



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 03/08/21

gan **J P Tudor BA (Hons), Cyfreithiwr
(ddim yn ymarfer)**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 16.09.2021

Appeal Decision

Site visit made on 03/08/21

by **J P Tudor BA (Hons), Solicitor (non-
practising)**

an Inspector appointed by the Welsh Ministers
Date: 16.09.2021

Appeal Ref: APP/X6910/A/21/3276988

Site address: Maes y Dderwen, Charles Street, Tredegar NP22 4AF

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 Dean Richards (Shaw Healthcare) against the decision of Blaenau Gwent County Borough Council.
 - The application Ref: C/2020/0282, dated 20 November 2020, was refused by notice dated 19 April 2021.
 - The development proposed is 5 bedroom supported living unit and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for a 5 bedroom supported living unit and associated works at Maes y Dderwen, Charles Street, Tredegar NP22 4AF in accordance with the terms of the application, Ref: C/2020/0282, dated 20 November 2020 subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Dean Richards (Shaw Healthcare) against Blaenau Gwent County Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. Council Officers recommended that the proposal should be approved but the Council's Planning, Regulatory and General Licensing Committee (the Planning Committee) took a different view and decided, as they are entitled to do, to refuse planning permission. The refusal has led to this appeal. The Council has not submitted a Statement of Case but has supplied copies of Officers' Reports and minutes of the relevant Planning Committee meetings, which I have considered¹.

¹ Reports and Minutes relating to Planning Committee meetings of 4 March and 15 April 2021.

Main Issues

4. The main issues are:

- the effect of the proposed parking arrangements on the safe and convenient use of the highway network in the area;
- whether the development would be in an acceptable location, with particular regard to the living conditions of future residents; and,
- the effect on the living conditions of residents of the existing care facility, with regard to outdoor space.

Reasons

5. The appeal site comprises a grassed area adjacent to a private car park serving a 24-bed care home at Maes y Dderwen. It is situated on the southern side of Charles Street, a long straight road consisting mainly of residential housing of various types, styles and ages.
6. It is proposed to construct a detached, 5 bedroom, two-storey supported living unit, which would, effectively, be an extension to the existing care home operated by the appellant. The ground floor of the new building would accommodate a shared living room, kitchen/dining room, a utility room and a staff room while 5 bedrooms with WCs and a shared bathroom would be provided at first floor level.

Highway safety

7. The Council and local residents have expressed concern about the proposed parking arrangements, suggesting that the scheme would generate additional parking demand which would adversely affect highway safety along Charles Street. I note that Charles Street is on a bus route and that the road is narrowed if vehicles are parked on both sides of the street.
8. Three off-street parking spaces would be provided as part of the scheme to the rear of the new building. They would be accessed via the existing car park serving Maes y Dderwen. It is understood that residents of the unit would not have access to private motor vehicles and that the three new parking spaces would be for use by two members of staff with the other space available for visitors. The development will not involve the loss of any car parking spaces within the existing car park.
9. With regard to new development, Policy DM1 of the Council's Local Development Plan up to 2021 (LDP)² indicates that proposals will be permitted where, among other things, parking, appropriate servicing and operational spaces have been provided. Parking requirements are set out in the Council's adopted Access, Car Parking and Design Supplementary Planning Guidance (SPG)³. Council Officers have advised in reports to the Planning Committee⁴ that the proposed parking provision meets the highway authority's requirements, as set out in the SPG. The highway authority has also confirmed that it has no objection to the proposed development, subject to a condition requiring that the three new parking spaces would be constructed prior to occupation of the building.

² Adopted November 2012

³ March 2014

⁴ Officer Report for Committee Meeting of 4 March 2021 and Officer Report for Committee Meeting of 15 April 2021

