

## **APPEALS**

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

<b>CODE NO.</b>	A/16/3145806 (1774)
<b>APP. NO.</b>	P/15/493/FUL
<b>APPELLANT</b>	MRS BETHAN DALTON-MARSHALL
<b>SUBJECT OF APPEAL</b>	DEMOLISH UTILITY ROOM AND EXTENSION AND CREATE NEW LOUNGE AND ADDITIONAL BEDROOMS: FFORCHLAS COTTAGE, CHURCH STREET, PONTYCYMMER
<b>PROCEDURE</b>	HEARING
<b>DECISION LEVEL</b>	DELEGATED OFFICER

The application was refused for the following reason:

1. The site lies within the open countryside and the proposed development would represent an undesirable over development of the dwelling, out of scale and character with the original building and would be prejudicial to the character of the area in terms of visual and rural amenity. As such the proposal would be contrary to Policies ENV1, ENV3 and SP2 of the Bridgend Local Development Plan and Supplementary Planning Guidance 02 : Householder Development and Planning Policy Wales (2014).

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

<b>CODE NO.</b>	A/15/3133430 (1764)
<b>APP. NO.</b>	P/14/543/FUL
<b>APPELLANT</b>	MARCOL AFAN ENERGY
<b>SUBJECT OF APPEAL</b>	5.1MW SOLAR ARRAY WITH INVERTER STATIONS, SWITCHGEAR CABINS, FENCING, CCTV & ACCESS: LAND NORTH BRYNHEULOG CAERAU PARK MAESTEG
<b>PROCEDURE</b>	HEARING
<b>DECISION LEVEL</b>	COMMITTEE
<b>DECISION</b>	<b>THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED SUBJECT TO CONDITIONS.</b>

A copy of this appeal decision is attached as APPENDIX A

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<b>CODE NO.</b>	A/15/3140007 (1766)
<b>APP. NO.</b>	P/15/333/FUL

**APPELLANT** MRS MORWEN POWELL

**SUBJECT OF APPEAL** SINGLE STOREY SPLIT LEVEL DWELLING WITH DOUBLE GARAGE: LAND ADJOINING 22 SYCAMORE CLOSE, LITCHARD BRIDGEND

**PROCEDURE** WRITTEN REPS

**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 B

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**CODE NO.** A/15/3140154 (1767)

**APP. NO.** P/15/512/OUT

**APPELLANT** MR E & MRS P HUGHES

**SUBJECT OF APPEAL** OUTLINE APPLICATION TO DEMOLISH 2NO. DWELLINGS & ERECT 1NO. DWELLING AND GARAGE: MAYFIELD LALESTON

**PROCEDURE** WRITTEN REPS

**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

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**CODE NO.** A/15/3137898 (1768)

**APP. NO.** P/15/568/FUL

**APPELLANT** MRS P HUGHES

**SUBJECT OF APPEAL** RETENTION OF TWO STOREY GARAGE WITH STORE ABOVE (RE-SUB OF P/12/714/FUL): LAND AT DAN YR EGLWYS FARM, (TY NEWYDD FARM) BETTWS

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** DELEGATED OFFICER

**DECISION** **THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL**

**BE DISMISSED.**

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**CODE NO.** C/15/3139097 (1769)

**ENF. NO.** ENF/152/15/C

**APPELLANT** MRS P HUGHES

**SUBJECT OF APPEAL** NON COMPLIANCE WITH APPROVED PLANS (P/12/714/FUL):  
LAND AT DAN YR EGLWYS FARM BETTWS

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** DELEGATED OFFICER

**DECISION** **THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED ANF THE ENFORCEMENT NOTICE IS UPHELD WITH VARIATION.**

A copy of this joint appeal decision is attached as APPENDIX D.

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**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



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### Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 25/02/16  
Ymweliad â safle a wnaed ar 26/02/16

**gan Siân Worden BA DiplH MCD  
MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad : 22 Ebrill 2016**

### Appeal Decision

Hearing held on 25/02/16  
Site visit made on 26/02/16

**by Siân Worden BA DiplH MCD MRTPI**

**an Inspector appointed by the Welsh Ministers  
Date : 22 April 2016**

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**Appeal Ref: APP/F6915/A/15/3133430**

**Site address: Land North of Brynheulog, Caerau Park, Maesteg, 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 planning permission.
  - The appeal is made by Marcol Afan Energy against the decision of Bridgend County Borough Council.
  - The application Ref P/14/543/FUL, dated 8 August 2014, was refused by notice dated 12 June 2015.
  - The development proposed is a solar array with the capacity to generate 18.4MW.
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### Decision

1. The appeal is allowed and planning permission is granted for a 5.1MW solar array with inverter stations, switchgear, cabins, fencing, CCTV and access at Land North of Brynheulog, Caerau Park, Maesteg, Bridgend in accordance with the terms of the application, Ref P/14/543/FUL, dated 8 August 2014, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this document.

### Procedural Matter

2. During the planning application process the scheme was amended and reduced in scale. I have made my decision on the basis of the revised proposal and altered the description of the development in the decision above to that agreed between the parties.

### Main Issues

3. I consider that the main issues in this case are:
    - the effect of the proposed development on the character and appearance of the surrounding landscape in respect of its location, form and scale, and on
    - the living conditions of nearby residents with regard to outlook, and
    - whether the benefits of the scheme would be sufficient to outweigh any harm.
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## Reasons

### *Character and appearance*

4. The appeal site comprises an area of hillside in the upper reaches of the Llynfi Valley. It is adjacent to but above Brynheulog, a compact and visually detached enclave of former mineworkers' housing dating from the last century. The land was previously forestry but the trees have been felled as a result of disease. During the winter, which was when I visited, it appears somewhat bare and barren but as such blends in with much of the surrounding land. The submitted photos show that in the spring and summer it greens up, again matching the land around.
5. The appellant has submitted information in support of the application including a Landscape and Visual Impact Assessment (LVIA). This includes zones of theoretical visibility (ZTV), mapped information including on landscape designations, character areas and topography, photos indicating the extent of the site, and assessments from seventeen viewpoints (VP). There are also three scheme views which include photomontages representing the appearance of the proposed solar farm. I visited several of the viewpoints (VP) and my findings are as follows.
6. To my mind the impact of the proposed development on the appearance of the landscape would be most noticeable from VP13<sup>1</sup>, VP7 and VP8. The first of these is at the high point of Foel Y Dyffryn, a prominent hill overlooking the site and approximately 1.5km from it. The proposed development would be wholly and clearly apparent from here, its ranks of engineered panels visible as a distinct change from the existing vegetated nature of the site. As it is adjacent to the rows of houses at Brynheulog, however, with the television mast behind, the settlement of Caerau reaching out from the west and glimpses of Croeserw beyond, the site already has a close visual connection with the urban development of the valley. I do not consider, therefore, that from this VP the proposed solar farm would represent a considerable encroachment into the more rural, higher land at the valley head. Additionally, its dark blocks of panels, though more grey than green, would not be significantly conspicuous in a landscape where areas of forestry already provide large patches of contrast on the upper slopes.
7. This VP is within the Foel y Dyffryn Special Landscape Area (SLA) where receptors would mostly be recreational users with a high sensitivity to change. I therefore agree with the LVIA's assessment that the significance of the effect would be major during construction and the early stages of operation becoming moderate as the landscaping scheme matured.

