



Appeal Decision

by I Stevens BA (Hons) MCD MBA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 23/08/2023

Appeal reference: CAS-02401-N2Z3X4

Site address: Whips Bungalow, Lane - Junction Llanmihangel Road to Junction at Llandough Village, Llandough, Cowbridge, CF71 7LR

- 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 Mrs K Jones against the decision of Vale of Glamorgan Council.
 - The application Ref 2022/00903/FUL, dated 5 August 2022, was refused by notice dated 28 September 2022.
 - The development proposed is described as detached garage, repositioned entrance drive, and curtilage extension, which will allow safe vehicular access onto the highway.
 - A site visit was made on 27 July 2023.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the appellant's name from the Decision Notice, as confirmed on the Appeal Form, since it had not been provided on the Application Form.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the surrounding area, having particular regard to its location in the Upper & Lower Thaw Valley Special Landscape Area; and
 - Biodiversity.

Reasons

Character and appearance

4. The appeal site comprises a parcel of land adjacent to Whips bungalow, a detached property. The land includes a former agricultural track that rises from its access off Heol Las and runs at an elevated position above the existing driveway and garden serving the property. A shed is located at the upper end of the track, adjacent to the roof of the property and with steps down to the driveway. Trees are located along the site's northern boundary, beyond which lies fields. Other properties are located further along Heol Las,

beyond the bungalow. In planning policy terms, the site is outside the settlement boundaries of the main towns and villages and is therefore in the countryside. It is also in the Upper & Lower Thaw Valley Special Landscape Area (SLA). From my site visit observations, the SLA's key features, which include a wooded river valley, are evident in views to the south from the elevated position of the appeal site.

5. The proposal would utilise the existing track to create a new driveway off Heol Las. A vehicle parking and turning area would be located towards the upper end of the driveway, with a detached garage replacing the shed. A roof garden would be provided on top of the garage and accessed via an external staircase. The existing property access and driveway would be blocked up and landscaped.
6. The proposal would extend the property curtilage beyond its existing boundary. Nevertheless, it would use an existing access and track, which runs adjacent to the property, and would not be a significant incursion into open countryside. The steep hillside and tree belt along the northern boundary of the appeal site would remain, thereby ensuring the development is relatively self-contained in the wider landscape. The proposed use of grasscrete to surface most of the new driveway would also soften its landscape impacts. The low-profile design and setback position of the proposed garage, together with complementary materials to the bungalow, would lessen its impact in the rural context I have described.
7. Given the site's topography, I recognise that some land reprofiling and engineering works to accommodate the proposed development would be expected. The site currently slopes between the existing driveway and track above, with a stone wall and vegetation in between. The proposed site layout plan indicates that the turning head would protrude into the existing driveway area, which is over 2m lower than the garage position. Given the likely extent of these works, the information provided to demonstrate a workable solution is limited. It is unclear from the submitted plans what excavation, filling or retaining works would be required, including the associated construction methods and materials. Neither is there clarity on the scale and treatment of the slope that would be formed between the turning head and existing driveway.
8. I recognise that the proposal would deliver highway improvements to the appeal property through a new access, turning area and parking spaces. The Council's Highways officer has raised no objection to the proposal. Notwithstanding these benefits, it is difficult to visualise the extent of works required to the appeal site without further details. I saw that a section of stone wall already runs along the slope between the existing driveway and track. However, based on the evidence and my site visit observations, a much taller and steeper bank or wall would be required to facilitate the turning area. This would extend towards Heol Las and be visible in glimpses above and through the property's front hedgerow, particularly during winter months. While the appellant suggests that mean land levels would be used, no details have been provided. I am concerned that an overly engineered solution to the steep embankment would be harmful to the rural character of the area, with consequential localised harm to the attributes of the SLA.
9. The appellant has provided images of plans showing site levels and cross sections as part of the extant permission for works to the bungalow (Local Planning Authority Ref: 2022/0006/FUL). It is unclear whether the site level works relate to the appeal proposal. In any case, those plans were not in front of the Council for determination as part of the current proposal, and I understand that the Council raised concern with them as part of the previous scheme, following which they were omitted. I cannot therefore determine this appeal based on those plans included in the Appellant's Statement.
10. I do not have sufficient information before me to conclude there would be no material harm to the character and appearance of the area. As such, the proposal would fail to

comply with the design and locational objectives of Policies SP10, MG17, MD1, MD2 and MD12 of the Vale of Glamorgan Local Development Plan 2011 -2026 (LDP), adopted in June 2017.

Biodiversity

11. Policies MD2 and MD9 of the LDP seek to ensure that development proposals conserve and where appropriate enhance biodiversity interests, subject to certain criteria. The supporting text to Policy MD9 advises that the biodiversity value of a proposed development site should be established at the earliest opportunity.
12. No ecological appraisal has been provided to assess any nature conservation issues pertaining to the site. The appellant advises that no such evidence was requested by the Council. Natural Resources Wales (NRW) have not objected to the proposal, but also advise they are unable to provide an evidence-based response given that no protected species information has been provided.
13. Whilst I am mindful of NRW's response, their remit covers national protected species amongst other things, and local ecology issues still need considering. Although the Council's Ecology officer has not responded, the evidence before me does not address any ecological issues of local importance. Notwithstanding the appellant's assertion that no trees would need to be removed to facilitate the proposal, there is a lack of information on the track position relative to the nearby trees, which could potentially affect root coverage.
14. Overall, based on the evidence presented, I am unable to come to a positive finding that the proposed development would be satisfactory on ecological matters, and neither would it be appropriate to deal with the matter by means of a planning condition. Indeed, Technical Advice Note (TAN) 5: Nature Conservation and Planning, September 2009 advises as much, adding that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, be established before granting permission, otherwise all relevant material considerations may not have been addressed in making the decision. The proposal therefore fails to comply with LDP Policies MD2 and MD9, along with TAN 5 advice.

Conclusion

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.
16. 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.

I Stevens

INSPECTOR