

Appeals

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

APPEAL NO.	2018
APPLICATION NO	P/24/489/OUT
APPELLANT	R HILL
SUBJECT OF APPEAL	OUTLINE APPLICATION FOR A PAIR OF SEMI-DETACHED DWELLINGS: LAND AT SYCAMORE CLOSE LITCHARD BRIDGEND
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed development does not accord with Policies SP3 and Policies DNP6, 7 & 8 of the adopted Bridgend Replacement Local Development Plan 2024; the Strategic Placemaking Principles of Future Wales: The National Development Plan 2040 as well as advice contained within Planning Policy Wales 12 for the following reasons:
 - (i) The development will result in the loss of protected trees that have ecological value, (habitat), contribute to the character and amenity of the area and perform a beneficial green infrastructure function. The development will not provide a net biodiversity and the ecosystems of the site would not be in a better state than before any development had taken place
 - (ii) The site is too restricted due to the steeply sloping nature of the land to accommodate a dwelling consistent with generally accepted standards of space about new residential development and thereby detract from the amenity reasonably expected to be enjoyed by future occupiers
2. The proposed development would generate extraneous traffic (unrelated to the intended use of land) into the surrounding streets which are residential in character and unsuitable to accommodate Heavy Goods Vehicles (HGVs) to the detriment of highway safety and the living conditions of local residents and contrary to Policy SP3 of the adopted Bridgend Replacement Local Development Plan 2024; the Strategic Placemaking Principles of Future Wales: The National Development Plan 2040 as well as advice contained within Planning Policy Wales 12.
3. Insufficient information has been submitted with this application to demonstrate that the stability of the public highway (Heol y Groes) will be maintained as a consequence of the development of this site.
4. Insufficient information has been submitted with this application to demonstrate that surface water from this development could be managed in accordance with the Statutory Standards for Sustainable Drainage Systems – Designing, Constructing, Operating, and maintaining surface water drainage systems published by Welsh Government in 2018 and Policy SP3 of the Replacement Bridgend Local Development Plan 2024.

APPEAL NO.	2017
APPLICATION NO	P/22/651/RLX

APPELLANT	SUNNYVALE HOLIDAY PARK
SUBJECT OF APPEAL	REMOVAL OF CONDITION 3 (OCCUPATION LIMITS) OF P/19/911/RLX: LAND AT MOOR LANE PORTHCAWL
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	DELEGATED OFFICER

The application was granted with conditions of which the appellant is appealing the following condition.

This consent permits the year round occupation of the timber chalet units but no unit shall be occupied as a person's or persons' place of residence nor shall any unit be occupied by the same person or persons for a period exceeding 42 days between April and September (inclusive) and 42 days between October and March (inclusive).

Reason: To ensure the Local Planning Authority retains effective control over the use of the chalets and to prevent the holiday accommodation being used as permanent residential accommodation.

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

APPEAL NO.	2009
APPLICATION NO.	P/24/50/RLX
APPELLANT	A SLEEP
SUBJECT OF APPEAL	REMOVAL OF CONDITION 3 (FINISH OF DORMERS) OF P/23/540/FUL: 22 GLYNSTELL ROAD PORTHCAWL
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	DELEGATED OFFICER
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED SUBJECT TO CONDITIONS.

The Appeal decision is attached as APPENDIX A.

APPEAL NO.	2009
APPLICATION NO.	ENF/164/23/TAC
APPELLANT	R BOOTH
SUBJECT OF APPEAL	HIGH HEDGE: 10 CYPRESS GARDENS PORTHCAWL
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	DELEGATED OFFICER
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO

DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE
DIMISSED.

The Appeal decision is attached as APPENDIX B.

RECOMMENDATION

That the report of the Corporate Director Communities be noted.

JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES

Background Papers (see application reference number)



Appeal Decision

by L. Hughson-Smith LLB MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 20-11-2024

Appeal reference: CAS-03500-G0Y4Q3

Site address: 22 Glynstell Road, Nottage, Porthcawl CF36 3NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms. A Sleep against the decision of Bridgend County Borough Council.
 - The application Ref P24/50/RLX, dated 23 January 2024, was refused by notice dated 22 March 2024.
 - The application sought planning permission for the 'retention of front and rear flat roof dormers' without complying with a condition attached to planning permission Ref P23/540/FUL, dated 22 November 2023. The condition in dispute is No. 3 which states that: *The front and rear dormers hereby approved shall painted in a colour to match the existing roof at 22 Glynstell Road unless otherwise agreed in writing by the Local Planning Authority and shall be completed within 2 months from the date of this approval.*
 - The reason given for the condition is: *To secure maximum degree of unity between existing and proposed development so as enhance and protect the visual amenity of the area.*
 - A site visit was made on 25 October 2024.
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Decision

