



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 10/11/22

Ymweliad â safle a wnaed ar 14/11/22

gan Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad:2022-12-07

Appeal Decision

Hearing held on 10/11/22

Site visit made on 14/11/22

by Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

an Inspector appointed by the Welsh
Ministers

Date:2022-12-07

Appeal Ref: CAS-01498-S6V3W3

Site address: The Cotlands, Beacon Road, Trellech, NP25 4PR

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 (the Act) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Brian and Rosemary Kedward against Monmouthshire County Council.
- The development subject to the appeal is described as "Proposed earth sheltered dwelling under the grazing land along with associated works on the site of the former Cotland Farmhouse. The proposal forms part of an agricultural holding and would form the principal residence of the applicants and holding unit".

Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application form refers to only Mr Kedward as the applicant, whilst the appeal form refers to Brian and Rosemary Kedward as the appellants. Mr Kedward confirmed at the hearing that the appeal form correctly identified who the appeal was made on behalf.
3. I note the description of the site address on the planning application form and the Council's decision notice varies slightly from that given on the appeal form. Both main parties at the hearing agreed that it was appropriate that the site address given on the planning application be used.

4. The description of the development varied between that stated on the planning application form and that used by both the Council on their appeal documentation and the appellants on their appeal form. In the interests of clarity and conciseness, I agreed at the hearing with both parties the wording to be used in the description as stated in the banner heading above.
5. The appellants submitted a draft Statement of Common Ground (SoCG); however, it was not signed by the Council who clarified at the hearing that there was little in it that they could agree with. I have therefore given the SoCG no weight in this process.

Main Issues

6. I consider the main issues in this appeal to be:
 - The appropriateness of locating the proposed development outside settlement limits, having regard to local and national planning policies;
 - The impact of the proposal on the visual qualities and character and appearance of the Wye Valley Area of Outstanding Natural Beauty (AONB);
 - The appropriateness of locating the proposed development on best and most versatile agricultural land, having regard to national planning policies;
 - The impact of the proposed development on the River Usk Special Area of Conservation (SAC); and,
 - The need for a planning obligation related to affordable housing.

Reasons

Appropriateness of Development Outside Settlement Limits

7. The appeal site encompasses the whole of an agricultural field located in open countryside, near to Beacon Road, south of the village of Trellech at some 1 Km away. The gently sloping field is currently used for the grazing of sheep. The site is bordered to the north by an access track that leads to forested land that also borders the eastern boundary. The western and southern boundaries of the site are bordered by a variation of post and wire fencing, hedges and trees, along with the gardens to a number of dwellings. The immediate area is characterised by rolling agricultural fields, interspersed with forested land and sporadic dwellings. The site is located within the AONB.
8. It is a long-standing planning policy position that the countryside should be safeguarded from uncontrolled and sporadic development, with development primarily directed to existing settlements; otherwise, unrestrained encroachment of the countryside would occur. However, other appropriate locations outside settlements cannot be discounted and these have to be weighed against national advice supporting sustainable development as detailed in Planning Policy Wales Edition 11 (PPW). PPW states that a plan led approach is the most effective way to secure sustainable development through the planning system.
9. Policy S1 of the adopted Monmouthshire Local Development Plan (LDP) is a strategic policy that relates to the spatial distribution of new housing. In summary the policy seeks to direct new housing to within or adjoining settlements such as towns and main villages e.g. Trellech. Outside these development boundaries planning permission for new residential development will not be allowed in any other settlements except in or adjoining identified minor villages where small scale residential development will be allowed subject to certain circumstances. Outside the settlements listed, open countryside policies will

apply where planning permission will only be allowed for new residential development related to conversion of rural buildings, subdivision of existing dwellings, and dwellings necessary for agricultural, forestry or other appropriate rural enterprises, in accordance with Technical Advice Note 6: Planning for Sustainable Rural Communities (TAN 6). Policy S1 broadly reflects national planning policy as stated in PPW in regard to the control of new housing in line with sustainability principles.

