

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 06/07/16
Ymweliad â safle a wnaed ar 06/07/16

**gan Kay Sheffield BA(Hons) DipTP
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad : 02 Awst 2016

Appeal Decision

Hearing held on 06/07/16
Site visit made on 06/07/16

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers
Date : 02 August 2016

Appeal Ref: APP/Y6930/A/15/3140796

**Site address: Land at and adjacent to 141 Dinas Baglan Road and land to rear of
85 to 139 Dinas Baglan Road and 1 to 63 Sarnfan Baglan Road, Baglan, Port
Talbot, SA12 8AF**

**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 Ryehill Properties (Wales) Limited against the decision of Neath Port Talbot County Borough Council.
- The application Ref P2012/0352, dated 03/03/2012, was refused by notice dated 20/08/2015.
- The development proposed is residential development comprising of 78 dwellings with associated demolition of 141 Dinas Baglan Road, and access and engineering works.

Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline with all matters reserved for subsequent approval with the exception of access which is before me for consideration. The proposal was amended during the course of the application which resulted in a change to the initial description and an increase in the number of dwellings proposed. I have adopted the description given in the Council's decision notice and in the appeal.
3. The Environmental Noise Report submitted as part of the application was reviewed as part of the appeal and the Council has had regard to it in responding to the appeal. The report confirmed that the original survey results and conclusions remain valid. I am satisfied that the parties would not be prejudiced by account being taken of the updated report in the determination of the appeal.
4. The Neath Port Talbot Unitary Development Plan was superseded by the adoption in January 2016 of the Neath Port Talbot County Borough Council Local Development Plan (LDP). The parties were agreed that it is policies SP 16 and EN 8 of the LDP which are relevant to the appeal. The decision was also made prior to the publication in January 2016 of Planning Policy Wales Edition 8 (PPW 8) and the update to Technical Advice Note 11: Noise (TAN 11) issued by the Minister for Natural Resources on 25 November 2015. The parties have had regard to these documents and I have taken account of them in reaching my decision.

Main Issue

5. The main issue is whether the living conditions of future occupants of the development would be acceptable with regard to noise. Interested parties expressed concerns over highway safety to which I have had regard as a material consideration.

Reasons

6. The appeal site lies within the settlement boundary as identified in the LDP. Whilst it is not allocated for residential development, the principle of this use is acceptable subject to compliance with other policies of the LDP. The site is a linear parcel of vacant land. Its eastern boundary abuts the rear gardens of the existing dwellings on the western side of Dinas Baglan Road and Sarnfan Baglan Road which form part of the A48. The majority of the western boundary adjoins the M4 slip roads with the motorway and the main South Wales railway line beyond. To the north is a modern housing estate, with undeveloped land associated with it lying between the remainder of the western boundary of the appeal site and the M4 slip roads.

Noise

7. There was no dispute that the site experiences relatively high levels of noise from nearby sources, the main source being the motorway corridor. For the purposes of TAN 11 the site is in Noise Exposure Category C (NEC C). It is also within a Noise Action Planning Priority Area (NAPPA) as identified in the Noise Action Plan for Wales published by the Welsh Government in December 2013.
8. The submitted noise reports were based on an indicative site layout drawing which accompanied the application. Whilst it is recognised that the layout could alter, the linear shape of the site would not allow any significant deviation from the layout shown. I therefore consider it reasonable to assess the noise impacts of the development on the basis of the indicative layout.
9. There was no dispute that the dwellings could be constructed to ensure that the internal noise levels would be in line with guidance in BS 8233:2014 Guidance on sound insulation and noise reduction for buildings. The parties were agreed for the purposes of the appeal that 55dB(A) $L_{Aeq,16hr}$ would be acceptable with regard to noise levels within the external areas of the plots. Whilst 30 of the proposed units would meet this standard, 24 would fall within the range 56 to 60 dB $L_{Aeq,16hr}$ and the remaining 24 would fall within the range 61 to 63 dB $L_{Aeq,16hr}$. These figures were based on a 2.2 metre high acoustic fence being erected along the boundary of the site with the motorway.
10. Proposals which exceed acceptable noise levels within the external areas of the plots are not prohibited. BS 8233:2014 recognises that in higher noise areas a compromise between elevated noise levels and other factors might be warranted. An example given is urban areas adjoining the strategic transport network and other factors include the convenience of living in these locations or making efficient use of land resources to ensure development needs are met. In such a situation, the standards state that the development should be designed to achieve the lowest practicable levels in the external amenity spaces.

