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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 03/02/20

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17.03.2020

## Appeal Decision

Site visit made on 03/02/20

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 17.03.2020

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**Appeal Ref: APP/E6840/A/19/3242539**

**Site address: Barn Conversion at 33 Kymin Road, The Kymin, Monmouth NP25 3SE**

**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 under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr David Edge against the decision of Monmouthshire County Council.
  - The application Ref DM/2019/01439, dated 05 September 2019, was refused by notice dated 5 November 2019.
  - The application sought planning permission for the conversion of single storey barn to holiday let without complying with a condition attached to planning permission Ref DC/2012/01074, dated 19 September 2013.
  - The condition in dispute is No 3 which states that: *"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995, as amended (or any order revoking and re-enacting that Order with or without modification) no development within Part 1 of Schedule 2 to the Order, shall be carried out on land to which this permission relates, without express planning permission having first been obtained from the Local Planning Authority."*
  - The reason given for the condition is: *"This conversion is granted having regard to the Council's policies which relate to the conversion of redundant buildings in the countryside. If substantial extensions or alterations were necessary this development would not normally be favourably considered."*
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. 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 better environments.

### Application for costs

3. An application for costs was made by Mr David Edge against Monmouthshire County Council. This application is the subject of a separate Decision.
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## Background and Main Issue

4. Planning permission was granted for the conversion of the barn to a holiday let. The application the subject of this appeal sought permission to carry out the development without complying with condition 3 which removes the permitted development rights under Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). The Council state that such a condition is necessary as its removal has the potential to alter the scale form and design of the existing building, which is located within the Wye Valley Area of Outstanding Natural Beauty (AONB). In terms of the AONB, Planning Policy Wales, edition 10 (PPW), sets out at paragraph 6.3.7 that "*In AONBs, planning authorities should give great weight to conserving and enhancing the natural beauty of AONBs, and should have regard to the wildlife, cultural heritage and social and economic well-being of the areas.*"
5. The Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' ('the Circular') provides advice and guidance on planning conditions, including on the use of conditions to restrict permitted development rights. Paragraph 5.105 of the Circular establishes that "*Save in exceptional circumstances, conditions should not be imposed which restrict either permitted development rights granted by development orders or future changes of use which the Use Classes Order would otherwise allow. For example, a condition would only prove reasonable if there was evidence that it would prevent a serious adverse effect on amenity or the environment, there were no other forms of control and it served a planning purpose.*"
6. Accordingly, the main issue in this case is whether the condition in dispute is reasonable and necessary in the interests of conserving or enhancing the Wye Valley Area of Outstanding Natural Beauty (AONB).

## Reasons

7. The appeal site is located on the slopes of the Wye Valley, overlooking the town of Monmouth. The immediate area, including the appellant's wider landholding, has a predominantly rural character, featuring paddocks, agricultural buildings and substantial areas of woodland. A number of public rights of way cross the surrounding area, including several long-distance footpaths such as the Offa's Dyke Path and the Wysis Way. The surrounding area also contains a number of structures, including dwellings and agricultural buildings, which appear well integrated within the AONB landscape.
8. The appeal site is occupied by a small, stone-built barn which has been converted into a two-bedroom dwelling, used as a holiday let. It is accessed via a footpath and has a limited curtilage, containing a modest area of outdoor space. The appeal site is bounded by a post and wire fence and established native hedgerows/trees to the east. The existing scale and sympathetic restoration of the site results in a development that appears to retain its agricultural character and is settled in this pastoral landscape, thus it does not appear incongruous in views from the surrounding landscape.
9. Given the small scale of the barn, external space of some 46 m<sup>2</sup>, it was appropriate that it should be considered for tourist accommodation. Indeed, Policy T2 of the Monmouthshire Local Development Plan (LDP) sets out that "*the conversion of buildings that are too small or are inappropriately located to provide appropriate standards of space and amenity for conversions to permanent residential accommodation but are suitable for tourist accommodation*" may be permitted. This

policy is considered alongside LDP Policy H4 which provides for the conversion / rehabilitation of buildings in the open countryside for residential use. In particular criteria 'f' of Policy H4 states "*the building is capable of providing adequate living space (and ancillary space such as garaging) within the structure. Only very modest extensions will be allowed and normal permitted development rights to extend further or to construct ancillary buildings will be withdrawn.*"

10. These LDP Policies are supported by the Councils Supplementary Planning Guidance: Rural Conversions to a Residential or Tourism Use, dated November 2017 (SPG). It states at paragraph 3.22 that "*Permitted Development rights to extend further, modify or to construct ancillary buildings will be withdrawn from planning permissions for all rural conversions, in order to retain and protect the character and setting of such conversions.*" Furthermore paragraph 4.9 of the SPG states that "*The conversion of an unsuitably small sized building to a permanent residential use would potentially result in additional planning applications for extensions at a later date in order to provide more living space. This approach would be contrary to criterion (f) of Policy H4.*"
11. Given the AONB landscape, and the great weight that should be afforded for its conservation and enhancement, I am concerned that any extension, however minor, could potentially cause significant harm to this designated landscape. Furthermore, changes to this modest barn could result in its agricultural character being undermined resulting in material harm to its character and appearance, which is valued asset in this AONB landscape. I accept that the visibility of the development may be somewhat limited to glimpses from surrounding footpaths. However, these are views which positively contribute towards its landscape and pastoral setting.
12. It should be acknowledged that the condition does not prohibit development but ensures that any proposals are carefully assessed for their effect on those features and 'Special Qualities' that make the designated area so distinctive. High quality design that takes account of landscape character, scale and setting, can help enhance the area.
13. Moreover, I have no evidence as to why permitted development rights need to be utilised at the appeal site. For example, evidence that the viability of the unit has been negatively affected. Whilst I accept that there are other developments in the locality, as I saw on my site visit, the cumulative effect of a number of developments collectively has started to encroach on and erode the landscape features and special qualities of the AONB hereabouts. Therefore, it is not the case where one poor development can be used to justify the next.
14. I also note the appeal decision brought to my attention by the appellant<sup>1</sup>. Whilst this decision was also located at the Kymin, it varies from the appeal before me due to the full residential use and that planning permission had already been granted for an extension to which the Inspector afforded substantial weight. Therefore, I give little weight to that previous appeal decision.
15. Accordingly, I conclude that exceptional circumstances exist for it to be necessary to continue to impose the restriction on permitted development rights as set out in condition 3 of permission DC/2012/01074 for the reasons set out. To allow the proposal would, on the evidence before me, fail to conserve or enhance the Wye Valley AONB, to which I afford great weight. The proposal would be contrary to the aims of LDP Policies H4 and T2, as set out above, as well as LDP Policies DES1 and

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<sup>1</sup> Appeal reference APP/E6840/A/18/3203203

LC4, which expect all development to respect the natural character and distinctiveness of Monmouthshire's built, historic and natural environment and within the Wye Valley AONB, any development must be subservient to the primary purpose to conserve and enhance the natural beauty of the area. None of the material considerations advanced would overcome the identified harm.

### **Conclusions**

16. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*Joanne Burston*

INSPECTOR