



Ein cyf/Our ref: qA1399761

Mr Paul Williams
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21 October 2020

Dear Mr Williams

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY PERSIMMON HOMES EAST WALES. PROPOSED RESIDENTIAL
DEVELOPMENT (UP TO 300 DWELLINGS) TOGETHER WITH ASSOCIATED OPEN
SPACE, LANDSCAPING AND PARKING PROVISION AND APPROVAL OF ACCESS
AND SCALE. LAND AT HEOL Y CEFN, CEFN FFOREST, BEDWELLY, CAERPHILLY.
APPEAL REF: APP/K6920/A/19/3226294**

1. Consideration has been given to the report of the Inspector, A L McCooey BA MSc MRTPI, regarding your client's appeal.
2. In accordance with section 79 and paragraph 3(1) of Schedule 6 to the Town and Country Planning Act 1990 ("the 1990 Act"), the appeal was recovered for determination by the Welsh Ministers. Under the provisions of the Government of Wales Act 2006 the power to determine applications under section 79 of the 1990 Act has been transferred to the Welsh Ministers, these functions have been exercised by me as Minister for Housing and Local Government.
3. In exercising these functions, as part of carrying out Sustainable Development in accordance with the Well-being of Future Generations Act ("the FG Act"), section 2 of the Planning (Wales) Act 2015 requires the Welsh Ministers, as a public body, to ensure the development and use of land contributes towards improving the economic, social, environmental and cultural well-being of Wales. In order to act in this manner, the Welsh Ministers have taken into account the ways of working set out in section 4 of "SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance on the Future Generations Act 2015" through examination of the appeal by way of an Inquiry

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

in accordance with the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017.

4. The Inspector held an Inquiry and carried out a site visit. In November, 2019, the Inspector provided a report for consideration by the Welsh Ministers, which recommended the appeal be allowed and planning permission granted subject to conditions. A copy of the Inspector's report (IR) is provided with this letter. All references to paragraph numbers, unless otherwise stated, relate to the IR.

Addendum Report – Habitats Regulations

5. The Inspector notes the northwest corner of the appeal site is within 50m of the boundary of the Aberbargoed Grasslands Special Area of Conservation (SAC), a European site for the purposes of the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations).
6. Before deciding whether to grant permission for a project which is likely to have a significant effect on a European site and is not directly connected with or necessary to the management of the site, regulation 63 of the Habitats Regulations requires the competent authority to undertake an Appropriate Assessment of the implications of the project in view of the site's conservation objectives.
7. In terms of ecological impact, the Inspector concluded that as long as suggested conditions are attached to any planning permission there would be no adverse impact on the SAC or protected species (IR 80). Following receipt of the Inspector's report, the Welsh Ministers considered an Appropriate Assessment should be undertaken in accordance with the Habitats Regulations. Therefore, the Welsh Ministers requested that the Inspector prepare an Appropriate Assessment, in the form of an Addendum Report, on behalf of the Welsh Ministers. The Addendum Report, dated 4 February 2020, is provided with this letter.
8. The Inspector, in the Addendum Report, concludes it is beyond reasonable scientific doubt that the scheme, either alone or in combination with other projects, would not have an adverse effect on the integrity of a European site, namely the Aberbargoed Grasslands SAC. This conclusion is predicated on securing mitigation measures through the imposition of the recommended planning conditions. I accept the findings and conclusions of the Appropriate Assessment.

Second Addendum Report - Changes to planning policy and guidance on the delivery of housing

9. On 26 March, 2020, the Welsh Ministers issued a letter, announcing changes to planning policy and guidance on the delivery of housing. The letter was issued following a Welsh Government review of housing delivery through the planning system. The letter resulted in:
 - Revisions to the 'Housing Delivery' section of Planning Policy Wales (PPW). The changes remove the five-year housing land supply policy and replace it with a policy statement making it explicit that the housing trajectory, as set out in the adopted Local Development Plan (LDP), will be the basis for monitoring

the delivery of development plan housing requirements as part of LDP Annual Monitoring Reports (AMRs).

- The revocation of Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (January 2015) in its entirety as a consequence of the policy change to PPW.
 - Publication of the Development Plans Manual (DPM) (Edition 3), which provides additional guidance on the process of monitoring against the housing trajectory.
10. In accordance with Regulation 9 of The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017, the Local Planning Authority, appellant and interested parties were invited to submit written representations to the Planning Inspectorate, regarding the impact of the changes on the consideration of this planning appeal.
 11. The Inspector produced a Second Addendum Report (SAR), dated 30 June 2020, for consideration by the Welsh Ministers. A copy is provided with this letter. It summarises the written representations received and considers the effect of the changes on the conclusions and recommendation in the main report.
 12. Having considered the representations and changes to national policy, the Inspector is satisfied the overall conclusions and planning balance remain as set out in paragraphs 87 to 90 of the IR. The Inspector recommends the appeal be allowed for the reasons set out in the IR, subject to the conditions and obligations detailed in the IR.

Late representations

13. I have given due regard to representations received after the Inquiry closed. However, I do not consider any new evidence or new matter of fact has been raised which would materially affect my conclusions on this appeal.

Main Considerations

14. The Inspector identifies the main issues are the weight to be given to the shortfall in the supply of housing in Caerphilly County Borough Council, whether the proposal would be sustainable development, the potential disbenefits of the development, and the benefits arising from the proposal (IR 63-65).

The shortfall in supply of housing land

15. In the Second Addendum Report (SAR), the Inspector sets out the weight to be given to the shortfall in the supply of housing land in Caerphilly in light of the changes to planning policy and guidance, regarding the delivery of housing.
16. The Inspector notes PPW is clear that the planning system must identify a supply of housing land to meet the housing requirements for market and affordable housing that have been identified in the development plan. The Minister's letter and the revisions to PPW and the DPM set out how housing delivery will be monitored against the housing trajectory in the development plan (SAR 34).
17. The Inspector notes the LDP covers the period 2006-2021. Policy SP14 requires 8,625 dwellings to be delivered over this 15-year period, which equates to an Average Annual Requirement (AAR) of 575 dwellings. The latest Annual Monitoring Report

(AMR) produced by Caerphilly County Borough Council, dated October 2019, shows that 4,835 dwellings has been completed by March 2019. This leaves a requirement for 3,790 further dwellings (around 44% of the total requirement) to be provided by the end of 2021 (SAR 35).

18. The Inspector notes the Council has confirmed that build rates have been very low in recent years. The AMR confirms that only 25% of the LDP affordable housing target has been delivered (SAR 35).
19. The Inspector states this is a case where monitoring reveals that the Plan is not delivering the required housing land and, in such cases, PPW indicates that interventions may be required. The intervention specifically referred to in PPW and the DPM is an early plan review. The Inspector notes the Council recognises the problems with housing land supply and commenced an early review on a replacement LDP, which was abandoned in 2016. The review identified a need for additional undeveloped sites, of which the appeal site was one. The Inspector considers the appellant has demonstrated a willingness to follow the plan-led system by advancing the site in the LDP review process. The LDP review process has now re-started, however, both the Council and the appellant indicate that an adopted revised LDP is at least 4 years away (SAR 36).
20. On this issue, the Inspector concludes, as outlined in the IR, that there is a significant shortfall in meeting the housing requirement of the LDP for market and affordable housing. This situation has continued for more than 9 years. The AAR has not been met since 2008. The replacement LDP will not be in place for at least 4 years (SAR 37).
21. The Inspector notes the proposal would provide up to 300 dwellings (25% of which would be affordable). This would make a considerable contribution to addressing the shortfall in housing supply and provide much needed affordable housing. The Council's AMR recommends consideration of such sites on their merits. The Inspector notes the Strategic and Development Plans Team of the Council has endorsed this approach. Given these circumstances, the Welsh Ministers letter and accompanying policy changes do not alter the Inspector's view that significant weight should be attached to the need to increase housing land supply as a material planning consideration (SAR 38).

Whether the proposal would be sustainable development

22. The Inspector agrees with the main parties that the site represents sustainable development. It comprises a sustainable extension to Blackwood, a principal town in the LDP. It was a candidate site in the abandoned replacement LDP. The site is within easy walking and cycling distance of local shops, schools and services via existing roads and pedestrian routes. Existing local bus services to Blackwood town centre are available, these bus services provide access to local train stations in Newbridge and Ystrad Mynach. The train station at Pengam is a short car trip from the site and has a park and ride facility. The submitted section 106 planning agreement provides funding to improve existing bus services to the site and fund a package of sustainable travel improvements (IR 73).
23. The Council had no objection to the proposal on grounds of traffic. The Inspector's observations are that, although there was considerable traffic volume, the road network was operating reasonably well. This supports the conclusions of the Transport Assessment (TA) and the Council. The Inspector observed limited congestion on the Bloomfield Road entrance to Blackwood Comprehensive School,

however, this was for a limited time and no different to the situation around other schools in Wales (IR 74-75).

24. The Inspector has no reason to consider that the appeal proposal would significantly add to congestion in the area. The junction of Harry's Hill, a minor local road, with the A4049 and the operation of traffic lights at the Fairview/A4049 junction would be improved by provisions in conditions and the section 106 obligation, respectively. The Inspector also notes a package of measures to encourage sustainable transport is part of the proposal, to be secured through the section 106 planning obligation. This would assist in reducing car borne trips associated with the proposal (IR 76).
25. On this matter, the Inspector concludes, having considered all the evidence, there would be no reason to withhold planning permission on the basis of the effect of the proposal on the local highway network or highway safety (IR 77).

Ecological Impact

26. The Inspector addresses ecological impact in IR 78-80. Following receipt of the IR, the Welsh Ministers asked the Inspector to undertake an Appropriate Assessment (AA) of the scheme. The AA is provided in the Addendum Report and the Inspector concludes it is beyond reasonable scientific doubt that the scheme, either alone or in combination with other projects, would not have an adverse effect on the integrity of a European site, namely the Aberbargoed Grasslands SAC. This conclusion is predicated on securing mitigation measures through the imposition of the recommended planning conditions.

Impact on local infrastructure

27. The Inspector has considered all the evidence from local residents and councillors on this issue. Dwr Cymru has confirmed there may be an issue with water supply, but that any necessary improvements can be secured by condition. The Inspector notes Dwr Cymru considers the foul sewerage system to be adequate. The Council's education department has confirmed there is capacity at Blackwood Comprehensive School. The Health Board was consulted on the proposal and has no objection. The Inspector agrees with the Council that refusal of the scheme on grounds of pressure on local infrastructure could not be justified (IR 81).

Benefits of the proposal

28. The Inspector notes the appellant describes the benefits of the scheme as: increasing housing land supply by up to 300 homes, 25% of which would be affordable units, economic benefits to the local economy, and ecology enhancements by enhancements to the existing public rights of way through the site. The proposal also provides for highway improvements, sustainable travel and play and recreation space as required by the local planning authority (IR 82).

Other Matters

29. The Heritage Assessment found there would be limited potential for archaeological remains. Cadw agree there would be no impact on the Maes Manor Historic Park and Garden or associated listed buildings. The Inspector is satisfied there are no grounds for concern regarding the impact of the proposal on heritage assets. The Inspector also agrees the landscape and visual impact of the proposal can be controlled by conditions (IR 83).

30. The Inspector is satisfied most other relevant matters raised by objectors have been addressed in the IR. Any adverse impact on air quality in Cefn Fforest or Blackwood resulting from the development is unlikely and potential impacts from construction can be controlled by condition (IR 84).
31. In the Second Addendum Report, the Inspector addresses representations made following changes to planning policy and guidance on the delivery of housing. The Inspector notes many of the matters raised have been addressed in the main report. IR 71 deals with the deliverability of brownfield sites and notes both the LDP and the Council's response to the NDF recognise that both greenfield and brownfield sites will be required to meet housing needs. The Inspector considers the content of IR 71 remains valid, subject to the deletion of the reference to TAN1 (SAR 39).
32. The Inspector notes several objectors refer to flooding problems in the area. The Council's drainage engineer raised no issues when consulted. The issue of sewer capacity has been considered in the IR. In relation to surface water drainage, Dwr Cymru has confirmed that discharge of surface water from the development to the sewerage system will not be permitted. The Inspector also notes all new developments are required to provide sustainable drainage systems for surface water (approved by the Council). This will ensure that surface water runoff from the site would not increase from greenfield rates. The Inspector concludes that refusal of planning permission on these grounds could not be justified (SAR 40).
33. The Inspector notes an objection was received which challenged the basis for the housing allocations in the adopted LDP. The status of these housing allocations cannot be queried at this stage. The value of green spaces is noted by the Inspector as being important to local communities. However, the site is in private ownership and there are other publicly accessible green spaces nearby. The public rights of way traversing the site would be maintained and improved as part of the proposal. The release of the Council car park for development was not a matter before the Inspector to consider (SAR 41).

Conditions and Obligations

34. The Inspector considers the recommended conditions satisfy the relevant tests in Welsh Government Circular 016/2014, "The Use of Planning Conditions for Development Management".
35. A signed section 106 planning agreement was submitted to the Inspector. It provides for 25% of the residential units to be affordable housing in accordance with the terms of the obligation. The Council's Solicitor confirms that these provisions are acceptable for the purposes of this appeal. The obligation provides for 10 days notice of the commencement of development to be provided to the Council. It also includes obligations to contribute £60,000 to traffic signal improvements at the Fairview/A4049 road junction, £150,000 to support a package of sustainable travel measures, £5,000 for the travel plan reserve fund, and £25,000 to fund a travel plan co-ordinator payable over 5 years (IR 62).

36. The Inspector considers the submitted section 106 planning agreement meets the appropriate tests set out in Regulations 122(2) of the Community Infrastructure Levy Regulations 2010 (“CIL Regulations”) and Circular 13/97 and, therefore, it should be afforded weight in the determination of the appeal. The Inspector notes further contributions to improve local infrastructure could be sought under the Council’s Community Infrastructure Levy (IR 85-86).

Overall Conclusions

37. The Inspector acknowledges the proposal would not accord with LDP policies SP5 and CW15 as it involves large-scale residential development outside the defined settlement limits in the LDP. The Inspector notes, in terms of detailed consideration of active and social places under PPW, the proposal has been subject to detailed scrutiny for compliance in terms of housing supply, transport, recreational spaces and community facilities. Regarding distinctive and natural places, the Inspector considers the effect on biodiversity, green infrastructure, the historic environment and the landscape have all been assessed. The Inspector has taken account of the FG Act and considers compliance with PPW would contribute towards the Welsh Ministers’ well-being objectives as required by section 8 of the FG Act (IR 87).
38. Taking the duties of the FG Act into account, the Inspector concludes the proposed development would accord with the placemaking principles of PPW and would constitute sustainable development. The Inspector is satisfied other adverse impacts claimed by objectors have been properly considered and the evidence demonstrates the proposal would not have significant effects on transport or highway safety, nature conservation or local infrastructure provision. Any residual effects can be remedied by the imposition of suggested conditions (IR 88).
39. The Inspector sets out the benefits of the proposal in IR 82. The contribution towards housing land supply is considered by the Inspector to comprise the main benefit. The Inspector concludes significant weight should be given to the need to increase housing land supply (IR 89).
40. The Inspector’s Second Addendum Report considers the effect of changes in national planning policy, regarding the delivery of housing, on the conclusions and recommendation in the IR. Having assessed the policy changes and taken account of representations, the Inspector maintains significant weight should be attached to the need to increase housing land supply as a material planning consideration (SAR 38).
41. The Inspector considers the site is in a sustainable location. The planning obligations which secure affordable housing in accordance with the LDP and other benefits are given considerable weight. The Inspector concludes the need for the development and the benefits of the scheme outweigh the conflict with LDP policies SP5 and CW15. The recommendation is to allow the appeal and grant planning permission, subject to recommended conditions (IR 90-91) (SAR 42).

Conclusion

42. I am committed to a plan-led system in Wales and I consider the primacy of the adopted LDP is key to providing certainty for communities and developers, regarding the type and scale of development that will be permitted in local authority areas throughout Wales.
43. Whilst I accept the proposed development would provide some benefits, particularly the provision of affordable housing, I am not satisfied these benefits outweigh the identified conflict with LDP policies, which have been designed by the local planning authority in order to control housing development outside defined settlement policy boundaries.
44. The AMR identifies a number of housing sites, allocated in the LDP, which have not been developed. These include a brownfield residential allocation, located in close proximity to the appeal site, and identified in the LDP as capable of accommodating the scale of development sought by the appeal proposal. At the Inquiry, the Council's witness confirmed the site is owned by Caerphilly County Borough Council. This site has yet to come forward for development, however, it has been subject to a robust examination and public consultation through statutory, prescribed LDP procedures. There is an understandable expectation in the local community that allocated housing sites in the LDP will be developed before unplanned sites outside defined settlement boundaries, which do not accord with adopted LDP policies, are considered. Also, PPW is clear that brownfield land, wherever possible, should be used in preference to greenfield sites where it is suitable for development. An allocated brownfield site within an adopted LDP is clearly suitable for residential development.
45. I consider it is relevant to the determination of this appeal that there are a number of allocated housing sites in the extant LDP which remain undeveloped, including a large, brownfield site, located in close proximity to the appeal site, which is capable of accommodating the number of residential units proposed by the appeal scheme. Therefore, I am not satisfied in this case that the settlement boundaries defined in the LDP should be breached in order to impose additional, unplanned residential development on the local community.
46. In reaching my decision on this recovered appeal I have had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

Formal Decision

47. I acknowledge the benefits of the scheme, as described in the Inspector's report. However, in this case, for the reasons I outline above, I consider the conflict with LDP policies outweighs all other material considerations identified in the Inspector's report.
48. In exercise of the power referred to in paragraph 2 of this decision letter, I hereby dismiss this appeal and refuse planning permission for LPA planning application ref: 17/0681/OUT as the appeal site is located outside the defined settlement boundaries of the LDP and, therefore, the proposal fails to accord with parts B and D of LDP Policy SP5 and criterion C of LDP Policy CW15.

49. In reaching this decision I note the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015. The decision made accords with the sustainable development principle set out in the FG Act in that it supports the plan-led approach to securing sustainable development, which embodies the five ways of working set out in section 5 of the FG Act.
50. A copy of this letter has been sent to Caerphilly County Borough Council and to those persons and organisations who appeared at the Inquiry.

Yours sincerely



Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government