

## Appeals

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

<b>APPEAL NO. ENFORCEMENT NO</b>	CAS-02966-N9P8D1 (1996) ENF/242/22/ACK
<b>APPELLANT</b>	MS R LLOYD DAVIES
<b>SUBJECT OF APPEAL</b>	ALLEGED UNAUTHORISED REPLACEMENT WINDOW AND PATIO DOORS TO FIRST FLOOR LEVEL: HEBRON HOUSE MEADOW CLOSE COYCHURCH
<b>PROCEDURE</b>	WRITTEN REPRESENTATIONS
<b>DECISION LEVEL</b>	ENFORCEMENT NOTICE

---

<b>APPEAL NO. APPLICATION NO</b>	CAS-03065-L4R2B7 (1999) P/23/412/OUT
<b>APPELLANT</b>	MRS S COLLINGS
<b>SUBJECT OF APPEAL</b>	RESIDENTIAL DEVELOPMENT FOR UP TO 50 RESIDENTIAL UNITS (OUTLINE APPLICATION WITH ALL MATTERS RESERVED): LAND WEST OF A4065 NORTH OF LEYSHON WAY BRYNCETHIN
<b>PROCEDURE</b>	WRITTEN REPRESENTATIONS
<b>DECISION LEVEL</b>	NOT YET DECIDED

---

<b>APPEAL NO. ENFORCEMENT NO</b>	CAS-03170-L4V0Z8 (2002) ENF/10/23/ACK
<b>APPELLANT</b>	MR & MRS STUBBS
<b>SUBJECT OF APPEAL</b>	ALLEGED UNAUTHORISED BUILDING WORKS: 16 SUFFOLK PLACE PORTHCAWL
<b>PROCEDURE</b>	WRITTEN REPRESENTATIONS
<b>DECISION LEVEL</b>	ENFORCEMENT NOTICE

---

<b>APPEAL NO. ENFORCEMENT NO</b>	CAS-03166-C6C3T6 (2003) ENF/217/23ACK
<b>APPELLANT</b>	J CANTON
<b>SUBJECT OF APPEAL</b>	ALLEGED UNAUTHORISED REAR DORMER AND ROOF WINDOWS TO FRONT ELEVATION: ROPSLEY THE SQUARE PORTHCAWL

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** ENFORCEMENT NOTICE

---

**APPEAL NO.** CAS-03165-T9V6F9 (2004)  
**APPLICATION NO** P/23/471/FUL

**APPELLANT** J CANTON

**SUBJECT OF APPEAL** REAR EXTENSION & DORMER WINDOW TO LOFT FLOOR:  
ROPSLEY THE SQUARE PORTHCAWL

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. The development proposal, primarily in the form of the roof works undertaken, by reason of their siting, design and scale, constitute insensitive and unsympathetic forms of development that have an unacceptable impact on the character of the host dwelling to the detriment of the visual amenities of the locality which fail to preserve or enhance the character and appearance of the Porthcawl Conservation Area, contrary to Policies SP2, SP5 and ENV8 of the Bridgend Local Development Plan (2013), the principles of SPG02 - Householder Development (2008) and Technical Advice Note 12 Design (2016) and advice contained within Planning Policy Wales (Edition 11, Feb. 2021) and Welsh Office Circular 61/96.
- 

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

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

**APPELLANT** MS K TOBIN

**SUBJECT OF APPEAL** ALLEGED UNAUTHORISED PORCH: 12 PEN Y LAN BRIDGEND

**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 UPHOLD AND PLANNING PERMISSION SHOULD BE REFUSED ON THE APPLICATION DEEMED TO HAVE BEEN MADE UNDER SECTION 177(5) OF THE ACT.

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

---

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

**APPELLANT** MS E DAVIES

**SUBJECT OF APPEAL** ALLEGED UNAUTHORISED PORCH: 12 PEN Y LAN BRIDGEND

**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 AND PLANNING PERMISSION SHOULD BE REFUSED ON THE APPLICATION DEEMED TO HAVE BEEN MADE UNDER SECTION 177(5) OF THE ACT.

