Appeals

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

APPEAL NO. 2015
APPLICATION NO P/24/10/FUL

APPELLANT MRS C LEWIS

SUBJECT OF APPEAL REPLACE BOUNDARY WALL WITH ONE OF INCREASED HEIGHT; RETENTION OF WOODEN PLAYROOM 5 BELMONT CLOSE MAESTEG

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed development, by reason of its scale and siting, fails to retain a sufficient amount of useable outdoor amenity space for the future occupiers of the dwelling, contrary to Policy SP3 of the Bridgend Local Development Plan 2024 and advice contained within Note 8 of SPG2 – Householder Development and Planning Policy Wales (Edition 12, February 2024).

2. The proposed development, by reason of its siting, size and scale, represents an excessive, incongruous and overly prominent form of development, that would have a detrimental impact on the established character and appearance of the streetscene in this 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).

1. The proposed access lacks adequate visibility for vehicles emerging from the site, which will create hazards to the detriment of highway safety contrary to Policy SP3 of the Bridgend Local Development Plan (2024) and advice contained within Supplementary Planning Guidance Note 02: Householder Development (2008).

2. The site lacks sufficient frontage to provide vision splays of 2m x 20m to cater for vehicles travelling along the highway, which will create traffic hazards to the detriment of highway and pedestrian safety contrary to Policy SP3 of the Bridgend Local Development Plan (2024) and advice contained within SPG02 (2008).

APPEAL NO. 2016
ENFORCEMENT NO. ENF/241/23/ACK

APPELLANT MRS C LEWIS

SUBJECT OF APPEAL ALLEGED UNAUTHORISED OUTBUILDING AND WALL: 5 BELMONT CLOSE MAESTEG

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL ENFORCEMENT NOTICE

APPEAL NO. 2012
APPLICATION NO P/24/93/FUL

APPELLANT MR & MRS A EVANS

SUBJECT OF APPEAL RETENTION OF EXISTING DETACHED OUTBUILDING FOR JOINT USE AS ANCILLARY USE TO EXISTING DWELLING AND PART-TIME USE AS HAIR & BEAUTY SALON: 9 PYLE ROAD PYLE

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reasons:

1. The development, by reason of its nature, siting, scale and design, represents an incongruous and prominent addition to the streetscene having a significant detrimental impact on visual amenities of the area, contrary to Policy SP3 of the Local Development Plan (2024), Supplementary Planning Guidance Note 02 Householder Development and advice contained within Planning Policy Wales (Edition 12, February 2024).

2. The proposed hair salon would attract customer who would drive to the salon, leading to inappropriate parking on-street and substandard driving manoeuvres close to a busy highway junction, to the detriment of pedestrian and highway safety within and around the site, contrary to Policies SP3 and PLA11 of the Bridgend Local Development Plan (2024), Supplementary Planning Guidance Note 17 Parking Standards and advice contained with Planning Policy Wales (Edition 12, February 2024).

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

APPEAL NO. CAS-02966-N9P8D1 (1996)
ENFORCEMENT NO ENF/242/22/ACK

APPELLANT MS R LLOYD DAVIES

SUBJECT OF APPEAL ALLEGED UNAUTHORISED REPLACEMENT WINDOW AND PATIO DOORS TO FIRST FLOOR LEVEL: HEBRON HOUSE MEADOW CLOSE COYCHURCH

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL ENFORCEMENT NOTICE

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE ENFORCEMENT NOTICE BE VARIED AND THE APPEAL IS DISMISSED.

The Appeal and Costs decision is attached as APPENDIX A.

APPEAL NO. CAS-03042-Z4W3W1 (1998)
APPLICATION NO. ENF/196/17/A21

APPELLANT	MR W TOTTERDALE
SUBJECT OF APPEAL	UNTIDY LAND: 4 ST NICHOLAS ROAD BRIDGEND
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	ENFORCEMENT NOTICE
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE ENFORCEMENT NOTICE BE UPHELD AND THE APPEAL IS DISMISSED.

The Appeal decision is attached as APPENDIX B.

APPEAL NO.	CAS-03170-L4V0Z8 (2002)
ENFORCEMENT NO	ENF/10/23/ACK
APPELLANT	MR & MRS STUBBS
SUBJECT OF APPEAL	ALLEGED UNAUTHORISED BUILDING WORKS: 16 SUFFOLK PLACE PORTHCAWL
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	ENFORCEMENT NOTICE
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE ENFORCEMENT NOTICE BE UPHELD AND THE APPEAL IS DISMISSED.

The Appeal decision is attached as APPENDIX C.

APPEAL NO.	CAS-03166-C6C3T6 (2003)
ENFORCEMENT NO	ENF/217/23ACK
APPELLANT	J CANTON
SUBJECT OF APPEAL	ALLEGED UNAUTHORISED REAR DORMER AND ROOF WINDOWS TO FRONT ELEVATION: ROPSLEY THE SQUARE PORTHCAWL
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	ENFORCEMENT NOTICE
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE ENFORCEMENT NOTICE BE UPHELD AND THE APPEAL IS DISMISSED.

APPEAL NO. **APPLICATION NO**	CAS-03165-T9V6F9 (2004) P/23/471/FUL
APPELLANT	J CANTON
SUBJECT OF APPEAL	REAR EXTENSION & DORMER WINDOW TO LOFT FLOOR: ROPSLEY THE SQUARE PORTHCAWL
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	DELEGATED OFFICER
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL IS DISMISSED.

The joint Appeal decision is attached as APPENDIX D.

APPEAL NO. **APPLICATION NO**	CAS-03334-L5K8C7 (2007) P/23/403/FUL
APPELLANT	MR A MORGAN
SUBJECT OF APPEAL	FIRST FLOOR SIDE AND PART FIRST FLOOR REAR EXTENSION WITH ADDITIONAL GABLE AND PORCH TO FRONT ELEVATION: 86 TREMAINS COURT BRIDGEND
PROCEDURE	HOUSEHOLDER APPEAL
DECISION LEVEL	DELEGATED OFFICER
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL IS DISMISSED.

The Appeal decision is attached as APPENDIX E.

RECOMMENDATION
That the report of the Corporate Director Communities be noted.

JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES

Background Papers (see application reference number)

APPENDIX A

Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Appeal Decision

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by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/09/2024

Appeal reference: CAS-02966-N9P8D1

Site address: Hebron House, Meadow Close, Coychurch, Bridgend CF35 5HH

- 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 Rachael Lloyd-Davies against an enforcement notice issued by the Bridgend County Borough Council.
- The enforcement notice, numbered, ENF/242/22/ACK was issued on 5 September 2023.
- The breach of planning control as alleged in the notice is, without planning permission the creation of a roof terrace.
- The requirements of the notice are to:
    a) Remove and keep removed all domestic paraphernalia, including but not limited to plant pots, artificial grass and balustrades from the roof of the single storey element of Hebron House.
    b) Remove and keep removed the patio doors and replace with window.
- 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), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- A site visit was made on 21 August 2024.

Decision

1. The appeal on ground (f) succeeds in part and the enforcement notice is varied by:
    - Deleting paragraph 5 of the notice and substituting the following:

      “5 a) Remove all domestic paraphernalia, including plant pots, artificial grass and balustrades from the roof of the single storey element of Hebron House”.

      “5 b) Remove the patio doors and replace with window”.
2. Subject to these variations the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Costs application

3. An application for costs has been made by Rachael Lloyd-Davies against Bridgend County Borough Council. This application is the subject of a separate decision.

The ground (b) appeal

4. The ground of appeal is that the matters alleged in the enforcement notice (EN) has not occurred. The appellant asserts that no communal use of the flat roof was undertaken, and the allegation of a roof terrace is a misdescription in the EN. The insertion of a patio door instead of a window was lawfully installed by a certified installer and that such works did not require planning permission or building control approval.
5. Other points put forward relate to issues of safety, the biodiversity benefit and well-being improvements for the appellant, and that the appellant is content for restrictions to be imposed on the use of the development and the installation of fencing.
6. The Council accepts that planning permission is not required for the replacement of a window to a door but refers to the work as facilitating the use of the existing flat roof as a roof terrace. It also cites that the placement of domestic paraphernalia on the roof and the statements from the nearby resident suggest that the roof has been used as alleged.
7. The Council report that it had received a complaint in September 2022 with photographs of the replaced window for patio doors at the rear first floor level allowing access onto the flat roof, the subject of the EN. The Council's statement notes that the flat roof area includes, plant pots, artificial grass and a balustrade fence. The statement includes a photograph of the flat roof with pots, shrub and artificial grass laid onto the roof that was reportedly part of the planning application submission reference P/22/766/FUL. This planning application was refused planning permission on 13 April 2023.
8. For the ground (b) to succeed the matters alleged in the EN should not have occurred at all, and the onus is on the appellant to demonstrate on the balance of probability it did not so occur. I consider that the evidence points as a matter of fact and degree that what is alleged has indeed occurred. The change from a window to a patio door allows access onto the flat roof, and the physical evidence presented in the Council's submission corroborate that this facilitating works allowed access onto the roof to place items on it, which in turn comprises a roof terrace.
9. It is also informative that the construction or provision of a roof terrace, whether or not it would incorporate associated railings, fencing or other means of enclosure is described as development in The Town and Country Planning (General Permitted Development) Order (GPDO) 1995 as amended by Order 2013. Although not determinative of whether a use of the roof terrace has taken place it need not be conclusively presumed that a use needs to be demonstrated for it to fall within the description of the EN allegation. In my view, the works undertaken are caught by the Act as amended and the GPDO, which are set out below in the ground (c) appeal. What has been alleged has occurred as a matter of fact and degree. The facilitating works to change a window to a patio door permits some use of the flat roof which in turn comprises a roof terrace as alleged.
10. There is therefore no misdescription in the EN. All other points raised in paragraph 6 above relate to the other grounds of appeal.
11. The appeal on ground (b) should therefore fail.

The ground (c) appeal

12. The ground of appeal is that the matters alleged in the EN do not constitute a breach of planning control. Much of what has been mentioned under the ground (b) appeal, relates

to this ground that there has not been a breach of planning control because the development as alleged is lawful.

13. Section 57 of the Act as amended states that planning permission is required for the carrying out of any development of land. Section 55(1) states that development means the carrying out of building, engineering, mining or other operations in, on, over or under land. Building operations includes, amongst other things, structural alterations of, or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder.

14. Section 55(2)(ii) of the Act as amended indicates operations or uses of land shall not be taken for the purposes of the Act to involve development of the land (a) the carrying out for the maintenance, improvement or other alteration of any building of works which (ii) do not materially affect the external appearance of the building.

15. The change from a window to a patio door is work that materially affects the external appearance of the building. There are vantage points from the car park of the adjacent public house whereby the development would be visible. There are vantage points from within the garden of the adjoining residential property whereby the change is also visible. The combination of these vantage points, one a public house car park and the garden of next door, in my view, comprise vantage points which results in Section 55(2)(a)(ii) not being met. Materially affecting the external appearance means an impact capable of having some effect in planning terms. In my view, the visible change from a window to a patio door is capable of having some effect in planning terms, including the material change to the living conditions of occupiers of the adjacent property.

16. I consider that the physical work (the change from window to patio door) which facilitates that alleged in the EN is development within the meaning of the Act under Section 55(1). The work is a building operation involving structural alterations to a building and is an operation which was carried out by a person who was employed as a tradesperson. I therefore consider that the works which facilitates the EN allegation is ‘development’ on ‘land’ within the meaning of the Act as amended.

17. Section 58 of the Act as amended provides that planning permission may be granted by a development order. The GPDO as amended excludes the construction or provision of a roof terrace (whether or not it would incorporate associated railings, fencing or other means of enclosure) and this development is not permitted by the GPDO. Article 3, Schedule 2, Part 1, Class A.1(l)(iii) Development within the curtilage of a Dwellinghouse specifically excludes roof terraces from being permitted development. Class B (enlargement of a dwellinghouse consisting of an addition or alteration to its roof) also excludes roof terraces by Class B.1(f)(iii). Class C (any other alteration to the roof of a dwellinghouse) excludes roof terraces by Class C.1(c)(vi).

18. Class A refers to ‘Conditions’ that require to be met. This is repeated for Class B and C developments. In classes A.3(a), B.2(a) and C.2(a) require that the appearance of the materials used in the walls, roof or other element of any exterior work must so far as practicable match the appearance of the materials used in the majority of the equivalent element of the existing dwellinghouse. The wording of conditions in B.2 and C.2 are similar in effect to conditions in A.3. In all, they restrict material changes to the exterior of the building which is consistent with the forementioned test in the Act as amended in relation to the change of a window to a patio door.

19. The Welsh Government Technical Guidance Permitted development for householders Version 2 (Technical Guidance) provides guidance on how to interpret householder permitted development rights. However, it is not an authoritative interpretation of the law. The GPDO itself is the statutory order. The Technical Guidance within Class A.3(a)

indicates amongst other things that the size, positioning, style and materials of new windows and doors should generally provide a similar visual appearance to those on the existing dwelling in order to achieve a consistent appearance. A similar visual appearance to those in the existing house in terms of the overall shape, colour and the frame size. This interpretation is consistent with the GPDO, and the Act as amended.

20. The Technical Guidance refers to the same wording as the GPDO for roof terraces and in all the categories for permitted development roof terrace is excluded from the Order, such that they are not regarded as permitted development.

21. Planning permission is therefore required for the EN allegation. No planning permission has been granted for the development enforced against. The recent application for the development was refused permission in April 2023.

22. All other matters raised concerning health and safety, breaches of planning control next door, possible revisions to the roof by installing fencing, the possibility of payment to ensure next door's bedroom window is obscure glazed, and the benefits of the development are not matters that pertain to the ground (c) appeal.

23. The appeal on ground (c) therefore fails. The matters alleged in the EN does constitute a breach of planning control.

The ground (d) appeal

24. The appellant's case is that the Council has failed to adhere to deadlines which meant that the appeal for the refused planning permission could not be registered on time. The delays inflicted by the Council mean that appeal documentation was delayed and now the enforcement notice should be withdrawn. The appellant has complained to the Information Commissioner's Office (ICO) about the Council's actions concerning the handling of a subject access request.

