



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 18/12/18

Ymweliad â safle a wnaed ar 18/12/18

gan Paul Selby BEng (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 30/01/19

Appeal Decision

Hearing Held on 18/12/18

Site visit made on 18/12/18

by Paul Selby BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 30/01/19

Appeal Ref: APP/L6940/A/18/3210592

Site address: Blake Street, Maerdy, Ferndale CF43 4AH

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 Warton and Evans against the decision of Rhondda Cynon Taf County Borough Council.
 - The application Ref 18/0018/13, dated 24 August 2017, was refused by notice dated 3 August 2018.
 - The development is Proposed residential development of up to 29 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for Proposed residential development of up to 29 dwellings at Blake Street, Maerdy, Ferndale CF43 4AH, in accordance with the terms of the application, Ref 18/0018/13, dated 24 August 2017, subject to the conditions set out in the schedule to this decision letter.

Application for costs

2. At the Hearing an application for costs was made by Warton and Evans against Rhondda Cynon Taf County Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development given on the planning application form was for a 'residential development of 29 dwellings'. As the proposal is submitted in outline with all matters reserved except access, as agreed with the parties at the Hearing I have amended the description to refer to 'up to' 29 dwellings, to ensure the necessary precision whilst allowing an appropriate level of flexibility. Indicative scale parameters and layout have been provided and my determination is based on those documents.
 4. Planning Policy Wales (PPW) edition 10 was published following the Council's decision on the planning application. At the Hearing the parties agreed that the general content remains unchanged in relation to the main issues. I have determined the appeal on the basis of the updated version of PPW.
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5. A legal agreement between the appellant and Council has been submitted under Section 106 of the Town and Country Planning Act (TCPA) 1990. This offers obligations for the provision of 3 affordable housing units, a biodiversity and tree management plan, a financial contribution towards play areas in Maerdy, and an employment and skills plan. I am satisfied that these are necessary, directly related to the development and related in scale and kind. The agreement therefore meets the appropriate tests set out in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and Circular 13/97 'Planning Obligations' and accordingly I afford it weight in my decision.

Main Issues

6. The main issues in this case are:

- Whether the proposal conflicts with local and national policies to protect the countryside given its location outside the designated settlement boundary;
- The impact of the proposal on highway safety, parking, and the well-being and living conditions of nearby residents; and
- Whether the benefits of the proposal, including its contribution to housing land supply and affordable housing, would be sufficient to outweigh any harm and any conflict with the development plan.

Reasons

7. The appeal relates to an area of levelled ground accommodating grassland, trees and shrubs situated to the rear of houses on Maerdy Road. The northwest boundary of the site adjoins Blake Street, a cul-de-sac which provides access to a number of terraced dwellings. The site is located outside but adjacent to the settlement boundary for Maerdy designated in the Rhondda Cynon Taf Local Development Plan (LDP).

Location outside settlement boundary

8. LDP policy NSA 12 'Housing Development Within and Adjacent To Settlement Boundaries' seeks to direct development in the northern part of the County Borough to designated settlements. The policy does, however, provide an element of flexibility by permitting residential developments of not more than 10 dwellings on sites bounded on at least one side by the defined settlement boundary, where the site is not within a green wedge or a site of designated importance, and where the scale, form and design of the proposal would not adversely affect the amenity or character of the site or area.
9. In my view this policy is in general accord with Planning Policy Wales (PPW) Edition 10, in particular paragraph 3.56, which indicates that new building in the open countryside away from existing settlements or development plan allocations must be strictly controlled, but that minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity.
10. The appeal site adjoins the settlement at its western extent with Blake Street and its southwest and southeast boundaries also lie in exceptionally close proximity to the designated boundaries. As a consequence of this and the site's low elevation relative to Maerdy Road its development for up to 29 dwellings would not be harmfully intrusive in visual terms. The site is also not located within a green wedge or a designated site of ecological importance.
11. Nonetheless, a development of up to 29 dwellings would substantially exceed the 10 dwelling limit set in policy NSA 12. The site's size of 1.5 hectares is also considerably

greater than the 0.3 hectare limit referred to at paragraph 6.59 of the LDP. The reasoned justification included in the LDP indicates that the flexibility embedded in policy NSA 12 is intended to facilitate the development of 'small sites'. The appeal site could not reasonably be described in these terms. I also consider that its scale, in the context of Maerdy, would take it beyond a 'minor extension' as identified in PPW. I therefore conclude that the proposal would conflict with LDP policy NSA 12 and national policy which restrict larger developments outside settlement limits. Before considering whether the benefits of the proposal would outweigh this conflict, I will address the second main issue.

