



## Appeal Decision

---

by Siân Worden BA DipLH MCD MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 23/02/2024

Appeal reference: CAS-02941-N3Z1P6

Site address: The Talkhouse, Pontdolgoch, Caersws SY17 5JE

---

- 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 Ms Jacqueline Garratt against the decision of Powys County Council.
  - The application Ref 23/0501/FUL, dated 27 March 2023, was refused by notice dated 20 June 2023.
  - The development proposed is the change of use from Pub/Restaurant/B&B/Self catering holiday let to dwelling.
  - A site visit was made on 6 February 2024.
- 

### Decision

1. The appeal is allowed and planning permission is granted for is the change of use from Pub/Restaurant/B&B/Self catering holiday let to dwelling at The Talkhouse, Pontdolgoch, Caersws SY17 5JE, in accordance with the terms of the application, Ref 23/0501/FUL, dated 27 March 2023, subject to the condition set out in the schedule to this decision.

### Procedural Matter

2. The appeal building ceased to be a pub and restaurant some years ago and is now occupied as a dwelling with holiday accommodation in a separate building. The application was, therefore, retrospective.
3. Since the submission of evidence Edition 12 of PPW has been published. As it consolidates previously published content it does not raise any new matters that have a significant bearing on the decision.

### Main Issue

4. I consider that the main issue in this case is whether the development has resulted in the loss of a community facility and, if so, whether that loss is justified.

## Reasons

5. The appeal property is at the edge of the small settlement of Pontdolgoch. It is a two storey, detached building and has previously been in use as a pub and restaurant. Next door, within the application site and also owned by the appellant, is a smaller, single storey building, the former stables to the pub, which is now self-contained, holiday accommodation. From outside, only the traditional, free-standing sign, which advertises the holiday let, is a clue to the former pub use.
6. The appellant acquired the property in 2003 and ran it as a pub and restaurant with some letting rooms until 2012 when the business became unviable. From 2012 until 2022 the main building operated as holiday accommodation, first as a bed and breakfast business and latterly as a single, self-catering unit. The appellant, together with family members, moved into the main building as her home in July 2022 as she needed more room than the former stables, which she had been occupying, could provide.
7. The proposal before me now, which would legitimise the residential use of the building, would not require any external physical alterations to the building or parking area. The separate holiday let in the former stables is tied by condition to the main building and there is no proposal to sever this link.
8. Policy DM11 of the Powys Local Development Plan (LDP), adopted 2018, protects existing community facilities and services. The appellant agrees with the Council that the lawful use of the property is as a pub and restaurant. The building has not been occupied as such for well over a decade, however, and cannot be described as an existing neighbourhood public house or service. There is nothing in Policy DM11 or its explanatory text stating that 'existing' should be defined as the lawful use of the building in question, or making any other provisions that would define the pub use as in existence for the purposes of the policy. The Council also states that the purpose of Policy DM11 is to ensure that community facilities, including pubs, are not lost. As the building has not been used as a pub for many years there is no facility to be lost. In my opinion, therefore, LDP Policy DM11 does not apply in this case.
9. Moreover, and notwithstanding that LDP Policy DM11 is not applicable in this case, there would be nothing to be gained by either party from the policy's requirement for a marketing exercise. The former pub ceased trading because it was unviable and, particularly in the light of the harm caused to the hospitality industry by the Covid pandemic, circumstances are unlikely to have improved since then. Although there is still a bar in the building there is no commercial kitchen. The floor plans also suggest that the existing toilets would not be adequate for a venue of this size. With the cost of installing or improving these essential facilities in mind, and without an established business in place, it is unlikely that the building would be an attractive proposition to a buyer as a new pub. Consequently, it is doubtful that a marketing exercise would result in anything other than expense for the appellant.
10. The circumvention of planning controls cannot be condoned and I agree that a breach of planning control is no justification for overlooking planning policy. I am certain, however, that there was no intention on the appellant's part to avoid the planning process. Indeed, that she had previously sought planning advice from the Council when contemplating the change from a pub to bed and breakfast accommodation, indicates otherwise. It would have been prudent for the appellant to have kept a written record of the earlier planning advice but, at that time, she possibly did not recognise its potential future significance. In any event, I have no doubt that the conversation with the planning office took place or that the advice proffered by him was as now stated by the appellant.

### **Other Matters**

11. I have not given any weight to the appellant's suggestion that a return to use as a pub would result in increased hazard on the highway. Any discrepancy in dates is not sufficient to have a bearing on my decision.

### **Conditions**

12. The application was retrospective and no physical alterations have been or will be made to the outside of the property. In this circumstance no conditions are necessary other than the provision of measures to enhance biodiversity in line with Policy 9 of Future Wales which is part of the development plan. It states that action towards securing the maintenance and enhancement of biodiversity to provide a net benefit must be demonstrated as part of development proposals.

13. As permission is being granted retrospectively it is not possible to require the approval of details before development takes place. The condition therefore requires the submission of a suitable scheme for the Local Planning Authority's approval, and its implementation and retention. In this instance, a modest scheme, such as the provision of bat boxes or the planting of some indigenous shrub or flower species as appropriate, would be sufficient to provide a biodiversity net benefit.

### **Conclusion**

14. I have found that the development has not resulted in the loss of a community facility. It is not necessary, therefore, for the appellant to carry out a marketing exercise.

15. For the reasons set out above I allow the appeal. I have taken all the matters raised into consideration and not found any good reason to refuse the appeal.

16. 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 one or more of the Welsh Ministers' well-being objectives.

*Sian Worden*

Inspector

---

### **Schedule of Conditions**

1. Within 3 months of the date of this decision a scheme for biodiversity enhancements shall be submitted in writing to the Local Planning Authority. The scheme shall include a timetable for its implementation. On approval by the Local Planning Authority the biodiversity enhancements shall be carried out in accordance with the scheme. The biodiversity enhancements shall be retained for as long as the development hereby approved remains in existence.

*Reason:* In the interests of maintaining and enhancing biodiversity, in accordance with Future Wales Policy 9.