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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 02/06/20

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 14.08.2020

## Appeal Decision

Site visit made on 02/06/20

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

an Inspector appointed by the Welsh Ministers

Date: 14.08.2020

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**Appeal Ref: APP/Z6950/A/20/3246337**

**Site address: Land at Romilly Park Road, Barry CF62 6RR**

**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 John Hawkins against the decision of The Vale of Glamorgan Council.
  - The application Ref 2019/00656/FUL, dated 11 June 2019, was refused by notice dated 28 August 2019.
  - The development proposed is described as the construction of 2 x 1 bed units with on-site parking.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Following the Council's request that the site be viewed from 81 Romilly Park Road, several attempts were made to correspond with the occupants of this neighbouring property to arrange access. However, as no response was received the site visit proceeded as an unaccompanied visit. I am satisfied that I can assess the relationship between the proposed development and No.81 based on the submitted evidence and my observations at the site visit.

### Main Issues

3. The main issues are:
    - the effect of the proposed development on the character and appearance of the area;
    - the impact on the living conditions of neighbours; and
    - whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to exposure to noise and the provision of amenity space.
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## Reasons

### *Character and appearance*

4. The appeal site is located to the south of Romilly Park Road, backing onto a railway line. Whilst the appellant describes the site as forming part of the amenity space of the existing detached four bedroom dwelling at 81 Romilly Park Road, at my visit I observed that it has already been separated from the remainder of the garden serving this dwelling by a timber fence. The site itself is small and irregularly shaped, tapering significantly at its eastern end where the road rises.
5. The surrounding area is primarily in residential use, characterised mainly by large two storey traditional dwellings interspersed with more modern dwellings. Immediately adjoining the appeal site to the west are a row of four recently constructed, contemporary dwellings<sup>1</sup> which, with the exception of the closest dwelling, have relatively small gardens and gaps of varying width between them. It is these dwellings to which the appeal site most closely relates.
6. The proposed development comprises a two storey flat roof building incorporating 2no one bedroom flats. To the eastern side of the building, where the site narrows, would be a modestly sized shared amenity area with 2no off-street parking spaces beyond.
7. I do not dispute that, for the most part, the design and scale of the proposed development would replicate that of the adjacent newly constructed dwellings. However, the building would occupy a significant proportion of the deepest part of this irregularly shaped site, appearing excessively large in such a restricted plot. The shape and constrained nature of the site would also result in part of the front elevation of the development facing onto Romilly Park Road being sited further forward than that of its closest neighbours. This effect would be exacerbated by a front projecting canopy over the main entrance door and the recessed nature of the closest part of the front elevation of No.81. Together, these elements would result in the development appearing to stand forward of the others in the immediate street-scene. In the context of what I've described, it would appear contrived, imposing and cramped.
8. The appellant contends that there is no established pattern in the surrounding area or any consistent spacing between properties. Be that as it may, it is clear from the appellant's submitted street elevation drawing and my observations on site that the gaps between the newly constructed dwellings are greater than that shown between the appeal proposal and its closest neighbour, such that they are read as having a greater amount of space around them. Consequently, I consider the spacing to be an important aspect of the character of the development, and the lack of separation between the proposed building and No.81 would contribute to the impression that the development has been shoehorned into the site, at odds with the more generously spaced pattern of the wider development. This matter adds to my concerns regarding the adverse effect of the proposal on the character and appearance of the surrounding area.
9. Consequently, the proposal would conflict with the aims of Policies SP1, MD2 and MD5 of the adopted Vale of Glamorgan Local Development Plan 2017 (LDP) which, amongst other things, require new development within settlement boundaries to protect and enhance the built environment and be of a high standard of design that positively contributes to the context and character of the surrounding environment. It would also

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<sup>1</sup> Planning permission 2014/00071/FUL refers.

be at odds with the advice in the Council's Supplementary Planning Guidance '*Residential and Householder Development*' 2018 (SPG) which requires good design that respects character and context, Planning Policy Wales (PPW) which seeks to ensure that new development does not damage an area's character and Technical Advice Note 12 '*Design*' (TAN 12) which promotes sustainable development through good design.

#### *Living conditions of neighbours*

10. The side elevation of the proposed development would be positioned in the order of 4 metres from the side elevation of No.81 and at a higher ground level given the rise in the road. The Council has provided details of the approved plans in relation to the internal layout of No.81; it is evident that the main habitable room window serving the ground floor lounge of this neighbouring dwelling is that in its side elevation, which would have looked out onto its own garden (i.e. the appeal site) prior to the erection of the timber fence. Whilst the appellant argues that this room has a secondary window, the approved plans show that the front facing window is much smaller and sited behind a boundary wall which is at a higher ground level. Hence, I do not consider that the main outlook from this habitable space is to the front.
11. The Council also confirms that the approved plans show that the first floor window in the east facing side elevation of No.81 is the only window serving the fourth bedroom. As such, the only outlook from this habitable room is towards the appeal site.
12. In this context, the side elevation of the proposed development would be in such close proximity to the main outlook from the neighbour's habitable room windows, and at a higher ground level, that it would have a harmful overbearing effect on the occupants of No.81 and severely restrict the amount of natural light entering these rooms. It would therefore have an unacceptable impact on the living conditions that the occupants of this neighbouring property should reasonably expect to enjoy. The proposal would conflict with LDP Policy MD2 which requires residential amenity to be safeguarded and with the advice in the SPG, PPW and TAN 12 in relation to this matter.
13. I note that the appellant is the owner occupier of No.81 and that he has proposed the installation of additional windows in the rear elevation to serve the habitable rooms that would be affected by the proposed development. Whilst such measures may address the issue of daylight, the physically overbearing impact arising from the close proximity of the development would remain. I accept that the appellant may well be satisfied with the resultant living conditions, however, regard must also be had to any future occupants of this dwelling.

#### *Living conditions of future residents*

14. Technical Advice Note 11 '*Noise*' (TAN 11) identifies residential use as a noise-sensitive development. It advises that consideration should be given to whether proposals for new noise-sensitive development would be incompatible with existing activities. It confirms that such development should not normally be permitted in areas which are subject to unacceptably high levels of noise or where proportionate and reasonable measures to mitigate the impact of noise are not possible.
15. In this case, the appeal site is located some 7.5 metres to the north of a freight train line, which the Council states operates 24hrs a day. Consequently, the Council requested a noise assessment in support of the planning application. However, in the absence of the assessment the Council considered that it has not been adequately demonstrated that the noise impact, in a location known to be subject to high levels of

noise, was acceptable and could be adequately mitigated. In particular, it noted concerns raised by its Environmental Health Section in response to the previous application for the wider site regarding '*...development on this particular parcel of land due to its proximity to the railway and levels*'. I have not been provided with the full and exact details of the concerns referred to and neither can I be certain whether they related to the appeal site alone or the wider development site. In any event, I note that the Environmental Health Section has not commented on the proposal the subject of the appeal.

16. Be that as it may, it is clear that the Council granted planning permission for the adjacent development of 4no detached dwellings (subject to specific conditions in respect of noise mitigation measures) based in part on its assessment of the Aulos Acoustics Report dated January 2014, indeed finding the measures proposed to limit exposure to noise to be acceptable.
17. Although a copy of the 2014 Acoustics Report was not provided to the Council in support of the subsequent application which led to this appeal, it has since been submitted with the appeal. The report was based on the construction of 5no dwellings with the footprint of the appeal building located in a similar position as that shown as Plot 5 on the plan that accompanied the report. From my reading of the report, exposure to noise from rail traffic varies across the wider site and whilst exposure is marginally greater at the eastern end of the site where the existing dwelling on Plot 4 and the appeal site are located, it would consistently fall within Noise Exposure Category B as defined by the TAN<sup>2</sup>.
18. That is, the proposed development would have a similar relationship with the railway and exposure to noise as that for which the Council granted planning permission. I have read nothing in the Council's submissions to suggest that acceptable levels of noise mitigation in relation to the proposed development's living and amenity spaces could not be achieved in line with the recommendations in the 2014 Acoustics Report, which is now before me. As such, I am satisfied that this matter could be addressed with appropriately worded conditions, similar to those imposed on the planning permission for the adjacent development, to ensure the amenity and living conditions of the future residents would not be adversely affected.
19. In view of the above, I do not find that the development would conflict with LDP Policies MD2 and MD7 which require proposals to demonstrate they will not result in an unacceptable impact on residential amenity from noise and with national planning guidance outlined in TAN11 and PPW in this regard.
20. Turning to the matter of the outdoor amenity space associated with the proposed development. Section 10 of the SPG states that amenity space is essential and identifies a number of important functions that contribute towards residents' enjoyment of a property. Design Standard 4 relates to amenity space provision and states that '*...for flats, between 12.5 sq.m and 20 sq.m of amenity space per person should be provided, depending on the size of development*'. In terms of the size of development, it acknowledges that, typically, 1 or 2 bedroom flats would have 2 occupants.
21. The appellant states that over 40 sq.m of shared amenity space would be provided surrounding the appeal proposal. However, the Council takes issue with the appellant's

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<sup>2</sup> Noise exposure Category B requires that noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection.

calculation of amenity space based on the proposed flats being occupied by one person only, given that such a calculation is generally intended for small flats and bedsits. Rather, having regard to the size of the proposed flats in this case, the Council considers that the proposal should offer between 50 and 80 sq.m of private garden.

22. In my view, the quality and usability of the amenity space is as important as its size, consistent with the advice in the SPG that it should be of a useable shape, form and topography. In this regard, I share the Council's concern regarding the small, narrow and enclosed areas of amenity space to the rear of the building, which would have limited use and would not make for a pleasant environment in which to sit out. Furthermore, as the useable amenity space is located to the eastern side of the development, adjacent to the road frontage, it would not be private for the purposes of relaxation, entertainment or play. Neither has it been demonstrated that adequate provision would be made for other essential functions such as clothes washing and drying, DIY, or waste, cycle and other domestic storage. Whilst I accept that a degree of flexibility can be applied in terms of the size of the space, the quality and usability of that proposed here would fall seriously short for the reasons I have given. In this context, it would not adequately cater for the day-to-day needs of future occupants. The proposal would therefore conflict with LDP Policy MD2 and MD5 which require new development to have no unacceptable impact on amenity and with Design Standard 4 of the SPG.
23. I do not dispute that the appeal site is served by extensive recreation and amenity facilities. The appellant refers to the site's location adjacent to the Grade II Listed Romilly Park, which has extensive facilities including a bowling green, tennis courts, children's play area and a large open area for recreation. To the south west of the appeal site is Birch Grove Nature Reserve. Barry Harbour beach and Barry Island are located within approximately 250-500 metres to the south east of the appeal site. I have had regard to the sustainability of the location and the availability of recreational facilities in close proximity. However, whilst the proximity of such facilities and open space is undoubtedly of benefit, it does not provide the same degree of private and useable space that is required in association with a residential use of this nature.

### **Other Matters**

24. In support of his case, the appellant states that the proposal would introduce choice and a further range of housing options to meet the needs of all sectors of the community in addition to being in a sustainable location. Whilst there may be benefits associated with the proposed development, I do not consider that such matters outweigh the harm I have identified to the character and appearance of the area and to the living conditions of existing and future residents in the balance of acceptability.

### **Conclusion**

25. For the reasons I have given, and having regard to all other matters raised, I conclude that the appeal should be dismissed.
26. 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 building healthier communities and better environments.

*Melissa Hall* INSPECTOR