



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 03/01/19

gan **Richard E. Jenkins BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 26.03.2019

Appeal Decision

Site visit made on 03/01/19

by **Richard E. Jenkins BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 26.03.2019

Appeal Ref: APP/T6850/X/18/3213606

Site address: Woodland at the rear of Brookland Hall, Guilsfield, Welshpool, Powys, SY21 9BU

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Lynn Booth against the decision of Powys County Council.
 - The application Ref: 18/0275/CLP, dated 6 July 2018, was refused by notice dated 20 September 2018.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is a private vehicle parking and access area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the site address and the description of development from the Council's Notice of Decision as they are more accurate than those outlined on the application form. As such details are consistent with the information contained on the Appeal Form, I am satisfied that there is no prejudice in this respect.

Main Issue

3. This is whether the Council's decision to refuse to issue a Lawful Development Certificate was well-founded.

Reasons

4. The appeal relates to a modest area of land that forms part of a wider area of woodland to the rear of Brookland Hall, Guilsfield. The appeal proposal seeks a Lawful Development Certificate (LDC), under Section 192 of the Act, for the laying of a vehicle parking and access area to facilitate the appellant's use of the woodland.
 5. The appeal site adjoins a narrow and unclassified highway and, contrary to the general character of the area, is not fronted by a hedgerow. However, despite some evidence to suggest that the appeal site is used by pedestrians as an access into the wider area of woodland, I was able to confirm at the time of my site inspection that it does not
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comprise an existing vehicular access. Moreover, having regard to the extent of the works that would be necessary to fill and level the area, there is no doubt in my mind that the creation of the proposed access area, with associated off-road parking, would constitute development for the purposes of Section 55(1) of the Act.

6. Class B of Part 2 (Minor Operations) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (hereinafter referred as the GPDO) permits the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in the Schedule (other than by Class A of Part 2). However, as clearly set out in the Council's evidence, the effect of this provision is to permit access to a development which in itself is permitted development. I am not aware that the access proposed in this case is related to any form of development, permitted or otherwise. It therefore follows that the development proposed in this case does not constitute permitted development for the purposes of the GPDO.
7. I note the benefits that the development would provide, particularly given the highway constraints in the area. Nevertheless, such planning merits are not relevant to an appeal under Section 195. The opportunity remains open however for the appellant to pursue such arguments under separate development management procedures. For the avoidance of any doubt, my findings in respect of this appeal would not in any way affect the future consideration of such matters.
8. Based on the foregoing, and having considered all matters raised, I conclude that the Council's refusal to grant an LDC was well-founded. The appeal should therefore fail. I shall exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Richard E. Jenkins

INSPECTOR