



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Mr N C Hulme
4 Roch Street
Abertillery
NP13 1HF

Parc Cathays / Cathays Park
Caerdydd / Cardiff
CF10 3NQ

Eich cyf / Your ref
Ein cyf / Our ref A PP131-07-004
Dyddiad / Date 14 December 2000

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 : SECTION 77
APPLICATION BY MR N C HULME
ERECTION OF DWELLING ON LAND AT COED-Y-CAE, ABERTILLERY (APP N0. P. 99/0299)

1. Consideration has been given to the report of the Inspector, Mr C M Nield BSc CEng MICE MCIWEM, who reported on the application by Mr N C Hulme for the erection of a single dwelling on land at Coed-Y-Cae, Abertillery. The application was dealt with by written representations.
2. On 15 March 2000 the National Assembly for Wales directed, under Section 77 of the Town and Country Planning Act 1990 (the 1990 Act), that the application be referred to it rather than being determined by the local planning authority. On 5 December 2000 the Assembly resolved that a committee, to be known as Planning Decision Committee 2000/3 be established, in accordance with Standing Order 27 to discharge the functions of the Assembly under Section 77 of the 1990 Act in respect of the application by Mr N C Hulme described above. Accordingly the Planning Decision Committee has considered the application and has resolved under Standing Order 27.16 to adopt this letter.
3. The Inspector's conclusions are contained in paragraphs 24 to 35 of his report, a copy of which is enclosed, and those conclusions are reproduced as an Annex to this letter. The Inspector has recommended that the application for planning permission be refused.
4. The Inspector has set out the case against the application at paragraphs 17-21 of his report. Although there were no representations submitted to the Planning Inspectorate objecting to the proposal, the Council did inform the Inspectorate that the Council's Committee report of 10 September 1999 (Doc1 referred to in paragraphs 17-21) and other documents setting out the visual, environmental and access implications of the development site had already been submitted to the Assembly and the Council would not like to submit any further representations. The Council's report contains a recommendation that planning permission be refused but the report of the Planning and Licensing Sub-Committee held on 7 January 2000 (also at doc1) records that it was resolved to recommend that planning permission be granted. The Planning Decision Committee has therefore taken the report of 10 September 1999 into account as a material consideration but not as a submitted objection.



BUDDSODDWR INVESTOR IN
PEOPLE MEWN POBL

Ffon / Tel: 029 2082 5111 Est/
Ext: 3798
GTN: 1208
Ffacs / Fax: 029 2082 5622
Minicom: 029 2082 3280
E-bost / E-mail:

5. Although the Unitary Development Plan, which is at Deposit Stage, shows the application site to be within the proposed settlement boundary, there have been objections to policy H2(74) which allocates the site for residential development. A local plan inquiry into unresolved objections is yet to take place. In light of this, the Planning Decision Committee agree with the Inspector that the proposed Unitary Development Plan allocation carries limited weight in consideration of the current application (see paragraph 26 of the Inspector's report).
6. The Planning Decision Committee agree with the Inspector's appraisal and accept his recommendation. Therefore, for the reasons given by the Inspector, the Planning Decision Committee dismiss your application and hereby refuse to grant planning permission for the erection of a single dwelling on land at Coed-y-Cae, Abertillery.
7. A copy of this letter has been sent to Mr C A Murrin, Senior Divisional Manager, Blaenau Gwent County Borough Council.

Yours faithfully



SUE ESSEX
Chair. Planning Decision Committee 2000/3

Enc. Leaflet "HC"



