



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 20/09/19

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 07.10.2019

Appeal Decision

Site visit made on 20/09/19

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 07.10.2019

Appeal Ref: APP/E6840/A/19/3231697

Site address: Yew Tree Cottage, Raglan to A449, Raglan NP15 2HY

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 Mark Handcock against the decision of Monmouthshire County Council.
 - The application Ref DM/2019/00218, dated 12 February 2019, was refused by notice dated 11 July 2019.
 - The development is a proposed two bedroom bungalow on previous demolished dwelling site.
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Decision

1. The appeal is dismissed.
2. Procedural Matters
3. 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 objectives of driving sustainable growth and building resilient communities.

Main Issues

4. The main issue in this appeal is whether the proposal is acceptable in principle, having regard to the development plan, in particular: development in the countryside; flood risk; and the provision of affordable housing.

Reasons

5. Development in the countryside
 6. The appeal site forms part of the garden to Yew Tree Cottage. It is an irregular shaped parcel of land which slopes downwards from the highway towards fields beyond. It is nestled within the local topography and bounded on all sides by established hedges and mature trees. At the time of my site visit, the appeal site appeared as a domestic garden; it was set to grass, contained an outbuilding and some domestic paraphernalia. The site is accessed via a five-bar wooden gate from the highway.
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7. I am required to have regard to the development plan in considering this appeal, and to make my determination in accordance with the plan unless material considerations indicate otherwise. In this regard the Council draws attention to policies of the Monmouthshire Local Development Plan, adopted in February 2014, (LDP). In particular LDP Policy S1 sets out the spatial distribution of new housing provision in order to drive sustainable growth.
8. As the site is situated outside any settlement boundary, as defined in the LDP, it is therefore within the open countryside for planning purposes. In these circumstances Policy S1 allows the following types of development: acceptable conversions; sub-divisions of existing dwellings; and dwellings necessary for rural workers.
9. From the evidence before me the only relevant circumstance is 'acceptable conversions'. In this respect the appellant refers to the foundations of an earlier dwelling which was demolished in the 1960's. Whilst I do not dispute the existence of this dwelling, I consider that the proposal would require substantial reconstruction and thus tantamount to a new dwelling in the countryside and not an acceptable conversion.
10. I also note that the appellant states that due to the existence of the demolished dwelling the site should be considered as brownfield land, or Previously Developed Land (PDL) rather than 'open countryside'. However, as set out in Planning Policy Wales, edition 10 (PPW) sites where the remains of any structure have blended into the landscape over time so that they can be reasonably considered part of the natural surroundings are excluded from the definition of PDL.
11. Accordingly, I do not find the proposal to be consistent with local policies relating to the location of new housing development and, as such, would be contrary to LDP Policy S1.
12. Flood risk
13. PPW aims to minimise and manage environmental risks and pollution and contains relevant policies on flood risk. Paragraph 6.6.22 states that "*Flooding as a hazard involves the consideration of the potential consequences of flooding, as well as the likelihood of an event occurring. Planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers.*" Paragraph 6.6.25 asserts that "*Development should reduce, and must not increase, flood risk arising from river and/or coastal flooding on and off the development site itself.*" And paragraph 6.6.26 sets out that "*TAN 15: Development and Flood Risk should be referred to for further policy advice on development and flood risk.*"
14. The site lies partially within Flood Zone C2, as defined on the Development Advice Maps (DAMs) that accompany the Welsh Government's Technical Advice Note 15: Development and Flood Risk (TAN15). Flood Zone C2 is defined as areas of the floodplain without significant flood defence infrastructure, and TAN15 prescribes that 'highly vulnerable development', which includes all residential premises, should not be permitted in such zones. Thus, the proposal is contrary to the principles of this national policy.
15. TAN15 para 6.2 states "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 will be less of an issue. In zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and Emergency Services in zone C2 should not be permitted." This recognises that some flexibility is

necessary to enable the risks of flooding to be addressed whilst recognising the negative economic and social consequences if policy were to preclude investment.

16. However, the appellant has not submitted a Flood Consequences Assessment (FCA)¹ to demonstrate how the flood risk to the proposed development, or any increased flood risk elsewhere as a result of the development can be suitably managed or mitigated. Therefore, the proposal would be contrary to PPW, TAN15 and LDP Policy SD3 which aim, amongst other matters, to direct new development away from areas at high risk of flooding.
17. Affordable housing
18. LDP Policy S4 requires all new open market housing developments to make appropriate contributions to the provision of affordable housing. Whilst the appellant states that such contributions are not relevant as the proposed development is for his family use only, an exception for such personal circumstances is not cited within the policy or its explanatory text. Furthermore, I have no evidence before me as how the proposal would meet the '*Build your own affordable home*' policy. Accordingly, given the need for affordable housing as set out in the LDP, a financial contribution of £22,442 would be required².
19. The Council makes it clear that a section 106 legal agreement will be required. Nevertheless, there is no section 106 obligation in place, either by way of agreement entered into with the Council or alternatively by way of unilateral undertaking. I find this to be a fundamental obstacle to allowing the appeal and granting permission for the development at this point in time.
20. Consequently, I conclude on this issue that the absence of a completed legal agreement to secure appropriate contributions towards affordable housing provision causes the proposal to be in conflict with the requirements of LDP Policy S4.
21. Conclusions
22. The appeal proposal would involve the construction of a new dwelling outside the boundary of any settlement and partially within flood zone C2. In the absence of a justification I have found this development to be unacceptable in principle having regard to the development plan and all other material considerations.
23. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.
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25. Joanne Burston
26. INSPECTOR

¹ TAN15 specifies that this assessment must be undertaken by a suitably qualified person.

² As set out in correspondence dated 29 March 2018 from the Council's Senior Strategy and Policy Officer.