Highway safety, parking, and the well-being and living conditions of nearby residents

12. The appeal scheme would be accessed via Blake Street. From its junction with Maerdy Road this street slopes steeply downhill before turning sharply through 90 degrees. Terraced houses lie to the back of footways on both sides of the lower section of the street. A turning circle is located at the street's eastern end adjacent to the appeal site, adjacent to which is a tarmacked area where I am informed children play.
13. In response to concerns raised by the Council's Highways section regarding the use of Blake Street to access the site, the appellant has proposed off-site highways works. These include a kerb build-out on Maerdy Road to provide sufficient visibility for drivers entering the flow of traffic, and double yellow lines in the vicinity of that junction and on Blake Street in proximity to the bend. The parties agree that the proposed junction improvements are necessary to secure its safe use by vehicles serving up to an additional 29 dwellings. Having observed the prevailing highway conditions on my site visits I have no reason to come to a different view.
14. I saw on my site visits that residents park their vehicles on both sides of Blake Street, particularly on the lower section. Given the scale of the dwellings and restricted opportunities for off-street parking it is likely that the street would be more heavily parked during evenings and at weekends. Photos have been submitted to this effect. As a consequence, much of Blake Street can accommodate only single file traffic.
15. The acuteness of the bend on Blake Street restricts the forward visibility of drivers negotiating it. Given this and the constraints on road space caused by parked vehicles, there is considerable potential for vehicles to obstruct one another's path near to the bend. In such a scenario one or both vehicles would need to reverse in order to pass. Whilst such manoeuvres would be undertaken at relatively low speeds, larger vehicles having to reverse in this manner, whether towards Maerdy Road or the appeal site, would present a hazard to road users, including children using the street to play.
16. By intensifying the use of the street, the appeal scheme would increase the frequency of such reversing manoeuvres occurring. Nonetheless, the proposed double yellow lines indicated on the submitted plans would secure road space for northeast-bound vehicles, including larger vehicles, to undertake a more modest and straightforward reversing manoeuvre, thus addressing the identified risk to road safety. Whilst the Highway Code indicates that drivers should not park on a bend, this rule is not legally enforceable without parking restrictions. Consequently the proposed double yellow lines would be necessary to ensure that the proposal could be accessed in a manner that would not harm the safety of pedestrians and other highway users.
17. The double yellow lines are intended to be secured through a Traffic Regulation Order (TRO) that is subject to a separate consenting regime. Residents of Nos 16 and 17 would be the most affected by the proposed TRO as the double yellow lines would be located directly outside their homes. I am informed, and do not dispute, that residents

of these dwellings, and indeed elsewhere in the street, are elderly or in poor health. Nonetheless, the road space in question forms part of the public highway and as there are currently no parking controls there is no guarantee that residents could rely on being able to park outside or near to their dwellings. Given the geometry of the bend and the presence of two accesses onto it, the proposed restrictions would in practice displace only a very limited number of vehicles and I am satisfied that there would remain sufficient on street parking for existing residents particularly as the upper section of Blake Street, which accommodates few dwellings, has potential to act as an alternative place to park for some residents.

