



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 28/08/18

gan Paul Selby BEng (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 07/09/2018

Appeal Decision

Site visit made on 28/08/18

by Paul Selby BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 07/09/2018

Appeal Ref: APP/E6840/A/18/3203203

Site address: Beaulieu Barn, 25 The Kymin, Monmouth NP25 3SE

<p>The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.</p>
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- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr James Tuttle against the decision of Monmouthshire County Council.
 - The application Ref DC/2018/00091, dated 22 January 2018, was refused by notice dated 29 March 2018.
 - The application sought planning permission for Proposed conversion of redundant barn to provide new dwelling without complying with conditions attached to planning permission Ref DC/2007/01144, dated 8 February 2008.
 - The conditions in dispute are Nos 1, 2 and 3 which state that:
 1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995, as amended (or any order revoking and re-enacting that Order with or without modification) no development within Part 1 of Schedule 2 to the Order, shall be carried out on land to which this permissions relates, without express planning permission having first been obtained from the Local Planning Authority.
 2. No part of any wall of the existing building other than shown on the approved plans to be demolished shall be demolished without the prior written approval of the Local Planning Authority. Full details of any such work shall be submitted to the Local Planning Authority as part of any application for approval required by the condition.
 3. Before development commences details of the proposed means of enclosure shall be submitted to and approved in writing by the local planning authority. Notwithstanding the provisions of Article 3, Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order, 1995, as amended (or any Order revoking and re-enacting that Order with or without modification) no fence, wall or other means of enclosure other than any approved under this permission shall be erected or placed without the prior written approval of the Local Planning Authority.
 - The reasons given for the conditions are:
 1. This conversion is granted having regard to the Council's policies which relate to the conversion of redundant buildings in the countryside. If substantial extensions or alterations were necessary this development would not normally be favourably considered.
 2. This conversion is granted having regard to the Council's policies which relate to the conversion of redundant buildings in the countryside and the information supplied with the application. If substantial demolition and rebuilding are necessary the development may be beyond that which has been permitted.
 3. In the interests of visual amenity and to safeguard the appearance of the area.
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Decision

1. The appeal is allowed in part and planning permission is granted for Proposed conversion of redundant barn to provide new dwelling at Beaulieu Barn, 25 The Kymin, Monmouth NP25 3SE, in accordance with the terms of the application Ref DC/2018/00091, dated 22 January 2018, without compliance with condition numbers 1 and 2 previously imposed on planning permission Ref DC/2007/01144, dated 8 February 2008, and subject to the conditions set out in the schedule to this decision letter.

Application for costs

2. An application for costs was made by Mr James Tuttle against Monmouthshire County Council. This application is the subject of a separate Decision.

Main Issue

3. This is whether the conditions are reasonable and necessary in the interests of the protecting the character and appearance of the converted building and the Wye Valley Area of Outstanding Natural Beauty (AONB).

Reasons

4. Planning Policy Wales (PPW) says that conditions on a planning permission should only be imposed where, amongst other things, they are necessary and reasonable in all other respects¹. Further advice is provided in the Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' ('the Circular'), including on the use of conditions to restrict permitted development rights.
5. The appeal site is situated in attractive surrounds on the northwestern slopes of a hillside within the AONB. It lies close to public footpaths, including the Offa's Dyke National Trail, which bisects grazing land a short distance to the east. The immediate area, including the appellant's wider landholding, has a predominantly rural character, featuring fields, paddocks, agricultural buildings and substantial areas of woodland. Whilst a nearby cluster of well-sized dwellings also bear influence on the immediate area, these are well separated from the appeal site in visual terms, lying to the west of Good Neighbours Lane.
6. The site is occupied by a modest, stone-built barn which has been converted into a dwelling. Its limited curtilage, which contains a gravelled driveway and trees planted within a modest lawn, is bounded by low, visually permeable fences and/or established native hedgerows. The site is readily visible across the open fields to the east, and features prominently in a 'walking view' from the Offa's Dyke footpath. Its separation from other dwellings and the manner in which it is bounded by land in agricultural use contribute to the site's intrinsically rural character and appearance.
7. Subsequent to the barn's conversion to a dwelling, various structures have been constructed in the adjoining smallholding for agricultural or equestrian purposes. Although these collectively contribute to the developed character of the wider landholding, they clearly relate to a rural enterprise and are thus not perceived as overtly alien or intrusive elements of the wider pastoral landscape.
8. A two storey extension to the barn conversion has recently been granted planning permission by the Council (Ref: DC/2016/00287). The submitted drawings indicate

¹ PPW paragraph 3.5.2

that the extension would substantially increase the scale of the dwelling. Nonetheless, due to the immediate context and the permitted scheme's design, following implementation I am of the view that the appeal dwelling would appear as a working farmhouse, albeit an extended and modified one, rather than a domestic building or a new-build country residence.

9. The reasons given for imposing conditions 1 and 2 on the original barn conversion indicate that, had substantial extensions, alterations, demolition or rebuilding of the barn been required to convert it to a dwelling, permission would not have been granted. Whilst the Council's local policies have changed in the intervening period, the objectives of policy H4 of the Monmouthshire Local Development Plan (LDP) appear to be similar to that in place at the time of the original permission being granted. I note in particular criterion (d) of policy H4, which states that the more isolated and prominent the subject building, the more stringent will be the design requirements with regard to new door and window openings, extensions, means of access, service provision and garden curtilage, especially if located within the Wye Valley AONB.
10. Condition 2 seeks to ensure that the Council's written approval is obtained before any walls in the original barn are demolished or rebuilt. Whilst the appeal building is of some character there is little to indicate that it is visually or historically significant. The barn already appears to have been subject to considerable rebuilding and is likely to be subject to more following implementation of the permitted extension. Given this, further demolition/rebuilding on the remaining elevations would have little impact on its visual integrity. Its modest size and the screening provided by boundary foliage would further limit visual impacts associated with selective demolition or rebuilding.
11. Condition 1 removes permitted development rights for enlargements, improvements and other alterations to the dwelling. Paragraph 3.2.2 of PPW states that, save in exceptional circumstances, planning conditions should not be imposed which restrict or withdraw such rights. This stance is echoed by paragraph 5.105 of the Circular, which states clearly that there is a presumption against such restrictions.
12. It seems to me that the constrained curtilage would limit opportunities to substantially extend the barn under permitted development rights. Moreover, since this condition was imposed a considerable two storey extension to the original building has been permitted. Whilst I acknowledge that a less sensitively designed side extension to that permitted could be erected in its place, any extension constructed under permitted development rights would be of more modest scale and unlikely to be any more visually prominent than that already permitted.
13. Part 1 of Schedule 2 to the General Permitted Development Order grants permission for alterations such as changes to windows and allows the erection of outbuildings on Article 1(5) land. In practice the barn's modest scale would limit opportunities for substantially wider or taller windows, or additional windows, particularly at the more publicly visible first floor level. Further, given that the appearance of the extended building would change substantially following the implementation of planning permission ref: DC/2016/00287, fenestration changes to the original barn would, in themselves, not harmfully alter its appearance or character. The modest curtilage would also limit scope for the construction of any substantial outbuildings.
14. The permitted extension represents a material change to the site's circumstances. Whilst it has not yet been constructed I afford substantial weight to it as a fall-back position. I consider that, in the context of the extended dwelling, any changes to the original barn undertaken under permitted development rights would be perceived as relatively minor. Conditions 1 and 2 are thus no longer necessary or reasonable.

15. Condition 3 was also imposed for reasons of visual amenity. The appellant contends that boundary treatments constructed under permitted development rights, such as close boarded fences, would be restricted to 2 metres in height and thus screened by the taller hedgerows planted on the perimeter. That as may be, but were the condition to be deleted the hedgerows could be removed and fences erected in their place.
16. It might be that any replacement boundary treatments would have limited visual impact. Nonetheless, I consider there to be a strong possibility that they would have a substantially adverse visual impact. This is as a result of the overtly rural character of the appeal site and the adjoining land; the way in which the site protrudes from the lane into open fields; and the visual prominence of the site from nearby footpaths. Whilst the permitted extension would alter the property's appearance, it would retain an intrinsically rural character. The erection of visually impermeable fencing and/or boundary treatments composed of materials inappropriate to the rural setting would harmfully domesticate the site. Insensitive boundary treatments would also further clutter the wider landholding and would appear dominant and alien within this attractive and well-traversed rural setting, causing substantial harm to the natural beauty of the AONB. These factors amount to exceptional circumstances and warrant the removal of permitted development rights for fences, walls or other means of enclosure. They also justify the retention of existing boundary treatments which were approved prior to the implementation of the original permission.
17. For the reasons given above I conclude that conditions 1 and 2 are no longer necessary or reasonable. However, removing condition 3 would have the potential to cause substantial harm to the natural beauty of the AONB, contrary to the landscape aims of LDP policies H4 and LC4. I will therefore re-impose this condition, along with the other conditions (Nos 4 to 7) attached to permission ref: DC/2007/01144, so far as the same are still subsisting and capable of taking effect.

Other Matters

18. Local residents have drawn my attention to traffic levels on local roads, and potential impacts on accessibility or highway safety, but the removal of the three conditions would have a negligible impact on such matters. Some have raised concerns about additional homes or holiday lets in the area but, similarly, that is not what has been applied for. Commentary regarding the appellant's motivations is not a relevant planning concern. Whilst I also note that some residents support the removal of the three conditions on the basis that the appellant has demonstrated that he is committed to the site's sustainable management, the site's ownership could change. I afford these matters little weight.
19. I have had regard to the two appeal decisions submitted by the appellant. These are not easily comparable to the appeal scheme as both are English cases and thus subject to different national policy and guidance. Case ref: APP/Q4625/A/12/2170281 relates to development in the Green Belt, which is subject to specific tests, with a particular emphasis on preserving 'openness'. Case ref: APP/Y3615/A/11/2144286I appears to relate to a site lying within a predominantly residential area. The approach and judgement required in both circumstances differs substantively from an assessment of landscape and visual impacts on a rural site within an AONB, as is the case here. I therefore attach little weight to these two cited appeal decisions.
20. 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 accords with the Act's sustainable development principle through its contribution towards supporting safe, cohesive and resilient communities.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed in part. I will therefore grant a new planning permission without the disputed conditions 1 and 2, but subject to the others being re-imposed, including condition 3.

Paul Selby

INSPECTOR

SCHEDULE OF CONDITIONS

- 3) Before development commences details of the proposed means of enclosure shall be submitted to and approved in writing by the local planning authority. Notwithstanding the provisions of Article 3, Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order, 1995, as amended (or any Order revoking and re-enacting that Order with or without modification) no fence, wall or other means of enclosure other than any approved under this permission shall be erected or placed without the prior written approval of the Local Planning Authority.
- 4) The development shall be begun within 5 years from the date of this permission.
- 5) Where any species listed under Schedule 2 or 4 of the Conservation (Natural Habitats, & c.) Regulations 1994 (or any legislation revoking and re-enacting those Regulations with or without modifications) is present on site in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place in pursuance of this permission unless a licence to disturb any such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been produced to the Local Planning Authority.
- 6) The development hereby approved shall be implemented in accordance with the scheme shown on drawing no 04A. The scheme shall be retained in perpetuity unless written consent is granted by the Local Planning Authority authorising changes to the approved scheme.
- 7) Notwithstanding the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) lighting must be angled downwards and must not be placed above 2.3m above the ground level.