



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 12/12/18

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27.02.2019

Appeal Decision

Site visit made on 12/12/18

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

an Inspector appointed by the Welsh Ministers

Date: 27.02.2019

Appeal A - Ref: APP/E6840/C/18/3213586

Site address: Land at Unit 4 Former Redchillies Thai and Indian Restaurant, Five Lanes North, Five Lanes, Caerwent, Monmouthshire, NP26 5PE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr C Pryce against an enforcement notice issued by Monmouthshire County Council.
 - The enforcement notice, numbered E18/085, was issued on 12 September 2018.
 - The breach of planning control as alleged in the notice is described on the Enforcement Notice as: Garage not built in accordance with plans approved under application DC/2017/00728.
 - The requirements of the notice are described on the Enforcement Notice as: Demolition of the existing garage and reconstruction in accordance with Plan No. PL05C approved under application DC/2017/00728.
 - The period for compliance with the requirements of the Notice is six months from the date that it takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Appeal B - Ref: APP/E6840/A/18/3213595

Site address: Redchillies Thai and Indian Restaurant Residential Quarters, Five Lanes North, Five Lanes, Caerwent, NP26 5PE

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 C Pryce against the decision of Monmouthshire County Council.
 - The application Ref: DM/2018/00707, dated 29 April 2018, was refused by notice dated 5 September 2018.
 - The development proposed is an application to retain amendments to approved application DC/2017/00728.
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Decision

Appeal A - Ref: APP/E6840/C/18/3213586

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the
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construction of the garage not built in accordance with the plans approved under application DC2017/00728 at Land at Unit 4 Former Redchillies Thai and Indian Restaurant, Five Lanes North, Five Lanes, Caerwent, Monmouthshire, NP26 5PE.

Appeal B - Ref: APP/E6840/A/18/3213595

2. The appeal is allowed and planning permission is granted for the retention of amendments to approved application DC/2017/00728 at Redchillies Thai and Indian Restaurant Residential Quarters, Five Lanes North, Five Lanes, Caerwent, NP26 5PE in accordance with the terms of the application Ref: DM/2018/00707 dated 29 April 2018.

Application for Costs

3. An application for costs has been made by Mr C Pryce against Monmouthshire County Council (the LPA or Council). This application is the subject of a separate decision.

Procedural and Preliminary Matters

4. There are two appeals at the site, both of which include matters relating to the construction of a residential garage without compliance with the plans approved under application Ref: DC/2017/00728. Whilst I shall consider each case on its own particular merits, to avoid any duplication, I shall deal with the appeals together in this document, with separate formal decisions set out above.
5. Plans depicting the as-built garage have been submitted in support of the appeals. However, as minor discrepancies on those drawings were identified at the time of my site inspection, I shall determine the appeals based on the development found on site, rather than that proposed on the submitted plans. As the proposals clearly seek to regularise the as-built development, there is no prejudice in this respect.
6. It is likely that the scheme approved under LPA Ref: DC/2017/00728 would be implemented should both Appeal A and Appeal B be dismissed. As such, I shall consider the appeal scheme within the context of this lawful fall-back position.

Main Issues

7. These are the effect of the development upon: the character and appearance of the area; and the living conditions of the occupiers of neighbouring residential properties, with particular reference to outlook.

Reasons

8. The approved garage would comprise a detached double garage with separate ancillary utility room that would incorporate a stepped design. In contrast, the as-built garage represents a more basic structure with a larger rectangular footprint. It also incorporates an increased eaves and ridge height that facilitates the provision of living accommodation in the roof space. Nevertheless, despite a noticeable increase in eaves height, the increase in the overall ridge height is modest and its revised positioning cannot be ignored. Indeed, the as-built garage is set-back from the public highway relative to the approved scheme, meaning that it partially overlaps the front building line of the main dwelling and is therefore located in a less prominent position. There is little doubt that the garage remains a large and dominant structure that is clearly visible whilst travelling in an easterly direction along the A48. However, by virtue of its less prominent siting, coupled with the fact that the increase in ridge height is only modest, I do not consider the as-built development to represent a

materially more prominent or visually harmful form of development than what would be the case if the fall-back position was to be implemented.

9. The as-built garage is partially screened from the east by a mature and substantial hedgerow located along the shared boundary with Wern House. The revised siting of the as-built garage also means that from such vantage points the development is seen, at least in part, up against the eastern elevation of the main dwelling. Concerns have been raised regarding a loss of outlook at Wern House. However, whilst I note the increase in eaves height, I do not consider that the development creates any significant overbearing impacts, not least because the overall increase in height is relatively modest, with a driveway separating Wern House from the shared boundary and the pitch of the as-built garage roof sloping away from the adjacent property. The garage is also set further away from both the public highway and the shared boundary with Wern House than that of the approved scheme, meaning that the development does not serve to materially reduce the outlook from Wern House relative to the scheme already approved by the LPA.
10. Appeal B seeks planning permission to '*Retain amendments to Plot 4 approved under LPA application Ref: DC/2017/00728*'. In that respect, it has a wider scope than Appeal A which is confined to the as-built garage which comprises the focus of the Enforcement Notice. However, it is notable that the objections received from both the Council and interested parties are focussed on the effect of the as-built garage and I have not seen anything to lead me to raise wider concerns through the determination of this appeal. Indeed, I am satisfied that the other amendments to LPA Ref: DC/2017/00728, that include relatively minor variations to the pattern of fenestration and use of materials, do little to injuriously alter the character and appearance of the approved dwelling or indeed the wider area.
11. Based on the foregoing I find that, despite the substantial scale of the as-built garage, the amendments to the development approved under Ref: DC/2017/00728 do not cause material harm to the character and appearance of the area or the living conditions of the occupiers of neighbouring residential properties by reason of loss of outlook. It therefore follows that there is no conflict with Policy S17, Policy DES1b), c) and d), or Policy EP1 of the adopted Monmouthshire County Council Local Development Plan (LDP). For the same reasons, I also find no conflict with the general thrust of the planning policy framework set nationally.
12. I therefore conclude that Appeal A should be allowed and that the associated Enforcement Notice should be quashed. Planning permission should be granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out. For the same reasons, Appeal B should also be allowed. In coming to these conclusions, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that these decisions are in accordance with the sustainable development principle through their contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR