

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 08/03/21

gan Mr A Thickett, BA (Hons) BTP Dip
RSA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 13/4/21

Appeal Decision

Site visit made on 08/03/21

by Mr A Thickett, BA (Hons) BTP Dip RSA
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 13th April 2021

Appeal Ref: APP/Q6810/A/20/3264389

**Site address: Land at Pen y Ffridd Road, Penrhosgarnedd, Bangor, Gwynedd,
LL57 2DQ**

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 failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Adra (Tai) Cyfyngedig against Gwynedd Council.
- The application Ref: C19/1072/11/LL is dated 15 November 2019.
- The development proposed is the erection of 30 dwelling with associated parking and access.

Decision

1. The appeal is allowed, and planning permission granted subject to the conditions set out in the schedule at the end of this decision.

Procedural matter

2. An application for costs was made by Adra (Tai) Cyfyngedig against Gwynedd Council. The application for costs is the subject of a separate decision.
3. Following the submission of the appeal the Council, within the dual jurisdiction period, determined to refuse to grant planning permission on grounds that;
 - i. insufficient information had been submitted to show that there would not be a negative effect on the Welsh language and,
 - ii. the site entrance was not considered suitable for a development of the proposed scale.

Main Issues

4. The main issues are the impact of the proposed development on the Welsh language and highway safety.

Reasons

Welsh language

5. The appeal site was previously used by Bangor University. The buildings associated with that use have been demolished and the site is currently vacant and overgrown.

It is surrounded by housing to the north and west, fields to the east and to the south is an area of open land together with the Ysbyty Gwynedd site. The site is located within the Bangor development boundary as defined by the Joint Anglesey and Gwynedd Local Development Plan, adopted 2017 (JLDP).

6. Bangor sits at the top of the settlement hierarchy defined by the JLDP. According to Policy PS 17, a higher proportion of new development to be delivered through the plan will take place within the Sub-regional centre and Urban Service Centres. This will be through commitments, allocations and windfall sites within the development boundary (see also Policy TAI 1). The reasoned justification to the location strategy explains that the preferred option for the spatial strategy seeks to ensure that the majority of residential development to be delivered through the plan will be located within or adjacent to the existing Sub Regional Centre and the Urban Service Centres.
7. The reasoned justification to Policy PS 1, which seeks to promote and support the use of the Welsh language states that; *'On the whole the Sustainability Assessment (that was informed by the Language Impact Assessment) takes a positive view of the Plan's policies and proposals on the basis that the development takes place on an appropriate scale and in appropriate places, and includes measures to promote the positive impacts and measures to mitigate negative impacts'*. According to the Council officer's committee report, the indicative housing supply level in Bangor over the Plan period is 969 units with 393 units on allocated sites and 576 on windfall sites. Between 2011 and 2019, 572 units were completed (224 on allocated sites and 348 on windfall sites).
8. In April 2019 there were 292 units with planning permission which, officers concluded, *'means that there is currently sufficient capacity within the indicative provision for windfall sites within the Bangor settlement'*. I have no reason to conclude, therefore, that the proposed development would undermine the findings of the Sustainability Assessment and Language Impact Assessment supporting the JLDP.
9. As required by Policy PS 1 the appeal application was supported by a Welsh Language Impact Assessment which was later supplemented by further information. Having considered the submissions, the Council's Welsh Language Unit concluded that the proposed development would not be large enough to have a major impact on the area's linguistic composition. The Unit found that the proposal would have a neutral or non-significant negative impact as the development would not result in a major change in the city's existing position in terms of the Welsh language. The Unit did sound a note of caution that cumulatively with other developments, the proposal could add to the pattern of deterioration that has been in the city's wards over the last decades. I do not make light of this concern, but it has to be read in the light of the findings of the Sustainability Assessment and Language Impact Assessment supporting the JLDP.
10. The Council's defence of its position and justification for not taking the advice of its professional officers is largely based on the results of the 2001 and 2011 censuses. I have not seen it expressed in terms, but it is reasonable to assume that this information was taken into account in producing the JLDP and informed the conclusions of its supporting Sustainability Assessment and Language Impact Assessment. The Council also seeks to dismiss the appellant's Welsh Language Impact Assessment alleging that the authors were not qualified to carry out such an assessment. However, the Council does not dispute that the Impact Assessment complies with the methodology set out in the Council's Maintaining and Creating Distinctive and Sustainable Communities Supplementary Planning Guidance (SPG). Further, presumably the Council considers its own Welsh Language Unit to be

sufficiently qualified and also aware of the census data and other sources cited by the Council¹.

11. Having considered the evidence before me, I see no good reason to turn aside the advice of the Council's Welsh Language Unit. I conclude that the proposed development would not have an adverse impact on the Welsh language and complies with Policies SO1 and PS 1 of the JLDP.

Highway safety

12. A new access to the site would be created off Pen y Ffridd Road. I visited the site mid-morning. At that time the northern side of Pen y Ffridd Road was lined by parked cars. I did not meet opposing traffic on my way in or out but had I done so it would have been necessary to pull over in the gaps left to access drives and wait for the other vehicle to pass. No doubt such incidences occur and would be likely to increase with the introduction of the proposed development.
13. However, the Highway Authority has considered the existing situation and the likely increase in traffic as set out in the appellant Transport Statement and has no objection to the proposed development. The Highway Authority conclude that Pen y Ffridd Road its junction with Penrhos Road and Penrhos Road are capable of accommodating the proposed development. I am aware of the concerns of local residents but have seen no empirical evidence to lead me to a different view. I conclude, therefore, that the proposed development would not have an adverse impact on highway safety and would comply with LDP Policies TRA 2 and TRA 4.

Other matters

14. The proposed development was amended in light of concerns raised and I agree with Council officers that it would not have an unacceptable impact on the living conditions of neighbouring residents. Neither NRW, Dŵr Cymru or the Council's Water and Environment Unit have raised any concerns regarding flooding and the proposed development will require a separate consent for a Sustainable Drainage System.

Conditions

15. I have considered the Council's conditions in light of the advice in Circular 14/16. I have amended the conditions I consider are necessary to meet the tests in the Circular. There are a number of conditions I do not consider to be necessary. It is important to ensure that the development provides satisfactory drainage in order to minimise the risk of flooding. However, a sustainable drainage system is required to be provided under Schedule 3 to the Flood and Water Management Act 2010 and it is not necessary to duplicate this requirement by way of a condition.
16. According to the proposed site plan, the roads within the site would be adopted and I see no planning purpose for conditions relating to the construction of the estate roads. Parking spaces to serve the proposed dwellings are shown on the submitted plans and I see no need to impose a condition in addition to that requiring the development to be carried out in accordance with the approved plans.
17. The appellant's ecologists found no evidence of reptiles on the site, a condition requiring a reptile method statement is, therefore, unnecessary. I see no need to duplicate the protection afforded to nesting birds by the Wildlife and Countryside Act 1981. The suggested conditions relating to tree root protection and transplanting a

¹ Which also informed the SPG

hedgerow do not specify which trees or hedge they relate to and I have amended them to require the submission of details. The Method Statement for the Eradication of Non-native Invasive Species does not commit to any works beyond the completion of the development. As worded the Council's proposed condition is unenforceable and I have read nothing to justify requiring evidence of compliance for 3 years after completion of development. I have amended the condition accordingly.

18. The Council provided insufficient explanation as to why a condition regarding noise and vibration is necessary in addition to controls on hours of construction and the approval of a Construction Method Statement. Given that the affordable housing condition requires arrangements to be in place to ensure that the units are affordable for both first and subsequent occupiers, I see no need to remove permitted development rights in relation to alterations and enlargements. In light of the statement from Dŵr Cymru that no problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site, I see no need to impose a condition relating to foul drainage.

Conclusions

19. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.
20. 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 objective of building better environments.

Anthony Thickett
Inspector

Schedule

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The appeal is allowed and planning permission is granted for the erection of 30 dwelling with associated parking and access at land at Pen y Ffridd Road, Penrhosgarnedd, Bangor, Gwynedd, LL57 2DQ in accordance with the terms of the application, Ref: C19/1072/11/LL dated 15 November 2019, subject to the following conditions:

- 1) The development shall begin no later than five years from the date of this decision.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 2) The development shall be carried out in accordance with the following approved plans: 001 Rev. A, 002, 003 Rev. S, 004 Rev. J, 009 Rev. C, 011, 051, 052, 062, 066, 076, 081, D7962.001A, D7962.002, D7962.003, D7962.004, D7962.005, D7962.006, D7962.007 and 3793-CAU-XX-XX-SK-C-0100.

Reason: To ensure that the development is carried out in accordance with the approved plans and drawings submitted with the application.

- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area and to comply with LDP Policies PCYFF 2 and PCYFF 3.

- 4) No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

Reason: To safeguard the character and appearance of the area and to comply with LDP Policies PCYFF 2 and PCYFF 3.

- 5) 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 occupation of the buildings or the completion of the development, whichever is the sooner; 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.

Reason: To safeguard the character and appearance of the area and to comply with LDP Policies PCYFF 2 and PCYFF 3.

- 6) No development or site clearance shall take place until details of hedgerows to be translocated and a Hedgerow Translocation Method Statement are submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard local biodiversity in accordance with LDP Policy AMG 5.

- 7) No development or site clearance shall take place until precise details of the works set out in the Biodiversity Enhancement Plan in Appendix D to the Etive Ecology Ltd, 'Land at Penyffridd Proposed Residential Development Ecology

Report' September 2019, including an implementation schedule are submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard local biodiversity in accordance with LDP Policy AMG 5.

- 8) The works specified in the Method Statement for the Eradication of Non-native Invasive Species dated April 2020 shall be carried out in accordance with that document. The results of the checks set out in the Method Statement for the Eradication of Non-native Invasive Species shall be submitted to the local planning authority in accordance with a schedule to be submitted to and agreed in writing with the local planning authority before development is commenced. The site shall be checked on the completion of the development and any surviving non-native invasive species eradicated as set out in the Method Statement.

Reason: To safeguard local biodiversity in accordance with LDP Policy AMG 5.

- 9) Working hours on site shall be restricted to 08:00-18:00 weekdays, 08:00-12:00 on Saturday and not at all on Sundays and Bank Holidays/other national holidays.

Reason: To safeguard the living conditions of nearby residents in accordance with LDP Policy PCYFF 2.

- 10) No development shall take place until the name of the development has been submitted to and agreed in writing by the local planning authority.

Reason: To promote the Welsh language in accordance with LDP Policy PS 1.

- 11) No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 12 units;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider;
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To meet the need for affordable housing in the area in accordance with LDP Policies ISA 1, TAI 1, TAI 8 and TAI 15.

- 12) No development shall take place until details of the boundary treatment on the site boundary with the site and Nos. 1 and 2 Penyffridd Cottages has been submitted to and agreed in writing by the local planning authority. The approved boundary treatment shall be erected before plots 26 and 27 are occupied.

Reason: To safeguard the living conditions of nearby residents in accordance with LDP Policy PCYFF2.

- 13) No development shall take place until a desk top site investigation has been carried out to identify the nature and extent of contamination. The results of the site investigation shall be made available to the Local Planning Authority before any development begins together with the submission of a Remediation Strategy. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before development begins. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied. Once development has been completed, a Completion Report shall be prepared for the site to be submitted to and approved by the Local Planning Authority.

Reason: To safeguard the living conditions of nearby residents in accordance with LDP Policy PCYFF2.

- 14) No development or site clearance shall take place 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: 1. the parking of vehicles of site operatives and visitors; 2. loading and unloading of plant and materials; 3. storage of plant and materials used in constructing the development; 4. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; 5. wheel washing facilities; 6. measures to control the emission of dust and dirt during construction; 7. a scheme for recycling/disposing of waste resulting from construction works.

Reason: To safeguard the living conditions of nearby residents in accordance with LDP Policy PCYFF2.