopted with drivers driving into the site from South Road (the substandard access point) and driving out of the access point at South Place.
27. Six parking spaces are shown on the 'indicative' plan, and these are outside the red line appeal site. Provision is made on the 'indicative' plan for three parking spaces and a side garage for the appeal development. Access is reserved for later determination, but whether access is suitable to serve the appeal development is material to the acceptability of the proposal under consideration.

28. Planning permission P/23/12/OUT sub-divides and separates the appeal site from No. 59's development with a wall. The South Road access in this scenario becomes an entrance and exit for the approved dwelling. The approved 'indicative' plans show a four-bedroom development, whereas the appeal development could accommodate six bedrooms. However, I do not regard there would be a material difference in trip generation between planning permission P/23/12/OUT and the appeal development.
29. As a result, in my view, there is no material intensification in traffic generation when comparing the appeal development and planning permission P/23/12/OUT. Both developments would be required to provide the same parking provision. The issue then turns on whether the access arrangements are suitable to serve the appeal development.
30. Planning permission P/23/12/OUT would result in the access onto South Road be used as an entrance and exit, but for the exclusive use of this development. The concern from the Council's Highway Officer is that there would be no control over the use of the access onto South Road for the combined developments, and the informal proposed 'in' and 'out' arrangement is not enforceable.
31. However, I do not consider that the approved arrangement for P/23/12/OUT would be a safer arrangement than what could occur should the informal use of the 'in' at South Road and the exit at South Place be utilised. Drivers can make informed decisions as to their safety and others, and I consider that driver behaviour would be influenced by the conditions and constraints of the appeal site. The arrangement for planning permission P/23/12/OUT would limit the options and in effect cause the access onto South Road be used intensively, whereas the proposed development would permit drivers to use the present accesses instinctively and in their own judgement.
32. I therefore conclude that the proposal is acceptable and would not conflict with LDP Policy SP2, when comparing what could be built with planning permission P/23/12/OUT and the appeal development. I have also had regard to the implementation of P/21/62/FUL and the combined access arrangements that would ensue. I have discounted the preceding use before P/21/62/FUL, since I regard P/21/62/FUL to have been instigated for the reasons I have already set out above and is now a new chapter in the planning history and development of the site. I have also disregarded the former use of the garages on the site as these make no material difference to the comparison, I have drawn between the approved planning permission P/23/12/OUT and the appeal development.
33. I conclude that the proposed development would not harm highway safety.

Other Matters

34. I note the representation that if permission is granted for the development the appellant would apply for retrospective planning permission to add a further floor level. Any approval given would be conditioned to restrict the maximum height of the building. If works are carried out not in accordance with the permission the Council could take enforcement action against the operational development. Any subsequent reserved matters application would have to be approved by the Council and not derogate from outline planning permission. Should the appellant apply for another different scheme then this would need to be considered by the Council in the usual way.

Conditions

35. The Council's suggested conditions 4, 5, 6, 9 and 11 are not necessary. Materials are covered under 'appearance' and boundary treatments are included under 'landscaping' and are reserved matters. The site is in a sewered area and this part of suggested condition 6 is justified. Condition 6 is re-worded accordingly.

36. Surface water regulation is separately controlled through the Sustainable Drainage Systems Approval Body, due to the size of the site. Vision splay requirement onto South Road is not reasonable, given my conclusions on the highway issue. To introduce this again would be to prevent acceptable development which has been considered at outline stage. These measures in suggested conditions 9 and 11 would be unreasonable given the substantive case made by the appellant on highway matters.
37. Condition 4 is needed to control the height of the development. This was on the grant of planning permission for P/23/12/OUT and would not come as a surprise to the appellant. However, in this case the wording is different to reflect the scale parameters of this development. Conditions 5 and 7 have been modified, but their substance have not been altered.

Conclusions

38. I am required to determine this proposal in accordance with the development plan unless material considerations indicate otherwise. The starting point is therefore the development plan (FW and LDP). I have found the development would comply with the development plan policies relating to all three main determining issues.
39. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective to make our cities, towns, and villages even better places in which to live and work.
40. I therefore conclude that the appeal be allowed.

Iwan Lloyd

INSPECTOR

SCHEDULE OF CONDITIONS in relation to Appeal Ref: CAS-02309-B6J3Q8

- 1) Details of the appearance, access, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
Reason: The application is submitted in outline with all matters reserved for later determination and require approval from the local planning authority before any development begins.
- 2) Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
Reason: In accordance with the provisions of Sections 91 to 93 of the Town and Country Planning Act 1990 (as amended).
- 3) The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
Reason: In accordance with the provisions of Sections 91 to 93 of the Town and Country Planning Act 1990 (as amended).

- 4) No building on any part of the development hereby approved shall exceed 12 metres in height above the finished ground level of the site.

Reason: In the interests of living conditions of nearby residents and in the interests of the visual amenity of the area, in accordance with Bridgend Local Development Plan 2006-2021 Policy SP2.

- 5) Any subsequent reserved matters application shall provide three parking spaces including facilities within the site for the loading, unloading, parking, and turning of vehicles, in accordance with a scheme to be submitted to, and approved by the local planning authority, prior to the commencement of any site works. Such facilities being completed prior to the occupation of the dwelling hereby approved and thereafter be kept available for such purposes for the lifetime of the development.

Reason: To ensure that provision is made for servicing the site and that adequate parking and manoeuvring space is provided to serve the development, to avoid the necessity for reversing movements into or from the highway in the interests of highway safety, maintaining the free flow of traffic on the adjoining highway and in compliance with Bridgend Local Development Plan 2006-2021 Policy SP2.

- 6) No development shall commence until details of a scheme for the disposal of foul water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the use of the development and retained in perpetuity.

Reason: In the interests of protecting health and safety of residents and to ensure no pollution or detriment to the environment in accordance with Bridgend Local Development Plan 2006-2021 Policy SP2.

- 7) If contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within two working days to the local planning authority, all associated works must stop, and no further development shall take place until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be submitted to and approved in writing by the local planning authority. Following completion of measures and works on the site identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the local planning authority. The timescale for the above actions shall be agreed with the local planning authority within two weeks of the discovery of any unsuspected contamination.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property, and ecological systems are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours, and other offsite receptors.

- 8) No development shall take place until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of maintaining and enhancing biodiversity, in accordance with Future Wales Policy 9.



Appeal Decision

by Helen Smith BA(Hons) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 26/10/2023

Appeal reference: CAS-02534-G8P7S6

Site address: 79 Woodstock Gardens, Pencoed, Bridgend, CF35 6ST

- 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 Mrs Stephanie Williams against the decision of Bridgend County Borough Council.
 - The application Ref P/22/698/FUL, dated 10 October 2022, was refused by notice dated 9 January 2023.
 - The development proposed is single storey side extension.
 - A site visit was made on 11 October 2023.
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Decision

1. The appeal is dismissed.

Main Issue

2. This is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal relates to a detached dwelling located on the corner of Woodstock Gardens and Beechwood Grove within a modern housing estate with generally open frontages. Owing to its orientation, the side elevation of the appeal property faces the primary route of Woodstock Gardens. The appeal property has an open side garden, adjacent to the back edge of the footway which wraps around the corner of the junction.
4. Given the above, the side of the dwelling is viewed in the context of the open frontages of Nos. 77 and 75 Woodstock Gardens (Nos. 77 and 75) and houses further along the street. Along with the appeal property, these are characterised by a consistent and distinctive building line set back from the road. The proposed extension would extend across almost the entire width of the side elevation of the host dwelling and its length would result in the extension being very close to the back edge of the footway on Woodstock Gardens. Unlike the modest porches on adjacent properties, this significant projection, in combination with its width, would disrupt the regular pattern of the building

line, resulting in a visually dominant and incongruous form of development. Whilst the design of the proposed extension would replicate the characteristics of the dwelling in terms of its scale and form, its siting and orientation means that, despite it being single storey, it would fail to respect the housing layout and character of the street scene.

5. I conclude that the proposed development would cause harm to the character and appearance of the area. This is contrary to Policy SP2 of the Bridgend Local Development Plan, which seeks to, amongst other things, ensure that developments contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located. It would also run counter to the objectives of Supplementary Planning Guidance 02 Householder Development, which seeks to encourage high design standards and the integration of development into the surrounding area.

Other Matters

6. I note the representations in relation to the proposed development obstructing the view of traffic emerging from Beechwood Grove and from the driveway of No. 77. However, I have no cogent evidence that this would be the case and from my observations on site, the proposed extension would not obstruct visibility to an unacceptable degree. As the proposal is set off from the boundary of the driveway to No. 77, sufficient space to open a vehicle door parked on the drive of No. 77 would be maintained. I note that no objections have been raised by the Council in this regard. Similarly, given the position of the proposal in relation to the windows in the side elevation of No. 77, the proposal would not result in the loss of light to that property. I do not therefore find the proposal unacceptable for any of these reasons.

Conclusion

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

H Smith

INSPECTOR



Appeal Decisions

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date of decisions: 14/11/2023

APPEAL A

Appeal Reference: CAS-02582-D3Q8D0

Site address: Land at Sandbanks, 32 The Green Avenue, Porthcawl, CF36 3AX

- 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 Mr and Mrs Abraham against an enforcement notice issued by Bridgend County Borough Council.
 - The enforcement notice, numbered ENF/175/22/ACK, was issued on 19 January 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the change of use of the said land from residential to a mixed residential and commercial use.
 - The requirements of the notice are to cease the use of the land for a commercial use as a home office and meeting place for employees.
 - 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), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
 - A site visit was made on 4 October 2023.
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APPEAL B

Appeal Reference: CAS-02584-S0R7H6

Site address: 32 Sandbanks, 32 The Green Avenue, Porthcawl, Bridgend, CF36 3AX

- 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 Chris Abraham against the decision of Bridgend County Borough Council.
- The application Ref: P/22/719/FUL, dated 22 August 2022, was refused by notice dated 10 January 2023.

- The development proposed is the retention of detached outbuilding (used as a home office and meeting place for employees).
 - A site visit was made on 4 October 2023.
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Decisions

Appeal A – Ref: CAS-02582-D3Q8D0 – Enforcement Appeal

1. The appeal is allowed, but only to a limited extent insofar as it relates to the ground (g) appeal. It is directed that the Enforcement Notice be varied by deleting the “3 months” specified as the time period for compliance and substituting it with a period of “4 months”. Subject to this variation, the Enforcement Notice is upheld and planning permission refused on the application deemed to have been made under Section 177(5) of the Act.

Appeal B – Ref: CAS-02584-S0R7H6 – The Planning Appeal

2. The appeal is dismissed.

Procedural Matters

3. As set out above, there are two appeals at the appeal site. Whilst I shall consider each case on its own particular merits, to avoid any duplication, I shall deal with the two cases together in this single document, albeit with separate formal decisions.
4. I have taken the description of development for Appeal B from the Council’s Notice of Decision. Whilst that description is reflected on the Appeal Form, it is relevant to note the appellant’s wider arguments that the description is not accurate and that it should be amended to reflect the breach of planning control alleged on the Enforcement Notice subject of Appeal A. However, whilst the Council’s reason for refusal relating to Appeal B is limited to the use of the building, the terms of the application, and indeed the Council’s determination of that application, were not limited to those matters. It would not, therefore, be appropriate to amend the description of development as suggested by the appellant. Moreover, given that the deemed planning application arising from the appeal under ground (a) of Appeal A already seeks planning permission for those matters, there would be no benefit to the appellant in amending the description of development of Appeal B to that effect.

Reasons

The appeal under ground (c) of Appeal A

5. An appeal under ground (c) is that there has not been a breach of planning control because, for example, permission has already been granted or it comprises permitted development. In this case, it is common ground that the lawful use of the land is residential and no cogent evidence has been submitted to demonstrate that the material change of use of the land, from residential to a mixed use of residential and commercial, would constitute permitted development under the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended (hereinafter referred as the GPDO). As such, and bearing in mind the fact that planning permission has not been granted for the change of use, it follows that the ground (c) appeal must fail.
6. It is relevant to note that much of the appellant’s arguments under the ground (c) appeal are more akin to an appeal typically lodged under ground (b), which is that the matters that constitute the alleged breach of planning control have not occurred as a matter of fact. Indeed, the conclusions to the appellant’s Statement of Case state that “*the appeal does not result in a material change of use and planning permission is not required*”.

Such arguments focus on the contention that the building is used for '*home working*' as opposed to constituting the alleged '*commercial use*'. In making such submissions, the appellant contends that the use of the building does not result in a marked rise in traffic or people calling. It is also submitted that the development does not cause any unreasonable nuisance or disturbance to neighbouring occupiers.