25. This matter is not within my jurisdiction of deciding a ground (d) appeal. A ground (d) appeal is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. By Section 171B(1) no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed for carrying out without planning permission of a building operation. The onus is on the appellant to demonstrate on the balance of probability that the building operation was substantially completed more than four years before the EN was issued.

26. The EN was issued on 5 September 2023. The material date is therefore 5 September 2019. No evidence has been presented that the works the subject of the EN was substantially complete by 5 September 2019. The Council's evidence is that photographs show that the window changed to a patio door to facilitate access to the roof terrace by September 2022.

27. The EN was therefore issued within time and the ground (d) appeal therefore fails.

The ground (a) appeal and the deemed application

28. The ground of appeal is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The main issue is the effect of the development on the living conditions of occupants of No.14 Meadow Close in relation to privacy.

29. From what I saw on the site visit, access through the patio door onto the roof allows unhindered views of the private rear garden of No. 14. What could be seen is the rear patio area where table and chairs are presently laid out, most of the rear garden, the side clear glazing of the rear conservatory and the bedroom window in the side apex of next

door. I consider that this is a significant infringement to the privacy of occupants of No. 14 to their significant detriment. No. 14 is now a less enjoyable place to reside than before the development enforced against was completed.

30. The views of the rear garden and property of No. 14 are from an elevated vantage point and are close-by. I consider that the degree of overlooking is unreasonably close and wide ranging, of the rooms and garden. The occupants of No. 14 would expect some degree of privacy. There may be already an element of mutual overlooking, but not to the degree and extent now permissible by the works in the EN.

31. No amount of fencing would overcome this objection. In any event, fencing or obscure screening on the perimeter of the roof would appear incongruous, being elevated at first floor level, and would not achieve the aims to which it would be designed, since once people stand up, the harm I have described would endure. The appellant asserts that no seating would take place on the roof, but this cannot be controlled or conditioned, that would meet the tests of reasonable, necessary and enforceable planning conditions. Once granted, the roof terrace could be used for purposes incidental to the enjoyment of the dwellinghouse. The use of the roof could not be restricted and would be contrary to the permissive right under Section 55(2)(d) of the Act as amended. Planning conditions could not be enforced to ensure that the roof is used in a particular restrictive way.

32. I note the assertions that the appellant is willing to pay for the bedroom window of next door to be obscured glazed. Such a payment would not overcome the planning objection, and there is no mechanism in place that can secure this matter. Even so, imposing such a restriction on a window which has been established overtime, would be unreasonable. I note the concerns that the dormer extension and side window are claimed to be unauthorised. However, they are established developments.

33. I note that there is also a separate enforcement investigation pertaining to the outbuilding next door. The outcome of this appeal has no bearing on the issues relating to a separate investigation which is not before me, and not within my jurisdiction.

34. The GPDO permitted development rights are crystalized when the development begins. Permitted development rights change over time and have in some instances become more restrictive. The main changes in Wales came about in relation to extensions and roof additions in September 2013. Changes which are made under GPDO cannot be retrospectively applied to established developments since they are likely to be lawful through the grant of a planning permission or have gained immunity through the passage of time.

35. The appellant refers to the benefits of the space provided in terms of well-being and biodiversity enhancement and the creation of a mixed use. The benefits to the appellant need to be balanced against the harm that would arise to other public interests and the private interests of the adjoining occupiers. In my view, the benefits are far outweighed by the harm that is caused for the reasons, I have outlined above.

36. The appellant claims that the patio door onto the roof terrace is essential for maintenance and repair of the property. This is not a sustainable reason for having a permanent roof terrace that would endure overtime that has these adverse effects on residential amenity of occupants of the adjoining property. There will be alternative ways of accessing the perimeter of the property with agreement between the parties. Such reasonable requests cannot be denied and is not an overriding reason for allowing the development enforced against.

37. I note the reference to Supplementary Planning Guidance 2, Householder Development (2008). This guidance may be relevant to development sought for planning permission, but it does not relate to established development that pre-dates it. I note the request for a

subject access request and issues pertaining to the handling of personal data and information, but these matters are outside the scope of this ground (a) appeal.

38. The appellant asserts that the development is good design as set out in Planning Policy Wales (PPW) Edition 12. PPW notes in paragraph 2.7 that placemaking in development decisions happens at all levels and involves considerations at a global scale, including the climate emergency, down to the very local level, such as considering the amenity impact on neighbouring properties and people. The objective of good design is in part establishing a successful relationship between public and private space. The EN development compromises private space making this space a less than enjoyable place to reside. I consider that development therefore conflicts with Policy SP3 of the Bridgend County Borough Local Development Plan 2018-2033.

39. Policy SP3 seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected. The EN development conflicts with this policy, by virtue of criterion (k).

40. The appellant has quoted extensively from PPW, the Environment (Wales) Act 2016, the need to reduce carbon dioxide, the green-roof and biodiversity benefit of the development and the self-build guidance. None deal with the core objection here of the main determining issue of this appeal and they do not outweigh the concerns that this development would have, if allowed, on the living conditions of the neighbouring occupiers.

41. The development is not in accordance with the development plan and no other material consideration is of sufficient weight that would indicate a decision otherwise than to refuse the ground (a) appeal and the deemed application. The planning balance is against allowing this appeal. The ground (a) and the deemed application therefore fails.

The ground (f) appeal

42. The EN requires the removal and keep removed all domestic paraphernalia including plant pots, artificial grass and balustrade, and to remove and keep removed the patio doors and replace with window.

43. The appellant asserts that the steps exceed what is necessary to remedy any breach of planning control. The purpose of the EN must be to remedy the breach by restoring the land to its condition before the breach took place by Section 173(4)(a) of the Act as amended.

44. The appellant refers to the matter that the door has legally been installed. The door was installed for safe access and maintenance and there is no evidence that it has been used as a communal seating area. These matters have been addressed under the grounds (b) and (c) appeal.

45. The appellant contends that the area could be restricted so that no seating takes place on it. However, this matter has been addressed in the ground (a) appeal and the deemed application. The appellant refers to the point that the Council has accepted that a Juliet balcony would be acceptable. However, this is a different form of development than the EN allegation and is not a matter that I can comment on.

46. All other matters concerning the support that the Council should have given the appellant, and restating there is no breach, are matters that have been addressed in preceding grounds of appeal or are not within the remit of this appeal.

47. However, the requirements of the notice which refer to “keep removed” the items specified in the EN are excessive. This is covered under Section 181(1) and (3) of the Act as amended and imposes a continuing obligation which is not discharged by compliance

with the EN requirements. If works that were required to be removed are then restored the EN would continue to bite under these provisions. Therefore, there is no need to specify this in the requirements of the EN.

48. Furthermore, the words “including but not limited to” are too vague and imprecise, that do not specify the steps which the local planning authority require to be taken. This also should be omitted from the EN.

49. I shall vary the notice accordingly, and to this limited extent the appeal on ground (f) succeeds.

The ground (g) appeal

50. The ground of appeal is that any period specified in the notice in accordance with Section 173(9) falls short of what should reasonably be allowed. The EN time for compliance is 2 months.

