

APPEALS

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

CODE NO.	A/15/3006376 (1752)
APP. NO.	P/14/828/FUL
APPELLANT	MR G LEWIS
SUBJECT OF APPEAL	DORMERS TO FRONT: 148 NEW ROAD PORTHCAWL
PROCEDURE	HOUSEHOLDER PILOT
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reason:

1. The proposed dormer extension, which would be in full view of users of the adjoining highway, would represent a prominent and incongruous element in the street scene, to the detriment of local visual amenities, contrary to Policy SP2 of the Bridgend Local Development Plan and Note 14 of Supplementary Planning Guidance 2: Householder Development.

CODE NO.	A/15/3009476 (1753)
APP. NO.	P/14/754/FUL
APPELLANT	MR A WILLIAMS
SUBJECT OF APPEAL	PROPOSED ROOF EXTENSION TO PROVIDE 3RD STOREY: 48 BEACH ROAD PORTHCAWL
PROCEDURE	HOUSEHOLDER PILOT
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reason:

1. The proposed development, by introducing a further floor to this detached dwelling, would unbalance the symmetry with the dwellings within Beach Road which would represent an incongruous element in the street scene to the detriment of local visual amenities, contrary to Policy SP2 of the Bridgend Local Development Plan and Supplementary Planning Guidance 02: Householder Development.

CODE NO.	A/15/3012436 (1754)
APP. NO.	P/14/410/FUL
APPELLANT	MR J CROCKER
SUBJECT OF APPEAL	BUILD DETACHED FAMILY HOUSE OF SIMILAR SIZE TO EXISTING 'WINDRUSH' TON KENFIG
PROCEDURE	HEARING
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposal constitutes an over development of the site as there would be insufficient amenity space available for future use of occupiers of this development contrary to Policy SP2 of the Bridgend Local Development Plan and Supplementary Planning Guidance 02: Householder Development.
2. The proposed development by virtue of its scale and design would dominate adjoining property to an unacceptable degree thereby resulting in a significant loss of residential amenity contrary to policy SP2 of the Bridgend Local Development Plan.

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

CODE NO.	C/15/2227670 (1748)
APP. NO.	ENF/55/14/C
APPELLANT	MR R DAVIES
SUBJECT OF APPEAL	ENFORCEMENT NOTICE WHICH REQUIRED THE REINSTATEMENT OF THE FRONT DORMERS IN ACCORDANCE WITH DETAILED PLANS AS PER APPLICATION P/13/495/FUL : 16 SHELLEY DRIVE, CEFN GLAS
PROCEDURE	ENFORCEMENT
DECISION LEVEL	DELEGATED OFFICER
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED, THE ENFORCEMENT NOTICE IS QUASHED AND SUBJECT TO A CONDITION.

A copy of this appeal decision is attached as APPENDIX A

CODE NO.	A/14/2227669 (1749)
APP. NO.	P/14/229/FUL
APPELLANT	MR R DAVIES
SUBJECT OF APPEAL	RE-POSITION DORMERS TO FRONT ELEVATION AND CONSTRUCT SINGLE STOREY EXTENSION TO REAR : 16 SHELLEY DRIVE, CEFN GLAS
PROCEDURE	WRITTEN REPS
DECISION LEVEL	DELEGATED OFFICER
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED SUBJECT TO CONDITIONS.

A copy of 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.



Penderfyniad ar yr Apêl**Appeal Decision**

Ymweliad â safle a wnaed ar 19/02/15

Site visit made on 19/02/15

gan Richard E. Jenkins BA (Hons) MSc MRTPI

by Richard E. Jenkins BA (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 10/04/2015

Date: 10/04/2015

Appeal A - Ref: APP/F6915/C/14/2227670

Site address: 16 Shelley Drive, Cefn Glas, Bridgend, CF31 4QA

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

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr R. Davies against an enforcement notice issued by Bridgend County Borough Council.
- The Council's reference is ENF/55/14/C.
- The notice was issued on 12 September 2014.
- The breach of planning control as alleged in the notice is the erection of two dormers to the front elevation of the property which are greater in size than that allowed under planning approval P/13/495/FUL.
- The requirements of the notice are to reinstate the front dormers in accordance with the attached detailed plans (drawing nos. 16Shelley/WD/04, 16Shelley/WD/05 and plan received on 9 July 2013) as per application P/13/495/FUL approved on 28 August 2013.
- The period for compliance with the requirements is 3 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990, as amended.

Appeal B - Ref: APP/F6915/A/14/2227669

Site address: 16 Shelley Drive, Bridgend, Mid Glamorgan, CF31 4QA

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 R. Davies against the decision of Bridgend County Borough Council.
- The application Ref P/14/229/FUL, dated 2 April 2014, was refused by notice dated 27 June 2014.
- The development proposed is to re-position dormers to front elevation and construct single storey extension to rear elevation.

Decision

Appeal A - Ref: APP/F6915/C/14/2227670

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the erection of two dormers to the front elevation of the

property which are greater in size than that allowed under planning approval P/13/495/FUL on land at 16 Shelley Drive, Cefn Glas, Bridgend, CF31 4QA referred to in the notice, subject to the following condition:

- 1) Within three months of the date of this permission, the front and side elevations of the dormer windows on the front elevation of the appeal property shall be hung with roof tiles to match those on the main roof and shall thereafter be retained as such.

Appeal B - Ref: APP/F6915/A/14/2227669

2. The appeal is allowed and planning permission is granted to re-position dormers to the front elevation and construct single storey extension to rear elevation at 16 Shelley Drive, Cefn Glas, Bridgend, CF31 4QA in accordance with the terms of the application, Ref P/14/229/FUL, dated 2 April 2014, and the plans submitted with it, subject to the following conditions:

- 1) Within three months of the date of this permission, the front and side elevations of the dormer windows on the front elevation of the appeal property shall be hung with roof tiles to match those on the main roof and shall thereafter be retained as such.
- 2) The materials to be used in the construction of the external surfaces of the rear extension hereby permitted shall match those used on the existing building.

Procedural Matters

3. As set out above, there are two appeals at the site. Appeal A relates to the Enforcement Notice and deemed planning application for the erection of two dormers to the front elevation of the property, which have not been constructed in accordance with the planning permission granted under planning application Ref P/13/495/FUL. Appeal B seeks 'retrospective planning permission' under Section 73A(2)(a) to 're-position the dormers to the front elevation and construct a single storey extension to the rear elevation'. As the deemed planning application under Appeal A duplicates part of the appeal under Appeal B, I have dealt with both of the appeals together in a single document, albeit with two separate formal decisions.

Main Issues

4. These are: the effect of the development on the character and appearance of the appeal property and surrounding area; and, in the case of Appeal B, the effect on the living conditions of the occupiers of neighbouring properties, with particular reference to outlook and levels of natural light.

Reasons

Appeal A - Ref: APP/F6915/C/14/2227670

5. The appeal property comprises a semi detached dwelling, located within a residential area of Bridgend. Planning permission was granted at the property, under Ref:P/13/495/FUL, for a side extension, rear dormer extension and two dormer windows to the front elevation. The front dormer windows were not constructed in accordance with the approved plans and subsequent enforcement action followed. The Council consider that, by virtue of their size, siting and external finish, they are visually out of character with existing properties in the area and thereby represent an incongruous element in the street scene. The appellant contests the issuing of the

enforcement notice, stating that planning permission ought to be granted in respect of the breach of planning control.

6. The constructed dormers are considerably larger than those previously approved, representing substantial additions to what was originally a modest semi detached property. However, they are set in a considerable distance from the eaves of the dwelling, do not exceed the ridge height of the main roof and incorporate pitched roofs which help to limit their overall visual impact. The external finish of the dormers currently comprises white render which appears as a prominent choice of material against the backdrop of the brown roof tiles. However, I am satisfied that an appropriately worded planning condition could require the dormers to be finished in a more sensitive choice of material, such as roof tiles to match the main roof, in order to ensure visual subservience to the main dwelling.
7. I have had full regard to the advice contained within the Council's adopted Supplementary Planning Guidance (SPG) entitled No.02: *Householder Development*. Specifically, Note 14 provides key principles for dormer style developments, including that they should not exceed 50% of the roof area and should be set down from the ridge line of the main roof. In this respect, whilst I am not aware of the exact percentage of area accommodated by the dormers, I am satisfied that, within the context of the wider area, which incorporates a number of examples of dominant box like dormer extensions, the appeal structures would not appear incongruous or out of character. Indeed, by virtue of the pitched roof and set back from the eaves, coupled with a restriction on choice of material, I am satisfied that they would not be unduly prominent within the street scene.
8. I note the claims that the as built dormers unbalance the pair of semi-detached properties. However, the appeal property already incorporates a large, albeit unfinished, side extension which is not replicated at the adjoining property at No.14 Shelley Drive. Moreover, with regards the matter of symmetry, I do not consider the constructed dormers to represent a materially different situation to the fall back position provided by the planning approval under Ref: P/13/495/FUL. It was also clear at my site visit that the wider area incorporates numerous examples of asymmetrical pairs of semi-detached properties.
9. I note the concerns raised in relation to the effect of the dormers on the outlook and privacy of neighbouring occupiers. However, given the substantial separation distances, I am satisfied that they would not lead to any material loss of outlook or privacy, regardless of the gradient at Shelley Drive. Meanwhile, concerns relating to the Party Wall Act lie outside of my jurisdiction in determining this appeal.
10. I have considered the concerns relating to the ridge height of the main roof, including those that contend that it may have being raised to ensure that it is not exceeded by the corresponding feature on the dormers. However, such accusations have not been substantiated and a raised roof was not evident at my site visit. Nevertheless, this is not a matter that has been enforced against and is, therefore, not before me to consider in the determination of this appeal. Likewise, no substantive evidence has been submitted in relation to assertions of false ownership certificates and, in any event, such matters should be addressed outside of the scope of this appeal.
11. For these reasons, I conclude that, subject to an appropriately worded planning condition relating to the use of materials, the front dormers would not cause material harm to the character and appearance of the host property or indeed the surrounding area. As such, I find no conflict with Policy SP2 of the Bridgend County Borough

Council's adopted Local Development Plan (LDP) which, amongst other things, requires development to respect and enhance local character and distinctiveness and be of an appropriate scale, size and prominence. The development is also compliant with the general thrust of the advice contained within the Council's SPG relating to Householder Development. I have had full regard to national policy and, in this respect, nothing outweighs the considerations that have led to my conclusions set out above.

