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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 22/03/18

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 01.06.2018

## Appeal Decision

Site visit made on 22/03/18

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

an Inspector appointed by the Welsh Ministers

Date: 01.06.2018

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**Appeal Ref: APP/E6840/X/17/3191589**

**Site address: 36 Leechpool Holdings, Portskewett, NP26 5TZ**

**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 Mr Robin Waite of Raw Engineering against the decision of Monmouthshire County Council.
  - The application Ref: DC/2017/01052, dated 25 August 2017, was refused by notice dated 22 September 2017.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is the use of a domestic garage within the property as working from home for the repair of agricultural machinery, not requiring separate planning consent, but ancillary within the overall dominant primary residential use.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. This is whether the Council's decision not to issue a certificate of lawful use was well-founded.

### Reasons

3. The appeal relates to the Council's decision to refuse a lawful development certificate for the use of a detached residential garage at No.36 Leechpool Holdings in Portskewett for the repair of agricultural machinery. The Council refused to issue a certificate on the basis that the use would fail to be incidental to the enjoyment of the dwelling house and that it would therefore represent a material change of use that would require planning permission. In contrast, the appellant contends that the development does not require planning permission as it would remain ancillary to the overall residential use of the property, with the use merely constituting 'home working'.
  4. Whilst the planning merits are not material to the determination of the appeal, it is useful to note that the dwelling represents a semi-detached property that forms part of a cluster of residential dwellings located within an otherwise rural area of
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Monmouthshire. The business use would be located within a double garage which comprises a pitched roof structure with a lean-to addition. The garage shares its vehicular access with the residential dwelling, is sited within the associated garden area and, at the time of my site inspection, contained an extensive selection of tools and plant machinery, including lawn mowers, strimmers, chainsaws and motorbikes. No large scale machinery was found at the site and it was noticeable that the restricted height of the garage would prevent the repair of tractors and other large scale machinery. Nevertheless, the evidence indicates that the repair of small and medium sized equipment would form part of the typical running of the business.

5. The appellant points to the fact that the business operates on a collection only basis and that the work would generally only involve the use of lightweight tools. Nevertheless, despite the appellant's claims that the use is more akin to a B1 use than that of a B2 assumed by the Council, there is little doubt that, given the nature of the business, even a visitor restricted operation would have potential to impact upon the residential character of the property and surrounding area. Indeed, there is a significant difference between a dwelling and the use proposed in this case, not least in terms of its effect upon visual amenity and noise generation. It is on this basis that I consider the proposed 'working from home' to be materially different to the typical examples of 'home working' from home offices referred within the appellant's evidence.
6. In this case, the business use would operate for approximately 6 hours per day between 09:00 hours and 18:00 hours, with a working week comprising up to 30 hours. Based on the foregoing, I consider that such an intensity of use would inevitably alter the overall character of the property such that it could not be considered as incidental to the enjoyment of the dwelling house. Indeed, the resulting planning unit would represent a mixed use that would require the benefit of planning permission. I have fully considered the time percentages referred within the appellant's evidence. However, whilst reflective of the fact that the residential use of the premises would continue, I do not consider that such calculations should be determinative to the assessment of whether or not the business use would remain ancillary to the overall residential use.
7. Whilst the foregoing analysis does not have any bearing on the planning merits of the proposed business use, it follows that the Council's decision to refuse to grant a certificate of lawful use or development in respect of the proposed use was well-founded and that the appeal should fail. Accordingly, I shall exercise the powers transferred to me under section 195(3) of the 1990 Act, as amended, and dismiss the appeal.

*Richard E. Jenkins*

INSPECTOR