51. The appellant requests a delay in any form of compliance period indicating a pending appeal and communication with the ICO. The appellant indicates that 2 months is too short a period to find suitable tradesmen and cites the costs of appealing and the delay in the Council signing off the work. The Council indicates that 2 months is a reasonable period to allow for the removal of the patio door and the replacement with a window and the removal of all items.

52. Whilst I appreciate that finding and booking tradesmen might cause an issue for the appellant, nevertheless, if this was a genuine issue the appellant can demonstrate the attempts made to try and resolve the matter in a timely fashion. However, this factor is common to many developments and home improvement projects, and it is not an overriding factor when considering the continued impact of the EN development on the neighbours’ residential amenity.

53. In all, I consider that the EN compliance period is proportionate given the significant impact on the living conditions I have outlined above. I have considered the conflicting matters of the public interest in taking enforcement action against the private interests of the appellant.

54. The appeal on ground (g) therefore fails.

Conclusions

55. 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.

56. I conclude that grounds (a), (b), (c), (d) and (g) fail in this instance. Ground (f) succeeds to the limited extent as specified in the decision. I shall vary the notice accordingly.

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

Iwan Lloyd

INSPECTOR

Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Costs Decision

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by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/09/2024

Costs application in relation to Appeal Ref: CAS-02966-N9P8D1

Site address: Hebron House, Meadow Close, Coychurch, Bridgend CF35 5HH

- The application is made under the Town and Country Planning Act 1990, sections 174, 322C and Schedule 6.
- The application is made by Rachael Lloyd-Davies for a full award of costs against Bridgend County Borough Council.
- The appeal was against an enforcement notice alleging without planning permission the creation of a roof terrace.
- A site visit was made on 21 August 2024.

Decision

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

The submissions for Rachael Lloyd-Davies

2. The applicant indicates that costs should be awarded for compensation for stress and mental health for the changing decisions, the appeal and the process. The applicant considers that compensation is due for breaches of the General Data Protection Regulation (GDPR), the cause for increasing animosity between neighbours, the lack of redactions and citing irrelevant opinions on the case.

The response by the Council

3. No response has been received.

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. It also explains that applications for costs must clearly demonstrate how any unreasonable behaviour has resulted in unnecessary or wasted expense.
5. The applicant has provided no detail in the cost application of any unreasonable behaviour by the Council that fall within those cited by the Annex. I have concluded except for ground (f) that other grounds of appeal should not succeed. The concern on GDPR is outside the scope of the cost jurisdiction, and the applicant has made

complaints to the relevant regulatory body which are considered separately from this decision.

6. I do not find that the Council has acted unreasonably or has incurred the applicant unnecessary or wasted expense in the appeal process. Accordingly, I find that a partial or full award of costs is not justified.

Iwan Lloyd

INSPECTOR

APPENDIX B

Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Appeal Decision

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by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 16/09/2024

Appeal reference: CAS-03042-Z4W3W1

Site address: 4 St Nicholas Road, Wildmill, Bridgend CF31 1RT

- The appeal is made under section 217 of the Town and Country Planning Act 1990, as amended.
- The appeal is made by William Totterdale against a maintenance of land notice issued by Bridgend County Borough Council.
- The maintenance of land notice, numbered ENF/196/17/A21, was issued on 5 September 2023.
- The requirements of the notice are to remove and keep removed all items within the front garden area and driveway (side) of the above property, including but not limited to wood materials, metal, bricks, plastic containers (except recycling receptacles), plastic bags, other plastic items, tarpaulin, garage doors, vehicles and miscellaneous items.
- The period for compliance with the requirements of the notice is three months.
- The appeal is proceeding on the grounds set out in section 217(1) (a), (b), (c) and (d) of the Town and Country Planning Act 1990, as amended.
- A site visit was made on 21 August 2024.

Decision

1. The appeal is allowed in part in relation to grounds (c) and (d) and it is directed that the maintenance of land notice be varied by:
    - Deleting paragraph 3 of the notice and substituting the following:

      “Remove all items stored within the front garden area and driveway (side) of the above property, including wood materials, metal, bricks, plastic containers (except recycling receptacles), plastic bags, other plastic items, tarpaulin, garage doors, vehicles and miscellaneous items”.
    - Deleting paragraph 4 of the notice and substituting the following:

      “5 months” as the time-period for compliance.
2. Subject to these variations the maintenance of land notice is upheld.

Procedural matters

3. Although the appeal form indicated that the appellant is making an application for costs, there is no statement that clearly explains the basis of any such application. It is therefore

reasonable to conclude that the appellant did not intend to pursue the costs application, and in the absence of any substantive grounds I have not considered the matter any further.

The ground (a) appeal

4. The ground of appeal is that the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area, or any adjoining area. The appellant maintains that cars and fencing/wood pieces are lawfully stored on the land with a view to reinforce the boundary fencing and to repair the vehicles. The appellant is unable to move the wood and repair the vehicles due to age and health but has agreed to remove wood/building items.

5. The appellant asserts that the maintenance of land notice (MLN) prevents the householder from storing and siting garden furniture on the property. The MLN refers to all items which must include furniture, planters and garden items. Such items would not adversely affect the amenity of the area. Neither would the storage of vehicles and items pose detriment, and, in any event, the appellant denies that the items listed in the MLN has an adverse effect on amenity. Other concerns relate to the identity of the complainant to ensure that such persons are not connected to the issuing of the MLN. There is also an assertion that the MLN is beyond the remit of the law and is ultra vires.

6. The MLN requires that all items are removed, including and not limited to a list of specified items. Namely, wood materials, metal, bricks, plastic containers, plastic bags, other plastic items, tarpaulin, garage doors, vehicles and miscellaneous items. From what I saw from my visit, these were stored in a mound of materials to the front of the property and a car was stored on the driveway. Another vehicle was beneath this material. Wood and wood posts were placed against this vehicle. At the front the mound of material extended above the brick boundary wall and had been in place for a considerable period as vegetation was growing over these items. This indicates that the materials listed in the MLN have been there for some time and is on the balance of probability and indication that very little has been done to clear it, contrary to the appellant's assertion. Residents have indicated that the situation in relation to the front and side garden has not changed significantly over a considerable period and the Council has previously issued MLNs in 2005 and 2018.

7. The 2005 MLN resulted in the clearance of the land of items, but a further MLN was issued in 2018. Ultimately, the 2018 MLN was withdrawn as it was determined that vehicles could not be included in the notice. The advice obtained from the Council has changed and vehicles are a legitimate matter for the MLN.

8. At least one vehicle is entirely encased in materials, and I consider that this is a legitimate requirement for removal. The vehicle on the driveway may reasonably be repaired, but it appears that it has not been moved for some time with concrete slabs wedged against the rear tyres, condensation and mould on the rear window and rear lights. The car on the driveway has been left or stored for a considerable time. I consider that the current condition of the car leads me to conclude that it was brought off the road because it was not taxed. For it to be repaired, it is likely that it would have to be taken off the site to a garage. In its present condition it has a detrimental effect on the amenity of the area.