18. The submitted plans indicate little change to the traffic island and informal parking area near the entrance to the appeal site. Whilst the proposal would effectively double the number of residents using Blake Street to reach their homes, the street, subject to the measures discussed above, is of adequate width, alignment and design to safely accommodate the additional traffic. There is little evidence that the degree of activity, noise or pollution impacts of traffic serving an additional 29 additional dwellings would be of a materially harmful magnitude.
19. I am thus not persuaded that the appeal scheme, including the proposed parking restrictions, would materially or demonstrably affect the living conditions of existing residents, or the ability of existing and future residents to live as a cohesive community, either now or in the long term. There would therefore be no conflict with sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015 (the WCFG Act), including the well-being goal to create 'A Wales of cohesive communities'.
20. Whilst concerns have been raised about the impacts of construction traffic on local residents, there is little evidence that Blake Street is unable to adequately accommodate larger vehicles. Whilst I acknowledge the potential for disruption, including in terms of noise, disturbance and dust, such effects would be temporary and could be suitably mitigated via conditions to impose construction management controls and limit the times during which HGV deliveries could be made. As the planning system is concerned with the public interest rather than the interests of individuals, I am not able to attribute weight to the potential effects of traffic using Blake Street on the structural integrity of private dwellings.
21. For the reasons given above I find that the proposed off-site highways measures are necessary to mitigate harm to the safety of highway users, and that those mitigation measures would not harm the living conditions of residents or conflict with the well-being goals set out in the WCFG Act, or the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities. Subject to conditions to secure the necessary mitigation prior to the commencement of any work, I conclude that the proposal would accord with LDP policy AW 5, which amongst other things aims to ensure that developments have safe access to the highway network and do not cause or exacerbate traffic congestion.

Housing land supply, affordable housing and other benefits

22. The proposed development conflicts with national and local policies relating to the protection of the countryside. My conclusions regarding the impact of the proposal on highway safety, parking, well-being and living conditions represent a neutral rather than a positive benefit but do not weigh against the proposed development.
23. The Council cannot demonstrate a 5 year housing land supply. The latest Joint Housing Land Availability Study concludes that the Council could demonstrate only a 1.4 year housing land supply. Following the dis-application of paragraph 6.2 of

Technical Advice Note 1 'Joint Housing Land Availability Studies', it is now a matter for decision makers to determine the weight to be attributed to the need to increase housing land supply where a shortfall exists, provided that LDP and national policies are met. As stated above that is not the case here. Nonetheless, given the extent of the shortfall I attach considerable weight to the benefit of the proposal in contributing up to 29 units to the County Borough's housing land supply. This weighs heavily in favour of development provided this could proceed without causing material harm to the strategic objectives underpinning the LDP.

24. Paragraph 6.58 of the LDP identifies Maerdy as one of several 'Smaller Settlements' within the LDP's Northern Strategy Area (NSA). Although outside the designated settlement boundary, the site forms a logical extension to the village and it lies in a sustainable location in close proximity to bus stops and schools, and within walking distance of a modest range of shops and services in the village centre.
25. LDP paragraph 6.57 indicates that an objective of policy NSA 12 is to ensure the continued provision of new housing in the NSA. Despite this, the Council's land supply figures indicate that over the last 14 years a mere 11 dwellings have been delivered in Maerdy. There is little evidence that dwellings on allocated sites locally or elsewhere in the NSA are coming forward at the rate envisaged when the Plan was adopted in 2011. Although there is a resolution to grant planning permission for 172 dwellings at the nearby former Chubb Factory, that is subject to an as-yet unsigned Section 106 agreement. There is thus little certainty that units will be delivered imminently.
26. Whilst I saw evidence of vacant dwellings locally, the proposal would be likely to increase the range and choice of homes on offer to local people. I have no reason to dispute the appellant's commitment to bringing the proposal forward despite the apparent weakness of the local housing market. At the Hearing the Council confirmed that subject to negotiations relating to dwelling sizes at the reserved matter stage the 3 affordable housing units would contribute to meeting an identified local need.
27. The 1.4 year housing land supply is substantially below what should be provided and the appeal scheme would provide much needed private and affordable housing in a locality which has seen extremely limited provision in recent years. In my view, the proposal would satisfy the objectives of PPW Edition 10 to secure sustainable development by ensuring that local communities have sufficient housing and affordable housing for their needs and directing development to sustainable locations. I consider that it would also be consistent with the goals of the WBFG Act, in particular the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.
28. I attach considerable weight to the benefits of the proposal in contributing materially to the housing land supply of the County Borough and to providing a limited number of affordable homes in Maerdy. I also attach moderate weight to the proposal's contribution to economic activity in the locality, including via an employment and skills plan. The other obligations offered in the Section 106 agreement are intended to mitigate the effects of the proposal and they therefore have a neutral impact.
29. Overall I consider that the appeal scheme would not cause material or demonstrable harm. In my view, the proposal would meet an overriding need and its benefits combine to outweigh the conflict with national and local policies identified above.

