



TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) - SECTION 78 APPEAL

APPEAL STATEMENT OF CASE

SITE: LAND AT ROMILLY PARK ROAD, BARRY

PROPOSAL: PROPOSED CONSTRUCTION OF 2 X 1 BED UNITS WITH ONSITE PARKING

APPEAL BY: MR J HAWKINS

LOCAL AUTHORITY REFERENCE NO: 2019/00656/FUL



Introduction

- 1.1 This statement of case (SoC) has been prepared in connection with an appeal lodged on behalf of Mr J Hawkins ("the Appellant") under Section 78 of the Town and Country Planning Act 1990. The appeal is made against the Vale of Glamorgan Council's ("the Authority") decision to refuse planning permission for the 'Proposed construction of 2 x 1 bed units with onsite parking' at Land at Romilly Park Road, Barry
- 1.2 The application was registered by the Vale of Glamorgan Council under reference 2019/00656/FUL on the 20th June 2019.
- 1.3 The decision notice was issued on the 28th August 2019 to refuse the application.
- 1.4 The Planning Officer's report (we have called the OR) is referred to throughout this statement. A copy of the report is provided within Appendix No.1 of this statement.
- 1.5 The reasons for refusal provided within the decision notice dated the 28th August 2019 stated;

1. By reason of its scale and relationship to adjacent dwellings, the proposed development is considered to result in an overdevelopment of the site that fails to respect the surrounding pattern of development and would, therefore, appear as a cramped, visually incongruous and harmful to the character of the street scene. The proposal would, therefore, be contrary to the aims of Policies SP1 Delivering the Strategy, MD2 Design of New Development and MD5 Development within Settlement Boundaries of the Vale of Glamorgan Adopted Local Development Plan 2011-2026, and the advice within the Council's Supplementary Planning Guidance on 'Residential and Householder Development', Planning Policy Wales 10th Edition and Technical Advice Note 12- Design.

2. By reason of its scale and siting, the proposed development would result in an unacceptable reduction in natural light, be overbearing and an unneighbourly form of development when viewed from the garden and side facing windows of No 81 Romilly Park Road, unacceptably impacting upon the amenities of the occupiers. The proposal would therefore be contrary to the aims of Policies MD2 of the Vale of Glamorgan Adopted Local Development Plan 2011-2026, and the advice within the Council's Supplementary Planning Guidance on Residential and Householder Development, Planning Policy Wales 10th Ed. and TAN12 - Design.

3. In the absence of a noise assessment, the proposal fails to provide adequate information to assess the impact of noise and vibrations from the adjoining train line on the amenity and living conditions of future occupants of the site, contrary to Policies MD2 (Design of Development) MD7 (Environment Protection) of the Vale of Glamorgan Local Development Plan 2011-2026 and national guidance contained in TAN11 (Noise) and Planning Policy Wales (Edition 10, 2018).

4. The proposed scheme fails to provide adequate provision of usable and private amenity space to serve the proposed development contrary to policies MD1 – Location of New Development, MD2 – Design of New Development and MD5 – Development within Settlement Boundaries of the adopted Local



Development Plan 2011-2026, together with Supplementary Planning Guidance 'Residential and Householder Development'.

- 1.6 This statement outlines the Appellant's case in support of the proposed construction of 2 x 1 bed units with onsite parking.
- 1.7 This document has been prepared in accordance with guidance set out in 'Procedural Guide - Wales (May 2017) published by the Planning Inspectorate (PINS).

2.0 APPEAL SITE DESCRIPTION AND PROPOSAL

Context

- 2.1 The appeal site is located to the south of Romilly Park Road, adjacent to the railway line and forms part of the existing amenity space of a detached four bedroom dwelling on Romilly Park Road, The Knapp, Barry.
- 2.2 The appeal site is located within the Barry settlement boundary but outside any conservation area designation.



- 2.3 The surrounding area is predominantly residential in nature, with a mixture of 2 storey traditional detached dwellings on Park Avenue and more recently constructed extensive properties along Romilly Park Road. To the west of the site, four new contemporary detached dwellings have been constructed (2014/00071/FUL).
- 2.4 To the north of the site lies Romilly Park, a CADW grade II listed park. It has a bowling green, tennis courts, children's play area, seasonal floral displays and a large open area for recreation.



- 2.5 The park was originally constructed on land belonging to the Romilly family in 1898 and fully completed in 1911. It retains most of the original framework and features, including an attractive water and rockwork garden and a wooded area with fine examples of specimen trees.
- 2.6 The main Vale of Glamorgan railway line runs adjacent to the site to the south providing rail a link from Cardiff to the east and Bridgend to the west.

Appeal Proposal

- 2.7 In line with the description of development within the OR, the scheme proposes the construction of a proposed two storey flat roof building incorporating 2no one bedroom flats. The proposal includes 2no off road parking spaces and a shared amenity area.



- 2.8 The proposed new building would be located adjacent to the western boundary of the site, accessed via a two new dedicated private pedestrian points for each unit and off site car parking to the eastern boundary of the site.
- 2.9 The application was supported by a Design and Access Statement.

3.0 PLANNING POLICY & GUIDELINES



- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that where the development plan contains relevant policies, applications for development should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 3.2 This section describes the planning policy context for the appeal, setting out the relevant planning and land use policies.

Planning Policy Wales

- 3.3 Planning Policy Wales (PPW Edition 10) December 2018 sets out the land use planning policies of the Welsh Assembly Government. It secures a presumption in favour of development unless material considerations indicate otherwise. It ensures planning policy, proposals and decisions seek to promote sustainable development, addressing the issues of inclusivity and accessibility for all. It is supplemented by a series of Technical Advice Notes. Procedural advice is given in circulars and policy clarification letters.
- 3.4 Good design is inclusive design and can help to ensure high environmental quality. Previously developed land should, wherever possible, be used in preference to greenfield sites where it is suitable for development. PPW10 aims to facilitate that a range of housing choices is available to meet the change in household need and recognises that infill sites can make a useful contribution to the delivery of housing and should, where they accord with the national sustainable placemaking outcomes, be supported.
- 3.5 Section 3.3: Good Design Making Better Places states *'Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. Meeting the objectives of good design should be the aim of all those involved in the development process and applied to all development proposals, at all scales.'*
- 3.6 Section 4 states *'The planning system should enable people to access jobs and services through shorter, more efficient and sustainable journeys, by walking, cycling and public transport. The Welsh Government is committed to reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. The planning system has a key role to play in reducing the need to travel and supporting sustainable transport, by facilitating developments which:*
- *are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car;*
 - *are designed in a way which integrates them with existing land uses and neighbourhoods; and*
 - *make it possible for all short journeys within and beyond the development to be easily made by walking and cycling.*
- 3.7 The current Development Plan is the Vale of Glamorgan Adopted Local Development Plan 2011 – 2026. Policies which are 'material considerations' to the determination of this planning appeal are:



Strategic Policies:

- SP1 – Delivering the Strategy
- SP3 – Residential Requirement

Managing Growth Policies:

MG1 – Housing Supply in the Vale of Glamorgan

Managing Development Policies:

- MD2 - Design of New Development
- MD5 - Development within Settlement Boundaries
- MD6 - Housing Densities
- MD7 - Environmental Protection
- MD9 - Promoting Biodiversity

3.8 Supplementary Planning Guidance provides further advice and information on certain policies and proposals within the LDP and are a material consideration in determination of planning applications. The following SPG's are relevant to the development proposal:

- Barry Development Guidelines
- Biodiversity and Development (2018)
- Parking Standards (2019)
- Residential and Householder Development (2018)

4.0 COMMON GROUND

4.1 This statement of common ground provides factual information about the proposal which is the subject of the appeal that the Appellant reasonably considers will not be disputed by the Local Planning Authority.

4.2 It is considered this statement will identify the material differences between the Appellant and the Local Planning Authority and thus focusing on the key issue of this Appeal.

4.3 The Appellant reasonably considers the following material information is not disputed by the Local Planning Authority;

- The appeal proposal seeks planning permission for the proposed the construction of a proposed two storey flat roof building incorporating 2no one bedroom flats. The proposal includes 2no off road parking spaces and a shared amenity area on land at Romilly Park Road, Barry.



- Principle of the use - The site is located within a predominantly residential area, within the settlement boundary of Barry, and consequently, it is considered that the principle of the development is acceptable.
- Sustainability - The location is a sustainable location for additional residential development and would comply with the sustainability criteria of Policies SP1 and MD1 of the Local Development Plan and guidance within Planning Policy Wales 10th Ed in this respect,
- Housing Density - Within Barry policy MD6 requires a minimum of 30 dwellings per hectare and based on this site area of 0.023 hectares, the density would be 86 dwellings per hectare, which complies with the policy.
- Neighbour Amenity - The proposed dwellings are considered to be an acceptable distance from the existing properties opposite the site and would not be considered to harm their amenity or privacy. The proposal does not propose any windows facing the existing dwelling to the west and therefore the privacy of these neighbours would be protected.
- Amenity Space; No.81 – The dwelling would retain sufficient amenity space to serve a dwelling of this scale.
- Parking and Access - The Council's Highways Department have been consulted and have not objected to the development in relation to traffic, visibility and parking provision. The development is therefore considered acceptable in this respect.
- Drainage - Welsh Water and the Council's drainage engineer did not object to the development in principle and it was noted that the site is not located within a DAM Flood Zone.
- Ecology – given the scale and nature of the development, it is considered that enhancements to provide biodiversity could be secured by way of condition.
- Archaeology – GGAT have confirmed that a watching brief for the adjoining site included this parcel of land and no archaeological interest was noted, as such the proposal is considered acceptable in this respect.

5.0 CASE FOR THE APPELLANT

- 5.1 The key issues in the determination of the planning appeal are considered against the test of reasonableness in planning terms and against planning policy compliance and any other material considerations where relevant, and in particular against the Council's reasons for refusal.



5.2 The wording of the reasons for refusal clearly states that the Council considered that:

1. *By reason of its scale and relationship to adjacent dwellings, the proposed development is considered to result in an overdevelopment of the site that fails to respect the surrounding pattern of development and would, therefore, appear as a cramped, visually incongruous and harmful to the character of the street scene. The proposal would, therefore, be contrary to the aims of Policies SP1 Delivering the Strategy, MD2 Design of New Development and MD5 Development within Settlement Boundaries of the Vale of Glamorgan Adopted Local Development Plan 2011-2026, and the advice within the Council's Supplementary Planning Guidance on 'Residential and Householder Development', Planning Policy Wales 10th Edition and Technical Advice Note 12- Design.*

2. *By reason of its scale and siting, the proposed development would result in an unacceptable reduction in natural light, be overbearing and an unneighbourly form of development when viewed from the garden and side facing windows of No 81 Romilly Park Road, unacceptably impacting upon the amenities of the occupiers. The proposal would therefore be contrary to the aims of Policies MD2 of the Vale of Glamorgan Adopted Local Development Plan 2011-2026, and the advice within the Council's Supplementary Planning Guidance on Residential and Householder Development, Planning Policy Wales 10th Ed. and TAN12 - Design.*

3. *In the absence of a noise assessment, the proposal fails to provide adequate information to assess the impact of noise and vibrations from the adjoining train line on the amenity and living conditions of future occupants of the site, contrary to Policies MD2 (Design of Development) MD7 (Environment Protection) of the Vale of Glamorgan Local Development Plan 2011-2026 and national guidance contained in TAN11 (Noise) and Planning Policy Wales (Edition 10, 2018).*

4. *The proposed scheme fails to provide adequate provision of usable and private amenity space to serve the proposed development contrary to policies MD1 – Location of New Development, MD2 – Design of New Development and MD5 – Development within Settlement Boundaries of the adopted Local Development Plan 2011-2026, together with Supplementary Planning Guidance 'Residential and Householder Development'.*

5.3 As the decision notice was clearly worded, and as highlighted within section 4.0 of this statement, it is considered reasonable to assume that all other material planning considerations which formed part of the original OR were considered acceptable by the Council or can be appropriately dealt with via planning conditions.

5.4 This statement will now provide the Appellant's case against the material reasons for refusal provided by the LPA. The Appellant considers that the main issue of the appeal is:

- Whether the proposed development is an overdevelopment of the site and would therefore be harmful to the character of the street scene, contrary to Policies SP1, MD2 and MD5.



- Whether the proposal would result in the unacceptable reduction in natural light, be overbearing and an unneighbourly form of development when viewed from the garden and side facing windows of No 81 Romilly Park Road, contrary to Policy MD5.
- The impact of noise and vibrations from the adjoining train line on the amenity and living conditions of future occupants of the site, contrary to Policy MD2.
- Whether adequate proposed amenity space is provided in accord with Policies MD1, MD2 and MD5.

Impact on Character of the Street Scene

- 5.5 The key settlement in the Vale of Glamorgan is Barry. LDP objectives for Barry include the continued improvement of the existing housing stock and the promotion of a range and choice of new housing to meet the needs of all sectors of the community (Policy SP1). The principle and density of the proposed development is considered acceptable.
- 5.6 The proposed development replicates the design and scale of the adjacent dwellings and the pattern of development in the immediate vicinity of the site and makes efficient use of the land.
- 5.7 The surrounding built form boosts a mixture of design, scale and layout with varying spaces between the respective buildings.
- 5.8 It is not considered that the introduction of the additional built form would be at odds with the street scene and as recognised in the OR, the proposal seeks to replicate the adjoining dwellings in terms of scale & design.
- 5.9 Whilst the east annex of the proposed building would marginally protrude the building line, the site is located on the corner of a junction, as such, it would not have an adverse impact on the street scene or character of the area.
- 5.10 As illustrated in the submitted plans, the existing development has varying distances between the respective dwellings. As there is no established distance or pattern, the proposed development could not be construed as being visual incongruous.
- 5.11 The proposed development would introduce a choice and further range of housing options to meet the needs of all sectors of the community.

Impact on No.81 Romilly Park Road

- 5.12 It is recognised that criterion 8 of MD2 seeks to ensure that public and residential amenity is safeguarded.



- 5.13 The reasons for refusal consider that the proposed development would result in an unacceptable reduction in natural light, be overbearing and an unneighbourly form of development when viewed from the garden and side facing windows of No 81 Romilly Park Road, unacceptably impacting upon the amenities of the occupiers.
- 5.14 Whilst the proposed development would be positioned some 4 m from the side of the existing dwelling to the west, no windows are proposed in the elevation facing this dwelling, ensuring their privacy is maintained.
- 5.15 Whilst the proposed development may have a limited impact on the daylight of the side facing ground and first floor windows of No.81, the habitable rooms in question are both served by secondary large windows to the front of the dwelling.
- 5.16 Whilst it is recognized the proposal would reduce the amenity space of No.81, in line with the LPA Residential and Householder Development SPG, the existing dwelling would retain over 80sqm of south facing private amenity space (20sqm x 4 no. bedrooms), as such there residential amenities will not be adversely effected.

Noise & Vibrations

- 5.17 The original development, consent under planning permission 2014/00071/FUL, was supported by a detailed Acoustics report (dated 15 January 2014), which was commissioned to provide an assessment of the required sound insulation performance and construction scheme required to ensure reasonable internal noise levels at the proposed development. A copy of the report has been provided as appendix No.2.
- 5.18 Whilst the final approved scheme was for four dwelling (2014/00071/FUL), the Acoustic report was based on the construction of five dwellings. The footprint of the appeal building is located in a similar position as the proposed plot 5, identified within the assessed layout on page 20 of Acoustic report..
- 5.19 The LPA deemed the report acceptable and granted planning consent subject to the following specific conditions:

15. The dwellings hereby approved shall be constructed in strict accordance with the advice, measures and recommendations set out in the Aulos Acoustics report, dated the 15 January 2014, unless otherwise agreed in writing (and in accordance with an alternative Noise Assessment Report), with this use.

Reason: In order to ensure an appropriate level of insulation to the dwellings and to ensure compliance with Policies ENV27 and ENV29 of the Unitary Development Plan.



16. Prior to the first beneficial occupation of the dwellings hereby approved, a post construction sound insulation assessment shall be carried out to establish the DB noise levels throughout the dwellings and their respective gardens, and submitted to and approved in writing by the Local Planning Authority. Should the report identify that the noise levels do not comply with the noise assessment report referred to in Condition 15 of this permission, the report shall also include measures to reduce the noise in order to comply with that report and a further report shall be submitted to and approved in writing following the completion of the approved measures, prior to the first beneficial occupation of the dwelling.

Reason: In order to protect the residential amenities of the occupiers of the dwellings and to ensure compliance with Policies ENV27 and ENV29 of the Unitary Development Plan.

- 5.20 The above mentioned conditions have now been satisfied (Discharged) following the progression of the 2014 planning consent.
- 5.21 In line with discussions with the LPA, the Appellant confirmed they would accept the abovementioned conditions (para 5.19) on any future consent.
- 5.22 The Appellant considers that appropriately worded conditions, in line with the findings of the Aulos Acoustics report (dated 15 January 2014), would ensure the amenity and living conditions of the future residents are not adversely affected.
- 5.23 The Appellant is also confident of addressing the any proposed conditions given the previous noise and vibration conditions associated with the previous consent have been subsequently discharged by the LPA.

Amenity Space for proposed development

- 5.24 The appeal proposal provides over 40sqm of dedicated shared amenity space surrounding the appeal proposal.
- 5.25 The appeal site is served by extensive recreation and amenity facilities. The appeal site is located 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 m to the south east of the appeal site.
- 5.26 The LDP requires that new development provide 'public open space, private amenity space and car parking in accordance with the council's standards', which states 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*. Communal areas of amenity space may be acceptable, but these must be directly accessible for all occupiers.
*typically a 1 or 2 bedroom flat would have 2 persons'.



- 5.27 Whilst over 40sqm of shared amenity space is proposed, the LPA consider that the development should offer between 50 – 80 m².
- 5.28 This is, however, calculating space based on the occupancy of 2 persons per flat. Were the flats occupied by sole residents, the amenity space required would be between 25 and 40 m².
- 5.29 It therefore considered that given the provision of over 40sqm of shared amenity space and significant surrounding public open space, the proposal provides adequate amenity space provision for the future occupants.

6.0 CONCLUSION

- 6.1 The appeal proposal seeks consent for Proposed construction of 2 x 1 bed units with onsite parking at Land at Romilly Park Road, Barry.
- 6.2 As justified within this statement, the Appellant considered that the proposed development would be in line with Planning Policy Wales (Edition 10).
- 6.3 It is not considered that the proposed modest development would have such a prejudicial impact on the setting and character of the immediate area as to warrant a refusal.
- 6.4 For the reasons given in this statement, it is considered that the development accords with National Planning Policy and delivers a sustainable development that adheres to the Local Planning Authority's objectives and guidance. It is therefore respectfully requested that the Inspector allow the appeal and grant planning permission.