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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 24/04/17

gan Mr A Thickett BA (Hons) BTP  
MRTPI Dip RSA

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 08.05.2017

## Appeal Decision

Site visit made on 24/04/17

by Mr A Thickett BA (Hons) BTP MRTPI  
Dip RSA

an Inspector appointed by the Welsh Ministers

Date: 08.05.2017

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**Appeal Ref: APP/E6840/A/17/3168423**

**Site address: The Old Smithy, 34 Maryport Street, Usk, Monmouthshire, NP15 1AE**

**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 Michael Farkas against the decision of Monmouthshire County Council.
  - The application Ref DC/2015/01588, dated 23 December 2015, was refused by notice dated 18 January 2017.
  - The development proposed is the conversion with alterations and extensions to former gallery to provide two dwellings.
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### Decision

1. The appeal is allowed and planning permission is granted subject to the conditions set out in the Schedule at the end of this decision.

### Main Issues

2. The main issues are the impact of the proposed development on highway safety and the living conditions of nearby residents with regard to the availability of on street parking.

### Reasons

3. No off street parking spaces are proposed to serve the proposed development. According to the Council's Parking Standards Supplementary Planning Guidance (SPG) one space is required for each bedroom. Each dwelling would have two bedrooms but the Council consider that a study in one of them could be used as a bedroom and therefore 5 parking spaces are required. The appellant disagrees but for the purpose of my assessment I will assume that the requirement is 5. Following the refusal of the appeal application the Council permitted the conversion of the gallery to a 4 bed dwelling. The SPG requires 3 parking spaces (the maximum sought no matter the number of bedrooms above 3). The building is currently vacant and in a poor state of repair but the existing permitted use would also require 3 spaces. The Council is clearly satisfied that a use requiring 3 parking spaces when none are provided on site is acceptable.

4. There was space for 5 or 6 cars between the site and the junction of Maryport Street and Church Street at the time of my visit and lots more space to the south of Old Market Street. Admittedly that was mid-morning when residents would have been at work but a survey carried out by the appellant shows capacity at the beginning and end of the working day. Further, the SPG recognises that standards should be applied flexibly and matters such as accessibility by foot and cycle will be taken into account. The site is a short walk from the shops and other facilities offered by Usk. The town has a small supermarket, a range of other shops and a primary school. Its facilities would meet day to day needs and, in my view, the SPG's standards should be applied flexibly in this case.
5. A number of houses on Maryport Street do not have off street parking and residents must be used to not always being able to park in front of their house. I do not consider that this proposal, which at most would require an additional two spaces, would lead to a significant increase in vehicle movements over and above that already considered to be acceptable or cause undue inconvenience to existing residents.
6. I conclude, therefore, that the proposed development would not have an adverse impact on highway safety or the living conditions of nearby residents and that it complies with Policies S16 and DES1 of the Monmouthshire County Council Local Development Plan 2011-2021, adopted 2014.

#### Other matters

7. The proposed extension to the building would be exactly the same as that permitted by the Council to accommodate the conversion of the building to a 4 bed house and I have read nothing to indicate that this planning permission would not be implemented were this appeal to fail. Both Nos. 32 and 36 have windows in the elevations facing the appeal site. The proposed extension would be set back from both boundaries and I agree with the Council that the relationship between the proposed development and neighbouring dwellings would be such that it would not have an unacceptable impact on the living conditions of the occupiers of Nos. 32 or 36.
8. The site lies within Usk Conservation Area. Again, the works to the building proposed in the appeal and permitted schemes are the same. I consider that they are sympathetic with regard to the building and the Conservation Area as a whole.

#### Conditions

9. I have considered the Council's suggested conditions in light of the advice in Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management. Given the site's location in a Conservation Area, flood zone and historic Usk, it is necessary to impose conditions relating to materials, archaeology and finished levels. I note that Dŵr Cymru seek a condition prohibiting the discharge of surface water into the public sewerage network. The conclusion in the appellant's Flood Consequences Assessment (FCA) that the site is well served by the existing surface water system is not disputed. Further, I see no need to duplicate the controls under Building Regulations. The Council require the development to be carried out in accordance with the appellant's FCA but, having considered the report, I see no need to require anything further beyond finished levels.
10. The appellant's ecological survey recorded potential bat roosts but no bats were seen or recorded on site. Nor were any nesting birds found. Notwithstanding these findings the Council require the provision for bat roosts and nesting birds. The Council refer to the Natural Environment and Rural Communities Act 2006 but that has been superseded in Wales by the Environment (Wales) Act 2016. Section 6(1) of that Act

states that a public authority '*must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions*'. Advice on the proper exercise of those functions in relation to the imposition of planning conditions is set out in the Circular. The Circular states that conditions may only be properly imposed where they meet the tests, including that they must be necessary. In light of the findings of the ecological survey the requirement in this case cannot, in my view, be said to be necessary in order for the proposed development to proceed.

### **Conclusions**

11. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.
12. 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.

*Anthony Thickett*

Inspector

## **Schedule**

### **APP/E6840/A/17/3168423**

The appeal is allowed and planning permission is granted for the conversion with alterations and extensions to former gallery to provide two dwellings at 34 Maryport Street, Usk, Monmouthshire, NP15 1AE in accordance with the terms of the application, Ref DC/2015/01588, dated 23 December 2015 submitted with it, subject to the following conditions:

- 1) The development shall begin no later than five years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans nos. 1034(01)15, 1034(02)15, 1034(03)15 Rev E and 1034(04)15.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved in writing by the local planning authority. Thereafter, the programme of work will be carried out in accordance with the requirements and standards of the approved scheme.
- 5) Finished floor levels shall be no lower than 17.3 metres above Ordnance Datum (AOD).