



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 03/10/19

gan **Richard E. Jenkins BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 18.11.2019

Appeal Decision

Site visit made on 03/10/19

by **Richard E. Jenkins BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 18.11.2019

Appeal Ref: APP/B6855/C/19/3232366

Site address: 3 Victoria Street, Uplands, Swansea, SA2 ONE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Noah Redfern against an enforcement notice issued by City and County of Swansea Council.
 - The enforcement notice, numbered ENF2019/0034, was issued on 31 May 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a first floor rear extension.
 - The requirements of the notice are to i) demolish the first floor rear extension; and ii) remove all associated materials from the land.
 - The period for compliance with the requirements is three months beginning with the day on which the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

2. The Council cites conflict with its Supplementary Planning Guidance (SPG) document entitled '*A Design Guide for Householder Development*' (2008) in its written submissions. Nevertheless, it is clear from the Council's questionnaire documents submitted with the appeal that that document was adopted under the now superseded Unitary Development Plan (UDP). Indeed, it pre-dates the adoption of the City and County of Swansea Local Development Plan 2010- 2025 (LDP). As such, and in the absence of any evidence to indicate that it has been adopted as SPG to the LDP, I shall not attribute it any weight in the determination of this appeal.

Main Issues

3. These are the effect of the development on: the character and appearance of the area; and the living conditions of the occupiers of neighbouring residential properties, with particular reference to outlook and levels of natural light.
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Reasons

4. The appeal relates to a mid-terraced property located along Victoria Street in the Uplands area of Swansea. The property incorporates an elongated and tiered rear garden area and lawfully benefits from a part width two storey rear wing, with a flat roof single storey element beyond. That single storey element has historically incorporated a roof-top balcony with associated balustrade. A basement store lies beyond the single storey element at a lower ground floor level, creating a tiered rear wing to the property. The appeal proposal seeks retrospective planning permission for the erection of a first floor rear extension, replacing the aforementioned balcony area.
5. By virtue of its scale and siting, I concur with the Council's assessment that the first floor extension represents an insensitive form of development that fails to respect the built form of the host property. Indeed, the two storey rear projection materially increases the scale and massing of the rear wing, to the detriment of the tiered character of the appeal property. I note the fact that the development is not clearly visible from the street scene. Nevertheless, by virtue of its elevated siting, it is clearly visible from a number of private properties within the area. Furthermore, whilst I do not consider the principle of contemporary materials to be unacceptable or harmful in itself, it does in this case increase the prominence of the development and therefore accentuate the foregoing concerns.
6. Given its scale, siting and orientation relative to the host and neighbouring properties, there is also little doubt that the development materially increases the tunnelling effect between the adjacent properties. That tunnelling effect gives rise to significant overbearing impacts on both of the adjacent properties and overshadowing impacts on habitable rooms at No.2 Victoria Street. I have had full regard to the lawful fall-back position. However, the development materially increases such harmful impacts and, therefore, injuriously alters the living conditions of neighbouring occupiers. I note the fact that the development arguably improves privacy levels at the adjoining properties by reason of the loss of the first floor balcony. However, having regard to the extent of the harm identified, I do not consider such a matter to be determinative.
7. I have fully considered the appellant's written submissions. In particular, I note the fact that the occupier of No.2, who is a relative of the appellant, does not object to the scheme. However, the lack of an objection is not on its own a sound reason for granting planning permission, not least because ownership of that property could be subject to change at any point. Similarly, whilst I was able to observe a number of other extensions to dwellings along Victoria Street at the time of my site visit, I have not been provided with the planning history for those developments. They do not, therefore, justify the harm identified in this case. I note the appellant's reference to a development at Cambridge Street. However, that particular scheme does not appear to incorporate the exact same circumstances as that proposed in this case. Specifically, it would be sited in a perpendicular arrangement to the main dwelling and would have a resulting rear wing that would be considerably smaller than that subject of this appeal. It does not therefore weigh heavily in favour of the development.
8. Based on the foregoing analysis, I conclude that the proposed development causes material harm to the character and appearance of the area. I also find that it causes material harm to the living conditions of the occupiers of neighbouring residential properties by reason of loss of outlook and natural light. It follows, therefore, that the development conflicts with the general aims of Policy PS2 of the LDP. Such harm and policy conflict is not outweighed by the matters advanced in favour of the development, including the fact that sustainably sourced materials have been used. For this reason, and having considered all matters raised, I conclude that the appeal

should be dismissed and the enforcement notice upheld. Planning permission should therefore be refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

9. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR