

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 12/04/21

gan Vicki Hirst, BA (Hons) PG Dip TP
MA MRTPI

Swyddog a benodir gan Weinidogion Cymru

Dyddiad: 28/4/21

Appeal Decision

Site visit made on 12/04/21

by Vicki Hirst, BA (Hons) PG Dip TP MA
MRTPI

An Inspector appointed by the Welsh Ministers

Date: 28th April 2021

Appeal Ref: APP/Q6810/A/21/3266774

Site address: St Mary's Church, Lôn Yr Eglwys, Morfa Nefyn, LL53 6AR

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 Commercial Development Projects Ltd. against the decision of Gwynedd Council.
- The application, Ref: C19/1174/42/LL dated 13 December 2019, was refused by notice dated 3 February 2021.
- The development proposed is a residential development of 6 no. dwellings, access and associated works.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was submitted under section 78 of the Act against the non-determination of the application by the Council. During the dual jurisdiction period the Council issued a decision notice refusing the application. The parties have been given the opportunity to make further representations and I have dealt with the appeal as one against the refusal of permission.
3. The site plan was amended during the application processing stage. The Council has confirmed that it took the revised plan into account in reaching its decision and I find no prejudice would arise from doing the same.
4. There is a discrepancy between the aerial image in the planning statement and the site plan in relation to the red line depicting the site area. The appellant has confirmed that the aerial image is for illustrative purposes and I have therefore based my decision on the site plan.
5. Since the application was determined by the Council the Welsh Government has published Future Wales: The National Plan 2040 and Planning Policy Wales, Edition 11 (PPW). I am satisfied that neither publication makes any material difference to the main issues in this case.

Main Issues

6. The main issues in this case are:
- whether the proposal would make an appropriate contribution to local housing supply including affordable housing;
 - the effect of the proposal on the Welsh language; and
 - the effect of the proposal on the living conditions of nearby residents, with particular regard to the impact from the proposed access.

Reasons

Housing Supply and Affordable Housing

7. The site lies within the development boundary of the village of Morfa Nefyn as defined within the adopted Anglesey and Gwynedd Joint Local Development Plan (the LDP). It is also located on previously developed land having formerly been the site of a church which has since been demolished.
8. Policy PCYFF 1 of the LDP seeks to locate development within development boundaries and strategic policy PS 17 sets out the broad approach to the location and distribution of housing development within the Plan area. Morfa Nefyn is defined as a coastal village where the policy seeks to restrict development to a scale and type to address community need for housing on windfall/infill plots within the development boundaries. In such villages no open market housing sites are allocated.
9. Policy TAI 4 relates to housing in local, rural and coastal villages and states that subject to the requirements of policy TAI 15 in relation to affordable housing for local need, proposals for open market housing will be granted providing the size, scale, type and design corresponds with the settlement's character and the site is within the settlement's development boundary. The explanatory text provides an indicative provision for Morfa Nefyn during the Plan period of 15. Policy TAI 15 requires a 10% provision of affordable housing in this location. Where the requirement falls below a single dwelling on the site, providing an affordable unit within that development will remain the priority. If this is not deemed possible a pro-rata payment will be expected.
10. The proposal is for the erection of four three bed and two four bed detached dwellings accessed via an existing access to the west onto Lôn yr Eglwys. The site is bordered by existing residential development to the east and north, a church and residential property to the west and by agricultural land to the south. There is pedestrian access into the site from Lôn Uchaf to the north and a public right of way is located to the south.
11. The Council contends that the proposal would result in an over supply of housing that would not be in line with the LDP's approach and strategy to housing supply in villages. It also states that the proposal fails to justify why affordable housing cannot be provided on site.
12. I note that the provision of housing within Morfa Nefyn between 2011 and 2020 has already considerably exceeded the indicative figure of 15 provided in the LDP by some 25 units. Whilst I acknowledge that some of the housing was the result of planning permissions granted prior to the adoption of the LDP, the Council's strategy is intended to promote smaller numbers of housing in the village tier to protect their character and to support the communities' identified needs. In this case, the site

comprises a large windfall site (as defined in the LDP¹) which would accommodate a significant increase in housing in the village when considered against the indicative figure provided in the LDP. As set out above that figure has already been exceeded.

