

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 22/09/15

Ymweliad â safle a wnaed ar 22/09/15

**gan Declan Beggan BSc (Hons) DipTP
DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 01/12/15

Appeal Decision

Hearing held on 22/09/15

Site visit made on 22/09/15

**by Declan Beggan BSc (Hons) DipTP
DipMan MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 01/12/15

Appeal Ref: APP/E6840/C/15/3049676

Site address: Clawdd y Parc Farm, Llangybi, Usk, NP15 1NY

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 Act).
- The appeal is made by Mr Arun Patel against an enforcement notice (EN) issued by Monmouthshire County Council.
- The Council's reference is E15/049.
- The notice was issued on 1 May 2015.
- The breach of planning control as alleged in the notice is 'unauthorised operational development comprising of works to convert barns not in compliance with planning permission DC/2009/00783 and DC/2012/00476 outlined in orange on the attached plan'.
- The requirements of the notice are:
 - A) Cease the unauthorised construction works
 - B) With regard to DC/2012/00476:-
 - Remove render on the north elevation gable as shown on approved drawing 12-007-PL-02 Revision A outlined in blue.
 - Remove render on south elevation as shown on approved drawing 12-007-PL-02 Revision A outlined in blue
 - Replace all windows and doors with painted timber windows and doors as specified on approved drawing 12-007-PL-02 Revision A
 - Remove fascias and soffits and replace with dark grey painted timber fascias and soffits as specified on approved drawing 12-07-PL-02 Revision A
 - Replace rainwater goods with black painted galvanised steel rainwater goods as specified on approved drawing 12-007-PL-02 Revision A
 - Replace door on south elevation with timber door as shown on approved drawing 12-007-PL-02 Revision A.
 - Plant hedgerow as shown on approved drawing 12-007-PL-02 Revision A
 - Remove garden area to the south of the barn and implement the hard landscaped courtyard as shown on approved drawing 12-007-PL-02 Revision A
 - C) With regard to DC/2009/00783:-
 - Remove block work walls shown in green on approved plan 1114 008 Revision B
- The periods for compliance with the requirements are,
 - A) 1 day from the date the Notice takes effect
 - B) 3 calendar months from the date the Notice takes effect
 - C) 3 calendar months from the date the Notice takes effect
- The appeal is proceeding on the grounds set out in section 174(2), (a) of the Act. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under Section 177(5) of the Act falls to be considered.

Decision

1. The appeal is dismissed and the EN is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

2. The appeal site is located in undulating open countryside within the Usk valley, approximately 2 Km to the west of the settlement of Llangybi. The barns the subject of this appeal form part of a complex of buildings that include a farmhouse and former agricultural buildings which have either been converted to residential use or have an extant permission for such a use. In addition to these buildings there are other agricultural buildings, one of which has an extant planning permission for conversion to horse stables along with an area of land nearby to be used as a manège, whilst the other agricultural building is a steel framed Dutch barn which is in a very dilapidated condition; these buildings when viewed with the complex of stone buildings add to the agricultural character and appearance of the area. The barns are set back approximately 120 metres from the road that leads to Llangybi. The site is in clear view of a public footpath that runs in close proximity to the complex of buildings.
3. Planning permission was granted in 2010 for the extension of the existing farmhouse and the residential conversion of 4 barns¹. This permission, which commenced in 2010, included the two barns which are the subject of this appeal. Subsequently in 2012, one of the barns referred to in the EN was granted another planning permission² for its redesign to allow for an extension and other works; for ease of reference hereafter referred to as barn 1, with the other barn granted under the 2010 permission referred to as barn 2. The conversion and extension works carried out on both barns differ materially from that given planning permission in 2010 and 2012, resulting in the serving of the EN to which this appeal relates.

The appeal on ground (a) and the deemed application

4. In accordance with section 177(5), the planning permission sought is derived from the terms of the allegation in the notice, in this instance the conversion and extension of former agricultural barns to residential use. At issue is the effect of the development on the character and appearance of the area taking account of policies DES1, H4 and S17 of the Monmouthshire County Council Local Development Plan adopted in 2014 (LDP), and guidance contained within the document entitled 'Conversion of Agricultural Buildings Design Guide Supplementary Planning Guidance' (SPG).
5. The appellant has provided an alternative set of drawings in relation to the deemed application and has requested that these form the basis of my determination. The plans seek permission for conversion works as built to allow for the following works;
 - Retention of the fitted aluminium framed doors and windows on barn 1
 - Retention of the fitted aluminium framed door on the south elevation of barn 1

¹ Planning permission Ref. DC/2009/00783, granted 30 April 2010 for the proposed extension to farmhouse and residential conversion of 4 barns

² Planning permission Ref. DC/2012/00476, granted 9 November 2012 for the redesign of barn 1 (approved under DC/2009/00783) to include an extension to provide a kitchen/dining area, air heat source pump enclosure and associated landscaping.

- Retention of grassed garden area to south of barn 1
 - Retention of extension sited on the northern elevation of barn 2 with amended roof and other works
 - Retention of new extension to barn 2 to provide for a kitchen with amended roof and other works
6. In all other respects the alternative set of drawings would comply with the development permitted by the Council under the 2010 and 2012 planning permissions, and would comply with the other requirements of the EN. It is established law that permission can be given at appeal, for all or part of a development, providing that the resultant permission is for the whole or part of the breaches alleged in the EN. In this instance it is clear the alternative plans relating to barn 2 would involve development that is substantially different to the matters constituting the breaches in the notice as development would involve the following,
- Partial demolition of the existing 'as built' end gable and roof structure on the new extension to the west elevation of barn 2, and its replacement with a modified roof structure that varies in height and design, in addition to a new stone clad exterior to the gable of the new extension, and the infilling, and external rendering of a substantial opening on the extension's north elevation with that opening having two windows.
 - Partial demolition of the existing 'as built' end gable extension to barn 2's north elevation including the roof structure, and its replacement with a modified roof structure that varies in height and design; in addition, on the west elevation a substantial new window opening would be created to replace two existing openings and the gable wall would be stone clad.
7. These works the subject of the alternative scheme would in their entirety go beyond the powers available to me under Section 177(1) of the Act; consequently notwithstanding the fact that the appellant has presented these plans in an attempt to overcome some of the Council's objections, I am unable to take them into consideration in determining the deemed application. My determination has therefore been made on the basis of the plans that formed the original application to the Council.

Main Issue

8. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.
9. In planning policy terms LDP policy H4 is permissive of the conversion of buildings in the open countryside to residential use, subject to a number of criteria being met, including that the form, bulk and general design of the proposal, including any extensions, respects the rural character and design of the building, that the proposal is in scale and sympathy with the surrounding landscape, that the more isolated and prominent a building the more stringent will be the design requirements with regard to new door and window openings, extensions and garden curtilage, and, that only very limited modest extensions will be allowed. The policy is supported by advice contained within the adopted SPG. In effect policy H4 therefore permits such conversions if the details of the conversion are in keeping with the original building and the architectural idiom of the area.

10. In regards to the extensions as built, these are materially different from either of the permissions previously granted. As regards to the new extension on the western gable of barn 2, it has been elongated in such a way that it steps down in height in contrast with the design of the original structure which gradually steps upwards in a westerly direction. In addition, the extension closes an important visual gap between the barn and a smaller outbuilding that is being converted into a garage to serve barn 2; the visual gap between the barn and the new garage is important as it assists in emphasising the simplistic form and the scale of barn 2, which would otherwise be lost with the extension as built, notwithstanding the previously permitted low level enclosure that occupied that space.
11. I recognise the previously permitted extension to the northern elevation of barn 2 allowed for a wide glazed opening; however this is the exception to the form and scale of that barn's other openings. The proposed new window openings to the western extension vary in scale and form to the general form of those previously permitted; they have a much more modern appearance which appears at odds with the form of the rest of the barn.
12. Turning now to the extension as built onto barn 2 on its northern elevation. The extension occupies the approximate foot print of that permitted under planning permission Ref. DC/2009/00783, however its form and appearance is markedly different to that given permission due to it having a much higher double pitched roof, as opposed to the previously permitted lower mono-pitch roof. In addition, the window openings also vary considerably in scale and form to those previously permitted. I consider this extension does not respect the simple design of the barn and would detract from the rural setting.
13. Having considered both extensions individually, I now consider their cumulative impact. Policy H4 refers to extensions to barn conversions being modest, whilst the SPG refers to any extensions being subject to strict criteria controlling their effect on the character and setting of the existing building and/or any group value. Whilst the policy does not define modest, I do not consider the appellant's use of LDP policy H6 that allows for extensions to dwellings in the open countryside upto 30% of their original volume is comparable, as the nature of development is materially different. The fact of the matter is that barn 2 has been granted a modest extension to its northern elevation, however, when that extension, or the extension as currently built, is combined with the extension erected on the western gable, the footprint and form of the barn is considerably enlarged by those extensions which I do not consider could be reasonably described as modest.
14. In support of the retention of aluminium framed windows to barn 1 it is argued the use of similar windows have been permitted on the nearby barn known as Long Porth Barn, however, I have not been provided with the full circumstances relating to that decision including in respect of the planning history and the development plan context in which that decision was taken; in any event I have considered this proposal on its own merits. The appellant drew my attention to barn 7 on the site where it is argued aluminium framed windows, its extension and roof treatment are similar to the development the subject of this appeal, however, those works have not been granted planning permission and are therefore not comparable, irrespective of whether or not they may benefit from immunity from enforcement action.
15. The appellant is of the view that the windows and doors as fitted to barn 1 with their industrial style aluminium framing and their large glass panes are reflective of the utilitarian nature of the structure, and its original use as a barn. Contrary to this view,

I consider their proportions and appearance are more akin to a modern dwelling and result in an appearance that is very much more domestic in character than that previously permitted.

16. The Council argued barn 1, along with the other barns forming the complex of buildings had historically been fitted with traditional timber doors and windows, and provided photographic evidence to that effect. At the hearing the Council also presented photographs of the barn 1 which appeared to indicate that at least some of the windows previously fitted were of metal construction. However whilst those windows appeared to be metal framed, they contrasted markedly to the windows which have been fitted, due to the smaller sized panes, the number of those panes and the resultant increase in glazing bars; therefore they are not directly comparable.
17. The retention of the aluminium windows and doors would detract from the rural character of barn 1 and from its rural setting, and therefore are contrary to policy H4 and the SPG.
18. In regards to the retention of the enclosed grassed amenity area to the south elevation of barn 1, it is argued it would provide a much improved private amenity area because that previously permitted on the north elevation lacks any sort of privacy. However based on the permitted layout for the garden to the north elevation, there would be a new post and rail fence with boundary hedging adjacent to it, which in my opinion would provide an adequate private amenity space.
19. Contrary to the appellant's assertions, I consider the area to the south of barn 1 facing onto barn 3, does retain similarities to a courtyard irrespective of the access track through it. The appellant argues that public amenity is not affected by the introduction of a lawned area to the front of barn 1 and its enclosure with knee high timber railing, however, I consider such development leads to the erosion of the space between barn 1 and barn 3, introduces an overly domesticated arrangement at odds with the area's historical use, and detracts from the rural setting. In addition, if these works were permitted, it would be likely to result in other barns within the complex seeking similar changes that would only exacerbate any adverse impact.
20. It is maintained that the barns are not isolated structures but are seen against the complex of other utilitarian buildings which provide screening of the development from potential viewpoints. It is argued, bearing in mind the utilitarian nature of the adjacent buildings, that any effect of the development on the visual amenities of the area is modest. The complex of buildings of which the appeal properties form part, are distinctly rural in character in their use of materials, form and appearance. Inappropriate changes to these buildings such as those made, undermine not only the individual building, but also the collective worth of the group and their setting within the open countryside.
21. The site is screened from some directions but is in view from others. The proposed development is, in my opinion, markedly at odds with the character of the existing buildings, as well as some of the other nearby buildings forming the complex, and the retention of the works carried out would be harmful and prejudicial to the aims of the LDP and PPW in regards to protecting the countryside. Moreover, should inappropriate development such as this be allowed to remain in the absence of any clear justification, the Council's objective to secure appropriate conversion designs elsewhere would be undermined. Consequently the proposed development would be contrary to policy H4 of the LDP which states that conversion proposals should respect

the rural character and design of a building and be in sympathy with the surrounding landscape.

Conclusion

22. For the reasons given above, I conclude that the appeal should not succeed.

Declan Beggan

INSPECTOR

APPEARANCES

For the Appellant

Mr B Sumner BA (Hons) MRTPI	Appellant's Planning Consultant
Mr J Mead	Appellant's Architect
Mr A Patel	Appellant
Ms R Cheshire	Resident Clawdd y Parc Farm

FOR THE COUNCIL

Ms P Clarke	Planning Applications and Enforcement Manager
Ms Karen Bury	Enforcement Monitoring Officer

THIRD PARTIES

Mr G Rogers	Chairman of Llangybi Community Council
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DOCUMENTS SUBMITTED AT THE HEARING

1. Drawing No. A15-005-AP-002 Rev A, plans and elevations 'as built'
2. Drawing No. A15-005-AP-001 Rev A, plans and elevations, alternative drawings
3. Drawing No. 12-007-PL02 Rev A, plans and elevations barn 1
4. Drawing No. 1114/008/Rev B, plans and elevations barn 1 stamped 2009/00783
5. Drawing No. A15-005-AP-004 Rev A, location plan
6. Public Rights of Way Map at scale 1:2500 at A4
7. Copies of Council's notification letters dated 24 June 2015
8. Written copy of Appellant's closing remarks