Adroddiad

Report

Ymweliad a safle gwnaed ar 25/7/00

Site visit made on 25/7/00

gan/by Clive Nield BSc, CEng, MICE, MCIWEM

Arolygydd penodwyd gan Cynulliad
Cenedlaethol Cymru

an Inspector appointed by the
National Assembly for Wales

Dyddiad/Date **29-09-2000**

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 77

BLAENAU GWENT COUNTY BOROUGH COUNCIL

APPLICATION by N.C. HULME

Land at Coed-y-Cae, Abertillery, Gwent

Cyf ffeil/File ref APP/X6910/X/00/513800

Land at Coed-y-Cae, Abertillery, Gwent

- The application is made under section 62 of the Town and Country Planning Act 1990.
- The application is made by N.C. Hulme to Blaenau Gwent County Borough Council.
- The application (ref: 99/0299) is dated 3 September 1999.
- The development proposed is the erection of a single dwelling (dormer style bungalow).
- The application was called in for decision by the National Assembly for Wales by a direction made under section 77 of the 1990 Act on 15 March 2000.
- The reason given for making the direction was that the proposed development raises planning issues of more than local importance.
- On the information available at the time of making the direction the following were the matters on which the National Assembly for Wales particularly wished to be informed for the purpose of its consideration of the application:
 1. The visual, environmental and access implications of the proposed development on the site and surrounding areas.
 2. The relevant national and development plan policies, especially in relation to national policy on housing in the open countryside as set out in Planning Guidance (Wales) Planning Policy:First Revision - April 1999, Policy H3 of the adopted Blaenau Gwent Local Plan and Policy H7 of the adopted Gwent Structure Plan.

Summary of Recommendation: The application be refused as set out below.

Preamble

1. The application is for outline planning permission with all details reserved for future consideration. The local planning authority resolved to grant planning permission for the proposed development contrary to the recommendations of their officers.
2. This report includes descriptions of the application site and surroundings and the planning background, the gist of the representations made, and my conclusions and recommendations. Document references are shown in brackets, and in my conclusions the numbers in square brackets indicate the relevant paragraphs in the report. Lists of documents, plans and photographs are attached.

Appeal Site and Surrounding Area

3. The application site is in an elevated position on the hillside to the north east of Abertillery town centre (see Plans A & C). The site is currently overgrown with trees, bushes and other foliage, which inhibit access. In the past several cottages stood on part of the site but they were demolished many years ago leaving behind little evidence of their previous existence (see Plan E). The Council currently owns the land, but it has resolved to sell it to the applicant subject to planning permission being granted.
4. The surrounding land rises steeply to the east and falls steadily towards the area of built development to the west. The site is bounded by open hillside to the east, a former municipal refuse tip to the north, which has now been covered and reinstated with the appearance of open countryside, an area of open land to the west leading down to bungalows on the edge of the built-up area, and a small paddock to the south and south-west containing 2 sheds. A short distance to the north-east of the site there is a small, disused, old stone quarry (shown as a horseshoe shape on Plans A & C).

5. The Coal Authority reports (Document 2) that the area is within the likely zone of influence of workings in 7 seams of coal at 190-330 metres deep, the last date of working being 1968. It states

that ground movement from these past workings should by now have ceased. When I visited the site I saw 2 disused, old mine-entry adits within 20-30 metres of the site, which would have been associated with shallow mine workings.

6. I also observed that a particular feature of the surrounding land is its uneven surface, indicating the presence of numerous heaps of old spoil. The site lies within a designated landslip area, currently classified as dormant, and close to another, which is partly still active (page 34P of Document 1). At the site visit it was indicated that the latter is believed to lie some distance to the north-east of the appeal site.
7. Finally, although the means of access is reserved for future consideration, it is inevitable that the development would be served by roads from the south, leading from Rhiw Park Road to the private access alongside the appeal site. The application plan (Plan A) indicates that agreement would be sought with the owner of the private road. These lengths of road are narrow and in places steeply sloping.

Planning Policy

8. National policies are contained in Planning Guidance (Wales), Planning Policy. Paragraphs 3.5.1, 5.1 and 15.2.3 are particularly relevant. Paragraph 3.5.1, reflects Section 54A of the 1990 Act and states that planning determinations should be made in accordance with the development plan unless material considerations indicate otherwise and that, conversely, applications that are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify otherwise. Paragraph 5.1 says that the countryside should be protected and that new buildings in the open countryside away from existing settlements should be strictly controlled. And paragraph 15.2.3 advises local authorities to take into account the nature, scale and extent of ground instability or contamination which may pose direct risks to life, health, buildings and structures.
9. The development plan comprises the adopted Gwent Structure Plan and the adopted Blaenau Gwent Local Plan, and both contain relevant policies (pages 36P & 37P of Document 1). The site lies approximately 100 metres outside the boundary of the defined urban area (see Plan C), and Structure Plan Policy H7 and Local Plan Policy H3 do not normally permit the construction of additional dwellings in the open countryside, except when necessary for an agricultural or forestry enterprise. In addition, Local Plan Policy T3 requires all development to provide for adequate vehicular circulation, and Policy 12 specifies, amongst other criteria, that development should be satisfactorily related to the highway network and not create unacceptable highway safety problems.
10. The emerging Blaenau Gwent Unitary Development Plan (UDP) was issued in Deposit Draft form in July 2000. It contains a proposal to extend the development boundary on this side of Abertillery with a substantial area of housing allocation. Although the proposed housing allocation area was much smaller and excluded the application site in the Consultation Draft of the UDP, it has been extended to include it in the Deposit Draft (see Plans D1-D3).

Planning History

11. There are no records of planning history relating to the application site itself. However, a planning appeal (Ref. T/APP/X6910/A/98/511669) was dismissed in June 1998 in connection with an application for the erection of 2 dwellings on a nearby site to the south-west of the current appeal site (see Document 5). That Inspector found against the proposal on issues of ground stability, the effect on the character and appearance of the countryside and the adequacy of the local roads.
12. The Council reports (Document 3) that a planning application has also been received to build a dwelling on a site adjacent to the application site. When I made my site visit it was indicated that the land concerned is the paddock immediately to the south.

Case for the Application

The material points are:

13. The proposal would be in keeping with the surrounding area, and particular attention would be paid to the appearance of the dwelling (in traditional materials) and its grounds. It would enhance the appearance of the countryside and surrounding area, particularly as the Council has no other plans for environmental improvements in the area (Document 4). Unlike several nearby buildings (shown in Photograph 3), the proposed dwelling would not be an eyesore. Many housing developments have been allowed in similar isolated locations on the edge of Abertillery in recent years, and photographs of some examples have been submitted by the applicant (Photographs 1 & 2).
14. Although currently outside the urban area boundary, the latest Deposit Draft of the emerging UDP shows the site just inside the proposed extended boundary and within a proposed housing allocation area (Plans D1-D3). There is a shortage of land available for housing development in the Abertillery area, and there is a need to encourage young people to stay in the area and to meet their aspirations for newly built houses (page 2 of Document 1).
15. Many houses have been built on similar hillsides in the area, and the risk of landslips has not been considered sufficiently significant to justify refusal of planning permission. The applicant has submitted photographs of 2 recent housing developments to illustrate this (Photographs 18 & 19). A geological survey would show that the shallow mine workings close to the site were abandoned shortly after they were started and were of limited extent (see note at end of applicant's photographs).
16. Finally, the roads to be used for access to the proposed property are quite adequate, and there is sufficient space for refuse and emergency vehicles to manoeuvre and turn close to the site (Document 4). Many roads in the area are of a similar nature and serve numerous properties (see photographs 4-9 and 16-17). The applicant has submitted several photographs that show a fire service vehicle turning alongside the site and passing another vehicle along the approach road (Photographs 10-15).

Case against the Application

The material points are:

17. The application site lies in open countryside well outside the boundary of the defined urban area. It has not been argued that the proposed dwelling is necessary on this site in connection with an agricultural or forestry enterprise, and it would not benefit the rural economy or

enhance the environment. Consequently, it would be contrary to Structure Plan Policy H7 and Local Plan Policy H3, which seek to protect areas of open countryside from unnecessary sporadic residential development (Document 1).

