



Penderfyniad ar yr Apêl

Appeal Decision

Ymweliad â safle a wnaed ar 19/01/12

Site visit made on 19/01/12

gan R.M.Poppleton JP, DipTP, DMS, MRTPI

by R.M.Poppleton JP, DipTP, DMS, MRTPI

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 10/02/12

Date: 10/02/12

Appeal Ref: APP/M6825/A/11/2162699

Site address: Cae Glas, off Heol Goi, St Clears, Carmarthen, SA33 4ET

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 Mrs R Evans against the decision of Carmarthenshire County Council.
- The application Ref W/21657, dated 3 June 2009, was refused by notice dated 6 July 2011.
- The development proposed is the construction of 5 family dwellings.

Decision

1. The appeal is allowed and outline planning permission is granted for the construction of 5 family dwellings at Cae Glas, off Heol Goi, St Clears, Carmarthen, SA33 4ET in accordance with the terms of the application, Ref W/21657, dated 3 June 2009 and the plans submitted with it and as amended by drawings 09/357/12A & B), subject to the 6 conditions set out in the attached schedule below, but permission is refused in respect of the provision of a footway and a passing bay to the east of that part of the appeal site upon which the dwellings are proposed to be built (the development site) and on the southern side of Heol Goi.

Main Issues

2. The appeal site is allocated for residential development within the adopted Carmarthenshire Development Plan 2006 as part of a larger allocation that extends to the east. It adjoins recent residential development, Cae Glas, immediately to the west served by the same road, Heol Goi, leading back to the High Street. The principle of residential development on this appeal site has therefore been considered and decided upon through the Development Plan process. Therefore, as stated in Section 38(6) of the Act, the appeal should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
3. In this regard, objections have been raised in respect of the servicing of the site in terms of its drainage and highway access, and the impact upon the highway network. Objections have also been made in respect of the ownership of land associated with the proposed footway, its connection to the private road that serves Cae Glas and about its possible up-grading to bring it up to adoptable standards. However, it is clear that the appropriate Certificates under Articles 6 and 9 of the Town and Country Planning (General Development Procedure) Order 1995 have been served upon other land owners in the vicinity. I find nothing therefore to indicate that the appellant has not taken the relevant steps to ensure that all other persons who may have an

interest in the land have been notified. Moreover, it is evident from the letters of objection that local residents are clearly aware of the application and appeal.

4. Therefore, any works that may be necessary and the funding of such works to the private road, including the provision of a turning head and footway connections, are matters that can be addressed under the Highways Act and through agreements with the various owners. Being an outline planning application, my concern is limited to whether the appeal site is of sufficient size to accommodate those elements. The indicative plan (09/357/22B) indicates that it is, details of which would be considered at the later Approval of Reserved Matters (ARM) stage. Therefore I need comment no further about this matter now.
5. Moreover, being an outline application, supported by a Design and Access Statement (DAS) that provides an indicative layout and the parameters for the size and scale of the proposed dwellings that reflect those opposite, all matters of detail including the concerns about overlooking and car lights, would be dealt with at the ARM stage. The DAS also refers to the provision of one affordable housing unit in accordance with the Council's policy.
6. As to car parking, the indicative plan shows that the development could accommodate parking within each plot in a similar manner to that provided in the existing development. Therefore at this outline stage, I find nothing to convince me that it would not be possible to provide adequate parking and that unacceptable highway congestion would result. Again, the precise layout and provision of car parking within the site would be considered at the ARM stage.
7. In terms of the provision of other community facilities such as public open space, I am aware that the Planning Authority seeks such provision on larger schemes. However, I can only consider the proposal currently before me and I find no justification for such provision to be required as part of this small development. It must be a matter for the Planning Authority to determine how such community and other facilities should be provided in a comprehensive, proportional and coordinated manner within the locality as a whole.
8. Accordingly, the main issues in this appeal distil to its effect upon highway safety in the locality and secondly, the whether the proposed development can be adequately drained.

Reasons

9. The outline application relates to the erection of 5 family dwellings, including 1 designated as an affordable housing unit on land identified on the submitted plan as 'the development site'. The proposal also includes three optional routes for a footway to the south of the development site, two being on the northern side of the Heol Goi and one along the southern side of the road. This latter footway route would then cross the road to the eastern extremity of the development site. The 'red-line' of the application site also extends along the northern side Heol Goi for about 135 metres identified as 'proposed new footpath' with a passing bay on the southern side of the road about 70 metres beyond. It is noted that the appellant declares ownership and control of the land to the east of the appeal site and on the southern side of Heol Goi.
10. Heol Goi is a relatively narrow, no-through road that joins the High Street some way to the east. There are currently no footways alongside the carriageway which is flanked by banks, some trees and hedges, other than to the west of the appeal site adjacent to the recent development, Cae Glas. However, as such highway

characteristics must have been evident and taken into account when the site and the adjoining land were allocated in the UDP for residential development, I need to consider whether any material considerations in respect of the highway implications are such as to justify rejecting the proposal now.

