
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 23/11/18

**gan Richard Duggan BSc (Hons)
DipTP MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12/12/18

Appeal Decision

Site visit made on 23/11/18

**by Richard Duggan BSc (Hons) DipTP
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 12/12/18

Appeal Ref: APP/T6850/A/18/3212223

**Site address: Troedybryn, C2018 From Junction by Llys-Onnen at Abercegir to
Junction with A489T at Pont Ab, Abercegir, Machynlleth SY20 8NR**

**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 Mr Frantisek Sic against the decision of Powys County Council.
 - The application Ref P/2017/1142, dated 25 September 2017, was refused by notice dated 12 June 2018.
 - The development proposed is the erection of a single, affordable detached three bedroom family dwelling with a separate garage/ workshop.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Frantisek Sic against Powys County Council. This application is the subject of a separate Decision.

Procedural Matters

3. On 17 April 2018 the Powys Local Development Plan (LDP) 2011-2026 was adopted. The LDP supersedes all former adopted development plans which were relevant at the time the planning application was submitted. This appeal must therefore be determined in accordance with the adopted LDP unless material considerations indicate otherwise. As the application was determined and the appeal submitted following the adoption of the LDP the Appellant has had time to consider and comment upon the relevant policies of the LDP, and I have considered these in my determination of this appeal.
 4. The Appellant has raised concerns in his submissions regarding the Council's processing of the planning application. However such matters are not relevant to my determination of the merits of the particular proposal before me and I have afforded them no weight in determining the appeal.
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Main Issues

5. I consider the main issues to be; whether the proposal would satisfy local and national planning policies which seek to strictly control residential development in the open countryside; and the effect of the development on the setting of listed buildings and on nature conservation interests.

Reasons

Policy

6. The settlement hierarchy set out within Strategic Policy SP5 of the LDP comprises towns, large villages, small villages, rural settlements and open countryside, and establishes development limits for towns and large villages by designating development boundaries. Strategic Policy SP6 establishes the distribution of housing in accordance with the settlement strategy, the level of service provision and size, and subject to its capacity to accommodate sustainable growth. Policy SP6 sets out that the lowest proportion (no more than 15%) of new development required over the Plan period will be directed to rural settlements and open countryside.
7. Although the appeal site lies within a linear grouping of dwellings and would be the third of a development of three units, it is clearly separated from the main historical core of the village and thus, for the purposes of planning policy, it is within the open countryside where development is strictly controlled in the interests of sustainable development. Policy SP6 of the LDP states that only housing development that complies with the national exceptions policies will be permitted in the open countryside, and Policy H1 permits housing development on sites within the open countryside where the development relates to a need for housing which meets current national policy on housing in the open countryside.
8. There is no dispute that there is a need for affordable housing within Powys and the provision of affordable housing is therefore of considerable importance, as such I have had regard to the local needs questionnaire submitted by the Appellant and that his family complies with the relevant criteria. Nonetheless, I would concur with the Council that the scale of the affordable dwelling being proposed would be at odds with the guidance set out within the Council's adopted Supplementary Planning Guidance 'Affordable Housing' (SPG), 2018. As the SPG provides a context upon which to implement adopted development plan policy rather than attempting to introduce new policy I afford it considerable weight. Although the SPG is for guidance purposes only it states that 3 bedroom affordable dwellings should have a gross floorspace of no more than 94 sqm, with the largest of affordable homes (7 person 4 bedrooms) not exceeding a floorspace of 115 sqm. As the proposed dwelling would have a floorspace of approximately 123 sqm this would be significantly larger than the SPG guidelines, and the proposed outbuilding/workshop, which would be approximately 32.49 sqm, is more than double the 15 sqm limit for detached ancillary buildings outlined in the SPG.
9. Although the majority of the appeal site does not appear to be currently in use for the purposes of agriculture or forestry, it identifies closely with the agricultural land and natural landscape quality of the open countryside beyond its boundaries. Therefore, to develop the appeal site would extend the built form into an area of open field and it would extend the pattern of the built-up area out in a ribbon form. The appeal site has a greater affinity with a field in open countryside than the built form of the village. This is because it has an open setting which is set apart from the village core to the south, and the development of the site would be seen as an obvious encroachment

into open countryside. The dwelling would be in a prominent position, visible from surrounding countryside and would be out of character with the countryside of which it is a part.

10. There are no facilities such as a shop, public house or employment opportunities found in the village, and I observed that the options for travelling without the use of a car are somewhat limited, not least due to the relatively isolated location of Abercegir. Prospective occupiers of the dwelling would need to travel to Machynlleth for essential services and facilities to meet their day to day needs and it would be highly likely that these trips would be made using the private car. The thrust of national planning policy seeks to create balanced sustainable rural communities, with new development located within and adjoining those settlements where it can be best accommodated in terms of infrastructure and access. I therefore consider that the proposal would be at odds with national policy insofar as it would be located outside of a settlement and would be inadequate in terms of its accessibility by non-car modes.
11. The LDP provides the rational basis for decisions in accordance with the presumption in favour of sustainable development as set out in PPW¹. The countryside should be protected for its intrinsic sake and the need to promote a resource-efficient and climate change resilient settlement pattern that minimise land-take is one of the Well-being of Future Generations (Wales) Act 2015 goals. Development in the countryside is restricted by national policy and LDP Policies SP5, SP6 and H1, and as presented the appeal development would conflict with these policies.

Listed buildings

12. Due to the surrounding open land the listed buildings of Llwyn Y Ffynnon and the adjacent barn appear as relatively isolated, and this setting makes a valuable contribution to the significance of these listed buildings. The proposal would introduce new built form into undeveloped space that, at present, positively contributes to the rural character of the immediate area and the setting of the listed buildings. The proposal would therefore erode the present open and rural character of the site and the area. Furthermore, the proposed dwelling and the listed buildings would be seen together in views from the main road and across the open landscape, which would be accentuated by the appeal site being significantly above the ground level of Llwyn Y Ffynnon thus having a dominating effect. Consequently, the relative isolation of Llwyn Y Ffynnon and the adjacent barn would be appreciably eroded by the siting of the dwelling and the detached garage. As such, the proposal would detract from the rural and open setting of the listed buildings.
13. I accept that there are other new dwellings in the vicinity and that landscaping could be utilised on the site, but this does not outweigh the harm that would be caused to the setting of the listed buildings of Llwyn Y Ffynnon and the adjacent barn by the loss of open land and its replacement by built development. Therefore, the proposed development would not preserve the setting of the nearby listed buildings and would be contrary to Policy SP7 of the LDP.

Nature conservation

14. Paragraph 6.2.2 of Planning Policy Wales Technical Advice Note (TAN) 5 'Nature Conservation and Planning' indicates that any survey work that is required should be carried out before planning permission is granted where there is a reasonable likelihood of a protected species being present and affected, otherwise all relevant

¹ PPW edition 10 paragraph 1.17

material planning considerations may not have been addressed in making the decision. TAN5 advises that planning permission should not be granted subject to a condition requiring a survey to be carried out.

15. Although Natural Resources Wales do not raise any concerns regarding the development of the site, the Council's ecologist highlighted the potential for reptiles on the site and requested a Phase 1 Habitat Survey to be undertaken to identify any potential impacts on reptiles and any need for mitigation measures. No surveys have been undertaken as part of the planning application or appeal process.
16. Therefore, on the basis of the available evidence I find that there is insufficient information available to establish the potential impact of the scheme on local reptile populations. Mindful of the relevant national policy advice on protected species in TAN5, this is a matter that requires to be understood before planning permission is granted, rather than being addressed by planning condition. I find that the circumstances of this case justifies a precautionary approach, in order to avoid potentially harmful impact on protected species which would conflict with Policy DM2 of the LDP.

Other matters

17. I fully understand the Appellant's position in terms of the need for the dwelling to house his family and that this would have a positive benefit within the community, hence, the letter of support from neighbours. Nevertheless, these matters do not outweigh the harm that I have identified against the main issues above.

Conclusions

18. 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.
19. Having regard to the above and considered all other matters raised, I conclude that the appeal should be dismissed.

Richard Duggan

INSPECTOR