
Penderfyniad ar yr Apêl

Ymchwiliad a gynhaliwyd ar 21 & 22 May 2014
Ymweliad â safle a wnaed ar 12 June 2014

**gan Siân Worden BA DipLH MCD
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 28 Gorffennaf 2014

Appeal Decision

Inquiry held on 21 & 22 May 2014
Site visit made on 12 June 2014

by Siân Worden BA DipLH MCD MRTPI

an Inspector appointed by the Welsh Ministers
Date: 28 July 2014

Appeal Ref: APP/Z6815/A/13/2207479

Site address: Land at Radyr Court Road, Danescourt, Cardiff CF5 2QF

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 outline planning permission.
 - The appeal is made by Nabatean Limited against the decision of Cardiff County Council.
 - The application Ref 12/01454/DCO, dated 17 August 2012, was refused by notice dated 26 April 2013.
 - The development proposed is an outline application for 48 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was in outline including approval sought for access. All other matters were reserved for later determination.

Main Issues

3. I consider that the main issues in this case are:
 - the effect on the open space resource within the area;
 - the effect on highway safety;
 - the effect on the character and appearance of Radyr Court Road, particularly with regard to highway improvements; and
 - whether any detriment to open space, character and appearance, highway safety or other features would be outweighed by the need for new housing in the City.

Reasons

4. The appeal site is an undeveloped plot on the edge of existing development, lying between it and the River Taff. It is at a lower level than many of the adjoining dwellings and adjacent to the railway line which follows the river in this area.

Open space

5. Much of the south-eastern part of the site is taken up with a grassed paddock whilst the remainder has a covering of immature woodland. There are paths running through the site including a well-used track from Radyr Court Road in the south to the access to Nicholson Webb Close in the northern corner. The only public right of way (PROW) on the site crosses diagonally from the Nicholson Webb access point to the tunnel under the railway line. Some elements of the site – the boundary with the adjacent housing estate, the geometrical conifer hedge at Ty Isaf, the uninviting tunnel under the railway, the railway line itself – are characteristic of its urban location. For the most part, however, these deficiencies are outweighed by the agreeable and verdant environment: it did not appear to me that the trains on the adjacent line were frequent or noisy enough to seriously disrupt the peaceful atmosphere.
6. Whilst the visual and other qualities of the site are important to its visitors, it was described in the planning officer's report to committee as having 'little intrinsic value'. My observations lead me to agree with that position. The proposed development would change the experience of users; they would no longer be in a semi-rural, natural environment but in a managed, man-made residential area. I understand that many local people value the existing appearance of the site and do not want it changed. The proposed development, however, would be well-designed with ample green areas. It would not be unsightly and, although altered, I do not consider that the visual amenity of the site would be harmed.
7. The site can be seen from a few viewpoints at The Parade, Whitchurch and in Hailey Park, and from Radyr Court Road. It is almost completely surrounded by mature vegetation and with the railway embankment offering a further, partial barrier, views of and into the site are limited. Most of the trees are deciduous but I consider it likely that, even when their branches are bare of leaves, the site is not easily identified from the surrounding area.
8. The development of houses on the site would make it more clearly visible but they would be seen against the backdrop of the existing Danescourt settlement. In addition, when viewed from Hailey Park the appeal site, unlike existing housing development off Radyr Court Road, is on the far side of the railway line which would obscure parts of the proposed dwellings. My opinion is, therefore, that the appeal site does not make an important visual contribution to the corridor of open space separating the Danescourt estate from the River Taff. In the terms of the Council's *Open Space* supplementary planning guidance (SPG) it is not located where the general public can gain significant "visual access"¹.
9. The appeal site is identified on the proposals map of the City of Cardiff Local Plan (LP), adopted 1996, as open space; the ways in which it can be used classify it as amenity rather than recreation open space². The proposed development thus satisfies criterion (i) of LP Policy 7 which permits development involving the loss of amenity open space where it has no amenity value. Had that not been the case, however, criterion (ii) of

¹ SPG paragraph 3.8

² SPG paragraph 3.2

Policy 7 would allow the proposal to proceed subject to the developer providing satisfactory compensatory open space.

10. As described earlier there are several paths through the appeal site although only one is a PROW. The track from Radyr Court Road is owned by the appellant who asserted that public access to it could, as a matter of law, be prevented at any time. No evidence to the contrary was presented to the inquiry although it was stated in later submissions that the Council had carried out some maintenance from time to time. It is clear, however, that all the paths through the site are well-used such that it functions as a junction linking the Danescourt estate to a network of amenity open space and routes. To my mind this is the main asset of the site.
11. The layout drawings are illustrative only but it is an essential principle of the proposal that paths through the site would be retained within a framework of green spaces. The explanatory text³ to Policy 7 clarifies that the acceptability of compensatory provision will be assessed with regard to the importance of the open space being lost and the needs of the locality; generally it should replicate its quantity and quality. In that light, I consider that the green areas and paths proposed would be satisfactory compensatory open space as required by criterion (ii). The proposed development would thus be consistent with LP Policy 7 on two counts. In protecting open spaces which are important for amenity, Structure Plan⁴ Policy B4 is consistent with Policy 7.
12. In respect of the open space issue the Council's case also relied upon the site's location within the River Taff corridor. The documents and policies produced by the Council over the last decade include the *River Taff Corridor Action Plan* (April 2007) which is referenced in Policy EN4 of the deposit version of the Cardiff Local Development Plan (LDP). As the LDP has yet to be examined I can give little weight to its policies but I agree that it demonstrates the Council's recognition of the strategic importance of the river valleys in the city and a consistent approach to them.
13. The strategy outlined in the Action Plan, LDP and their forerunners is to protect, promote and enhance the river valleys whilst facilitating sustainable access and recreation. It does not amount to a ban on development. Indeed, the text of Policy EN4 explains that development proposals will be judged against other relevant policies and new development might be required to contribute to projects which will achieve Action Plan objectives. The unique contribution the river valleys make to the character of the city by providing continuous green corridors between the Severn Estuary and the countryside beyond the urban edge would not be significantly eroded by the proposed development.
14. My overall conclusion on this matter is that the proposed development would not be detrimental to the open space resource in the area.

Highway safety

15. Vehicular access to the proposed development would be along that part of Radyr Court Road beyond the junction with Gerddi Taf. It runs in an almost straight line from the junction, before turning through approximately 90° and continuing under the railway bridge in another straight stretch to the proposed site entrance. The Council's

³ LP paragraph 3.3.9

⁴ The South Glamorgan (Cardiff Area) Replacement Structure Plan 1991-2011, adopted 1997

evidence⁵ indicates that the width of Radyr Court Road beyond Gerddi Taf varies from about 5.9m to 3.4m, dimensions that are consistent with those provided by the appellant⁶. *Manual for Streets* (MfS), which was published in 2007, has replaced Design Bulletin 32 (DB32) and former county standards, making way for less formal street layouts. The appellant's case was that, in line with MfS, that part of Radyr Court Road providing access to the site would constitute a shared surface street.

16. MfS⁷ sets out the key aims for shared surface streets which include creating an environment in which pedestrians can walk, or stop and chat, without feeling intimidated by motor traffic; and making it easier for people to move around. It states⁸ that schemes should avoid vulnerable road users feeling threatened by having no space protected from vehicles. A further paragraph⁹ advises that shared surface streets are likely to work well in short lengths or where they form cul-de-sacs. It also notes¹⁰ that shared surface streets are often constructed with an alternative surface which helps to emphasise their difference from conventional streets.
17. As a result of the confrontation with vehicles which is likely to be experienced the objectives of a shared surface layout would be unlikely to be achieved in this case. In particular pedestrians, especially those in the special needs groups, and cyclists would feel intimidated by traffic. With few refuges available vulnerable users would feel endangered.
18. While MfS does not expand on what constitutes 'a short length' I do not consider that the affected part of Radyr Court Road can reasonably be described as such. The appellant has proposed that quiet lane and other warning signs, together with painted strips, be put in place. I am not convinced, however, that such measures would be sufficient to emphasise to motorists, especially those unfamiliar with the area such as delivery drivers, along the whole length of the road that it was a special traffic environment and not a conventional street.
19. MfS adds¹¹ that, with no formal carriageway, it is intended motorists entering the shared area will drive more cautiously and negotiate the right of way with pedestrians. It is my view that the long, uniformly narrow and confined character of the road would allow little negotiation between pedestrians and drivers. With regard to the physical form of shared surface streets, therefore, Radyr Court Road has some of their characteristics but through chance as it has not been designed as such. Several of the key aims of shared surfaces identified in MfS would not be achieved on Radyr Court Road and it would not function properly or safely as one.
20. Figure 7.1 of *Manual for Streets* (MfS) sets out the vehicle types which various carriageway widths can accommodate. For much of this part of Radyr Court Road two

⁵ Faye Reynolds PoE Appendix C

⁶ Matt Thomas PoE Figure POE6

⁷ Paragraph 7.2.8

⁸ MfS paragraph 7.2.13

⁹ MfS paragraph 7.2.14

¹⁰ MfS paragraph 7.2.15

¹¹ MfS paragraph 7.2.9

cars, which require a carriageway width of about 4.1m, would not be able to pass one another. Bearing in mind the pedestrian dimensions illustrated in MfS Figure 6.8 there would also be difficulties with a lorry passing a cyclist, a person in a wheelchair or adult pedestrians accompanying children.