1. The appeal is allowed and planning permission is granted for front and rear flat roof dormers at 22 Glynstell Road, Nottage, Porthcawl CF36 3NN in accordance with the application, Ref P24/50/RLX, dated 23 January 2024, without compliance with condition No.3 previously imposed on planning permission Ref P23/540/FUL dated 22 November 2023 but subject to the conditions set out in the schedule to this decision letter.

Procedural Matters

2. The development has been carried out and is in breach of the disputed condition. This appeal is, therefore, dealt with under Section 73A of the Town and Country Planning Act 1990. I have also removed reference to 'retention' in the formal decision as this does not comprise development for the purposes of the Act.

Main Issue

3. The main issue is the effect that removing the disputed condition would have on the character and appearance of the area.

Reasons

4. The part of Glynstell Road, where the appeal property is located, is characterised by a row of bungalows that originally shared similar scale, form and appearance. They are framed by larger bungalows on corner plots at the junctions with Rockfields and Davies Avenue, which feature rendered upper elevations. Most of the properties have been altered with differently sized front and side dormer extensions, with varying external finishes, which are widely visible in the streetscene. As a result, the consistency in the appearance of the bungalows has been significantly diminished, and dormer extensions, regardless of some being constructed prior to the adoption of the Supplementary Planning Guidance 02: Householder Development (SPG), are integral and dominant features which have influenced the now varied character and context of this part of Glynstell Road.
5. I accept that the colour of the dormers contrasts with the appeal property's original roof colour, which is still partially visible, and is a new external finish to the streetscene. Nonetheless, in this case, whilst many dormer extensions along the street feature a darker finish, not all do, and several obviously contrast with the original roof colour of the host property. This, together with the upper-level render on the corner bungalows, results in a varied and inconsistent materials palette at roof level which is prominent due to the visually dominating nature of the dormer extensions in the street. In this context, the light green dormers are read as a further variation to the palette of materials along the street, contributing to its diversity, without appearing unsympathetic to the existing house or out of place in the street scene.
6. For the reasons above, I conclude that condition No. 3 is unnecessary and, removing it would not cause harm to the character and appearance of the surrounding area or result in conflict with Policy SP3 of the Bridgend Local Development Plan. This, 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 in terms of materials. It would also align with the SPG which, amongst other things, seeks to ensure the integration of development into the surrounding area

Conditions

7. The Development Management Manual (Revision 2 – May 2017) clearly states that decision notices for the grant of planning permission under section 73 should repeat the relevant conditions (which are considered necessary) from the original decision notice. The Council indicate that the other conditions should be reimposed, therefore, I shall impose all those conditions that I consider remain relevant and necessary. In the event that any of these conditions have been discharged this will be a matter for the parties. Given that the development has been constructed, it is not necessary to impose a plans compliance condition.
8. I have adjusted the wording of some of the conditions in the interests of clarity and precision, and I have specified the relevant policy and reasons where necessary.

Conclusion

9. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed. I will grant a new planning permission without the disputed condition and restating those conditions as set out in the schedule below.

10. 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

SCHEDULE OF CONDITIONS

1. Within three months of the date of this decision, the window on the first-floor side elevation serving the bathroom shall be fitted with obscure glazing to a minimum of level 5 on the Pilkington index of obscurity. The window shall thereafter be retained in the approved form.

Reason: To protect the privacy of the occupiers neighbouring properties in accordance with Policy SP3 of the Bridgend Local Development Plan, 2018-2033.

