

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 17/06/19

gan Richard E. Jenkins BA (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 18.09.2019

Appeal Decision

Site visit made on 17/06/19

by Richard E. Jenkins BA (Hons) MSc
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 18.09.2019

Appeal Ref: APP/E6840/A/19/3226382

Site address: 24 Belgrave Road, Abergavenny, NP7 7AL

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 Owen Dobbs against the decision of Monmouthshire County Council.
 - The application Ref: DM/2018/01610, dated 2 October 2018, was refused by notice dated 1 February 2019.
 - The development is proposed new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are: whether the development represents an acceptable form of development having regard to its flood zone location; and whether a financial contribution towards affordable housing is necessary.

Reasons

Development and Flood Risk

3. The appeal site is located within the Zone C2 flood zone, as defined by the Development Advice Maps associated with Technical Advice Note 15: *Development and Flood Risk* (2004) (TAN15). The development proposed also represents highly vulnerable development for the purposes of that document. Paragraph 6.2 of TAN15 states that new development should be directed away from Zone C and towards suitable land in Zone A, otherwise to Zone B, where river or coastal flooding would be less of an issue. It also goes on to state that, in Zone C, the tests outlined in sections 6 and 7 of the TAN will be applied, recognising however, that highly vulnerable development in Zone C2 should not be permitted.
 4. Notwithstanding the clear and obvious in-principle conflict with TAN15, the appellant has submitted a Flood Consequence Assessment (FCA) to demonstrate the practical consequences of a flooding event. That document concludes, amongst other things, that the site would only flood in the most extreme flooding events and that the site would remain flood free for the vast majority of flooding events during the lifetime of the proposed development. Nevertheless, the requirement for an FCA stems from the
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tests set out in paragraph 6.2 of TAN15 which relate to all other new development and do not, therefore, apply to proposals for highly vulnerable development within a Zone C2 location. Accordingly, I do not consider the in-principle policy conflict to be justified by the appellant's application of the criteria set out at paragraph 6.2 of TAN15 which, amongst other things, requires the practical consequences of a flooding event to be found acceptable.

5. I recognise the fact that Natural Resources Wales (NRW) does not explicitly object to the proposed development. Indeed, it concluded that the consequences of a flooding event could be managed to an acceptable level through the imposition of planning conditions. Nevertheless, NRW has confirmed its understanding that the justification tests set out within paragraph 6.2 of TAN15 do not apply to highly vulnerable development proposed within Zone C2 and it remains a matter for the decision maker to attribute necessary weight to the in-principle policy conflict. It is for this reason that NRW's representations do not persuade me to alter my overall conclusions. I note the fact that the site has previously benefited from a grant of planning permission for a residential dwelling and I have considered the fact that the proposed development would represent a form of infill development. However, the former planning permission has since expired without implementation and does not therefore represent a lawful fallback position. Moreover, given the fact that the existing dwellings within the vicinity are likely to have been permitted under a different policy framework, I do not consider that they weigh heavily in favour of the development.
6. Based on the foregoing, I conclude that the proposed development is unacceptable in principle given its status as highly vulnerable development within a C2 Flood Zone. It would therefore represent a clear departure from national planning policy set out in Planning Policy Wales (Edition 10, 2018) (PPW) and TAN15. For the same reasons, it would also run counter to the general thrust of Policy SD3 of the adopted Monmouthshire County Council Local Development Plan 2011- 2021 (2014) (LDP).

Affordable Housing

7. It is a basic principle of Policy S4 of the adopted LDP that all residential developments should make a contribution to the provision of affordable housing. In this case, the contribution has been calculated as a financial contribution amounting to £22,060. No Section 106 agreement or unilateral undertaking has been submitted to facilitate the delivery of such affordable housing contributions and I have not seen any cogent evidence to demonstrate that the proposed development would be exempt from such contributions by reason of financial viability or the self-builders' exemption provided by Section B.2. of the Council's adopted Supplementary Planning Guidance document entitled '*Affordable Housing*'. The development proposed therefore conflicts with the aims of both Policy S4 of the adopted LDP and the general thrust of national planning policy set out in PPW and Technical Advice Note 2: *Planning and Affordable Housing* (2006) (TAN2).

Overall Conclusions

8. For the aforementioned reasons, I have found that the proposed development would conflict with both adopted development plan and national planning policy relating to both flood risk and the delivery of affordable housing. Such harm and policy conflict is not outweighed by the matters in favour of the development, including the obvious contribution that the development would make to the Council's housing land supply. Indeed, the matters that weigh against the proposed development amount to a compelling reason why planning permission should not be granted in this instance and it is for this reason that I conclude that the appeal should be dismissed.

9. 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 this decision is in accordance with the sustainable development principle through its 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