

## Appeals

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

|                                      |  |
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| <b>APPEAL NO.<br/>APPLICATION NO</b> | CAS-03500-G0Y4Q3 (2009)<br>P/24/50/RLX   |
| <b>APPELLANT</b>                     | A SLEEP  |
| <b>SUBJECT OF APPEAL</b>             | REMOVAL OF CONDITION 3 (FINISH OF DORMERS) OF<br>P/23/540/FUL: 22 GLYNSTELL ROAD PORTHCAWL |
| <b>PROCEDURE</b>                     | WRITTEN REPRESENTATIONS  |
| <b>DECISION LEVEL</b>                | DELEGATED OFFICER  |

The application was refused for the following reason:

1. The proposed removal of the condition, would represent an unsympathetic and incongruous addition to the property and wider street scene having a detrimental impact on local visual amenities, contrary to Policy SP3 of the Bridgend Local Development Plan 2018 – 2033, Supplementary Planning Guidance Note 02: Householder Development (2008) and advice contained within Planning Policy Wales (Edition 12, 2024).

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| <b>APPLICATION NO</b>    | CAS-03529-X4T0G9 (2013)   |
| <b>APPELLANT</b>         | M BACON   |
| <b>SUBJECT OF APPEAL</b> | RETENTION OF OUTBUILDING TO SIDE OF DWELLING: 3<br>LLWYN COCH BRIDGEND CF31 5BJ |
| <b>PROCEDURE</b>         | WRITTEN REPRESENTATIONS   |
| <b>DECISION LEVEL</b>    | COMMITTEE   |

The application was refused for the following reasons:

1. The development, by reason of its siting, form and design, constitutes an alien, incongruous and overly prominent feature that has an unacceptable detrimental impact on the established character and appearance of the host property and wider streetscene, as well as the general character of the residential area, contrary to Policy SP3 of the Bridgend Local Development Plan (2024), Supplementary Planning Guidance Note 02: Householder Development (2008) and advice contained within Planning Policy Wales (Edition 12, February 2024). And Technical Advice Note 12 (Design).
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|--------------------------|---|
| <b>APPLICATION NO</b>    | CAS-03530-T4G6Q9 (2014)   |
| <b>APPELLANT</b>         | M BACON   |
| <b>SUBJECT OF APPEAL</b> | ALLEGED UNAUTHORISED EXTENSION: 3 LLWYN COCH<br>BRIDGEND CF31 5BJ |

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION** ENFORCEMENT NOTICE

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

**APPEAL NO.** CAS-02483-N2F1B6 (1982)  
**APPLICATION NO.** P/21/301/FUL

**APPELLANT** MULBERRY HOMES LTD

**SUBJECT OF APPEAL** ERECTION OF 70 DWELLINGS, COMMUNITY ROUTE AND ASSOCIATED PLAY AREA AND PUBLIC OPEN SPACE: LAND REAR OF WAUNSCIL AVENUE EXTENDING TO THE REAR OF MORFA STREET BRIDGEND

**PROCEDURE** NON-DETERMINATION

**DECISION LEVEL** DELEGATED OFFICER

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

**The Appeal Decision is attached as APPENDIX A.**

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**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

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

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

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**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

**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 joint appeal decision is attached as APPENDIX B.**

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**APPEAL NO.** **CAS-03065-L4R2B7 (1999)**  
**APPLICATION NO** P/23/412/OUT

**APPELLANT** MRS S COLLINGS

**SUBJECT OF APPEAL** RESIDENTIAL DEVELOPMENT FOR UP TO 50 RESIDENTIAL UNITS (OUTLINE APPLICATION WITH ALL MATTERS RESERVED): LAND WEST OF A4065 NORTH OF LEYSHON WAY BRYNCETHIN

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** NON-DETERMINATION

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

**The Appeal Decision is attached as APPENDIX C.**

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**APPEAL NO.** **CAS-03246-Q8W1S8 (2006)**  
**APPLICATION NO** P/23/344/FUL

**APPELLANT** CARHYS

**SUBJECT OF APPEAL** SINGLE STOREY ONE BEDROOM BUNGALOW: LAND TO THE SIDE OF 1 GER Y BONT 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.

**The Appeal Decision is attached as APPENDIX D.**

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**APPEAL NO.** **CAS-03377-H9V6K6 (2008)**  
**APPLICATION NO** P/23/246/FUL

**APPELLANT** MR P BRAIN

**SUBJECT OF APPEAL** CONVERSION OF PROPERTY TO 5NO. 2-BEDROOM FLATS  
REAR DORMER EXTENSION: FIRE ESCAPE TO REAR: ARDWYN  
53 COWBRIDGE ROAD 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.

The Appeal Decision is attached as **APPENDIX E.**

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**APPEAL NO.  
APPLICATION NO** **CAS-03528-D2J2T8 (2011)**  
P/24/81/FUL

**APPELLANT** MR S KNIPE

**SUBJECT OF APPEAL** RE-MODELLING OF DWELLING COMPRISING ALTERATIONS  
AND EXTENSIONS INCLUDING INCREASE IN EAVES AND  
RIDGE HEIGHT AND THE PROVISION OF FLAT- ROOF  
DORMERS: 1 THE WHIMBRELS PORTHCAWL CF36 3TR

**PROCEDURE** HOUSEHOLDER APPEAL

**DECISION LEVEL** DELEGATED OFFICER

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

The Appeal Decision is attached as **APPENDIX F.**

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**APPEAL NO.  
APPLICATION NO** **CAS-03313-V4X5J4 (2010)**  
P/22/700/FUL

**APPELLANT** MR M WALDRON

**SUBJECT OF APPEAL** CHANGE OF USE AND CONVERSION OF THE EXISTING BARN  
TO A SINGLE RESIDENTIAL PROPERTY: LAND OFF DYFFRYN  
MADOC MAESTEG

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** DELEGATED OFFICER

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

**The Appeal Decision is attached as APPENDIX G.**

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**RECOMMENDATION**

That the report of the Corporate Director Communities be noted.

**JANINE NIGHTINGALE  
CORPORATE DIRECTOR COMMUNITIES**

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



## Appeal Decision

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by N Jones BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 06/08/2024

Appeal reference: CAS-02483-N2F1B6

Site address: Land off Waunscil Avenue, Brackla, Bridgend, CF31 1TG

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- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mulberry Homes Ltd. against Bridgend County Borough Council.
  - The application Ref P/20/1030/FUL is dated 23 December 2020.
  - The development proposed is the erection of 70 dwellings, community route and associated play area and public open space.
  - A site visit was made on 8 February 2024.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Since the appeal was made, the Council has adopted the Replacement Bridgend Local Development Plan 2018-33 (RLDP). The appeal must be determined in accordance with the current development plan unless material considerations indicate otherwise. Edition 12 of Planning Policy Wales (PPW) was also published during consideration of the appeal. The parties were provided with an opportunity to address the revised policy context.
3. The appeal relates to the failure of the Council to determine a planning application for the development set out in the banner heading above. The Council did not determine the planning application within the dual jurisdiction period following the submission of the appeal but has set out its concerns regarding the proposed development.
4. An Environmental Statement (ES) and Addendum Report (September 2022) (ESAR) accompanied the planning application. I have taken into account the environmental information in arriving at my decision.

### Main Issues

5. I consider the main issues to be:
  - i) whether the proposed development aligns with the placemaking aim of national planning policy, having regard to adopted local policy; and

- ii) the effect of the proposal on highway safety.

## Reasons

### *Placemaking*

6. The appeal proposal would entail the erection of 70 dwellings and associated development, including an active travel route and play space, on a narrow vacant site which previously accommodated a railway, located within a densely developed, principally residential area of the Primary Key settlement of Bridgend identified under Policy SF1. The framework for the development of the appeal site is provided by Policies SP3, SP5, SP6, SP10, PLA10, PLA12, ENT10, DNP8, COM3, COM6, and COM10 which seek to promote good design and sustainable place making, active travel, a sustainable supply of housing land, infrastructure, low carbon heating, green infrastructure, on-site affordable housing, manage residential density and deliver outdoor recreation facilities. In addition, the appeal site is designated by Policy COM11(7) as an area of accessible, natural and semi natural greenspace. The policy framework is supported by the requirements of Planning Policy Wales, Edition 12 and Future Wales – The National Plan 2040 in respect of sustainable development, placemaking, active travel and green infrastructure.
7. The Council raises no concerns regarding the safeguarding of disused railway infrastructure safeguarded under Policy PLA10 which does not permit development which prevents the potential re-opening of disused or redundant railway infrastructure or their re-use for alternative transport, or active travel purposes as an interim measure. In relation to making appropriate contributions towards local infrastructure which would be affected by the proposal, as required by Policies SP3 and SP10, there is no evidence that the scheme would put unacceptable pressure on local health services and the Council confirms that a contribution towards education would not be required as sufficient school capacity currently exists locally to accommodate the likely number of children who would occupy the proposed development.
8. In terms of meeting Policy SP3's other criteria, the appellants state that the proposal would seek to minimise importing new materials, utilising existing resources on site where possible. Whilst the Council queries the nature of fill material on site, it considers suitable foundations could be designed to deal with any instability. Although only limited borehole testing of that material has taken place, Natural Resources Wales (NRW) is satisfied that any land contamination, and necessary remediation and monitoring, could be suitably controlled by planning conditions. Eradication of invasive species on the site could also be controlled by a planning condition, as could shorter-term construction stage pollution, including noise and dust emissions, to safeguard the living conditions of neighbouring occupiers from such effects. Whilst the proposal pre-dates the Council's requirements under Policy ENT10 for an Energy Masterplan demonstrating selection of the most sustainable low carbon heating technology, the scheme would incorporate sustainability measures to reduce the environmental impact associated with buildings and minimising the demand for energy, water, materials and the creation of waste and there is no evidence to suggest that such technology could not be employed within the viability limits of the proposal. The availability of high-speed digital infrastructure could be secured by condition.
9. Owing to ground conditions, the use of soakaways is not considered appropriate and surface water drainage to the south of the Waunscil Spur would therefore be directed, via an attenuation tank and a new length of storm water sewer, to an existing system south of Coychurch Road. Surface water from the northern part of the site is intended to drain to an existing culverted watercourse and would incorporate sustainable drainage systems

(SuDS). The Council objected to this part of the scheme because of unspecified health and safety concerns at the intended connection location and its view that Dŵr Cymru-Welsh Water (DCWW) would not allow any infrastructure within necessary easements associated with the strategic water mains running along much of the site.

10. However, whilst DCWW identified that some of the intended dwellings would be likely to encroach into required easements, it suggested conditions to safeguard the integrity of these strategic assets which it says cannot be diverted, and it did not raise any specific concern regarding the surface water drainage proposals. Moreover, all new developments of the scale of the appeal proposal are required to include sustainable drainage systems (SuDS) to comply with statutory standards. Approval for the scheme's sustainable drainage strategy must be obtained from the SuDS Approval Body (SAB) before construction can begin. I consider therefore that appropriate arrangements for surface water drainage could be made.
11. Owing to the site's narrow and elevated configuration to the north, the proposal would make the most efficient use of the land by locating housing development at the widest and flattest part of the site to the south whilst an active travel route would run the length of the site, including along the elevated and narrow portion to the north. The proposal occupies part of an identified active travel route (INM-BR-24) and the scheme's intended route could provide a link to the existing network south towards Coychurch Road. The development would also provide a new link to an existing route at the rear of Vernon Street and Charles Street, which the Council identifies as an intended upgraded route (INM-BR-74). The appeal site route would continue north but terminate before reaching Rotary International Way. Despite a considerable difference in ground levels and landownership in this location, I consider the proposal would also provide an opportunity to link to a future, currently aspirational, active travel route (INB-BR-27). Whilst the Council raises concerns about the timing of the route's delivery to serve intended residents owing to the appeal scheme's viability, its anticipated construction costs have been taken into account and its provision is a matter which could be controlled through a planning condition. The appeal scheme would therefore maximise opportunities for active travel and promote connections within and outside the site to ensure efficient and equality of access for all.
12. However, there is no dispute between the parties, and I have no reason to disagree, that due to the particular circumstances of the appeal site and associated likely exceptional development costs, the proposal would not viably deliver an appropriate contribution towards affordable housing as required by RLDP Policy COM3.
13. The appeal scheme would fall substantially short of RLDP requirements for the provision of a satisfactory standard of outdoor recreation space on all new housing developments, particularly in relation to the provision of an equipped play area. However, the appeal site is allocated under RLDP Policy COM11 as Natural Greenspace (COM11(7) Land off Waunscil Avenue, Bridgend) which acknowledges that informal, yet high quality and accessible green spaces can promote nature conservation and biodiversity as well as enhancing the quality of life of individuals and communities and so promotes the provision of such spaces wherever suitable opportunities arise. Although allocated, the appeal site is privately owned and only has limited accessibility via existing public rights of way. The parties agree on its historic informal amenity use by local residents, however, much of the site was overgrown and impenetrable at the time of my site visit, with small-scale fly-tipping evident. The Council does not provide evidence of any intended scheme to improve public access or the site's quality or indicate how these benefits would be secured in the absence of a catalyst such as the appeal scheme.



14. Notwithstanding that much of the available site would accommodate housing, and the steep embankments to the north would be largely unusable space, the appeal proposal would provide a suitable opportunity to formalise public access to the site's available greenspace and to secure the wider benefits sought under Policy COM11. I consider that the appeal scheme would suitably provide Natural Greenspace in accordance with Policy COM11 and that the deficiencies in outdoor sport and equipped play area provision would be outweighed by the substantial public benefits of the formalised access to Natural Greenspace. However, whilst a management scheme could be secured by a planning condition, the viability assessment makes no financial provision for future maintenance of open spaces, and it has not therefore been demonstrated that appropriate future maintenance of the offered facilities could be secured to retain their long-term benefits.
15. Policy COM11 recognises that Natural Greenspace areas are important components of the wider green infrastructure network to protect and enhance biodiversity and ecological resilience. In doing so, Policy DNP8 requires that development proposals integrate, protect and maintain existing green infrastructure assets and to enhance the extent, quality, connectivity and multi-functionality of the green infrastructure network; where the loss or damage of existing green infrastructure is unavoidable, appropriate mitigation and compensation will be required and all developments must seek to maximise, as far as practicable, the amount of green infrastructure on the site.
16. This approach is supported by PPW which makes clear that where there may be harmful environmental effects, decision makers will need to be satisfied that any reasonable alternative sites (including alternative siting and design options) that would result in less harm, no harm or benefit have been fully considered. It also requires that the planning system should ensure that overall, there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced well-being. Schemes should be designed, amongst other things, to take into account the existing green infrastructure assets to ensure no fragmentation or loss of connectivity whilst maximising ecosystem resilience
17. The planning application pre-dated the requirement for a Green Infrastructure Statement but is supported by an ES which was supplemented by a revised Preliminary Ecological Appraisal (P.1536.21E, Sep 2022, Ascerta) and a revised Arboricultural Impact Assessment (P.1536.21C, Aug 2022, Ascerta). These set out a detailed assessment of existing ecological services and trees on the appeal site, including those protected by a Tree Preservation Order (TPO), and outline measures for their retention where possible as part of the scheme, and include Reasonable Avoidance Measures (RAMS) for hedgehogs, badger and reptiles.
18. Based on the submitted evidence, the appellants maintain that there would be little impact on ecology from the appeal scheme. Whilst I note the appellants' comments, little evidence has been presented that the location of dwellings and the intended layout of the appeal scheme has been designed to avoid or minimise loss of existing assets adjudged to be of local value and high local value, to maintain connectivity between the northern and southern parts of the appeal site, and off-site assets to the north and east. Neither does the proposal demonstrate that the intended provision of bat and bird boxes, and a native species landscaping proposal would measurably compensate for and mitigate such loss or enhance the ecological and biodiversity value of the site and so meet local and national planning policy objectives.
19. In terms of its layout and design, the proposal would broadly deliver the density expected by Policy COM6 and be set out so that the proposed dwellings would largely be orientated to face the road, whilst some would overlook the intended equipped play area, and in doing so, provide natural surveillance and promote community safety. However,

Policy COM6 seeks the most efficient use of land without compromising the quality of the living conditions provided, whilst making adequate provision for privacy and space about dwellings. It states that development must seek to create mixed, socially inclusive, sustainable communities by providing a range of house types and sizes to meet the needs of residents, with reference to the evidence within the latest Local Housing Market Assessment (LHMA). Albeit that I saw during my site visit that there is a mix of house types and styles locally, including large three-storey blocks forming part of a densely developed linear formation at Waunscil Avenue which the appeal scheme would reflect in terms of general form and scale and the layout of dwellings, I have seen no evidence that the appeal scheme has been designed to respond to the identified needs for a range of different house types and sizes in Bridgend. The appeal scheme would therefore fail to contribute to the creation of a mixed, socially inclusive, sustainable community.

20. With regard to the impact of the proposal on living conditions, although some trees would be retained, much of the existing vegetation on the site would be removed to facilitate the development. Despite intended landscaping, the tall three-storey form of the dwellings viewed from the bungalows at numbers 27 and 28 Gwaun Coed and numbers 13 and 14 Chorleywood Close in particular, which I saw are sited close to their own boundaries, would be unacceptably dominant whilst their relative proximity would give a perception of being overlooked. Whilst, owing to its intended elevated position centrally on the site, and the ability to provide landscape screening to the embankments, the active travel route and its proposed link to an existing route at the rear of Vernon Street and Charles Street would not cause unacceptable overlooking to nearby neighbours in that location, and the development's formalised access to Natural Greenspace would compensate for the limited garden space within some of the intended plots, the appeal scheme would not therefore ensure that the amenity of neighbouring uses and those of intended occupiers would not be adversely affected.
21. I have had regard to previous appeal decisions in relation to the development of this site but whilst there may be similarities in the conclusions reached in relation to viability, and the provision of accessible open space and a community route, and the effects on living conditions, I have not been provided with full details of those cases and have reached my conclusions against the up-to-date development plan framework and on the merits of the appeal proposal.
22. I have taken into account the benefits to the local economy of 60 construction jobs, and through the creation of an active travel route and the provision of Natural Greenspace. Whilst these would be substantial, they would not outweigh the proposal's failure to demonstrate secured future maintenance of the open spaces, or its harmful effects on the living conditions of neighbouring occupiers, its failure to demonstrate that it would provide an appropriate mix of housing to meet identified needs locally as well as its inability to provide an appropriate contribution towards affordable housing, or the considerable harm which would arise through the scheme's failure to demonstrate avoidance of harm to green infrastructure and to provide biodiversity enhancement.
23. I conclude that the proposed development would not align with the placemaking aim of national planning policy, having regard to adopted local policy. The proposal would therefore fail to comply with FW, PPW and Policies SP3, COM3, COM6, COM10, DNP8 and COM11.