2. Within three months of the date of this decision, an artificial nesting site for birds shall be erected at the site to one of the following specifications and retained as such thereafter;

Nest Box Specifications for House Sparrow Terrace:

- Wooden (or woodcrete) nest box with 3 sub-divisions to support 3 nesting pairs. to be placed under the eaves of buildings.
- Entrance holes: 32mm diameter
- Dimensions: H310 x W370 x D185mm

or

Swift Nest Box Specification:

- Wide box with small slit shaped entrance hole to be placed under or close to roofs.
- Dimensions: H150 x W340 x D150mm

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

Appeal Decision

by Vicki Hirst BA(Hons) PG Dip TP MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 03/12/2024

Reference: CAS-03073-F3V2C6

Site address: 9 Cypress Gardens, Newton, Porthcawl, CF36 5BZ

- The appeal is made under Section 71 of the Anti-Social Behaviour Act 2003 (the Act), on the ground set out in Regulation 5 of The High Hedges (Appeals) (Wales) Regulations 2004.
 - The appeal is made by Richard Booth (“the Complainant”) against the decision of Bridgend County Borough Council (“the Council”) not to issue a Remedial Notice (“RN”) dated 4 October 2023.
 - The complaint Ref ENF/164/23/TAC, dated 30 July 2023 about a high hedge (the complaint hedge) at the above site was made by the Complainant under Part 8 of the Act.
 - A site visit was made on 21 May 2024.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a hedge situated on the boundary between Nos 9 and 10 Cypress Gardens. It is located to the south and south-east of the Complainant’s property (No 9) and is owned by the occupant of No 10.
3. The Council has referred to the hedge in two separate parts due to its change in orientation (referred to as the south and south-east hedges). Whilst this might assist in carrying out calculations in respect of orientation, I observed on my site visit that the hedge is one continuous length and species and have made my decision on that basis.
4. The Council determined not to issue a RN in relation to the complaint regarding the hedge. The Complainant has appealed on the ground that the Council’s decision not to issue an RN does not remedy the adverse effect of the high hedge on their enjoyment of their property or prevent a recurrence of its effect. A reduction in the height of a length of the hedge to 2.2 metres is requested.
5. Section 65(1)(b) of the Act indicates that complainants have to show that their reasonable enjoyment of their domestic property is being adversely affected by the height of a high hedge. The Welsh Assembly Government’s High Hedges Complaints System: Guidance, November 2005 (HHG), establishes that the reference to ‘reasonable enjoyment’ requires an assessment of the impact of the hedge on the enjoyment that a reasonable person

might expect from their home and garden. Paragraph 5.77 of the HHG refers to guidance contained in the Building Research Establishment's Hedge Height and Light Loss (HHLL), which includes the recommended methodology used to assess the impact of a hedge. The HHLL involves the concept of an Action Hedge Height (AHH) above which a hedge is likely to block too much light. It includes methods of calculating whether a hedge is likely to result in an unreasonable loss of light to a main room in a dwelling or would cause a significant loss of light to a nearby garden. It requires the use of the lowest AHH, as calculated for the relevant window and the garden.

6. At my site visit the Complainant and Hedge Owner were unwilling to allow each other onto their respective properties. As such I conducted the site visit with each party at their own property and with Council representatives in attendance at both. As all were not present on both sides of the hedge, the measurements undertaken from each side on site were not corroborated between the parties, but I am satisfied that the measurements taken were an accurate reflection of the situation that existed at the time of my visit.
7. Notwithstanding the above and following my visit, I wrote to the parties to clarify the AHH calculations that had been provided by the Council. This was because those calculations relied on different measurements to those taken on site and did not appear to fully follow the methodology for calculating the AHH. I requested the workings for the calculations together with a plan identifying the measurements taken and the area of the garden. I queried the way that the measurements were derived and sought the Council's view on the extent to which the hedge could be cut without causing its demise/death and any required growth margin of the hedge. Further comments on the submissions were sought from the Complainant and Hedge Owner.

Main Issues

8. The main issue is whether the hedge affects the reasonable enjoyment of the Complainant's property and if so, whether it is reasonable and appropriate to issue a RN.

Reasons

The Hedge and its Surroundings

9. The subject conifer hedge is located along the boundary of the private driveway that serves No 10 and the side and rear boundary of No 9's rear garden. Whilst one continuous run, it bends along its length resulting in it being located to the south-east and south of the rear and side of the Complainant's property. The bend corresponds with a bend in the driveway of No 10.
10. The Complainant contends that the hedge blocks natural light to both his rear garden and first floor living room. The Hedge Owner states that the hedge has been maintained at a height of 3 metres and has been for many years and that any further reduction would damage it irrevocably.

Whether the height of the hedge is adversely affecting the Complainant's reasonable enjoyment of the property.

