
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 05/04/16
Ymweliad â safle a wnaed ar 05/04/16

**gan Mr A Thickett BA (Hons) DipTP
MRTPI Dip RSA**

**Arolygydd a benodir gan Weinidogion Cymru
Dyddiad : 27 Ebrill 2016**

Appeal Decision

Hearing held on 05/04/16
Site visit made on 05/04/16

**by Mr A Thickett BA (Hons) DipTP MRTPI
Dip RSA**

**an Inspector appointed by the Welsh Ministers
Date : 27 April 2016**

Appeal Ref: APP/K6920/A/15/3137884

Site address: Land at Cwmgelli, Blackwood, Caerphilly

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 failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Gwent Investments Ltd against Caerphilly County Borough Council.
 - The application Ref 15/0252/OUT, is dated 20 March 2015.
 - The development proposed is residential development, public open space, landscaping, highway improvements and associated engineering works. All matters bar access are reserved for subsequent approval.
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Decision

1. The appeal is allowed and outline planning permission granted subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The site lies outside the settlement boundary for Blackwood and within a Green Wedge as designated in the Caerphilly County Borough Local Development Plan up to 2021, adopted 2010 (LDP). The main issues are:
 - whether the proposed development conflicts with national and local policies designed to protect the countryside.
 - whether the proposed development comprises inappropriate development in a Green Wedge and, if so, whether there are any very exceptional circumstances that would outweigh the harm to the Green Wedge.
 - the impact of the proposed development on the setting of the Maes Manor Hotel (including its Historic Park and Garden) and Cwmgelli Farmhouse and Barn, all Grade II listed buildings.
 - the impact of the proposed development on the supply/reserves of pennant sandstone.
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Reasons

Countryside/Green Wedge

3. The appeal site lies within the Blackwood, Oakdale and Penmaen Green Wedge as defined in the LDP. The proposed development does not fall into any of the categories of development deemed not to be inappropriate in a Green Wedge set out in Planning Policy Wales (PPW). According to the LDP the purpose of the Green Wedge is to prevent the coalescence of Blackwood, Oakdale and Penmaen and to protect their distinct identities. The development of the site would leave a gap between these settlements which are also divided by the steep Sirhowy Valley. Nevertheless, the development would represent a physical and visual incursion into this space and inevitably bring the settlements closer together.
4. The appellant accepts that the proposed development constitutes inappropriate development in the Green Wedge and that it conflicts with national and local policies which seek to restrict development in the countryside. I agree and conclude that the proposed development conflicts with LDP Policies SP4 and SI1 and national policy with regard to development in the countryside and Green Wedges. Before I consider whether there are any very exceptional circumstances to outweigh this conflict, I will address the other main issues.

Heritage

5. According to the listing description Cwmgelli Farmhouse probably dates back to the 16th century and was listed '*as a sub-medieval farmhouse retaining its overall character and a rare pre-industrial survival in this part of the Monmouthshire Valleys*'. The Barn came later in the late 18th or early 19th centuries and is listed in its own right partly on its own merit and for group value with the farmhouse. The buildings front the road and the appeal site wraps around the buildings and grounds.
 6. There was debate at the Hearing regarding whether the fields included in the appeal site are still used for farming. That is a moot point in my view. Whether they are actively used or not, these fields are part of the historic setting of the farm and the reason why it is was built there in the first place.
 7. Standing in the gardens of the Maes Manor Hotel one enjoys clear views across fields down the Sirhowy Valley. Maes Manor was built in the early part of the 20th century for a local mine owner and doubtless its prominent position high on the valley side was as much a statement as to allow him commanding views over the surrounding countryside. In my view, the setting of the hotel and its gardens includes all the land down the valley.
 8. The setting of all these listed buildings also includes the Chartist Bridge which is the most dominant feature in the local landscape. This substantial modern structure is also a significant detractor with regard to the setting of the listed buildings and its impact must be taken into account when considering the effect of the proposed development.
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9. The loss of the open green fields would inevitably have an impact on the setting of these listed buildings. However, the indicative layout shows an area of public open space immediately to the north of the farm which would maintain an element of openness. The proposed development would impose on views to and from Maes Manor and have an impact on the setting of the hotel and its gardens. However, a gap between houses is also proposed to allow views up to the Maes Manor Hotel. Further, due to the topography one would be able to look over the roofs of the houses and the gap proposed would ensure some intervisibility remains between the hotel and the lower slopes of the valley. I consider that these elements would satisfactorily mitigate the impact of the development on Cwmgelli Farmhouse, the Barn and Maes Manor.
10. Decision makers have a duty to give special regard to the desirability of preserving a listed building or its setting. The Council's Conservation officer has no objection to the proposed development. The setting of the listed buildings referred to above would be affected by the proposed development. However, the setting has been degraded by the visual influence of the Chartist Bridge and I consider that the illustrative layout demonstrates that development could take place on the site in a way that would preserve the setting of the listed buildings.

Minerals

11. As indicated above the Council's emerging LDP includes this site as an allocation and it raises no objection to the proposal in this regard. Policy SP8 of the LDP, in line with Mineral Planning Policy Wales, safeguards mineral resources from permanent development that would prevent their future working. The appeal site lies within a mineral safeguarding area for pennant sandstone. Policy CW22 of the LDP states that proposals for permanent development uses within identified mineral safeguarding areas will not be permitted unless certain criteria are met. These include, amongst other things, that it is demonstrated that the mineral is no longer of any value or that there is an overriding need for the development. No case is made that the pennant sandstone reserve that would be sterilised by this development is no longer of any value. I address the issue of overriding need below.

Other considerations

12. The appellant's Transport Statement has been considered by the Council's Transportation Engineering Manager who has no objection to the proposed development. I have seen no technical evidence to lead me to take a different view. The Council's Landscape Architect has no objection to the application and, for the reasons given in relation to heritage assets above, I do not consider that the proposed development would have an unacceptable impact on the character and appearance of the area.

Overall Conclusions

13. The proposed development conflicts with national and local policies relating to the protection of the countryside and Green Wedges. PPW states that substantial weight should be given to any harmful impact that a development would have on a Green Wedge and inappropriate development should not be allowed except in very exceptional circumstances. It is necessary, therefore, to consider whether there are any very exceptional circumstances to overcome the harm to the Green Wedge. My conclusions regarding the impact of the proposal on heritage assets and landscape represent a neutral rather than a positive benefit but do not weigh against the proposed development.
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14. The Council cannot demonstrate a 5 year housing land supply and has not been able to do so since the LDP was adopted. The latest Joint Housing Land Availability Study concluded that the Council could only demonstrate a 1.9 year housing land supply. Technical Advice Note 1; Housing (TAN 1) advises that where land supply falls below 5 years, considerable weight should be given to increasing supply subject to development plan and national policies being met¹. As stated above that is not the case here but, in my view, the extent of the shortfall weighs heavily in favour of development that can proceed without causing harm to its surroundings.
15. PPW advises that Green Wedges should be subject to review through the local development plan process. PPW goes on to advise that in considering Green Wedges *'local planning authorities will need to ensure that a sufficient range of development land is available which is suitably located in relation to the existing urban edge and the proposed green wedge'*². The Council is in the process of producing a new LDP largely due to the failure of the existing Plan to deliver the housing the area needs. The Council proposes to amend the boundary of the Green Wedge here and allocate the appeal site for housing.
16. Local councillors attending the Hearing sought to persuade me that the allocations proposed in the emerging LDP are subject to further discussion before a final decision is made. I acknowledge that, as a result of public consultation, plans do change and this limits the weight that can be given to the emerging plan. However, the LDP Manual states that the deposit plan *'should be considered by the LPA as the version it intends to submit for examination and, later, to adopt'*³. The Council has resolved to place the emerging Plan on deposit and must, therefore, consider the emerging Plan and the allocations contained within it to be sound.
17. Local councillors also argue that the new Plan will be in place by autumn 2017 and to allow this appeal would be premature. However, as pointed out by the appellant there is a need for new housing now and the plan preparation schedule has already slipped. PPW advises that: *'refusing planning permission on grounds of prematurity may be justifiable in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would predetermine decisions about the scale, location or phasing of new development which ought properly to be taken in the LDP context. Refusal will therefore not usually be justified except in cases where a development proposal goes to the heart of a plan'*⁴. I do not consider that the development proposal before me goes to the heart of the emerging LDP and the Council accepted at the Hearing that refusal was not justified on grounds of prematurity.

¹ Paragraph 6.2

² Paragraph 4.8.13

³ Paragraph 7.2.1.3

⁴ Paragraph 2.8.2

18. Turning to minerals, given the close proximity of residential areas and the listed buildings, I agree with the appellant that an application to quarry here is unlikely to find favour. In addition, given the location of Maes Manor and that existing development extends further up the valley beyond the appeal site, it would also seem unlikely that developing the site would prejudice any proposals to quarry to the north. Further, I was shown a map of the District at the Hearing which shows that almost all of the County Borough sits on mineral reserves and I have seen nothing to suggest that the Council's housing needs can be met without developing in mineral safeguarding areas.
19. The LDP lists Blackwood in the top tier of the settlement hierarchy in Caerphilly and it is designated as a Principal Town. Although outside the settlement boundary as currently defined the Council accept that the site lies in a sustainable location. Shops and services in Blackwood are about 500m away. The site is on a bus route with services every 30 minutes and there is a bus stop adjacent to the site. PPW presumes in favour of sustainable development and the proposed development would satisfy PPW's objectives of achieving sustainable development by ensuring that local communities have sufficient housing and affordable housing for their needs and promoting access to employment, shopping and other facilities.
20. The Council can only demonstrate a 1.9 year housing land supply. This is well short of what should be provided and the proposed development would provide much needed housing and affordable housing. The emerging LDP is seeking to address the current housing shortfall but, if found sound, won't be adopted for at least 18 months. It is acknowledged that the site lies in a sustainable location and I consider that the development can proceed without causing unacceptable harm to its surroundings. In my view, there is an overriding need for this development and these factors combine to constitute the very exceptional circumstances to outweigh the conflict with national and local policies described above.

Conditions and planning obligation

21. I have considered the conditions suggested by the Council in light of the advice in Circular 16/14 and the submitted planning obligation against the tests in the Community Infrastructure Levy Regulations 2010. The sole purpose of the planning obligation is to provide affordable housing. That there is a need for affordable housing in the area is not disputed and I am satisfied that the obligation is necessary.
22. In the interests of highway safety it is necessary to include conditions relating to access and visibility splays. Given the history of coal mining in the area a site investigation is required as are details of measures to address any potential land instability. In order to prevent flooding it is necessary to require details of surface water drainage. Layout is a reserved matter but in order to secure their provision, a condition is required in relation to open space and a play area. Given the proximity of the A4048, I agree that, in order to safeguard the living conditions of prospective residents, a condition relating to secondary glazing is necessary.

23. The appeal site comprises of improved grassland and has been farmed for many years. With the exception of birds within trees on the edge of the site the appellant's Phase 1 Habitat Survey found no evidence of the use of the site by protected species. A pond to the north with potential for amphibians has been filled in. The Survey acknowledges that the boundary trees and hedges are likely to provide 'foraging/commuting resources' but NRW does not object and I have seen nothing to indicate that the proposal would harm protected species. I have no doubt that local residents have seen bats flying over the site but in light of the nature of the site and the evidence before me, see no need for further survey work or a light mitigation strategy. The provision of bird boxes and bat roosts may be desirable but is not necessary to enable the development to proceed. Nor is an amphibian survey or a pond, bog or marshy grassland to replace the pond off site that has been filled in. Damaging the nest of any wild bird is an offence under the Wildlife and Countryside Act 1981 and I see no need to duplicate that protection by way of a planning condition.
24. Landscaping is a reserved matter and so there is no need to impose a landscaping condition now. For the same reason, conditions relating to the trees and hedges on the site boundaries can be left to reserved matter stage when the final details of siting and layout are known. Any condition deemed to be necessary in relation to car parking may also be imposed on any reserved matters approval for siting or layout.
25. The site is used for agriculture and grazing horses. I have seen nothing to suggest that it would be necessary to import top soil and the Council accepted at the Hearing that a condition in this regard is unnecessary. The safety of future occupiers is a material consideration but I have neither read nor seen anything to persuade me that it is likely that contaminated material would be used in the construction of the proposed development or that it is necessary for the appellant to test aggregates prior to their use on site.

Conclusion

26. For the reasons given above and having regard to all matter raised, I conclude that the appeal should be allowed and planning permission granted.

Anthony Thickett

Inspector