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

---

**APPEAL NO.** CAS-02920-L0R2H6 (1993)  
**APPLICATION NO.** P/22/23/FUL

**APPELLANT** CARHYS

**SUBJECT OF APPEAL** ONE 3 BED DETACHED DWELLING WITH ACCESS DRIVEWAYS:  
LAND REAR OF 17-21 CASTLE VIEW 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**

---

**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 Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 13.03.2024

Appeal Reference: CAS-02690-P6Z3N2

Site Address: 12 Penylan, Litchard, Bridgend, CF31 1QW

---

- 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 Emma Davies against an enforcement notice issued by Bridgend County Borough Council.
  - The enforcement notice, Ref: ENF/48/22/ACK, was issued on 10 March 2023.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a porch to the front of the property.
  - The requirements of the notice are to remove and keep removed the porch to the front of the property and remove all resultant materials from the land.
  - The period for compliance with the requirements is two months after the date the Notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
  - A site visit was made on 2 February 2024.
- 

### Decision

1. The appeal is allowed, but only insofar as it relates to ground (g). It is directed that the Enforcement Notice be corrected and varied by:
  - The deletion of the words “...and keep removed” from the requirements of the Notice set out at Section 5: *What you are required to do*.
  - The deletion of the words: “*Time for Compliance: Two months after this Notice takes effect*” from the requirements of the Notice set out at Section 5: *What you are required to do*, and their substitution with the words “*Time for Compliance: Nine months after this Notice takes effect*”.
2. Subject to these corrections and variations, the Enforcement Notice is upheld and planning permission is refused on the application deemed to have been made under Section 177(5) of the Act.

### Procedural Matters

3. There are two appeals in respect of the above Enforcement Notice which affects No.12 Penylan in Litchard, Bridgend. Despite the fact that the grounds of appeal and the

associated evidence are substantially the same, the appeals are being pursued by different people. I shall therefore issue two separate decision letters.

4. The appellant's response to the Local Planning Authority's (LPA) Statement of Case includes a subheading entitled "*Ground B/C*". However, ground (b) was not pleaded on the Appeal Form and neither do such arguments form part of the appellant's Statement of Case. Moreover, nowhere in the evidence does the appellant advance detailed arguments to suggest that the matters that constitute the alleged breach of planning control have not occurred as a matter of fact. Rather, the thrust of the appellant's evidence appears to acknowledge that a new structure has been erected. On this basis, and bearing in mind the fact that ground (b) arguments have not been considered by the Council, I find that there is no ground (b) appeal to be considered.
5. The Appeal Form indicates that an application for costs is to be made. The only details provided in respect of this application, however, refer to the cost of legal representation and the hours taken to prepare the case. Given that a detailed application for an award of costs, demonstrating how unreasonable behaviour led to unnecessary or wasted expense through the appeals process, has not been submitted, no further action shall be taken in respect of this matter.

## Reasons

### *The Enforcement Notice*

6. The requirements of the Enforcement Notice, at Section 5, state: "*Remove and keep removed the porch to the front of the property and remove all resultant materials from the land*". The requirement to '*keep removed*' is unnecessary and superfluous. Therefore, without prejudice to the various grounds of appeal, I shall correct the requirements of the Notice by deleting the words "*...and keep removed*". I am satisfied that this correction would not cause injustice to any party.

### *Appeal under Ground (c)*

7. An appeal under ground (c) is that there has not been a breach of planning control because, for example, planning permission has already been granted for the matters that constitute the alleged breach or, alternatively, because it comprises permitted development under the provisions of The Town and Country Planning (General Permitted Development) Order 1995, as amended (hereinafter referred as the GPDO).
8. Whilst the appellant suggests that planning permission had been granted via a pre-existing porch, the evidence indicates that the original porch was demolished and replaced by the porch subject of this appeal. As such, and bearing in mind the fact that the new porch incorporates a materially different design to the pre-existing structure, I concur with the Council's position that the new structure does not benefit from any planning permission that might have related to any pre-existing porch.
9. The appellant also argues that the porch is permitted development as it is 3 metres in height up to the upper part of the tile on the eaves, when measured from the adjacent land as per the principles established through *McGaw v The Welsh Ministers [2021] EWCA Civ976*. However, Class D of Part 1, Schedule 2 of the GPDO states that the erection of a porch outside of any external door of a dwellinghouse is not permitted by Class D if, amongst other things, "*...any part of the structure would be more than 3 metres above ground level*". There does not appear to be any dispute that the overall structure exceeds 3 metres from the adjacent ground level. Indeed, I have already set out above that the appellant considers the structure to be 3 metres to the upper part of the eaves and the appellant's rebuttal to ground (f) clearly states that, as an alternative to demolition, the porch could be '*taken down*' so that it does not exceed 3 metres.