11. Based on the measurements of the hedge taken on my site visit it is evident that it ranges in height along its length between approximately 2.65 metres - 2.8 metres (when measured from the Hedge Owner's side) and 2.8 metres - 3.2 metres (when measured from the Complainant's side). It appears well maintained, albeit I observed that sections of the hedge displayed a lack of foliage and areas of brown wood such that it could not properly be described as fully healthy.
12. In response to my query regarding the Council's calculations of the AHH, I was provided

with the same as previously submitted (overall AHH of 3.28 metres in respect of the south-east section and 3.12 metres in relation to the south section). These do not take account of the revised measurements that I took on my site visit when the Council was present. If I were to apply the revised measurements, the overall AHH would be in the order of 2.54 metres and thus slightly below the existing hedge height in much of its length. In this context, and as the hedge height exceeds that derived from the HHLL methodology, I can only conclude that it is likely to result in a significant loss of light.

13. I noted on my site visit when I visited in the middle of a sunny, Spring day that the garden is relatively small, and that significant shading would occur at certain times of the day. Notwithstanding the shading that occurs, I did not find the hedge to be particularly oppressive or dominating to much of the garden and it provides a substantial privacy screen between Nos 9 and 10.
14. I am satisfied that no adverse effects result to the first floor living room of the Complainant's dwelling, which I viewed on my site visit. Views over the hedge could clearly be obtained with much of the hedge being below the window height. As such it does not represent an unreasonably dominant or enclosing feature affecting the outlook to an unacceptable degree. I am therefore satisfied that no adverse effects arise in this respect.

Whether it is reasonable and appropriate to issue an RN.

15. Notwithstanding the above findings, the HHLL is intended for guidance only. The statutory requirements found in Section 69(3) of the Anti-Social Behaviour Act 2003 (the 2003 Act) prevents an action in a RN to require or involve the removal of the hedge. The Welsh Government's clarification letter dated 1 June 2006 states that works which would result in the death or destruction of the hedge amount to the same as removing it and so are not permitted under the 2003 Act. The letter also states that care should be taken with conifers to not cut back into older leafless branches as new growth will not appear from bare wood. It further acknowledges that this may prevent actions to the hedge that provide a full remedy to the problems identified.
16. The Council has taken advice from its Countryside Management Officer in respect of the height to which the hedge could be cut without resulting in its demise or death. The advice is that due to the damage on the inside of the hedge and the fact that conifers, unlike deciduous trees, do not regenerate when cut to the ground or reduced back to dead wood, the hedge should be retained at 2.9 metres.
17. I acknowledge the advice provided to the Complainant through the leylandii website in respect of the trimming of leylandii trees. However, this generic advice does not relate to the specifics of the hedge concerned and advises that leylandii will not shoot back from older, brown wood. From the evidence before me and from my own observations on site, the hedge is showing signs of brown wood and an absence of foliage, particularly on the Complainant's side. This extends into the higher part of the hedge.
18. From these observations, and on the basis of the information before me, I have no reason to disagree with the Council's expert's opinion that given the species of hedge and evident brown wood, a reduction in the height of the hedge below 2.9 metres is likely to lead to its demise and subsequent death. I am thus bound by section 69(3) of the Act to prevent from ordering works that involve the hedge's removal or, in this case, works that would result in the death or destruction of the hedge that would be tantamount to removal for the purposes of the Act.
19. In any event, the hedge is being well maintained and the Hedge Owner has confirmed that it is retained at a height of 3 metres. Whilst I acknowledge that the maintenance of

the hedge at 3 metres will not provide a full remedy to the effects of the hedge on the Complainant's enjoyment of their property, given the circumstances, I find this aligns with the Act and Welsh Government guidance in such instances. Furthermore, as the difference between the AHH and maintained height of the hedge is relatively minor I do not find a staged reduction would overcome the concerns in relation to the associated impact on the health of the hedge.

20. I have no reason to believe that the regular maintenance will not continue, and, if it does not, it is open to the Council to revisit the need to issue an RN. Given the minor difference between the maintained height and that recommended by the Council's expert as to the height the hedge could be reduced, I find the Council's decision to not issue an RN to be reasonable and appropriate in the circumstances.

Conclusion

21. I have taken into account all other matters raised. I conclude that whilst the hedge is taller than the AHH derived from the guidance calculations and thus likely to result in a significant loss of light to the garden, its reduction to either the AHH or the height requested by the Complainant would result in its demise and destruction. As such, I conclude that a RN should not be issued in this instance, and I dismiss the appeal.

VK Hirst

INSPECTOR