



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 09/11/2021

gan Melissa Hall BA(Hons), BTP, MSc,
MRTPI

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 07/02/2022

Appeal Decision

Site visit made on 09/11/2021

by Melissa Hall BA(Hons), BTP, MSc,
MRTPI

**an Inspector appointed by the Welsh
Ministers**

Date: 07/02/2022

Appeal Ref: APP/X6910/A/21/3278965

**Site address: Land adjoining Coed Cae Farm House, Rassau, Ebbw Vale, NP23
5TP**

**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 A Preece against the decision of Blaenau Gwent County Borough Council.
 - The development proposed is a single detached dwelling with parking.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. The application was made in outline form with matters of access, layout and scale to be agreed and only appearance and landscaping reserved for subsequent consideration. Although the appellant has provided and referred to scale parameters in the submissions, i.e. details of the upper and lower limits of the proposed dwelling, as layout and scale are to be considered at outline stage, I have taken the dimensions of the proposed dwelling to be that shown on the submitted Elevations, Section and Site Layout drawing. I have, however, treated the appearance of the dwelling as indicative.
3. There is a dispute regarding the size of the appeal site, namely the inclusion of a single storey outbuilding situated on the common boundary with Coed Cae Farm House within the red line boundary denoting the application site. The submitted Site Layout plan shows the demolition of the outbuilding and the erection of a close boarded fence along the boundary line, together with the laying of a patio which would encroach into the area of land formerly occupied by the outbuilding. The owner of Coed Cae Farm House states that this parcel of land and the outbuilding is within his ownership rather than that of the appellant's and, to this end, provides extracts from the HM Land Registry Title Plan which

allegedly shows the correct boundary line¹. I note that the appellant submitted Ownership Certificate A with the planning application and subsequent appeal, confirming that he owns all the land to which the application relates. Of course, it is important that considerations of natural justice are taken into account. In this instance, it is clear that the adjoining land owner is aware of the scheme and has had the opportunity to make representations in respect of the same. Whilst there may be some procedural error, there has been no injustice caused by any failure to serve the correct ownership certificate. Furthermore, the disputed area of land is a relatively small parcel of land which the Site Layout plan does not show as being fundamental to the development of a single dwelling on the plot.

4. As I understand it, at the time of making the application the appellant was the owner of the appeal site and the adjacent Coed Cae Farm House. Accordingly, the submitted Section A-A drawing shows that the first floor windows in the side elevation of the existing dwelling, facing towards the appeal site, would be infilled. However, Coed Cae Farm House has since been sold, and the ability to change these windows to restrict the overlooking of the appeal site is no longer in the control of the appellant. Rather, the new owner has confirmed that one window is clear glazed and serves a bedroom whilst the other is obscurely glazed and serves a bathroom. I have taken into account this change in circumstances since the Council's determination of the application in coming to my decision.

Main Issues

5. The main issues are the effect of the proposed development on the living conditions of neighbours and future occupants and on the character and appearance of the area.

Reasons

Living conditions

6. The appeal site is a roughly rectangular plot of land with a frontage onto a cul-de-sac turning head. It lies within a primarily residential area and adjoins the rear gardens of 26 and 27 Coed Cae to the north, 28 Coed Cae to the west and Coed Cae Farm House to the east. Although the site itself is relatively flat, there is a change in ground level to the rear boundary which results in No's 26 and 27 being at a higher ground level than the appeal site.
7. The Site Layout drawing shows a dwelling measuring 9 metres deep by 10 metres wide with an eaves height of 2.7 metres and a ridge height of 7 metres. The dwelling would be sited in close proximity to the boundaries with the adjoining properties at Coed Cae and Coed Cae Farm House. Given the change in ground levels between the gardens of No's 26 and 27, and notwithstanding the close boarded fencing and vegetation screening the boundary in part, these neighbouring dwellings have habitable room windows looking out over the appeal site and at a relatively close proximity. In respect of Coed Cae Farm House, one of the side facing first floor windows serves a bedroom and overlooks the front portion of the appeal site from a close distance.
8. My attention has been drawn to a previous appeal for a dormer bungalow on the site², in which the Inspector concluded that '*...a dormer bungalow of the dimensions proposed would have an unacceptable dominating visual impact for occupiers of one or more of*

¹ Two Land Registry plans have been provided; one shows a larger part of the appeal site as being within the red line boundary (not just the outbuilding) whereas the other shows part of the same parcel of land coloured green. No explanation has been provided of the difference between the plans and what it is intended to denote.

² Appeal ref. APP/X6910/A/18/3212894

above properties, due to its proximity to the appeal site's northern and / or eastern boundaries, depending on the precise siting chosen'. He adds that 'Even if the subsequent design details were configured so as to properly reflect a dormer bungalow³ it is highly likely that the resulting dwelling would also have one or more first floor windows facing habitable room windows or overlooking private amenity spaces at close range. The likely inter-visibility between windows in existing dwellings and the appeal proposal would result in an inadequate standard of privacy for occupiers of the existing dwelling and for future occupiers of the new dwelling.'