Appeal B - Ref: APP/F6915/A/14/2227669

12. As with Appeal A above, Appeal B seeks planning permission for the repositioning of the dormers, as built. For the same reasons as those set out above, I do not consider this element of the scheme to cause material harm to the character and appearance of the appeal property or the surrounding area.
13. Nevertheless, Appeal B also seeks 'retrospective planning permission', under Section 73A(2)(a), for a single storey extension to the rear of the appeal property. This extension is located between an existing rear gable projection and the shared common boundary with No.14. The rear extension measures some 3.9 metres by around 2.7 metres and incorporates a flat roof some 2.7 metres in height. The Council has not enforced against, or indeed objected to, this rear extension as it considers it to represent permitted development. In contrast, the occupiers of the neighbouring property at No.14 have submitted that the extension would adversely affect their living conditions, with particular reference to loss of natural light and associated overbearing impacts.
14. The lawfulness of the flat roof extension is not a matter that I can determine within the context of an appeal made under section 78 of the above Act. Such a determination could, however, be applied for under section 191 of the same Act. Nevertheless, the structure clearly forms part of the development applied for under planning application Ref: P/14/229/FUL and I have therefore given full consideration to its impact in determining this appeal.
15. Notes 1 and 2 of the Council's SPG relating to Householder Development state that extensions should not unreasonably dominate the outlook or overshadow an adjoining property. Within this context, I was able to fully appreciate at my site visit that No.14 benefits from a rear habitable room and patio area that are linked via traditional patio doors. I am also fully aware that these features immediately abut the extension subject of this appeal. However, whilst I acknowledge that the development would be higher than any boundary treatment that could be erected under permitted development rights, its modest height and depth, coupled with its flat roof design, is such that there would not be any significant overbearing impacts, regardless of the difference in ground levels between the two properties.
16. For the same reasons, along with the fact that the appeal property is sited to the north of No.14, I conclude that any loss of natural light at the adjoining property would not be so significant so as to materially harm the living conditions of its occupiers. I acknowledge that the occupier of No.14 commissioned an independent 'right to light' survey at the planning application stage. I also note that this survey raised concerns regarding the '45 degree' planning test, referred to the legal 'right to light' enjoyed by No.14 and ultimately recommended that no planning decision is made in favour of the development until a daylight and sunlight study is submitted. However, it is important to note that the 'right to light' referred to is a civil matter, whilst such daylight and sunlight studies are not a statutory requirement of the planning process.

Furthermore, the '45 degree rule' represents guidance only and, as such, should not be treated as determinative.

17. Therefore, based on the foregoing, I conclude that neither the front dormers nor the single storey rear extension cause material harm to the character and appearance of the host property or the surrounding area. I also conclude that there would not be any harm to the living conditions of neighbouring occupiers in respect of outlook or levels of natural light. As such, the development is compliant with Policy SP2 of the Bridgend County Borough Council adopted LDP which, amongst other things, requires development to respect and enhance local character and distinctiveness, be of an appropriate scale, size and prominence and ensure that the viability and amenity of neighbouring uses and their occupiers are not adversely affected. Finally, for the reasons set out above, there would not be any conflict with the advice contained within the Council's adopted SPG or national planning policy.

Overall Conclusions

18. For these reasons, I conclude that both appeals should be allowed. Accordingly, the enforcement notice under Appeal A is quashed and planning permission is granted for the erection of the two dormers to the front elevation, subject to the condition set out in the formal decision above. Planning permission is also granted under Appeal B for the re-positioning of the dormers to the front elevation and the construction of the single storey extension to the rear elevation, again subject to the conditions set out in the formal decision.
19. I have had full regard to the planning conditions suggested by the Local Planning Authority. However, within the context of the advice contained within Welsh Government Circular 016/2014: *The Use of Planning Conditions for Development Management* (2014), I have only imposed conditions where they are absolutely necessary.
20. In this regard, as the development has already commenced, I do not consider it to be necessary to impose the statutory time commencement condition. Nevertheless, the suggested condition requiring the front face and side cheeks of the front dormer extensions to be hung with roof tiles is necessary to safeguard the character and appearance of the host property and the surrounding area. For the same reasons I have imposed a separate condition under Appeal B requiring the materials used on the external surfaces of the rear extension to match those on the existing building.

Richard E. Jenkins

INSPECTOR