10. It follows that the structure is not therefore permitted by Class D of Part 1, Schedule 2 of the GPDO. On this basis, I find that there has been a breach of planning control and that the appeal under ground (c) must fail.

*The Appeal under ground (d)*

11. An appeal under ground (d) is that, at the time the Enforcement Notice was issued, it was too late to take enforcement action against the matters that constitute the alleged breach of planning control. In this case, the appellant points to the fact that a pre-existing porch was in situ when the property was purchased over 13 years ago. However, consistent with the findings in respect of the ground (c) appeal above, the evidence indicates that the original porch was demolished during the summer of 2021. The porch subject of the enforcement action also represents a materially different structure to that which it replaced. It follows that the newly constructed porch is not immune from enforcement action under the provisions of Section 171B of the above Act. For these reasons, the appeal under ground (d) must also fail.

*The Appeal under Ground (a) – The Deemed Planning Application*

12. An appeal under ground (a) is that planning permission should be granted for the matters that constitute the breach of planning control. The deemed planning application in this case therefore seeks permission for the erection of a porch to the front of the property.
13. Having regard to the reasons for issuing the Notice, and the personal circumstances advanced by the appellant, I consider the main issues in the determination of the appeal to be: *the effect of the development upon the character and appearance of the host property and surrounding area; and whether any identified harm would be materially outweighed by the matters in favour of the development, including the occupants' personal circumstances and protected characteristics.* Edition 12 of Planning Policy Wales (PPW) was published on 7 February 2024. However, as this amendment simply consolidates previously published content, I am satisfied that it does not raise any other issues that would have a significant bearing on the deemed planning application.
14. I was able to observe at the time of my site inspection that, by reason of its scale, siting, form and overall design, the porch subject of the enforcement action represents an insensitive and disproportionate addition to the host property. Indeed, it represents a prominent and discordant feature, with a roof form that fails to harmonise with the modest simplicity of the host dwelling. I have fully considered the other properties within the immediate vicinity. However, I have not seen anything to lead me to conclude that the porch subject of this appeal is in-keeping with the prevailing character of the area. Rather, I find that it represents an incongruous feature at an elevated and prominent location in the street scene. I note the fact that the structure could potentially be replaced by a porch that would be compliant with permitted development rights. However, given that such a scheme would reduce the concerns outlined above, I do not consider such arguments to weigh heavily in favour of the development.
15. I note the appellant's reference to the developments within the wider area. However, such developments do not in my view justify the harm identified in this instance. Indeed, I have not been provided with full details of those schemes and have not, therefore, been able to have regard to matters such as the planning policy framework under which those decisions were made. In any event, the schemes cited do not constitute the exact same set of circumstances as this case and, notwithstanding this, it is a well-established principle of planning that each case should be treated on its own particular merits. I note the appellant's contention that the ramp would change the perception of the overall height of the structure. However, I am not persuaded that such a feature would improve the

relationship with the host dwelling or otherwise reduce its prominence in the street scene. I do not therefore consider such arguments to justify a grant of planning permission.

16. I have had full regard to the personal circumstances of the occupants, including the health and financial implications of planning permission being withheld. I have considered such arguments within the context of the occupants' right for respect to a private and family life and home, under Article 8 of the Human Rights Act 1998. I have also considered the wider implications of the other Articles of that same legislation and have had due regard to the occupants' protected characteristics under the Public Sector Equality Duty. However, I have not seen anything to lead me to believe that the porch subject of the enforcement action is the only way of achieving a safe access to the property and, in this respect, I consider that the refusal of planning permission would be both proportionate and in pursuit of a legitimate planning aim. It would not therefore represent an unjustified interference with the occupants' rights. Moreover, whilst I have sympathy with the financial implications for the appellant, I have not seen anything to lead me to believe that such personal interests justify the identified public harm.
17. Therefore, on the basis of the foregoing analysis, I find that the development causes material harm to the character and appearance of the area and that it therefore conflicts with Policy SP2 of the adopted Bridgend Local Development Plan (2013) (LDP). For the same reasons, it also runs counter to the placemaking principles that underpin national planning policy. Such harm is not outweighed by the material factors in favour of the development. In coming to this conclusion, I have had full regard to the personal circumstances and protected characteristics that have been cited as relevant to the determination of the appeal. On this basis, and having considered all matters raised, I conclude that the appeal under ground (a) should fail and that planning permission should be refused for the matters that constitute the breach of planning control.