13. Nevertheless, the supply figure is an indicative one and I note the provision has not included any houses with four or more bedrooms in the same period. The appellant's Housing Mix Statement concludes that the proposal would contribute towards providing mixed and balanced communities and would meet the increasing demand for family homes. This aligns with the Housing Mix Supplementary Planning Guidance that anticipates an increasing number of children residing in Gwynedd over the coming years. As such there is likely to be an associated need for larger houses to meet families' needs. In my assessment the proposal would potentially contribute to that need.
14. When looking at all villages within the Plan area, it is acknowledged by the Council that there could be a lack of housing supply within the overall tier of villages, clusters and open countryside. However, the purpose of this tier is to provide housing for the specific local need rather than any wider need. Therefore, to "import" housing into the village to compensate for under provision elsewhere in the county would appear not to align with the Council's overall strategy and approach to housing.
15. Nevertheless, I find that the provision of larger family homes on the appeal site would go some way to meeting an identified need within the village itself. As such the provision of housing in excess of the supply identified for the village could be supported in principle.
16. However, against this context, the houses should be genuinely accessible to meet the identified needs. It appears to me that the Council's concerns lie with the concentration of developments taking place in commercially more profitable locations with the result that the houses are not financially accessible to most local residents in need of family homes. In this regard I note from the plans that the dwellings are of generous sizes and exceed the basic requirements of a family home, including substantial areas of glazing, balconies, and integral garages. Whilst I note the appellant's local marketing intentions, it has failed to respond to the Council's concerns in relation to the ability of those in local need to be able to financially access the specific proposed houses. I have no evidence before me in respect of the likely sale prices of the houses or the local wages of families to make an assessment as to whether the houses would be accessible to those in local need. In the absence of such information I am unable to conclude that the proposal would meet the identified housing needs in the LDP.
17. In addition, in respect of affordable housing, there would be a requirement for 0.6 of the proposed housing to be affordable which, as a financial contribution, would equate to £49,999. The Council's officer report considers that this should be provided through provision on site rather than through a financial contribution. The provision of affordable housing would contribute to local housing need.
18. The proposal before me is intended to provide a financial contribution towards affordable housing rather than a unit on site. However, no Planning Obligation under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. The appellant has suggested that a planning condition should be imposed on any planning permission to require an Obligation to this effect to be provided.

¹ Table 15, Component of Housing Supply, page 122, Anglesey and Gwynedd Joint LDP

19. The Welsh Government's Circular "The Use of Planning Conditions for Development Management" advocates the use of conditions rather than planning obligations. However, it recognises that there are some matters that are more appropriately required through a planning obligation and should not be required by condition, such as commitments on behalf of a developer to make payments to the local planning authority². With regard to this advice, a condition which indirectly seeks a financial contribution through the requirement to submit a Planning Obligation would not be reasonable or enforceable.
20. In the absence of an appropriately executed Planning Obligation, I must consider the proposal as one that does not make any provision for affordable housing. The requirement for affordable housing is an objective of both national and local planning policy to create mixed communities and to meet local housing needs and in the absence of such provision the proposal fails to meet these objectives.
21. For the reasons above, I am not persuaded on the evidence before me, that the proposal would make an appropriate contribution to local housing supply including affordable housing. I therefore conclude that the proposal would not be in accord with policies PS 17, TAI 4 and TAI 15 of the LDP.

Welsh Language

22. The appellant has provided a Welsh Language Statement that concludes the proposal would have an overall neutral effect on the Welsh Language as it would provide family houses that would contribute towards an increasing need for family homes identified in the Local Housing Market Assessment (LHMA). In contrast the Council's Welsh Language Unit considers there is insufficient information to support the view the proposal would have a neutral effect. It states that there is no information regarding the potential price of the units which, if priced beyond the reach of the local population would be more likely to lead to immigration from wider areas with a possible effect on the Welsh language. It finds that exceeding the number of indicative number of units identified in the LDP would have had an effect on the Welsh Language, although it has not provided any evidence to support this contention.
23. The appellant's Welsh Language Statement states that in 2011 72% of the population in Morfa Nefyn were Welsh speakers which exceeds the figure for Gwynedd by some 7%. That figure is clearly significantly higher than most other counties in Wales (with Wales as a whole having a figure of 19%). Therefore, it is reasonable to assume that the linguistic profile of Morfa Nefyn will contain a higher percentage of Welsh speakers than is likely to be the case for incomers from other communities. It is apparent from the evidence that the percentage of Welsh speakers in the village had already declined over the 10 years between 2001 and 2011. The Welsh Language Statement finds this to be the likely result of demographic changes including a reduction in the number of children, an increase in older people, migration and a difference in skills. I have no evidence before me that this pattern has reversed.
24. The threshold for the viability of the Welsh Language is stated in the appellant's Welsh Language Statement as being 70%. The number of Welsh speakers in Morfa Nefyn is only slightly above this figure and given the historical decline in Welsh speakers, any further decline has the potential to impact on the viability of the Welsh language in the village and thus the community's character.