#### *Highway Safety*

24. Policies PLA11 and SP5 require, amongst other things, that developments are served by appropriate parking provision. Policy SP5 also requires improvement measures to mitigate the impact of the development on the surrounding road network, seeking, where

necessary, planning obligations to ensure that the effects of developments are fully addressed in order to make the development acceptable. The policies are supported by the Council's adopted Supplementary Planning Guidance 17 'Parking Standards' (SPG17) which seeks to balance the need to reduce unnecessary car journeys against levels of car ownership by providing realistic levels of parking within residential developments and maximum levels of parking at other locations. It recognises however that both off-street allocated space and unallocated on street space can provide suitable parking for residential developments (points of origin) provided the use of on street spaces will not create obstruction/congestion for other road users. SPG17 recognises the potential for some reduction to residential parking levels by application of its sustainability index.

25. However, although the appeal scheme was amended to provide additional parking spaces, parking for plots 20 to 60 would be deficient by 42 spaces. Whilst the appellant argues that maximum parking standards should not be applied as the appeal site is in a sustainable location, the overall score for the proposal against the SPG's sustainability index was insufficient to allow any reduction. Given the extent of the deficiency in required parking provision to serve the intended dwellings, I consider the proposal would be likely to give rise to extensive indiscriminate and inappropriate parking and associated manoeuvres which would be harmful to highway safety. Although the Council have suggested conditions to require revised schemes for residential and visitor parking, there is no certainty that appropriate provision could be achieved within the proposed layout, whilst interested parties would not have been given an opportunity to comment on any material changes to the layout which may be necessary to meet such conditions' requirements.
26. The Highway Authority did not object to the proposed development in relation to any highway safety concerns on Waunscil Avenue. I saw that this road can accommodate two-way traffic as well as on street parking and given the low speed and nature of the likely traffic from a residential scheme, I have no reason to reach a different conclusion. The Highway Authority did however identify capacity issues to the south of the site at the junction of Tremains Road with Coychurch Road. Although the Council provided no attributable accident statistics, I saw during my early morning site visit that these roads carry a steady volume of traffic, including pedestrians and cyclists, and that signal changes at the junctions can cause queuing which the Council says leads to unacceptable manoeuvres as drivers pass queuing vehicles to access nearby junctions but do so travelling towards oncoming traffic.
27. The appellants' Technical Note 22004 Coychurch Road (25 April 2022, JCT) demonstrates that the effects of additional traffic from the proposed development, taking into account adjustments to the sequence of traffic signals to alleviate queuing, would be acceptable. Although the Council notes the appellants' contention that a planning condition could ensure the necessary data would be supplied to the Highway Authority to allow it to adjust the traffic signal phasing, and has suggested a condition to this effect, the Council nevertheless states its officers would require specialist assistance to complete the works and has set out the anticipated associated costs. It is not appropriate to seek a financial contribution through a planning condition. As no other formal mechanism has been offered to meet the costs of necessary transport measures, I cannot be satisfied that the appeal scheme would appropriately address this matter.
28. I conclude that it has not been demonstrated that the proposal would not harm highway safety. The proposal would therefore fail to comply with Policies PLA11 and SP5 and SPG17 advice.

### **Other Matters**

29. The appeal site is partly located within a Category 2 Limestone Mineral Safeguarding Zone identified by Policy ENT12. Owing to its intended location, the Council does not consider the appeal scheme would prejudice this safeguarded resource and from the evidence before me I have no reason to reach a different conclusion on this matter.

### **Conclusion**

30. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

31. 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 Minister's wellbeing objectives as required by section 8 of the Act.

*N Jones*

INSPECTOR



## Appeal Decision

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by H W Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 16/08/2024

Appeal reference: CAS-02850-K6N4H4 & CAS-02852-T7M7R5

Site address: 36 Llwyn Helig, Kenfig Hill, Bridgend, CF33 6HN

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Appeal A reference: CAS-02850-K6N4H4

- 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 J and Mrs S Cullen against an enforcement notice issued by Bridgend County Borough Council.
  - The enforcement notice, numbered ENF/171/22/ACK, was issued on 1 June 2023.
  - The breach of planning control as alleged in the notice is: Without planning permission, change of use of the land shown edged in blue on the attached Plan B by including the land into the domestic garden area of the Land Affected by the erection of fencing and the construction of a patio area on the land shown edged in blue on Plan B.
  - The requirements of the notice are:
    - a) Remove and keep removed the fencing from around the land shown edged in blue on the attached plan B;
    - b) Remove and keep removed the patio area and other domestic paraphernalia from the land shown edged in blue on attached plan B;
    - c) Reinststate the hedgerow between points marked A and B on attached Plan B and in accordance with the Planting Schedule attached to this Notice.
    - d) Remove all materials resulting from steps a), b) and c) above from the land as shown edged red on attached plan A.
  - The period for compliance with the requirements is 2 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
  - A site visit was made on 15 May 2024.
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Appeal B reference: CAS-02852-T7M7R5

- 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 Josh Cullen against the decision of Bridgend County Borough Council.

- The application (ref: P/23/22/FUL), dated 14 January 2023, was refused by notice dated 21 April 2023.
  - The development is described as: Inclusion of land within curtilage; levelling of garden area; new wall & fence; new patio & turf (retrospective).
  - A site visit was made on 15 May 2024.
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## Decisions

### Appeal A

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the change of use of the land shown edged in blue on the attached Plan B by including the land into the domestic garden area of the Land Affected by the erection of fencing and the construction of a patio area on the land shown edged in blue on Plan B at 36 Llwyn Helig, Kenfig Hill, Bridgend, CF33 6HN and subject to the condition set out in the attached schedule.

### Appeal B

2. The appeal is allowed and planning permission is granted for the use of land for residential purposes; levelling of garden area; new wall and fence; new patio and turf at 36 Llwyn Helig, Kenfig Hill, Bridgend, CF33 6HN, in accordance with the terms of the application (ref: P/23/22/FUL), dated 14 January 2023, subject to the condition set out in the attached schedule.

## Procedural Matter

3. The description of the development as set out in the Appeal B banner heading is taken from the Council's decision, which provides a summary of the description contained in the application form which I have also taken into account in my assessment. In the interests of precision, and for reasons I shall explain later, in my decision I have amended the Council's description to replace reference to 'curtilage' with 'use of land for residential purposes'.

## Background

4. The appeal property is a detached house within a modern residential estate. It is set within grounds which includes a rear garden which takes the form of terraces that step upwards towards the field to the rear.
5. Prior to the subject works the rear boundary of the back garden was enclosed by a timber fence. A hedgerow separated the fence from a livestock fence that demarcated the field boundary and the extent of the neighbouring farmer's land ownership. As part of the works the appellants removed the timber fence and hedgerow and extended rearwards the useable area of the garden which has been part lawned and part hard surfaced. A close-boarded timber fence has been erected on the line of the former livestock fence and incorporates stockproof fencing wire on the field side. A section of the fence has been erected on a wall which is slightly higher than ground level and serves as a base for the timber fence supports.
6. My visit confirmed that one adjoining property's garden (no. 35) extends to the same rearward line as the subject fence and an outbuilding is positioned within this rearmost portion of that garden. On the other side of the appeal property, No. 37's rear garden

fence follows the line of the appeal property's previous timber fence line. There is a gap between that fence and the stockproof field fence. The remains of a previous hedge were barely visible within this gap which was mainly grassed. There is a hedgerow at the rear of No. 38. Its rear garden fence extends along the same line as the neighbouring field fences. These 4 properties are the only ones that back onto this visually discrete section of field boundary.

### **Appeal A, grounds (b) and (c)**

7. I have dealt with these 2 grounds together. Under ground (b) the appellants argue that the alleged breach has not occurred as a matter of fact on the basis that the use is lawful. As there is no dispute that the alleged works have resulted in the expansion of the previous usable garden area, it seems that this is a ground that is more aligned to ground (c) ie that there has been no breach of planning control. I shall proceed on this basis satisfied that this does not alter the substance of either parties' case.
8. There is no dispute that the appellants own the land that extends to the stockproof fence which forms the field boundary. It is evident that until the recent works the subject land was not in use as part of the garden. Indeed it was incapable of being so used as it was fenced off from the garden and was occupied by a hedgerow. The appellants explain that the hedge had become overgrown and was affecting the stability of the timber fence, giving rise to safety concerns for the appellants' young children.
9. The Council describes the works as including the "inclusion of land within curtilage". In planning terms the concept of a curtilage does not describe the use of land but rather its relationship with a building. Whilst the spatial extent of the planning unit associated with a dwelling will often equate to its curtilage there will be occasions when the former may be larger than the latter. That is, an area of land may be in residential use without falling within its curtilage.
10. Whilst ownership is a relevant factor in identifying residential curtilage, functionality is another consideration. In this case the fact that the land served no purpose in relation to the dwelling prior to the recent works indicates that the rearmost strip did not form part of the curtilage of the property. That situation altered as a result of works that effectively encompassed the subject land within the area that now functions as the rear outdoor amenity area.
11. As the land was not part of the curtilage until the recent works, it is necessary to establish whether there has been a material change in the lawful use of that land, having regard to its planning history.
12. Planning permission (ref: P/96/1048/FUL) for 'proposed additional rear garden area' to plots 35-38 was granted on 10 February 1997. Those plot numbers coincide with Nos 35-38 Llwyn Helig. The relevant committee report explains that the proposal would involve the removal of the established field boundary hedgerow to facilitate the creation of larger gardens. It was described as acceptable rounding off that would benefit the amenity of occupiers.
13. The approved drawing shows the position of the 'existing hedge' that was to be removed and that of the 'replacement hedgerow'. It shows a 0.9m high stock proof fence on the field side of the replacement hedgerow, and on the other side it refers to a 'proposed site boundary to be defined by 1.8m high closeboarded timber fencing as shown'. It seems to me that the situation on site prior to the subject works reflected the approved layout. On that basis it is clear that the permission authorised the extension of the rear gardens up to the timber fence. The land between that fence and the stock proof fence was excluded from the extended garden areas and served as a landscape buffer strip. That

the subsequent sale of the plots appears to have extended to the field boundary does not change my interpretation of the permission.

