

SECTION B – MATTERS FOR INFORMATION

APPEALS DETERMINED

a) Planning Appeals

Appeal Ref: A2017/0008 **Planning Ref:** P2017/0319

PINS Ref: APP/Y6930/A/17/3177137

Applicant: Autocare Neath, Neath Road, Briton Ferry

Proposal: Erection of workshop building ancillary to existing business (B2) for vehicle repairs, servicing and M.O.T

Site Address: Autocare Neath, Neath Road, Briton Ferry

Appeal Method: Written Representations

Decision Date: 26th September 2017

Decision: Appeal Dismissed
[Appeal Decision Letter](#)

The main issue in the determination of this appeal concerned highway safety.

The proposed workshop would be constructed on part of the parking/turning area that services the existing business. The proposal would remove a large area of the existing parking and servicing yard and would create parking demands of its own. By reference to the Council's Parking Standards Supplementary Planning Guidance (October 2016) the resulting business would require 12 parking spaces and one operational space. Only 7 parking spaces together with 3 non-standard spaces could be provided on site, thus rendering the remaining parking spaces to be under pressure and the turning and manoeuvring space to be severely curtailed.

No detailed drawings were provided to demonstrate that an acceptable turning circle for service vehicles could be achieved and that no awkward turning movements within the existing yard or

reversing movements within the existing yard, or reversing movements onto or off the adjacent access lane. Such manoeuvres would pose a high risk of conflict between vehicles and/or pedestrians.

Even though deliveries could be made by van rather than lorry and the staff manage and monitor vehicle movements, the Inspector considered that this would result in a propensity for customers or service traffic to seek parking on the access lane compounding the existing conditions and causing a harmful and unacceptable risk to highway safety.

Accordingly the appeal was dismissed

Appeal Ref: A2017/0007 **Planning Ref:** P2008/0798
PINS Ref: APP/Y6930/A/17/**3170318**
Applicant: Tolkein Ltd
Proposal: Residential development and alterations to existing access (outline)
Appeal against conditions
Site Address: Forge Washery, Lower Brynamman, Ammanford, SA18 1SN

Appeal Method: Hearing

Decision Date: 5th September 2017

Decision: Appeal Allowed
[Appeal Decision](#)

The appeal concerned the decision to approve residential development at the appeal site (on 25th August 2016) subject to conditions.

The conditions in dispute were Nos. 14, 15 and 25 and the main issues therefore concerned: -

1. Whether the provision of a new pond is necessary in order for the permitted development to proceed (condition 14),
2. Whether the requirement to provide a cycle link conflicts with the restrictions on development set out in condition 26 (condition 15); and
3. Whether limiting the number of dwellings to 25 is necessary to justify this development given its location, in policy terms, in the countryside (condition 25)

In respect of condition 14 (replacement pond required on ecological grounds) the Inspector considered there to be no evidence that the existing settlement pool was either natural or ecologically important. Therefore, whilst it may be desirable to provide a pond as part of the new development he did not accept that it was necessary to mitigate any harm or loss of habitat. The condition was not therefore considered to meet the statutory test for conditions in Welsh Government Circular 016/2014.

Condition 15 required the provision of a cycle link from the site to a footbridge (leading to a cycleway) at the north east corner of the site.

The Inspector found the condition to be clear and precise, and for there to be no dispute that the requirement is reasonable and necessary to meet the objectives of securing sustainable development.

In terms of potential construction issues in negotiating the berm surrounding the site, he concluded that he had seen nothing to indicate that a cycle link could not be provided or would prove to be so expensive as to threaten the delivery of housing on this site. The condition therefore met the tests for conditions.

A conflict with condition 26 (which prohibits any works within 7m of the riverbank) was resolved by an amendment to that condition.

The primary issue concerned the condition limiting the number of dwellings to 25, which was imposed for the following reason:

'Since the development of this site is justified only on the basis of a maximum of 25 dwellings, having regard also to interests of visual

amenity and to ensure that the site is developed in an appropriate manner having regard to its rural location’.

The condition was based on an agreement with the applicant (which weighed heavily in favour of the original grant of planning permission). The Inspector, however, stated that “an unacceptable condition does not become acceptable because an applicant agrees to it”.

The site lies outside the settlement boundary and in policy terms in the countryside. The Council granted planning permission because it considered that the removal of a non-conforming use outweighed conflict with LDP Policy SC1 which exercises strict control over new housing in the countryside. However, the Inspector stated that the Council were unable to provide a convincing explanation as to why a limit of 25 is necessary to justify the principle of development or why a different number would not overcome the policy ‘harm’.

Accordingly, having accepted the principle of development, the Inspector stated that the only reason for limiting the number of dwellings would be to address detailed issues such as impact on the landscape or heritage assets.

While he opined that it is important to ensure that any new development respects its surroundings and the historical features within the site (including the Grade II listed former foundry wall), layout, scale, appearance and landscaping are reserved and the removal of condition 25 would not prevent the Council from resisting development that would harm the historic assets on site or its surroundings.

Although the appellant sought a condition referring to no less than 50 dwellings (for viability reasons), the Inspector did not address this because he considered that the final number should be determined having regard to good principles of design and in full cognisance of the constraints and opportunities offered by the site.

The appeal was therefore allowed, with conditions 14 and 25 removed and condition 26 varied.