10. The appellants refer to the appeal site lying within the settlement/cluster of Cotland/Beacon, and whilst in the general vicinity of the site there is a loose collection of properties, nonetheless they do not form a settlement as defined in the LDP; the nearest settlement is Trellech with the appeal site being well outside its defined boundaries.
11. In planning policy terms, the site is defined as countryside, where residential development is generally resisted in the interests of sustainability. Mr Kedward confirmed at the hearing that his case is not premised on rural exception grounds relating to a rural enterprise dwelling and he also accepts that no case is being made that it is a 'One Planet Development' proposal. The evidence also indicates that the proposal does not fall within any other category of development permitted under policy S1 such as an affordable dwelling or development adjoining a settlement boundary. It must therefore follow that the proposal runs contrary to local planning policy that seeks to restrain development outside of settlement boundaries in the broad interests of sustainable development.
12. The Act along with PPW states that development management considerations should be made in accordance with the development plan unless material considerations indicate otherwise. Whilst the appellants argue that the proposed dwelling would allow for supervision and care of livestock, I see no reason why such care cannot be provided from their existing dwelling which is only a mile from the site; such an arrangement is not uncommon, and the appellants have given no compelling reasons for me to think otherwise. The appellants refer to the proposed dwelling allowing them to both have a home workshop/office whilst sustaining a small holding within the county, however the appellants have given no substantive reason why this could not occur from their current dwelling.
13. Any environmental benefits of the scheme such as its subterranean grassed covered construction or its use of materials, would not outweigh the significant conflict with local and national planning policies. In addition, regarding other sustainable criteria, there is no substantive evidence to indicate that the proposal would result in a reduction in the use of or dependence on private vehicles for transport, and it is some distance from the nearest settlement and therefore unlikely to promote pedestrian travel in terms of accessing services. The proposal would also not promote sustainable development for other reasons as discussed later in this decision.
14. Drawing the threads of the above together, the proposed development would be inappropriately located having regard to its siting outside any recognised settlement limit, and with reference to local planning policy S1 and national planning policy contained within PPW. PPW supports sustainable development, however, this must be in accordance with the development plan unless material considerations indicate otherwise; none of the other material considerations referred to above, or for that matter any others would outweigh the significant conflict with planning policy.

Character and Appearance

15. PPW refers to giving great weight to conserving and enhancing the natural beauty of AONBs and that they must be afforded the highest state of protection from inappropriate development. Policy LC4 of the LDP states, within the Wye Valley AONB, any

development must be subservient to the primary purpose to conserve and enhance the natural beauty of the area, and criteria b refers to consideration being given to “the degree to which design, quality and use of appropriate materials harmonise with the surrounding landscape and built heritage”.

16. The field in which the proposed dwelling would be located has strong physical boundaries which reinforces its rural appearance, and this is strengthened with the backdrop of the surrounding countryside. The appeal site has a sense of openness within the surrounding landscape despite being bordered by the forest and the presence of existing dwellings.
17. Despite the proposed dwelling incorporating a ‘subterranean/earth shelter’ design, nonetheless due to a resultant change in the existing landform, the projecting chimney/venting structure, and the circa 19 metre wide southern glazed elevation, it would form a conspicuous jarring visual feature within the field and within the landscape, particularly so when viewed from Beacon Road and the road further south, to the detriment of the visual amenity of the area. The glazed elevation with its horizontal form is highly likely to draw the eye and even more so in the hours of darkness when it would be subject to internal lighting. The existing open nature of the field would be detrimentally affected due to the siting of development. The proposal would also be apparent from other vantage points such as the access track to the north and the public footpath to the southeast. The provision of an access point, the parking of cars and any likely residential paraphernalia such as washing lines, garden furniture etc would only exacerbate the visual intrusion within the countryside.
18. The proposed dwelling, notwithstanding its use of materials or the use of landscaping would result in an intrusive form of development that would be significantly detrimental to the character and appearance of the area; it would neither conserve nor enhance the natural beauty of the AONB. As a result, the proposed development would be contrary to policy LC4 of the LDP which seeks to conserve and enhance the natural beauty of the AONB, along with policies, S13, S17, LC1, EP1 and DES1 of the LDP which, inter alia, seek to protect visual amenity/landscape character, and national planning policy as detailed in PPW.

Best and Most Versatile Agricultural Land

19. The land subject to the appeal site falls within grade 3a of the ‘Agricultural Land Classification System’ which is the best and most versatile (BMV). The overall site extends to one hectare, although in this case the appellants argue the site would still be used for agricultural purposes with the grazing of sheep. PPW states BMV land should be conserved for the future with considerable weight to be given to protecting such land from development and it should only be developed if there is an overriding need for the development.
20. Whilst the appellants intend to retain an agricultural element to the land that does not outweigh the fact that the proposal would inevitably lead to the loss of BMV land. Mr Kedward drew attention to his view that the appeal site was not good quality land and that the classification maps are only indicative in nature. However, in the absence of any separate independent appraisal of the appeal site’s land quality, I consider the predictive agricultural land classification map which uses the best available information to predict the grade of land on a national basis, as being the determinative factor in assessing the quality of the land subject to this appeal.
21. The proposed development would result in the permanent loss of land, although the exact extent is not clear as the submitted details do not define any domestic curtilage.

However, there is no overriding need or justification for development that would result in the loss of BMV land; this is unacceptable as it runs contrary to national planning policy as espoused in PPW.

Effect on SAC

22. The Council highlight that the site is within the phosphorus sensitive river Usk SAC and that any proposed development that might increase the amount of phosphorus within the river catchment of the SAC could lead to damaging effects on it. The Council argue there is potential for the proposal to increase the amount of phosphorus being discharged from the site and that insufficient information has been submitted to demonstrate whether the proposal is likely to have a significant effect on the SAC.
23. The appeal site is within the catchment of the designated SAC. Natural Resources Wales (NRW) has set new phosphate standards for all SAC's which in short states that new development within any part of the catchment that would increase the amount or concentration of wastewater effluent or organic materials discharged directly or indirectly into the catchment's waterbodies has the potential to increase phosphate levels within those waterbodies which could lead to a damaging effect on the SAC, and therefore any development proposal must be able to demonstrate phosphate neutrality or improvement.
24. NRW advise that the proposed drainage system needs to follow their 'Planning Advice' document for such matters and in particular they draw attention to the need to seek further information in relation to that advice; one of these points refer to private sewage treatment plants for domestic wastewater complying with the relevant British Standard, a maximum daily discharge rate, and that drainage is certain distances from any surface water feature.
25. The appeal documentation highlights that a new septic tank or package treatment plant would be needed. Any new dwelling has the potential to increase phosphate discharges into the SAC. Apart from highlighting that a new septic tank/treatment plant would be needed, the appellants have given little in the way of detailed information in terms of how that system would operate as regards the potential effects on phosphate levels, or the information highlighted by NRW in their advice document. Bearing in mind NRW's comments/advice, the very limited level of information submitted by the appellants regarding foul drainage is inadequate and as a result, it does not address the concerns raised by the Council.
26. In the absence of the above information, I cannot reasonably conclude that the proposal would not result in an increase in phosphate levels to the SAC, nor adversely affect its integrity. As a result, and bearing in mind the precautionary principle, I must conclude that the proposal would be likely to be detrimental to the SAC, thereby conflicting with PPW which seeks to protect ecology, water resources and the promotion of sustainable drainage systems.

Need for a Planning Obligation

27. The Council highlight that no affordable housing contribution via a commuted sum payment has been secured for the proposed development in the event that the appeal was to be permitted. The appellants believed they are exempt from such a payment as they considered the proposal was a self-build project tied to an agricultural holding. Bearing in mind my findings on the other substantive issues related to this appeal, I don't propose to address this matter any further.

Other Matters

28. In support of their case the appellants have drawn attention to a number of other developments in the locality that have been granted planning permission for new dwellings, however the Council explained that these were permitted in line with planning policies for various reasons such as being infill or a replacement dwelling. Notwithstanding any references to previous dwellings permitted by the Council, the fact of the matter is that each application is considered on its own merits and that is what I have done in this instance. The appellants sought to draw parallels between the proposed development and the residential use of a structure in a property adjacent to the appeal site, however, as the structure referred to appears to have been erected under permitted development rights and is being used for purposes incidental to an existing property it is not directly comparable.
29. The appellants appeal documentation refers to the appeal site as having contained the footprint to a former farmhouse, however the evidence in that regard is scant and in any event whatever structure was on the site appears to have been demolished a long time ago, with only remnants now to be found. In addition, reference was made to the site being a redevelopment of brownfield land, however as per PPW it is quite clear that the definition of previously developed/brownfield land excludes, as is the case here, any land/buildings currently in use for agricultural or forestry purposes, or land where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings.
30. The appellants have drawn attention to other benefits of the scheme such as its contribution to biodiversity, however these benefits or any others would not outweigh the significant conflict with local and national planning policy as identified above.
31. In support of their stance, the appellants referred to a Council policy entitled “Build Your Own Affordable Home”, however it was clarified at the hearing that this document emanated from the Council’s Housing Strategy Team and was not in fact a planning policy, and in any event the document refers to obtaining planning permission and satisfying the Council that the site is in a suitable location; this site is not in a suitable location for reasons previously identified.
32. The appellants sought to argue that as the LDP is being reviewed that development boundaries may change in favour of the proposed development, however, as confirmed at the hearing, that review process and in particular any boundary review is not likely to occur until 2024 and therefore it carries little weight at this moment in time in the determination of this appeal.

Conclusions

33. For the reasons given above, and having considered all other matters raised, I conclude that the appeal be dismissed.
34. In reaching my decision, I have taken account of 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 as required by section 8 of the Act.

Declan K Beggan

Inspector

APPERANCES

For the Appellants

Brian Kedward – Appellant

For the Local Planning Authority

Jo Draper – Planning Officer Monmouthshire County Council

Interested Parties

Philip Jane – Local resident

Stephanie Housty – Local resident

Mary Shipton – Local resident

Pamela and Clive Nancarrow – Local residents

DOCUMENTS SUBMITTED AT THE HEARING

1. A series of E-mails dated the 9 & 10/11/22 from the Council clarifying their stance in terms of a commuted sum payment related to affordable housing.
2. Block Plan Ref. 18/Cot01/008
3. E-mail dated 10/11/22 related to Council's Housing Strategy Team with the attachment entitled "Build Your Own Affordable Home".
4. E-mail dated 10/11/22 regarding the current position of the replacement LDP.
5. Three separate E-mails of 10/11/22 clarifying outstanding planning policies.
6. E-mail from the Council with plan attached entitled "Up to date list of plans".