

APPEALS

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

CODE NO.	A/15/3135226 (1763)
APP. NO.	P/15/475/FUL
APPELLANT	MR JULIAN REED
SUBJECT OF APPEAL	NEW ACCESS FOR NEW DWELLING AND THE LAURELS HEOL PEN Y FAI PEN Y FAI BRIDGEND
PROCEDURE	HEARING
DECISION LEVEL	DELEGATED OFFICER

The application was approved with conditions and the appellant is appealing against the conditions 2-7 namely:

2.No development shall take place until there has been submitted to and agreed in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected and a timetable for its implementation. Development shall be carried out in accordance with the agreed plan and timetable.

Reason : To ensure that the general amenities of the area are protected.

3 The existing boundary wall fronting The Laurels and the new property consented under P/12/656/FUL shall be removed along the frontage of the site with Heol Eglwys and the area fronting the access gates laid out in permanent materials in accordance with the agreed layout prior to the development being brought into beneficial use.

Reason: In the interests of highway safety.

4 Notwithstanding Condition No. 1 and the approved plan the proposed wall along the common boundary of The Laurels and the new property consented under P/12/656/FUL shall not protrude forward (in a northerly direction) beyond the position of the proposed gates.

Reason: In the interests of highway safety.

5 The proposed access drive serving the new property consented under application P/12/656/FUL shall be completed in permanent materials for a distance of no less than 10m from the edge of carriageway in accordance with the details prior to the development being brought into beneficial use.

Reason: In the interests of highway safety.

6 The proposed means of access shall be laid out with vision splays of 2.4m x 43m in both directions before the development is brought into beneficial use and retained as such thereafter in perpetuity

Reason: In the interests of highway safety.

7 No structure, erection or planting exceeding 0.9 metres in height above adjacent carriageway level shall be placed within the required vision splay areas at any time.

Reason: In the interests of highway safety.

CODE NO.	A/15/3133430 (1764)
APP. NO.	P/14/543/FUL
APPELLANT	MARCOL AFAN ENERGY

SUBJECT OF APPEAL 5.1MW SOLAR ARRAY WITH INVERTER STATIONS, SWITCHGEAR CABINS, FENCING, CCTV & ACCESS: LAND NORTH BRYNHEULOG CAERAU PARK MAESTEG

PROCEDURE HEARING

DECISION LEVEL COMMITTEE

The application was refused for the following reasons:

1 The proposal solar array and associated works would, by virtue of its prominent location, form and scale, adversely impact upon the integrity of the countryside and the character of the landscape (comprising the Landscape Character Area - LCA 1: Llangynwyd Rolling Uplands and Forestry in which it is located and the adjacent Foel y Dyffryn Special Landscape Area) and would set an undesirable precedent for further applications for similar development in the County Borough, contrary to Policies SP2, SP4, SP8 and ENV3 of the Bridgend Local Development Plan and the emerging Supplementary Planning Guidance: Renewables in the Landscape.

2 Notwithstanding the proposed mitigation works, the proposal solar array and associated works would, by virtue of its prominent location, form and scale, adversely impact upon the visual amenities of the residents in Brynheulog (including Maes yr Awel, Ael Y Bryn and Lon Y Parc), Caerau (including Cymmer Road, Bryn Terrace and Church Street) and users of the Open Access Land and Public Rights of Way to the south, east and west of the development site and would set an undesirable precedent for further applications for similar development in the County Borough, contrary to Policies SP2 (criteria 2 and 12), SP8 and ENV18 (criterion 6) of the Bridgend Local Development Plan and the emerging Supplementary Planning Guidance: Renewables in the Landscape

CODE NO. H/15/3138666 (1765)

APP. NO. A/15/11/ADV

APPELLANT MR SANJEEV BHAGOTRA

SUBJECT OF APPEAL NON-ILLUMINATED ADVERTISEMENT SIGN 1 ROCK STREET ABERKENFIG

PROCEDURE WRITTENS REPRESENTATIONS

DECISION LEVEL COMMITTEE

The application was refused for the following reasons:

1 The proposed advertisement by reason of its size, siting, design and appearance, would constitute an unduly prominent and incongruous feature in the street scene and would contribute to unwanted clutter, to the detriment of the visual amenities of the locality and contrary to Policy SP2 of the Bridgend Local Development Plan.

2 The proposed sign will create a distraction to highway users on the busy classified road, Bridgend Road, to the detriment of highway safety and contrary to Policy SP3 of the adopted Local Development Plan.

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

CODE NO. A/15/3129184 (1759)

APP. NO. P/14/564/OUT

APPELLANT MR & MRS DALTON & MR REES

SUBJECT OF APPEAL 1 NO. 5-BED TWO STOREY DWELLING TO BE OCCUPIED BY OPERATIVES OF AN EXISTING RURAL ENTERPRISE: LAND WEST OF

TON PHILLIP FARM FFORDD Y GYFRAITH BRIDGEND

PROCEDURE HEARING
DECISION LEVEL DELEGATED OFFICER
DECISION **THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED**

A copy of this appeal decision is attached as APPENDIX A

A copy of the costs decision is attached as APPENDIX B

CODE NO. A/15/3130150 (1760)
APP. NO. P/15/102/OUT
APPELLANT MR & MRS R HAYES
SUBJECT OF APPEAL ERECT A SINGLE STOREY DETACHED BUNGALOW DESIGNED TO ACCOMMODATE A DISABLED PERSON: LAND AT WERN DEW FARM HEOL PERSONDY ABERKENFIG
PROCEDURE WRITTEN REPRESENTATIONS
DECISION LEVEL DELEGATED OFFICER
DECISION **THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED**

A copy of this appeal decision is attached as APPENDIX C

CODE NO. A/15/3133197 (1761)
APP. NO. P/15/124/RLX
APPELLANT MR M BUTLER
SUBJECT OF APPEAL REMOVE CONDITION 4, MODIFY CONDITION 5 TO PERMANENTLY RETAIN MAST D TO BE ERECTED 5HRS IN 24HR PERIOD: 1 GREEN MEADOW CEFN CRIBWR
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 A NEW CONDITION**

A copy of this appeal decision is attached as APPENDIX D

RECOMMENDATION:

That the report of the Corporate Director Communities be noted.

**MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES**

Background Papers

See relevant application reference number.

APPENDIX A



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 6/10/15
Ymweliad â safle a wnaed ar 6/10/15

gan Nicola Gulley MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 08/12/15

Appeal Decision

Hearing held on 6/10/15
Site visit made on 6/10/15

by Nicola Gulley MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 08/12/15

Appeal Ref: APP/F6915/A/15/3129184

**Site address: Land to the east of Ffordd Y Gyfraith Former Ton Phillip Farm,
Ffordd Y Gyfraith, Cefn Cribwr, Bridgend**

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 outline planning permission.
 - The appeal is made by Mr and Mrs Dalton and Mr Rees against the decision of Bridgend County Borough Council.
 - The application Ref P/14/564/OUT, dated 1 August 2014, was refused by notice dated 29 January 2015.
 - The development proposed is the erection of 1 No. 5 bed dwelling (two storey) with garage.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary Matter

3. I note that the site address on the planning application is described as 'Land to the west of Ffordd Y Gyfraith Former Ton Phillip Farm, Ffordd Y Gyfraith, Cefn Cribwr, Bridgend'. The appellant's statement confirms that the address is incorrect and that the site is actually located geographically to the east of Ton Phillip Farm. I will determine the appeal on this basis.

Procedural Matters

4. The application is for outline planning permission with all matters reserved and I have proceeded on that basis.

Main Issue

5. The main issue in this matter is whether the rural enterprise justifies the residential accommodation proposed, having regard to the aims of national and local planning policies and guidance which seek to restrict new development in the countryside.
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Reasons

6. Local policy in respect of the development of new dwellings on established rural enterprises is set out in Policy ENV1 of the Adopted Bridgend Local Development Plan (LDP) (2014) Planning Policy Wales (PPW) Edition 7 (2014) and supported by guidance contained in Technical Advice Note 6 (TAN 6): Planning for Sustainable Rural Communities (2010). TAN 6 requires that new permanent dwellings should only be allowed to support established rural enterprises where: there is a clearly established functional need; the need relates to a full-time worker; the enterprise has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job, is financially sound and has a clear prospect of remaining so; that the functional need could not be met by another dwelling or the conversion of an existing building on the land holding; and other normal planning requirements are satisfied.
7. The rural enterprise in this case is Wiggleys Fun Farm, a childrens' activity centre and petting zoo, located close to the rural hamlet of Ffordd Y Gyfraith. The enterprise includes a variety of farm and domestic animals, children's play areas, nature trails and a café and is run by two of the appellants, with the assistance of two full-time and fourteen part-time workers. The appellants contend that for the proper running of the enterprise, and to ensure personal safety, there is a functional need for two full-time workers to be available during most of the day to respond to unexpected situations particularly in relation to animal welfare and criminal activity. Evidence submitted by the appellants in support of the application indicate that since the enterprise opened in July 2012, 38 animals have been lost due to the appellants inability to attend during birth, stolen or killed by predators, there have been 19 instances of theft or vandalism and 19 occasions when the security alarm has been activated when the Farm is closed.
8. I accept that the appellants take seriously their responsibility to ensure the medical welfare of the animals, however I consider, that given the small number and diverse nature of the stock, care can be provided largely during working hours. Moreover, whilst an immediate, regular or unpredicted need may arise this would not be of a scale or frequency that would justify the functional need for one or more full time worker to be readily available at most times. With regard to security, national guidance recognises that crime prevention and the fear of crime can be material planning considerations and as such I have given some weight to these factors. I appreciate the distress that criminal activity at the Farm has caused the appellants, nevertheless I consider that the number and frequency of these incidents over last 3 years is not sufficient to demonstrate a functional need or justify the construction of a dwelling in the countryside. I consider that additional security measures such as a the presence of a security guard or security company patrolling the Farm would be more closely align with the nature of the criminal activity and act as an effective deterrent. Whilst I accept that there is an additional cost associated with the provision of additional security measures I do not consider that this would be disproportionate or adversely affect the profitability of the business. In these circumstances, I do not consider a functional need for the proposed dwelling has been demonstrated and as such the proposal is contrary to LDP Policy ENV1 and national planning policy.
9. The appellants have submitted detailed supplementary information in respect of the work undertaken regularly at the Farm which demonstrates that there is a need for 3.26 full time employees to perform these duties. However, TAN 6 requires that where a functional need has been established, evidence is presented which

demonstrates the one or more full time worker is required at most times to meet that need. The evidence presented by the appellants, which indicates that approximately 1 hour a month is required for the care of animals and, over a 3 year period, up to 13 hours has been required to respond to the activation of security alarms. This equates to approximately 16 hours a year and as such I do not consider that this demonstrates, either individually or cumulatively, the need for one or more full time worker to be present at the enterprise most of the time.

10. In terms of alternative accommodation, whilst no substantive evidence has been presented both parties agree that there are no other dwellings or buildings available in the locality. On the basis of the evidence presented at the Hearing, I accept that this is an accurate reflection of the situation.
11. The financial evidence presented by the appellants as part of the submission and during the Hearing provides information about the current and future profitability of the enterprise. This information takes account of the costs associated with the on-going improvements at the Farm. The evidence demonstrates that the rural enterprise is financially sound, has been profitable for more than one year and has good prospects of remaining so until, at least, 2018. In addition, the appellants have provided information which indicates that the estimated cost of the proposed enterprise dwelling would be roughly £200,000. The Council consider that this to be unrealistic and, based on recent developments in the County Borough, estimates the cost of the dwelling to be between £353,000 and £599,000 approximately. Whilst I recognise that there is a significant variation in estimated costs, in light of the financial evidence that has been provided, I consider that the construction of a dwelling at cost commensurate with the highest estimate could be funded and maintained by the rural enterprise without having an unacceptable impact on its financial soundness.
12. Access to the site is via an agricultural track which connects Ffordd Y Gyfraith and Wiggleys Fun Farm and in doing so would provide a functional link between the enterprise and the proposed dwelling. In order to overcome concerns about highway safety, the appellants have submitted an indicative plan which illustrates how safe access arrangements can be achieved. The Council has confirmed that that the revised arrangements are satisfactory and I agree that the proposals would ensure that the development would not have an adverse impact on highway safety.
13. In addition, the site forms part the Western Uplands Special Landscape Area (SLA), as defined by LDP Policy ENV3, and the Ton Phillip Farm Site of Importance for Nature Conservation (SINC), as defined by LDP Policy ENV4. Whilst no detailed evidence has been submitted, I consider that because of the scale and siting of the proposed development, on low lying land close to existing residential properties, sufficient control could be exercised through the use of conditions to protect the visual and ecological value of the area. As such I consider that the proposed development would comply with LDP Policies SP2, ENV3 and ENV4.
14. In reaching my decision I have had regard to all other matters raised in support of the scheme. However, none of these factors are sufficient to alter my overall conclusions. Whilst I consider that the proposal would meet the financial, alternative dwelling and other planning tests, this does not outweigh my concerns that a functional need has not been demonstrated and that the proposal would result in unacceptable new development in the countryside.

15. For these reasons, I conclude that the appeal should be dismissed.

Nicola Gulley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Rees	Appellant
Vanessa Dalton	Appellant
Steve Dalton	Appellant
Eric Evans	Solicitor, Appellants Agent
Alan Whiteley	Solicitor

FOR THE LOCAL PLANNING AUTHORITY:

Elizabeth Woolley MSc	Bridgend County Borough Council
Robert Morgan BSc (Hons) ACIHT	Bridgend County Borough Council
Leigh Tuck	Bridgend County Borough Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Location plan showing the appeal site and Wiggleys Fun Farm
- 2 Extract of the Animal Welfare Act 2006
- 3 Sheet showing accumulated profit for Wiggleys Fun Farm
- 4 Letter from Welsh Government dated 29 October 2010
- 5 Build Costs for Wiggleys Fun Farm
- 6 Sales details for Plas-Y-Marais, Ffordd Y Gyfraith, Cefn Cribwr, Bridgend
- 7 Photograph of Plas-Y-Marais, Ffordd Y Gyfraith, Cefn Cribwr, Bridgend
- 8 Map showing the boundary of the Ton Phillip SINC
- 9 Extract of a internal Memorandum dated 15 October 2014
- 10 Copies of Policies ENV3 and ENV4 of the Adopted Bridgend LDP (2014)
- 11 Plan showing proposed alternative access arrangements
- 12 Council's response to the appellants application for costs
- 13 Extract of the LDP proposals map showing the SINC boundary in relation to the appeal site
- 14 Extract of the LDP proposals map showing the SLA boundary in relation to the appeal site

APPENDIX B



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 6/10/15
Ymweliad â safle a wnaed ar 6/10/15

gan Nicola Gulley MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 08/12/15

Costs Decision

Hearing held on 6/10/15
Site visit made on 6/10/15

by Nicola Gulley MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 08/12/15

Costs application in relation to Appeal Ref: APP/F6915/A/15/3129184

**Site address: Land to the east of Ffordd Y Gyfraith Former Ton Phillip Farm,
Ffordd Y Gyfraith, Cefn Cribwr, Bridgend**

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Dalton and Mr Rees for a full award of costs against Bridgend County Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the erection of 1 No. 5 bed dwelling (two storey) with garage.
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Decision