18. The application site has no natural link with the existing urban area to the south-west, and its visual impact would be unacceptable in its rural context. It would also set a precedent that would make it difficult to refuse other similar proposals in the area, stimulating an urban sprawl into a landscape of great character and value (Document 1). A similar planning application has already been received for the adjoining site (page 1 of Document 1). In regard to a proposal to build 2 houses on a nearby site (see paragraph 11 above), the appeal Inspector concluded that the rural character and appearance of the area would be degraded and that the development would be an incongruous intrusion into the countryside (see Document 5). That proposal was sited closer to the built-up area than the current one.
19. The second matter at issue is ground stability. The hillside on which the application site is located is unstable and at risk of landslips. The site lies within a designated landslip area subject to shallow rotational failure with associated superficial debris flow but which is currently classified as dormant. However, it is also below an active landslip area which is subject to the same failure regime. In addition, shallow mine working has been carried out from mine entries nearby, and it is possible that there are old shallow workings within the site boundary. It would be prudent for any developer to seek expert advice before carrying out any development in the area (page 34P of Document 1).
20. The previous appeal Inspector for the nearby site concluded that the area is potentially unstable and that development would present an unacceptable risk of danger to the future occupants of the proposed houses and to those of existing dwellings lower down the slope (Document 5). That decision is a material consideration in the current case, as the same circumstances apply.
21. Finally, the roads to the application site and in the nearby part of Abertillery are substandard, do not meet modern-day criteria and are incapable of accommodating further development. There are no plans to upgrade them. Roads to the site are narrow and do not allow vehicles to pass one another. Access for refuse and emergency vehicles is poor, and it is impossible for them to turn near the site. The surrounding highway network is often congested and does not allow easy traffic movement (Document 1). The previous appeal Inspector described the roads as narrow, steep and badly aligned and concluded that the proposed development would have unacceptable consequences for road safety (Document 5).

Conditions

22. Council officers presented to the local planning authority a number of conditions to be attached to the planning permission (Document 3). These covered: the statutory time limits; approval of reserved matters, details of development, samples of external facing materials and landscaping details; the protection of retained trees, shrubs and hedges; site investigation for stability; a restriction to no more than 2 storeys in height; and the removal of permitted development rights for fences and walls. They also specified that the permission should not relate to sketch plans, should be implemented as approved, and should include precautionary measures.
23. The applicant has not commented on the conditions the Council intended to apply had it granted planning permission.

Conclusions

The numbers in square brackets indicate the relevant reference paragraphs in the report.

24. In my view the main considerations on which the decision should be based are the effects of the proposed development on the character and appearance of the area, safety in regard to ground stability and highway safety, bearing in mind the relevant national and local policies.

Character and Appearance of the Area

25. The application site is well outside the boundary of the defined urban area and is quite separate from it. It lies in open countryside and, in the absence of justification on grounds of agricultural or forestry need, the erection of a house would be contrary to development plan policies, in particular Structure Plan Policy H7 and Local Plan Policy H3, and to national guidance contained within Planning Guidance (Wales), Planning Policy. [8, 9, 17]
26. The emerging Unitary Development Plan is at an early stage of preparation and has not yet been subject to scrutiny at public inquiry. Possible extension of the development boundary to include the application site within a new housing allocation area is uncertain, and it is premature to anticipate this in advance of rigorous consideration at public inquiry as part of the overall review of the development plan. Therefore, the proposed UDP allocation carries limited weight in considerations of the current application. [10, 14]
27. The proposed dwelling would be an incongruous intrusion into the countryside and unacceptably harmful to its rural character. The applicant refers to other examples of development permitted in the countryside around Abertillery. However, I am unable to judge whether the circumstances of these are the same, and I have considered the current proposal on its own merits. Whatever attention might be paid to the appearance of the dwelling and its garden, it would inevitably have the character and appearance of a residential site and would harm the rural character of the surrounding landscape. [13, 18]

