

4. Penderfyniadau Apeliadau/Appeal Decisions

05-01-2023 - 01-02-2023

#	Cyfeirnod yr Apel / Appeal Reference	Cais / Gorfodaeth / Linked Application / Enforcement	Apeliwr / Appellant	Rhesymau dros apelio / Grounds for Appeal	Lleoliad / Location	Penderfyniad Allanol / External Decision	Dyddiad Penderfyniad Allanol / External Decision Date
1	CAS-01854-W2J4N9	A210041	Mrs S V Evans Davies	Against refusal of planning permission	Llwynteg Fields, Blaenplwyf, SY23 4DH	Allowed with Conditions	23-01-2023

5. Apeliadau a Dderbyniwyd/Appeals Received

05-01-2023 - 01-02-2023

#	Cyfeirnod yr Apel / Appeal Reference	Cais / Gorfodaeth / Linked Application / Enforcement	Apeliwr / Appellant	Rhesymau dros apelio / Grounds for Appeal	Lleoliad / Location	Penderfyniad Allanol / External Decision	Dyddiad Penderfyniad Allanol / External Decision Date
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Appeal Decision

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 23-01-2023

Appeal reference: CAS-01854-W2J4N9

Site address: Llwynteg Fields, Blaenplwyf, SY23 4DH

- 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 Mrs S V Evans Davies against the decision of Ceredigion County Council.
 - The application Ref: A210041, dated 15 January 2021, was refused by notice dated 20 December 2021.
 - The development proposed is outline planning permission with all matters reserved except access for the erection of three open market dwellings with associated landscaping, vehicular access, parking and ancillary works.
 - A site visit was made on 24 November 2022.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 3No. open market dwellings and associated works at Llwynteg Fields, Blaenplwyf, SY23 4DH, in accordance with the terms of the application, Ref: A210041, dated 15 January 2021, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of development set out in the above decision letter template is taken from the Application Form. However, the development is described on the Council's Notice of Decision as the: "*Erection of 3 open market dwellings and associated works*". The appellants stated on the Appeal Form that there has been no agreement to the change of description, although it has since been clarified that there is no objection to the appeal being considered on the basis of the revised description.
3. Given that the revised description of development is consistent with that outlined on the Application Form so far as it references the erection of three open market dwellings and associated works, I am satisfied that there is no prejudice in the appeal being determined on the basis of the revised description. In coming to this conclusion, I have been particularly mindful that the application is made in outline with all matters other than access, including the landscaping matters referred in the description of development on the Application Form, reserved for subsequent determination.

4. The appellant submitted amended plans through the planning application process. The Council determined the application on the basis of the amended plans and, in the interest of fairness, I shall determine the appeal on the same basis.
5. A revised unilateral undertaking, submitted under the provisions of Section 106 of the above Act, was submitted at the '*final comments*' stage of the appeal process. The Council has been afforded the opportunity to comment on this document and has confirmed that, amongst other things, the obligation makes adequate provision for a contribution towards affordable housing. The Council has therefore withdrawn its second reason for refusal. I have considered such matters and I am satisfied that the contribution towards affordable housing is necessary and that the undertaking otherwise meets the legislative and policy tests for planning obligations. I shall therefore attribute it due weight in the determination of the appeal and confine my reasoning to the principal matter of dispute.

Main Issue

6. This is the effect of the proposed development upon pedestrian and highway safety.

Reasons

7. The appeal relates to a parcel of land located off the eastern flank of the A487 trunk road in Blaenplwyf. The site slopes gently away from the A487, towards open agricultural land. The site is bound to the south by established residential properties, known as Tegfan and Dolwerdd, and by a stone barn to the north. There are also a number of other residential properties within the wider vicinity. These include a row of 4No. terraced residential properties known locally as Llwynteg Terrace which are located opposite the appeal site, on the western side of the A487.
8. The appeal proposal seeks planning permission for 3No. open market dwellings and associated works. Whilst internal layout remains a reserved matter, the submitted '*Site Plan 3*' [Ref: 496/04 B, received by the Council in September 2021] indicates that the development would comprise 3No. detached dwellings, each served by off street parking accessed via an internal estate road leading directly from the A487. Off-street parking arrangements for a further 4No. vehicles are also proposed to satisfy a need said to be associated with some of the existing dwellings located at Llwynteg Terrace.
9. The Council objects to the proposed development on the basis that it would fail to provide adequate access arrangements to service the proposed development. The Council's position in this respect appears to be heavily influenced by the representations submitted by the Welsh Government Trunk Road Agency (WGTRA) which has outlined a series of '*holding objections*'. These objections relate to a perceived lack of information regarding the proposed parking arrangements and the resulting implications for achieving sufficient visibility. Concerns were also raised in respect of proposed maintenance arrangements, the safety of pedestrians and refuse collection arrangements.
10. With respect to the issue of parking, concerns have been raised regarding the fact that vehicles are frequently parked "*off the carriageway*" along the frontage of the appeal site. These vehicles are said to be associated with the residential use of three of the existing residential properties located along Llwynteg Terrace. I have no reason to dispute the fact that vehicles associated with these dwellings park in this location, although it is worth noting that the evidence submitted with the appeal, and indeed the observations made at the time of my site visit, confirms that such parking arrangements actually take place on the pedestrian footway. In any event, it is submitted that such longstanding arrangements have implications for the proposed development as the continued parking of vehicles on the footway fronting the appeal site would be likely to obstruct necessary visibility from

