

4. Penderfyniadau Apeliadau/Appeal Decisions

04-10-2022 - 07-12-2022

#	Cyfeirnod yr Apel / Appeal Reference	Cais / Gorfodaeth / Linked Application / Enforcement	Apeliwr / Appellant	Rhesymau dros apelio / Grounds for Appeal	Lleoliad / Location	Penderfyniad Allanol / External Decision	Dyddiad Penderfyniad Allanol / External Decision Date
1	CAS-01754-K7Y0J0	A210798	Mr AJM Maskell	Against refusal of permission.	Land At Maes Moelfryn, Ffos Y Ffin, Aberaeron, SA46 0EY	Dismissed	20-10-2022
2	CAS-01824-Z4Q0M9	A220054	Kristian Perch	The decision of the LPA refusing/refusing in part to grant a certificate of lawful use or development	Land adj to Llys Helyg, Joppa, Llanrhystud, SY23 5EJ	Withdrawn	28-11-2022
3	CAS-01920-Z8J4P4	A200631	Mr and Mrs Jarvis	Against non determination	Goetre Isaf, Betws Bledrws, SA48 8NP	Withdrawn	05-10-2022

5. Apeliadau a Dderbyniwyd/Appeals Received

06-10-2022 - 07-12-2022

#	Cyfeirnod yr Apel / Appeal Reference	Cais / Gorfodaeth / Linked Application / Enforcement	Apeliwr / Appellant	Rhesymau dros apelio / Grounds for Appeal	Lleoliad / Location	Penderfyniad Allanol / External Decision	Dyddiad Penderfyniad Allanol / External Decision Date
1	CAS-02122-V5K0N8	A210271	Mr Wynford Williams (Wynford Williams Car Sales)	Refusal of Certificate Lawfulness	Land Adjacent To Brynteg Primrose Hill, Llanbadarn Fawr, Aberystwyth, SY23 3AT		



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 20/09/22

**gan Richard E. Jenkins BA (Hons) MSc
MRTPI**

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 20.10.2022

Appeal Decision

Site visit made on 20/09/22

**by Richard E. Jenkins BA (Hons) MSc
MRTPI**

**an Inspector appointed by the Welsh
Ministers**

Date: 20.10.2022

Appeal Ref: CAS-01754-K7Y0J0

Site address: Land at Maes Moelfryn, Ffos Y Ffin, Aberaeron, SA46 0EY

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 Maskell against the decision of Ceredigion County Council.
 - The development proposed is residential development including affordable housing and access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the site address from the Council's Notice of Decision. As this is broadly consistent with that outlined on the Appeal Form, I am satisfied that there is no prejudice in this respect.
3. The application was made in outline, with only access to be determined at this stage. All other matters are reserved for subsequent approval. There is sufficient information to deal with the appeal on this basis.
4. Amended plans were submitted at the planning application stage. The Council determined the scheme on the basis of the amended plans and, for the avoidance of any doubt, I shall determine the appeal on the same basis.

Main Issues

5. These are: whether the proposed development would be acceptable in principle, having particular regard to the development plan framework and other material considerations; and the effect of the proposed development upon highway safety, having particular regard to the proposed access arrangements.

Reasons

6. The appeal relates to an agricultural field known as Maes Moelfryn in Ffos Y Ffin, near Aberaeron. The site is located to the rear of a row of detached dwellings that front Rhiwgoch and north of the existing residential estate known as Pen-Y-Bryn. The appeal proposal seeks outline planning permission for the residential development of the site, with access proposed via an existing agricultural access located between the existing residential properties of Hyfrydle and Meysydd. The submission documents include an *'Illustrative Site Layout'* that suggest that the development would include 20No. dwellings and 4No. residential flats. However, the exact number of properties would need to be controlled through the imposition of a suitably worded planning condition. The evidence suggests that the development would include the provision of 20% affordable housing and that the development would be phased.

Principle of Development

7. The application site lies within the *'Linked Settlement'* of Ffos-y-Ffin which forms part of the Aberaeron/ Llwynceilyn *'Settlement Group'* defined by the adopted Ceredigion Local Development Plan 2007- 2022 (Adopted 2013) (LDP). Policy S01 of the adopted LDP seeks to prioritise development within the *'Urban Service Centres'*, as these represent the most sustainable locations for growth, followed by the *'Rural Service Centres'* and the *'Linked Settlements'*. This is to be achieved through *"a maximum of 25% (or in any event no more than 1,522 residential units) in the 'Linked Settlements and Other Locations' on non-allocated sites..."*, in accordance with the tests set out in LDP Policy S04.
8. The *'Linked Settlements'* do not have settlement boundaries and neither do they incorporate residential allocations. Rather, Policy S04, which acknowledges that *'Linked Settlements'* are less sustainable than the Urban and Rural Service Centres, states that residential development within such locations is expected to, amongst other things, not exceed its maximum provision (criterion 2b), not come forward at a greater than proportionate rate of development than the relevant Urban or Rural Service Centre (criterion 2c) and not cumulatively exceed 12% of the existing level of housing as at 2007 in that *'Linked Settlement'* unless justified on the basis of a need for affordable housing or a rural enterprise dwelling (criterion 2d). It is also a requirement for all development to be located within or immediately adjacent to the substantive built form of the settlement.
9. It is common ground between the main parties that appeal site is located within or immediately adjacent to the substantive built form of the settlement and I have no reason to come to an alternative conclusion on this point. However, the evidence is clear that the overall level of residential development within the *'Linked Settlement and Other Locations'* exceeds the provision set out at Appendix 2 and therefore conflicts with the requirements of criterion 2b of Policy S04. It also indicates that the rate of development within the *'Linked Settlements and Other Locations'* have come forward at a greater rate than the proportionate rate of development within Aberaeron/ Llwynceilyn which represent the relevant Urban or Rural Service Centre. The development therefore also conflicts with criterion 2c of Policy S04.
10. As outlined above, criterion 2d of Policy S04 requires that development does not cumulatively exceed 12% of the existing level of housing as at 2007 in that *'Linked Settlement'* unless justified. The evidence suggests that the settlement's housing stock in April 2007 was 221No. units, meaning that the development of an additional 27No. units could be developed in Ffos-Y-Ffin over the Plan period to 2022. Whilst the most up to date evidence as of April 2022 suggests that there is capacity for a single dwelling to be permitted within the provisions of this policy test, the remaining dwellings proposed in this instance would only be justified if they were necessary to satisfy a need for affordable

housing or a rural enterprise dwelling. It is material to note that the proposed development would make a contribution towards affordable housing. However, such a contribution would be modest relative to the scale of the wider proposal. This contribution does not, therefore, justify the development proposed. As such, and bearing in mind the fact that the development is not linked to a rural enterprise, it follows that the development would also conflict with the requirements of criterion 2d of Policy S04.

11. It is clearly material to note that the LDP reached its end date on 31 March 2022. Indeed, as its end date has passed, the Plan carries less than full weight. I am also aware that work has commenced on a '*Replacement LDP*' and that its '*Preferred Strategy*' identified Ffos-Y-Ffin and Llwyncelyn as the best interim solution to service housing needs that could not be met within Aberaeron. However, the Replacement LDP is clearly at an early stage of preparation and, in accordance with national policy advice, I am not persuaded that such a document should carry significant weight in this instance. In coming to this conclusion, I have been mindful that the evidence suggests that the Council is exploring further options within Aberaeron which could reduce the need to find such housing solutions in the less sustainable settlements of Ffos-Y-Ffin and Llwyncelyn.
12. Notwithstanding this, the Welsh Government has confirmed that all LDPs adopted prior to January 2016 should remain the development plan for the respective areas until it is replaced by a subsequent LDP. The fundamental conflict with the strategy proposed by the adopted LDP therefore weighs significantly against the appeal proposal. Future Wales: *The National Plan to 2040* and Planning Policy Wales (Edition 11, 2021) (PPW) offer support to sustainable growth. However, I have not seen anything to persuade me that those national policy documents justify the development proposed in this instance, particularly in light of the conflict with the development strategy promoted by the adopted Plan.
13. The proposed development would clearly make a positive contribution towards the local housing land supply and this weighs materially in favour of the development, particularly given the levels of land supply within the area indicated through the Council's Annual Monitoring Reports (AMRs). However, having regard to the strategy of the adopted Plan, and in particular the availability of facilities and services within Ffos-Y-Ffin, I am not persuaded that such a matter justifies the proposed development. Rather, I concur with the Council's assessment that, given the particular set of circumstances in the case, the development proposal would be better assessed at a strategic level as part of the preparation for the forthcoming '*Replacement LDP*'.
14. I have considered the appellant's references to other planning permissions which have been granted within the area, including those permitted contrary to the strategy promoted by the adopted LDP. However, I have not seen anything to indicate that any of those cases incorporated the exact same circumstances as in this case and, in any event, it is a well-established principle of planning that each case should be treated on its own particular merits. Indeed, I am not bound by previous Council decisions and, in considering the principle of the appeal proposal, I have carefully balanced the planning policy framework and the other material considerations available at the time of determination.
15. I therefore find that the development would conflict with the growth strategy advocated through the adopted LDP and in particular with the thrust of Policies S01 and S04. Whilst it would make a contribution to the local housing supply, and indeed the need for affordable housing, I am not persuaded that such matters should outweigh the aforementioned policy conflict, despite its weight being reduced as a consequence of its

end date. For these reasons, and having considered all matters raised, I conclude that the development would be unacceptable in principle.

Highway Safety

16. The Council objects to the proposed development on the basis that inadequate access arrangements would be provided to service the proposed development. In particular, the Council is concerned that adequate visibility cannot be achieved for vehicles egressing the site. It is common ground between the main parties that the visibility requirements within Manual for Streets should apply in this instance, meaning that visibility splays measuring some 2.4 metres by 43 metres, at a 600mm height, should be provided to each side of the proposed access.
17. The most recent '*Proposed Site Plan*' illustrates visibility splays satisfying the necessary 2.4 metres by 43 metres and the annotations indicate that such splays would be clear above 600mm. However, despite the fact that the appellant contends that all the land necessary to formulate the access arrangements is either within his ownership, unregistered or on local authority land, I have not seen any tangible evidence to confirm that the visibility splays would not cross third party land. Indeed, the Council contends that the visibility splays would overlap private land, noting that the grass verge between the carriageway edge and the boundary wall/ pillars does not form part of the public highway.
18. I was able to confirm at the time of my site visit that the land needed to provide the visibility splays does indeed incorporate the land referred by the Council, leading to particular concern over the ability to control the land fronting Meysydd to the south-west and part of the hedgerow to the north of Hyfrydle, as illustrated in the Council's '*Statement of Case*'. No evidence, in the form of land registry documentation or similar, has been submitted to prove that the appellant owns the land in question and neither have I had sight of an executed planning obligation that demonstrates that the appellant has control over the said land. On this basis, I am unable to conclude with any confidence that the proposed access arrangements indicated on the '*Proposed Site Plan*' could be implemented.
19. For these reasons, I conclude that it has not been satisfactorily demonstrated that the appeal proposal could provide adequate access arrangements. The proposal therefore represents a material threat to highway safety and conflicts with the aims of Policies DM03, DM04, DM05 and DM06 of the adopted LDP. For the same reasons, it also conflicts with the thrust of national policy, including that set out in PPW, Technical Advice Note 18: *Transport* (2007)(TAN18) and the Manual for Streets documents.

Planning Balance and Overall Conclusion

20. Based on the foregoing, I have found that the proposed development would be unacceptable in principle, having particular regard to the planning policy framework and other material considerations. I have also found that it would represent a material risk to highway safety. The fact that the development would make a positive contribution to the local housing market, and indeed the provision of affordable housing, clearly weighs in favour of the development. However, such benefits do not in my view outweigh the adverse consequences of the scheme which amount to compelling reasons why planning permission should be withheld in this instance.
21. For these reasons, and having considered all matters raised, I conclude that the appeal should be dismissed. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WCFG Act). I have taken into account the ways of

working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR