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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 23/11/20

**gan Richard Duggan, BSc (Hons)  
DipTP MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 15<sup>th</sup> December 2020**

## Appeal Decision

Site visit made on 23/11/20

**by Richard Duggan, BSc (Hons) DipTP  
MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 15<sup>th</sup> December 2020**

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**Appeal Ref: APP/T6850/A/20/3256889**

**Site address: Dyffryn, Breidden Way, Guilsfield, Welshpool SY21 9PU**

<b>The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.</b>
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- 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 Mr & Mrs Hares against the decision of Powys County Council.
  - The application Ref: 20/0370/FUL dated 03 March 2020, was refused by notice dated 1 May 2020.
  - The development proposed is the erection of a dwelling and formation of vehicular access.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the impact of the development on:
  - the character and appearance of the street scene;
  - the living conditions of the occupiers of Dyffryn and future occupiers of the proposed dwelling with regard to outlook and loss of privacy;
  - highway safety; and
  - nature conservation interests.

### Reasons

#### *Character and Appearance*

3. The appeal site currently comprises the front garden area for the existing property, Dyffryn, which is a large detached dwelling set within a very spacious plot, and it is proposed to construct a detached dormer bungalow in the garden between the existing dwelling and the highway.
  4. Dyffryn occupies a prominent position close to the junction of Breidden Way and Celyn Lane within a residential area containing a mix of dwellings in design and size, but which display uniformity in terms of their spacing. The separation distances and spaces between properties are relatively constant and set a regular pattern of built
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development which creates a strong uniform layout to this residential area. The houses found in the area are generally characterised by being set back from the road with an established building line thus creating a regular and coherent street scene. Dyffryn itself is set back from the road, in line with the property to the south known as Dolruddyn, and this layout contributes to that regularity and coherence.

5. I did note that the two dwellings either side of the appeal site, Argyll and No. 8 Marcella Close, are sited nearer to the road and it is acknowledged that the proposed dwelling would be in line with the latter. I also saw that several properties in the area have been built in the gardens of older properties as highlighted by the Appellants, but these are generally fronting onto different estate roads rather than being built in front of each other along the same road frontage.
6. Notwithstanding these examples, I am of the opinion that locating a dwelling in front of Dyffryn that would project forward of the building line would appear contrived, cramped and an awkward addition to the prevailing built form. Although the dwelling would be smaller in scale than Dyffryn it would continue to be seen as a dominant feature, compounded by its prominent position on the street. It would, therefore, stand out as a discordant element along the road at odds with the character and appearance of the street scene, thus conflicting with Policies H1 and DM13 of the Adopted Powys Local Development Plan (LDP).
7. I have taken into account the Appellant's submissions that the proposed floor space of the dwelling would be approximately 190msq compared to the plot size of 520msq; and that there are many other examples of dwellings in the local area where the ratio of garden space to the floor space of the property is much smaller. I have also noted that the Community Council supports the development. However, this does not alter my conclusions on the harm to the street scene.
8. The Council has also referred me to a previous appeal on the property<sup>1</sup>. Whilst I have noted the conclusions made by the Inspector in that appeal, the layout and scale of that development was different to that before me. In any event, each case must be determined on its individual merits.

### *Living Conditions*

9. The proposed dwelling would measure approximately 13.8 metres by 12.3 metres and 5.5 metres in height to the ridge; and its nearest side elevation would be sited approximately 8 metres from the front facing (south-eastern) elevation of Dyffryn.
10. Notwithstanding that there are no windows to habitable rooms within the south-eastern elevation of Dyffryn, I consider that the outlook from that property would be dominated by a mass of built form in a way that I consider would be overbearing. Moreover, the mass and proximity of the proposed dwelling to Dyffryn would result in an imposing and oppressive form of development that would be visually over-dominant, with consequence adverse effects on the living conditions of the occupants concerned. I have similar concerns with regard to the outlook from the ground floor windows of the proposed dwelling, especially from the windows that are on the north facing elevation in very close proximity to the proposed 1.8m close boarded fence that would separate the house and the driveway/parking spaces to Dyffryn.
11. I saw that a fence has been erected on the proposed boundary between the two dwellings and it is proposed to plant some screening on the boundary. Whilst these

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<sup>1</sup> APP/T6850/A/18/3197585

features would reduce direct views between both dwellings there remains the opportunity that the privacy of the occupants could be compromised, including the private amenity space of the proposed dwelling.

12. For these reasons, the proposed development would have a harmful impact on the living conditions of the occupiers of Dyffryn and future occupiers of the proposed dwelling with regard to outlook and loss of privacy, thus conflicting with Policies H1 and DM13 of the LDP.

### *Highway Safety*

13. The Council's reason for refusal states that the proposed development would not provide adequate off street vehicular parking and refers to the CSS Wales Parking Standards 2014. The proposed dwelling would be a three bedroom house which, according to the CSS Wales Parking Standards 2014, would require three parking spaces. The proposed Site Plan<sup>2</sup> clearly provides three car parking spaces on the western side of the dwelling which complies with the standards being used by the Council.
14. However, the evidence presented by the Council in this appeal suggests that the resulting change in the layout of the parking for Dyffryn as a result of the proposed development means that the provision of 4 spaces would not be achievable within the land owned by the Appellants and would encroach onto highway land. Whilst I have taken into account the legal documents submitted by the Appellant<sup>3</sup>, without having further clarification on this matter I must take a precautionary approach. Nevertheless, in the event that I was minded to allow the appeal I could impose a condition requiring the Appellants to submit further details of the proposed parking to the Council for agreement prior to the commencement of development.
15. The Council is also concerned that the proposals do not provide sufficient information to demonstrate that the development would meet all highway access requirements with regard to the location of the proposed gullies and/or the location of the proposed surface water soakaway and the detail of the access radii/visibility splays. Whilst this may be the case, this could also be addressed by the imposition of suitably worded conditions to ensure that these details would be agreed prior to the commencement of development.
16. Having regard to the above and, given my ability to impose conditions if I were to allow the appeal, I conclude that the development would be unlikely to lead to any highway safety concerns.

### *Nature Conservation*

17. The Council's ecologist has advised that two statutory designated sites are identified close to the proposed development; the Granllyn Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) are approximately 159m away. The Council's ecologist stated that as the SAC/SSSI is designated for its population of great crested newts which are a mobile species it is considered that there may be some potential for the proposed development to indirectly impact the SAC/SSSI. Although the Council has had regard to a previous Preliminary Ecological Assessment<sup>4</sup>, it was considered that the submitted report no longer provides an accurate

<sup>2</sup> Proposed Site Plan Ref: 2171.14

<sup>3</sup> Title Plan CYM714062 and Conveyance of Land dated 6 May 1971

<sup>4</sup> Preliminary Ecological Assessment prepared by Greenscape Environmental Ltd, dated December 2017.

representation of the proposed development site and the habitats present and affected by the development, and that further information is required<sup>5</sup>.

18. Great Crested Newts are protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended). Paragraph 6.2.2 of Planning Policy Wales Technical Advice Note (TAN) 5 'Nature Conservation and Planning' indicates that any survey work that is required should be carried out before planning permission is granted where there is a reasonable likelihood of a protected species being present and affected, otherwise all relevant material planning considerations may not have been addressed in making the decision. TAN5 advises that planning permission should not be granted subject to a condition requiring a survey to be carried out.
19. I have taken into account the lack of objection from Natural Resources Wales (subject to the implementation of Reasonable Avoidance Measures relating to amphibians including Great Crested Newts), and the Council ecologist's response dated 19 February 2019 provided by the Appellant. However, in the absence of an up to date ecological assessment of the site I find that there is insufficient evidence available to establish the potential impact of the scheme on biodiversity and ecology. Mindful of the relevant national policy advice on protected species in TAN5, this is a matter that requires to be understood before planning permission is granted, rather than being addressed by planning condition.
20. I find that the circumstances of this case justifies a precautionary approach in order to avoid potentially harmful impact on protected species which would conflict with Policy DM2 of the LDP and TAN5.

## **Conclusions**

21. Although I have found the scheme acceptable in relation to highway safety, the harm that I have identified in terms of the other main issues is unacceptable. Having regard to the above and considered all other matters raised, I conclude that the appeal should be dismissed.
22. 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 Ministers' well-being objective of building healthier communities and better environments.

*Richard Duggan*

INSPECTOR

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<sup>5</sup> Council Ecologist Consultation Responses dated 1 and 22 April 2020