#### *The Appeal under Ground (f)*

18. An appeal under ground (f) is that the steps required to comply with the requirements of the notice are excessive, and that lesser steps would overcome the objections. In this case, the appellant alleges that the enforcement action is wholly punitive and disproportionate. The ground (f) appeal, however, falls short of outlining the lesser steps which are considered to overcome the objections.
19. In the interest of completeness, I have considered whether it would be appropriate to vary the requirements of the Notice so that the appellant would have the option to revert to a scheme that would constitute permitted development. However, given that I have not seen any cogent arguments or design details that would suggest that the structure enforced against could be converted to a porch that would benefit from such rights without any major reconstruction, I have decided that such an approach would be inappropriate in this instance. Similarly, in the absence of a fully worked out alternative, I am unable to find that there are lesser steps that would overcome the objections. On this basis I find that the requirements of the Notice are not excessive. The appeal under ground (f) must therefore fail.

#### *The Appeal under Ground (g)*

20. An appeal under ground (g) is that the time given to comply with the requirements of the notice is too short. In this case the appellant argues that the two-month period is far too short, citing the cost invested in the development and the additional cost that would be required to meet the requirements of the Notice. In making such submissions, the ongoing cost of living crisis has been identified as a material factor.

21. The appellant has not specified an alternative time period for compliance. Nevertheless, having considered the general arguments advanced, including the personal circumstances, I find that an extension to the compliance period is justified in this instance. Such an extension of time does however need to be considered within the context of the public harm identified, not least because that harm would continue under the extended time period.
22. Within this context, I consider that a nine month period would appropriately balance the competing public and private interests. I shall, therefore, vary Section 5 of the Enforcement Notice by deleting the words "*Time for Compliance: Two months after this Notice takes effect*", and substituting them with "*Time for Compliance: Nine months after this Notice takes effect*".
23. To this limited extent, the appeal under ground (g) should succeed.

*Overall Conclusions*

24. Based on the foregoing analysis, I find that the appeal should be allowed, but only insofar as it relates to ground (g). The Enforcement Notice should therefore be corrected and varied as set out above. However, subject to those corrections and variations, 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.
25. I have considered where relevant the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

*Richard E. Jenkins*

INSPECTOR





## Appeal Decision

---

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 13.03.2024

Appeal Reference: CAS-02688-Q5F5F6

Site Address: 12 Penylan, Litchard, Bridgend, CF31 1QW

---

- 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 Kara Tobin against an enforcement notice issued by Bridgend County Borough Council.
  - The enforcement notice, Ref: ENF/48/22/ACK, was issued on 10 March 2023.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a porch to the front of the property.
  - The requirements of the notice are to remove and keep removed the porch to the front of the property and remove all resultant materials from the land.
  - The period for compliance with the requirements is two months after the date the Notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
  - A site visit was made on 2 February 2024.
- 

### Decision

1. The appeal is allowed, but only insofar as it relates to ground (g). It is directed that the Enforcement Notice be corrected and varied by:
  - The deletion of the words “...and keep removed” from the requirements of the Notice set out at Section 5: *What you are required to do*.
  - The deletion of the words: “*Time for Compliance: Two months after this Notice takes effect*” from the requirements of the Notice set out at Section 5: *What you are required to do*, and their substitution with the words “*Time for Compliance: Nine months after this Notice takes effect*”.
2. Subject to these corrections and variations, the Enforcement Notice is upheld and planning permission is refused on the application deemed to have been made under Section 177(5) of the Act.

