



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 24/05/05

Appeal Decision

Site visit made on 24/05/05

gan/by Hywel Wyn Jones BA (Hons) BTP MRTPI

Arolygydd penodwyd gan Cynulliad
Cenedlaethol Cymru

an Inspector appointed by the National
Assembly for Wales

Dyddiad/Date 16-06-2005

Appeal Ref: APP/K6920/A/05/1176315

Site address: Land off Beili Glas Road, Fleur de Lis, Blackwood

- 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 Dr M Ali against the decision of Caerphilly County Borough Council.
- The application (ref: P/04/1056), dated 6 June 2004, was refused by notice dated 27 January 2005.
- The development proposed is residential development.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The application was submitted in outline and all matters, except for siting and means of access are reserved for subsequent approval. I have taken into account a plan accompanying the application, which shows the layout of the access and the siting of 5 dwellings.

Background Matters

2. The site has been the subject of previous planning applications for residential development, including one for 2 detached houses and garages which was refused and dismissed on appeal in 2000 (APP/K6920/A/00/1040284/T). The Inspector noted that the site was within the settlement boundary as set out in the Council's emerging unitary development plan. However, bearing in mind that the boundary was the subject of objections, this consideration was deemed to be insufficient to outweigh the fact that the scheme was contrary to the adopted Local Plan, which identified part of the site as lying outside the settlement limits.
3. The great crested newt is a European protected species under Schedule 2 of the Conservation (Natural Habitats &c) Regulations 1994. Following reports of the presence of the species in a nearby pond, a survey, commissioned by the appellant, was undertaken which was unable to confirm that the site is used as a terrestrial habitat by the species. However, it identified the existence of a nearby pond as a potential breeding area, and described the site's physical characteristics as a suitable habitat, despite the intrusive effects of human activity on the periphery of the area. As the presence of the built-up area and a road nearby limits the availability of alternative habitat sites, it is described as being a potentially important habitat.

Planning Policy

4. The development plan for the area includes the Islwyn Local Plan. It defines a settlement limit for Fleur-de-lis which includes a part of the appeal site. Policy H6 severely restricts dwellings in the open countryside.
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5. The Council Approved Unitary Development Plan (UDP) includes the appeal site within the envelope of the village. Policy DC1 sets out general criteria for development, and Policy H2 permits development on unallocated sites within settlement boundaries subject to certain provisos. Policy C9 requires development to take appropriate account of nature conservation interests, and sets out requirements in this respect. The supporting text explains that, where the impact of development on nature conservation interests can be limited by means of a planning condition or planning obligation, permission will not normally be refused on nature conservation grounds alone.
6. It is evident that objections to the appeal site's inclusion within the settlement boundary were considered by the UDP Inspector before he recommended that no modifications be made to the Plan in this respect. The Council has approved the UDP following the publication of the Inspector's recommendations. Given the advanced stage reached by the Plan, and in the light of the advice contained in paragraph 3.5.1 of Planning Policy Wales, March 2002 (PPW), I attach considerable weight to it.

Main Issue

7. I consider that the main issue in this case is the effect of the proposed development on the habitat of a protected species.

Reasons

8. There is no dispute that in general terms the latest expression of Council policy supports the principle of development on the site, and I have taken into account that the UDP Inspector did not consider the objections to the site's inclusion within settlement limits, which included wildlife interests, warranted amending the Plan. This does not alter the fact that the effect of the scheme before me on the habitat of the great crested newt is a material consideration, which must be evaluated in the light of the available evidence.
9. As the specialist report prepared on behalf of the client is not conclusive on the presence of great crested newts within the site it suggests undertaking further survey work at a more appropriate time, ideally to encompass a nearby pond. The Countryside Council for Wales considers that the survey work to-date has not fully assessed the importance of the site in this respect. The application, insofar as it relates to establishing the nature conservation value of the site, has failed to meet the requirements of the UDP or national advice, as set out in paragraph 5.5.11 of PPW.
10. I have considered whether the imposition of conditions would adequately address this issue, but have reached the view that there is inadequate information before me to enable the framing of mitigating conditions, or to predict the effectiveness of such controls. The appellant suggests the imposition of a condition requiring a further ecological survey – in my opinion, such a condition would not be appropriate as the necessary survey is required to inform a decision on the acceptability of the proposed development as well as the use of any planning conditions.
11. I conclude on this main issue that the scheme has failed to demonstrate that it would not result in the loss of a valuable terrestrial habitat of a protected species. Thus, the scheme conflicts with Policy C9 of the UDP.

Other Considerations

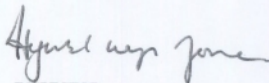
12. Whilst I appreciate the cost implication of the ecological survey work, this does not outweigh the harm that I have identified in relation to the main issue.
13. I have borne in mind the concerns expressed by the previous Inspector in relation to the effect of the scheme on the outlook of adjoining neighbours. I have also taken into account the concerns expressed by local residents, including those in relation to loss of light and privacy; increase noise disturbance; ground instability; drainage and highway matters. However, mindful of the scope to address some of these matters at a detailed stage, I would not have found any of these considerations to be of overriding concern had the scheme been deemed acceptable in relation to the main issue.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

Formal Decision

15. I dismiss the appeal.



INSPECTOR