Other Matters

30. At the Hearing it was established that whilst there is no history of planning applications on the site, it was considered as a site allocation in the existing LDP and

previous Rhondda Local Plan. I am informed that although it was rejected as a site allocation on both occasions on grounds of the Blake Street access being inadequate, that was for a larger site boundary with a greater number of dwellings than the scheme before me. In any event, I have determined the proposal on its merits and, for the reasons given, have found that Blake Street would provide acceptable access to the proposed development, subject to the submitted mitigation measures.

31. Concerns have been raised about the manner in how the site became available for development. However, that has no bearing on my decision as I must consider the proposal based on its planning merits.

Conditions

32. The Council has suggested several conditions. Those that I consider necessary are set out in the schedule to this decision letter, adjusted where appropriate to better align with the advice of Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management'.
33. At the Hearing it was discussed whether the standard time limit conditions should be varied to ensure that units are brought forward as soon as possible. Whilst such an outcome would benefit the housing land supply, a critical factor in allowing the appeal, I have not adjusted approval and commencement timescales in recognition that, in practice, this may have a negligible effect on completion timescales.
34. Landscaping is a reserved matter and so there is no need to impose landscaping conditions now. Similarly, conditions relating to boundary treatments and external materials can be left to reserved matter stage when the details of layout and appearance are known. Whilst a condition to protect trees is justified in light of the submitted Arboricultural Report, I have abbreviated it to remove duplication with measures to protect habitats and species secured under a separate condition.
35. Given the importance of the TRO to safely accommodating the increased volume of traffic generated by the proposal, its implementation should be secured prior to any works taking place. However, details of internal road layouts are not required as they would not be known until reserved matter stage. As surface water run-off is addressed adequately by other conditions a separate highway drainage condition is not required.
36. Whilst Safe Routes in Communities Assessment and Travel Packs distributed to households may well encourage Active Travel, I am not persuaded that such measures are necessary for the development to proceed, as the conclusions of the Transport Assessment have been sufficiently incorporated within the proposal and/or would be secured by other conditions. I have therefore not imposed these suggested conditions.
37. Due to the geometry of Blake Street and the presence of an underground culvert near the site entrance condition surveys are necessary prior to construction commencing. However, whilst mitigation to secure the stability of the culvert would be necessary for development to proceed, the implementation of the planning permission should not be contingent on any compensation being paid as this would be secured under other legislation. I have adjusted the condition suggested by the Council accordingly.

Conclusion

38. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Paul Selby INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Robert Hathaway	Agent for appeal / Planning Consultant
Alan Stuckey	Agent for planning application / Architect
Ron Kelly	Highways Consultant
Mr Warton	Appellant
Mr Evans	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Gareth Davies	Planning Development Control
Souren Zeinali	Highways Development Control

INTERESTED PARTIES:

Christopher Bromage	Local resident
Julie Bromage	Local resident
Wayne Bromage	Local resident
Councillor Jack Harries	County Borough Councillor, Maerdy ward
Annette Jones	Local resident
Natalie Wells	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Extract from Local Development Plan (paragraphs 6.57 to 6.60)
2. Extract from Joint Housing Land Availability Study 2018 (page 5)

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Original copy of Section 106 legal agreement between appellant and Council

SCHEDULE OF CONDITIONS

- 1) (a) Approval of the details of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter referred to as "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(b) Plans and particulars of the reserved matters referred to in (a) above relating to the layout, scale and appearance of any building to be erected and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

(c) Applications for the approval of reserved matters shall be made before the expiration of 3 years from the date of this permission.

(d) The development hereby permitted shall be begun before whichever is the latter of either (i) the expiration of 5 years from the date of this permission or (ii) the expiration of 2 years of the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

Reason: To comply with Sections 92 and 93 of the Town and Country Planning Act 1990.

- 2) The development shall be carried out in accordance with the following approved documents: 13/2017/PL/239A 'Proposed OS Plan'; 13/2017/PL/239E 'Proposed Site Plan' (Indicative); 13/2017/PL/242 'Proposed Streetscape'.

Reason: In the interests of proper planning.

- 3) No development shall commence until details of a scheme for the disposal of foul and surface water from the site has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of any dwelling and retained for the lifetime of the development.

Reason: To secure acceptable disposal of foul and surface water from the development.

