

## **APPEALS**

*The following appeal has been decided since my last report to Committee:*

<b>CODE NO.</b>	A/14/2224236 (1747)
<b>APP. NO.</b>	P/14/135/FUL
<b>APPELLANT</b>	MR P HEARNE
<b>SUBJECT OF APPEAL</b>	RETENTION OF JOINERY WORKSHOP, CAR PARKING IN CONJUNCTION WITH OLD POLICE STATION & BOUNDARY WALL LAND ADJACENT CORBETT STREET OGMORE VALE
<b>PROCEDURE</b>	WRITTEN REPS
<b>DECISION LEVEL</b>	DELEGATED OFFICER
<b>DECISION</b>	<b>THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED.</b>

A copy of this appeal decision is attached as APPENDIX A

### **RECOMMENDATION:**

That the report of the Corporate Director Communities be noted.

**MARK SHEPHARD  
CORPORATE DIRECTOR COMMUNITIES**

### **Background Papers**

See relevant application reference number.



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**Penderfyniad ar yr Apêl**

Ymweliad â safle a wnaed ar 14/1/2015

**gan Aidan McCooey BA MSc MRTPI**  
**Arolygydd a benodir gan Weinidogion Cymru**  
**Dyddiad: 2 February 2014**

**Appeal Decision**

Site visit made on 14/1/2015

**by Aidan McCooey BA MSc MRTPI**  
**an Inspector appointed by the Welsh Ministers**  
**Date: 2 February 2014**

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**Appeal Ref: APP/F6915/A/14/2224236**

**Site address: Old Station, Bethania Row, Ogmores Vale, Bridgend, CF32 7AB**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- 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 Anthony Smith against the decision of Bridgend County Borough Council.
  - The application Ref P/14/114/FUL, dated 19 February 2014, was refused by notice dated 15 May 2014.
  - The development is a Class B1 joinery workshop, car parking area to be used in conjunction with the Old Police Station residential property and a boundary wall.
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**Decision**

1. The appeal is dismissed.

**Procedural Matter**

2. The appeal form and decision notice refer to the site address as land adjacent to Corbett Street, Ogmores Vale. However, the above site address was that used on the planning application form. The description of the development from the application form has also been used. However, I have deleted "Retention of" because that is not development under the terms of the Town and Country Planning Act 1990.

**Main Issues**

3. The main issues are the effect of the development on highway safety and whether sufficient information has been provided to assess the effect of noise from the proposal on the living conditions of the occupants of nearby properties.

**Reasons**

4. The site is located adjacent to the main road through Ogmores Vale. There are three junctions close to the site, which was formerly used as a Council depot and Police Station. The Police Station has been converted to a dwelling occupied by the appellant. The former depot and yard are being used for storage associated with the appellant's construction business, with a flat above. The workshop has been constructed in the yard and is in use. The parking area has been created at a higher level immediately to the east, along the main road. A wall has been constructed along the site frontage at the edge of the highway.
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5. Policy SP2 – Design and Sustainable Place Making of the Bridgend Local Development Plan lists 15 criteria by which all development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located. The Policy promotes high quality design, sustainable development and efficient access arrangements in all development. Policy SP3 – Strategic Transport Planning Principles indicates that all development should deliver safe forms of transport and improved road safety.

#### *Highway Safety*

6. This application was a resubmission following the refusal of a similar “retrospective” application for the “retention” of the workshop and boundary wall in 2013. There are two accesses from the site onto the minor road, one serving the former depot and workshop and the other serving a parking area for the appellant’s dwelling. The Council required visibility splays of 2.4m by 11m in between the two accesses. They are so limited because of the low traffic speeds in the area. Safe access is required by the policies referred to above. The visibility splays are reasonable and important given the traffic flow and the position of the accesses close to a main road and near several other junctions. Visibility is currently severely restricted by the walls along the boundaries and the workshop building. This has created a danger for road users from vehicles exiting the site.
7. The appellant argued that the site was enclosed by a close-boarded fence at the time he purchased it in 2003 and that this fence restricted visibility. The Council supplied photographs taken in 2004 and 2009 showing open security fencing present, which allowed for visibility, despite its temporary appearance. If there was a close-boarded fence it seems that it has not been present for some time and cannot now be used to justify development that is detrimental to highway safety.
8. The appellant suggested that the provision of the required visibility splays could be ensured by a condition requiring alterations to the workshop building and the boundary walls. A suggestion to further improve visibility by altering the wall along the frontage of the parking area with the A4061 was also made. No details were supplied of how any of this could be achieved, despite the earlier refusal of planning permission for this development on these grounds. No plans of what the resulting building or walls would look like were submitted for consideration and I am therefore unable to conclude that the proposal would be acceptable and comply with the relevant planning policies. No details of the effect on the building and its use were supplied either. I consider that the suggested condition would not meet the tests and guidance set out in Welsh Government Circular 16/2014 – The Use of Planning Conditions for Development Management. The critical issue of the lack of visibility at the accesses remains and the appeal must therefore fail on this ground.
9. I conclude that the proposal would be harmful to highway safety interests contrary to LDP policies SP2 and SP3.

#### *Noise*

10. The workshop building has been constructed and is in use. The appellant has several woodworking machines in the workshop to prepare and assemble joinery items. There is an extraction system for sawdust in place. The Council had requested acoustic details of the machines and that an acoustic assessment be undertaken. The Council has not provided any evidence that the noise generated by the existing use is a problem. In fact the Council argued that a noise mitigation condition could not be

imposed because the use of machinery might not cause a nuisance and so would not require any mitigation. No evidence of any complaints to environmental health regarding noise has been submitted. The objections refer to noise from vehicles and the possibility of noise from machinery even though the use has been operating from the site. The Council has not raised any objection to traffic generation in the reasons for refusal, no doubt because the site was used as a Council Depot, which would have generated traffic to and from the site. The appellant suggested that conditions requiring sound attenuation measures and controlling hours of operation to normal business hours would address the concerns raised.

11. The application specified that the building is to be used as a Use Class B1 joinery workshop. Use Class B1 includes use for any industrial process which can be carried out in any residential area without detriment to the amenity of that area by reason of noise (amongst other things). The use of the building could be restricted to Use Class B1 by condition. The operating hours could also be restricted to normal working hours by condition as suggested. This would ensure that there were no significant issues in relation to noise disturbance, particularly at unsocial hours, which could not be addressed by enforcement action and/or environmental health legislation. On this issue therefore, the development would not give rise to any material harm to residents' living conditions or conflict with the relevant planning policies.

#### *Other Matters*

12. I have considered the economic benefits of the proposed development in terms of supporting the appellant's business and associated jobs. I have also considered the improvements to the appearance of the site and the social benefits that have been advanced by the appellant. These benefits do not outweigh the significant harm to highway safety as a result of the proposal. There were no concerns raised by the Local Planning Authority or statutory consultees regarding the culvert under the site or flooding. The appellant stated that it had not been disturbed and that maintenance was his responsibility.

#### **Conclusion**

13. Whilst I have found the development to be acceptable in terms of its effect on residents' living conditions, this would not outweigh the harm to highway safety which I find to be a compelling factor in this case. Having carefully considered all relevant matters raised, I conclude that the appeal should fail for the reasons given.

*Aidan McCooey*

**Inspector**