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

The submissions for Mr and Mrs Dalton and Mr Rees

2. The case was submitted in writing prior to the hearing.

The response by Bridgend County Borough Council

3. The response was submitted in writing at the hearing

Reasons

4. Circular 23/93 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 5. Local Planning Authorities are expected to produce evidence to substantiate each reason for refusal with reference to the development plan and all other material considerations, showing why the development cannot be permitted. The Council's decision was based on three main reasons for refusal relating to the impact of the proposed development on the character and appearance of the open countryside, insufficient justification for the development of a rural enterprise dwelling and the effect of the proposal on highway safety.
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6. With regards to reasons for refusal Nos. 1 and 2, the appellants contend that the Council failed to give proper consideration to the application and in doing so: did not accept that the proposed self build dwelling would be constructed by the appellants; incorrectly compared the cost of the proposed dwelling to those constructed by volume house builders operating in the locality; misunderstood the financial information presented; and wrongly concluded that the rural enterprise could be run between 9.00am and 5.00pm.
7. Decisions in relation to the development of rural enterprises are based on Policy ENV1 of the Adopted Bridgend Local Development Plan (LDP) (2014) and the guidance contained in Technical Advice Note 6 (TAN6): Planning for Sustainable Rural Communities (2010) and the Rural Enterprise Dwellings TAN 6 – Practice Guidance (2011). Whilst the policy framework sets out the basis for assessing proposals, a degree of judgement is always required about the weight to be afforded to supporting evidence. In this instance, I am satisfied that the Council has rigorously assessed the functional and financial evidence submitted in support of this proposal in accordance with the policy framework and, where necessary, has sought to further inform its assessment by using information from acknowledged sources such as the National Custom and Self Build Association. I am therefore content that Council has provided adequate and reasonable written and oral evidence to substantiate the reasons for refusal Nos. 1 and 2 based on an assessment of the evidence presented to support the proposed development of an enterprise dwelling in the open countryside.
8. With regard to justifying their stance in respect of reason for refusal No. 3 which relates to the impact of the proposed development on highway safety. Whilst I note that this issue has been resolved, I am nevertheless satisfied that it has submitted sufficient evidence to substantiate both this reason for refusal.

Conclusion

9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93, has not been demonstrated.

Nicola Gulley

INSPECTOR

APPENDIX C



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 05/10/15

gan **P J Davies BSc (Hons) MA MRTPI**
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 19/11/15

Appeal Decision

Site visit made on 05/10/15

by **P J Davies BSc (Hons) MA MRTPI**
an Inspector appointed by the Welsh Ministers
Date: 19/11/15

Appeal Ref: APP/F6915/A/15/3130150

Site address: Wern Dew Farm, Heol Persondy, Aberkenfig, Bridgend CF32 9RH

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 outline planning permission.
 - The appeal is made by Mr & Mrs R Hayes against the decision of Bridgend County Borough Council.
 - The application Ref P/15/102/OUT, dated 10 February 2015, was refused by notice dated 23 March 2015.
 - The development proposed is the erection of a single storey detached bungalow designed to accommodate disabled person.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - a) whether the proposal would be inappropriate development in a green wedge;
 - b) whether any harm by reason of inappropriateness would be clearly outweighed by other considerations; and if so whether very exceptional circumstances exist to justify the harm to the green wedge; and,
 - c) the effect of the proposal on the character and appearance of the area.

Reasons

Inappropriate Development

3. The appeal site lies in a designated green wedge where Policy ENV2 of the Bridgend Local Development Plan (LDP) does not permit development which causes, or contributes to, the coalescence of settlements or reduces the openness of land between settlements. This is consistent with Planning Policy Wales Edition 7 (PPW) which contains a presumption against inappropriate development in green wedges. Paragraph 4.8.16 clarifies that the construction of new buildings in a green wedge is inappropriate unless it is for certain purposes, none of which are put forward in support of the proposal in this case. By virtue of its substantial built form and

increased residential activity on an open undeveloped garden, the proposal would invariably reduce the openness of this part of the green wedge. Further, it would add to and begin to consolidate this small dispersed group of buildings in an area intended to protect the urban setting and prevent coalescence. The proposal is therefore inappropriate development that conflicts with the objectives of green wedge designation.

Very Exceptional Circumstances

4. PPW advises that substantial weight should be attached to any harmful impact which a development would have on a green wedge. Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the green wedge.
5. In considering the above, I have had regard to the need for the development in terms of the mobility issues facing the appellants. However, I have little information before me to demonstrate that any alternative, less harmful, way of meeting this need has been explored, for example by providing an annex to the existing house. I also note that the proposal would make use of previously developed land and is within close proximity to a train station. Whilst these are clearly beneficial points, they are not unusual factors and such arguments could be repeated for many locations within green wedges with cumulative adverse effect.
6. I therefore find that these other considerations do not clearly outweigh the harm that I have identified, and consequently, the very exceptional circumstances necessary to justify the development do not exist.

