



Appeal Decision

by R Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 18-11-2024

Appeal A reference: CAS-03268-H2K1J3

Site address: 2 Hill Top, Llanelli SA14 8DF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Lee Roblin against the decision of Carmarthenshire County Council.
 - The application Ref: PL/06920, dated 24 November 2023, was refused by notice dated 31 January 2024.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is described on the application form as 'Use of No 2 Hill Top for up to 6 people as a single dwelling receiving care (Class C3(b))'.
-

Appeal B reference: CAS-03272-F0F6Y7

Site address: 2 Hill Top, Llanelli SA14 8DF

- 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 Lee Roblin against the decision of Carmarthenshire County Council.
 - The application Ref PL/06834, dated 7 November 2023, was refused by notice dated 31 January 2024.
 - The development proposed is described as 'Change of use from residential (Class C3) to children's home (Class C2)
 - A site visit was made on 7 October 2024.
-

Decisions

Appeal A – Ref CAS-03268-H2K1J3

1. The appeal is allowed and attached to this decision is a certificate of lawful use describing the proposed use which is considered to be lawful.

Appeal B – Ref CAS-03272-F0F6Y7

2. The appeal is dismissed insofar as it relates to the 1.8m timber boundary fence. The appeal is allowed, however, insofar as it relates to the remainder of the application and planning permission is granted for the change of use from residential (Class C3) to children's home (Class C2) at 2 Hill Top, Llanelli SA14 8DF in accordance with the terms of the application Ref: PL/06834, dated 7 November 2023, subject to the conditions set out in the attached schedule.

Preliminary Matters and Context

3. There are two appeals at the appeal site. Appeal A relates to an application lodged under Section 192(1)(a) of the above Act, the provisions of which enable a person to ascertain whether the proposed use of buildings or other land is lawful. Meanwhile, Appeal B is a planning appeal lodged under Section 78 of the Act.
4. The main issue under Appeal A is whether the Council's decision not to issue a Lawful Development Certificate (LDC) was well-founded. The description of the proposal on the application form and repeated on the appeal form asks the question of whether the proposed use of No 2 Hill Top for up to 6 people as a single dwelling receiving care in line with the provisions of class C3(b) of the Town and Country Planning (Use Classes) Order (UCO) 1987 (as amended) would be lawful. I shall determine the appeal on this basis. However, I note there is some contradiction with this question and the arguments being presented within the planning statement and appeal statement which suggest that what the appellant envisages may be a use falling under class C2 of the UCO, but that question is not before me in determining Appeal A. In any event, insufficient evidence has been provided on the actual use that the appellant envisages to establish whether it falls within class C3 or C2.
5. The main issues in the determination of Appeal B are: the effect of the proposed change of use upon the character and appearance of the street scene and on highway safety.

Reasons

Appeal A – Ref CAS-03268-H2K1J3

6. There is no dispute that the lawful use of No. 2 Hilltop is within Class C3(a) of the UCO, a dwellinghouse (whether or not as a sole or main residence) by a single person or by people to be regarded as forming a single household. Class C3(b) is the use as a dwellinghouse (as a sole or main residence) by not more than six residents living together as a single household where care is provided for residents.
7. Whilst there is dispute between the appellant and the Council as to whether the use that the appellant has outlined in his submissions falls within class C3 or C2, the question before me is whether a class C3(b) use at the appeal property would be lawful. As the existing use and a C3(b) use fall within the same (class C3 of the UCO) it is clear that such a use would be lawful.

Conclusion

8. For these reasons, I conclude that the Council's decision not to grant a LDC was not well-founded and that the appeal should be allowed. I will exercise the powers transferred to me under section 195(2) of the Act as amended.

Appeal B – Ref CAS-03272-F0F6Y7

Character and Appearance

9. The appeal property is a detached dormer bungalow situated on a prominent corner plot fronting onto Hill Top and its side elevation fronting onto Oaklands. The current boundary treatment is made up of a low stone wall and pillars. As part of the change of use of the property it is proposed to erect a 1.8m close boarded timber fence to enclose the front and side garden areas which would extend along much of the Hill Top frontage and extending along the boundary fronting Oaklands and then turn the corner extending along the party boundary with its neighbour at No. 8 Oaklands.
10. I saw from my site visit that the boundary treatments within this residential area are relatively uniform and consist of low brick or stone walls and low hedges, and the frontages of houses are typically open, or at least only semi-enclosed.
11. By reason of its location on the junction, No.2 has a relatively wide frontage and by entirely enclosing the front garden at a height of 1.8m, the fence would appear an unduly dominant and incongruous addition to the street scene. Due to the site's prominent corner location the physical enclosure of this open area of garden would be at odds with the coherent and relatively minimalist boundary treatments found on other frontages that are in the vicinity of the site. The fence would present an enclosed frontage to passers-by which contrasts markedly with the sense of space that characterises the frontages of nearby dwellings and those found within the overall area. Consequently, the boundary treatment being proposed would be seen as a dominant feature that would appreciably harm the character and appearance of the street scene in conflict with Policy GP1 of the Adopted Carmarthenshire Local Development Plan (LDP) 2014. As this element of the scheme can be clearly severed from the remainder of the development it is possible for me to separate them in my decision and refuse permission for the 1.8m high timber boundary fence.
12. Local residents have raised concerns regarding the safety of future residents playing in the front garden without a secure fence. Whilst I understand these concerns and the health safety and welfare of children is of paramount importance, this would be a day-to-day management issue to be addressed by the resident adults/carers within the property.
13. The Council has not made any submission and or raised any further concerns at the appeal stage in relation to the proposed use of the property, and I am content that the use does not raise any concerns in relation to this main issue.

