



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 10/05/22

gan **P J Davies BSc (Hons) MA MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 23.06.2022

Appeal Decision

Site visit made on 10/05/22

by **P J Davies BSc (Hons) MA MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 23.06.2022

Appeal Ref: APP/Y6930/A/21/3283015

Site address: Cymric House, Station Road to Bethany Car Park Lane, Port Talbot SA13 1PQ

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 planning permission.
 - The appeal is made by Mr Victor Johnson against the decision of Neath Port Talbot County Borough Council.
 - The development proposed is change of use from offices (Class B1) to 11 flats (Class C3).
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Decision

1. The appeal is allowed, and planning permission is granted for change of use from offices (Class B1) to 11 flats (Class C3) at Cymric House, Station Road to Bethany Car Park Lane, Port Talbot SA13 1PQ in accordance with the terms of the application, Ref P2021/0032, dated 1 June 2020, subject to the conditions set out in the schedule to this decision letter.

Main Issue

2. This is whether the proposal would result in any unacceptable risks from flooding.

Reasons

3. The appeal site is in Port Talbot town centre and in Zone C1 of the Development Advice Maps (DAM) that accompany Technical Advice Note 15 Development and Flood Risk (TAN 15). Zone C1 identifies areas of the floodplain which are developed and served by significant infrastructure, including flood defences. TAN 15 advises that in such locations, development can take place subject to the application of justification tests. Welsh Government has also published a summary document of what TAN 15 requires for highly vulnerable development (houses) to be considered acceptable ('the TAN 15 summary'). This sets out several justification and acceptability criteria which are relevant to the residential nature of the proposal.

4. The main issue is centred around two of the justification tests which require the location of the development to be necessary to assist a local authority regeneration initiative or strategy, and a Flood Consequences Assessment (FCA) to be produced to demonstrate that the potential consequences of flooding can be acceptably managed.
5. Although the proposal is not identified as being part of any specific regeneration initiative, the TAN 15 summary identifies a local authority strategy as the development plan for the area. In this case, that includes the Neath Port Talbot Local Development Plan (LDP). LDP Policy SP 3 identifies Port Talbot as a regionally important settlement at the top of the settlement hierarchy. The LDP also recognises the Waterfront Regeneration Strategy 2011 which covers the town of Port Talbot. The LDP sets out the strategic goals of this strategy which include improving the physical fabric within the urban areas, improving quality of life and making the area of Port Talbot an attractive place in which to live, work and invest. The appeal building is currently vacant and makes very little contribution to the town centre environment or its economy. By regenerating the existing building, the proposal would help secure and maintain its physical appearance, add vibrancy to the area by creating additional activity and movement around it, and economically it would support the town centre facilities. In the terms of TAN 15, whilst the development would contribute to the objectives of the LDP strategy rather than being strictly necessary in this location, this would be a minor conflict that in the light of my findings below, and the significant benefits of the scheme, in particular its contribution to sustainable development, should not weigh heavily against it.
6. The River Afan lies in close proximity to the appeal site. An FCA has been submitted which concludes that the site is flood free in the 1% plus climate change fluvial flood event and is within the tolerances of Table A1.15 of TAN 15 in the 0.1% fluvial flood event. In the latter case, flood depths of up to 160mm are predicted on the ground floor of the building which would accommodate six flats. Natural Resources Wales (NRW) acknowledges that the development would accord with TAN 15 but also highlight that the immediate area around the site would be at risk of flooding and note that the occupiers of the proposed ground floor units would have no dry means of refuge within the building in a 0.1% flood event.
7. In the above context, and as highlighted by the Council, the TAN 15 summary contains acceptability criteria that include the requirement for escape/evacuation routes to be shown to be operational under all conditions, and that the development is designed to allow the occupier facility for rapid movement of goods/possessions to areas away from floodwaters. Having regard to these criteria, I note that the shallow flood depths would allow for any possessions to be raised comfortably and rapidly above floodwaters, on kitchen counters or tables for example. In terms of dry refuge for occupants, the appellant points out that the first-floor shared corridor space of Cymric House could provide a refuge area in the event of an extreme flood. Whilst the FCA also identifies higher ground some 50m away from the site that would be accessible through shallow floodwater, I note that the advice in the FCA is for residents to shelter in place. Given the very shallow flood depths, and the ability to take refuge on chairs or beds for example, as well as on the first-floor corridor, I have no reason to believe that this would result in any significant risk to life. In addition, the appeal site is located within NRW's flood warning area for the River Afan at Port Talbot which would allow for some pre-emptive actions to be undertaken.
8. On the evidence, I am satisfied that there are viable means for an operational escape/evacuation plan, which could include occupants remaining in situ. As set out, there is also facility for the rapid movement of possessions away from flood waters. The provision of a Flood Emergency Plan (FEP) that clearly sets out these measures to the occupants of the

building would therefore overcome concerns relating to an extreme flooding event on the ground floor of the development. The appellant is willing to provide an FEP and subject to a planning condition to secure this provision, the potential consequences of flooding would be acceptably managed.

9. I conclude that the proposal would not result in any unacceptable risks from flooding, and it would comply with TAN 15.

Conditions

10. The Council has provided a list of conditions that it considers are necessary. I concur with the suggested conditions for the reasons set out in the schedule. As set out in my reasoning I have also attached a condition to require the submission of an FEP to ensure the safety of residents during an extreme flood event.

Conclusion

11. For the above reasons and having regard to all other matters raised, the appeal is allowed.
12. 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 one or more of the Welsh Ministers' well-being objectives.

P J Davies

Inspector

SCHEDULE OF CONDITIONS

- 1) The development shall begin not later than five years from the date of this decision.
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) The development shall be carried out in accordance with the following approved plans and documents: Proposed floor plans and elevation (Drawing No 200 Rev E); Location / Block Plan (Drawing No 100 Rev 0); FLB-JBAU-XX-XX-RP-Z-0001-S3-PO1-Cymric_House_FCA; FLB-JBAU-XX-XX-TN-Z-0002-S3-PO1-Cymric_House_Hydrology_Review; Design and Access Statement; Planning Statement.
Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application.
- 3) No development shall take place on site 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 parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- v. wheel washing facilities;
- vi. measures to control the emission of dust and dirt during construction;
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of highway and pedestrian safety, the environment, and the amenity of residents (LDP Policies BE1 and TR2).

- 4) Prior to the commencement of any development on site, a scheme shall be submitted to and approved in writing by the Local Planning Authority for the provision of refuse and recycling for the flats, including collection arrangements. The scheme, as approved, shall be fully implemented prior to the first occupation of any flat, and retained as such thereafter.

Reason: In the interest of highway and pedestrian safety, the environment, and the amenity of residents (LDP Policies BE1 and TR2).

- 5) No development shall take on site until a scheme for the provision of cycle storage (1 stand per 5 bedrooms) serving the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The scheme, as approved, shall be fully implemented on site prior to the first occupation of any flat, and retained as such thereafter.

Reason: In the interest of highway safety and active travel (LDP Policy TR2).

- 6) Notwithstanding the submitted details and prior to the first occupation of any flat, a scheme for the provision of artificial nesting boxes for birds shall be submitted to and approved in writing by the Local Planning Authority. The scheme, as approved, shall be fully implemented on site prior to the first occupation of any flat, and retained as such thereafter.

Reason: In the interest of biodiversity, and to mitigate loss of bird nesting/foraging habitats under the Habitats Regulations (amended 2012) (LDP Policy SP15).

- 7) Notwithstanding the submitted details and prior to the first beneficial occupation of any flat, a scheme for the provision of one-way mirrored film to all habitable room windows on the ground-floor shall be submitted to and approved in writing by the Local Planning Authority. The scheme, as approved, shall be fully implemented on site prior to the first occupation of the respective flat, and retained as such thereafter.

Reason: In the interest of residential amenity of the future occupiers of the ground-floor flats to prevent any unacceptable overlooking for passers-by (LDP Policy BE1).

- 8) Prior to the first occupation of any part of the development, a Flood Emergency Plan (FEP) shall be submitted to and agreed in writing by the local planning authority. The FEP shall include details of the procedures to be taken by residents in the event of a flood occurring, including remaining in situ. All future occupants of the dwellings shall be provided with a copy of the FEP on occupation of the property.

Reason: To ensure the safety of occupants during an extreme flood event (LDP Policy SP1).