



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 16/05/22

gan Richard Duggan BSc (Hons) DipTP
MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 30.06.2022

Appeal Decision

Site visit made on 16/05/22

by Richard Duggan BSc (Hons) DipTP
MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 30.06.2022

Appeal Ref: CAS - 01389

Site address: 241 Swansea Road, Trebanos, Pontardawe SA8 4BT

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 grant of planning permission subject to conditions.
 - The appeal is made by Mr Matthew Thomas against the decision of Neath Port Talbot County Borough Council.
 - The development permitted is the 'Retention of existing engineering and retaining works together with proposed vehicular access and hardstanding to form new parking area'
 - The condition in dispute is No 2 which states that: *'Notwithstanding the submitted and approved plans and prior to the first beneficial use of the area hereby approved, a 1m high permanent wall or fence, retaining a pedestrian access only, shall be provided on site located along the front boundary facing the classified highway within 3 months of the date of this permission unless otherwise agreed in writing with the Local Planning Authority, and it shall be retained as such thereafter'*.
 - The reason given for the condition is: *'In the interests of privacy of the occupier and private amenity space of the neighbouring property, and to ensure compliance with Policy BE1 of the Neath Port Talbot Local Development Plan'*.
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Decision

1. The appeal is dismissed, and planning permission is refused for the retention of existing engineering and retaining works together with proposed vehicular access and hardstanding to form new parking area.

Procedural Matters

2. Section 79(1) of the Town and Country Planning Act 1990 allows me to allow or dismiss the appeal or reverse or vary any part of the decision (whether the appeal relates to that part or not) and I may deal with the application as if it had been made to me in the first instance. The whole of the permission, and any conditions which were or should have been attached, are matters for my consideration. As such, the Appellant was given the

opportunity to withdraw the appeal, but he has confirmed that the appeal should proceed to be determined as submitted.

Main Issue

3. I consider the main issue to be the impact of the development and the use of the car parking area on highway safety.

Reasons

4. The appeal site is located on a main classified road, and at the time of my site visit, whilst only a snap shot in time, it appears to be a very busy road, as expected of a main route.
5. Given the restricted size of the available space, I am unconvinced that a vehicle could manoeuvre within the space, particularly if one vehicle is already parked there, and as such is likely to either reverse into or out of the parking space. Reversing into the site would lead to vehicles slowing, stopping and turning off the busy road in reverse gear. This would be detrimental to the free flow of traffic along the road. In addition, reversing out of the space into the road, a situation where the driver's visibility would be limited, would be hazardous to both pedestrians and other road users.
6. The position of the access is such that visibility to the south-west is limited by the curvature of the highway which restricts the visibility for cars leaving the appeal property as well as those travelling towards the site. There is also a change in vertical alignment when approaching the appeal site from the south-west which further restricts the visibility of motorists travelling towards the site and for cars leaving the appeal property. These conditions further exacerbate the potential for vehicular conflict on Swansea Road.
7. The appellant suggests that the removal of parked vehicles from Swansea Road would be an improvement to highway safety. Whilst this may be the case, I am unconvinced that the development is in the best interests of highway safety for the reasons noted above.
8. I saw that other properties in the area have created off-street parking spaces. However, there are no details before me as to whether these parking areas have been granted planning permission. The Council has confirmed that the off-street car parking area at the neighbouring property was granted permission some years ago under a different policy regime. Moreover, I have determined this appeal on its own merits, having regard to the restricted dimensions of the space and the visibility of the road in this location. Accordingly, these examples do not justify allowing the continued use of the car parking area.
9. For the above reasons, on the basis of the evidence before me and taking into account the specific circumstances of the case, I conclude that the use of the car parking area leads to dangerous vehicular manoeuvres within Swansea Road to the detriment of highway safety contrary to Policies BE1 and TR2 of the Adopted Neath Port Talbot Local Development Plan.

Other matters

10. The Council considered that the development did not harm the character and appearance of the area and did not warrant a refusal on visual impact. However, the Council's highways department raised concerns regarding the highway safety aspects of the development. Instead of refusing the planning application, the Council considered that the imposition of conditions would prevent its use for the parking of vehicles.
11. However, this conflicts with the advice set out in paragraph 4.13 of Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' which states that a condition modifying the development cannot be imposed if it would make the

development permitted substantially different from that comprised in the application. Planning permission was sought for the retention of the access and hardstanding to form a parking area. The erection of a wall or fence with a gap for pedestrian access only (condition 2) and preventing the use of the area of hardstanding for parking motor vehicles (condition 3) would be contrary to the purpose of the development for which planning permission was sought. It is clear that the conditions imposed on the planning permission do not meet the tests set out within the circular and are ultra vires as they do not fairly and reasonably relate to the development.

Conclusion

12. Having regard to the above, I conclude that the appeal should be dismissed and planning permission should be refused for the development.
13. 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 objectives of building a stronger, greener economy as we make maximum progress towards decarbonisation, making our cities, towns and villages even better places in which to live and work and embedding our response to the climate and nature emergency in everything we do.

Richard Duggan

INSPECTOR