9. I note the appellant's contention that the design of the proposed dwelling has been amended to address the previous Inspector's concerns, including: (i) its re-orientation so that a gable wall rather than a side elevation and ridge line faces the two neighbouring properties in Coed Cae, (ii) its floor level some 1.5 metres lower than the neighbouring properties in Coed Cae (iii) its siting such that it would create generous amenity areas which, due to the difference in level and the screening by the wall fences and shrubs, would be largely private and (iv) no windows at first floor that would face directly towards neighbouring properties.
10. Owing to the restricted size and nature of the site, the proposed dwelling would be sited in close proximity to the rear boundary with 26 and 27 Coed Cae. Whilst it has been shown that the dwelling could be orientated differently from that the subject of the previous appeal, the effect of turning the ridge line so that it would run in an north-south direction would nonetheless be a direct and close view of a gable wall of significant mass from within the rear facing habitable room windows of Nos 26 and 27 and from their respective rear gardens. I recognise that the slab level of the proposed dwelling would be lower than that of the neighbouring properties, however such a change in ground level would not overcome the proposed development's unacceptable dominating visual impact when seen from the neighbouring dwellings and their private rear amenity space. A further impact of the change in the direction of the ridge line would be that the western boundary of Coed Cae Farm House would feel enclosed by the considerable massing of the east facing roof slope of the proposed dwelling, not least due to its close proximity. To this end, the dwelling would have an unacceptable and oppressive impact on the occupants of Coed Cae Farm House when using the closest part of their private rear amenity space and when seen from the nearest habitable room windows.
11. I do not dispute that in amending the design of the dwelling there would potentially be no first floor windows facing towards Nos 26 and 27. Consequently, and assuming that the first floor accommodation could be provided with adequate natural light and outlook without a window in this elevation, it would overcome one of the previous Inspector's concerns regarding the inter-visibility between the habitable room windows of the Coed Cae dwellings and the proposed dwelling. Nevertheless, the concerns regarding the overlooking of the private amenity space serving the proposed development from Nos 26 and 27 remains. I also note the change in circumstances in respect of the first floor windows in the side elevation of Coed Cae Farm House; the new owner has confirmed that one of the windows which faces the appeal site serves a habitable room.
12. Hence, even acknowledging the presence of the means of enclosure along the common boundary, the overlooking impact from the habitable room windows of the neighbouring dwellings at close range would adversely affect the privacy that the future occupants of the proposed dwelling should reasonably expect to enjoy. Furthermore, based on the

³ The proposal was in outline form with all details reserved for subsequent consideration.

site's layout shown on the submitted plans, large parts of the amenity space would be visible from the public realm given the position of the dwelling and the parking spaces. This matter only adds to my concern regarding the harm to the living conditions of future occupants arising from overlooking of the already modest areas of private amenity space.

13. As appearance has been reserved for subsequent consideration, I do not have before me details of what rooms any window in the northern elevation at first floor or the roof lights, as indicated on the drawings, would serve and whether it would be appropriate to obscurely glaze any of those windows in the interest of protecting privacy. However, as I have found harm for other reasons, I have taken this matter no further.
14. In the context of the above, the proposal would conflict with Policy DM1 2c of the adopted Blaenau Gwent Local Development Plan (LDP) 2012 which requires new development to have no unacceptable impact upon the amenities of neighbouring occupiers.

Character and appearance

15. In coming to a conclusion in respect of this matter in the previous appeal, the Inspector stated that *'I do not consider that the site's characteristics, in terms of its dimensions or its relationship to the surrounding built form, is such that a dwelling in this location would be out of keeping with the existing built form or appear as an unduly cramped form of development'*.
16. There is nothing in the submissions before me, although accepting that the siting and design of the dwelling has been amended from the previously submitted scheme, which would lead me to a different conclusion to the previous Inspector. The site's dimensions continue to be modest and the siting of the proposed dwelling in terms of its relationship with its surroundings would not alter significantly. Although the Council takes issue in its delegated report with the alignment of the proposed dwelling in relation to Coed Cae Farm House, I do not consider that a set building line is established by this single existing dwelling which forms only part of the context of the surrounding area. Whilst I acknowledge that the proposal is for a single storey dwelling which would be orientated such that a gable faces the highway, it would be viewed in surroundings that are mixed in terms of the design, form and scale of the dwellings. Hence, I cannot conclude that the proposed dwelling would be at odds with the settlement pattern or the variation in the surrounding built form. Thus, I do not find conflict with LDP Policies DM1 2b and DM2 a and b in this regard. Be that as it may, this matter does not outweigh the harm to the living conditions of neighbours and future occupants of the proposed dwelling that I have already described.

Other Matters

17. In support of the proposal, the appellant cites a recent development of two dormer style bungalows in Beaufort, Ebbw Vale. Although I have been provided with photographs of the same, I do not have the full details of the development or the circumstances which resulted in it coming into being. The appellant draws similarities between that site and the appeal site insofar as the bungalows are constructed 7 metres away from a boundary with several smaller bungalows, the total separation distance is 12 metres from window to window and the new development is higher than the existing bungalows resulting in overlooking. However, I also consider that there are distinct differences, not least the separation distance between the proposed dwelling and the boundaries with neighbouring properties. In any event, each proposal must be determined on its own merits and the development cited does not justify what is otherwise an unacceptable form of development.

Conclusion

18. For the reasons I have given, and having regard to all matters raised, the appeal is dismissed.

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 making our cities, towns and villages even better places in which to live and work.

Melissa Hall

Inspector