7. It is well-established in law that, in such cases, the appeal should be based on the situation at the time the Notice was issued and that the burden of proof is on the appellant. There was some evidence of domestic use at the time of my site visit, with drying laundry and an ironing board visible. However, I was also able to observe two desks, seats, computers, a printer and a sink that could be used as part of the commercial use alleged within the Enforcement Notice. It is difficult to ascertain what the exact situation was at the time the Enforcement Notice was issued. However, the evidence suggests that the building is currently used as an office by both Mr and Mrs Abraham, as well as 1No. full time employee and 2No. part time employees that attend team meetings and undertake administrative duties at the premises. This does however represent a reduction relative to the 4No. members of staff that previously attended the property for such duties. I am advised that team meetings typically take place on a Monday and that staff may also attend the building on additional occasions between 09:00 and 17:00 hours on weekdays. The appellant notes that client visits, that were previously indicated to occur around twice a week, have now ceased. However, the exact timescales for the cessation of such activity remains unclear.
8. It is clear from the above that the level of commercial activity at the appeal premises is above that which would be typically expected of '*home working*'. I therefore find that, on the balance of probability, a material change of use had occurred at the time the Notice was issued. In coming to this conclusion, I have been mindful of the interested party representations that indicate that there has been a change to the use and character of the property. Indeed, I have no reason to question the credibility of these representations and they support the thrust of the overall evidence that indicates that a material change of use has occurred. It is also material to note that such a finding is consistent with the appellant's own submissions under the ground (g) appeal that suggest that more than 3 months would be necessary to cease the unauthorised use given that an alternative premises would need to be found to cater for employee attendance and administrative support duties. This clearly suggests that the use is not '*home working*', but rather a commercial use, as the Council alleges.
9. I therefore find that, on the balance of probability, the matters that constitute the alleged breach of planning control have occurred and that they do in fact comprise a breach of planning control. It follows that all of the arguments advanced under the ground (c) appeal, including those arguments more akin to those typically submitted under an appeal under Section 174(2)(b) of the Act, must fail.

The appeal under ground (a) of Appeal A – The Deemed Planning Application arising from the Enforcement Appeal

10. An appeal under ground (a) is that planning permission should be granted for the matters that constitute the alleged breach of planning control. The deemed planning application arising from the appeal under ground (a) of Appeal A therefore seeks planning permission for the change of use of the land from residential to a mixed use of residential and commercial. The main issue in the determination of this ground of appeal is: *the effect of the change of use upon the living conditions of the occupiers of neighbouring residential properties, having particular regard to levels of general disturbance.*

11. As set out above, the detached outbuilding incorporates, amongst other things, two desks, seats, computers, a printer and a sink, and the evidence suggests that the building is used as an office by both Mr and Mrs Abraham and other employees that attend both team meetings and undertake administrative duties. Specifically, despite the appellant contending that 90% of the workload is undertaken online, the evidence indicates that the business currently employs 1No. full time and 2No. part-time members of staff, although it is acknowledged that up to 4No. members of staff have previously attended the site for work. Employed staff typically attend team meetings at the site on a Monday and may attend the appeal site separately during a typical 09:00 to 17:00 hours weekday working week. Staff attending the site park on the public highway. As previously indicated, there used to be a weekly average of 2No. client visits, although this is now said to be unnecessary.
12. Within this context, the appellant contends that the comings and goings to the property do not exceed what is typical of a family home. However, I have already found above under the ground (c) appeal that the level of commercial activity at the appeal premises is above that which would be typically expected of 'home working' and I consider that such activity has potential to cause material harm to the amenity of nearby residential occupiers. Such concerns are reflected through interested party representations in this case and, as I have previously set out, I have no reason to question the reliability of such evidence. I have considered whether such matters could be sufficiently mitigated or controlled through the use of planning conditions restricting, amongst other things, the numbers and frequency of visitors. However, I share the Council's concerns regarding the ability to effectively monitor and enforce such conditions and therefore concur with the Council's view that such a use would be better suited to an area allocated for such commercial development in the adopted Bridgend Local Development Plan 2006- 2021 (2013) (LDP).
13. I have considered the wider arguments submitted by the appellant that residents are entitled to work from home. However, as set out above, the appeal proposal seeks planning permission for a material change of use to a mixed commercial and residential use. I do not, therefore, consider such arguments to weigh heavily in favour of the appeal. I note the fact that the Highways Authority has not raised any objections. However, the disturbances associated with vehicles coming and going from the property is a material planning consideration that forms part of the aforementioned general disturbances that would be detrimental to the amenity of the occupiers of neighbouring residential properties. Such a factor does not, therefore, justify a grant of planning permission.
14. Therefore, based on the foregoing analysis, I find that the development would cause material harm to the living conditions of the occupiers of neighbouring residential properties by reason of general disturbance and that it would, therefore, conflict with Policies SP2 and ENV7 of the adopted Bridgend LDP. Given that it has not been demonstrated that such harm could be satisfactorily mitigated through the use of planning conditions, and bearing in mind the fact that such matters are not outweighed by the matters in favour of development, including the economic implications of withholding planning permission, it follows that the appeal under ground (a) must fail.