Character and Appearance

7. The appeal site lies outside any defined settlement boundary and in the open countryside for the purposes of the LDP. In line with PPW, LDP Policy ENV1 places strict control over new development in the countryside.
8. I accept that the site is not in a traditional countryside setting in the sense of open undulating fields. Nevertheless, it is a large open gap within a small and dispersed group of buildings which are clearly distinguishable from the built up area by reason of their informal layout and low density. The verdant impression created by the mature trees on and near the site as well as the rural nature of the lane serving the site adds to the semi rural context. In my view, the site is in a sensitive area between the built up areas of Sarn and Aberkenfig and within the largely open gap which separates them.
9. PPW advises that infilling or minor extension to existing settlements may be acceptable but in this case the adjacent major road forms a distinct physical barrier between the site and the settlement of Aberkenfig. Similarly, there is an intervening area of predominantly open land which divorces the site from the built up area of Sarn. I would not therefore regard it as an infill site or minor extension in the context of PPW. PPW also advises that sensitive infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area. However, the appeal site is set away from the neighbouring farmhouse with a large visual gap between, and the distance from other dwellings is even greater. The proposal would not therefore comprise infilling of a small gap and neither would it form a minor extension to the group. I note the

planning permission for a dwelling to the south east of the farm house but unlike the appeal proposal this has a closer affiliation in a physical and visual sense to the existing group of buildings. It does not therefore alter my conclusions that the proposal would be harmful to the character and appearance of the surrounding area contrary to the objectives of LDP Policy ENV1.

10. For the above reasons, I conclude that the appeal should be dismissed.

P J Davies

INSPECTOR

APPENDIX D



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 13/11/15

gan Richard Duggan BSc (Hons)
DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 26/11/2015

Appeal Decision

Site visit made on 13/11/15

by Richard Duggan BSc (Hons) DipTP
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 26/11/2015

Appeal Ref: APP/F6915/A/15/3133197

Site address: 1 Green Meadow, Cefn Cribwr, Bridgend, CF32 0BJ

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 under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Michael Butler against the decision of Bridgend County Borough Council.
- The application Ref P/15/124/RLX, dated 24 February 2015, was refused by notice dated 30 June 2015.
- The application sought planning permission for 'retention of 3 radio masts/aerials and erection of 1 radio mast/aerial (maximum 6.5m height) for a trial period of 3 years and to be used for a maximum of 3 hours in any 24 hour period from midnight to midnight and lowered to a horizontal position when not in use' without complying with conditions 4, 5 and 6 attached to planning permission Ref APP/F6915/A/12/2172823, dated 2 August 2012.
- The conditions in dispute are:
 - No 4 which states that: *In respect of mast 'D' the permission hereby granted shall endure for a period of 3 years from the date of this permission. Mast 'D' and the associated aerial/antenna 'Cushcraft A-3S' shall be removed from the site on or before 3 years from the date of this permission;*
 - No 5 which states that: *Mast 'D' shall only be vertically erected for a maximum of 3 hours in any 24 hour period (midnight to midnight GMT). For the other 21 hours mast 'D' and the associated aerial/antenna shall be lowered horizontally so that no part of the mast and attachments exceed 2.5m in height from the base level of Mast 'D.'* and
 - No 6 which states that: *The times when mast 'D' is vertically erected and in operational use shall be recorded in a log book and submitted to the local planning authority upon request at any time during the 3 years duration of the planning permission hereby granted.*

Decision

1. The appeal is allowed and planning permission is granted for the retention of 3 radio masts/aerials and erection of 1 radio mast/aerial (maximum 6.5m height) for a trial period of 3 years and to be used for a maximum of 3 hours in any 24 hour period from midnight to midnight and lowered to a horizontal position when not in use without compliance with conditions 4 and 5 previously imposed on planning permission Ref APP/F6915/A/12/2172823 dated 2 August 2012, but subject to the other conditions

imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:

- 1) Mast 'D' shall only be vertically erected for a maximum of 5 hours in any 24 hour period (midnight to midnight GMT). For the other 19 hours mast 'D' and the associated aerial/antenna shall be lowered horizontally so that no part of the mast and attachments exceed 2.5m in height from the base level of Mast 'D.'

Procedural Matters

2. An application seeking the removal of Conditions 4, 5 and 6 was submitted in February 2015. However, prior to the determination of the application it was confirmed that only Conditions 4 and 5 were being pursued in the application. Therefore, the description of the development on the application form was amended by the Council to read as follows, '*Removal of Condition 4 and amend Condition 5 to allow Mast D to be erected for a maximum of at least 5 hours in any 24 hour period (midnight to midnight GMT)*'. It was on this basis that the Council determined the application and on which I have determined the appeal.
3. The reason for refusing the application did not refer to Condition 4. However, the Council has confirmed that this was due to the fact that it considered it reasonable to allow the permanent retention of Mast 'D' subject to Condition 5 remaining as originally worded. The Council continues to object to the removal of Condition 4 in conjunction with the relaxation of Condition 5 to enable Mast 'D' to be erected for 5 hours in any 24 hour period.

Main Issue

4. The main issue is the effect of removing and/or varying the disputed conditions on the character and appearance of the surrounding area.

Reasons

5. Planning Policy Wales Technical Advice Note (TAN) 19: *Telecommunications* advises that applications to install masts such as those often used by amateur radio operators usually present few potential planning problems in terms of size and visual impact over a wide area. Such masts need to be big enough for technical efficiency but will not normally be of such a scale as to have serious impact on local amenity. It advises that consideration should be given to sympathetic design and camouflage as well as screening to minimise the impact of development on the environment.
6. At the time of my visit the mast was in place and in the upright position. It is sited approximately 14m from Cefn Road behind the existing fence boundary which encloses the garden area. As the mast is sited at a lower level than Cefn Road and the adjoining footway, the lower part of the mast is screened when it is erected by the surrounding boundary enclosures. The mast and aerial project above the existing bungalow in the extended position, but the dwelling screens much of the structure from views along Green Meadow.
7. I saw that the mast is seen within the context of the numerous other substantial structures found along the road, including telegraph poles, overhead wires, street lighting, and the flood lights associated with Cefn Cribwr Rugby Club. These are all prominent structures that dominate the appearance of Cefn Road in close proximity to the appeal site. Accordingly, I share the previous Inspector's assessment that even though the mast and aerial is seen against the sky, given the existence of the other

prominent structures found along Cefn Road, they are not so prominent as to harm the character and appearance of the surrounding area.

8. There is no record of any significant public complaints regarding to the visual impact of the development over the last three years, and it seems to me that little has changed since the temporary planning permission was granted with the acceptance of the previous Inspector that the proposal at that time did not adversely affect the character and appearance of the surrounding area. I acknowledge that the previous Inspector concluded that it was reasonable and necessary to impose a 3 hour time limit condition. Nevertheless, in my opinion, the retention of the mast and aerial on a permanent basis and allowing them to be in use for an additional two hours per day would not have a materially different visual impact on the street scene than the current situation, and would not, therefore, cause harm to the character and appearance of the area. As such, I find that the proposal does not conflict with Policy SP2 of the LDP or with national planning policy guidance contained within TAN19.
9. For the reasons set out above I consider that the disputed condition 4 is not reasonable or necessary taking into account the tests set out within Circular 016/2014. However, I have varied Condition 5 in line with the terms of the application as submitted and taking account of the tests in the Circular.
10. I have taken into account all other matters raised, including the objections and representations raised by local residents. However, I do not believe that the appeal proposal would lead to an adverse impact on the living conditions enjoyed by them or have a harmful effect on highway safety along Cefn Road. With regard to the effect of the development on their television and radio transmission, Government advice in TAN19 states that there are other statutory powers for dealing with interference and that in most situations questions of potential interference are of no relevance to the determination of planning applications for masts.
11. The appellant has drawn my attention to an appeal decision¹ but each case has to be determined on its own particular planning merits and circumstances, particularly where issues of character and appearance are involved. Therefore, I have given this decision no weight in my determination of this appeal.

Conclusions

12. For the reasons given above I conclude that the appeal should be allowed. I will vary the planning permission by removing Condition 4 and varying condition 5.

Richard Duggan

INSPECTOR

¹ Appeal Reference: APP/F6915/A/12/2184511