Ground Stability

28. Turning to the second matter, there must be considerable doubt about the stability of the hillside in this area. Although it is now likely to be stable in regard to former deep mining, it is possible that former shallow mine workings impinge on the site and that it is at risk of landslip by means of rotational failure within the shallow rock formations and the associated flow of surface debris. There is evidence of considerable surface debris on the hillside in the form of numerous heaps of old spoil material. [5, 6, 19]
29. It would be unwise to carry out development in this area without a thorough geological survey, as the safety of occupants of both the proposed dwelling and those of houses further down the hill could be put at risk. The applicant has not undertaken any such survey in connection with the current proposal. Planning Guidance (Wales), Planning Policy, advises that ground instability should be taken into account in making planning decisions and, although the applicant refers to other developments built on similar hillsides in the area, in this case it would be wise to follow the precautionary principle. [8, 15, 20]

Highway Safety

30. On the third matter, despite the photographic evidence provided by the applicant, my own observations when I visited the site confirmed that the road to the site and many other local roads in this part of Abertillery are narrow, steep and unsuited to increased traffic generated by new development. The passage of 2 vehicles in opposite directions is generally not

possible along the road to the site without considerable difficulty. And the road is not suited to regular traffic by larger vehicles. The applicant has provided photographic evidence to show that a fire service vehicle can turn near the application site. However, the manoeuvre was not carried out within the site and the continued availability of the facility would be outside the applicant's control. [7, 16, 21]

31. The applicant has provided photographic evidence of other narrow roads in the area, but these do not justify allowing other development that would lead to increased traffic on inadequate roads. Overall, I conclude that the local highway network is significantly substandard and that the proposed development would cause unacceptable increased risks to road safety, contrary to the aims of Local Plan policies T3 and 12. [9, 16, 21]

Overall Conclusion


32. I have taken into account Section 54A of the Town and Country Planning Act 1990 (as amended), which states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development is not in accordance with development plan policies and would cause unacceptable harm to the rural character of the area and to road safety as well as risk to life and property due to ground instability.
33. These conclusions substantially outweigh matters in favour of the proposal, including the possible inclusion of the application site in an area allocated for housing in the emerging Unitary Development Plan, any shortage of land currently available for housing development in the Abertillery area and the need to encourage young people to stay in the area. I conclude that planning permission should not be granted. [10, 14]

Conditions

34. Should the National Assembly not accept my conclusions and resolve that planning permission should be granted, it would be necessary to attach several conditions to the permission. I have considered those put forward by the Council in the context of the advice and model conditions in (former) Welsh Office Circular 35/95, "The Use of Conditions in Planning Permissions", and would comment as follows. [22, 23]
35. Statutory time limits and reserved matters would be adequately covered by model conditions 2, 4 and 5. Suggested conditions on details of development, samples of external materials, height restriction, landscaping details (including retained trees and shrubs) and sketch plans are unnecessary as these could be adequately covered at the reserved matters stage. In the absence of further details from the Council, I do not consider conditions necessary to restrict permitted development rights or require precautionary measures or implementation of the approved scheme. Similarly, whilst the developer would need to investigate site stability, it would be inappropriate to apply a condition to this effect, as the findings could be fundamental to the principle of development on the site and effectively negate the permission.

Recommendation

36. I recommend that planning permission be refused.



Inspector

DOCUMENTS

- Document 1 Council's Committee Reports of 10 September 1999 and 7 January 2000.
- Document 2 Consultation Responses.
- Document 3 Council's Committee Report of 24 January 2000 re. Conditions.
- Document 4 Appellant's Letter of 2 May 2000.
- Document 5 Appeal Decision for Nearby Site, referred to in Council's Committee Report.

PLANS

- Plan A Application Plan.
- Plan B General Plan provided by Council.
- Plan C Plan of Urban Area Boundary, attached to Council's Committee Report.
- Plans D1-D3 Extracts from emerging Blaenau Gwent Unitary Development Plan, Consultation Draft and Deposit Draft versions.
- Plan E Plan (and explanatory note) of Former Cottages on Site, provided by Council.

PHOTOGRAPHS

- Photographs 1-19 Photographs enclosed with Appellant's Letter of 2 May 2000.