

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL CASTELL-NEDD PORT TALBOT**

**TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (WALES) ORDER 2012**

REFUSAL OF PLANNING PERMISSION

Name and address of the applicant

**Mr Billy Doyle
Afan Forest Cottage
Tai'r Ynys Fawr
Pontrhydyfen
SA12 9RU**

Name and address of the agent

**Mr Matt John
Atrium Planning Consultants
12 Clarendon Road
Sketty
SA2 0SR**

DATE REGISTERED: 6 May 2022

APPLICATION NO: P2022/0379

LOCATION: Afan Forest Cottage , Tai'r Ynys Fawr, Pontrhydyfen, SA12 9RU

PROPOSAL: Retention of parcel of land as garden curtilage in association with the property known as Afan Forest Cottage.

THE NEATH PORT TALBOT COUNTY BOROUGH COUNCIL AS THE LOCAL PLANNING AUTHORITY IN PURSUANCE OF ITS POWER UNDER THE ABOVE MENTIONED ACT AND ORDER HEREBY REFUSES TO PERMIT THE PROPOSED DEVELOPMENT FOR THE FOLLOWING REASONS:-

Reasons For Refusal:-

1 The retention of the use of this site as residential garden results in a harmful erosion of the undeveloped countryside. This is contrary to Policies SP14 and SC1 of the Neath Port Talbot Local Development Plan 2011-2026 (adopted January 2016).

Reason for decision

The retention of the development is recommended refusal of retrospective planning permission under Section 73 of the Town and Country Planning Act 1990. This decision has been taken in accordance with Section 38(6) of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

The retention of this use is contrary to Policy SP14, which requires that the countryside is protected through the control of inappropriate development outside settlement limits. Policy SC1 identifies exceptions to this policy, however this development does not fall in any of the exceptions identified by this policy. The retention of this use is a departure from the development plan and to lawfully permit development specific material considerations must be identified to outweigh the development plan.

In this case, the proposal is retrospective and has resulted in the extension of a residential use into the countryside. This extension is substantial at over 1430 square metres, the change of use is associated with urbanising features such as fences, amenity planting, sheds, decking and other domestic paraphernalia. This has resulted in an urbanising and encroaching effect on the undeveloped countryside.

The benefits arising from the area of additional garden that has been provided to the dwelling is considered largely a matter of private interest to which the planning system can give little weight. The use is on-going and appears to have been on-going for some time. But, any on-going lawful use of this site residentially has not been established by a lawful development certificate, therefore the use of the land residentially as a fall back can be given very little weight.

Material considerations are not therefore sufficient to outweigh the development plan and the retention of the use is recommended for refusal as a harmful erosion of the countryside contrary to Policies SP14 and SC1.

Signed:



Ceri Morris – Head of Planning & Public Protection

Date: 24th June 2022

IMPORTANT INFORMATION: TOWN AND COUNTRY PLANNING ACT 1990

The applicant's attention is drawn to the notes below.

- a) If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Welsh Government under Section 78 of the Town and Country Planning Act 1990 (as amended).
- b) You can also appeal to the Welsh Government against a decision to refuse permission or grant subject to conditions in respect of applications made for :- Listed Building or Conservation Area Consent; Consent under a Tree Preservation Order; Advertisement Consent.
- c) You can also appeal If your application for a Certificate of Lawful Existing Use or Lawful Proposed Use is partly or wholly refused or is granted differently from what you asked for (under Section 195/196) of the Town and Country Planning Act 1990 (as amended).
- d) If you are aggrieved of the LPAs decision, the following deadlines apply for appeals to be submitted to the Welsh Government (from the date of the Council's decision):-
 - (2) Planning Permission (with the exception of Minor Commercial and Householder applications – see below) Within 6 Months
 - (3) Householder Appeal see endnote i Within 12 weeks
 - (4) Minor Commercial Appeal see endnote i Within 12 weeks
 - (5) Listed Building or Conservation Area Consent appeals Within 6 months
 - (6) Tree Preservation Order (TPO) Consent Within 28 days
 - (7) Advertisement Consent Within 8 weeks
 - (8) Certificate of Lawfulness of Existing (Section 191) or Proposed (Section 192) Use or Development Within 6 months
 - (9) Hazardous Substances Consent Within 6 months
- e) Appeals must be made on a form which is obtainable from the Planning Inspectorate, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ – Tel 0303 444 5940, or online at www.planningportal.gov.uk/pcs .
- f) The Welsh Government has power to allow a longer period for the giving of notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- g) The Welsh Government is not required to entertain an appeal if it appears to them that permission for the proposed development could not have been granted having regard to the statutory requirements to the provisions of the development order, and to any directions given under the Order. They do not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by them.
- h) If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by the Welsh Government, and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the County Borough Council, in which the land is situated, as the case may be, a **purchase notice** requiring that Council purchase his interest in the land

in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Making an Appeal

- i) Please note that for all applications received by the LPA after 5th May 2017, it is now a requirement that any appeal made to the Planning Inspectorate (other than Householder and Minor Commercial Appeals, and appeals against refusal to grant advertisement consent) must be accompanied by all the information and evidence you intend to rely upon (**a “full statement of case”**). You must also send a copy of the notice of appeal and full statement of case to the LPA.
- j) In addition, for ‘planning appeals’ an amendment to an application following notice of appeal may only be made to correct an error.
- k) Additional details and information on making an appeal to the Welsh Government is available from the Planning Inspectorate at the above address and website. The relevant documents are entitled “making your planning appeal” and “planning appeals Public Local Inquiries”.
- l) Further correspondence regarding this application should bear the reference number quoted on the top of the decision notice.

THIS NOTICE RELATES ONLY TO A PLANNING DECISION AND DOES NOT RELATE TO OTHER LEGISLATION INCLUDING ANY LEGISLATION UNDER:

- BUILDING REGULATIONS – Please contact buildingcontrol@npt.gov.uk or 01639 686820 to discuss all aspects of the service that is offered by Building Control
- HIGHWAY LEGISLATION

IF PLANNING CONSENT HAS BEEN GRANTED IT IS ADVISABLE TO ESTABLISH WHETHER ANY OTHER FORM OF CONSENT IS REQUIRED AND TO OBTAIN SUCH CONSENT BEFORE COMMENCING DEVELOPMENT

ⁱ Please see the [Town and Country Planning \(Referred Applications and Appeals Procedure\) \(Wales\) Regulations 2017](#) for appeal procedures and for full definitions of:

1. “*householder application*” (essentially an application for the enlargement, improvement or other alteration of a dwellinghouse, or development within the curtilage of such a dwellinghouse, or change of use to enlarge the curtilage of a dwelling house)
2. “*householder appeal*” means an appeal in relation to a householder application, but excludes an appeal against conditions on the grant of planning permission; or an appeal which is accompanied by an enforcement or listed building consent appeal.
3. “*minor commercial application*” (essentially relates to existing buildings of no more than 250 square metres gross external floor space at ground floor level, currently in use for any of the purposes set out in Schedule 1A to The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2015 which is an application for change of use from Class A1 to A2 or A3; or Class A2 to A3); or the carrying out of building or other operations to a shop front.
4. “*minor commercial appeal*” means an appeal in relation to a minor commercial application but excludes an appeal against conditions on the grant of planning permission; or an appeal which is accompanied by an enforcement or listed building consent appeal.