² Paragraph 4.22, The Use of Planning Conditions for Development Management, Welsh Government, October 2014.

25. I have found above that I have insufficient information before me to conclude that the proposal would genuinely be accessible to meet the identified need for family homes in the area and would fail to make a contribution towards affordable housing. Equally, in the absence of information in relation to local wages and the likely market price of the houses I am unable to conclude that the proposal would be accessible to those within the local communities that speak Welsh. In the absence of such information I am unable to reach a view that the impact of the proposal on the Welsh Language would not be harmful.
26. Furthermore, as set out above the proposal does not provide for the delivery of affordable housing. Therefore, the potential for any contribution towards the Welsh language as a result of such housing cannot be taken into account.
27. I note the intention to provide Welsh names for the dwellings, the proposed local marketing strategy and the associated benefits to the local economy during the construction phase, but I do not find these to be sufficient to outweigh the potential harm to the Welsh language through the housing not being genuinely accessible to those in the local communities.
28. In the absence of such information I conclude that the proposal would be contrary to policy PS 1 of the LDP and PPW which seek to promote and support the use of the Welsh language.

Living Conditions

29. The Council has raised concerns in relation to the impact of the use of the proposed access road on nearby residents. The access road comprises a single carriageway width and is located between the southern boundary of the property Coed yr Hâf and the northern boundary of the church. It is located a short distance to the south east of the school.
30. I noted on my site visit that the boundary with Coed yr Hâf is screened by a substantial hedge. Whilst the proposal would inevitably result in traffic entering and exiting the development, given the screening in place and the relatively small number of houses proposed, and taking account of the previous use of the access in association with the now demolished church, I do not find the proposal would result in an unacceptable level of noise or disturbance to the occupants of this property.
31. I also note concerns with regard to the impact on residents arising from ease of access, parking and traffic flow. The school clearly already attracts traffic, but up to the entrance to the site is served by a two lane country road. The Council's Transportation Unit has raised no objection to the proposal, and I have no evidence before me that the additional traffic would lead to any safety concerns. I note the contention that traffic already causes inconvenience to residents, but in my assessment the addition of six dwellings would not significantly increase traffic on the country road to a degree that would be harmful to local residents.
32. Furthermore, whilst the road into the site would not be of adoptable standards, it is of straight alignment up to the housing development itself, with parking to the Council's standards provided for each dwelling within the individual plots. The appellant's swept path analysis indicates that the site can be accessed by emergency vehicles. I have no reason to believe that the traffic flow on the access would cause any particular disturbance as drivers entering and leaving the site would be able to see any drivers coming from the opposite direction with sufficient room for waiting and turning in each plot provided within the site.

33. An area for waste bins has been identified on the layout plan and could be adequately controlled under a condition. The location of the bins would not require the refuse lorry to enter the site but to stop for one additional collection on a road it already travels along to collect waste from existing properties.
34. I note neighbours' concerns with regard to the relationship of the proposed houses with those existing, but I have no reason to disagree with the Council's findings that the layout and design would be acceptable in terms of overlooking and privacy.
35. I am satisfied that the proposal would not cause an unacceptable impact on the living conditions of nearby residents and would be in accord with policy PCYFF 2 of the LDP which, amongst other things, seeks to ensure there is no adverse effect on the amenity of the occupiers of local residences.

Conclusions

36. I have taken into account all other matters raised. Issues relating to whether there is an established right of way between Lôn yr Eglwys and Lôn Uchaf are not for me to determine. Any dispute regarding the definitive route of the right of way on the south side of the site would need to be resolved with the Council to ensure that the definitive route remains useable. I find no matters that outweigh my conclusions. For the above reasons I dismiss the appeal.
37. 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 the Welsh Minister's well-being objective of building resilient communities, culture and language.

VK Hirst

INSPECTOR