11. There is no compelling up-to-date highway evidence relating to the likely traffic generation arising from the proposed five dwellings and the effect upon the capacity of the local highway network. No recent traffic flow readings have been submitted, either in terms of vehicles or pedestrians: the only information from the appellant dates from 2001. However, although the existing development generates traffic, I must limit my consideration to the current proposal and establish whether this would create unacceptable highway conditions. In this regard, I find nothing to convince me that the volume of traffic generated by the five proposed dwellings would be likely to have a significant impact upon the overall use of Heol Goi. Even though the junction with the High Street is not ideal, I observed that the visibility is such that, with care, vehicles can join the High Street safely. Similarly, having regard to *Manual for Streets 2*, I find nothing to show that the visibility at the Cae Glas access would be dangerous.
12. With regard to pedestrians using Heol Goi, I recognise that it provides access to the local facilities including a school. It is therefore not unreasonable for the developers of the land fronting the road, to make provision for a footway in a proportionate manner and that has regard to the rural character and appearance of Heol Goi. In this regard, the suggested provision of a footway along the southern side of the road opposite the proposed dwelling on plot 10 (on drwg. 09/357/22B) would remove the hedges and harm the area's character and appearance. Moreover, it would create confusion and potential danger as pedestrians would then need to cross Heol Goi to its northern side. Therefore this is not a footway route that I can support.
13. With regard to the merits of the suggested c.70 metres of footway adjacent to plot 10 on the northern side of Heol Goi, the indicative plan (as amended by drawing 09/357/12A) shows that it would be physically possible to construct a footway on either of the two identified routes. I am aware of the ownership dispute regarding these two alternative routes, but for the reasons previously given, that dispute is not something about which I can comment. Whether it could be constructed is a matter that goes to land ownership, but on the basis of the information before me, I conclude that there is a reasonable expectation that a footway to the south of the proposed dwellings could be provided within the lifetime of any permission, following negotiations with any other land owners who may have a legal interest in the land concerned.
14. However, the 'red line' of the application/appeal site also extends to the east of the development site to include the provision of a footway along the northern side of Heol Goi. In a letter dated 23 April 2010 from the Council's Head of Transport and Engineering, it is stated that this '*would be beneficial to the existing 17 properties located at the top end of Heol Goi*'. Notwithstanding any other implication, such a footway would necessitate the removal of some of the existing hedgerow that encloses the remainder of the allocated development site and would urbanise the highway corridor. I consider that this would cause material harm to the rural character and appearance of Heol Goi. Thus, as currently proposed, I cannot support this element of the appeal proposal.
15. Moreover, having regard to the provisions of Circular 35/95, I consider that the imposition of planning conditions requiring the 135 metre extension of the footway beyond the eastern extremity of the development site would not meet the Circular's

tests of reasonableness, necessity and works relating to the development itself. I find no compelling evidence that justifies this requirement based upon the likely pedestrian traffic generated by the proposed five dwellings. As stated in the Council's letter, the footway would principally benefit existing development, rather than meeting a need arising from the proposed development.

16. Similarly, given the absence of any evidence relating to traffic flows and the resultant need for passing bays arising from the proposed development, although there is a pinch point, I similarly find no justification in highway safety terms for imposing a planning condition requiring that element to be provided as part of the current proposal. Moreover, such a passing bay could affect established trees and require modifications to the bank that could impact upon the rural character of the road. In the absence of compelling evidence of the need for such a passing bay and details of how the bank and trees would be affected, I cannot support this element of the appeal proposal.
17. As has occurred further to the west, should development proposals come forward in accordance with the UDP site allocation relating to land to the east of the construction site, then it would then be an opportunity to negotiate the provision of the next section of footway and any other highway improvements that were proportionate to the needs of that development. That would also be the appropriate opportunity to consider the impact that the creation of a footway and any passing bay would have on the rural character and appearance of Heol Goi, and to give consideration to other options that may be possible within that development site.
18. On this issue therefore, I conclude that with the provision of a footway on land to the south of plot 10, highway safety would not be eroded to such a degree that would justify dismissing the appeal. I therefore find no compelling reasons in this regard to conclude that the proposal would conflict with policies H2 and GDC14 of the UDP.
19. I also conclude that it would be unreasonable to impose a condition requiring the extension of the footway and the provision of a passing bay to the east of the development site. Moreover, as currently proposed, I conclude that those elements would be harmful to the rural character and appearance of Heol Goi. However, as those elements are severable from the proposed footway to the south of plot 10 and from the dwellings themselves, rather than dismiss the appeal, I am able to issue a split decision.
20. Turning to the issue of drainage, it is evident that Dŵr Cymru has been consulted regarding the up-grading of the St Clear catchment and associated waste water treatment works to resolve all capacity issues within the sewage network. A series of exchanges took place in September 2009, July 2010 and in April 2011, but it was not until 26 January 2012 that the matter was clarified. In that recent letter Dŵr Cymru confirmed that the foul sewage flows from the proposed development would not impact on the current flooding issues within the North of St Clears area, because those flows would drain into a different sub-catchment. Consequently, the objection to the proposed development on foul drainage grounds was withdrawn by the Council by letter dated 31 January 2012.
21. As to surface water drainage, a soakaway system is proposed: the Environment Agency does not object to this method of disposal. Whilst it is alleged by some objectors that the existing system serving the existing houses is affected by road drainage, this is not a matter about which I can comment. It is a matter for other agencies to investigate and to address. With regard to the development under

consideration, I find no compelling evidence to conclude that the normal pecculation tests required to satisfy the Building Regulations would not be carried out in a satisfactory manner. In any case, as the appellant owns the adjoining site, should the existing appeal site prove unsuitable for the construction of the necessary outfalls or to accommodate a sustainable drainage system, then other options within the adjoining land would be available. This could be dealt with through the imposition of a condition and dealt with at the ARM stage.

22. I conclude therefore that the proposal would not conflict with the Development Plan and that there are no material considerations of such weight as to justify rejecting the proposal, other than where I have indicated. Therefore the appeal should be allowed in so much as it relates to the construction of the dwellings and footway alongside the development site, and that planning permission be granted subject to conditions. The Council's seven suggested conditions have been commented upon by the appellant who accepts most as reasonable. However, concern is raised about one condition because it is suggested to imply that it would depend upon the adoption of the footway, turning area and passing bay.
23. I appreciate that it cannot be guaranteed that any highway forming part of the development would be adopted by the Highway Authority. Moreover, as made clear in paragraph 33 of the Circular, any condition that required action (for example the adoption of land as highway) by a party other than the applicant, would not be enforceable. Nevertheless, as noted above, the indicative plans show that within the application site there is space to enable a turning area to be provided and for a footway to be created to the south of plot 10. Whether or not those features become adopted highways would be a matter for negotiation between the landowners and the Highway Authority. Moreover, the turning area within the development would be dealt with at the ARM stage and a Grampian type condition would ensure its and the footway's provision prior to the occupation of the proposed dwellings. However, for reasons given in paragraph 15 above relating to the absence of justification for the passing bay and extended footway to the east of the development site, I consider that the condition could not reasonably relate to their provision in such terms.
24. Although the scheme includes an affordable housing unit, there are no details of its tenure or management. Consequently I also impose a condition relating to this matter.
25. I have had regard to all other matters raised including the suggested impact up the Welsh language, but I find no evidence that an impact assessment was required, or that the scale of the proposed development would be likely to have a material effect, especially in the context of the allocation of the site within the adopted Development Plan. Accordingly, the appeal is allowed and outline planning permission granted subject to the conditions set out below.

R.M. Poppleton

Inspector

Schedule of conditions imposed

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 3) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing unit shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN2 or any future guidance that replaces it. The scheme shall include:
 - i) the type, tenure and location on the site of the affordable housing unit;
 - ii) the timing of the construction of the affordable housing unit and its provision in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing unit to an affordable housing provider or the management of the unit;
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing unit; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing unit and the means by which such occupancy criteria shall be enforced.
- 4) No development shall commence until schemes for the provision of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. The approved schemes shall be completed before any dwelling is occupied.
- 5) No development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 6) No development shall commence until a scheme has been submitted and approved in writing by the local planning authority for the provision of a footway along the southern side of the site on land adjacent to plot 10 and to the north of Heol Goi and extending to the eastward extremity of that part of the appeal site, and a turning area within the development site. The footway and a turning area shall be completed in accordance with the approved scheme before any dwellings are occupied.