9. I concur with the Council and residents that the condition of the land is adversely affecting the amenity of the area, since the materials are stored above the front boundary wall and can be viewed from the pavement adjoining the access gate. The significant extent of the material, the overgrown vegetation over stored items and tarpaulin is injurious to amenity and significantly affects the area when seen from the roadside and along this residential street. I do not agree that the Council's actions are overly concerned about aesthetic

requirements, in my view, this is appropriate given the condition of the land. In any event, amenity is not defined in the legislation.

10. The identity of the complainant is irrelevant to the substance of the notice, and there is no evidence that the notice has been issued in bad faith in the light of the several letters of objection to the appeal and the previous actions of the Council in issuing previous MLNs. No substantive case has been made that the Council has exceeded its power to issue the MLN and the validity of the notice is not within the jurisdiction of this appeal. The issue of expediency for taking the action is also a separate matter to the issues arising under the grounds of appeal.

11. I therefore consider that the condition of the land to which the notice relates is adversely affecting the amenity of any part of the area, or any adjoining area. The ground (a) appeal therefore fails.

The ground (b) appeal

12. The ground of appeal is that the condition of the land is attributable to, and such as results in the ordinary course of events from the carrying on of operations or a use of land which is not in contravention of part III of the Act as amended. The appellant cites that the items listed in the MLN is a consequence of a normal course of events, such as the storage of cars, building materials and fencing, and the use of the drive and garden. The longer duration of storage is only due to ill health, age, frailty and costs which are themselves normal course of events. Further, the appellant asserts the MLN prevents reasonable garden items being stored on the front and side of the property, and that the local planning authority (LPA) has confused aesthetic requirements with the need to remove all items from the drive and garden.

13. The MLN refers to all items listed in the notice. In my view, it does not prevent ordinary domestic activity and use of the property that interferes with the rights of the owner/occupier, the right to respect for private and family life and home. Should the appellant intend to place garden furniture on the land once the site is cleared, the MLN does not prevent this action. Nor does it prevent boundaries to be repaired and maintained. From the available evidence, the wood products and paving may be stored on the land with a view to repair and rebuild fences, but the physical condition of the land presently indicates that this has not occurred for a considerable period. I consider that if building materials were stored on the land for the purpose of maintenance it would be there for a duration sufficient to indicate that it would be used a short time after and the boundary maintained. The side boundary is a solid blockwork wall which is not in need of repair at present, and there is no evidence presented with this appeal of other boundaries in need of such repair. I do not consider that the evidence points to an activity which can be attributed to an ordinary course of events.

14. I note that age, health and frailty have been cited as the reason for the longer duration of storage on the site. Nevertheless, the extent of storage on this site goes beyond what may be regarded as ordinary events and the MLN is a proportionate action having regard to the public interests for taking such action.

15. Dismissing the appeal would interfere with the appellant’s rights to peaceful enjoyment of their possessions, and to a private and family life and home. However, those are qualified rights; interference with them in this instance would accord with the law and be in pursuance of a well-established and legitimate aim of ensuring that the condition of the land does not adversely affect the amenity of the area. The protection of the public interest cannot be achieved by means that are less interfering with the rights of the appellant.

16. I have had due regard to the Public Sector Equality Duty (PSED) set out under Section 149 of the Equality Act 2010, but the harm caused by the condition of the land outweighs the personal issues concerning the age and health of the appellant to provide justification for the current condition of the land. The MLN is a proportionate response in terms of eliminating discrimination against persons with the protected characteristics of age and health, advancing equality of opportunity for those persons and fostering good relations between them and others. I conclude that it is proportionate and necessary to dismiss the appeal under this ground of appeal.

The ground (c) appeal

17. The appeal on ground (c) is that the requirements of the MLN exceed what is necessary to prevent the condition of the land from adversely affecting the amenity of the area.

18. Much of what has been referred to in the preceding grounds are re-cited as being all encompassing and therefore excessive requirements. The allegation that the MLN is ultra vires is restated. It is also asserted that what the MLN requires is beyond the requirements of any other household and is excessive, to protect the amenity of the neighbourhood, and ultimately it is considered that the appellant has been discriminated against.

19. I do not consider that the requirement to remove the vehicles to be excessive for the reasons I have outlined above. If the vehicles were to be repaired, they would in all probability have to be taken to a garage, and if repaired and roadworthy, they could be parked once more on the drive. I consider that to include vehicles in the MLN is proportionate.

20. However, to require that all items are kept removed from the land is excessive as this would have a permanent and on-going requirement on the occupier of the land and future occupants. I intend to delete reference to this part together with the words ‘including but not limited to’, as this is too vague a requirement. I consider that all items should be followed by the word stored as this must be the activity which is sought by the Council issuing the notice.

21. In relation to all other items, although the appellant asserts these are excessive requirements, for the reasons I have already outlined, are not, and are necessary and proportionate.

22. I shall vary the notice accordingly, and to this limited extent the appeal on ground (c) succeeds.

The ground (d) appeal

23. The appeal on ground (d) is that the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed. In the appellant’s submission it is considered that the LPA has failed to consider the age and health of the appellant. The appellant asserts that the requirements place an excessive burden which must be actioned in an unreasonably short timescale to affect the scope of what is required to remedy the notice.

24. The Council indicates that the period for compliance is reasonable, and the appellant could instruct a clearance business to remove the items from the land.

25. Given the age of the appellant and the personal circumstances of the appellant, I consider it proportionate to allow more time for the site to be cleared. Five months would be a reasonable compromise having regard to the conflicting matters of the public interest against the private interests of the appellant.

26. To this extent the appeal on ground (d) succeeds.

Other matters

27. The appellant raises concerns about works to the boundary wall by the neighbouring owner/occupier, and that this has incurred damage to this property and items stored on the land. Such matters are not within my jurisdiction in considering this appeal.

Conclusions

28. For these reasons, and having considered all matters raised, I conclude that the grounds (c) and (d) appeal succeeds to a limited extent, but the appeal otherwise fails, and the MLN is upheld.

29. In coming to this conclusion, 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 the decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of making our towns even better places to live and work.

Iwan Lloyd

INSPECTOR

APPENDIX C

Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Appeal Decision

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by H Davies BSc (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 20/09/2024

Appeal reference: CAS-03170-L4V0Z8

Site address: 16 Suffolk Place, Porthcawl, Bridgend CF36 3EA

- 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 Act).
- The appeal is made by Mr and Mrs Stubbs against an enforcement notice issued by Bridgend County Borough Council.
- The enforcement notice numbered ENF/10/23/ACK was issued on13 October 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of an extension.
- The requirements of the notice are:
  a. Remove and keep removed the extension to the rear and side of No.16 Suffolk Place, as shown hatched in blue in the attached plan B
  b. Remove all materials resulting from step (a) above.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act.
- A site visit was made on 10 September 2024.

Decision

1. It is directed that the enforcement notice is varied by, in section 6 (time for compliance), deleting the words ‘2 months’ and substituting the words ‘4 months’.
2. Subject to this variation the appeal is dismissed and the enforcement notice is upheld

Preliminary Matters

3. In their reason for issuing the notice, the Council reference Policy SP2 (design and sustainable place making) of the Bridgend Local Development Plan (2013) (LDP 2013). Subsequently, the Bridgend Local Development Plan 2018-33 (LDP 2018-33) has been adopted (13/03/2024). Inspectors are required to determine appeals on the development plan in place at the time of the appeal decision, which is the LDP 2018-33.
4. The relevant elements of Policy SP2 of the LDP 2013 have been transposed into Policy SP3 (Good design and sustainable placemaking) of the LDP 2018-33. Therefore, the change in policy does not impact on the issues for consideration in this appeal.

5. Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) provides permitted development rights for extensions to a dwelling, subject to meeting set criteria and conditions.

6. The extension subject to this appeal is a single entity rather than separate, easily severable parts, so needs to be considered as a whole. Aspects of the extension do not comply with the relevant GPDO criteria so, as a whole, it does not benefit from permitted development rights and hence requires planning permission. The appellant does not dispute this.

7. However, the appellant has submitted a plan which they say illustrates sections of the extension which do meet GPDO criteria. The plan only shows a footprint and does not demonstrate compliance with all relevant criteria. There is an ongoing lack of agreement between the Council and the appellant about how the limits of the GPDO apply to this site, particularly regarding the 'wrap around' nature of the extension.

8. The exact extent of a single storey extension for this site, meeting all relevant criteria under Class A of the GPDO, is not for me to establish under this s174 appeal. If the appellant wishes to establish this, an application should be submitted for a certificate of lawful development. Regardless of any email or phone communication between the parties, no such certificate has been granted.

The appeal on ground (a) and the deemed planning application

9. An appeal on ground (a) is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The terms of the deemed planning application are derived from the allegation set out in the notice. Hence, planning permission is sought for an extension.

Main Issue

10. The main issue is the effect of the development on the living conditions of occupants of 14 Suffolk Place, with regard to outlook and light.

Reasons

11. The appeal site contains a 3-storey mid terrace dwelling in a primarily residential area. The adjoined property at 14 Suffolk Place contains a hairdresser at ground floor to the front with residential uses above and to the rear.

12. Prior to the development, 1 and 2 storey projections to the rear of No 16 and No 14 left a narrow external passageway between the buildings, divided by a boundary wall. The extension subject to this appeal has infilled the passageway at No 16 entirely, taking the dwelling right up to the boundary wall. The width of this part of the extension is modest, but it extends the full length of the pre-existing projection and beyond and hence runs the entire length of the boundary with No 14.

13. There are windows in the side elevation of the ground floor at No 14, which I am informed serve habitable rooms. The separation distance between the extension and these windows at No 14 is narrow. The extension is a modest height to the eves, with a roof that slopes away from the boundary. Despite this, the combination of the proximity and length of the extension means it has a significant overbearing impact on the outlook from the ground floor windows at No 14, as well as reducing the amount of light to the windows. This unacceptably reduces the amenity of occupants of No 14, even within the context of a densely developed residential area.

14. I conclude that the development causes unacceptable harm to the living conditions of the occupants of 14 Suffolk Place, with regard to outlook and light. As such, the development does not comply with Policy SP3 of the Bridgend Local Development Plan 2018-33. Amongst other things, this policy seeks to ensure that development is of an appropriate scale and does not adversely affect the amenity of neighbouring occupiers. It also fails to comply with guidance set out in the Bridgend SPG02 'Householder Development' (2008), which states that new extensions should respect the residential amenity of neighbouring properties and should not unreasonably dominate the outlook or overshadow an adjoining property.

Conclusion on Ground (a)

15. The development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan. Therefore, the appeal on ground (a) fails and planning permission is not granted.

The appeal on ground (f)

16. An appeal on ground (f) is that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters, or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The notice requirements in this case seek to remedy the breach of planning control.

17. The appellant has suggested that the notice requirement to remove the extension in its entirety is excessive. As a lesser measure they suggest that the notice should only require the removal of that part of the extension which does not fall within permitted development rights, and that this can be achieved without compromising structural integrity.

18. Permitted development rights cannot be claimed retrospectively by making changes which return the development to compliance with permitted development limits. Notwithstanding this, such rights could be claimed in the future, following compliance with the notice, and would enable the appellant to build an extension which complied with permitted development limits. I consider there to be a real possibility that this fallback position would be implemented. I am also cognisant of the fact that the enforcement regime is intended to be remedial rather than punitive.

19. In straightforward cases, where a GPDO compliant scheme represents a realistic fallback and is an obvious alternative, it may be appropriate to vary a notice to require that the development is modified to meet the dimensions specified in the relevant Class of the GPDO. This was the case in the appeal referenced by the appellant (APP/F6915/C/18/3216164) where it was a clear and simple matter to specify the height to which a pillar should be reduced to meet GPDO limits.

20. In this case, there is no scheme before me setting out a detailed proposal for modifying the extension to ensure it meets all relevant permitted development criteria. Given the previous and ongoing lack of clarity about this matter, and in the absence of detailed plans, it would not be realistic to specify the limits in a reworded notice requirement. This would not give the appellant sufficient precision to ensure they knew what they had to do to comply with the requirements of the notice.

21. I have not been presented with any clear and defined lesser steps which would remedy the breach of planning control. On this basis, the appeal on ground (f) fails.

The appeal on ground (g)

22. An appeal on ground (g) is that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The notice specifies a time for compliance of 2 months after the notice takes effect.

23. Given the extent of the works and the need to engage contractors, 2 months seems unreasonable. However, the requested 6 months would be excessive given the harm I have identified. Extending the time for compliance to 4 months would strike an appropriate balance between allowing the appellant sufficient time and flexibility to undertake the work, and not allowing the breach to remain for any longer than necessary.

24. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. It would be reasonable to extend the compliance period to 4 months and the appeal on ground (g) succeeds. I shall uphold the notice but exercise my powers under s176(1)(b) of the Act to vary the notice accordingly, as set out in the decision.

Conclusion

25. For the reasons given above, I conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice, with variation, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended. The appeal on ground (f) also fails.

26. However, I conclude that the period for compliance with the notice falls short of what is reasonable. Therefore, I shall vary the period for compliance with the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

H Davies

INSPECTOR

APPENDIX D

Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Appeal Decision

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by H Davies BSc (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 19/09/2024

Appeal references: CAS-03166-C6C3T6 and CAS-03165-T9V6F9

Site address: Ropsley, The Square, Porthcawl CF36 3BW

Appeal A reference: CAS-03166-C6C3T6

- 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 Act).
- The appeal is made by Jessica Canton against an enforcement notice issued by Bridgend County Borough Council.
- The enforcement notice, numbered ENF/217/23/ACK, was issued on 8 November 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of a rear 'box-style' dormer and the installation of two roof lights to the front roof slope of the dwelling house on the Land.
- The requirements of the notice are:
  a) Remove and keep removed the rear dormer and the two roof sky lights on the front roof slope.
  b) Reinstate the roof to match the existing roof.
  c) Remove all materials resulting from a) and b) above from the Land.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act.
- A site visit was made on 10 September 2024.

Appeal B reference: CAS-03165-T9V6F9

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
- The appeal is made by Jessica Canton against the decision of Bridgend County Borough Council.
- The application reference P/23/471/FUL was refused by notice dated 8 October 2023.
- The development proposed is rear extension and dormer window to loft floor.
- A site visit was made on 10 September 2024.

Decision - Appeal A

1. The appeal is allowed on ground (g), and it is directed that the enforcement notice is varied by, in section 6 (time for compliance), deleting the words '2 months' and substituting the words '4 months'. Subject to this variation the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Decision - Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. In their reason for issuing the notice, and their refusal of planning permission, the Council referenced Policies SP2, SP5 and ENV8 of the Bridgend Local Development Plan (2013) (LDP 2013). Subsequently, the Bridgend Local Development Plan 2018-33 (LDP 2018-33) has been adopted (13/03/2024). Inspectors are required to determine appeals on the development plan in place at the time of the appeal decision, which is the LDP 2018-33.

4. The relevant elements of Policy SP2 (Design and sustainable place making) of the LDP 2013 have been transposed into Policy SP3 (Good design and sustainable placemaking) of the LDP 2018-33. The relevant elements of Policy SP5 (Conservation of the built and historic environment) and ENV8 (Heritage assets and regeneration) of the LDP 2013 have been transposed into Policy SP18 (Conservation of the historic environment) of the LDP 2018-33. Therefore, the change in policy does not impact on the issues for consideration in these appeals.

Appeal A (the s174 appeal) on ground (a)

5. An appeal on ground (a) is that in respect of any breach of planning control which may be constituted by the matters stated in the enforcement notice, planning permission ought to be granted. The terms of the deemed planning application are derived from the allegation set out in the notice. Hence, planning permission is sought for a rear dormer and two front roof lights. Any deemed planning permission which may be granted can only relate to the development at the time the notice was issued. At the time the notice was issued, and still at the time of my site visit, the dormer was incomplete, in that its surfaces were covered in a temporary finish and no windows had been inserted.

Main Issue

6. The main issue is whether the development preserves or enhances the character or appearance of the Porthcawl Conservation Area.

Reasons – Character and Appearance

7. The site is a two-storey dwelling in the middle of a short terrace of 3, each of which is relatively narrow. The dwelling faces onto The Square which is an open area with parking, surrounded by a mix of residential and commercial buildings, some of which appear unused and in need of renovation. The dwelling backs onto the rear of commercial buildings on the seafront.

8. The Square is within the Porthcawl Conservation Area, so I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The Porthcawl Conservation Area Appraisal & Management Plan (2014) notes the need for regeneration of The Square, but also highlights the visual interest created by the narrow lanes which connect it to the seafront and provide views into and out of The Square.

9. Box dormers are a common feature within the area, both to front and rear roof slopes, especially along the seafront. The scale of these pre-existing box dormers is modest in proportion to the roof slope within which they are located, and are significantly set off from sides, ridges and eaves. These pre-existing dormers are also primarily located on large 3 and 4 storey buildings, with commercial uses at ground floor.

10. Unlike the pre-existing dormers which are characteristic of the area, the dormer subject to this appeal fills the vast majority of the rear roof slope, with only a small set in at either side, a small set back from the eaves and a small set down from the main ridge. Due to this scale and its location in the middle of a short terrace, it dominates and unbalances the rear roof of not just the host dwelling but also the terrace. This impact is exacerbated by the modest domestic scale of the terrace by comparison to the larger buildings nearby.

11. Despite being located on the rear roof slope, due to the layout of the site and surrounding buildings, the box dormer is highly visible from southern parts of The Square as well as from sections of the main road along the seafront. Due to the combination of its scale, siting and prominence the box dormer is a visually incongruous and unsympathetic addition which harms the character and appearance of the host dwelling and its surroundings and has a detrimental impact on views into the historic square from the seafront.

12. The rooflights to the front of the appeal dwelling are highly visible from within The Square. Due to their size, number and design (ie not being conservation style) the rooflights dominate the front roofscape and are harmful to the appearance of the dwelling and the terraced group. There are other rooflights in the area but I do not have details of their planning status. The other rooflights are primarily on side elevations, other than the single rooflight on the front of the adjacent dwelling which is smaller than those on the appeal dwelling.

13. I conclude that the box dormer and rooflights neither preserve nor enhance the character or appearance of the Porthcawl Conservation Area. Consequently, the development fails to comply with Policies SP3 and SP18 of the Bridgend Local Development Plan (2018-33). Together, amongst other things, these policies seek to ensure that development is of an appropriate scale, size and prominence, which respects local character and protects or enhances the significance of historic assets, including conservation areas.

Other Matters

14. A historic dormer at the site is referenced by the appellant. This appears to have been removed some time ago and to have been of a significantly different scale and design to the dormer subject to this appeal. As such, it does not weigh in favour of the proposal.

15. I note the poor state of repair of some of the buildings in The Square. This does not justify granting permission for the appeal development which would be visually harmful to the area.

Conclusion on ground (a)

16. Appeal A on ground (a) should fail and planning permission should be refused on the application deemed to have been made under section 177(5) of the 1990 Act.

17. Appeal A on ground (f)

18. An appeal on ground (f) is that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters, or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The notice requirements in this case seek to remedy the breach of planning control.

19. The appellant has suggested a smaller dormer with a greater set down from the roof, or a gabled dormer, may be acceptable. To remedy the breach, any alternative dormer would require planning permission. Regardless of whether I could consider an alternative dormer to be part of the matters subject to the notice, no detail of the alternatives has been provided so I am unable to consider their planning merits.

20. I have not been presented with any lesser steps which would remedy the breach of planning control. On this basis, the appeal on ground (f) fails.

Appeal A on ground (g)

21. An appeal on ground (g) is that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The notice specifies a compliance period of 2 months. The appellant requested 4 months, primarily due to the notice originally coming into force in December. Despite the timings being different following this appeal, I consider 2 months to be unreasonable, given the nature of the works required. 4 months would strike a balance between remedying the harm promptly and enabling the appellant to have sufficient time to engage suitable contractors.

22. I conclude that the period for compliance with the notice falls short of what is reasonable. It would be reasonable to extend the compliance period to 4 months and the appeal on ground (g) succeeds. I shall uphold the notice but exercise my powers under s176(1)(b) of the Act to vary the notice accordingly, as set out in the decision.

Appeal B (the s78 appeal)

23. As set out under Appeal A, I find that the box dormer (as built) and rooflights are unacceptable and fail to comply with policy. The roof development proposed under Appeal B is fundamentally the same as under Appeal A, but would include finishing the dormer in hanging slate and the insertion of windows. While the tiles may help the dormer blend in more with the roof slope, it would not overcome the harm identified which is primarily as a result of the scale, location and visibility of the dormer.

24. The plans for the development subject to Appeal B also include a proposed single storey rear extension, changes to a rear window, and changes to the front door and porch, which are not specified in the description of development. The Council have raised no specific issues with these proposed elements. Notwithstanding this, Policy 9 of Future Wales requires all development to secure a net benefit in biodiversity and no biodiversity enhancement has been proposed. Consequently, I have not considered a split decision which would grant permission just for these elements.