21. There are two existing informal lay-bys opposite the two dwellings which face the river; the area at the access point to the cart road near the corner might also provide enough space for a vehicle to pull in to let another pass. These are not evenly spaced along Radyr Court Road, however, leaving considerable lengths of it unprotected. The verge is raised above the road in places and nowhere is it of significant width. It would be difficult to access for those less sure on their feet or with young children, especially if in prams or buggies, and impossible for those in wheelchairs. Overall it would not present a realistic refuge for most road users.
22. The outcome of the conflicts arising when larger vehicles met pedestrians on the narrower sections of road would usually be that one party would have to give way; in most cases it would be those on foot or bike. Groups of people, such as parents taking children to school, are likely to have to pass the vehicle in single file, cyclists to dismount, and wheelchair users may have to retreat. Where two cars met one would probably have to reverse, usually to one of the lay-bys or to the junction with Gerddi Taf.
23. This is of course the position at the moment but this part of Radyr Court Road currently only serves six houses. The provision of 48 dwellings as proposed could result in up to 259 trips each day, a significant amount of additional vehicle movements. The appellant states that there is no evidence that increased traffic leads to more accidents. I consider, however, that in these circumstances where the road is of insufficient width to allow vehicles to pass one another and there is no footway, the extra traffic generated by the proposed development would be detrimental to the safety of pedestrians, cyclists and, in particular, wheelchair users and other less-mobile people. In addition there would be an increase in the number of hazardous manoeuvres, such as reversing, having to be made.
24. It is accepted that Radyr Court Road is currently well-used by non-vehicular traffic for both recreational and everyday purposes. At the moment it operates safely and there is no record of any accidents. An upshot of increased motorised movements arising from the proposed development might well be to deter such users. For some journeys alternative routes are available but I saw during the site visit that the continuation of Radyr Court Road, known as Spooky Lane, has a steep gradient which will be difficult for many people in the special needs groups. A reduction in the ability of the less mobile to travel to and from the proposed development, other than in a vehicle, would undermine the site's sustainability credentials.
25. Consequently, the proposed development would be contrary to LP Policy 18, requiring safe provision to be made for cyclists, and LP Policy 19 which deals with the creation of a safe and convenient environment for pedestrians. Neither would it comply with LP Policy 20 which requires development proposals to make provision for special needs groups including people with disabilities, parents with young children and the elderly. Although the LP is elderly these policies are sufficiently in line with current national policy and guidance to carry significant weight.

26. Additionally, Planning Policy Wales (PPW) identifies¹² that the proposal's effects on the safety of other users of the transport network is a matter to be taken into account in the determination of planning applications. My conclusion on the issue is that the proposed development in this case would harm highway safety on Radyr Court Road.
27. The existing speed limit is 30 mph with surveys showing that the 85th percentile speeds do not exceed 21.9 mph. Whilst there was some anecdotal evidence to the contrary I do not consider that excessive speed is or would be a significant issue. The implementation of a 20 mph limit and speed surveys would be helpful and necessary but would not reduce hazard on the road to an acceptable level. At the inquiry a condition was put forward requiring, among other measures, localised widening of the carriageway. I saw at the site visit where it would be possible for this to be implemented; as described earlier it would not amount to an improvement sufficient to dispel highway safety concerns.
28. The height of the railway bridge is not great enough to allow the largest lorries, such as removal vans, through. This might result in inconvenience and, occasionally, more traffic movements as vehicles with a smaller capacity would have to make additional trips. I do not consider, however, that this in itself would contribute to the harm. I have noted that no objection to the scheme was made by the Council as Highway Authority.

Character and appearance

29. Radyr Court Road runs along and close to the river for part of its distance and is lined by trees. The modern residential development of Gerddi Taf can be seen alongside and, to my mind, the road does not have a rural character. Nonetheless, it has a pleasant, sylvan appearance and the atmosphere of a comparatively untouched backwater. Given its connection with the cart road and, from there, to other recreational routes and features, such as the newly restored bridge, Taff Trail and Hailey Park, I consider these to be valuable characteristics which contribute to the enjoyment of users.
30. The appellant has submitted a drawing¹³ indicating that more sensitive lighting and signage could be installed. More information would be needed in respect of the amount of cutting back of vegetation required; the existing leafy appearance is fundamental to the road's character and drastic pruning would be harmful. I consider it likely, however, that physical changes of the order suggested could be implemented without detriment to the character of the road. Any radical widening or structural work would, however, be harmful.
31. The introduction of significantly more vehicles would, of necessity, change the behaviour of pedestrians: they would have to be much more alert to the possible need to avoid vehicles approaching from both in front and behind. To my mind this would create a tension for users undermining the current peaceful, slightly remote, nature of the road.
32. Overall, therefore, I consider that the proposed development would harm the character of the area. This consideration does not carry such weight as to be decisive in itself but it does support my other conclusions.