### Procedural Matters

3. There are two appeals in respect of the above Enforcement Notice which affects No.12 Penylan in Litchard, Bridgend. Despite the fact that the grounds of appeal and the

associated evidence are substantially the same, the appeals are being pursued by different people. I shall therefore issue two separate decision letters.

4. The appellant's response to the Local Planning Authority's (LPA) Statement of Case includes a subheading entitled "*Ground B/C*". However, ground (b) was not pleaded on the Appeal Form and neither do such arguments form part of the appellant's Statement of Case. Moreover, nowhere in the evidence does the appellant advance detailed arguments to suggest that the matters that constitute the alleged breach of planning control have not occurred as a matter of fact. Rather, the thrust of the appellant's evidence appears to acknowledge that a new structure has been erected. On this basis, and bearing in mind the fact that ground (b) arguments have not been considered by the Council, I find that there is no ground (b) appeal to be considered.
5. The Appeal Form indicates that an application for costs is to be made. The only details provided in respect of this application, however, refer to the cost of legal representation and the hours taken to prepare the case. Given that a detailed application for an award of costs, demonstrating how unreasonable behaviour led to unnecessary or wasted expense through the appeals process, has not been submitted, no further action shall be taken in respect of this matter.

## Reasons

### *The Enforcement Notice*

6. The requirements of the Enforcement Notice, at Section 5, state: "*Remove and keep removed the porch to the front of the property and remove all resultant materials from the land*". The requirement to '*keep removed*' is unnecessary and superfluous. Therefore, without prejudice to the various grounds of appeal, I shall correct the requirements of the Notice by deleting the words "*...and keep removed*". I am satisfied that this correction would not cause injustice to any party.

### *Appeal under Ground (c)*

7. An appeal under ground (c) is that there has not been a breach of planning control because, for example, planning permission has already been granted for the matters that constitute the alleged breach or, alternatively, because it comprises permitted development under the provisions of The Town and Country Planning (General Permitted Development) Order 1995, as amended (hereinafter referred as the GPDO).
8. Whilst the appellant suggests that planning permission had been granted via a pre-existing porch, the evidence indicates that the original porch was demolished and replaced by the porch subject of this appeal. As such, and bearing in mind the fact that the new porch incorporates a materially different design to the pre-existing structure, I concur with the Council's position that the new structure does not benefit from any planning permission that might have related to any pre-existing porch.
9. The appellant also argues that the porch is permitted development as it is 3 metres in height up to the upper part of the tile on the eaves, when measured from the adjacent land as per the principles established through *McGaw v The Welsh Ministers [2021] EWCA Civ976*. However, Class D of Part 1, Schedule 2 of the GPDO states that the erection of a porch outside of any external door of a dwellinghouse is not permitted by Class D if, amongst other things, "*...any part of the structure would be more than 3 metres above ground level*". There does not appear to be any dispute that the overall structure exceeds 3 metres from the adjacent ground level. Indeed, I have already set out above that the appellant considers the structure to be 3 metres to the upper part of the eaves and the appellant's rebuttal to ground (f) clearly states that, as an alternative to demolition, the porch could be '*taken down*' so that it does not exceed 3 metres.

10. It follows that the structure is not therefore permitted by Class D of Part 1, Schedule 2 of the GPDO. On this basis, I find that there has been a breach of planning control and that the appeal under ground (c) must fail.

*The Appeal under ground (d)*

11. An appeal under ground (d) is that, at the time the Enforcement Notice was issued, it was too late to take enforcement action against the matters that constitute the alleged breach of planning control. In this case, the appellant points to the fact that a pre-existing porch was in situ when the property was purchased over 13 years ago. However, consistent with the findings in respect of the ground (c) appeal above, the evidence indicates that the original porch was demolished during the summer of 2021. The porch subject of the enforcement action also represents a materially different structure to that which it replaced. It follows that the newly constructed porch is not immune from enforcement action under the provisions of Section 171B of the above Act. For these reasons, the appeal under ground (d) must also fail.

*The Appeal under Ground (a) – The Deemed Planning Application*

12. An appeal under ground (a) is that planning permission should be granted for the matters that constitute the breach of planning control. The deemed planning application in this case therefore seeks permission for the erection of a porch to the front of the property.
13. Having regard to the reasons for issuing the Notice, and the personal circumstances advanced by the appellant, I consider the main issues in the determination of the appeal to be: *the effect of the development upon the character and appearance of the host property and surrounding area; and whether any identified harm would be materially outweighed by the matters in favour of the development, including the occupants' personal circumstances and protected characteristics.* Edition 12 of Planning Policy Wales (PPW) was published on 7 February 2024. However, as this amendment simply consolidates previously published content, I am satisfied that it does not raise any other issues that would have a significant bearing on the deemed planning application.
14. I was able to observe at the time of my site inspection that, by reason of its scale, siting, form and overall design, the porch subject of the enforcement action represents an insensitive and disproportionate addition to the host property. Indeed, it represents a prominent and discordant feature, with a roof form that fails to harmonise with the modest simplicity of the host dwelling. I have fully considered the other properties within the immediate vicinity. However, I have not seen anything to lead me to conclude that the porch subject of this appeal is in-keeping with the prevailing character of the area. Rather, I find that it represents an incongruous feature at an elevated and prominent location in the street scene. I note the fact that the structure could potentially be replaced by a porch that would be compliant with permitted development rights. However, given that such a scheme would reduce the concerns outlined above, I do not consider such arguments to weigh heavily in favour of the development.
15. I note the appellant's reference to the developments within the wider area. However, such developments do not in my view justify the harm identified in this instance. Indeed, I have not been provided with full details of those schemes and have not, therefore, been able to have regard to matters such as the planning policy framework under which those decisions were made. In any event, the schemes cited do not constitute the exact same set of circumstances as this case and, notwithstanding this, it is a well-established principle of planning that each case should be treated on its own particular merits. I note the appellant's contention that the ramp would change the perception of the overall height of the structure. However, I am not persuaded that such a feature would improve the

relationship with the host dwelling or otherwise reduce its prominence in the street scene. I do not therefore consider such arguments to justify a grant of planning permission.

16. I have had full regard to the personal circumstances of the occupants, including the health and financial implications of planning permission being withheld. I have considered such arguments within the context of the occupants' right for respect to a private and family life and home, under Article 8 of the Human Rights Act 1998. I have also considered the wider implications of the other Articles of that same legislation and have had due regard to the occupants' protected characteristics under the Public Sector Equality Duty. However, I have not seen anything to lead me to believe that the porch subject of the enforcement action is the only way of achieving a safe access to the property and, in this respect, I consider that the refusal of planning permission would be both proportionate and in pursuit of a legitimate planning aim. It would not therefore represent an unjustified interference with the occupants' rights. Moreover, whilst I have sympathy with the financial implications for the appellant, I have not seen anything to lead me to believe that such personal interests justify the identified public harm.
17. Therefore, on the basis of the foregoing analysis, I find that the development causes material harm to the character and appearance of the area and that it therefore conflicts with Policy SP2 of the adopted Bridgend Local Development Plan (2013) (LDP). For the same reasons, it also runs counter to the placemaking principles that underpin national planning policy. Such harm is not outweighed by the material factors in favour of the development. In coming to this conclusion, I have had full regard to the personal circumstances and protected characteristics that have been cited as relevant to the determination of the appeal. On this basis, and having considered all matters raised, I conclude that the appeal under ground (a) should fail and that planning permission should be refused for the matters that constitute the breach of planning control.

*The Appeal under Ground (f)*

18. An appeal under ground (f) is that the steps required to comply with the requirements of the notice are excessive, and that lesser steps would overcome the objections. In this case, the appellant alleges that the enforcement action is wholly punitive and disproportionate. The ground (f) appeal, however, falls short of outlining the lesser steps which are considered to overcome the objections.
19. In the interest of completeness, I have considered whether it would be appropriate to vary the requirements of the Notice so that the appellant would have the option to revert to a scheme that would constitute permitted development. However, given that I have not seen any cogent arguments or design details that would suggest that the structure enforced against could be converted to a porch that would benefit from such rights without any major reconstruction, I have decided that such an approach would be inappropriate in this instance. Similarly, in the absence of a fully worked out alternative, I am unable to find that there are lesser steps that would overcome the objections. On this basis I find that the requirements of the Notice are not excessive. The appeal under ground (f) must therefore fail.