- 4) No development shall take place until a Species and Habitat Protection Plan for Construction has been submitted to and approved in writing by the local planning authority. The protection plan shall include:
 - i) A plan clearly identifying protection zones where construction activities are restricted and where protective measures will be installed or implemented;
 - ii) Details of phasing of construction, to avoid periods of the year when sensitive wildlife and species could be harmed;
 - iii) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction, including:
 - Mitigation measures for specific habitats and species as identified in the submitted Ecological Assessment entitled 'Land off Blake Street, Maerdy', dated August 2017;

- Water pollution control;
 - Invasive plant control; and
- iv) A scheme of reporting during the construction programme, identifying the persons responsible for compliance with legal consents, compliance with planning conditions (Ecological Clerk of Works), the installation and maintenance of physical mitigation measures, and the provision of training and information to construction personnel.

The protection plan shall then be implemented in accordance with the timings approved by the local planning authority.

Reason: In the interests of ecology.

- 5) No development shall take place, nor any demolition works or site clearance, until there has been submitted to and approved in writing by the local planning authority details of a scheme for the protection of trees during construction in accordance with the submitted Arboricultural Report and Tree Constraints Plan dated July 2017. The scheme shall be carried out as approved.

Reason: In the interests of ecology and the area's character and appearance.

- 6) Notwithstanding the submitted plans, no works other than site clearance and preparation works shall commence on site until full engineering design and details of the tie in with Blake Street, including footpath links and crossovers, street lighting, surface water drainage and highway structures, and including longitudinal and cross sections, have been submitted to and approved in writing by the Local Planning Authority. The highway works shall be fully implemented in accordance with the approved details.

Reason: In the interests of highway safety and drainage.

- 7) Notwithstanding the submitted plans, no works other than site clearance and preparation works shall commence on site until full engineering design and details of the junction build-out on Maerdy Road, including surface water drainage details, have been submitted to and approved in writing by the Local Planning Authority. The highway works shall be fully implemented in accordance with the approved details.

Reason: In the interests of highway safety and drainage.

- 8) The development shall not be commenced until a Traffic Regulation Order (TRO) for Maerdy Road and Blake Street has been implemented in accordance with submitted plan ref: 13/2017/PL/242 entitled 'Proposed Streetscape'.

Reason: In the interests of highway safety.

- 9) Off-street parking shall be provided within the site in compliance with the Council's Supplementary Planning Guidance on Delivering Design and Placemaking: Access, Circulation and Parking Requirements, or its successor.

Reason: In the interests of highway safety and the free flow of traffic.

- 10) No works shall commence on site until a condition survey of the culverted watercourse, including a structural assessment and any necessary mitigation measures, has been submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall be implemented in accordance with the approved details prior to construction works commencing.
- Reason: In the interests of highway safety and public safety.
- 11) Prior to the commencement of the development, a report detailing a methodology for undertaking a condition survey of Blake Street and the junction with Maerdy Road, both immediately prior to and following the construction period, shall be submitted to and approved in writing by the Local Planning Authority. The report shall include: the timescales for undertaking the surveys; method(s) of reporting the findings to the Local Planning Authority, including via comprehensive photographs; and potential compensation arrangements. The development shall not be brought into use until the final survey, following the completion of the development, has been submitted to and approved in writing by the Local Planning Authority.
- Reason: In the interests of highway safety and public safety.
- 12) No development shall commence, including any works of site clearance, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
- i) the means of access into the site for all construction traffic,
 - ii) the parking of vehicles of site operatives and visitors,
 - iii) the management of vehicular and pedestrian traffic,
 - iv) loading and unloading of plant and materials,
 - v) storage of plant and materials used in constructing the development,
 - vi) wheel washing facilities,
 - vii) measures to control the emission of dust and dirt during demolition and construction, including the sheeting of lorries leaving the site.
- Reason: In the interests of the living conditions of residents and highway safety.
- 13) HGVs used as part of the construction of the development shall not access or egress the site via Blake Street outside the hours of 0900 to 1630 Mondays to Fridays and 0900 to 1300 on Saturdays and at no time on Sundays or Public Holidays.
- Reason: In the interests of highway safety and the free flow of traffic.
- 14) Construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.
- Reason: In the interests of the living conditions of residents.