

Application Number: DM/2018/01339

Proposal: The implementation of consent DC/2014/00161 after storm damage, all details are to be reconstructed as original approved design

Address: Old Manor Cwrt B4233, Trothy Bridge to Pen-y-Parc, Llantilio Crossenny, NP7 8SU

Applicant: Mr. David Jones

Plans: All Drawings/Plans DA 02/01

RECOMMENDATION: Refuse

Case Officer: Ms Kate Bingham
Date Valid: 23.08.2018

This application is presented to Planning Committee as the agent acting on behalf of the applicant is a close relation to an officer working in the planning team at the Council.

1.1 APPLICATION DETAILS

1.2 The site has been used for agricultural storage as part of the former Llantilio Crossenny Estate for over 100 years. In the last 30 years it has been used for the storage of agricultural machinery. In 1989 planning permission was granted (application number T2342) to change the use from agricultural use to a petrol station, repair shop, M.O.T garage and car sales. We understand that permission was only implemented in part, namely the storage of vehicles, repairs and car sales from the yard. The site is within the Llantilio Crossenny Conservation Area.

1.3 The building was granted planning consent for conversion to visitor accommodation in 2014. Works commenced in December 2016. However, it was found that the condition of the building had deteriorated since the Structural Survey was undertaken in 2013 and after a period of poor weather, it was eventually decided to take the remaining structure down, primarily due to concerns for the safety of staff working on site. In February 2017, the Council was made aware that the building had been demolished and having visited the site, it was agreed that works should cease. It is considered that the consent has been lost as there is no building remaining to convert.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DC/2017/00147	Discharge of conditions 3 and 10 of planning permission DC/2014/00161		02.03.2017

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S1 LDP The Spatial Distribution of New Housing Provision
S10 LDP Rural Enterprise
S11 LDP Visitor Economy
S12 LDP Efficient Resource Use and Flood Risk
S13 LDP Landscape, Green Infrastructure and the Natural Environment
S16 LDP Transport
S17 LDP Place Making and Design

Development Management Policies

H4 LDP Conversion/Rehabilitation of Buildings in the Open Countryside for Residential Use
T2 LDP Visitor Accommodation Outside Settlements
NE1 LDP Nature Conservation and Development
DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
HE1 LDP Development in Conservation Areas
SD3 LDP Flood Risk

4.0 REPRESENTATIONS

4.1 Consultation Replies

Llantilio Crossenny Community Council - No comments received to date.

Glamorgan Gwent Archaeological Trust (GGAT) - The proposal will require archaeological mitigation:

Refer to response of May 2014 to DC/2014/00161, in which GGAT noted that information in the Historic Environment Record shows that the development area is less than 30m from a Scheduled Ancient Monument, Cadw reference MM094 Hen Gwrt Moated Site. This is a Medieval moated homestead site associated with the earlier settlement in the area, relating to use by the Bishops of Llandaff; with the church of St Teilo which has 6th century origins located east of the site. The scheduling description notes the likelihood of areas around the scheduled boundary within which related evidence may be expected to have survived.

The impact of the proposed work on the setting of the SAM is a consideration, however, visually there will be little difference in shape and mass although there will be cosmetic improvement. We note that originally the application was for the conversion of the existing building, however, we note that this has undergone damage and been demolished. It remains the case that any ground disturbance work for the development, including the installation of services, and any hard landscaping may encounter a buried archaeological resource relating to the Medieval activity in the immediate area, and this will need to be mitigated by investigation and recorded.

There has been no change to our understanding of the archaeological resource since our letter and therefore our advice remains the same. Consequently, we do not object to the positive determination of the current application, but recommend the attachment of a condition, requiring an archaeological watching brief to be undertaken, to any planning consent granted in respect to the current application, ensuring that the archaeological resource is properly investigated and a report containing the results of the work produced. This should include all ground breaking activities including works for foundations and for the provision of services.

Natural Resources Wales (NRW) - We do not object to the application as submitted and provide you with our advice below:

We have previously provided comments to an application on this site under reference DC/2014/00161 (our reference SE/2014/117449/01) where we provided advice regarding Flood Risk at this site. We understand this application is for the implementation of this consent. We have reviewed the submitted Flood Consequences Assessment 'JBA Consulting Technical Report which was previously submitted under application DC/2014/00161. This FCA represents the most up to date guidance at this site. Therefore, our previous response remains, and we do not object to the application.

MCC Planning Policy - The Welsh Government produced their latest Development Advice Maps on 21 January 2019, the site is wholly located in Zone C2 floodplain, as the proposal relates to a form of highly vulnerable development the development of the area within the Zone C2 floodplain for a residential use would be contrary to Policies S12 and SD3 as well as National Planning Policy Guidance set out by Welsh Government within TAN15.

In addition to this the proposal cannot be considered as a conversion as it relates to reconstruction, as such it is considered tantamount to new development in the open countryside. Policy LC1 states there is a presumption against new built development in the open countryside unless justified under national planning policy and/or LDP policies S10, RE3, RE4, RE5, RE6, T2 and T3 for the purposes of agriculture, forestry, 'one planet development', rural enterprise, rural/agricultural diversification schemes or recreation, leisure or tourism. Policy LC1 also provides a number of criteria that must be met in the exceptional circumstances listed. The proposed development would not be considered as any of these exceptional circumstances. The proposal would not meet the requirements of Policy T2 which relates to visitor accommodation outside settlements, as it is located outside a town/village development boundary and is not linked to a medium or large hotel.

4.2 Neighbour Notification

Two representations received. Object on the following grounds:

1. We are the property downstream from the site marked on the flood risk maps. I believe any development on this plot will most certainly aggravate the flood risk and the banks of the brook have been breached at least four times in the last 10 years that we've lived here, so the 1 in 100 year risk is definitely inaccurate.
2. Environmental concerns about building so inappropriately close to the brook. There are otters, kingfishers, dippers, grey wagtails etc., which will be affected.
3. How can appropriate private drainage / sewerage be arranged for so many people on such a small site? Surely standard cesspits can't cope with high visitor numbers? I would be very scared about leakages/ overflows of waste material so close to the brook.
4. Believe the applicant rightly lost planning application for this site because the building was completely demolished and was very surprised to see this current application so long after planning was withdrawn. The building was demolished by the applicant many months before January 2017 and to claim otherwise is completely untrue. Demolition was haphazard and disorganised with debris including stone and sheets of corrugated iron ending up down the bank and in the stream itself.
5. There was no "catastrophic event" as claimed in the report by the applicant. I think living so close to the site we would have been subject to this too! The only wind damage on the site was to some scaffolding covered in plastic sheeting which had been erected after block laying began and long abandoned.
6. Has the Council seen the advice given by a Construction Health and Safety Specialist as quoted in the Report?
7. The claim that the applicant has "suffered considerable financial impact" as a result of the Council's stance and the figures quoted to support this is at best a gross exaggeration. I firmly believe that the report is a complete fabrication.

5.0 EVALUATION

5.1 Principle of the proposed development

5.1.1 The location of the site alongside Offa's Dyke path provides an opportunity to attract some of the many walkers who use the path on a daily basis and therefore provide the site with a long term sustainable economic use. The new building has been designed to accommodate large family groups or friends in walking parties.

5.1.2 Monmouthshire Destination Development Plan (2012 -2015) specifically mentions the need to develop visitor accommodation. This development also supports the Brecon Beacons National Park - Abergavenny Sustainable Tourism Action Plan (draft 2014). It is also consistent with other local and national tourism strategies that state that there is a shortage of such accommodation. The proposal is also broadly supported by Strategic Local Development Plan (LDP) Policies S10 and S11. However, in terms of the more detailed Development Management Policies of the LDP, Policy T2 applies, relating to visitor accommodation outside settlements, where self-catering visitor accommodation will only be permitted if it consists of the re-use and adaptation of existing buildings. Since the building that was to be converted is no longer present, then the application fails to meet the criteria of Policy T2 of the LDP.

5.1.2 Whilst it is not contested that the demolition of the building was inadvertent and led to no financial gain for the applicant, the fact remains that the building no longer exists and there is nothing remaining to convert. As such any application to implement the previous scheme would effectively be for a new building in the open countryside which would be contrary to Policies LC1 and T2 of the Local Development Plan.

5.1.3 Attention has been drawn by the applicant to some court cases where similar issues have arisen. However, it is considered that none of these were directly comparable with the circumstances of the application site and therefore officers maintain their stance that to re-build the structure would be contrary to national, regional and local policy and should therefore be resisted.

5.1.4 It is noted that in the report submitted by the applicant they state that if consent for new build tourist accommodation is not forthcoming then the applicant intends to reinstate the use of the site as a garage. However, it is considered that this fallback position does not exist, because the garage building use had ceased and the building itself no longer exists. Rebuilding it would require planning permission.

5.2 Design

5.2.1 The original proposal that was approved involved conversion of the original building to holiday accommodation. In all respects the end use and external appearance of the current proposal would be exactly as agreed with MCC under the previous consent. The previously approved scheme involved the replacement of substandard external materials and the introduction of large glazed areas, both of which would have improved the appearance of the original building.

5.2.2 The application is now effectively for a new building in the open countryside and would therefore also fall to be considered under Policy LC1 of the LDP. This states that there is a presumption against new built development in the open countryside, unless justified under national planning policy and/or LDP policies S10, RE3, RE4, RE5, RE6, T2 and T3 for the purposes of agriculture, forestry, 'one planet development', rural enterprise, rural / agricultural diversification schemes or recreation, leisure or tourism. In this case it is not considered that the proposal to reconstruct the building would fall into any of these categories and therefore should also be refused on the grounds that it is contrary to Policy LC1.

5.3 Flood Risk

5.4.1 A Flood Risk and Modelling Survey has been undertaken by JBA consulting in support of the application although no flooding has taken place on this site in living memory and the stream is positioned some 1.5 – 2m below the developable part of the site and there is a manmade bund that runs along part of the site. The full flood modelling survey shows there will be no flooding of

the site even in the most extreme conditions. The Council's statutory consultee on flooding matters is NRW who has reviewed the information supplied by the applicant in support of the application and has offered no objections.

5.4.2 The application site, however, lies entirely within Zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the White Castle Brook. The proposed tourist accommodation is considered as a form of 'highly vulnerable development' and therefore must meet the requirements of TAN15. This includes an appendix that provides that the following criteria should be met for highly vulnerable development (houses) to be considered acceptable:

- 1) Should be located only in an area of flood risk which is developed and served by significant infrastructure, including flood defences (Zone C1 of the DAM) AND
- 2) Its location is necessary to assist a local authority regeneration initiative or strategy¹, or contribute to key employment objectives, necessary to sustain an existing settlement or region AND
- 3) The site meets the definition of previously developed land (i.e. it is not a Greenfield site) and concurs with the aims of Planning Policy Wales (i.e. the presumption in favour of sustainable development). AND
- 4) A Flood Consequence Assessment has been produced to demonstrate that the potential consequences of a flood event up to the extreme flood event (1 in 1000 chance of occurring in any year) have been considered and meet the criteria below in order to be considered acceptable.

The guidance is clear that all criteria must be met. As the application site is within Zone C2 flood plain then the proposal would not be compliant in this case and the application should be refused because it does not comply with the requirements of TAN15.

5.4.3 The proposed development would result in residential development being located in a high flood risk area which would be contrary to national and local planning policies relating to flood risk. The planning history of the site would not override national planning guidance within TAN15 and current adopted Planning Policies S12 and SD3 of the LDP.

5.5 Residential Amenity

5.5.1 There are no residential properties within close proximity of the application site that are likely to be affected by the proposed development. The application site is at least 120m from the nearest dwelling and also separated by a group of protected trees.

5.6 Ecology

5.6.1 A full bat survey was completed in August 2013 and indicated the existence of six Pipistrelle bats. A licence from NRW would therefore have been required from NRW. Mitigation and enhancement was proposed to be put in place both during construction and also as a permanent feature within the proposal in line with para 10.17 of the report. Bat boxes would be placed in the nearby trees during construction, but would remain in situ in perpetuity. In addition a small area is proposed to be used within the holiday let to accommodate the bats permanently in accordance with the Bat licence consent.

5.7 Well-Being of Future Generations (Wales) Act 2015

5.7.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

6.1 RECOMMENDATION: REFUSE

Reasons for refusal:

1 Since the original building has been demolished, the implementation of the previous scheme would be a new building for tourist accommodation in the open countryside which would therefore be contrary to Policy LC1 and T2 of the Monmouthshire Local Development Plan (LDP).

2 The development would result in the location of highly vulnerable development in Flood Zone C2 as identified by development advice maps referred to under Technical Advice Note 15 - Development and Flood Risk. The proposal, therefore, would increase the risk of adverse flooding consequences and would be contrary to advice contained in Technical Advice Note 15 and policies S12 and SD3 of the LDP.