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<sup>1</sup> Scheme View 3

8. VP7<sup>2</sup> is at Tonna Road, Dyffryn which is the main A road through the valley; it is just over 2km from the site. From here the proposed solar panels would be seen as bands of dark-coloured rectangles spanning the full width of hillside visible between the buildings on either side of the road. The most prominent feature in this outlook, however, is the long terrace of characteristic south Welsh houses which lines this section of the road. Its pleasing uniformity and rhythm catches the eye and discourages one from looking beyond. From the position where the photos were taken there are also clear views to Spelter lying on the lower ground by the river and to the more open land beyond. Overall, the proposed development would not be a conspicuous element in this varied and interesting panorama.
9. The appeal site would be readily apparent from VP8 but the composite photo flattens the vista and blurs the detail. In reality the houses at Brynheulog are clearly visible as light coloured blocks interspersed with their grey roofs. Despite the different locations, similar considerations exist as at VP13. The proximity of the appeal site to surrounding development would link the proposed scheme with the existing settlements rather than it being seen as a noticeable intrusion into the unspoilt hill side.
10. Closer to, VP9<sup>3</sup>, VP10 and VP11 are in and around the centre of Caerau approximately 1km from the site. The proposed development would be visible but partially obscured by the roofs of dwellings in the foreground, particularly from VP9. The solar panels proposed would not be so conspicuous as to draw the attention away from the recently refurbished and pleasant village centre with its attractive landscaping and a few prominent buildings such as the Station Hotel and chapel.
11. VP11 is at a slightly higher level and from here, not only would more of the proposed development be visible, but the distractions of the village centre would have less influence. Even so, I consider that the existing rows of houses which would be seen to the side of and below the proposed development, particularly their sloping, grey roofs, would reduce the impact of the solar arrays. From VP11 the landscaping proposed, once established, would effectively blur the hard edges of the scheme although, due to the steeply sloping site, an area of solar panels would always be visible above the planting. This would also be the case at VP14, which is on a public right of way to the west of the appeal site, and from where there would be views of the sides and profiles of the mounted solar panels.
12. VP3 is about 6.2km from the appeal site and above the development in the floor of the valley. When driving down the lane towards Maesteg there are points where the site is immediately in front. On the other hand, Garn Wen and Foel y Dyffryn to the west are high, dominant features which take the attention away from the appeal site. From the more distant viewpoints, such as VP2 which is over 8km away, the proposed development would appear as a dark block on the hillside. Its man-made character would not be clearly apparent and it would not look significantly unlike a planted and managed area of coniferous forestry. In my opinion these two general principles, namely that the nature of the proposed solar array would not be clearly discernible and that it would not be significantly conspicuous in the big, complex landscapes of the surrounding area, would apply from many of the VPs.

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<sup>2</sup> Scheme View 1

<sup>3</sup> Scheme View 2

13. The Council now has a supplementary planning document (SPD) entitled *Renewables in the Landscape* which was adopted in December 2015. The document sets out detailed and helpful generic guidance on siting renewable energy development, including solar photo voltaic, in the landscape. The proposed development clearly fails to comply with several of the criteria including the preferred location on lower slopes or flat plateau sites and siting in landscapes with a sense of enclosure. I understand the Council's argument that the failure of the LVIA to specifically address these two criteria is an indication that not all factors have been properly taken into account. To my mind, however, the LVIA provides a thorough and objective assessment of the impact of the proposed development. I also appreciate the appellant's point in respect of the definition of Landscape Character Areas (LCA); the inclusion of the appeal site in LCA 1 could be seen as anomalous and thus due for review.
14. With regard to the character of the landscape, that would be altered from forestry to energy generation. On the face of it the change from undeveloped to developed land is a fundamental difference but the two uses have several similarities. They both, for example, harness natural resources to provide a beneficial crop or output and are established and managed as commercial ventures. Much of the surrounding land has previously been exploited in comparable ways, evidence of which is still apparent. Spoil heaps can be seen to the west of Brynheulog and on the eastern side of the valley a further area of spoil is being regenerated with planting. To my mind, therefore, the changes in landscape character would not be significant.
15. My conclusion on this matter is that the proposed development would result in a degree of change, particularly to the appearance of the landscape, and thus have a slight negative impact. Nonetheless, the proposed solar array would be consistent with Strategic Policy SP8 of the Bridgend Local Development Plan 2006-2021 (LDP), adopted 2013 which permits schemes contributing to meeting national renewable energy targets subject to there being no significant adverse impacts on the environment. In the light of the existing condition of the appeal site and the nature of the development around it, the proposed development would respect local character and distinctiveness and landscape character. It would not enhance these elements and, consequently, would not be in full compliance with LDP Strategic Policy SP2. However, in not having an adverse impact upon the character of the landscape the proposed scheme would comply with LDP Strategic Policy SP4.
16. Whilst the proposed development would not be within a SLA it would be clearly visible from the Foel y Dyffryn SLA. LDP Policy ENV3 protects the setting of SLAs; it is explained that the integrity of SLAs should be maintained by ensuring that development in the urban areas does not materially impact upon the wider landscape viewed from within the SLA<sup>4</sup>. As explained above, the proposed solar array would be seen from the SLA in the context of the existing urban development and its form would not be significantly obtrusive. Although the proposed development would not comply fully with LDP Policy ENV3, to my mind the inconsistency would not be sufficient to refuse the scheme.

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<sup>4</sup> LDP paragraph 4.1.19

17. The appearance of this type of landscape can alter substantially over the years, for example with the planting, growth and felling of forestry, the treatment of areas of spoil, and the development of wind farms. The temporary nature of the proposed development, albeit for a considerable number of years, would fit with this cycle of use and restoration and the changes to the landscape that ensue. That the proposed solar array would be time-limited is thus a factor in my decision.