*The Appeal under Ground (g)*

20. An appeal under ground (g) is that the time given to comply with the requirements of the notice is too short. In this case the appellant argues that the two-month period is far too short, citing the cost invested in the development and the additional cost that would be required to meet the requirements of the Notice. In making such submissions, the ongoing cost of living crisis has been identified as a material factor.

21. The appellant has not specified an alternative time period for compliance. Nevertheless, having considered the general arguments advanced, including the personal circumstances, I find that an extension to the compliance period is justified in this instance. Such an extension of time does however need to be considered within the context of the public harm identified, not least because that harm would continue under the extended time period.
22. Within this context, I consider that a nine month period would appropriately balance the competing public and private interests. I shall, therefore, vary Section 5 of the Enforcement Notice by deleting the words "*Time for Compliance: Two months after this Notice takes effect*", and substituting them with "*Time for Compliance: Nine months after this Notice takes effect*".
23. To this limited extent, the appeal under ground (g) should succeed.

*Overall Conclusions*

24. Based on the foregoing analysis, I find that the appeal should be allowed, but only insofar as it relates to ground (g). The Enforcement Notice should therefore be corrected and varied as set out above. However, subject to those corrections and variations, 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.
25. I have considered where relevant the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

*Richard E. Jenkins*

INSPECTOR



## Appeal Decision

---

by Helen Smith BA(Hons) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 12/03/2024

Appeal reference: CAS-02920-L0R2H6

Site address: Land rear of 17-21 Castle View, Bridgend, CF31 1HL

---

- 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 Carhys against the decision of Bridgend County Borough Council.
  - The application Ref P/22/23/FUL, dated 5 January 2022, was refused by notice dated 11 May 2023.
  - The development proposed is a one No. 3 bed detached dwelling with access driveway.
  - A site visit was made on 7 February 2024.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. For clarity, I have used the site address from the Decision Notice and the Appeal Form.
3. Since the submission of the appeal, Edition 12 of Planning Policy Wales (PPW) has been published. However, as it consolidates previously published content it does not raise any new matters that have any significant bearing on the decision.
4. The proposal was amended during the consideration of the planning application. For clarity, my decision relates to the plans that formed the basis of the Council's decision, as set out in its Officer report.

### Main Issues

5. These are the effects of the proposed development on (a) the character and appearance of the area; and (b) the living conditions of the future occupiers of the dwelling and the occupiers of 1 Ger y Bont (No.1).

### Reasons

#### *Character and appearance*

6. The appeal site forms part of a former railway line that runs between the dwellings on Castle View and Glynbridge Gardens. It is at a lower level than these dwellings and has a steeply sloping northeastern boundary vegetated with trees and shrubs which provides a

verdant outlook for neighbouring residents, despite some clearance works having been carried out. The appeal site lies predominantly to the rear of 17 Castle View (No.17) and adjacent to the side garden of No. 1 with a proposed access to the turning head serving Castle View. Whilst some dwellings in the surrounding area are positioned side onto the road and the Ger Y Bont dwellings take a staggered form around the top of the turning head, the street layout is predominantly linear in form with strong building lines that creates a distinctly planned and ordered housing pattern.

7. Owing to the site's location to the rear of the properties on Castle View, the proposed dwelling would not front onto the street and would not follow the linear pattern of development of the street. Nevertheless, as the level of the proposed dwelling would be significantly lower than the levels of the dwellings on Castle View and due to its siting behind No. 17, the proposal would not be viewed from the street or the public domain. Consequently, the proposal would not disrupt the continuous building line nor alter the appearance of the street and would not visually damage the character of the street or surrounding area, despite it not following the ordered housing pattern of the street.
8. I conclude that the proposed development would not have a harmful effect on the character and appearance of the area. This would accord with Policy SP2 of the Bridgend Local Development Plan (LDP) which seeks to, amongst other things, ensure a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness. It would also accord with the general placemaking objectives of PPW.

