



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 19/04/2022

gan **Paul Selby BEng (Hons) MSc MRTPI**

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 10/05/2022

Appeal Decision

Site visit made on 19/04/2022

by **Paul Selby BEng (Hons) MSc MRTPI**

**an Inspector appointed by the Welsh
Ministers**

Date: 10/05/2022

Appeal Ref: CAS-01541-R1G0G2

Site address: Sunnybank, Mount Pleasant, Heolgerrig, Merthyr Tydfil CF48 1RT

**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 Stephen Wall against the decision of Merthyr Tydfil County Borough Council.
 - The development proposed is Construct a detached dwelling and a detached garage (Outline).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr Stephen Wall against Merthyr Tydfil County Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was submitted in outline with all matters reserved except for access and layout. The indicative scale parameters provided by the appellant are given as follows: for the dwelling, a width of 8.7 to 9 metres, a depth of 5.7 to 6m and a height of 7.4 to 8.8m; and for the garage, a width of 5.7 to 6m, a depth of 4.4 to 4.7m and a height of 4.7 to 5m. My determination is based on these indicative details and the submitted plans.
4. I note that outline planning permission for two dwellings on the site was granted in 2007. Few details of this permission have been provided, but in any case, as the national and local policy context has changed materially during the intervening period, I have proceeded to determine the appeal scheme with regard to the details of the proposal before me, the current policy context, and the prevailing site circumstances.
5. Since the appeal was made the site has been sold. The land ownership certificate has been updated accordingly and the new landowner has consented to the appeal proceeding. I have determined the appeal on this basis.

6. Notwithstanding the information given on the application form, I have taken the description of development from the Decision Notice, which is more succinct and accurate.

Main Issues

7. The main issues in this case are the effect of the proposal on:
- The safety of highway users,
 - The character and appearance of the area,
 - The living conditions of nearby occupants, having particular regard to outlook and privacy, and
 - Protected species, namely bats.

Reasons

8. The appeal site relates to a property situated within the predominantly residential settlement of Heolgerrig. The site occupies an area of sloping terrain, steep in parts, and accommodates the detached dormer bungalow of Sunnybank, a gated driveway, an area of land formerly used as a paddock, ancillary structures, stone walls, areas of dense shrub and mature trees. Access to the site is obtained from a lane of variable width, which forms a 'loop' and connects several dwellings situated on Farm Road, Mount Pleasant and Tramroadside to the main thoroughfare of Heolgerrig.

Highway safety

9. It is proposed to erect a new dwelling within the eastern part of the site, served by a new sloping driveway which would adjoin Farm Road/Mount Pleasant. This would run parallel to a second, replacement driveway to serve the dwelling of Sunnybank, the existing driveway for which would be decommissioned.
10. In order to secure sufficient visibility for drivers at the junction of the driveways with the highway, it is proposed to remove part of the embankment at the site's northern extent, which currently accommodates mature trees and vegetation and is retained by a stone wall. In its place, new boundary walls and a reprofiled embankment would be located behind the required visibility splays. These works would also have the effect of moderately widening the existing carriageway on Farm Road/Mount Pleasant.
11. There is no dispute that that these works would achieve the required visibility splays at the access points. My attention has, however, been drawn to a decision relating to an application for a new dwelling located on the nearby street of Tramroadside, which was dismissed at appeal in June 2020 on the basis that traffic generated by that dwelling would be prejudicial to highway safety because of deficiencies in the local road network (Ref: APP/U6925/A/20/3246989). As the proposal before me is also for a new dwelling that would be accessed by sections of the same local road network, this previous appeal decision, whilst relating to a different site, is nonetheless relevant to the case before me.
12. The previous Inspector noted that Farm Road and Mount Pleasant were narrow with several bad bends, limited forward visibility and passing places, and narrow footways. He found that the severe bends and boundary walls on either side of Farm Road restrict forward visibility and add to the perception of reduced width. There is little evidence that conditions on Farm Road, which vehicles accessing or egressing the dwelling proposed in this appeal would traverse, have changed materially since the previous appeal was determined. Nor is it evident that relevant policies have altered substantively in the interim. I therefore attach substantial weight to the previous Inspector's findings.

13. The works intended to achieve the required visibility splays at the access points would result in a moderate improvement to visibility on part of Farm Road/Mount Pleasant. In moderately widening the carriageway the appeal scheme would also improve vehicles' ability to pass one another near to the proposed access points. Such improvements would be experienced by all users of Farm Road/Mount Pleasant, and I attach moderate weight to them as a wider benefit of the appeal scheme. However, having regard to submitted plans showing the extent and nature of the proposed works, these highway improvements would not be experienced on the section of Farm Road which curves around the eastern and south-eastern extent of the appeal site. This part of the highway has limited continuous forward visibility, inadequate passing bays and a narrow footway. The moderate highway improvements brought about by the appeal scheme would therefore not fully alleviate existing deficiencies of the local road network.
14. Furthermore, whereas the alignment of the existing driveway serving Sunnybank would be likely to encourage vehicles to access Heolgerrig to the southwest, the replacement driveway would be likely to displace vehicles onto the eastern section of the road. Whilst the western part of the 'loop' is also sub-optimal and lacks footways, in my view it offers superior visibility for pedestrians and vehicles than the eastern section of Farm Road. I consider that the prejudice to highway safety caused by the increased traffic flows on the eastern section of Farm Road, resulting from both the proposed and existing dwelling, would considerably outweigh any highway safety benefits of the proposal.
15. I recognise that the Manual for Streets sets out criteria intended to allow streets to be designed as places in their own right. However, it also emphasises the need to ensure that road safety is maintained. Whilst the appellant contends that further improvements to Farm Road could be brought about via compulsory purchase, there is little evidence that such actions or other mechanisms to improve highway safety in the vicinity are in train. I afford these matters limited weight, and for the stated reasons conclude that the proposal would conflict with the objective of policy SW11 of the Merthyr Tydfil Local Development Plan (LDP) for development to not have an unacceptable impact on highway safety.

Character and appearance

16. The immediate area is of a predominantly residential character, with considerable variation in the design, form and placement of dwellings. In visual range of the appeal site are detached, semi-detached and terraced properties, both facing or backing onto highways. These dwellings are either original to Heolgerrig's early establishment or represent later infill developments and planned estates. There are various forms of boundary treatment, with deciduous and evergreen hedges of varying height, and assorted types of walls and fences. Garages and ancillary buildings are also an evident feature in the streetscape of Farm Road and Mount Pleasant. In combination with the varied topography and irregular road network, these factors afford the immediate area an organic and diverse appearance which is an essential element of its character.
17. The proposed dwelling would be 2 storeys in height and would occupy a relatively elevated position. It would therefore be readily visible from several nearby viewpoints, in particular from Heolgerrig Road near to its junction with Brondeg, and from Farm Road. Nonetheless it would be viewed in the context of a diverse townscape which exhibits little consistency in the ridge heights of dwellings, not least due to the varied topography. To my mind the dwelling's siting would allow it to be read as part of the surrounding townscape rather than appearing as an awkward or isolated form of development. Whilst its southern flank would be exposed to public viewpoints, the retention or replacement of nearby mature trees and vegetation to soften its overall visual prominence could be acceptably secured at the reserved matters stage. Although appearance and scale are

also reserved matters, I do not consider that the erection of a dwelling of the indicative scale parameters, as per the submitted layout, would appear incongruous or harmful to the area's character and appearance.

18. The proposed driveways, new boundary walls and reprofiled embankment would considerably alter the visual character of the northern part of the site, which at present is enclosed by an attractive stone wall and dense foliage. The widening of the highway needed to secure the required visibility splays at the access points would also moderately diminish the verdant appearance of this section of Farm Road. Nonetheless, to my mind the proposed infrastructure would not markedly depart from the established character of the immediate area, which is not solely composed of narrow lanes, and exhibits features such as hard landscaped boundaries and driveways.
19. I accept that the loss of the existing stone wall, foliage and mature trees would remove features which, to varying degrees, contribute to the area's visual quality. Nonetheless, I consider that landscaping secured at the reserved matters stage would offer acceptable mitigation in this regard, softening the visual prominence of hard landscaped areas and securing replacement boundary features to provide an appropriate interface between the site and Farm Road/Mount Pleasant. Consequently, despite the significant visual changes which the proposed works and infrastructure would cause, the area's character and appearance would not be materially harmed.
20. For the reasons given above I conclude that the proposal would accord with LDP policy SW11, which amongst other things requires development, where appropriate, to be appropriate to its local context, to integrate effectively with adjacent spaces, and to enhance the general street scene and create good quality townscape.

Living conditions

21. The dwelling would be located in close proximity to the site's southern boundary, north of the rear garden of 17 Farm Road. Due to the dwelling's elevation relative to No 17, it would be readily visible from this neighbouring property. Nonetheless, I saw on my site visit that the proposed dwelling would be experienced mainly in oblique views from rear- and side-facing windows in No 17. From the neighbouring garden, the dwelling would be most apparent from an elevated terrace where the outlook to the north is already dominated by a steep slope and foliage, the latter of which would moderate the visual impact of the proposal's flank elevation throughout the year. From other areas of No 17's garden, particularly the level area south of the dwelling, the appeal scheme would have a negligible effect on the quality and extent of outlook available to residents. Consequently, I do not consider that its visual impact would cause harm to occupants' living conditions.
22. The layout and elevated position of the appeal dwelling would give rise to potential intervisibility between first floor windows in its east-facing elevation and the rear of properties at Nos 15, 16 and 17 Martin Close. However, the submitted documents indicate that an area of dense vegetation would be retained on the embankment between these properties. Given this and the considerable horizontal separation distance between the appeal dwelling and Nos 15, 16 and 17 Martin Close, I consider that landscaping secured at the reserved matters stage would provide acceptable screening in this regard.
23. Furthermore, I noted on my site visit that the rear of Nos 15 to 17 Martin Close back onto the footway on Farm Road. Whilst I accept that a more private aspect would normally be expected of a rear garden and rear-facing rooms, the rears of these properties are already partly visible from the public realm, despite the erection of a wall above eye level to the rear of No 16. Given this context I do not consider that any residual intervisibility between these properties and the appeal dwelling would materially affect the privacy of occupants.

24. I am satisfied that other potential effects on occupants' living conditions, for example in relation to the privacy of occupants of No 17 Farm Road, could be mitigated by conditions. Consequently, for the reasons stated above I conclude that the proposal would not adversely affect the living conditions of nearby residents and would accord with the objective of LDP policy SW11 to not result in an unacceptable impact on local amenity, loss of light, privacy, or visual impact.

Protected species

25. As the site contains habitats of potential significance to priority and protected species the appellant has submitted a Preliminary Ecological Assessment (PEA) in support of the proposal. The PEA concludes that the existing dwelling of Sunnybank could potentially be used as an existing roost for bats and recommends further survey should the proposal have any impacts on this building. As the appeal scheme does not extend to modifications to the existing dwelling, I am satisfied that, subject to appropriate conditions, the proposal would not harm any protected species using the dwelling.

26. The PEA also assesses the potential for bat roosts within a stable building which would need to be demolished to accommodate the new dwelling. The study records that structural damage caused to the stable facilitated an inspection of potential roosting spots but found no evidence of bats, and negligible bat potential. However, the PEA also notes that season-critical survey techniques fall beyond its scope, and that only the likelihood of presence has been assessed.

27. Technical Advice Note 5 'Nature Conservation & Planning' (TAN 5) advises that the level of likelihood that should trigger a requirement for developers to undertake surveys should be low where there is a possibility that European protected species might be present. Due to ongoing construction works, I was unable to gain access to the site to view the stable building. In any case, however, I concur with the view of the Council's Ecologist that, having regard to the stated limitations of the study and the absence of a visual record to support findings made in relation to the stable building, the submitted evidence is not sufficient to conclude that the building does not have low potential suitability for bats. As the proposal would require the demolition of the stable building, it follows that there is no conclusive evidence that the proposal would not have the potential to adversely affect a European protected species.

28. Whilst I have considered whether further survey work could be secured via a condition, TAN 5 advises that surveys should be completed and measures to any necessary measures to protect species put in place before planning permission is granted. Consequently, I conclude that the proposal would not accord with the requirement of LDP policy EnW1 for proposals to promote the resilience of ecosystems and maintain and enhance biodiversity interests, and would run counter to the guidance in TAN 15.

Other Matters and Conclusion

29. I acknowledge the benefits of the proposal in contributing to the supply of housing locally. I am satisfied that other matters, such as ground stability and drainage, could be acceptably addressed via condition or at the reserved matters stage. For the reasons set out above, I also consider that the proposal would not cause harm to the area's character and appearance or the living conditions of nearby residents. Nonetheless, such matters do not outweigh the identified harm to highway safety and protected species. For the given reasons I therefore conclude that the appeal should be dismissed.

30. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution

towards the Welsh Ministers' well-being objectives to make our cities, towns and villages even better places in which to live and work, and to embed our response to the climate and nature emergency in everything we do.

Paul Selby

INSPECTOR