#### *Living conditions*

18. The Council's second reason for refusal concerns the effect of the proposed development upon the residents of Brynheulog particularly in those streets closest to it, and on users of nearby open access land and public rights of way. The effect on the latter group is covered by the LVIA; the sensitivity of various receptors including recreational walkers is considered as part of the assessment methodology. In this section, therefore, I deal only with the affect on the living conditions of neighbouring occupiers with regard to the outlook from their houses and back gardens. The nearest dwelling, which is at the end of Maes yr Awel, would be about 40m from the panels whilst those in Lon y Parc would be approximately 130m distant.

19. Brynheulog lies on steeply sloping land, its streets following the contours of the hill. The main aspect from all the dwellings is to the front where there are often impressive views down the valley. On the other hand, it seemed to me that views from the rear rooms and gardens of those backing onto the appeal site (mainly those in Maes yr Awel and the eastern part of Lon y Parc) are restricted by the slope. It is likely that the proposed solar array would be visible from several of these dwellings and would present a significantly different view to its occupiers from those currently experienced. Although occupiers might prefer the existing view I do not consider that the proposed solar array would impinge on their outlook to the extent that it would be over dominant or had an oppressive effect. Moreover, planting proposed for the boundary would eventually provide an effective screen filtering views of the site, particularly for those looking upwards to it, and reducing the amount of development which would be clearly visible.

20. The closest houses would be approximately 40m from the nearest panels. Solar arrays and associated equipment produce little noise; I do not consider that there would be any harm to the living conditions of neighbouring occupiers by reason of noise. The amenity of neighbouring uses and their occupiers would not be adversely affected by reason of visual dominance. The proposed development would not, therefore, be contrary to Strategic Policy SP2 or Policy ENV18 of the LDP.

#### *Benefits*

21. It is proposed to develop a major tourism and leisure scheme on 196ha of land to the north of the site which is in the neighbouring administrative area of Neath Port Talbot. Some of the energy generated from the proposed solar array would supply the tourism scheme thus defraying the cost of alternative energy infrastructure for that site. The tourism scheme as a whole would have significant economic development benefits for the wider valleys area where a paramount objective is reinvigoration. Whilst there have been planning permissions for leisure and tourism proposals in the past these have now expired. Since there are no concrete plans in place nor any agreement to ensure that the energy generated would be used as asserted I cannot, therefore, give this benefit any weight.



22. The Valleys to Coast Housing Association (V2C) has been involved in the development of the proposed scheme as one of its aims is to help to allay the fuel poverty which affects many households in the neighbouring area. In addition construction jobs and ten training placements for local people would have a positive affect in an area which is amongst the most deprived in Wales.
23. I have been provided with a preliminary legal agreement between Valleys to Coast Housing Ltd and Afan Energy Ltd. which contracts the latter to finance a fund for helping to alleviate fuel poverty in the County Borough, particularly those communities adjacent to the site. Afan Energy would also provide ten training and employment positions for local people and contract V2C to undertake maintenance duties. The agreement does not, however, state that it is a planning obligation, does not clearly refer to the relevant planning application nor identify the site. Furthermore, it does not provide sufficient detail on the landowner's title to the land or bind successors in title. The agreement is not, therefore, legally robust and, as I cannot be confident that the proposed benefits of the development would be implemented, they do not carry any weight. In addition the obligations would not be necessary to make the development acceptable in planning terms or otherwise meet the tests set out in the CIL regulations<sup>5</sup>.
24. As set out in Planning Policy Wales (PPW)<sup>6</sup> the Welsh Government (WG) is committed to using the planning system to optimise renewable energy generation as part of its approach to tackling climate change. Technical Advice Note 8: *Planning for Renewable Energy* (TAN8) reiterates the objectives of PPW but, having been published in 2005, pre-dates the increased implementation of solar farms. Nonetheless, TAN8 advises that other than where visual impact would be critically damaging to a listed building, ancient monument or conservation area vista, proposals for appropriately designed solar photo voltaic systems should be supported. The solar array proposed here would provide sufficient energy for about 1,375 households, off-setting approximately 2,375 ton of carbon emissions per annum. To my mind that would be a considerable contribution and one which carries much weight.

*Other matters*

25. The existing tunnel under the site, which has the potential to be used by cyclists, would be unaffected by the proposed scheme. Neither would public rights of way in the area be adversely affected. I have no evidence that the proposal would harm the health of those living in the area, cause a significant reduction in house prices or deter visitors to the area. The potential effect on ecological interests has been assessed and would be thoroughly addressed through the conditions imposed. Consultation on the scheme was above the statutory requirement.

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<sup>5</sup> The Community Infrastructure Levy Regulations 2010, reg. 122(2)

<sup>6</sup> PPW edition 7 paragraph 12.8.8

26. I was shown the children's area at the end of Maes yr Awel during my visit; the perimeter of the appeal site would be close to this. It seemed to me, however, that the proximity of the landscaping in this location would successfully screen much of the solar array. Although the planting would take many years to become fully mature it would have some effect after a few seasons. It is a requirement of this decision that the developed area be securely fenced. As far as I am aware, however, solar panels and their mounts are not dangerous; at some solar farms the land between the panels is used as grazing land for sheep. Any equipment with the potential to cause hazard would be securely enclosed in small buildings. It would not be necessary, therefore, to curtail activities at the children's area. Neither do I consider that it would be severely affected by the development or become a less pleasant place, especially once the planting had become established.
27. The feasibility and viability of the proposed scheme, including whether normal weather conditions in the area would support such a development, are matters for the developer and operator. If, following construction, the solar array ceased to produce electricity a further requirement is that it should be removed. In any event it would be taken away at the end of 25 years. The removal of the solar array and the remediation of the site will be carried out in accordance with a scheme approved by the Council, the expense being borne by the operator.
28. I noted the existing wind turbines in the area and am aware of the locations of further wind farm development. Although solar arrays and wind turbines are both renewable energy development they have such different forms that the presence of the wind turbines has had little bearing on my decision in this case.

#### *Conditions*

29. In the light of Circular 16/2014 *Planning Conditions for Development Management* I am imposing conditions as discussed at the hearing. These will limit the life of the solar farm to no longer than 25 years and will ensure that, following its cessation, the land is returned to a reasonable condition in order to protect the appearance of the landscape. The Council suggested a condition requiring panels to be repaired or replaced if they ceased to operate. To my mind the failure of individual panels would not be noticeable. If, however, the solar array as a whole stopped producing electricity for a considerable period its presence would no longer be justified by its renewable energy benefit. It would have to be removed, also, in order to prevent the site deteriorating and becoming unsightly or unsafe. A further condition allows the Council to monitor the output from the solar farm in order to determine whether, and if so for how long, it has stopped generating electricity. The submission of details of plant, machinery, fencing and security equipment will protect the appearance of the area. It is not necessary in the interest of visual amenity for the arc of camera coverage to be provided and I have not, therefore, included this requirement.
30. The approval of a Construction Environment Management Plan (CEMP) will protect biodiversity interests on the site during the construction of the solar farm whilst the Biodiversity Method Statement will ensure their preservation, or the mitigation of any impact, until the solar farm is removed at the end of its life. As Japanese Knotweed has been identified nearby a condition is necessary to ensure its safe treatment and removal.

31. Landscaping will be essential to soften the edges of the development, mitigating its effect on the appearance of the surrounding area. A scheme has been submitted but there is some doubt as to how successfully the proposed planting would establish, particularly in the vicinity of the blanket bog. Consequently, it is necessary to require further details.
32. Highway safety on the roads around the site during construction and decommissioning will be protected through the approval and adherence to a Construction Traffic Management Plan and a site restoration scheme. Conditions in respect of drainage, pollution prevention measures and soil management will protect the safety and amenity of nearby occupiers and the wider environment. The results of a preliminary site investigation in respect of coal mining activity were submitted with the planning application. As the two mine entries are no longer within the development site it is not necessary to require further investigation. In the interests of safety I am imposing a condition requiring any land instability problems which come to light to be remediated. The archaeology condition is necessary to mitigate the effect of the development on any archaeological interests.

### **Conclusions**

33. The proposed solar array would not adversely affect the amenity of neighbouring uses or their occupiers. Although there would be some detriment to the character and appearance of the surrounding landscape it would not be to such an extent as to be significant. With regard to the neighbouring SLA the proposed development would not be entirely consistent with protecting the setting of that area. The energy generated by the scheme would make a worthwhile contribution to national targets, however, such as to outweigh the minor detriment caused to the landscape and the slight inconsistency with some LDP policies. I am unable to give weight to the intended social and economic advantages as the flawed legal agreement does not provide adequate assurance that these would be implemented. I have taken all the matters raised into consideration but not found any compelling reasons to dismiss the appeal.
34. For the reasons given above I conclude that the appeal should be allowed.

*Siân Worden*

Inspector

**APPEARANCES**

FOR THE APPELLANT:

Mark Farrar	The Urbanists
Liam Hopkins	The Urbanists
John Campion	AJA
Nigel Draper	Valleys to Coast Housing Association
Steve Curry	Valleys to Coast Housing Association
Clive Mishon	Landowner
Rob Currie	Marcol Afan Energy

FOR THE LOCAL PLANNING AUTHORITY:

Philip Thomas BA	Principal Planning Officer, Bridgend CBC
Simon White Dip LA, Dip UD (Dist), MA, CMLI	White Consultants

INTERESTED PERSONS:

Allan Reid MRTPI (retd)	Local resident
Lynn Reid	Local resident

**DOCUMENTS**

Extract from Bridgend LDP Proposals Map

## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following submitted plans:
  - Site Location Plan - UG1459-001 Revision B
  - Landscape Mitigation - UG1459-002 Revision A (received 5th March 2015)
  - Site Contour Plan - UG1459-003
  - Site Features - UG1459-004
  - Project Layout - 0019-300-01B (received 5th March 2015)
  - PV Interaction with Residential Area - 0019-300-03
  - Component Elevations - 001 9-201 - 0019-205
  - Site Cross Sections - A, B and C 0019-400C
  - Typical Trench and Foundation Design
- 3) Written confirmation of the first date of transmission shall be provided to the Local Planning Authority within 1 month of the first date of transmission. No generation of electricity from the solar farm hereby permitted shall take place after 25 years from the date on which electricity is first transmitted from the site. The photovoltaic arrays and their associated ancillary equipment and buildings shall be removed from the site within a period of 6 months from the end of that period and the site restored in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority as required by condition 4.
- 4) Not later than 12 months before the cessation of the proposed solar farm, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the management and timing of works and a traffic management plan to address highway issues arising during the decommissioning period. The scheme shall be implemented as agreed.
- 5) No generation of electricity from the solar farm hereby permitted shall take place unless a monthly record is kept by the site operator of the amount of electricity generated. That record shall be made available for inspection by the Local Planning Authority at any time during normal working hours.
- 6) If the solar array hereby permitted fails to produce electricity to the grid for a continuous period of 12 months, and if so instructed by the Local Planning Authority, the solar array shall be removed from site within a period of 6 months from the end of that 12 month period. The site shall be restored in accordance with a scheme, including a timetable for the works, to be submitted to and agreed in writing by the Local Planning Authority prior to the end of the 6 month removal period. The scheme shall be implemented as agreed.

- 7) No development shall commence on site until there has been submitted to and agreed in writing by the Local Planning Authority details of all plant, machinery and buildings hereby permitted, including their external materials and finishes. The development shall be carried out in accordance with the agreed details and the agreed external materials and finishes shall be retained for the lifetime of the development, including for any repair or renewal works.
- 8) No development shall take place until there has been submitted to and agreed in writing by the Local Planning Authority details of all security fencing and cameras including of the supporting columns and the development shall not be carried out, nor the cameras operated, other than wholly in accordance with the approved details.
- 9) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environment Management Plan (CEMP: Biodiversity) has been submitted to and agreed in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
  - a. a risk assessment of potentially damaging construction activities.
  - b. the identification of "biodiversity protection zones".
  - c. practical measures (both physical and sensitive working practices) to avoid or reduce impacts during construction. These may be provided as a set of method statements.
  - d. the location and timing of sensitive works to avoid harm to biodiversity features.
  - e. the times during construction when specialist ecologists need to be present on site to oversee works.
  - f. responsible persons and lines of communication
  - g. the role and responsibilities on site of an ecological clerk of works or similarly competent person.
  - h. the use of protective fences, exclusion barriers and warning signs.

The approved CEMP - Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the agreed details.

- 10) No development shall commence until a Biodiversity Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement (which shall be informed by Chapters F (Ecology Assessment) of the Environmental Statement) shall provide details of the working methods and measures that will be adopted for the protection of, and mitigation of impact on, biodiversity (including blanket bog, protected and priority species and habitats) during construction, operation and decommissioning and removal of the development at the end of the period for which this permission is hereby granted. The statement shall be implemented as approved.
- 11) No development shall commence until an 'Invasive Non-Native Species Protocol' has been submitted to and agreed in writing by the Local Planning Authority. The 'protocol' shall detail the containment, control and removal of Japanese Knotweed on the site. The agreed 'protocol' shall be implemented from the commencement of site clearance works and throughout the period of construction.

- 12) Notwithstanding the submitted plans no development shall take place until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority.
- 13) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development works; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 14) The development shall be carried out in accordance with the Construction Traffic Management Plan prepared by (TPA) Transport Planning Associates and attached as Appendix A to Chapter E - Access and Movement Assessment to the Environmental Statement that accompanied application P/14/543/FUL. The approved Statement shall be adhered to throughout the construction period.
- 15) No development shall commence on site until a scheme for the comprehensive and integrated drainage of the site, showing how surface water and land drainage will be dealt with has been submitted to and agreed in writing by the Local Planning Authority. The agreed drainage scheme shall be implemented prior to the first date of transmission.
- 16) No development shall commence until such time as a Method Statement detailing all necessary pollution prevention measures for the operational and post operational phase of the development is submitted to and agreed in writing by the Local Planning Authority. The Method Statement shall identify as a minimum;
  - a. Any sources of pollution (including silt), potential pathways for that pollution to enter any watercourses within the vicinity of the site and appropriate pollution control measures to be implemented on site.
  - b. Full details of how any watercourses will be crossed or confirmation that this is not applicable.
  - c. Storage facilities for any oils if applicable.
  - d. Details of surface water drainage arrangements to be installed to intercept and treat contaminated surface water run-off.
  - e. Details of measures to ensure no polluting discharge from disturbed areas.
  - f. Measures for dealing with any contaminated material including excavated waste.
  - g. Details of emergency contacts.

The approved Method Statement shall be adhered to and implemented strictly in accordance with the agreed details.
- 17) Prior to any works commencing on site a soil management scheme for the construction phase shall be submitted to and agreed in writing by the Local Planning Authority. The soil management scheme shall be implemented as agreed.

- 18) If during the course of development, any land instability issues are found measures for their remediation in the form of a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved measures which shall be retained for the period agreed in the remediation scheme.
- 19) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.



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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 19/02/16

gan **P J Davies BSc (Hons) MA MRTPI**  
Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 26.04.16

## Appeal Decision

Site visit made on 19/02/16

by **P J Davies BSc (Hons) MA MRTPI**  
an Inspector appointed by the Welsh Ministers  
Date: 26.04.16

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**Appeal Ref: APP/F6915/A/15/3140007**

**Site address: Land adjoining 22 Sycamore Close, Litchard, 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 planning permission.
  - The appeal is made by Mrs Morwen Powell against the decision of Bridgend County Borough Council.
  - The application Ref P/15/333/FUL, dated 19 May 2015, was refused by notice dated 23 July 2015.
  - The development proposed is single storey split level dwelling with double garage.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. These are the effect of the proposal on:
  - a) the character and appearance of the area,
  - b) the living conditions of adjoining and future occupants, and
  - c) whether the development would result in any unacceptable risks having particular regard to ground stability.

### Reasons

#### *Character and appearance*

3. The appeal site is situated within the settlement boundary as defined by the Bridgend Local Development Plan (LDP) and where LDP Policy COM3 is generally supportive of residential development providing the land is not protected by the LDP for an alternative or existing use. My attention is drawn to LDP Policy COM7 which seeks to protect social and community facilities. However, the appeal site is privately owned and whilst it is unenclosed which undoubtedly leads to some informal recreational use, this is not a use that appears to take place lawfully or which could be guaranteed in the long term. The proposal would not therefore result in the loss of a social or communal facility and this policy is not therefore particularly relevant. For similar reasons, LDP Policy COM13 which relates to the provision of accessible natural green space is also not relevant.
-

4. The appeal site is in an established residential area and comprises part of a steeply sloping woodland area adjacent to the head of a cul-de-sac. It is subject to a Tree Preservation Order and, in the context of the built-up area it provides visual relief, making an important contribution to the attractive and verdant qualities of the locality.
5. Despite being low height and split level in design, the proposed dwelling would be visibly unrelated to the consistent housing form on Sycamore Close, which is predominantly made up of semi-detached pairs with a largely uniform architectural style and appearance. There would be sufficient visual gaps on either side and behind to ensure that it would not appear cramped, but unlike the prevailing housing pattern along Sycamore Close, the proposed dwelling would occupy an elevated position with decking extending close to the road. The proposed garage would also be particularly close to the highway. It would therefore be a prominent development, especially in winter months, when the trees are not in leaf. Given the proximity of some of the retained trees to the proposed dwelling I also consider there to be a real possibility of these trees affecting sunlight and daylight reaching the dwelling as well as drawing other nuisances such as falling leaves and branches. This would lead to pressure to fell or lop trees which would further accentuate the prominence of the development.
6. In these circumstances, not only would the proposal intrude harmfully into an attractive area of woodland, the stark contrast in the design and siting of the proposal would be readily apparent in the street scene. As a consequence it would stand out as a visually discordant form of development out of character with its surroundings. This would be contrary to one of the objectives of LDP Policy SP2 which, amongst other things, requires development to have a design of the highest quality possible whilst respecting and enhancing local character and distinctiveness.

#### *Living conditions*

7. The southern side elevation of the proposed dwelling and an outside decking area would be sited close to the common boundary with 22 Sycamore Close. There would be windows on this elevation, although the appellant confirms that the first floor bedroom window as presently shown on the plans is erroneous, it does appear on the floor plan and the elevation drawing. Even so, I consider that because of the elevated nature of the proposal, and the directness of the view from the living area windows and the decking, there would be a strong impression of perceived overlooking that would result in an uncomfortable relationship with the neighbouring house No 22. Given that a frosted screen would need to be sufficiently tall to remove this harmful effect, I do not consider that this would be an acceptable design solution. Similarly and as previously explained, the proximity of the trees might lead to pressure to lop or fell and in any event, the screening afforded by them would be significantly less in the winter.
8. The plot build ratio is generous and the dwelling would lie in fairly large grounds. However, the steeply sloping and heavily wooded nature of the curtilage would severely restrict its function as useable outside space. Although the decking areas would provide some space, they would be unsuitable for use such as children's play and they would be for the most part overshadowed by trees. The proposal is for family sized accommodation and in my view the substandard provision of outside space would result in a cramped and confined living environment to the detriment of the living conditions of future occupiers.

9. For the above reasons, the proposal conflicts with one of the objectives of LDP Policy SP2 to ensure that development does not adversely affect the viability and amenity of neighbouring uses and their users/occupiers.

#### *Ground stability*

10. A geotechnical desk study report confirms that conventional style soakaways are unlikely to be able to be accommodated on the site and that a 'green roof' solution is preferred. However, no details have been provided in this regard and I do not therefore know if the proposal would provide for satisfactory and safe drainage. In addition, because of the topography, significant excavation and earthworks are likely to be involved in the dwelling's construction. Information from the Council's structural engineering section indicates that there is likelihood the site contains deposited landfill from the housing development that has taken place in the area. Although the geotechnical report concludes that the site is considered developable subject to a suitably designed engineering solution, such as 'mini-piles', the report is largely based on a site walkover and a desk top review rather than any detailed site investigations. In my view, it does not adequately demonstrate that the site can be developed safely and the proposal therefore runs counter to the aims of LDP Policy ENV7 which only permits development that would not cause unacceptable risk of harm due to a number of factors, including land instability.