25. I conclude that Appeal B fails and planning permission should be refused.

Overall Conclusion

26. I conclude that the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan. Therefore, having taken into account all matters raised, Appeal A on ground (a) and Appeal B both fail and planning permission is not granted. There are no lesser measures which would remedy the breach so Appeal A on ground (f) also fails. However, the period for compliance with the notice falls short of what is reasonable. Therefore, I shall vary the period for compliance in the enforcement notice prior to upholding it. Appeal A on ground (g) succeeds to that extent.

H Davies

INSPECTOR

APPENDIX E

Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Appeal Decision

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by Richard James Bsc (Hons) Msc MRTPI
an Inspector appointed by the Welsh Ministers
Decision date: 08/07/2024
Appeal reference: CAS-03334-L5K8C7
Site address: 86 Tremains Court, Brackla, Bridgend, CF31 2SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Andrew Morgan against the decision of Bridgend County Borough Council.
- The application Ref P/23/403/FUL, dated 23 June 2023, was refused by notice dated 9 February 2024.
- The development proposed is a first floor side and part first floor rear extension, with additional gable and porch to front elevation.
- A site visit was made on 21 May 2024.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Ownership and Agricultural Holding Certificates on the submitted Application Form are dated 1 January 1970. Notwithstanding this, the Council proceeded to determine the planning application based on the submitted plans and I have determined the appeal accordingly.

3. Since the appeal was made, the replacement Bridgend County Borough Local Development Plan 2018 – 2033 (LDP) has been adopted and now forms the development plan for the purposes of the appeal. I consider that replacement LDP Policy SP3 is relevant, and the appeal has been determined on this basis.

Main Issues

4. These are the effect of the proposal upon: a) the character and appearance of the area; and b) the living conditions of neighbouring occupants.

Reasons

5. The appeal site comprises a detached two storey dwelling located on a corner plot within a planned residential estate of mainly red brick dwellings, with tile roofs and brown upvc fenestration. From its main two storey section, a front gable projects towards the highway and a single storey hipped roof section extends to the side. The appeal site shares common boundaries with 85 Tremains Court (No. 85) to the side and 87 Tremains Court (No. 87) to the rear. The residential estate is characterised by a mix of property designs, which are repeated along with a common use of materials. This provides a pleasing sense of rhythm and cohesiveness to the estate's character.

6. The proposal would extend the existing two storey pitched roof towards No. 85 and include a new front gable. The proposed extension over part of the single storey footprint would be set back from the extended rear two storey elevation.

7. Policy SP3 of the replacement Bridgend Local Development Plan (LDP) states, amongst other matters, that development must contribute to creating high quality and attractive places by demonstrating alignment with the principles of Good Design. It also requires development to ensure the amenity of neighbouring uses and their occupiers will not be adversely affected.

Character and appearance

8. The Council's adopted SPG 02 Householder Development supplementary planning guidance (SPG) advises, amongst other matters, that a good extension to a dwelling will reinforce its character by appearing to be a natural part of the building and that extensions should not create an incompatible form.

9. The proposal would occupy a minimal amount of additional space within the appeal site and would include a reduced ridge height from the existing dwelling. However, whilst causing little effect upon the street's sense of enclosure, the proposal's front gable span would be visibly wider than the existing front gable's. Despite being set back from the new front porch, this would confuse its level of subservience within the frontage.

10. The extension would also have a narrow two storey pitched gable end, with a significantly smaller rear roof plane. This results in a considerably higher rear elevation than the existing dwelling. Consequently, the proposal would appear forcibly squeezed into the available space with an awkward roof and elevation arrangement.

11. The combination of these visibly incongruous features would cause the extension to have a visibly distinct and incompatible form from the existing dwelling. The proposal would be visible from the street scene and from rear garden areas, from which it would not sit comfortably within its immediate context. The appeal site's prominent street corner location adds weight to my concerns. The proposal's harmful effects would not, therefore, be adequately mitigated with the use of matching materials.

12. The appellant has referred to other examples of side extensions within Tremains Court and the neighbouring Briary Way estate, which I viewed as part of my site visit. Whilst some have visibly lengthened their two storey frontages, I saw little evidence of similar forms of extension to the proposal. As such and having regard to the fact that each case should be treated on its own particular merits, I do not consider that such evidence should be determinative in this instance.

13. I conclude therefore that the proposal would be harmful to the character and appearance of the area, contrary to LDP Policy SP3 and the design objectives of the SPG.

Living conditions

14. The SPG advises that a two-storey extension built close to the site boundary can have an overbearing impact on the adjoining property and that a poorly designed extension can reduce daylight and sunlight to an unreasonable extent. It also states, amongst other matters, that a sense of privacy within the house and a freedom from overlooking in at least a part of the garden are aspects of residential amenity.

15. When viewed from No. 87's garden and window openings, the proposal would occupy open space to the side of the existing dwelling. However, I saw that No. 87's occupants would benefit from an open outlook over boundary treatments and between building gaps in multiple directions from its rear openings and garden area, which I saw extends to the north to enable viewpoints at increased distances from the proposal. Furthermore, whilst

extending closer to the rear common boundary between the two properties, the majority of the proposal's additional bulk would be set back from the appeal site's existing rear elevation, where the effects of its increased size and mass would be minimised. As such, the proposal would not have a domineering effect upon, or substantially reduce the available outlook of No. 87's occupants.

16. With regard to the effects of overshadowing, the proposal would be located to the south west of No. 87, but would have a sloping roof form, partly stepped below the existing ridge height and partly set back from the existing rear elevation. Furthermore, I saw that multiple buildings currently exist to the south and west of No. 87's garden area, including its own detached garage, the appeal site's existing dwelling and No. 85. As such, by virtue of its position relative to other existing buildings, the sun's direction of travel and the size of No. 87's garden area, the proposal would be unlikely to cause a significant reduction in the levels of sunlight or daylight entering No. 87's garden area.

17. 76 Tremains Court would be located a considerable distance from the proposal, across the highway towards the south. As such, whilst on slightly lower lying ground, the proposal would not cause a harmful loss of sunlight or daylight for 76 Tremains Court's occupants, by virtue of its position relative to the sun's direction of travel.

18. During my site visit, I saw that due to the position of existing properties and their rear first floor windows within the area, a certain level of actual and perceived communal overlooking into neighbouring garden areas and openings would be experienced by its occupants, including those of No. 85 and No. 87. As such, I consider that the proposal would safeguard the existing privacy levels of neighbouring occupants, subject to a condition to require the proposal's first floor windows to be obscured, which would be necessary due to their elevated and close position to common boundaries, should the appeal succeed.

19. 88 Tremains Court is located further to the north east than No. 87 and as such, its occupants would also be unlikely to experience significant levels of overshadowing or a loss of privacy from the proposal in these circumstances.

20. I conclude that the proposal would not be harmful to the living conditions of neighbouring occupants or be contrary to LDP Policy SP3 or the objectives of the SPG.

Conclusion

21. I have found that the proposal would not be harmful to the living conditions of neighbouring occupants, however the above identified harm to the character and appearance of the area is a significant and overriding factor. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

22. 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.

Richard James

INSPECTOR