



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 09/10/17

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17.11.2017

Appeal Decision

Site visit made on 09/10/17

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

an Inspector appointed by the Welsh Ministers

Date: 17.11.2017

Appeal Ref: APP/E6840/A/17/3180429

Site address: Wern Farm, Ash Cottage to Newbridge on Usk, Tredunnock, NP15 1PE

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 grant of planning permission subject to conditions.
 - The appeal is made by Mr Steve Davis against the decision of Monmouthshire County Council.
 - The application Ref: DC/2017/00415, dated 3 April 2017, was approved on 30 May 2017 and planning permission was granted subject to conditions.
 - The development permitted is described as retrospective planning application for gates and piers.
 - The conditions in dispute are Nos 2 and 3 which state that: (2) No gates may be attached to the gate pillars so as to prevent any obstruction to the public footpath ensuring that the public right of way is open at all times. The existing gates shall be removed from the pillars within 1 month from the date of this permission; and (3) The ornamental features to pillars shall be removed within 1 month from the date of this permission.
 - The reasons given for the conditions are: (2) In the interests of visual amenity and to maintain access over the public right of way; and (3) In the interest of visual amenity.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As set out above, the development has already been carried out. As such 'retrospective planning permission' is sought for the development without compliance with Condition Nos. 2 and 3 of planning permission Ref: DC/2017/00415.

Main Issue

3. This is the effect of the development upon the public right of way and the character and appearance of the area.

Reasons

4. The appeal relates to the erection of gates and pillars at Wern Farm which is located off Tredunnock Road in Monmouthshire. Wern Farm is located along a well established access lane which, for the purposes of planning, is defined as being within open countryside. The development has been carried out without the benefit of planning permission and comprises the erection of two stone pillars, each of which are in excess of 2 metres in height and 1 metre wide, and black cast iron gates that
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measure approximately 2.17 metres high and 3.95 metres wide. Carved decorative sculptures top each of the stone pillars, whilst the electric gates are operated by solar panels.

5. Despite the reasons given for the imposition of Condition No.2, it is clear from the Council's evidence, including its Delegated Report, that it considers the style of the cast iron gates to be acceptable in terms of their effect upon the character and appearance of the area. I can therefore only assume that the reference to visual amenity in the reasons for imposing the condition relate to the contention that the style of gates would be intimidating to the users of the right of way. I shall therefore confine my reasoning in respect of the appropriateness of Condition No.2 to the issues relating to the public right of way.
6. The Council contends that Public Footpath No.21 runs along the access road and through the area covered by the erected gates. It also contends that the gates would be intimidating to the users of the right of way and that the area should remain open and free from obstruction at all times. In contrast, the appellant points to the fact that a stile located to the south west of the erected gates provides sufficient access to the right of way. The appellant also contests that the access track has been gated for a number of years and that, despite being locked historically, would not be locked should the appeal be successful.
7. The Definitive Map of Public Rights of Way defines the legal highway network through which the public can access the countryside and the Council has submitted robust evidence to indicate that Footpath No.21 runs through the area covered by the gates. In addition to this, despite some limited evidence to the contrary, no reference is made on the Definitive Map or Statement to any kind of gate or stile. Indeed, the Statement refers specifically to the "unrestricted use" of the right of way and I have not seen anything to robustly demonstrate that the historic use of gates or other furniture in this location was in fact lawful. The evidence does indicate that the stile referred to by the appellant has been used for a number of decades. However, this does not diminish the legal standing of Footpath No.21 and, for this reason, fails to weigh substantially in favour of this planning appeal. Indeed, it is only possible to move the alignment of Footpath 21 via a legal order which is beyond my determination in determining this planning appeal.
8. Notwithstanding the legal framework set by the Highways Act, Policy MV3: '*Public Rights of Way*' of the adopted Monmouthshire Local Development Plan (LDP) states that development that would obstruct or adversely affect a public right of way will not be permitted unless satisfactory provision is made which maintains the convenience, safety and visual amenity offered by the original right of way. Despite the presence of the adjacent stile, I have not seen anything to indicate that the convenience and visual amenity of the original right of way would be maintained should this appeal succeed. Accordingly, I find the Council's imposition of Condition No.2 to be both reasonable and necessary.
9. Turning to Condition No.3, the Council objects to the decorative structures that top the stone pillars on the basis that they are unnecessary and inappropriate given their rural setting. Having observed these structures at the time of my site visit, I concur with the Council in its assessment of such features. Specifically, whilst I do not consider that they are intimidating, there is no doubt that their decorative nature jars with the immediate and wider rural context. Indeed, they serve to urbanise the immediate vicinity and cause material harm to the character and appearance of the area. Accordingly, they run counter to the general thrust of Policy DES1: '*General Design Considerations*' of the adopted LDP. For these reasons, I find that the

Council's imposition of Condition No.3, which requires the removal of the decorative structures, to be both reasonable and necessary.

10. Based on the foregoing, and having considered all matters raised, I conclude that the appeal should be dismissed. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR