



Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 13/12/17

gan Hywel Wyn Jones BA (Hons) BTP
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 04.01.2018

Appeal Decision

Site visit made on 13/12/17

by Hywel Wyn Jones BA (Hons) BTP
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 04.01.2018

Appeal Ref: APP/B6855/A/17/3188320

Site address: Land adjacent to 40 Clydach Road, Craig-Cefn-Parc, Swansea, SA6 5TA

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 Mr R Morgan against the decision of the City and County of Swansea Council.
 - The application (ref: 2017/1316/OUT), dated 13 June 2017, was refused by notice dated 11 August 2017.
 - The development proposed is a detached dwelling (outline).
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling at Land adjacent to 40 Clydach Road, Craig-Cefn-Parc, Swansea, SA6 5TA in accordance with the terms of the application ref: 2017/1316/OUT, dated 13 June 2017, subject to the conditions in the Schedule to this decision.

Procedural Matters

2. The appeal seeks outline planning permission with all matters reserved for subsequent approval. Accordingly I have treated the detailed plans that have been submitted as being for illustrative purposes only.

Main Issue

3. The main issue is effect of the proposed dwelling on the living conditions of neighbouring residents, particularly in relation to any visual intrusion, overlooking or overshadowing.

Reasons

4. The appeal site slopes steeply from Clydach Road down to Heol Rhyd. It lies adjacent to a recently constructed detached house (No. 40) to one side and to undeveloped land on the other. The illustrative drawings show a split level design with a mainly one-and-a-half storey appearance from Clydach Road and which would provide lower ground floor accommodation facing the rear elevation. No. 40 is a split level design but is smaller than the proposal and its front elevation is single storey. Whereas the
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proposed dwelling would be sited close to the front boundary, No. 40 is sufficiently set back from Clydach Road to accommodate forecourt parking.

5. The appellant suggests that existing roadside trees and bushes along Heol Rhyd would effectively screen the proposed dwelling from ground floor views at Gwel y Gelli. However, my visit confirmed that the density and height of a section of the intervening vegetation is less effective than suggested.
6. From outside Gwel y Gelli I observed that No. 40, which is marginally higher than the proposed dwelling, is readily visible, as is No. 37 which is a two storey dwelling occupying a considerably higher position on the other side of Clydach Road. However, despite their elevated position they are not unduly prominent. This is a consequence of the intervening distance and because the natural line of sight from Gwel y Gelli is towards the steeply sloping ground and vegetation closer to Heol Rhyd. The addition of the proposed dwelling to this arrangement would not create an overbearing or otherwise unacceptable visual impact on the residents of Gwel y Gelli.
7. In terms of the impact on the privacy of Gwel y Gelli, I have noted the Council's adopted supplementary planning guidance: 'Infill and Backland Design Guide' (2014), which explains that the normal separation distance between dwellings should be extended where there is a change in levels. However, the document recognises that it should be treated as a guide only and that the emphasis should be on the unique nature of every site – in this case the considerable difference in levels means that natural lines of sight would be over, rather than into, the neighbouring property and the orientation of the proposed dwelling would not directly face the nearest property at the rear. Moreover the stipulated distance applies across private garden areas and thus is not relevant in this case given that there is an intervening highway which already affects the privacy of the modest front garden and front-facing living room windows of the neighbouring property. On this basis I am satisfied that there would be no unacceptable degree of overlooking of the properties to the rear, subject to appropriate detailed consideration at reserved matters stage.
8. There is a lower ground floor window on the side elevation of No. 40 which is very close to the mutual boundary with the appeal site and which I noted at my visit can be overlooked passers-by using the public footway. At the time of my visit blinds were closed over this window. The dwelling would cast a shadow over No. 40 including the side window but the separation shown between this window and the proposed building would maintain reasonable daylight to serve a bedroom. Any overshadowing of the front elevation of No. 40 would not be significant given its orientation. An objector is concerned that the "25 degree rule" has been ignored. The Design Guide explains that this test "may be utilised", and refers to the need for an impact assessment in cases of non-compliance with the rule. I have no information on whether there is compliance but have applied my own analysis on the impact on the basis of the available evidence.
9. Concern has been raised with regard to potential overlooking of the rear garden of No. 40 but I find the arrangement, which is one commonly found between neighbouring two-storey properties, acceptable. Given that its main elevations would not face the proposed dwelling I find that there would be no overbearing effect on the occupiers of No. 40.
10. I have also taken into account the effect of the scheme on the living conditions of the other neighbouring residents, including No. 37, and the particular personal considerations that have been drawn to my attention. Whilst I acknowledge that the

proposal would result in some noise and disturbance during construction work, this would not be to such an extent as to justify withholding permission.

11. On the main issue I conclude that the effect of the proposed dwelling on the living conditions of neighbouring residents would be acceptable. Thus the scheme aligns with policies EV1 and EV16 of the City & County of Swansea Unitary Development Plan 2008 which seek to avoid development that would result in harm to the amenity of neighbouring residents. It would also accord with the thrust of the Design Guide.

Other Matters

12. At the suggestion of an objector I visited the site at a time when pupils were being taken to school. Despite heavy rainfall I found that traffic was not heavy. The narrow nature of the highway, intermittent footway provision, on street parking and numerous vehicular access points create an environment where motorists would drive with caution, alert to the possibility of vehicles emerging over footways onto the carriageway. I note that the Council's highways officer considers the scheme acceptable in terms of the safety of highway users, and I agree subject to consideration of details at reserved matters stage.
13. Matters relating to the Party Wall Act and the structural stability of neighbouring property are matters of private rather than public interest and thus would be for the respective land owners to address. There is no specialist evidence to support the contention that bats would be affected by the scheme.
14. Representations have been made by an objector that his rights under Article 8 of the Human Rights Act 1988 would be violated if the appeal were allowed. Given my findings on the main issue, the degree of interference that would be caused would be insufficient to give rise to a violation of rights.

Conditions

15. I have considered the conditions suggested by the Council in the light of the advice in Circular 016/2014: The Use of Planning Conditions for Development Management. As the application is in outline I shall impose the standard conditions on time limits and reserved matters.
16. To avoid localised flooding or pollution it is necessary to require details of the means of drainage to be approved. As landscaping is a reserved matter a condition to require details of planting or boundary treatment is not necessary. Given the proximity of proposed excavation works to the highway carriageway it is reasonable to require details of retaining structures, in the interests of highway safety.
17. The appellant's agent indicates that he would be agreeable to a condition limiting the northern part of the dwelling to single storey in height, but given my findings on the main issue, and the requirements for reserved matters to be approved, such a condition is not necessary.

Conclusions

18. Subject to the imposition of the identified conditions, I conclude that the scheme would be acceptable in all respects. For these reasons I shall allow the appeal.
19. 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 supporting safe, cohesive and resilient communities.

Hywel Wyn Jones

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) Prior to the commencement of development, full details of a scheme for the comprehensive and integrated drainage of the site showing how foul, surface water and land drainage will be dealt with shall be submitted to, and approved in writing by, the local planning authority. This scheme shall include details of a Sustainable Drainage System (SuDS) for surface water drainage and/or details of any connections to a surface water drainage network. The development shall not be brought into beneficial use until the works have been completed in accordance with the approved drainage scheme, and this scheme shall be retained and maintained as approved thereafter for the lifetime of the development.
- 5) No development shall take place until a full set of calculations and structural drawings for any retaining wall within 3.66m of the adjacent adopted highway of Clydach Road has been submitted to, and approved in writing by, the local planning authority. The works shall be carried out in accordance with the approved details prior to the commencement of any other part of the development hereby approved.