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## Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 12/4/22

gan H W Jones, BA (Hons) BTP MRTPI

Arolygydd a benodir gan Weinidogion  
Cymru

Dyddiad: 01/07/2022

## Appeal Decision

Site visit made on 12/4/22

by H W Jones, BA (Hons) BTP MRTPI

an Inspector appointed by the Welsh  
Ministers

Date: 01/07/2022

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**Appeal Ref: CAS-01526-D4Z5V9**

**Site address: Pen y Bryn, Llanmaes, CF61 2XR**

**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 Benjamin Mathew against the decision of The Vale of Glamorgan Council.
  - The development proposed is an extension to a railway.
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### Decision

1. The appeal is allowed and planning permission is granted for an extension to a railway at Pen y Bryn, Llanmaes, CF61 2XR, in accordance with the terms of the application, ref: 2021/00713/FUL, dated 6 May 2021, subject to the conditions set out in the attached Annex.

### Procedural Matter

2. The description of the proposal set out in the above banner heading is taken from the Council's decision notice and has been adopted by the appellant in the appeal submissions. My assessment of the scheme has taken into account the detailed description of the proposal set out in the application form.

### Main Issues

3. The main issues are the effect of the proposed development on:
  - (i) the character and appearance of the surrounding countryside; and
  - (ii) the living conditions of neighbouring residents, particularly in terms of any visual intrusion or noise pollution.

### Reasons

4. Pen y Bryn comprises a large two-storey house set in extensive grounds and containing various outbuildings. It lies adjacent to a single-storey dwelling, Pen y

Bryn Barns, with which it shares access via a lane on to the highway network to the north.

5. The appellant has constructed a narrow gauge railway line for hobby purposes that is aligned broadly parallel with the lane with spurs connecting to outbuildings to the north of the appellant's house. The rails are some 600mm apart, supported by timbers and laid on a ballast base which have been sunk into the ground such that the rails are generally close to adjacent ground level. The line continues alongside the main garden area of the dwelling within an adjoining paddock before continuing further southwards and is some 300m in length. An outbuilding is used as a train shed. At the time of my visit it contained 2 locomotives, the taller of which, because it was fitted with a cabin, was some 2.4m high. Retrospective planning permission was granted some 6 years ago and subsequent permission to amend the track layout was approved some 3 years later. The Council has pursued enforcement action in the past relating to the laying of tracks and the storage of a railway carriage.
6. The scheme before me involves a proposed short branch line, some 60m long, which would run close to the southern boundary of the paddock, roughly on a perpendicular angle to the main rail line. The paddock bounds the curtilage to Pen y Bryn along one boundary and the neighbouring property along another. There is a car park within the corner that adjoins both curtilages. The remainder of the paddock is subdivided by a post and rail fence which separates an area of grassland from a mown grassed area. The latter contains a small animal shelter and appears to be used for informal recreation with associated items such as small football goal posts. The Council considers the land to be agricultural. The appellant describes the purpose of the spur as facilitating land management and livestock movement.

#### *Character and Appearance*

7. The appeal property and its neighbour form a small group of buildings surrounded by fields. With the exception of a nearby airfield, the wider landscape is characterised by open countryside of mainly large fields enclosed by hedgerows with sporadic buildings, mostly residential or agricultural in nature.
8. As explained above the rails of the existing track closely follow ground levels and as the space between them is grassed the only readily visible element is the rails themselves, and then only from close quarters. The proposed extension would be of the same design. The Council has confirmed that it is not concerned with the appearance of the proposed track but rather its use by a locomotive, which it acknowledges would be infrequent. Given the screening qualities of the hedgerows that bound the paddock even during winter months, any occasional views of the model train would be very limited and transient. It would be viewed in the context of the residential properties and as such would not appreciably impact on the character of the surrounding countryside.
9. On this main issue I am satisfied that the scheme would not harm the character or appearance of the surrounding countryside, and as such does not run counter to policies MD1 (Location of New Development) or MD2 (Design of New Development) of the Council's adopted Local Development Plan 2011-2026 (LDP).

#### *Living conditions*

10. The subject line would be located at the far end of the paddock from the neighbouring property and would be separated by a mature hedgerow. As it would be located in a position that is directly in line with the main view from the rear elevation of the neighbouring property, a train using the proposed section of track may be somewhat more visible than when using the existing tracks. However, as I have already

explained the size and occasional presence of the train on the track means that its potential visual presence would be modest. The separation distance of some 60m and the intervening screening effect of a hedgerow further reduces this effect such that it would not be visually intrusive.

11. The application was supported by a noise assessment based on readings of the train in operation and modelling used to predict the effect on the neighbour from the extended line. It concluded that the train usage 'would not have significant likelihood of complaints or adverse effect on the neighbouring property'.
12. In acknowledging that the approved railway line is closer to the neighbours than the subject extension, the Council accepts that the volume of noise generated by the extension would be no louder than from the approved line. It also acknowledges that the operation of the approved track is limited to between 10:00am and 7.00pm. It describes the impact on the neighbour of the operation of the approved track as acceptable but considers the extension to be unacceptable. This appears to be based on the potential for an increased level of use but there is little evidence to demonstrate that the extension will lead to a material intensification in this respect. Moreover, it has not produced any evidence that the activity would cause harmful noise levels. Its contention that the appellant has not 'fully assessed' noise appears to be on the basis that the assessment is based on predictions, despite this being the only means of assessing a proposed development. Moreover, it does not offer any technical evidence to support its concern. I note that the Council's Shared Regulatory Services (Pollution) department was consulted on the application but it appears that it has not provided specialist advice to inform the Council's position.
13. On the second main issue, having particular regard to the visual impact and noise concerns raised, I find that the scheme would not unacceptably affect the living conditions of neighbouring residents. As it would safeguard residential amenity it would accord with LDP policy MD2 (Design of New Development). I am also satisfied that there is no conflict with Welsh Government's Technical Advice Note 11: Noise.
14. In relation to both main issues the Council opines that the scheme breaches its Delivering the Strategy policy, SP1. As I have found the scheme acceptable in both respects, I do not concur.

### **Other Matters**

15. Whilst the Council cites the advice in paragraph 4.2.24 of Planning Policy Wales on unobtrusive development in the countryside, as it specifically deals with the location of new housing, I do not consider it to be pertinent in this instance.
16. I have taken into account the other concerns expressed by the Community Council and local resident. In relation to scale, I do not consider that the modest extension in the railway line materially alters the nature of the use, particularly given the restrictive condition on its use. There is no evidence that the development has directly led to the loss of any agricultural land. Any safety implications from the operation of the railway line does not fall within the scope of the planning regime.

### **Conditions**

17. Citing its concerns over noise the Council suggests that any permission should be for a temporary period of 12 months. I disagree, given my findings on the acceptability of the scheme in this respect. As I have found that the visual effect on its environs would be acceptable, a condition requiring additional landscaping works is not necessary. I agree that the suggested conditions restricting the hours of operation

and use of the proposed railway, which align with the restrictions on the existing railway and are acceptable to the appellant, are reasonable.

### **Conclusion**

18. For the above reasons, and noting all the matters raised in objection, I find the scheme acceptable and shall therefore allow the appeal.

19. 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 one or more of the Welsh Ministers' well-being objectives.

*H W Jones*

Inspector

### **ANNEX: Schedule of Conditions**

- 1) The development shall begin not later than five years from the date of this decision.

*Reason: To comply with Section 91 of the Town and Country Planning Act 1990.*

- 2) The development shall be carried out in accordance with the following approved plans: Site location plan – Proposed rail track extension; Track measurements / Plan view of proposed railway extension; and Track cross section – R 3649 16.

*Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application*

- 3) The railway shall not be used outside the hours of 10am to 7pm on any day.

*Reason: In the interest of residential amenity and to ensure compliance with policies MD2 and MD7 of the Local Development Plan.*

- 4) The extension to the light railway hereby approved shall only be for private use, linked to the residential occupation of Pen Y Bryn. The railway shall not be used for commercial purposes or for public events (commercial or charity).

*Reason: In the interest of residential amenity and to ensure compliance with policies MD2 and MD7 of the Local Development Plan.*