14. Two conditions were imposed on the permission, the first required the Council's approval of a replacement hedgerow and its implementation. The second protected the new hedgerow for 3 years from the date of its planting. The Council does not suggest that the hedgerow was protected, either by condition or the Hedgerow Regulations, at the time that it was cut down.
15. Whilst the removal of the hedgerow was not a breach of planning control the removal of the previous fence and enclosing of the new garden area facilitated the enlargement of the residential planning unit and represented a material change of use of the land. The effective curtilage of the dwelling was also extended.
16. Thus, I find that there has been a material change of use of the subject land which constitutes a breach of planning control. It follows that neither ground (b) or (c) appeals can succeed.

### **Appeal A, ground (a), and Appeal B**

17. Appeal B seeks retrospective planning permission for the same works the subject of the deemed planning application that falls to be considered under Appeal A. As such I shall deal with them together.
18. Since the appeals were lodged the Council has adopted the replacement Bridgend Local Development Plan 2018-2033 (LDP), which has superseded the 2013 version of the plan which was in force at the time of the Council's decisions. At my request the Council has identified the relevant policies of the latest development plan. I have assessed the appeals against the recently adopted plan, satisfied that both parties were afforded the opportunity to comment on its content.

### **Main Issue**

19. The main issue is the effect of the development on the character and appearance of the area, having regard to the local rural restraint strategy.

### **Reasons**

20. The committee report that recommended approval of the previous application to extend the gardens of the row of 4 properties acknowledged that the land was outside the housing allocation of the Local Plan. As such the proposal was deemed to be contrary to that plan's restrictive approach to development in the countryside. The report explained that notwithstanding this policy objection, it was deemed acceptable as a form of 'logical rounding off'.
21. In relation to the appeal scheme the Council considers that the land in question lies outside the settlement boundary as defined in the LDP, and as such determined that the scheme conflicted with the rural restraint strategy of the plan. The relevant extract of the LDP proposals map provided by the Council does not enable the precise line of the boundary to be identified on the ground. In this case there are 3 potential boundary features that run parallel and close to one another and it seems that both fence lines are depicted on OS maps. In this (unusual) circumstance it seems reasonable to take the field boundary as the line that distinguishes the limit of the settlement from the adjacent area of countryside, as such I have treated the appeal site as lying within the limits of the settlement for the purpose of planning policy.
22. In the context of the existing garden areas the modest rearward extension of the subject garden and associated development has no material visual impact when viewed from nearby properties. The rear boundary fence screens views of the garden from the field



to the rear of the site. The fence itself is of a height similar to those nearby and is seen in the context of those enclosures when viewed from the field and the footway that crosses its far end. The rising topography of the adjacent field and intervening vegetation provide significant screening of the site from wider vantage points. The development does not materially erode the rural character of the surroundings.

23. On the main issue I conclude that the scheme has not caused unacceptable harm to the character or appearance of the surrounding area. The development respects local distinctiveness and landscape character and is appropriate to its local context in accord with LDP policy SP3: Good Design and Sustainable Placemaking. As the development does not extend beyond the defined settlement boundary there is no conflict with policy SF1: Settlement Hierarchy and Urban Management.

#### **Other Matter**

24. The Council is concerned that permitting the scheme would set an undesirable precedent for similar applications. As the site is within the settlement boundary and the scheme does not give rise to any harm, there can be no such precedent.

#### **Conditions**

25. There is no evidence to suggest that the removed hedgerow had either the public amenity or heritage value that would engage the protective provisions of LDP policy DNP7: Trees, Hedgerows and Development. Nor is there evidence that the hedge served as green infrastructure such that policy DNP8: Green Infrastructure is engaged. However, policy DNP6 'Biodiversity, Ecological Networks, Habitats and Species', which seeks that all development proposals must provide a net benefit for biodiversity and ecosystem resilience, is relevant. To ensure compliance with its requirements I shall impose the condition suggested by the Council. As the work has already been undertaken a condition imposing a time limit for commencement is not necessary.

#### **Conclusions**

26. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the use as described in the notice. The appeal on grounds (f) and (g) do not fall to be considered. I further conclude that Appeal B should be allowed and planning permission granted.
27. 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.

*H W Jones*

INSPECTOR

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#### **APPEALS A AND B: SCHEDULE OF CONDITIONS**

1. Within 3 months from the date of this permission, an artificial nesting site for birds shall be erected on the dwelling or another suitable location within its curtilage to one of the following specifications, and retained as such thereafter:

Ref: CAS-02850-K6N4H4 & CAS-02852-T7M7R5

Nest Box Specifications for House Sparrow Terrace:

- Wooden (or woodcrete) nest box with 3 sub-divisions to support 3 nesting pairs to be placed immediately under the eaves of a building.
- Entrance holes: 32mm diameter
- Dimensions: height 310mm x width 370mm x depth 185mm

or

Swift Nest Box Specification:

- Wide box with small slit shaped entrance hole to be placed under or close to roofs, at least 5m from the ground.
- Dimensions: height 150mm x width 340mm x depth 150mm.

Reason: In the interests of biodiversity, in accordance with policy DNP6 of the Bridgend Local Development Plan.



## Appeal Decision

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by N Jones BA (Hons) MSC MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 02/09/2024

Appeal reference: CAS-03065-L4R2B7

Site address: Land west of A4065 north of Leyshon Way, Bryncethin, CF32 9AZ

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- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mrs S Collings against Bridgend County Borough Council.
  - The application Ref P/23/412/OUT is dated 25 June 2023.
  - The development proposed is a residential development for up to 50 residential units (outline application with all matters reserved).
  - A site visit was made on 4 June 2024.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal relates to the failure of the Council to determine a planning application which seeks outline permission for the development set out in the banner heading above, with all matters reserved for future approval.
3. Upper and lower limits are provided for the intended scale of the units which would comprise a mix of bungalows, houses and flats. The application is submitted in outline with all matters reserved and whilst they are illustrative, I have had regard to the submitted drawings in as much as they set the parameters for the intended development.
4. The Bridgend Replacement Local Development Plan 2018-33 (RLDP) was adopted by the Council on 13 March 2024, following submission of the appeal. The appeal must be determined in accordance with the current development plan unless material considerations indicate otherwise. Relevant LDP Policies were listed in the Council's submissions, and I am satisfied that the parties have been provided with an opportunity to address those policies.

### Application for costs

5. An application for costs has been made by Mrs S Collings against Bridgend County Borough Council. This application is the subject of a separate Decision.

## Main Issues

6. The Council did not issue a decision within the dual jurisdiction period but has set out its concerns regarding the proposal and the reasons it would have refused the application. Having regard to those reasons, I consider the main issues are:
  - (i) whether the proposal would align with placemaking principles with particular regard to a) sustainable travel links, b) green infrastructure and ecological enhancement, and c) the effects of the proposal on the living conditions of neighbouring and future occupiers;
  - (ii) the effects of the proposal on highway safety; and
  - (iii) whether the proposal would make an appropriate contribution to support local infrastructure.

## Reasons

### *Placemaking*

7. The appeal site, which rises to the north of existing housing, and which was in use as grazing land at the time of my site visit, is largely defined on its external boundaries by mature hedges and is bordered on its western edge by part of the A4065 at Bryncethin, close to that road's junction with the A4061. The site accommodates a footpath accessible from Leyshon Way to the A4065. The proposal would deliver up to 50 residential units, intended to be provided in a mix of unit types and sizes, including houses, flats and bungalows. Albeit the RLDP identifies that transport capacity issues currently preclude additional significant development within this area, Bryncethin forms part of the Valleys Gateways Main Settlement identified under RLDP Policy SF1 where, in accordance with the RLDP's settlement hierarchy, part of its housing requirement is expected to be delivered. Amongst other things, RLDP Policy SP6 supports windfall residential development, such as the appeal proposal, at appropriate sites within the settlement. Nevertheless, the proposal must also satisfy other applicable development plan policies. Policy 12 of Future Wales The National Plan 2040 (FW) confirms that placemaking is at the heart of the planning system in Wales and establishes a strategic placemaking approach and principles to support planning authorities to shape urban growth and regeneration, including by building places at a walkable scale, with homes, local facilities and public transport within walking distance of each other; establishing a permeable network of streets, and integrating green infrastructure. Planning Policy Wales (Edition 12) (PPW) emphasises the importance of placemaking in both plan making and in development management decisions as a means of creating sustainable places and to improve the well-being of communities. In order to meet good design and sustainable placemaking RLDP Policy SP3 sets out a list of criteria which development should meet to make a positive contribution towards placemaking. In relation to the appeal scheme, the Council's concerns are related to the proposal's effects on a) sustainable travel, b) green infrastructure and ecological enhancement and c) the living conditions of neighbouring and future occupiers which I have considered in turn.

### *a) Sustainable travel*

8. To make active travel a practical, safe and attractive choice, PPW says that planning authorities must ensure new developments are designed and integrated with existing settlements and networks. Amongst its listed criteria, RLDP Policy SP3 says that all development must maximise opportunities for active travel and increased public transport use and promote connections within and outside the site. RLDP Policies SP5 and PLA12 also seek to prioritise the provision of appropriate routes as well as the delivery of proposals identified within the Council's Active Travel Network Map.

9. Whilst the Council has suggested that other options for connections to existing Active Travel routes (INM-BR-9 towards the roundabout to the north, and INM-BR-89 and INB-BR-90 at Leyshon Way and Daleside) may be preferable to the appeal scheme proposals, I have been provided with no details of their intended delivery by the Council or that they would provide improved public transport as well as pedestrian and cycling links. I saw that pedestrian infrastructure near the signalised junction of the A4061 and the A4065 lack separation from the traffic using that route and owing to its configuration and the volume of traffic, is not attractive for walkers or cyclists, including for accessing bus services. I note the Council's concern that an intended dual use route along the site frontage would end abruptly near the bridge and that an intended signalised crossing on the A4065 may cause safety concerns due to its intended proximity to the existing junction. However, subject to the detailed design, the appeal proposal would provide crossing points on the A4065, for walkers and cyclists, which would, together with the realigned public right of way, allow improved connectivity through the appeal site to areas like Sarn and its rail station to the south-west, and to and from employment and residential areas to the north and north-east. I have been provided with no evidence to suggest that such provision would be unreasonable or that it would cause viability issues as part of the intended scheme.
10. Nevertheless, whilst some bus services would be made more accessible given proposals for the widening of the A6065 to allow two new bus stops, the Council queries ownership of the land to the east of the carriageway intended for one of the stops, meaning there is uncertainty over its deliverability. I am not therefore satisfied that the intended scheme would deliver fully integrated sustainable travel options as part of the proposed development.

*b) Green infrastructure and ecological enhancement*

11. PPW makes clear that where there may be harmful environmental effects, decision makers will need to be satisfied that any reasonable alternative sites (including alternative siting and design options) that would result in less harm, no harm or benefit have been fully considered. It also requires that the planning system should ensure that overall, there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced well-being. Schemes should be designed, amongst other things, to take into account the existing green infrastructure assets to ensure no fragmentation or loss of connectivity whilst maximising ecosystem resilience
12. In addition, development must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems. A net benefit for biodiversity is the concept that development should leave biodiversity and the resilience of ecosystems in a significantly better state than before, through securing immediate and long-term, measurable and demonstrable benefit. RLDP Policy DNP6 states that all development proposals must provide a net benefit for biodiversity and improved ecosystem resilience. Features and elements of biodiversity or green infrastructure value should be retained on site. Policy SP3 also requires that development must, amongst other things, safeguard and enhance biodiversity.
13. The appellant's Preliminary Ecological Appraisal (PEA) states that the appeal site is located wholly within the Tyncoed Farm, Bryncethin Site of Importance for Nature Conservation (SINC) designated for its river corridor, wet grassland and woodland habitats. The SINC has no direct connection to other similarly designated sites locally and the PEA classifies habitat on the appeal site, which includes amongst other things, continuous scrub, scattered trees and hedges as well as well-grazed semi-improved grassland, as generally of low, local site importance and concludes that the proposal would result in neutral impacts. The indicative layout shows that trees on the northern

boundary of the appeal site which are protected by a tree preservation order (TPO) would be retained and accommodated within the proposed development. A separate Arboricultural Report concludes that most trees on the appeal site are of low quality.

14. The PEA conclusions in relation to scrub habitat assumes that most would be retained, with only partial loss to allow access on the eastern boundary. However, the indicative layout indicates that most of the continuous scrub habitat on the southern boundary would be removed. The PEA confirms that overall findings will require re-evaluation in such circumstances. At least one Environment (Wales) Act 2016 Section 7 priority species (hedgehog) was recorded adjacent to the site and this species could be detrimentally affected through loss of suitable habitat. Although the appeal scheme pre-dates PPW's requirement for a Green Infrastructure Statement (GIS), I have taken into account the GIS submitted in support of the appeal and its indication that ecological enhancements could be achieved. Even so, there is little to demonstrate that the appeal scheme, albeit indicative, has been designed to take into account the step-wise approach to site development set out in PPW, to minimise loss, or any cogent evidence that suggested enhancements would measurably improve the site's condition in the immediate and long term.

*c) Living conditions*

15. Amongst its listed criteria, Policy SP3 also requires that development must ensure that the amenity of neighbouring uses, and their users / occupiers will not be adversely affected. Albeit illustrative, the submitted details provide an indication of the type of layout which would be intended and show that houses would be proposed closest to existing dwellings at Leyshon Way, with taller flats being sited uphill closer to the A4065. I consider that owing to the distance between existing dwellings at No's 21 and 22 Leyshon Way and the closest indicated dwellings, and the scope for consideration of the detailed design of houses, as well as boundary screening and landscaping, at any reserved matters stage, the appeal scheme could be designed to avoid unacceptable overlooking and loss of outlook from these existing properties. Those houses intended to the rear of No's 18 and 19 Leyshon Way are indicated as having their side elevations facing those properties and could be designed to avoid unacceptable overlooking from any openings. However, owing to the appeal scheme dwellings' proposed depth and height, and intended proximity to the rear boundaries of these lower neighbouring dwellings, they would be seen as large structures above existing rear garages, and would extend across most of the width of the neighbouring properties' rear gardens, substantially increasing their sense of enclosure and resulting in unacceptably oppressive and overbearing effects. Given the quantum of the appeal scheme on its intended site, and the intended loss of existing boundary screening in this location to facilitate the intended development, I cannot be satisfied that any adjustments which could be made at any reserved matters stage would be sufficient to overcome these concerns.
16. Turning to the appeal scheme's effects on the living conditions of its intended future occupiers, RLDP Policy DNP9 states that development proposals will only be permitted where it can be demonstrated that they would not cause unacceptable risk of harm to health through, amongst other things, noise pollution. Policy SP3 requires that all development must avoid or minimise noise pollution. Whilst its duration was relatively short, I did not experience any discernible noise emanating from existing employment uses to the north of the site during my site visit and the Council has provided no evidence of any specific sources of unacceptable noise in this location or of any related complaints. Neither has any evidence been provided that any consented schemes are likely to come forward which would create unacceptable noise effects. Even so, continual traffic noise was clearly audible throughout my visit and given the accepted traffic levels and queuing

at the junctions near the appeal site, is likely to be audible to the intended occupiers of the appeal scheme.

17. Unacceptable noise, such as from traffic, can affect people's living conditions through reducing the enjoyment of their gardens or by needing to keep windows shut to dampen noise. Where unacceptable effects are identified, any necessary mitigation would need to be clearly understood in order that it could be appropriately controlled by planning conditions and to ensure that any other effects, such as the visual effect of any necessary acoustic barriers, could be properly assessed. The appellant has provided no cogent evidence of the existing soundscape to support the assertion that the appeal site could be developed without harming the living conditions of future occupiers. It has not therefore been demonstrated that the proposal would avoid or minimise noise pollution to its intended occupiers.
18. Bringing the above threads together, I conclude that the proposal would not align with placemaking principles and would be contrary to RLDP Policies SP3, SP5, PLA 12, DNP6, and DNP9, and PPW advice.

#### *Highway safety*

19. The indicative scheme shows access to a small part of the intended development would be obtained through an existing link to Leyshon Way. Given the nature of that residential road and its traffic calming measures, the Council does not object to this aspect of the proposal. Given my observations during my site visit and the evidence before me, I have no reason to reach a different conclusion. The appellant's submitted Transport Assessment (TA) demonstrates that the additional traffic generated by the proposal would have little overall effect on the capacity of the local road network, given current traffic volumes. Nevertheless, owing to the difficulties likely to be encountered in joining the road network at the junction of Daleside with the A4061, particularly for traffic turning right, due to network capacity issues, there is no dispute between the parties that this route would be unsuitable to cater for the entirety of the vehicular traffic likely to be generated by the appeal scheme.
20. A separate access directly onto the A4065 would therefore be provided to serve the remainder of the proposal. Given the nature of the road and particular characteristics of its capacity, and measured traffic speeds locally as set out in the TA, which appeared consistent with my observations at my site visit despite a recently reduced speed limit locally, I concur with the Council that visibility standards set out in Technical Advice Note 18 'Transport' (Tan 18), rather than those set out in the Manual for Streets (MfS) should apply. I saw that at the originally indicated access point, the prevailing topography obscures views of cars approaching from the north. The indicative access considered by the Council at application stage would not therefore meet the required visibility standards.
21. Whilst I acknowledge that there may be other ways of obtaining access to the appeal site, such as further downhill, as indicated on the drawing submitted in support of the appeal, owing to the lack of clarity in the details before me, I cannot be satisfied that the required visibility could be achieved in both directions. Given the nature and speed of traffic on this primary route, I do not consider that this is a matter which can be left to a planning condition.
22. I conclude that it has not been demonstrated that the intended access arrangements would not harm highway safety. The proposal would therefore fail to comply with RLDP Policy SP5 which states, amongst other things, that developments will be required to be designed to provide safe and efficient access to the transport network. It would also fail to comply with TAN 18 advice.

### *Infrastructure*

23. RLDP Policy SP10 says that all development proposals must be supported by sufficient existing or new infrastructure. In order to mitigate likely adverse impacts and/or to integrate a development proposal with its surroundings, reasonable infrastructure provision or financial contributions to such infrastructure must be provided by developers where necessary. This will be secured by means of planning agreements/obligations where appropriate. RLDP Policy SP3 also requires development to appropriately contribute towards local, physical, social and community infrastructure which is affected by the development.
24. The appellant does not dispute the Council's assessment that contributions towards affordable housing, education and the provision and maintenance of an equipped play area would be necessary. Nevertheless, although confirming a willingness to enter into a Section 106 agreement, no formal mechanism to secure those contributions has been submitted. The proposal would not therefore make an appropriate contribution to support local infrastructure and would conflict with RLDP Policies SP3 and SP10.

### **Other Matters**

25. PPW states that planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers. A small part of the appeal site is located within zone C2 as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development & Flood Risk (TAN 15). The Flood Map for Planning (FMfP) which provides up-to-date information identifies the southern boundary of the application site to be at risk of flooding and clips Flood Zone 2 and 3 (Rivers). All residential premises are defined in TAN 15 as highly vulnerable development (HVD) which should not be permitted within zone C2. I note that Natural Resources Wales (NRW) advised that given the limited extent of flood risk shown to be affecting the appeal site the proposal could be considered acceptable, but as I am dismissing the appeal on other ground, I have not sought to address this matter further with the parties.
26. There is no disagreement between the parties that the appeal scheme could appropriately deal with surface water drainage and ground contamination matters and from the evidence before me I have no reason to reach a different view.

### **Conclusion**

27. For the reasons given above, and having taken all other matters into account, I conclude that the appeal should be dismissed.
28. 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 this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's wellbeing objectives as required by section 8 of the Act.

*N Jones*

INSPECTOR





## Costs Decision

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by N Jones BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 02/09/2024

Costs application in relation to Appeal Ref: CAS-03065-L4R2B7

Site address: Land west of A4065 north of Leyshon Way, Bryncethin, CF32 9AZ

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- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
  - The application is made by Mrs S Collings for a full award of costs against Bridgend County Borough Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a residential development for up to 50 residential units (outline application with all matters reserved).
  - A site visit was made by the Inspector on 4 June 2024.
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### Decision

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

### Procedural Matters

2. The Council did not issue a decision on the planning application or within the dual jurisdiction period following submission of the appeal.
3. The applicant made a written application for costs on both procedural and substantive grounds, to which the Council issued a written response.

### Reasons

4. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. The applicant's case is based firstly on a procedural claim for costs due to the Council's alleged lack of co-operation in refusing to provide requested information or seek additional information in relation to highway matters. The applicant also makes a substantive claim based on the Council's failure to determine the application within the statutory time limits, alleging it was clear that there was no substantive reason to justify delaying the determination of the application.
6. In response to a request from the applicant for pre-application advice in relation to a scheme of housing development, the Council provided a detailed written response, amongst which it confirmed that a transport assessment (TA) would be necessary to

support any application made. The applicant sought to confirm the scope of that TA through subsequent correspondence with the Council, as encouraged in the pre-application response, but states she received no reply. However, I have not been provided with substantive evidence from either of the parties whether a formal request and statutory fee were transmitted to the Council in relation to a second pre-application enquiry, as requested by the Highway Authority.

7. Nevertheless, a TA was not submitted when the application for planning permission was made to the Council. A TA was submitted in early August 2023, at the Council's request, when an extended period for determination of the application was agreed until 30 September 2023 to allow consultations to continue. The applicant was informed on the day before the expiry of that extended determination period that the Highway Authority response remained outstanding. She submitted an appeal in October 2023 against the Council's failure to determine the application.
8. Given the nature of the application and the content of the TA, I do not consider it unusual or unreasonable that the Highway Authority may have required longer than the statutory consultation period to formulate its response. However, the Highway Authority's substantive response in relation to the application proposals was only submitted during the appeal process. I consider that the delay in providing that response, even after the applicant had enquired about the progress of the application in January 2024 (some 5 months after submission of the TA), and in the Council's knowledge that an appeal had already been lodged, amounts to unreasonable behaviour.
9. However, it is clear from the Council's submissions that as well as its highway safety concerns, it also objected to the application on other grounds, and provided cogent reasons in support of its views. Given the matters at dispute, it would therefore have been necessary for the applicant to pursue the appeal. There is no evidence that the delayed response from the Highway Authority led to the applicant incurring unnecessary or wasted expense in doing so.
10. With regard to the substantive claim, the original time limit for determining the application was 30 August 2023. However, timely consideration of the application was not assisted by the applicant's inexplicable failure to provide the TA at the submission stage, despite her prior efforts to agree its scope and content. Its later submission resulted in the Council seeking an agreed extension of time for determination in order to allow consultations to continue.
11. Moreover, the Council had clearly articulated a request for a noise assessment in response to the applicant's request for formal pre-application advice. Even so, no noise assessment accompanied submission of the planning application. Although the applicant indicated she was reluctant to commission an assessment until the views of the Highway Authority were known, even had the Highway Authority's comments been received earlier, it was evident that determination of the application would have been delayed as the Council was awaiting submission of the noise assessment, which it had also twice requested during the application stage.

## **Conclusion**

12. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. An award of costs is not justified and the application for costs is therefore refused.

*N Jones*

INSPECTOR



## Appeal Decision

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by Zoe Baxter BSc, MSc, MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 06/08/2024

Appeal reference: CAS-03246-Q8W1S8

Site address: Land to the side of 1 Ger Y Bont, Bridgend, CF31 1HZ

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- 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 Developments Ltd against the decision of Bridgend County Borough Council.
  - The application Ref P/23/344/FUL, dated 16 May 2023, was refused by notice dated 2 August 2023.
  - The development proposed is one new single storey bungalow with one bedroom.
  - A site visit was made on 19 June 2024.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. For clarity, the site address is taken from the Decision Notice and the Appeal Form.
3. Since the appeal was made, the replacement Bridgend Local Development Plan (LDP) 2018 – 2033 has been adopted and now forms the development plan for the purposes of the appeal. I consider that replacement Policy SP3 is relevant, and the appeal has been determined on this basis.

### Main Issues

4. The main issues are the effect of the development on:
  - the character and appearance of the area; and
  - the living conditions of the future occupiers with particular regard to outlook and the living conditions of 1 Ger Y Bont with regard to noise and disturbance.

### Reasons

#### *Character and appearance*

5. The appeal site comprises land adjacent to 1 Ger Y Bont (No. 1) and to the rear of 17 Castle View (No. 17). It is set at a lower level to neighbouring properties and forms part of a former railway line. The northeastern and southwestern boundaries are steeply sloping and heavily vegetated. Castle View is characterised by semi-detached dwellings of similar design and position fronting the road resulting in a strong building line, with Ger Y Bont dwellings on the turning head being of different design and occupying a staggered position.

6. The proposed dwelling would be accessed from the turning head and given its position to the rear of No. 17 it would not have a street frontage. However, due to the site topography, the dwelling would be situated at a significantly lower level than adjoining properties and the street. Furthermore, the single storey design would result in limited views of the dwelling from the street or any public vantage points. As a result, it would not disrupt the building line of Castle View, it would have minimal visual impact on the streetscene and therefore would not have a material impact on the character of the area.
7. Whilst the proposed dwelling would be set back from 1 and 2 Ger Y Bont, it would be situated in line with the semi-detached properties 3 and 4 Ger Y Bont which are positioned further back from the turning head. The footprint of the dwelling would be comparable to Nos. 1 and 2. As such, the proposed dwelling would be of a suitable scale and position within the site which seeks to respect the built form in the immediate area of Ger Y Bont where there is no consistent building line.
8. In these circumstances, the design, scale and form of the proposed dwelling along with the topography of the site would result in the proposal not appearing inappropriate or causing visual harm to the character or appearance of the area. It would accord with Policy SP3 of the replacement Bridgend Local Development Plan (LDP) which requires development to, amongst other things, be appropriate to its local context in terms of size, scale, height, layout, form and density and use land efficiently.

#### *Living conditions*

9. Given the lower level of the site along with the separation distances to neighbouring properties, the proposed development would not result in a harmful level of overlooking. Whilst the rear outlook of neighbouring properties would change, the proposal would not harm their living conditions by having an overbearing impact or affect light.
10. I acknowledge that the layout and size of the dwelling has been amended from the previous scheme dismissed at appeal (reference. CAS-02920-L0R2H6). However, given the change in levels the proposed dwelling would be situated at a significantly lower level than the street and require retaining walls to three of the boundaries. The sections submitted show significant earthworks would be required to accommodate the development. The rear elevation of the proposed dwelling would be sited in close proximity to the rear boundary retaining wall. As such, the proposed dwelling would have a poor outlook dominated by retaining structures which would create gloomy, uncomfortable and unattractive living conditions for future occupants.
11. A patio area is proposed to the side of the dwelling and the appellant notes that the site would be surrounded by numerous trees and wildlife with additional planting proposed along the boundary with no. 17. Whilst this may be the case, I do not consider this would outweigh the harmful living conditions for the future occupiers due to the poor outlook.
12. The proposed access would be situated between the boundaries of No. 1 and No.17. It would result in new vehicular activity being introduced in close proximity to the side boundary and windows of No. 1. I consider that the proposed access and parking arrangements would result in disturbance caused by people passing and cars driving in and out at all times of day and night very close to No.1's windows. The proximity of the vehicular activity on the drive would exacerbate the perception of intrusion. In addition, the parking area would be situated alongside the small rear garden of No. 1 which currently encounters little activity. The proposal would result in an increase in noisy activity including vehicular movements and doors opening and closing which would be readily apparent from the garden of No. 1. Given the size and layout of the rear garden, there would be limited other options for the occupiers to sit out and as such, the proposal would adversely impact their enjoyment of the outdoor space. The proposed

development would, therefore, cause noise and disturbance to the detriment of the living conditions of the occupiers of No.1.

13. For the reasons set out above, I conclude that the proposal would cause material harm to the living conditions of the future occupiers of the proposed dwelling and the neighbouring occupiers at No. 1 contrary to Policy SP3 of the replacement LDP.

### **Other Matters**

14. I have taken account of the representations received in regard to highway safety, drainage, construction deliveries, the electricity box and overhead powerlines. However, no coherent evidence has been submitted in relation to these matters demonstrating that the proposal would be unacceptable.
15. The appellant highlights concern over the lack of communication during the determination of the planning application but as this is not relevant to the merits of the appeal it has no bearing on my decision.

### **Conclusion**

16. I have found that the proposal would not cause material harm to the character and appearance of the area. However, this does not outweigh the harm to existing and prospective residents' living conditions and for this reason, and having regard to all matters raised, I conclude that the appeal is dismissed.
17. 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.

*Zoe Baxter*

INSPECTOR

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## Appeal Decision

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by L. Hughson-Smith LLB MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 02/09/2024

Appeal reference: CAS-03377-H9V6K6

Site address: Ardwyn, 53 Cowbridge Road, Bridgend CF31 3DH

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- 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. P. Brain against the decision of the Bridgend County Borough Council.
  - The application P/23/246/FUL, dated 12 April 2023, was refused by notice dated 28 February 2024.
  - The development is described as 'conversion of dwelling to 5 self contained flats'.
  - A site visit was made on 16 August 2024.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. This is the effect of the proposal on the living conditions of the future occupiers of the flats having regard to the provision of outdoor amenity space.

### Procedural Matter

3. Since the Council's Decision, the replacement Bridgend Local Development Plan (LDP) has been adopted, and forms part of the development plan for the area. My decision is made on that basis.

### Reasons

4. The appeal site is located on Cowbridge Road, a strategic route leading to Bridgend Town Centre. It comprises a terraced property with a large garden to the rear.
5. The proposal includes rear extensions to the appeal property to facilitate its conversion into 5no. self-contained flats. An amenity space is proposed immediately adjacent to the rear elevation which, due to the position of a proposed fire escape stairway serving the second floor flat, would be divided into two separate areas. Whilst the extent of amenity space and its location is clear, there are limited details of how it would function.
6. There are no specific standards within the LDP or other adopted planning guidance that prescribe a minimum amount or type of amenity space which should serve flats. LDP Policy SP3 does, however, require that all development must contribute to creating high

quality, attractive, sustainable places that support active and healthy lives by demonstrating alignment with the principles of good design contained in Planning Policy Wales, Edition 12 (PPW). PPW advises that, when considering placemaking and design issues, meeting the objectives of good design should be an aim of all of those involved in the development process and applied to all development proposals, at all scales. It also advises that placemaking is a holistic approach to design which focuses on creating high quality development that promotes, amongst other things, people's health and well-being. The Council have referred to Supplementary Planning Guidance Note 02 Householder Development (2008). Whilst this is aimed at householder development, I consider that the general principle of ensuring adequate garden area for private use is also relevant to new housing development.

7. Whilst I accept outside amenity space standards in dense urban locations can in some circumstances be lower than suburban or rural situations, this should not be the aim for new development. Due to the size of the proposed flats which have a spacious layout and two bedrooms they would be attractive to larger households, including families. I note there are limited public areas of open space or opportunities for play within short walking distance from the appeal property that would provide suitable compensation. Given these factors, I place significant weight on the need for a useable on-site amenity space to provide a high-quality living environment for future occupants.
8. The proposed amenity space is modestly sized, and the intensification of the building's use means that there are other requirements which should be accommodated within it. These include basic facilities such as a clothes drying area, a cycle store, space for sitting out and relaxation, as well as an access way to the car park from the building. In line with PPW, the proposal would also be required to make provision for appropriate compensatory tree planting for the loss of the existing tree. Taking all of this into consideration, it has not been demonstrated how these would be provided without unacceptable compromises to a usable and functional space for future occupants, particularly given the further constraint of the fire escape dividing the space. For these reasons, I am not satisfied that a planning condition to secure these requirements would achieve the objective of a high quality and sustainable development.
9. I observed the amenity space associated with the residential development at the rear of 75/77 Cowbridge Road and 77 Cowbridge Road. However, this relates to a purpose-built affordable housing development providing predominantly 1bed apartments, and therefore, it is not directly comparable to the appeal proposal. I note the other examples along Cowbridge Road cited by the appellant, however, little information regarding their use, number of units or tenure has been provided so I have given them limited weight in my assessment.
10. I conclude that the proposal would have a harmful impact on the living conditions of the future occupiers of the flats, having regard to the provision of outdoor amenity space, in conflict with LDP Policy SP3 and PPW.

### **Other Matters**

11. I acknowledge that the proposal would provide a housing net gain and would make efficient use of a brownfield site in a Primary Key Settlement in the Bridgend Sustainable Growth Area. Nonetheless, these are positive factors that would also apply to an acceptable scheme of housing for the site. They do not therefore justify the identified harm in this case.

## **Conclusion**

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

*L. Hughson-Smith*

INSPECTOR





## Appeal Decision

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by L. Hughson-Smith LLB MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 28/08/2024

Appeal reference: CAS-03528-D2J2T8

Site address: 1, The Whimbrels, Nottage, Porthcawl, Bridgend CF36 3TR

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- 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. Stephen Knipe against the decision of Bridgend County Borough Council.
  - The application P/24/81/FUL, dated 12 February 2024, was refused by notice dated 10 May 2024.
  - The development is described as 'remodelling of dwelling and comprising alterations and extensions including the provision of flat roof dormers'.
  - A site visit was made on 09 August 2024.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. These are the effect of the proposal on: the character and appearance of the surrounding area; and the living conditions of the occupiers of No. 3 The Whimbrels, having particular regard to outlook.

### Procedural Matter

3. The Council's Decision Notice refers to Supplementary Planning Guidance 02: Householder Development (SPG), adopted in 2008, which predates adoption of the Bridgend Local Development Plan. Since the SPG broadly aligns with the objectives of Local Development Plan Policy SP3, I have given the SPG weight in the determination of this appeal.

### Reasons

#### *Character and Appearance*

4. There is variation in house styles and scale along the length of The Whimbrels. Despite this, the appeal property is a detached bungalow in a row of similar bungalows which have consistently sized front facing gables, low-pitched roofs, a coherent window rhythm and are finished in broadly matching materials. Whilst the row of bungalows is along a staggered building line, due to their open frontages to the road

they are appreciated together in the streetscene and have strong visual uniformity. The appeal property is visually prominent due to its position at the end of the row, within a large corner plot, and adjacent to a public footpath.

5. I note the appeal property has been subject to a recent appeal decision (ref: CAS-02421-S3S7F6). The proposal subject to that appeal was significantly different to that before me so the decision to dismiss that appeal has limited relevance. However, I share the previous Inspector's views on the existing character of the area, particularly in regard to the uniform design and appearance of the row of bungalows being important elements of the street scene.
6. The proposal seeks to significantly enlarge the footprint of the appeal property with a single storey side and rear extension which would result in the road facing elevation being widened. It also includes the provision of upper floor accommodation by raising the roof ridge and adding dormer extensions to both sides of the roof plane. The most substantial dormer would extend the full length of the roof, albeit set down from the ridge and in from the eaves and sides, and be positioned on the most visually prominent elevation
7. Raising the ridge, in combination with the substantial dormer, would result in the visual loss of the original roof form. This, in cumulation with the other alterations, would increase the scale of the appeal property and alter its appearance to an extent whereby its original character would be unrecognisable. The appeal proposals would introduce a large feature which would be dominant and disproportionate and would noticeably interrupt the prevailing uniformity of the group of bungalows, diminishing their shared value in the streetscene.
8. I conclude the proposal would be harmful to the character and appearance of the surrounding area contrary to Policy SP3 of the Bridgend Local Development Plan which, amongst other things, requires developments to have a design of the highest quality possible, whilst respecting and enhancing local distinctiveness and be appropriate to its local context. The proposal would also be contrary to the SPG, which advises that extensions should be in scale with the existing dwelling and that the form, materials, and details of extensions and alterations should match or harmonise with those of the existing house.
9. The appellant has secured a Certificate of Lawfulness for a Proposed Use (Ref: P/23/508/LAP) for a proposal which benefits from permitted development rights and includes similar single storey side and rear extensions and two dormer extensions. It does not include raising the roof ridge. The appellant has stated they would implement the lawful proposal should this appeal be dismissed. Given the extensive efforts of the appellant to secure planning permission to alter and extend the appeal property through previous applications and an appeal, and in the absence of any evidence to the contrary, I find there is a real prospect the lawful scheme would be implemented. That proposal, therefore, represents a planning fallback to which I have given weight in my assessment (hereafter referred to as the planning fallback).
10. Despite its similarities to the appeal proposal, the planning fallback retains the ridge level which, combined with the smaller roof dormers, would ensure the original roof form remained broadly visible when viewed from the most prominent public vantage points. This would result in the appeal property's shared characteristics with the wider row of bungalows still being discernible, unlike the appeal proposal. For these reasons, the planning fallback would have a less harmful impact on the streetscene and thus does not justify permitting the harm I have identified on the first main issue.

### *Living Conditions*

11. The appeal property is stepped forward of No. 3 The Whimbrels (No. 3) and in close proximity to the common boundary, separated from it by a walkway and driveway. The principal elevation of No. 3, given the design of the bungalows, faces towards the appeal property and has several windows and a door, some of which appear to serve habitable rooms including a living room. The outlook from these windows is relatively limited due to their proximity to the appeal property.
12. Due to the separation of the raised ridge from the common boundary and the modest size of the proposed dormer and its configuration, together with the stepped position of the appeal property, the impact on the outlook of No. 3 would be limited. The appellant has submitted a drawing, based on methodologies set out in the SPG, which indicate the proposal would have a limited impact on daylight, amongst other things. The SPG is intended as guidance and should be applied flexibly according to the case specific considerations. I am satisfied that the limited impact of the appeal proposal would not result in harm to the outlook of the windows of No. 3.
13. I acknowledge my findings on living conditions differ to that of the previous Inspectors in case CAS-02421-S3S7F6, however, the previous appeal proposal was significantly larger in scale and mass due to its gabled design and, therefore, its impact is not comparable to that of the proposal before me.
14. I have also considered the impact of the appeal proposals on No. 36 Fulmar Road and No. 12 Dunlin Close. Due to the separation distance between these properties and the appeal property, I do not consider the proposal would harmfully impact the occupants' living conditions in relation to loss of privacy or outlook.
15. I conclude the appeal proposal would not be harmful to the living conditions of the occupier of No. 3, with particular regard to outlook and would accord with Policy SP3 of the Bridgend Local Development Plan which, amongst other things, requires development to ensure that the amenity of neighbouring occupiers will not be adversely affected. The proposal would not conflict with the SPG which advises that extensions should not unreasonably dominate the outlook of an adjoining property.

### **Other Matters**

16. I have had regard to the benefits of the proposals as cited by the appellant. These include amongst other things, modernising the property, the increased high quality internal space for the appellant and their family and improved energy efficiency. Nevertheless, I consider that the scope of these benefits would be limited and not reliant on the scheme design before me, as demonstrated by the planning fallback. These factors do not therefore outweigh the identified harm.

### **Conclusion**

17. For the reason given above, and having regard to all matters raised, I conclude that the appeal should be 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 the Welsh Ministers' well-being objective to make our cities, towns and villages even better places in which to live and work.

Ref: CAS-03528-D2J2T8

*L. Hughson-Smith*

INSPECTOR



## Appeal Decision

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by Zoe Baxter BSc, MSc, MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 09/09/2024

Appeal reference: CAS-03313-V4X5J4

Site address: Land off Dyffryn Madoc, Maesteg, CF34 0BQ

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- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Mark Waldren against the decision of Bridgend County Borough Council.
  - The application Ref P/22/700/FUL, dated 21 October 2022, was refused by notice dated 16 November 2023.
  - The development proposed is change of use and conversion of the existing barn to a single residential property.
  - A site visit was made on 13 August 2024.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The address is taken from the Decision Notice and Appeal Form for clarity.
3. Since the appeal was made, the replacement Bridgend Local Development Plan (LDP) 2018 – 2033 has been adopted and now forms part of the development plan for the purposes of the appeal. I consider that replacement Policies SF1, DNP1, DNP2, SP3, SP5 and DNP6 are relevant, and the appeal has been determined on this basis.

### Main Issues

4. The main issues are:
  - Whether the proposal would comply with the principles of sustainable development having regard to planning policies relating to the countryside and the conversion of rural buildings;
  - The effect of the proposal on the character and appearance of the rural area; and
  - The effect of the proposal on biodiversity interests.

### Reasons

#### *Sustainable development*

5. The appeal site includes an existing barn and small courtyard area situated to the northwest of Maesteg and outside of the settlement boundary as defined by LDP Policy SF1. The site is in agricultural use with the barn and surrounding area used for keeping livestock and storage of machinery and materials. Vehicular access is via an existing track accessed off Heol Ty Gwyn. Due to the topography of the site and the surrounding

area, the barn is split level and appears as a two-storey structure to the front and single storey to the rear. Whilst residential and industrial uses are situated beyond the site's lengthy access track to the southeast and northeast respectively, the appeal site is surrounded by countryside including open fields and woodland resulting in the site having a rural setting.

6. LDP Policy DNP1 contains a presumption against development in the countryside, with certain exceptions including the suitable conversion of existing structurally sound rural buildings where the development is modest in scale. Referring specifically to the residential conversion of rural buildings, LDP Policy DNP2 contains a preference for alternative uses that contribute to the rural economy. To this end it requires proposals to demonstrate through evidence of marketing that alternative uses are not viable. This accords with Planning Policy Wales (PPW) Edition 12 and Technical Advice Note (TAN) 6 – Planning for Sustainable Rural Communities which amongst other things seek to support a resilient rural economy. Although the appellant is only seeking a residential use, it nevertheless remains the case that in the absence of any evidence that alternative uses would not be viable, the proposal would conflict with policy objectives to support the rural economy.
7. The reasoned justification to Policy DNP2 recognises that residential conversions can lead to a dispersed pattern of dwellings, which generates new and longer trips to settlements and services. It therefore requires the location of residential rural conversion proposals to be sustainable in terms of access to local services, public transport and community facilities. LDP Policies SP3 and SP5 also include the requirement for development proposals to maximise opportunities for active travel, increased public transport use and reduce dependency on the private car.
8. The appeal site is within walking distance of public transport, shopping and community facilities. However, the walk is remote in nature with little natural surveillance and involves navigating the steep topography of the area. I note the recent resurfacing of the lane and provision of an alternate path which provides a more direct pedestrian and cyclist link via Tair Waun Place to the nearest bus stop, which would avoid the steep access road to Heol Ty Gwyn Industrial Estate. However, the footpath would be unlit and therefore unlikely to be attractive to users during hours of poor light or darkness. Moreover, it would not negate the need for residents to walk the remainder of the remote access to the dwelling itself. It also appears that this footpath includes land outside of the appellant's control and as such its provision cannot be guaranteed in the long term. Similarly, there is disagreement between the parties over the opening times and accessibility of Maesteg Welfare Park which creates significant uncertainty over whether this would have any meaningful impact on the future occupiers' use of active modes of travel and reducing the reliance on the private car.
9. In the above circumstances, I conclude that the proposal would result in an unjustified and sporadic new dwelling in the open countryside that fails to comply with the principles of sustainable development as set out in LDP Policies DNP1 and DNP2, PPW and TAN6.

#### *Character and appearance*

10. The existing barn is of modern construction, but its simple muted appearance is commensurate with its rural setting. I note that the proposal would largely retain the existing scale and external fabric of the building and has sought to address previous design concerns by reducing the extent of glazing, amongst other things. However, the existing openings at ground level on the front elevation would be partly infilled to create a regular row of standard domestic sized window and door openings, and there would be a similar formal array of window openings on the upper floor. Owing to this, the proposal

would have an overtly domestic appearance of suburban connotations that would fail to retain the rural character of the building or respect the rural setting.

11. Furthermore, the proposed landscaping is overly structured with a linear hedgerow along the southern boundary which would not respect or seek to preserve the rugged rural landscape of the wider area of countryside to the north. Instead, the landscaped external area with a formal driveway and hardstanding around the barn along with the introduction of associated domestic paraphernalia, such as washing line and outdoor furniture, would reinforce the urban form of the proposed development which would be at odds with the rural character and appearance of the site.
12. The appellant has drawn my attention to a barn conversion development at Nantymoel approved by the Council. However, that scheme involved the sympathetic conversion of a traditional stone building and is not therefore comparable to the scheme before me.
13. I conclude that the proposal would cause harm to the character and appearance of the area, contrary to Policies SP3 and DNP1 of the LDP.

### *Biodiversity*

14. The appeal site is situated within the Nant y Crynwydd Site of Importance for Nature Conservation (SINC). PPW acknowledges that SINC's make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems. In line with the aims of PPW, LDP Policy DNP6 sets out the requirement for all development proposals to provide a net benefit for biodiversity and improved ecosystem resilience. As such, development proposals should leave biodiversity and the resilience of ecosystems in a significantly better state than before.
15. Although the area surrounding the barn is reported to have no SINC features or species, the SINC Impact Assessment refers to mitigation in the form of additional landscaping to the riparian woodland corridor, wildlife features such as bat bricks, swift and swallow nest boxes and sparrow terraces to be incorporated to the existing building and a management plan for Himalayan Balsam. However, from review of the SINC Impact Assessment the ecological surveys appear to have been carried out in 2017 with a follow up in 2018. As such, beyond reference to a site visit by an ecologist, no recent ecological data has been provided to establish a baseline position and to understand if the proposed mitigation is appropriate for the development. Furthermore, without this evidence I am not confident that the proposed development would result in a net gain for biodiversity.
16. The appellant refers to including a condition requiring further details on the mitigation and compensatory measures. However, this would not be appropriate because I cannot be certain based on the information provided that the proposed mitigation would deliver a net benefit for biodiversity.
17. I conclude that the proposed development fails to demonstrate that it would not harm biodiversity interests or demonstrate a net gain for biodiversity and is therefore contrary to LDP Policy DNP6 and the aims of PPW.

### **Conclusion**

18. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be dismissed.
19. 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-03313-V4X5J4

*Zoe Baxter*

INSPECTOR