#### **Other Matters**

11. An ecological appraisal of the site has been carried out, and although it recommends further survey work in relation to some species, there is little counter evidence to suggest that the site is particularly rich or important as a wildlife habitat. I acknowledge that there would be some local impacts, particularly taking account of the removal of some trees, however a number of mitigation and enhancement measures are proposed. Overall I consider that any effects on local wildlife would not be serious and this matter is not therefore a determining issue in this appeal.
12. Similarly, whilst I note the comments of the highway authority that the width of the proposed off street parking spaces is inadequate, it seems to me that this is a minor design matter which is capable of resolution. It is not therefore fundamental to this decision especially as I have found the proposal unacceptable for other reasons.
13. My attention is drawn to other appeals and planning permissions, but each case will invariably have its own particular set of circumstances, and I have little information to demonstrate that any of these case compare directly with the proposal before me. I have therefore determined the appeal on its own merits.
14. I have had regard to all the concerns of local residents and their representatives, including matters such as property devaluation and construction disturbance. However, these are not material considerations to which I can attach any significant weight.

#### **Conclusions**

15. Although I have found the proposal to be acceptable in some respects, the harmful factors that I have identified in respect of the main issues are overriding considerations. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

*P J Davies* **INSPECTOR**

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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 19/02/16

gan **P J Davies BSc (Hons) MA MRTPI**  
Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 07/04/16

## Appeal Decision

Site visit made on 19/02/16

by **P J Davies BSc (Hons) MA MRTPI**  
an Inspector appointed by the Welsh Ministers  
Date: 07/04/16

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**Appeal Ref: APP/F6915/A/15/3140154**

**Site address: Mayfield, Laleston, Bridgend CF32 0HN**

**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 Eric & Pat Hughes against the decision of Bridgend County Borough Council.
  - The application Ref P/15/512/OUT, dated 23 July 2015, was refused by notice dated 23 October 2015.
  - The development proposed is demolition of 2No. dwellings and erection of 1No. replacement dwelling and garage.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is made in outline with all matters reserved. Indicative details of scale, access and layout are provided which I have taken into account.

### Main Issues

3. 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*

4. The appeal site is within a green wedge defined in Policy ENV2 of the Bridgend Local Development Plan (LDP). Planning Policy Wales Edition 8 (PPW) advises that new buildings in a green wedge is inappropriate development unless, amongst other things it is for limited replacement of existing dwellings.
-

5. The proposal would replace two existing dwellings albeit not on their footprint. Instead it would be located a short distance in front, more or less in line with the existing access into the site. Although not in exactly the same place, I am satisfied that the proposal would not be so far removed from the existing dwellings as to constitute a new dwelling on a different site, and it therefore can be considered as a replacement in principle.
6. However, it would replace two modest low lying buildings with a significantly larger two storey house and a garage. The Council estimate that the existing footprint of the bungalows is approximately 135 square metres which would increase to 360 square metres. In addition, the two storey height of the proposal would be reflected in a development of significantly greater volume than which presently exists on the site. I note that former nursery buildings would also be removed from the site but these are similarly small scale and for the most part appear to lie outside the application site. In any event, even if I were to give weight to the removal of these buildings, the proposed dwelling and garage would be significantly more intrusive in overall height and scale.
7. Whilst scale and siting are reserved matters, the appellants' intentions for the site are clearly set out in the information that is before me and I have determined the appeal on that basis. For the above reasons, I consider that the proposal would not be a limited replacement in the context of PPW, and it would therefore be inappropriate development.

#### *Very Exceptional Circumstances*

8. 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.
9. The appellant refers to the site as having brownfield status and I do not generally disagree that part of the site falls to be considered as such. Even so, not all previously developed land will be suitable for development, and in this case the scale of the proposed house would be clearly visible in the green wedge and harmfully erode its openness. The existing dwellings have been identified as needing attention however this could be resolved by maintenance rather than permanent visual harm by way of the appeal proposal. I also acknowledge that the proposal might not have any significant impact on existing trees, hedges or biodiversity interests and given that all matters are reserved I do not doubt that a dwelling of imaginative and sustainable design and of high standards of construction could be developed for the site. Nonetheless, this could be said for many proposals in the green wedge. These are not therefore very exceptional circumstances.
10. Having regard to all the evidence that is before me, including the lack of public objection, I find no other considerations that clearly outweigh the harm by reason of inappropriateness and very exceptional circumstances do not exist. The proposal therefore conflicts with the objectives of LDP Policy ENV2 and PPW.

#### *Character and Appearance*

11. The appeal site occupies a sensitive rural location outside settlement boundaries and in the countryside for the purposes of LDP Policies PLA1 and ENV1, where new

development is subject to strict control. It is also within a Special Landscape Area (SLA) defined by LDP Policy ENV3.

12. The proposal would replace two modest low lying buildings set partly behind a substantial hedge and to the forefront of trees. In siting, height and scale, these buildings sit relatively unobtrusively in the landscape. However, the proposal would be a substantial two storey building on a more exposed and prominent part of the site. In particular it would be positioned close to the site access and it would be visible across undeveloped fields from the main road. Combined with the garage, the proposal would be a substantial and prominent intrusion of built form that would encroach into the landscape and harmfully erode the openness of this part of the green wedge.
13. The appeal site does not have a close physical or visual relationship with the settlement or any particular group of buildings. It is close to one other dwelling but being on the east side of a lane, it is clearly distinct from the linear housing pattern along the A473 to the west. To the south and east of the site this area is predominantly characterised by open undulating fields that stretch for some distance without significant visual interruption. Owing to its siting and scale, the proposal would intrude into this attractive rural landscape and it would fail to retain the character and distinctiveness of the SLA.
14. Taking all of the above into consideration, I conclude that the proposal would be harmful to the character and appearance of the surrounding area contrary to the objectives of LDP Policies ENV1, ENV2 and ENV3.
15. My attention is drawn to other appeals nearby and in another part of the County. However, these proposals are not directly comparable in siting or scale to this appeal which I have determined on its individual merits.
16. For the above reasons and having regard to all other matters raised, I conclude that the appeal is dismissed.

*P J Davies*

**INSPECTOR**

## APPENDIX D



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

### Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 07/03/16

gan James Ellis LLB (Hons) Cyfreithiwr  
Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 19.04.16

### Appeal Decisions

Site visit made on 07/03/16

by James Ellis LLB (Hons) Solicitor  
an Inspector appointed by the Welsh Ministers  
Date: 19.04.16

#### Appeal Ref: APP/F6915/C/15/3139097 (Appeal A)

Site address: Land at Dan Yr Eglwys Farm (formerly Ty Newydd Farm), Bettws, Bridgend CF33 8TJ

**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 Act").
- The appeal is made by Mrs Paula Hughes against an enforcement notice ("the EN") issued by Bridgend County Borough Council.
- The Council's reference is ENF/152/15/C.
- The EN was issued on 22 October 2015.
- The breach of planning control as alleged in the EN is without planning permission the erection of a two storey garage with storage above.
- The requirements of the EN are:
  - i) Demolish the garage and storage area on the land edged red on the attached plan.
  - ii) Remove any materials from the land which result from the requirements described in sub paragraph 5i above.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Act.

**Summary of decision: The appeal is dismissed and the EN is upheld with variation arising from the ground (f) appeal.**

#### Appeal Ref: APP/F6915/A/15/3137898 (Appeal B)

Site address: Land at Dan Yr Eglwys Farm (formerly Ty Newydd Farm), Bettws, Bridgend CF33 8TJ

**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 Act against a refusal to grant planning permission.
- The appeal is made by Mrs Paula Hughes against the decision of Bridgend County Borough Council.
- The application Ref P/15/568/FUL, dated 25 August 2015, was refused by notice dated 19 October 2015.
- The development proposed is the retention of a two storey garage with store above within the curtilage of Dan Yr Eglwys Farm.

**Summary of decision: The appeal is dismissed.**

#### Procedural matters

1. The appeal form completed by the appellant in respect of Appeal A refers to appeals being made on grounds (a) and (g) of section 174(2) of the Act. The appeal under ground (a) is that planning permission should be granted for what is alleged in the EN

and the appeal under ground (g) is that the time given to comply with the EN is too short. However, the grounds of appeal submitted with the appeal form make it clear that the appellant was seeking to appeal on ground (f) of section 174(2), rather than ground (g). The appeal on ground (f) is that the steps required to comply with the requirements of the EN are excessive and that lesser steps would overcome the Council's objection. I shall therefore proceed on the basis that an appeal has been made on ground (f) of section 174(2) of the Act rather than ground (g).

2. As I saw from my site visit, the building that is the subject of the EN in Appeal A is an incomplete version of that for which planning permission is sought in Appeal B. The Council's reasons for issuing the EN in Appeal A are the same as its first reason for refusing the application the subject of Appeal B. I shall therefore deal with the ground (a) appeal in Appeal A and Appeal B together, whilst noting that the Council's second reason for refusing the application the subject of Appeal A was not referred to in its reasons for issuing the EN.
3. The appeal site has been the subject of a previous appeal decision Ref: APP/F6915/A/12/2174140 dated 31 July 2012 relating to the Council's refusal of application Ref P/12/90/FUL. The scheme before the previous Inspector was a detached garage and store and inclusion of additional land within curtilage of dwelling. The decision is recent and the issue which the Inspector had to consider is the same as one of those which will be before me when I come to consider the ground (a) appeal in Appeal A, and Appeal B. I therefore give considerable weight to the previous appeal decision (in which the Inspector dismissed the appeal before her) as a material planning consideration.
4. On 22 November 2012, the Council granted planning permission for a detached garage and store and the inclusion of additional land into curtilage of dwelling under Ref P/12/714/FUL. The information before me indicates that the permitted garage and store would be lower in height than that the subject of the appeals before me and that it would also not be as long. Consequently, it would be smaller in scale. The permitted scheme shall be borne in mind by me in my deliberations.

## **APPEAL A – ground (a) appeal, and APPEAL B**

### **Main Issues**

5. There is a common main issue to both appeals and that is the effect of the garage and store on the character and appearance of the area. A second main issue that relates to Appeal B is whether the appeal site is safe and stable to accommodate the development having regard to coal mining legacy issues.

### **Reasons**

6. The building the subject of the appeal would serve a dwelling which is located on the western side of Bettws and accessed from Dan-Yr-Eglwys. The dwelling appears to have been constructed recently and I am advised that it received outline planning permission in 2009 and reserved matters approval in 2012. The building the subject of the appeal is within the curtilage of the dwelling, but some distance away from it to the north, and close to the western boundary of No 4 Dan-Yr-Eglwys.
7. The building is a two storey triple garage with a store above. The building has a pitched roof which, I am told, reaches about 6.5 metres at ridge height. I am advised that the structure has a length of about 10 metres and a depth of about 6.9 metres. The storage area would be accessed by an external staircase (of about 1 metre in



width) attached to the northern side elevation of the building. The front (western) elevation of the building has three openings where garage doors would be located. The western elevation of the building would be finished in stone, whereas the other three elevations would have render. The roof of the building has a slate finish and three velux rooflights have been installed in the west facing roof plane. Two windows have been fitted in the southern elevation of the building, one at ground floor level and one at first floor level.

8. I am advised that the building has the same footprint as that which was the subject of the previous appeal decision. However, the evidence indicates that it would be one metre lower in height than that which was before the previous Inspector. The scheme before the previous Inspector also differed from that before me in that the previous scheme would have had three pitched roof dormer windows on its western elevation to provide daylight to the first floor storage area, whereas the scheme before me has rooflights.
9. The previous Inspector notes that the site of the building before her lies partly outside the settlement limits for Bettws. She says that the boundary wall of No 4 Dan-Yr-Eglwys forms a logical physical buffer to the built up area and that, notwithstanding that the site is partly within the approved settlement boundary, the site has a strong correlation with the countryside. My colleague notes that the approved dwelling (now built) would have a fundamental impact on the context of the appeal site which would offset some of the effects of the scheme before her on the nature and character of the surrounding area. She considers that a relatively small extension of the dwelling curtilage and an associated domestic building of appropriate scale and design would be acceptable on the appeal site. After carrying out my site visit, I can only concur with what my colleague said.
10. My colleague went on to find that in this sensitive location on the settlement edge the proposal before her would be of a scale and appearance that would intrude significantly into the rural character of the countryside. She says that although the dwelling itself would change the context of the site (as indeed it has), owing to the distances, the garage would not be closely associated with it in a visual sense, and that the garage would therefore stand out as a large modern building in its own right. She adds that the proposed stonework would do little to blend the development with the housing behind but that could be addressed by a planning condition. The previous Inspector went on to say that owing to its height and scale, the array of dormers and triple garage doors, the proposal would have an overtly urban appearance and form that would result in a significant encroachment of built form that would fail to sympathetically respect its transitory location between the settlement and the rural area. She found that, for these reasons, the proposal before her would be harmful to the character and appearance of the area.
11. I now wish to consider whether the scheme before me is sufficiently different from that before the previous Inspector so as to overcome the harm that was identified by her. From the evidence before me, it seems that there are two differences between the scheme before me and that before the previous Inspector. As I have indicated, one of these is a reduction in height of the building from 7.5 metres to 6.5 metres and the other is the use of rooflights, rather than dormer windows, to light the storage area. The reduction in height is noted. However, in my view, this would do little to reduce the scale of the building given that it would still have a depth of 6.9 metres and, more importantly, a length of 10 metres. To my mind, the scale would be consistent with that of a compact dwelling, rather than that of a domestic outbuilding.

The replacement of three dormer windows with rooflights would be a welcome improvement. However, in my opinion, the garage, with its limited reduction in scale and triple garage doors would still be read as a large modern building of urban appearance and form.

12. The appellant says that the garage blends in with nearby development and that its visual impact is local and minimised. I disagree with this. In visual terms, the garage is seen as a large modern building apparently standing on its own outside a physical barrier to the built up area to Bettws, namely the boundary wall to No 4 Dan-Yr – Eglwys. This is not only noticeable from nearby properties, but also from more distant viewpoints to the west. Landscaping could mitigate some of the impact of the garage/store but, in my view, the building would still be recognisable as a large modern building out of keeping with its sensitive location on the settlement edge.
13. As mentioned by the appellant, the planning permission for the dwelling did not remove permitted development rights and the Council has accepted the principle of development on the appeal site as per planning permission Ref P/12/714/FUL. There are limitations on the scale of development allowed under permitted development rights, and the permitted garage/store would be considerably smaller in scale than that which is the subject of the appeals before me. I am told that the permitted scheme would be 6 metres in height, 6.9 metres in depth, and 7.85 metres in length. It would have two garage doors in its western elevation, rather than three. As such, it would have the scale of a domestic outbuilding and this, together with two garage doors rather than three, would not have the same adverse impact on the character and appearance of the area that the scheme before me has.
14. Overall, I therefore find that the garage/store the subject of the appeals before me will result in significant harm to the character and appearance of the area contrary to policies ENV1 and SP2 of the Bridgend Local Development Plan 2006-2021 ("the LDP"). Amongst other matters, the policies seek to ensure that development: respects and enhances local character and distinctiveness, and landscape character; and that it is of appropriate scale, size and prominence.
15. The appeal site is in a Development High Risk Area when it comes to mining legacy issues. When consulted on the planning application the subject of Appeal B, the Coal Authority objected to the application, notwithstanding its retrospective nature, because the appellant was not able to demonstrate that the application site is safe and stable to accommodate the development. The appellant has highlighted that previously the Coal Authority was able to withdraw its objection in relation to application Ref: P/12/90/FUL subject to the imposition of an appropriately worded planning condition. This would be problematical in the present case given that the development has already taken place. However, the planning permission granted by the Council on 22 November 2012 pursuant to application Ref: P/12/714/FUL does not have a coal investigation condition attached to it. In effect the 2012 permission could be implemented without a coal investigation being carried out. Having regard to this fallback position, I consider that it would not be appropriate to use the Coal Authority's objection as a reason for refusing Appeal B.
16. There are arguments in favour of the development. For example, I note that the scheme would comply with some LDP policies and, given its location in relation to neighbouring properties, I consider that the building would not impact on the residential amenity of the occupiers of the neighbouring properties. The appellant has also drawn my attention to photographs of other sites within the County Borough where large garages have been erected. Limited information has been provided about

these and, generally, it is not possible to reasonably compare them with the appeal development. I am, however, advised by the Council that one triple garage at Brynmenyn is within a settlement boundary and that it was approved in 2005 prior to the adoption of the Bridgend Unitary Development Plan, which preceded the LDP. Another site is said to be at Heol Spencer, Coity where the building was constructed in 1999. I therefore give little weight to the garages shown in the photographs. In my opinion, all the points in favour of the development are heavily outweighed by the cogent harm to planning objectives that I have found.

17. Other matters raised by interested parties concern the effects of the development on drainage and highways, the possible breach of planning conditions relating to the erection of the dwelling, and the possible use of the development as a dwelling. There is no detailed evidence before me to demonstrate that the development would have a material adverse impact on either drainage or highways. The compliance or otherwise with planning conditions relating to the dwelling is not a material planning consideration to which I can attach weight. Use of the building as a dwelling would require planning permission and any application would be dealt with on its individual merits. I therefore give little weight to the points raised by interested parties.

**Conclusion – Appeal A - ground (a) appeal, and Appeal B**

18. From the evidence before me, and for the reasons given above, the appeal on ground (a) in Appeal A, and Appeal B must therefore fail.

**APPEAL A - ground (f) appeal**

19. Ground (f) is the appropriate ground where an appellant seeks to argue that the steps required by the EN exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by such breach.
20. In this case, the appellant is saying that there is no need to demolish the garage/store as it can be altered to comply with the scheme granted planning permission by the Council under Ref: P/12/714/FUL, and that only material resulting from such work need be removed from the land.
21. The Council, in response, says that even if the implementation of that scheme could be required, it is questionable whether the building would be capable of such conversion given that the roof would have to be removed as well as the northern wall demolished, the garage doors removed and the western elevation altered, and the eastern and southern walls reduced to the dimensions of the approved structure. The Council considers such works to be tantamount to complete demolition.
22. I note what the Council says but it is clear that some of the existing structure of the garage/store could be incorporated into the smaller building the subject of planning permission Ref: P/12/714/FUL. It seems to me that a requirement to modify the garage/store so that it complies in all respects with planning permission Ref: P/12/714/FUL would satisfy the requirements of section 173 of the Act. In this regard, I note that section 173(3) and (4) provide that a breach can be remedied by making a development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land.
23. Consequently, I consider that an appropriate course of action would be to express the requirements of the EN in the alternative, giving the appellant the option of either complete demolition, or modification to comply with permission Ref: P/12/714/FUL.

I shall vary the EN accordingly. To this extent, therefore, the ground (f) appeal succeeds.

**APPEAL A - Formal Decision**

24. I direct that the EN be varied by deleting the requirements set out in paragraph 5 of the EN and replacing them with the following:

"EITHER

5.1

- i) Demolish the garage and storage area on the land edged red on the attached plan.
- ii) Remove any materials from the land which result from the requirement described in sub paragraph 5.1 i) above.

Time for compliance: 3 months after the notice takes effect.

OR

5.2

- (i) Modify the unauthorised two storey garage/store constructed on the land so that it completely complies in all respects with the terms (including conditions and limitations) of planning permission Ref: P/12/714/FUL granted by the Council on 22 November 2012 and the plans approved thereunder.

- (ii) Remove from the land all materials resulting from the modification.

Time for compliance: 3 months after the notice takes effect."

25. Subject to this variation I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

**APPEAL B- Formal Decision**

26. I dismiss the appeal.

*James Ellis*

**Inspector**