the site access. Conversely it is alleged that, should the existing parking arrangements cease as a consequence of the development, the vehicles would be displaced without alternative arrangements.

11. In recognition of such concerns, the appellant has agreed to make provision for 4No. off-street parking bays within the appeal site. For the avoidance of any doubt, this is in addition to the parking arrangements associated with the proposed dwellings. The proposed provision of the additional 4No. parking bays is based upon the appellant's own parking surveys that indicate that no more than two vehicles park on the pedestrian footway outside the front of the appeal site at any given time. These findings are not inconsistent with the situation at the time of my site inspection, although other secondary evidence does suggest that up to three cars park in such locations. No other cogent site specific surveys or assessments have been submitted to counter this evidence.
12. Despite this, the Council and the WGTRA continue to assert that the development would make insufficient parking provision to cater for the needs of the occupiers of the existing dwellings at Llwynteg Terrace. In particular, they submit that provision should be made for 1No. space per bedroom for each of the 3No. terraced properties at Llwynteg Terrace without existing off-street parking facilities. This requirement is taken from the Council's adopted Supplementary Planning Guidance (SPG) document entitled '*Ceredigion County Council Parking Standards*' (2015) and amounts to a need for 9No. parking spaces. The WGTRA also contends that a further parking space should be provided for visitors to those existing properties.
13. In accordance with the provisions of the aforementioned SPG, the WGTRA has reviewed the parking requirements in light of the site's sustainability credentials and concluded that there is no justification for a reduced parking requirement in this case. It therefore maintains that 10No. off street parking spaces should be provided within the appeal site to cater for the needs of the occupiers of the properties at Llwynteg Terrace. A planning condition that would require 10No. parking spaces to be provided as mitigation for the displaced vehicles, and to minimise the risk of vehicles parking within the visibility splay of the proposed access, has therefore been submitted as part of the WGTRA's written submissions.
14. In considering such matters it is relevant to note that Welsh Government Circular 016/2014: *The Use of Planning Conditions for Development Management* (2014) requires planning conditions to, amongst other things, be '*necessary*' and '*fairly and reasonably related to the development permitted*'. In this case, whilst the access proposed would displace vehicles that have historically parked along the pedestrian footway, the development would not result in the loss of any formal parking spaces. As such, and bearing in mind the fact that planning conditions should not be used to remedy existing issues, I find that the suggested condition requiring the provision of off-street parking spaces to serve an existing need to fail to satisfy the above policy tests. I note the concerns regarding the risk of vehicles continuing to park on the highway fronting the appeal site. However, given that the Council has sufficient powers under separate legislation to control such matters, I am not persuaded that the development would materially undermine existing levels of highway safety.
15. With regards the other issues, the WGTRA has since confirmed that issues of maintenance and adoption could be adequately addressed through the covenants of the unilateral undertaking, other legislative provisions and the use of planning conditions. I have no reason to come to an alternative conclusion on such matters. There appears to be a dispute regarding the issue of pedestrian movements. However, the development would be modest in scale and would be served by a pedestrian footway. As such, and bearing in mind the fact that I have found above that a planning condition requiring the

provision of 10No. off-street parking spaces to serve dwellings located on the opposite side of the road would fail to meet the policy tests, I do not consider the provision of uncontrolled crossings to be necessary. Refuse arrangements could be addressed through the use of planning conditions. Such matters do not therefore justify the withholding of planning permission.

16. Therefore, based on the foregoing analysis, I find that the proposed development would not represent a material risk to pedestrian or highway safety, subject to the imposition of planning conditions. The development would therefore be broadly compliant with the thrust of the adopted Ceredigion Local Development Plan 2007- 2022 (Adopted 2013) (LDP), including Policies DM03, DM05, DM06 and DM09. For the same reasons, it would also be consistent with the overarching aims of Planning Policy Wales (Ed. 11, 2021) (PPW), Technical Advice Note 18: *Transport* (2007) (TAN18).
17. For these reasons, and having considered all matters raised, I conclude that the appeal should be allowed subject to conditions. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have also taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives.
18. Without prejudice to its case, the Council has suggested 20No. planning conditions be imposed should the appeal be allowed. It also endorses the additional 9No. planning conditions suggested by the WGTRA. I have considered the conditions suggested by these organisations and, having had regard to the advice in WG Circular 16/2014, have adjusted the wording of some of them in the interest of clarity and precision. I have also not imposed those conditions that do not satisfy the relevant tests.
19. I have not seen any evidence to justify a deviation from the standard time commencement periods. I have therefore amended the Council's suggested condition Nos. 2 and 3 accordingly. Condition No.9 of the Council's suggested schedule of conditions would be covered by separate legislation and does not therefore meet the relevant tests. Meanwhile, the Council's suggested Condition No.11 has been amended to simply require biodiversity enhancements. This is because landscaping remains a reserved matter and could be adequately controlled at the reserved matters stage. The Council's suggested Condition Nos.13 to 20 are either imprecise or covered by separate legislation and do not therefore meet the necessary tests.
20. There is a degree of overlap between the Council's suggested condition Nos. 6, 7 and 8 and the conditions suggested by the WGTRA. They have therefore been amended/ merged where relevant to ensure that they meet the policy tests and avoid duplication. I have set out above why the WGTRA's suggested Condition Nos.1, 2 and 3 fail to meet the policy tests. They have not therefore been imposed. The WGTRA's suggested Condition No. 9 has also not been imposed as it lacks precision and an implementation/ enforcement clause and would therefore have no effect. In any event, I have not seen anything to suggest that such matters could not be satisfactorily addressed through the provisions of separate legislation.

Richard E. Jenkins

INSPECTOR

Schedule of Planning Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "*the reserved matters*") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

REASON: *To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

- 2) The development shall begin either before the expiration of 5 years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: *To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

- 3) Any application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

REASON: *To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

- 4) The development shall be carried out in accordance with the following approved plans and documents: *Location Plan 496/01 Dec 2020; Site Plan 3 496/04 B Sept 2021; Adopted Standard Access Arrangement 1469 004 B Nov 2021.*

REASON: *To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application.*

- 5) The proposed dwellings shall be designed in accordance with the upper and lower limits as stated in the indicative plan No. 496/04B and shall not exceed the upper limits: Length/Depth - 8m - 18m max; Width - 6m - 12m max; Max height from ground level to ridge - 8m max.

REASON: *In the interest of the character and appearance of the area – Policy DM06*

- 6) Prior to the occupation of the dwellings, a scheme for the collection of waste and recycling must be submitted to and approved in writing by the local planning authority, in consultation with the WGTRA. The scheme shall be implemented as approved and retained as such in perpetuity.

REASON: *In the interest of highway safety - Policies DM03, DM04, DM05, DM06 and DM09.*

- 7) Prior to the commencement of any site works, a detailed scheme of site access shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to the occupation of any of the dwellings hereby approved and must include as a minimum:

- a. Pedestrian connectivity;
- b. Road Marking and signs drawing including schedule;
- c. Street Lighting accommodation works;
- d. Pavement construction details and specifications.

REASON: *In the interest of highway safety - Policies DM03, DM04, DM05, DM06 and DM09.*

- 8) No development shall commence until the proposed access and visibility splay envelopes approved have been provided, in accordance with the approved plans and drawings. The access and visibility splays shall thereafter be retained in perpetuity.

REASON: *In the interest of highway safety - Policies DM03, DM04, DM05, DM06 and DM09.*

- 9) Prior to the commencement of any site works, a Construction Site & Traffic Management Plan (CSTMP) shall be submitted to and approved in writing by the local planning authority, in consultation with WGTRA. The approved CSTMP shall be implemented as approved prior to the commencement of any site works.

REASON: *In the interest of highway safety - Policies DM03, DM04, DM05, DM06 and DM09.*

- 10) The dwellings hereby approved shall not be occupied until the internal estate road, turning heads, footways and street lighting leading to that dwelling have been provided, together with the car parking accommodation and turning areas for that dwelling, in accordance with the approved proposed site layout plan. The internal estate roads, footways, pedestrian link paths, street lighting, car parking accommodation and turning heads shall thereafter be retained in perpetuity.

REASON: *In the interest of highway safety - Policies DM03, DM04, DM05, DM06 and DM09.*

- 11) Prior to the occupation of the dwellings hereby approved, an external lighting scheme shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented as approved and retained in perpetuity.

REASON: *In the interest of local ecology – Policies DM06, DM14 and DM15.*

- 12) No development shall take place until a detailed ecological enhancement scheme is submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the dwellings are occupied and shall be retained as such in perpetuity.

REASON: *In the interest of local ecology – Policies DM14 and DM15.*

- 13) The dwellings hereby approved shall include the provision of 'gigabit capable' broadband infrastructure.

REASON: *In accordance with Policy 13 of Future Wales 2040.*