#### *Living conditions*

9. Having regard to the separation distances, the orientation of the dwelling in relation to the adjacent dwellings and the lower level of the appeal site in comparison to adjacent dwellings, the proposal would not result in a level of overlooking that would unacceptably harm the privacy levels of the occupants of the nearby properties. Similarly, whilst the proposal would change the existing verdant outlook to the rear for the occupiers of No. 17, I would not equate that with any harmful overbearing impacts that would harm their living conditions.
10. Nonetheless, as the proposed dwelling would be orientated at an angle towards the rear of the site, earthworks and retaining structures would likely be required to the steeply sloping bank on the northeastern boundary of the site. However, no site sections have been submitted. In the absence of such information, and having regard to the proximity of the windows on the rear and side elevation of the proposed dwelling to the steeply sloping bank and any likely retaining structures, the proposal fails to demonstrate that the dwelling would have an adequate outlook for the occupiers of the proposed dwelling. Furthermore, the lack of site sections also results in the proposal failing to demonstrate that the proposed outdoor amenity space would be of a quality that would provide adequate usable outdoor space for the occupiers of the proposed dwelling.
11. The proposed dwelling would be accessed via a narrow path which runs between the side boundaries of No. 1 and No. 17. I have seen little tangible evidence that the access would be unsafe for the purposes of traffic generated by a single dwelling, especially with parking and turning areas provided within the site. However, it would result in vehicular movements from occupiers, visitors and service /delivery traffic which would pass in close proximity to the front window of No. 1. Whilst any property fronting a highway can expect a degree of disturbance from traffic, in this case No. 1 is set back from the highway whereas the proposed access would result in vehicles passing unacceptably close to its windows. In these circumstances, the proposal would be intrusive to the outlook from this dwelling, and result in an unacceptable degree of noise and disturbance for the occupiers of No 1.

12. The parking areas to serve the dwelling would be sited adjacent to the side boundary of the rear garden of No. 1 in an area which currently does not have such activity and which therefore enjoys a significant degree of peace and quiet. In these circumstances the proposal would introduce additional vehicle activity, the intensity of which would be experienced at close range by the neighbouring occupants. Consequently, the frequent vehicle movements back and forth along the driveway, and the opening and closing of vehicle doors, would lead to a material increase in noise and disturbance which would be apparent from No.1. Furthermore, the proposal shows retaining walls around the parking spaces adjacent to the boundary with No. 1, but the lack of site sections fails to demonstrate how the levels of these spaces would relate to the levels of No. 1, which could exacerbate the proposal's impact on the adjacent property.
13. I conclude that the proposed development would be harmful to the living conditions of the future occupiers of the proposed dwelling and the occupiers of No. 1 Ger Y Bont. This would be contrary to Policy SP2 of the LDP which seeks to, amongst other things, ensure that the viability and amenity of neighbouring uses and their users/occupiers are not adversely affected.

### **Other Matters**

14. Chapter 6 of PPW 12 provides further clarity on securing a net benefit for biodiversity and ecosystem resilience, including trees and woodland, through the application of a stepwise approach. Although a PEA was undertaken, this was on the basis of a different layout to the one before me. It was also undertaken in the absence of information in relation to the potential impacts of any changes in levels/construction of retaining walls. It also recommended further surveys. In these circumstances the potential impacts on ecology and biodiversity are unclear, particularly in relation to trees, and whether the proposal would deliver a net benefit for biodiversity and ecosystem resilience. However, as I am dismissing the appeal on other substantive grounds, I have not considered this matter further.
15. I have had regard to the local representations objecting to the development, which include concerns on foul and surface water drainage and potential impacts on the overhead power lines. However, I have no cogent evidence to suggest that the proposal would be unacceptable for any of these reasons. In particular, matters relating to proximity to power lines is not a material planning consideration to which I attach any significant weight.
16. I do not dispute that the principle of the development would be acceptable in this sustainable and accessible location and I note the benefits of the provision of an additional dwelling. Nonetheless, these considerations should be balanced with other impacts that a development can have and in this case the harm I have identified is a significant and overriding consideration.

### **Conclusion**

17. Although I have found no harm to the character and appearance of the area, this does not outweigh the harm to residents' living conditions. For the reasons set out above, and having regard to all matters raised, the appeal is dismissed.
18. 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.



Ref: CAS-02920-L0R2H6

*H Smith*

INSPECTOR