
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 07/06/18

Ymweliad â safle a wnaed ar 07/06/18

gan **Joanne Burston BSc MA MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 22/06/2018

Appeal Decision

Hearing Held on 07/06/18

Site visit made on 07/06/18

by **Joanne Burston BSc MA MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 22/06/2018

Appeal Ref: APP/E6840/A/18/3193689

Site address: Oak Tree Farm, Old Quarry Road, Devauden NP16 6NS

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 Ms Judi James against the decision of Monmouthshire County Council.
 - The application Ref DC/2016/01219, dated 21 October 2016, was refused by notice dated 10 November 2017.
 - The development proposed is the siting of a temporary rural workers dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of a temporary rural workers dwelling at Oak Tree Farm, Old Quarry Road, Devauden NP16 6NS in accordance with the terms of the application, Ref DC/2016/01219, dated 21 October 2016, and the plans submitted with it, subject to the conditions set out in the annex to this decision.

Application for costs

2. At the Hearing an application for costs was made by Ms Judi James against Monmouthshire County Council. This application is the subject of a separate Decision.

Procedural

3. The description in the heading above is that given on the application form. The temporary dwelling was in place at the time of my visit and reflects the details submitted. I therefore intend to treat the appeal as one for planning permission for development as originally carried out. Given that the Council and nearby residents have referred to this issue in their submissions, I have considered the appeal on this basis and am satisfied that this has not prejudiced the interests of any other party.
 4. 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.
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Main Issue

5. The main issue in this case is whether a mobile home to serve as a temporary dwelling in association with a rural enterprise is justified.

Reasons

6. The appeal site lies in open countryside to the south of the village of Devauden and is situated within the Wye Valley Area of Outstanding Natural Beauty (AONB). It is part of approximately 5.66 hectares of agricultural land in the ownership of the Appellant. The agricultural building on the site has been constructed by the appellant, planning permission DC/2014/00858 refers. The site is accessed from the unclassified highway which runs adjacent to the south western boundary of the land. Permission is sought for the mobile home a short distance to the south west of the agricultural building. It would serve as temporary living accommodation for the Appellant and her son to enable them to develop a bull calf rearing business for young beef production which is operated from the site.
7. Although Planning Policy Wales (PPW) requires the strict control of new houses in the open countryside, Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities confirms in paragraph 4.3.1 that one of the few circumstances in which new isolated residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at, or close to, their place of work. Whether this is essential in any particular case will depend on the needs of the rural enterprise concerned and not on the personal preference or circumstances of any of the individuals involved. TAN 6 sets out a series of tests which are applicable in all circumstances.
8. Both the Council and the appellant brought a number of other appeal decisions to my attention. The majority of these cases were located in England¹, where both the national and local planning policy and guidance differs from that used in Wales, which limits the weight that I can attach to these cases.
9. Appeal reference APP/K6920/A/14/2229559, brought to my attention by the Council, relates to an agricultural dwelling to replace a temporary caravan in Caerphilly. The circumstances in that appeal are significantly different as it relates to a permanent dwelling and the Inspector had an absence of evidence that the business was financially sound and likely to remain so. In any case I have determined this appeal on its own merits.

Functional test

10. The raising of bull calves was confirmed to be a new enterprise. It was clear from the figures produced by the Appellant that the number of calves on the site would increase over time. Whilst the numbers had not reached the level anticipated in the documents submitted as part of the planning application, intakes of approximately 25 calves in batches across the year were now planned. It was estimated that there would be around 125 calves aged from birth (or from 1 week) and one year on site within 12 months following planning permission. This would result in groups of calves at different stages in the breeding cycle in order to ensure a continuous supply of young beef throughout the year.

¹ APP/U2235/A/92/208957; APP/Y1138/A/12/2172238; APP/C3105/A/14/2219525; APP/Y9507/A/14/2228641; APP/Y1138/W/16/3145647; APP/R3325/W/15/3005120; and APP/F4410/W/14/2214370

11. The calves would be housed initially in hutches until weaned at 16 weeks. The calves would then be put out to pasture until approximately 40 weeks of age. They would then be housed in the barn until 56 weeks, after which they would be slaughtered. However during harsh weather conditions all the animals would be kept in the barn.
12. The details given to the Hearing by the Appellant confirmed that the intensive livestock rearing system which is being practiced requires constant and regular monitoring of the animals during the day and night as their health can deteriorate rapidly. The regular intake of new calves and the potential this creates for the introduction of disease also increases the need for vigilance. The Appellant advised me that from the recent batch of calves bought at market, two were sick and needed continual care.
13. It was evident from the description given by the Appellant to the Hearing that the care of the calves was constant and a physical presence on the site allows her to react immediately when problems arise.
14. At the Hearing I was provided with police reports (Doc 3) of several incidents that had occurred on the enterprise. Furthermore a neighbouring farmer informed me that she had farm machinery stolen from her farm. Whilst electronic surveillance would be a way of remotely monitoring activity on the site for security purposes, I acknowledge that such measures would not be suitable to verify the health of the individual animals.
15. The Council referred to the potential grazing arrangements with neighbouring farms. The Council is concerned that such arrangements may not be forthcoming in practice and may put the appellant's enterprise in jeopardy. Nonetheless, from the evidence provided these arrangements are not uncommon and that sufficient grazing land is available within the enterprise should additional land become unavailable.
16. I am satisfied by the evidence that the young beef enterprise gives rise to situations where immediate, regular and unpredictable care throughout the year is required to safeguard the general welfare of the livestock housed permanently in buildings. On this basis I consider that the functional test has been met.

Time test

17. As the functional test has been met it is necessary to establish if there is a need for a full-time worker. It is clear from '*Practice Guidance: Rural Enterprise Dwellings*' which supports TAN 6, that the need for new accommodation must not relate to a part-time requirement, or a requirement that does not relate to the enterprise.
18. The figures provided by the appellant and confirmed by the Council's Agricultural advisor indicate that the labour required to tend the beef calves as expressed in Standard Man Days (SMD) does warrant a full time worker. However this would be when production had reached the target of 125 head of cattle. At present stock levels the enterprise would not to my mind require a full time worker.
19. However, it is the Appellant's intention to increase the number of calves to 125 within 12 months. From the given figures, the SMD required to tend this number of livestock, together with the grass crop from the land and general management and maintenance is equivalent to a full time worker.
20. At present the young beef calf enterprise does not merit a full time worker. However, the existing shortfall is relatively modest and would be met by the growth in the

number of calves forecasted in the next financial year. The appellant clearly demonstrates knowledge and understanding of all aspects of the business and has the relevant background as outlined by the letter of support from her previous employer. I also acknowledge the various farming awards that the appellant has received. Accordingly, from the information before me the appellant has the intention and ability to continue to develop the enterprise. On this basis I consider that the proposal justifies a temporary permission.

Financial test

21. The proposed farm gross margins and budget profit and loss accounts and a Quarterly Cash flow 2016 – 19 were submitted in evidence. Whilst the farm gross margins were based on published farm management data, the enterprise predicts a profit of some £26,000.
22. It is clear from the submissions that the Appellant has assets in addition to the land at the appeal site. Whilst these assets, which include several residential properties, are not related to agriculture, funds would be available to meet the costs of the mobile home. The projected accounts show the business is able to generate a profit in respect of the young beef calves. Furthermore the appellant's publicity activities, negotiations with the NHS (Doc 6), and support from some local businesses should help in the marketing of and facilitate increased demand for the end product.
23. The Council's Planning Committee in its consideration of the planning application found discrepancies in the financial information. However, these were addressed in part during the discussion at the Hearing. The accounts supplied set out the financial picture of the business operating from the site. Although I agree with the Council that the business is unlikely to provide a level of profit in year one to provide a living for one farm worker, the figures demonstrate that the business is moving towards adequate profitability. The budget forecasts also show that the business has good prospects of becoming economically sustainable within the next few years.
24. I am satisfied that the financial affairs of the business are sound and show the increasing profitability of the enterprise. Whilst the forecasted budget figures are limited and there is some uncertainty, I nevertheless consider that the evidence is adequate to justify a temporary permission.

Other dwelling test

25. Whilst there are no buildings on the holding which are capable of conversion to residential use, there are existing dwellings within a short distance of the site, however I did not see any for sale at the time of the Hearing. The Appellant contends that only a dwelling within sight and sound of the animals would be suitable.
26. In this respect I am aware of the security issues surrounding young beef calf enterprises and the need for vigilance in respect of this. Further I also note the potential disturbance to the occupiers of neighbouring dwellings in travelling to and from the site during the night.
27. I acknowledge the advantage of being within sight and sound of the animals and therefore the proposed site of the mobile home adjacent to the calf rearing building and hutches would be the best possible location. Although there are existing dwellings relatively close to the site, there were none available which were within sight and sound of the livestock building. The other dwelling test has therefore been satisfied.

Other normal planning requirements test

28. Matters relating to the effect on the character and appearance of the area, highway safety and ecology were raised by third parties.

Character and appearance

29. The site is in a prominent and elevated location within the AONB and is visible in the local landscape, particularly during winter months. Local residents have raised concerns regarding the effect of the proposed mobile home on the character and appearance of its surroundings.
30. The existing agricultural building is a typical Yorkshire boarded clad agricultural shed which is prominent in its surroundings. The mobile home is seen in the context of this existing building and is significantly smaller in scale. Whilst the temporary building is in place, the appellant is willing to clad the building with more appropriate materials to integrate it more effectively in the landscape. I consider that more sympathetic external materials would make the temporary building appear subordinate to the existing agricultural building and would assist in blending it into its agricultural surroundings. Moreover, given the temporary nature of this proposal and with suitable landscaping, its overall impact on the landscape would be mitigated. Such matters can be secured by appropriate planning conditions.
31. I note concerns raised regarding the stockpiled material resulting from the construction of the barn and the impact this has on the local landscape. Nevertheless, the appellant intends to reuse this material within her holding to repair access tracks and construct traditional stone walls. Therefore the stockpile will reduce over time and will avoid the appellant having to import / export materials to / from the site.
32. On this basis I consider that the proposed mobile home would not appear out of character with its location and surroundings and would conserve the natural beauty of the AONB.

Highway safety

33. The access into the site is positioned along a single lane carriageway where it also acts as a passing place. During my site visit, I found visibility to be acceptable and the alignment of the road would tend to reduce the speed of most drivers. Furthermore, given the low traffic flows generated by the enterprise I agree with the Highway Authority that the increase in traffic could be accommodated on the local highway network.

Ecology

34. I was informed that the application site is located between two units of the Cobblers Plain Meadow SSSI and the countryside is used by a wide range of fauna and flora. Nonetheless, the Council's Ecologist has raised no objections in this regard and I note that the land can already be grazed by livestock.

Planning balance

35. I am satisfied by the evidence that there is a firm intention and ability to develop the young beef calf enterprise. Although I have found that the proposal would satisfy the functional, other dwelling and other planning requirement tests set out in TAN 6, the financial and time tests have not been fully proven. In these situations TAN 6 states that it would be appropriate to test the evidence by granting permission for temporary accommodation for a limited period. On this basis I conclude that a mobile home to

serve as a temporary dwelling in association with a rural enterprise is justified, in accordance with PPW and TAN 6.

Conditions

36. I have had regard to the conditions suggested by the parties in the light of Welsh Government Circular 016/2014 *The Use of Planning Conditions for Development Management*. In view of the particular circumstances of the case, the occupation of the mobile home is restricted to the appellant and the permission is limited to three years. This is in line with the guidance in TAN 6 in respect of temporary accommodation.
37. The materials to be used on external surfaces of the mobile home are required to be confirmed, in the interests of the visual amenity of the site and its surroundings. The Council also suggested a condition requiring landscape enhancement measures. Whilst I accept that the landscaping may take some time to mature, given the location of the site within the AONB I consider the condition is necessary to conserve the AONB landscape.

Conclusions

38. For the reasons given above, and having had regard to all other matters raised, the appeal is allowed subject to the conditions set out in the annex to this decision.

Joanne Burston
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms Hannah Gibbs	Landmark Chambers, Barrister
Mr Marc Willis	Willis & Co., Agent
Mr Tony Coke	APA Consultants, Agricultural Advisor
Ms Judi James	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Cllr Giles Howard	Monmouthshire County Council
Cllr Philip Murphy	Monmouthshire County Council
Cllr Mat Feakins	Monmouthshire County Council
Cllr Ruth Edwards	Monmouthshire County Council
Mr Craig O'Connor	Planning Officer, Monmouthshire County Council

THIRD PARTIES

Cllr Bob Greenland	Monmouthshire County Council Councillor, representing the Devauden Ward
J Bowen	Local resident
C Morgan	Local resident
J Jones	Local resident
D Lucas	Local resident
A Straw	Local resident
M Coulthard	Local resident
L Coulthard	Local resident
R Fox	Fox Rural, Agricultural advisor to local residents
Mr Anderson	Supporter
Ms Willis	Supporter
D Blackmore	Supporter

Documents

Doc 1	Appeal Hearing notification letter, submitted on behalf of the Council.
Doc 2	Letter of support, dated 30 May 2018, submitted on behalf of the Appellant.
Doc 3	Covering letter enclosing police reports, dated 23 May 2018, submitted on behalf of the Appellant.
Doc 4	Fight against eviction for Riverside Young Beef, petition, submitted on behalf of the Appellant.
Doc 5	Monmouthshire Livestock Auctioneers Report, dated 6 June 2018, submitted on behalf of the Council.
Doc 6	Email trail relating to potential NHS contract, submitted on behalf of the Appellant.

Annex to appeal decision APP/E6840/A/18/3193689

Schedule of Conditions 1 – 3 inclusive:

- 1) When the temporary mobile home, hereby approved, ceases to be occupied by the applicant, Ms Judi James, or after a period of 3 years from the date of this decision, whichever is the earlier, the use hereby permitted shall cease and the mobile home, structures, materials and equipment brought onto the land in connection with the temporary accommodation shall be removed and not brought back onto site.

Within 12 months of that time the land shall be restored in accordance with a scheme submitted to and approved in writing by the local planning authority.

- 2) Within three months of the date of this decision details of the materials to be used in the construction of the external surfaces of the mobile home shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) Within 3 months of the date of this decision details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) details of all existing trees and hedgerows on the land;
 - ii) details of any existing landscape features to be retained, together with measures for their protection in the course of development;
 - iii) a specification of hard surface materials;
 - iv) details of the means of enclosure;
 - v) other vehicle and pedestrian access and circulation areas;
 - vi) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
 - vii) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; and
 - viii) a maintenance schedule for landscape planting, for a minimum period of three years.

The matters specified in i) – viii) shall be carried out in accordance with the approved details within the first planting season following the approval of the scheme by the local planning authority. The planting shall be maintained in accordance with the approved maintenance schedule for a minimum of three years from the time it is implemented.

END