11. Although TAN 11 states that planning permission should not normally be granted for development falling within NEC C, where it is considered that permission should be given, for example, because there are no alternative quieter sites available, it states that conditions should be imposed to ensure a commensurate level of protection against noise. However TAN 11 states in paragraph 10 that consideration should be given as to whether proposals for new noise-sensitive development would be incompatible with existing activities, taking into account the likely level of noise exposure. Noise-sensitive development should not normally be permitted in areas which are or are expected to become subject to high levels of noise. The update to TAN 11 issued in November 2015 drew attention to this advice, particularly with regard to transport-related noise-generating activities.
12. The Appellant considered that there were sites allocated in the LDP which were not necessarily quieter than the appeal site and my attention was drawn to several which fall within the NPPA. I have considered the detail of these sites provided in the evidence and I visited the site at the Margam Campus of the Neath Port Talbot College. Whilst I accept that there are similarities between these sites and the appeal proposal in that they are in close proximity to the motorway, the sites do not display the linear characteristics of the appeal site. Moreover, the design of the layout for these sites would have to address the noise issue. The evidence before me does not confirm that these sites could not be developed to provide acceptable living conditions for future residents in this respect.
13. For those sites with planning consent I do not have details of the approved layouts. However, I note that one of the sites referenced is the site to the north of the appeal site. Spot noise measurements of 64dB LAeq,5mins were recorded by the Appellant in an open area within the housing development. Although the reading was not taken within a residential garden it indicates that residents in the locality are subjected to high noise levels which are comparable with the results for the appeal proposal. However, I understand that whilst the dwellings by the open area are relatively recent, the development has taken place over a protracted period with the original consents pre-dating TAN 11. If a fresh permission was required the proposals would have to address the noise issues associated with the proximity of the site to the motorway. In view of the circumstances of the neighbouring development I do not consider it justification for allowing additional noise-sensitive properties.
14. In allocating Talbot Memorial Park as a 'Quiet Area' under Policy EN 10 of the LDP the Appellant argued that the Council must consider the noise within it to be relatively quiet by urban standards. The noise levels within the park were shown to be within the range of 55 to 59dB(A) which would be comparable with some of the plots in the proposed development. I visited the park and found the noise sources and levels varied as I walked through the grounds and did not have the volume or constancy of that heard on the appeal site from the motorway. Notwithstanding this, the park is allocated as a quiet area with the intention of protecting it from further noise intrusion, not as a mark of what level of noise is acceptable in residential gardens.

15. The noise within the external areas of 48 out of the 78 proposed plots would exceed an acceptable level. I am satisfied that there are suitable alternative quieter sites allocated for residential development and that there are no other factors which provide sufficient or justifiable reason to allow an exception in this instance. I therefore conclude that the proposed development would fail to provide acceptable living conditions for future occupants, contrary to policies SP 16 and EN 8 of the LDP which seek to ensure developments do not increase the number of people exposed to significant levels of pollution.

Other material considerations

16. Interested parties expressed concerns over the proposed access into the site and the effect the design of the junction with the A48 would have on access to their properties and highway safety in general. Particular concerns were raised with regard to 2 Sarnfan Baglan Road the driveway to which is directly opposite the site entrance and leaves the A48 at an oblique angle. A pedestrian footpath which comes from the east also joins the A48 at the end of the driveway. Accesses to other properties along this stretch of the A48 bear similarities with 2 Sarnfan Baglan Road whereas other dwellings in the vicinity have garages set less than a car's length from the edge of the carriageway. Very few appear to have space within the plots to turn so drivers have to reverse into or out of the driveways. Residents were therefore concerned for their safety both as drivers and pedestrians.
17. It was explained that as the junction would be controlled by traffic lights, for entry to properties such as 2 Sarnfan Baglan Road the lights would be activated by sensors. Given the position of the driveway to 2 Sarnfan Baglan Road in the centre of the junction I can understand the concerns of its occupants. I also understand the wider concerns of residents with regard to the changes to the highway layout and the additional traffic which would be generated by the development which would be further increased if a proposed link between the site and the residential estate to the north was implemented. Whilst common sense dictates that the design of the junction is far from ideal, I am advised that the safety audit found the proposals to be acceptable. Although interested parties indicated that they were advised by surveyors that the design was not suitable, the highway authority raised no objection. I have no substantive evidence to the contrary which would justify dismissing the appeal on highway safety grounds.
18. The Appellant contended that despite the LDP being only recently adopted the Council was unable to demonstrate five years housing land supply and submitted evidence to suggest it was now 4.6 years. However, the recently examined Joint Housing Land Availability Study 2016 confirmed a supply of 5.0 years and the need to give considerable weight to housing developments where the study shows a land supply below five years does not apply.
19. The S106 Agreement makes commitments in respect of affordable housing, open space and biodiversity. I have no reason to consider that the terms of the Agreement would not accord with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations, 2010. However, given that I have reached the conclusion that the appeal should be dismissed there is no need for me to consider this matter in greater detail.

Conclusion

20. For the reasons given above, and having had regard to all other matters raised, I conclude that the development would fail to provide acceptable living conditions for future residents by reason of noise. There are no other material considerations which outweigh my concerns in this respect. The appeal is therefore dismissed.

Kay Sheffield

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Mr M Roberts BSc(Hons) DipTP Director of Barton Willmore
MRTPI

Mr M Townsend BSc(Hons) Hunter Acoustics Limited
MIOA

FOR THE LOCAL PLANNING AUTHORITY:

Miss N Lake Planning Officer
Mr S Ball Development Management Manager
Mr S Evans Environmental Health Officer

INTERESTED PERSONS:

Councillor P Richards Ward Councillor
Councillor C Clement-Williams Ward Councillor
Mr J Hussell Local Resident
Mrs J Hussell Local Resident
Mrs E Millward Local Resident
Mr T Millward Local Resident
Mr I Pike Local Resident
Mrs V Boyle Local Resident

DOCUMENTS

- 1 Joint Housing Land Availability Study 2016
- 2 Section 106 Agreement