Appeal B – The Section 78 Planning Appeal

15. Planning permission is sought under Appeal B for "*the retention of a detached outbuilding (used as a home office and meeting place for employees)*". Having regard to the Council's Notice of Decision, and the wider evidence, the main issue in the determination of Appeal B is: *the effect of the proposed development upon the living conditions of the*

occupiers of neighbouring residential properties, having particular regard to levels of general disturbance.

16. I have already set out under ground (a) of Appeal A why a change of use of the appeal site to a mixed use of residential and commercial would be unacceptable and, given that the proposal seeks retrospective planning permission, under Section 73A(2)(a), for a building that would provide a meeting place for employees in association with the same estate agency business, I consider such findings to be equally applicable to this case. It is clearly material to note that the Council does not object to the operational development that comprises the construction of the outbuilding and I have no reason to come to an alternative conclusion on this matter. However, I do not consider that granting permission for the operational works represents an option available to me in these circumstances. In coming to this conclusion, I have been mindful that a condition limiting its use to an ancillary element of the residential property would be necessary, but that such a condition would materially conflict with the terms of the application.
17. Therefore, consistent with my findings in respect of Appeal A, I find that a grant of planning permission would cause material harm to the living conditions of the occupiers of neighbouring residential properties by reason of general disturbance. It would therefore conflict with Policies SP2 and ENV7 of the adopted Bridgend LDP. As such, and having considered all matters raised, I conclude that Appeal B should be dismissed.

The appeal under ground (f) of Appeal A

18. The appeal under ground (f) of Appeal A is that the requirements of the Notice are excessive and that lesser steps would overcome the objections. In this case, the appellant contends that the cessation of the alleged commercial use is excessive as the use of the appeal property as a '*Home Office*' used solely by the appellants would be perfectly acceptable and does not require planning permission. Nevertheless, whilst '*home working*' might be acceptable, the cessation of the '*commercial use*' is absolutely essential to effectively remedy the breach of planning control alleged in this instance. Indeed, there is no other way the breach of planning control could be remedied. It therefore follows that the appeal under ground (f) must fail.

The appeal under ground (g) of Appeal A

19. The appeal under ground (g) of Appeal A is that the period specified to comply with the requirements of the Notice falls short of what should reasonably be allowed. In this case, the compliance period is three months from the date the Notice takes effect. The appellant contends that this is too short to find alternative premises to accommodate employee attendance at team meetings and to undertake administrative support duties. A six month period of compliance is therefore said to be necessary.
20. It is important to balance the competing public and private interests in such appeals and, in this case, I have some sympathy with the appellant's arguments. However, extending the compliance period would clearly prolong the identified harm, to the detriment of the public interest. Therefore, in an attempt to balance the competing interests, I shall vary the time period for compliance to allow for a period of four months to comply with the requirements of the Notice. I shall therefore delete the "*3 months*" specified on the Enforcement Notice and shall substitute it with a period of "*4 months*". To this limited extent, the appeal under ground (g) shall succeed.

Overall Conclusions

21. Based on the foregoing I find that Appeal A should be allowed, but only to a limited extent insofar as it relates to ground (g). The Enforcement Notice should be varied accordingly. Subject to this variation, the Enforcement Notice should be upheld and planning

permission should be refused on the application deemed to have been made under Section 177(5) of the Act. For the aforementioned reasons, Appeal B should be dismissed.

22. In coming to these conclusions, 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 these decisions are in accordance with the sustainable development principle through their contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR