



## Appeal Decision

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by Tanya Leck

a person appointed by the Welsh Ministers

Decision date: 02.04.2024

Reference: CAS-03321-Z3S2S5

Site address: 147 Heol Cae Gurwen, Gwaun Cae Gurwen, SA18 1PD

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- The appeal is made under section 62ZB of the Town and Country Planning Act 1990.
- The appeal is made by David Jones against a notice of invalidity issued by Neath Port Talbot County Borough Council.
- The Local Planning Authority's reference is P2024/0097.
- The notice was issued on 23 February 2024.
- The application is for the 'provision of new roof cladding and wall cladding on existing garage structure'.
- The requirements of the notice as issued are:

1. "Flood Consequences Assessment.

The proposed development lies in an area identified to be at risk of flooding (C2 Flood Zone).

Your application should be accompanied by a statement to demonstrate how the proposed development meets the tests/refined tests of Technical Advice Note 15 (TAN15) 'Development and Flood Risk' (2004).

A Flood Consequences Assessment (FCA) will be required in accordance with Technical Advice Note 15 'Development and Flood Risk' (2004) for all applications that involve development within flood zones C1, C2 and those parts of zone B where flooding has been identified as a material consideration to allow for localised problems."

2. "Existing floor plans and elevations are required.

Existing floor plans should be drawn to an identified scale (e.g. 1:50 or 1:100) and should illustrate the application building as it appears currently. The width of external walls should be accurately drawn, and where existing buildings or walls are to be demolished these should be clearly shown.

Existing elevation plans should also be drawn to an identifiable scale (e.g. 1:50 or 1:100) and should illustrate the application building as it appears currently. To aid the local planning authority's understanding of the development proposal, all elevations must be provided."

- The appeal is made on the ground set out in section 62ZB (2)(d) of the Town and Country Planning Act 1990 (as amended) ('the 1990 Act').

## **Decision**

1. The appeal is allowed, and the notice of invalidity is quashed.

## **Reasons**

2. The appeal is made under ground (2)(d), it is therefore necessary to consider, in accordance with section 62(4A) of the 1990 Act, whether the requirements of the notice, in the particular circumstances of this application, are:
  - reasonable given the scale and nature of the proposal; **and**
  - whether they are related to a matter which will be a material consideration in determination of the application.

## **First Requirement: Flood Consequences Assessment (FCA)**

3. The LPA states in the notice that the “proposed development lies in an area identified to be at risk of flooding (C2 Flood Zone)” and that the application should be accompanied by a statement / FCA to demonstrate how the proposed development meets the tests in TAN15.
4. The details submitted with the application state there are no changes to the building footprint nor to the use of the site. The proposed works relate to external alterations (i.e. cladding, roof, roller shutter doors and replacement fencing).
5. I therefore find that, given the nature of the proposed development, it is unreasonable for the LPA to request an FCA at validation stage. It would be open to the LPA to seek further information as part of its determination of the application should it be considered material. I find that the appeal succeeds on ground (2)(d) on this matter.

## **Second Requirement: Existing Plans**

6. The second requirement is for existing floor plans and elevation plans. It is a requirement of Article 5 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended) that an application for planning permission be accompanied by “plans, drawings and information **necessary** to describe the development which is the subject of the application” (my emphasis).
7. This appeal has been made on ground (2)(d), it is therefore implied that the appellant accepts the requested plans could be validation requirements, but they consider the requirements are unreasonable given the scale and nature of the development or the materiality.
8. The LPA has specified existing floor plans and existing elevation plans in the notice, and I will consider each of these matters in turn.

### *Existing Floor Plans*

9. The appellant has submitted an existing site location plan showing the building in situ within the site (drawing reference CPD-001) and a proposed floor plan (drawing reference CPD-002). I further note that the Green Infrastructure Statement confirms that the building footprint would not be altered. Therefore, whilst no existing floor plan has been submitted, I am satisfied that the details of the existing context, location and scale can easily be ascertained from the details submitted. I consider it unreasonable for the LPA to require an existing floor plan given the nature of the development does not involve any alterations to the building footprint or layout. The appeal on ground (2)(d) succeeds in respect of this matter.

*Existing Elevation Plans*

10. The notice requires existing elevation plans to be submitted. The proposed elevation plans (drawing reference CPD-002) confirm the lower part of the building is existing. The Green Infrastructure Statement states that “part of the structure has been removed to repair the fire damaged areas and reinstated to match as before”. The supplementary information on the grounds of appeal also states that the building as it stands, is a basic shell with no cladding. Whilst I accept that the plans provided do not show the existing building elevations, the submission demonstrates that former cladding has been removed and the building now consists of a blockwork base. The level of information provided with the submission is adequate to allow a judgement to be formed on the scale, character, and other intrinsic qualities of the building, and the proposal can be understood without existing elevation plans.
11. I consider that when looked at as a whole, the information provided at this stage is sufficient to describe the development. It is open to the LPA to undertake a site visit to further understand the existing situation, or to seek additional information to aid its determination of the application. Therefore, I do not find it reasonable to require detailed elevation plans of the part-demolished building at validation stage.
12. I consider that given the scale and nature of the proposed works, the information submitted is adequate to describe the development, and therefore it is not reasonable for the LPA to require existing elevation plans. The appeal on ground (2)(d) succeeds in respect of this matter.

**Conclusion**

13. For the foregoing reasons and having had regard to all matters raised, I find that the appeal succeeds on ground (2)(d) in respect of both requirements, and the notice of invalidity is quashed.

*T Leck*

Tanya Leck BA(Hons) MSc

APPOINTED PERSON