Highway Safety

14. The proposed layout plan shows the provision of four off-street parking spaces within the frontage. The appellant states that the property is located in a highly sustainable location and would be occupied by a maximum of 4 children and 2 members of staff at any one time. Therefore, the proposal would generate a similar parking demand to the existing residential use.
15. In the event that all spaces are taken up I acknowledge there may be instances where there may be insufficient turning and manoeuvring space within the site, and there is the potential for users of the parking spaces to undertake manoeuvres in the highway. However, this is not an unusual situation within this residential area where cars need to either reverse out from their driveways onto the highway or stop in the highway and reverse back into their properties. At the time of my visit around 11.30am I also found Hill Top a quiet residential area where I observed cars moving at low speed and where

vehicles manoeuvring from driveways and within the road is expected, and extra care therein taken.

16. A house of this size could easily accommodate a typical family with 2, 3 or more children and 2 adults and it seems to me that the use of the house as a home for a maximum of 4 young people and their carers would not be much different from the current use as a family home. It is likely that there would be vehicle movements created by the carers coming to and leaving the site on a daily basis and journeys undertaken by the children when being taken to and from school. Nevertheless, I do not consider that the number of such movements is likely to be significantly more than those undertaken by a family and certainly not enough to result in an intensification of use that would give rise to planning concerns.
17. The Council is also concerned that the erection of the 1.8m fence would impact the visibility at the access to the site. However, I have refused permission for the fence, and I shall impose a condition suggested by the Council requiring the creation of a suitable visibility splay prior to the use of the access, and this should overcome the concerns of the Council in this regard.
18. Whilst I note the concerns of local residents, for the reasons given I find that the proposed development would not unduly put the safety of either pedestrians or road users at risk. No other evidence has been provided by the Council at the appeal stage to show that the appeal site would be particularly susceptible to highway safety issues if planning permission was granted. Consequently, there would be no conflict with Policies TR3 and GP1 of the LDP because the development would not result in an unacceptable impact on highway safety.

Other matters

19. The Council's second reason for refusal infers that the residential dwelling does not appear capable of the conversion to a residential care facility. However, the Council has not provided any further information or any evidence to support this assertion at the appeal stage. Therefore, I am unable to assess this part of the Council's reason for refusing the scheme.
20. Concerns have been raised that the garage at the property has been changed in breach of a planning condition attached to a previous planning permission. I have determined this appeal based on the description of the development set out on the application forms and the plans that accompanied that application. Any planning enforcement issues relating to breaches of planning permission are not matters for me to take into account within this appeal.
21. Concerned residents have also cited potential problems with the behaviour of the residents living at the property leading to anti-social behaviour, the security of schoolchildren and whether the housing estate can cater for the needs of the future residents. However, such concerns are unfounded, and no evidence has been provided to support such concerns.

Conditions

22. Guidance in relation to the use of conditions is set out in Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management. The Council has put forward suggested conditions, and those that meet the relevant tests are set out, with reasons, in the schedule of conditions. I have adjusted the wording of some of the conditions in the interest of clarity and precision.

Conclusion

23. I have taken into account all matters raised by the Council and other interested parties in objecting to the development, and I conclude that the appeal should be dismissed insofar as it relates to the 1.8m boundary fence, but I shall allow the appeal and grant permission for the Change of use from residential (Class C3) to children's home (Class C2) subject to the schedule of conditions attached to this decision.

24. 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 objectives.

R. Duggan

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin no later than five years from the date of this decision.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

- 2) The development shall be carried out in accordance with the following plans: Amended Proposed Site Layout Plan [06B]; Existing Ground Floor Plan [01]; Existing First Floor Plan [02]; Proposed Ground Floor Plan [03]; Block and Location Plans [05] Proposed First Floor Plan [04]; Planning Statement – Received 7 December 2023.

Reason: To ensure the development is carried out in accordance with the approved plans.

- 3) Prior to any use of the access by vehicular traffic, a visibility splay of 2.0 metres x 22 metres shall be formed either side of the centre line of the access in relation to the nearer edge of carriageway. The visibility splay shall be retained in perpetuity.

Reason: In the interests of highway safety and amenity and to accord with Policies GP1 and TR3 of the Carmarthenshire Local Development Plan 2014.

- 4) Prior to the commencement of the use hereby approved, a scheme for the parking and turning of vehicles to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained, unobstructed, for the purpose of parking and turning of vehicles in perpetuity.

Reason: In the interests of highway safety and to accord with Policies GP1 and TR3 of the Carmarthenshire Local Development Plan 2014.

- 5) Within 3 months of the date of this decision a scheme for biodiversity enhancement shall be submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard and enhance biodiversity in accordance with LDP Policy EQ4 and paragraph 6.4.5 of Planning Policy Wales Edition 12, February 2024.



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191 (as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (WALES) ORDER 2012: ARTICLE 28

IT IS HEREBY CERTIFIED that on the 24 November 2023, the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The existing use of the dwelling within class C3(a) and the proposed use within class C3(b) fall within the same class C3 of the UCO.

Signed

R Duggan

INSPECTOR

Date 18-11-2024

Reference: CAS-03268-H2K1J3

First Schedule

The use of No 2 Hill Top for up to 6 people as a single dwelling receiving care class C3(b)

Second Schedule

2 Hill Top, Llanelli SA14 8DF

NOTES

1. This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule is lawful, on the certified date.
3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use / operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 18-11-2024

by R Duggan BSc (Hons) DipTP MRTPI

At: 2 Hill Top, Llanelli SA14 8DF

Reference: CAS-03268-H2K1J3

Scale: not to scale