¹² PPW edition 6 paragraph 8.7

¹³ Figure POE6 Proposed lighting and signage layout along Radyr Court Road

Housing need

33. Technical Advice Note 1: *Joint Housing Land Availability Studies* (TAN1) requires local planning authorities to ensure that sufficient land is genuinely available to provide a 5 year supply for housing. Where the supply is below the 5 year requirement the need to increase that supply should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with national planning policies.
34. The most recent Joint Housing Land Availability Study (JHLAS) for Cardiff, which was published in April 2013, indicates that the current supply is 3.2 years. At the inquiry the appellant enlarged on the housing position in Cardiff; over 12,000 people are living in unsuitable accommodation, about 5,000 are in housing need and the waiting list has nearly 11,500 names on it. These are shocking figures which will not be significantly ameliorated in the near future as the LDP examination has yet to take place. The provision of 48 dwellings, 30% of which would be affordable, is not to be dismissed lightly.
35. In this case, however, the proposed development would harm highway safety and cause other detriment to road users, particularly those who are disabled, such that it would not comply with national planning policies. The lack of a 5 year housing land supply attracts considerable weight but it is not sufficient to outweigh the significant deficiencies in highway terms of the development proposed.

Other matters

36. My attention has been drawn to two recent housing cases in Cardiff, at Church Road, Llanedeyrn¹⁴ and Michaelston Road¹⁵. In the former the main conflict¹⁵ was with policies aiming to conserve countryside areas for uses appropriate to a rural location; at the second protection of the countryside was again a main issue together with the effect upon a designated conservation area. There were no technical highway objections to Michaelston Road whilst potential traffic problems at Church Road were capable of being addressed through a unilateral undertaking. Being in the same county as the case before me here, these two cases were judged against the same development plan and other policies. The circumstances of the appeals and their salient matters, however, differ from the case here such that I am unable to draw any helpful comparisons with them.
37. The appellant provided a finalised unilateral undertaking which would enable contributions to be made towards community facilities, highways and transportation, affordable housing, education and public open space. I am satisfied that the unilateral undertaking would comply with the Community Infrastructure Levy Regulations and, had I been minded to allow the appeal, I could have attributed substantial weight to it.

Conclusions

38. I have found that the proposed development would not harm the open space resource in the surrounding area. There would be some detriment to the character and appearance of Radyr Court Road but not sufficient to be decisive by itself. It does,

¹⁴ APP/Z6815/A/11/2160990

¹⁵ APP/Z6815/A/11/2157448

however, add support to my main conclusion that the proposal would have a significantly detrimental impact on highway safety.

39. There is not a 5 year housing land supply in Cardiff, a circumstance to which TAN1 instructs I give considerable weight. In this case, however, it does not outweigh the serious deficiencies of the proposed development. I have taken all the matters raised into consideration but not found any which justify the appeal being allowed.
40. For the reasons given above I conclude that the appeal should be dismissed.

Siân Worden

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Morag Ellis QC	Instructed by John Cottrell of Nathaniel Lichfield
She called	
David McQuitty BA Hons DipLD CMLI	Anthony Jellard Associates
Matt Thomas	Director, Vectos
John Cottrell BTP DipUD MRTPI	Director, Nathaniel Lichfield and Partners

FOR THE APPELLANT:

Hugh Flanagan	Instructed by Shaun Jamieson, County Solicitor
He called	
Faye Reynolds MSc IEng MICE MCIHT	Principal Engineer, Cardiff County Council
Tim Walter BSc DipTP MRTPI	Senior Planning Officer, Cardiff County Council

INTERESTED PERSONS:

Mr S Field	Local resident
Helen Stewart	Local resident
Stewart Burgess BSc MBA CEng FICE FCIHT MCFI	Local resident
Jeffrey Barton-Greenwood	Chairman of Llandaff Society
Gareth Aubrey	Local Councillor
Kirsty Davies	Local Councillor
Jan Tiley	Local resident

DOCUMENTS

- 1 Figure POE6 Proposed lighting and signage layout along Radyr Court Road
- 2 Opening submissions on behalf of the appellant
- 3 Opening submissions on behalf of Cardiff Council
- 4 Committee report April 2013 CD4A
- 5 Extract from D McQuity's PoE for 2005 inquiry
- 6 Mr Burgess' statement
- 7 Draft conditions 32A, 32B, 33 & 34
- 8 Community Infrastructure Levy (CIL) compliance statement
- 9 Unilateral undertaking
- 10 Closing submissions on behalf of Cardiff Council.
- 11 Closing submissions on behalf of the appellant.
- 12 Email from Mr S Field [received after inquiry sittings]
- 13 Response to above from appellant [received after inquiry sittings]