
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 13/04/18

**gan Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 14/05/18

Appeal Decision

Site visit made on 13/04/18

**by Declan Beggan BSc (Hons) MSc DipTP
DipMan MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 14/05/18

Appeal Ref: APP/T6850/A/18/3193774

Site address: Land at Ty'n y Bryn Farm, Tregynon, Newtown

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 planning permission.
 - The appeal is made by CTIL and Telefonica UK Ltd against the decision of Powys County Council.
 - The application Ref P/2017/0708, dated 2 June 2017, was refused by notice dated 6 November 2017.
 - The development proposed is the 'Installation of a radio base station comprising a 17.5 m monopole supporting 3 no. antennas and 2 no. dishes together with ground based equipment cabinets and ancillary development'.
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Decision

1. The appeal is allowed and planning permission is granted for an application for the 'Installation of a radio base station comprising a 17.5 m monopole supporting 3 no. antennas and 2 no. dishes together with ground based equipment cabinets and ancillary development' in accordance with the terms of the application, Ref. P/2017/0708, dated 2 June 2017, and the plans submitted with it, subject to the conditions in the Schedule at the end of this decision.

Procedural Matters

2. The description of the site address varies between the submitted planning application form and that on the Council's refusal reason; I have used the latter which is more concise and it is on this basis that I have determined the appeal. In addition, the description of the proposed development varies between that stated on the planning application form/Council's refusal notice to that stated on the appeal form; it is clear from correspondence submitted with the appeal documentation that the nature of development was amended during the time the Council considered the proposal and I have determined the appeal on the basis of the amended description as shown on the appeal form and copied into the banner heading above.
 3. The Powys Local Development Plan 2011-2026 (LDP) was adopted in April 2018, superseding the earlier development plan document. The appeal must be determined in accordance with the development plan unless material considerations indicate otherwise; in Wales the development plan is the local development plan adopted in
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relation to that area¹. Both main and interested parties were given the opportunity to make comments on the LDP in relation to the proposed development.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area and upon the living conditions of occupiers of dwellings in the general area with particular regard to outlook.

Reasons

5. The appeal site is located on a hillside within rolling countryside south of the village of Tregynon. The appeal site lies to the edge of an agricultural field and is accessed off a minor road via a field entrance. The site lies adjacent to existing hedge and tree lined boundaries beyond which lies an industrial unit; further afield dwellings are dotted across the countryside.

Character and Appearance

6. LANDMAP evaluates the area in which the appeal site is located as being 'high' in terms of visual and sensory aspects due to the extensive area of rolling hillsides, traditional farming techniques, and the area's sense of place as being settled and safe. The proposal would be visible within the landscape. However, visibility does not necessarily result in harm and in this context I acknowledge that local topography, vegetation and built structures would screen the proposal, or significant parts of it, from some of the vantage points as identified by the parties to the appeal. At close and medium range the proposal would be seen in the context of the large industrial building next to the site and other nearby infrastructure such as electricity and telegraph poles. Its visibility generally diminishes significantly with distance.
7. I accept that the proposal will introduce a new vertical element into the landscape that would cause a degree of change. However, the monopole nature of the structure and its green colour, when combined with the screening effects of hedging and trees next to the site and in the wider area, means that it would not be an unduly dominant feature, notwithstanding it may be higher than existing trees, and therefore it would cause limited change to the wider landscape and would not materially harm the area's LANDMAP evaluation and its identified attributes.
8. I conclude, therefore that the scale, form and design of the proposed development would not have an unacceptable effect on the character and appearance of the site or the surrounding area and would comply with relevant policies of the LDP, in particular, SP7, DM4, and DM13, national planning advice contained within Planning Policy Wales Edition 9 (PPW) and Technical Advice Note 19: Telecommunications (TAN19), which collectively seek to protect the visual amenity of an area.

Outlook

9. The proposed development would be visible from a number of dwellings in the locality, however bearing in mind factors such as the separation distances involved, the fact that it would occupy a relatively narrow section of rolling countryside, and would be significantly screened by topography, existing buildings, and vegetation, I do not consider, contrary to the views of local residents, that any effect on their living conditions would be unacceptably oppressive, overbearing, or create an unsatisfactory

¹ Planning and Compulsory Purchase Act 2004 s.38 (4)

living environment for those occupants; this equally applies to less sensitive visual receptors such as those working in the area, notwithstanding their proximity.

10. I conclude, therefore that the proposed development would not have an unacceptable effect on the living conditions of nearby occupants, and would comply with relevant policies of the LDP, in particular, DM13, national planning advice contained within PPW and TAN19, which collectively seek to protect the amenities enjoyed by local occupants.

Other Matters

11. A number of objections relate to the health implications of the proposed development. PPW advises that the health implications of telecommunications development should not be considered further where the proposal meets the guidelines of the International Commission on Non-Ionising Radiation Protection (ICNIRP) in relation to exposure to electromagnetic fields.
12. The appellant has submitted a declaration confirming that the proposal would comply with the precautionary guidelines as set out by the ICNIRP. The declaration takes into account the cumulative effect of the emissions from the proposed installation and all radio base stations present at, or near, the proposed location; in addition it states the proposal accords with all relevant legislation and as such would not cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation. No substantive evidence has been submitted to indicate the proposal would have a detrimental effect on the health of those living or working in the locality.
13. A number of third parties object to the proposal in terms of its detrimental impact on heritage assets. In terms of heritage assets, Cadw state the appeal site is outside of the boundary of the registered Gregynog Historic Park and Garden, is not located in the identified essential setting of the park and that the intervening topography is likely to block or extensively screen the proposal from any views from the park and as a consequence it will have no impact on the setting of the heritage asset. The Council's Built Heritage Officer, draws attention to the fact that whilst a listed building is located in the vicinity, nonetheless, she is of the view that there would be no adverse impact on the building; based on the submitted evidence and my observations whilst visiting the site, I have no reason to take a contrary view to either the Council or Cadw in terms of the impact of the proposal on heritage assets.
14. A number of third parties question the need for the development in its particular location and refer to the potential for other sites locally to be utilised. PPW refers to taking into account the extent to which telecommunications masts can be shared and recognises that widespread access to affordable and secure telecommunications infrastructure is important to citizens and businesses across Wales. PPW also states that local planning authorities are encouraged to respond positively to telecommunication proposals and should not question the need for telecommunication systems, although this does not mean that need cannot still be borne in mind in considering a proposal.
15. The appellant states the proposed development will provide much needed connectivity to the designated² large villages of Tregynon and Bettws Cedewain and the surrounding rural area, and without which there would be no 3G or 4G coverage to these areas and where basic indoor 2G services are none existent, with patchy

² As detailed at paragraph 3.2.15 of the LDP

outdoor coverage. Third parties argue the site at Pwllan Farm³ should be utilised, however whilst there is potential for a mast share arrangement at this site, the fact is that this particular mast has not been built yet and there is no guarantee it will be erected anytime soon. More importantly though is the fact that the submitted evidence would support the appellant's view that the Pwllan site would not provide the necessary coverage for both Tregynon and Bettws Cedewain and therefore it was discounted; there is no compelling evidence to indicate otherwise. The appellant has investigated the suitability of a number of other sites for the proposed development and these were discounted for various reasons including technical and visual impact grounds. Notwithstanding the arguments put forward by third parties, I consider it unlikely that a more suitable site may reasonably be available.

16. Objectors to the scheme query the level and extent of pre-applications consultations undertaken by the appellant prior to the submission of the scheme, however this is not a determining factor in this appeal; what is clear is that both the appellant and the Council engaged in a significant level of local public consultation during the period after the application was submitted.
17. Objectors state that the economy of the area would be detrimentally affected as the existing employment site adjacent to the proposal would close if the development were allowed, due to concerns over health and visual impacts. The proposed development should not put into serious doubt the continued future use of the nearby employment site as there is no substantive evidence that there would be any material impacts on those interests. In addition it is worth noting the proposed development would meet with the broad aims of PPW and the LDP in promoting sustainable economic development.
18. Objectors to the proposal raised issues relating to structural stability of the pole, impact on the ecology of the area and tourism; there is no reason for me to believe that the proposed development is likely to cause any material detriment in regard to these matters.

Conditions

19. I have considered the conditions suggested by the Council, given my decision to allow the appeal. In doing so I have had regard to the tests for conditions set out in Circular 16/14: *The Use of Planning Conditions for Development Management*. I have reworded a number of conditions slightly in the interests of precision.
20. I agree that condition 1 is necessary in regards to the imposition of a time limit, whilst condition 2 is necessary in regards to listing the approved plans to facilitate any minor material amendments and to define the plans with which the scheme should accord for the avoidance of doubt. Condition 3 & 4 relating to tree protection and the removal of any equipment when the development is no longer in use are both necessary in the interests of ecology and visual amenity.

Conclusion

21. I have found that the proposed development would not be detrimental to the character or appearance of the area, nor to adjacent residential amenity. After taking account of all the evidence before me, and for the reasons given above, I conclude that the appeal should be allowed subject to the conditions referred to in the Schedule below.

³ Ref. TEL/2017/0014 recently granted planning permission

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 supporting safe, cohesive and resilient communities.

Declan Beggan

INSPECTOR

Schedule of Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans referenced as follows: Proposed Site Elevation (300 C as amended); Proposed site Plan (200 C as amended); and, Site Location Maps (100A).
3. Prior to commencement of development, a tree protection plan shall be submitted to and approved in writing by the local planning authority. The plan shall be in accordance with BS:5837:2012 and works shall be carried out in accordance with the approved plan.
4. Within 6 months from the last use of the infrastructure hereby permitted the infrastructure and associated works shall be fully removed and the site restored to its former agricultural use.