10. The Council and local residents refer to general parking problems in the area and suggest that the car park serving the existing facility is often full, with vehicles parked outside marked bays and overflow parking by staff and visitors along Charles Street.
11. Photographs submitted by a local resident taken at 9am⁵ show the car park as full and few spaces available along the part of Charles Street opposite the site. However, photographs from similar vantage points supplied by the appellant, also taken at 9am⁶, appear to show a parking space available in the car park and several spaces along the relevant part of Charles Street. Such photographs represent only snapshots in time and the situation may vary from day-to-day. While that equally applies to my site visit, when I visited on a Tuesday afternoon⁷ there were several spaces available in the car park, some spaces on Charles Street opposite the site and further spaces on other parts of the street.
12. As I observed, semi-detached houses to the north-west of the appeal site benefit from off-street parking on private driveways, with many also having side garages. Some of the terraced houses opposite the site and further to the southwest appeared to have garages to the rear. There were also cars parked in an area between the Coach & Horses public house, adjacent to the appeal site, and a hairdressers. Residential units at Bill Harry Court further along Charles Street also benefit from parking spaces for tenants to the rear. Parking along Charles Street does not appear to be subject to parking restrictions, aside from double yellow lines mostly near corners or entrances.
13. While I note the views expressed by the Council and a number of local residents about the severity of parking problems in the area, that view is not supported by the Highway Authority (HA) or Council Officers. Moreover, there is no clear or persuasive evidence before me to demonstrate that Charles Street or nearby streets are subject to particular parking stress, over and above that of other residential streets, especially given that many of the houses along it appear to benefit from off-street parking. It has not been shown that the existing parking arrangements at Maes y Dderwen have led to a significant level of road accidents and the highway authority has not expressed concerns about parking or highway safety. There is limited persuasive evidence to show that local residents are significantly inconvenienced or unable to find parking spaces within a reasonable distance of their homes.
14. Even if on-street parking is difficult in the area at certain times of the day, in providing 3 new parking spaces the proposed development appears to satisfy the SPG parking requirements. Moreover, one 5 bedroom unit is a relatively limited addition to the existing care facility, especially given that the residents will not have access to motor vehicles. Therefore, it is unlikely to generate significant additional parking demand beyond that catered for by the new spaces. The HA considers that any additional on-street demand could be safely accommodated by available on-street parking spaces and I see no clear reason to disagree with that view.
15. In terms of additional traffic generation resulting from deliveries, the appellant advises that food deliveries to the existing Maes y Dderwen facility take place three times a week with refuse collections, as for other properties along Charles Street, on Wednesdays. The appellant advises that those existing deliveries will also cater for the proposed additional 5 bedroom unit. Therefore, there is no reason to suppose that significant additional delivery traffic will be generated. While concerns have been

⁵ Date/day unspecified

⁶ On Thursday 29 July 2021

⁷ At about 1425 hours

expressed about the ability of existing delivery vehicles to safely access and exit the existing car park, the entrance appears wide enough to enable larger vehicles to reverse in, if necessary. Such vehicles would only be onsite for temporary periods.

16. Many of the local concerns expressed about parking appear to relate to the existing Maes y Dderwen care home. However, I understand that planning permission was granted for that facility and its car park some thirty years ago and it is not the subject of this appeal. Although the appeal proposal would effectively extend that facility, as it would add just 5 bedrooms it is limited in scale. Moreover, there is no compelling evidence before me to show that it would have a significant effect on parking in the area or jeopardise highway safety.
17. The relevance of a historical reference, within the Council's first reason for refusal, to a rescinded closure of Charles Street at the time that the Tredegar bypass was constructed, is unclear and unexplained.
18. I conclude, therefore, that the proposed parking arrangements are sufficient and would not lead to a significant adverse effect on the safe and convenient use of the highway network in the area. Consequently, the proposal would comply with LDP policy DM1. It would also meet the parking space requirements detailed in the relevant SPG.

Acceptability of location

19. The Council's second and fifth reasons for refusal both relate to the proposed location of the new unit next to a public house.
20. The second reason for refusal describes the public house as busy and says that its customers sometimes smoke outside. It suggests that the location of the unit would put residents, presumably referring to residents of the unit, in '*a potentially dangerous position*' and that they would be '*in close proximity to potential[ly] harmful situations such as those outlined by residents who live in the area*'. The fifth reason for refusal refers to the proposed development's Class C3 use and the public house. It then asserts that: '*These uses should not be located next to each other*'. Similarly, the minutes of the relevant Council Planning Committee meeting refer to the proximity of the unit to the public house as a '*serious problem in itself*'.
21. While those expressions of concern are noted, there is no clear explanation in the reasons for refusal or in the Planning Committee meeting minutes of the precise nature of the harm that it is alleged would result, or that it would be significant. Similarly, representations from local residents do not provide persuasive or objective evidence of identifiable or significant harm arising from proximity to the public house. Furthermore, the existing approved Maes y Dderwen care facility, which the 5 bedroom unit would form part of, is already situated adjacent to the public house, albeit separated from it by the car park and a small, grassed area. I understand that the current situation is considered acceptable by the relevant regulatory body, the Care Inspectorate Wales, and no substantive evidence has been presented to show that any significant harm has been caused to residents of the existing facility as a result of its proximity to the public house.
22. Although it would be closer to the public house, I understand that the new unit would be staffed at all times for the protection of its residents. Moreover, bedrooms would be on the first floor and there are no residents' habitable room windows within the side elevation adjacent to the public house. Therefore, the privacy of residents of the unit would be protected and the limited intervisibility should reduce the potential for interaction between unit residents and pub-goers. Given those factors, I am not

persuaded that the position of the unit next to the public house would result in significant harm to residents of the unit, users of the public house or other residents of the area.

23. Concern has also been expressed about effects on a public right of way which runs, between the appeal site and the public house, to residential housing at Martindale Close to the rear of the site. It is suggested that the building would further enclose the lane, which is said to be already used for drug dealing and by people dumping rubbish. Although the new building adjacent to the pub would enclose part of the lane there would still be views down the lane from Charles Street. Furthermore, the unit would incorporate a window to a staffroom at ground floor level which would increase natural surveillance at close quarters over the lane. Such natural surveillance is generally accepted as discouraging criminal or antisocial behaviour. I note that Gwent Police and the Neighbourhood Policing Team have no objections to the proposal and also refer to the importance of natural surveillance in relation to the rear access to the building⁸.
24. The proposed development would fall within the C3 residential use class and be located within a predominately residential area, where the presence of public houses would not be considered unusual. I am also conscious that LDP policy SP4 supports the delivery of quality housing and a mix of dwelling types, sizes and tenures to meet the housing needs of Blaenau Gwent's current and future population. The development would provide a supported living unit that would meet the needs of a particular client group.
25. The Council's submissions do not identify the nature of the alleged harm with any clarity or suggest that the proposed location would be in conflict with the LDP.
26. Therefore, I conclude that the proposed development would be in an acceptable location, including with regard to the living conditions of future residents. It would comply with LDP policy DM2, which requires development to be of a type appropriate to its local context, and national policy, as expressed within Planning Policy Wales, which requires a full range of housing types to meet the identified needs of communities⁹.

Living conditions of existing residents with regard to outdoor space

27. The Council's third reason for refusal indicates that the proposal would reduce the amenity space currently enjoyed by existing residents and would impact on their well-being. The Council has not elaborated on the reason for refusal or explained whether it refers to existing residents of the adjacent care facility or other neighbouring residents along Charles Street. Given the lack of clarity, I will consider both.
28. While the appeal site would use a grassed area, it is adjacent to an existing car park and bin store and appears to be of limited value as an outdoor space or garden area for residents of the existing facility. Moreover, it is understood that those residents have access to a private garden to the rear of the main building. Future residents of the unit would have access to a modest garden to the rear of the new building and, as I understand it, to the garden at the existing facility.

⁸ Email from Gwent Police dated 3 March 2021

⁹ Edition 11 including paragraph 4.2.12

29. Given that the appeal site is private land, the grassed area is not likely to be of any significant benefit to neighbouring residents along the street, with regard to outdoor space.
30. Accordingly, I conclude that the proposed development would not harm the living conditions of residents of the adjacent facility or other residents in the area, with regard to loss of outdoor space. Again the Council's reason for refusal does not cite conflict with any LDP policy. In any event, the proposal would comply with criterion 2c of LDP policy DM 1, as it would not result in an unacceptable impact on the amenities of neighbouring occupiers.

Other Matters

31. The Council's fourth reason for refusal states that the '*proposed development is not in the best interests of the community surrounding the development.*' However, there is no explanation within the Council's submissions, including the minutes of the relevant Planning Committee meetings, to identify the nature of the alleged adverse effect on the surrounding community, beyond the issues already dealt with above. Therefore, it amounts to a vague, generalised assertion. I note that the Council Officer's Report to Committee¹⁰ makes a similar point regarding the ambiguity of the then proposed reason for refusal and the need for any alleged negative impacts to be identified and to be relevant planning considerations. Therefore, in the absence of any further explanation or clarification, I have given limited weight to that reason for refusal in my consideration of the appeal.
32. In addition to the matters dealt with above, local residents have raised a range of other matters, many of which appear to relate to the operation and nature of the existing facility at Maes y Dderwen. They include alleged loss of privacy, light, obstruction of views, alleged anti-social or criminal behaviour, effects on property values in the area and questioning the need for the existing facility to be expanded. While I have carefully considered all the representations made at both the application and appeal stages, they have either been satisfactorily addressed in the Council Officer's Report¹¹; are not directly relevant to the proposal; are not relevant planning issues; can be addressed by appropriate conditions; are not persuasively evidenced; or are not of sufficient individual or cumulative significance to lead me to alter my decision.
33. Any effects or disruption during the construction period would be short-term and could be mitigated by careful construction management.

Conditions

34. The Council has suggested conditions in the event that the appeal were allowed, which I have considered, making minor alterations, if necessary, for simplicity and clarity, and having regard to the advice in Welsh Government Circular 016/2014: *The Use of Planning Conditions for Development Management* (October 2014). Condition 5 is a pre-commencement condition, suggested by the Council, relating to contamination. It is necessary because the Council advises that the site may be affected by contamination. The appellant has had the opportunity to comment on the suggested conditions and has not raised any objections to them.

¹⁰ For the Committee Meeting of 15 April 2021

¹¹ For the Committee Meeting of 4 March 2021 – paragraphs 5.13-5.23

Conclusion

35. I appreciate that some members of the local community will be disappointed by my decision. However, planning law requires that proposals for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise¹². Overall, I have not found that the proposed development would cause significant identifiable harm or be contrary to the LDP. Although I have considered a range of matters raised, including in relation to the nature and operation of the existing neighbouring care facility, none are of sufficient significance to justify a decision other than in accordance with the development plan.
36. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.
37. 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 ('the Act'). I consider that this decision is in accord with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's well-being objectives as required by section 8 of the Act.

JP Tudor

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: -

Site Location Plan 3935-PEN-ZZ-ZZ-DR-A-1001 S4 P5
Site Plan 3935-PEN-ZZ-00-DR-A-1003 S4 P7
Building Elevations 3935-PEN-ZZ-ZZ-DR-A-2040 S4 P3
Elevations A & B 3935-PEN-ZZ-ZZ-DR-A-2000 S4 P5
Elevations C & D 3935-PEN-ZZ-ZZ-DR-A-2020 S4 P5
Roof Plan 3935-PEN-ZZ-ZZ-ZZ-A-1002 S4 P6
Floor Plans 3935-PEN-ZZ-ZZ-DR-A-1004 S4 P6

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

- 3) The development hereby approved shall not progress beyond slab level until full details of the proposed facing materials have been submitted to and approved in writing by the local planning authority. The development shall then be completed in full accordance with the approved details.

Reason: To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area in accordance with policy DM1 of the Blaenau Gwent County Borough Council Local Development Plan up to 2021.

¹² s.38(6) Planning and Compulsory Purchase Act 2004 and s.70(2) Town and Country Planning Act 1990

- 4) The dwelling hereby approved shall not be occupied until the parking areas as indicated on the approved plans are constructed and surfaced in a permeable/porous material. The areas provided shall be retained and maintained for parking for the lifetime of the development.

Reason: To ensure the parking needs of the development are adequately met and to ensure highway safety in accordance with policy DM1 of the Blaenau Gwent County Borough Council Local Development Plan up to 2021.

- 5) No development shall commence until an assessment of the nature and extent of any site contamination is undertaken in accordance with a methodology which must first be submitted to and approved in writing by the local planning authority. Such an assessment shall include details of: -

- the nature, extent and type of any contamination and the impacts on land and controlled waters, and details of all potential source, pathway and receptor linkages;
- in instances where a desk top assessment has demonstrated it to be necessary, the results of an intrusive site investigation report; and
- any measures identified as necessary to treat/remove the contamination to ensure the site is fit for the proposed use.

The development hereby approved shall not be brought into use until all the measures identified as necessary to decontaminate the site, as contained in a report that is approved in writing by the local planning authority, are implemented and the local planning authority is provided with a validation report signed by a suitably qualified person that confirms that such measures and/or works have been fully implemented.

Reason: To protect future users of the land, neighbouring land, controlled waters, property and ecological systems.

- 6) All tree protection measures as identified in the submitted Arboricultural Report (prepared by ArbTS Ltd and dated 1 December 2020) shall be installed prior to development commencing on site. Such measures shall be retained in place during the course of the development.

Reason: To ensure that appropriate measures are in place to protect the retained trees on site in accordance with policies SP10, DM14, DM15 and DM16 of the Blaenau Gwent County Borough Council Local Development Plan up to 2021.

- 7) The development hereby approved shall not progress beyond slab level until a detailed landscape plan has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include:

- details of ground preparation, number and details of species;
- maintenance details for a minimum period of 5 years; and
- a phased timetable of implementation.

Reason: To ensure appropriate landscaping of the site in accordance with policy DM2 of the Blaenau Gwent County Borough Council Local Development Plan up to 2021.

- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following occupation of the building or the completion of the development (whichever is the sooner), or any alternative timescale that may be approved by the local planning authority before works commence on site. Any trees, shrubs or plants which within a period of 5 years from implementation of the planting scheme die, are removed or become seriously damaged or diseased, shall be replaced by one of the same or similar species and size in the next available planting season.

Reason: To ensure timely implementation and maintenance of an appropriate landscaping scheme in accordance with policy DM2 of the Blaenau Gwent County Borough Council Local Development Plan up to 2021.

End of Schedule