

## Planning, Taxi Licensing and Rights of Way Committee Report

**Application Number:** 18/0390/REM

**Grid Ref:** E: 315759  
N: 301953

**Community Council:** Berriew Community

**Valid Date:** 24.07.2018

**Applicant:** D Davies

**Location:** Maes Y Nant, Berriew, Welshpool, Powys, SY21 8BG

**Proposal:** Section 73 application to remove planning condition no. 3 attached to planning permission M2004/0930 (occupancy restriction)

**Application Type:** Removal or Variation of Condition

### The reason for Committee determination

This application is submitted by a County Councillor.

### Site Location and Description

The dwelling known as 'Maes Y Nant' is located directly off the U2420 unclassified highway approximately 2 miles north west of the settlement of Berriew. The existing dwelling is a 4 bedroomed detached dwelling with attached double garage, lawned area and rear parking area.

This dwelling was granted consent under application M/2004/0930 subject to an occupancy restriction condition (condition 3) which reads as follows:

*3. The occupation of the proposed dwelling shall be limited to a person solely or mainly employed, or last employed prior to retirement, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any dependents normally residing with such person.*

This application seeks to remove condition 3 as above.

### Consultee Responses

#### Consultee

#### Received

Community Council

14th Sep 218

Berriew Community Council objects to the removal of the restriction as circumstances

have not changed, and the Council wishes to remain consistent in its view of not removing restrictions of this nature

Highway Authority

20th Aug 2018

Does not wish to comment on the application

PCC – Affordable Housing Officer

4<sup>th</sup> January 2018

Having reviewed the application in the light of our discussion and the comments below I feel it would be just as difficult to market the property as affordable as it has proved for agricultural use.

I would therefore support the application and not wish to impose retention as affordable since this is an area where even following our SPG regarding discount level the price would not be affordable to local earnings levels.

I would therefore have no objection to the application being approved without further condition.

### **Representations**

A public site notice was erected at the site on the 17<sup>th</sup> of August 2018. No third party representations have been received by Development Management at the time of writing this report.

### **Planning History**

<b>App Ref</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
M/2004/0930	Erection of an agricultural workers dwelling & formation of a vehicular access	Granted	09/03/2005
P/2009/0854	Erection of an integral double garage	Consent	15/09/2009

### **Principal Planning Policies**

<b>Policy</b>	<b>Policy Description</b>	<b>Year</b>	<b>Local Plan</b>
PPW	Planning Policy Wales (Edition 10, December 2018)		National Policy

TAN6	Planning for Sustainable Rural Community	National Policy
TAN23	Economic Development	National Policy
Welsh Government	Rural Enterprise Dwellings – Practice Guidance 2011	National Guidance
H1	Housing Development Proposals	Local Development Plan 2011-2026

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management

### **Officer Appraisal**

#### Introduction

The dwelling known as ‘Maes Y Nant’ was granted planning consent under application M/2004/0930 for the erection of an agricultural workers dwelling, and formation of a vehicular access. The dwelling was granted consent subject to a condition restricting the occupancy of the dwelling to an occupier solely or mainly employed, or last employed prior to retirement, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any dependents normally residing with such person.

The property is not connected to an agricultural farmstead and has no land other than the modest garden lawned area. The dwelling has been actively marketed since November 2016 with the sales particulars identifying that the dwelling was subject to an agricultural occupancy restriction. The property has now been marketed for over 2 years. This application has been submitted with full marketing information and evidence in order to justify the removal of condition 3 of the original consent.

## Property Valuation

The information submitted with the application includes a marketing report from a reputable property agent which confirms that the property asking price of £235,000 was realistic and reflected the occupancy restriction attached to the dwelling. The report has compared this dwelling with others on the market in the area without a restriction attached of similar scale which confirms that there are no dwellings below £350,000 at the time of the marketing report. The agent has confirmed that the marketed price realistically reflects the restriction upon it. Officers consider that the marketed price is realistic given the size and scale of the dwelling and current occupancy restriction.

## Marketing Information

The marketing report submitted in support of this application confirms that the property has been offered for sale and rent since November 2016 and January 2017 respectively. The dwelling has been advertised on the internet, various local newspapers and at the agent's property offices in both Welshpool and Newtown. Copies of the advertisements have been provided as evidence. Written particulars have been made available at the property offices and to anyone expressing an interest in the dwelling. The property has been advertised on the McCartneys website, rightmove and OnTheMarket.com.

The sales price was listed at £235,000 which is considered to be realistic given the scale of the dwelling and the occupancy restriction in place. The property was also advertised for rent with sales particulars indicated price on application. The agent has confirmed that the rental value for the property was £695 which is considered to be appropriate given the scale, location and condition of the dwelling.

In response to the marketing of the dwelling the report confirms that there has been some enquiries of which none of the parties were compliant with the occupancy condition attached to the grant of consent for the dwelling. No offers for purchase have been received on the property and no tenants who would have met the occupancy restriction criteria have come forward.

## Consideration of Marketing and Supporting Information

The property has been marketed appropriately for more than 12 months and the lack of interest is no fault of the advertising process itself. The marketing information submitted with the application and the extent of marketing efforts carried out is considered to be acceptable with the price that the dwelling has been marketed at for sale and for rent is acceptable given the scale, age and condition of the dwelling.

## Policy Context

The LDP no longer specifically has a policy relating to dwellings in the open countryside, rural enterprise dwellings and the removal of any occupancy restriction

attached to a dwelling. The Welsh Government Rural Enterprise dwelling practice Guidance gives advice to local authorities when considering the absence of continuing need. The guidance refers to the need of effective marketing for at least 12 months and at a price that reflects the occupancy restriction (Para.8.27). The value should be between 70-75% of the open market value (Para.8.28).

The relevant policy position with regards to the removal of occupancy conditions can be taken from Technical Advice Note (TAN) 6 and Welsh Government Circular 016/2014. Paragraph 4.13.5 of TAN 6 states that;

*4.13.5 Where planning applications are received to lift existing agricultural occupancy conditions or where enforcement action is being taken for non-compliance with the condition, the planning authority should consider replacing the existing agricultural occupancy condition with the rural enterprise dwelling condition set out in paragraph 4.13.1. This will often be justified to ensure that the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing.*

In considering removing the existing occupancy restriction, consideration has been given to replacing the existing agricultural occupancy condition with the rural enterprise condition detailed within the TAN however given the marketing efforts to date together with the scale and value of the dwelling, it is not considered that the accommodation would be suitable for rural enterprise workers.

In terms of affordable housing, the Welsh Governments Acceptable Cost guidance (ACG) figure for an affordable self-contained unit in the area of the dwelling for a 6 person 4 bedroomed house is £192,000. This is significantly below the asking price the dwelling was marketed at even with the reduced market value being applied. The Affordable Housing Officer has been consulted and has stated that the dwelling is located in an area where the discount level price would not be affordable to local earnings levels. As such, the Affordable Housing has raised no objection to the removal of the condition.

Officers do not consider that the value of the dwelling is in accordance with the acceptable cost guidance for an affordable dwelling in this area and is furthermore considered to be in an unsustainable location. On this basis, it would be considered unreasonable to replace the existing condition with the standard affordable housing conditions set out in paragraph 4.13.1 of TAN 6.

Having carefully considered the proposed development, Officers are satisfied that sufficient evidence has been submitted to demonstrate that genuine attempts have been made to market the property at a price that realistically reflects the occupancy restriction. On the basis of the evidence submitted, Officers consider that there is no longer a continuing need for an agricultural workers dwelling at this location and therefore consider the removal of the condition to be in accordance with planning policy.

## **RECOMMENDATION**

In light of the above, Officers are satisfied that the removal of the condition has been justified by robust marketing evidence and therefore complies with planning policy. The recommendation is therefore one of consent.

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