



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

PP

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Planning Officer Monmouthshire County Council Development Control New Market Hall Priory Street Monmouth NP25 3XA	Eich Cyf / Your Ref Ein Cyf / Our Ref Dyddiad / Date	DC/2014/00291 APP/E6840/A/14/2225629 16 February 2015
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Dear Sir/Madam

Town and Country Planning Act 1990
Appeal by Mr William Jones
Site at The Mount, Coedypaen, Pontypool, NP4 0SY

Amgaeaf benderfyniad yr Arolygydd ar yr apêl uchod.

I enclose the Inspector's decision on the above appeal.

Pan fyddwch wedi darllen llythyr y penderfyniad yn llawn, neilltuwch yr amser i lenwi ein holiadur Adborth wedi'r Penderfyniad. Mae'r holiadur ar gael ar-lein yn:

Once you have read the decision letter fully, please take the time to complete our Post Decision Feedback questionnaire. The questionnaire is available online at:

<https://www.surveymonkey.com/s/PostDecisionQ>

Yn Gywir

Yours faithfully

Paul Newland

Paul Newland

Cofrestrfa - Registry



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 13/01/15
Ymweliad â safle a wnaed ar 13/01/15

**gan Vicki Hirst BA(Hons) PG Dip TP
MA MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 16 Chwefror 2015

Appeal Decision

Hearing held on 13/01/15
Site visit made on 13/01/15

**by Vicki Hirst BA(Hons) PG Dip TP MA
MRTPI**

an Inspector appointed by the Welsh Ministers
Date: 16 February 2015

Appeal Ref: APP/E6840/A/14/2225629

Site address: The Mount, Coedypaen, Pontypool, NP4 0SY

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 William Jones against the decision of Monmouthshire County Council.
- The application Ref DC/2014/00291, dated 28 February 2014, was refused by notice dated 3 July 2014.
- The development proposed is the erection of a dwelling on land that previously formed part of the residential curtilage to The Mount.

Decision

1. The appeal is dismissed.

Procedural Matters

2. A unilateral undertaking under the provisions of s106 of the Act was submitted in advance of the hearing by the appellant and provides obligations to dedicate a parcel of land to the north of the appeal site as a village green in accordance with S15(8) of the Commons Act 2006. The undertaking includes obligations to submit an application in conformity with the Commons Registration of Town and Village Greens (Interim Arrangements) Wales Regulations 2007 and an application to declare entitlement to a right of common under Regulation 44 of the Commons (England) Regulations 2008 within certain time frames and to respond expeditiously to any further information required by the County Council to enable it to dedicate the proposed Village Green. At the hearing the originally submitted undertaking was withdrawn as it was not expressly made under the provisions of S106 of the Act. A revised undertaking was presented at the hearing to address this shortcoming and I have had regard to it in making my decision.
3. It was confirmed at the hearing that the Council's Local Development Plan had been adopted since the application documentation had been prepared and that the relevant plan against which this appeal should be determined is the Monmouthshire County Council Adopted Local Development Plan 2011-2021 (LDP) that was adopted on 27th February 2014. The parties also agreed that the most up to date relevant national

policy is Planning Policy Wales, Edition 7, July 2014 (PPW) and Technical Advice Note 12, Design, July 2014 and I have taken these into account in my determination.

4. A set of fully scaled drawings were provided at the hearing and the main parties confirmed that these comprised the plans that were the subject of the Council's determination.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Character and Appearance

6. The appeal site is situated within a central position in the minor village¹ of Coedypaen on an area of land between a newly constructed dwelling to the south west (Garden Cottage), a public house and associated car park to the north (the Carpenters Arms) and the village church to the east. The site occupies a corner plot with the junction of the two rural lanes that traverse through the village situated at its south eastern corner. The site is bordered by a mature beech hedge on much of its western side, a post and rail fence and hedge on its eastern and southern boundaries and a post and rail fence along its northern boundary. The land has a gradual fall in levels from north to south and is elevated above the adjacent highways. An area of land to the north of the site is the subject of the unilateral undertaking referred to above.
7. Much representation has been made with regard to the use of the site as public open space over the years. It is evident from the submissions that have been made and from evidence given at the hearing that the land has been used for village events, including barbeques, children's play space and general use for ball games and recreation. However the evidence shows and all parties at the hearing were in agreement that this use has been on an informal basis and that despite attempts to designate the land as a village green, the land has never established a formal status as dedicated public open space, common land or village green.
8. Both main parties agreed at the hearing that the site conforms to the definition of an infill site within a minor village as set out in the adopted LDP and as a result the principle of development is acceptable subject to detailed planning considerations.
9. The proposed dwelling would be of traditional design and I agree with the Council that it would be in keeping with surrounding development. Nonetheless, the introduction of a building onto the site would fundamentally alter its essential characteristics and the contribution this space makes to the village setting. The relationship of the historic church with its associated graveyard and mature vegetation, the village public house and the open vista of the appeal site combine to identify the core of the village. Whilst this central part of the village is relatively small and views of it are predominantly restricted to its immediate surrounds, the site forms an essential component in identifying the sense of place that clearly marks the heart of this small village. Whilst the design and detailing would be respectful to the traditional form and appearance of the older buildings within the village I consider that the introduction of a dwelling onto the site would destroy one of the primary features of this part of the

¹ As defined in Policy S1, Monmouthshire County Council Adopted Local Development Plan, 2011-2021

village and the setting of its historic and key buildings. The appellant contends that the hedge around the perimeter of the site and marking the boundary to the highway results in the sense of openness being lost and visually segregates the site from the surroundings. I find that the hedge contributes to the rural nature of the village scene and whilst clearly marking the boundary of the appeal site its undeveloped nature behind provides an attractive and significant contributory feature to the character and appearance of the centre of the village.

10. The harm arising from the new dwelling would be further emphasised by the site's elevated nature. Whilst the appellant confirmed at the hearing that the dwelling would be set down into the site and the ridge height would be lower than the adjacent property Garden Cottage, it would still be a dominating and imposing building. The eastern side elevation with its gabled end would introduce a tall vertical element facing the highway and village church and on a higher level and which I find overwhelming and unacceptable.
11. Reference has been made to an appeal dismissed in 2005 which related to an outline planning application for the erection of a dwelling and garage on a larger site that incorporated the appeal site (reference APP/E6840/A/04/1162155/T). Given that the current site is smaller, that a further dwelling has been built on part of the site, that the previous application was in outline only and the development plan has changed I see little merit in comparing the two decisions. My conclusions are based on the specific circumstances of this case. For the reasons given above, I conclude that the proposed dwelling would have a harmful effect on the character and appearance of the area and would not be in accord with the relevant criteria within the adopted LDP policies S13, S17, H3, DES1 and EP1.

Other Matters

12. I have taken into account the obligations that have been put forward in the appellant's unilateral undertaking and which the appellant contends will provide permanent open space for the village which is not currently available and which would comprise a significant difference to the 2005 proposal that included all the land within the curtilage of the proposed dwelling. The Council expressed the view at the hearing that whilst the unilateral undertaking was welcomed it was debatable whether the obligations met the relevant tests of national policy.
13. Whilst I can appreciate the desire of the local community to have an area of public open space within the village I also note the majority of views that the offered land is not of sufficient size to provide any useful contribution. I find that in the absence of the loss of any formal provision of open space that there is no justification to require public open space of any size as part of the current proposal as it is not reasonably required in relation to the development or necessary to make it acceptable.
14. On this basis I do not consider that the obligations meet national policy as set out in Circular 13/97 and the three statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. I also find that the obligations contain no surety that the village green would ever be delivered as the requirement for the dedication falls to the County Council in determining an application under the Commons Act 2006. There is no guarantee that this would gain consent. I therefore accord the unilateral undertaking little weight in reaching my decision and do not consider that it would outweigh the harm arising from the development that I have identified.

15. A number of representations have been made by third parties in respect of highway safety. The Council has not provided its Highways Officer's views on the proposal. Nonetheless I was able to view the position of the proposed parking and new access point on my site visit and the relationship of the access with the church which has no dedicated off street parking. I found that whilst the new access would be in close proximity to a bend in the road and the entrance to the Carpenters Arms that due to its emergence on the outside of the bend that there would be sufficient forward visibility in both directions. I am also satisfied that due to the rural nature of the lane within the village and the proximity to a nearby junction that traffic speeds would be relatively low. Whilst there will inevitably be parking on the street when church services are taking place, in view of the small increase in vehicular movements that would arise from a single dwelling and the provision of parking and turning for the proposed dwelling within the site, on the basis of the evidence before me I consider that the proposal would provide a satisfactory means of access and parking and would be acceptable.
16. During my site visit I was able to assess the potential effect of the scheme on the living conditions of neighbouring residents, particularly with regard to the overlooking, overshadowing and overbearing effect to Garden Cottage and Spindle Cottage. In relation to Garden Cottage I am satisfied that due to the presence of the mature beech hedge any overlooking would be restricted to a single first floor window serving a landing area on the western elevation and which could be required to be fitted with obscured glass under a condition. I am satisfied that the orientation of the proposed dwelling to the north east of Garden Cottage would not result in an unacceptable loss of light to its occupants and due to the presence of the hedge and the relationship between the dwellings that it would not result in any significant overbearing effect. In respect of Spindle Cottage, I note that this is situated on the opposite side of the road from the proposed dwelling and at a lower level. I consider that the distance between the properties would be such that there would be no unacceptable loss of privacy or light and no unacceptable overbearing effect to the occupants of this property.

Conclusions

17. I have taken into account all other matters raised but none outweigh the harm that I have identified. For this reason I conclude that the appeal should be dismissed.

Vicki Hirst

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr M Roberts	Barton Willmore
Mr C Parry	Barton Willmore
Mr L Bowkett	Lyndon Bowkett Designs
Mr W Jones	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms K Bingham	Planning Officer, Monmouthshire County Council
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INTERESTED PERSONS:

Mr G Rogers	Llangybi Fawr Community Council
Mr G Davies	Local Resident – Green Acres

DOCUMENTS SUBMITTED AT THE HEARING

1. Council's notification letter of appeal arrangements, 12 January 2015
2. Signed Copy of S106 Unilateral Undertaking submitted by the appellant
3. Set of Scaled Plans Nos 1202-01A, 1202-02, 1202-03, 1202-04

Our Complaints Procedures

Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings both for and against and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens, we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why, and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Complaints Officer to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly held.

All complaints are investigated thoroughly and impartially, and we will reply in clear, straightforward language, avoiding jargon and complicated legal terms. We aim to give you a full reply within four weeks wherever possible.

When investigating a complaint, we may need to ask the Inspector for his or her comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply, we will quickly let you know.

What we will do if we have made a mistake

Although we aim to give the best service possible, we know that there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future.

In certain appeals (for example, planning or enforcement appeals) minor slips and errors may be corrected under the terms of the Planning & Compulsory Purchase Act 2004, but we cannot amend or change in any way the substance of an Inspector's decision.



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Taking it further

If you are not satisfied with the way we have dealt with your complaint, you can contact the Public Services Ombudsman for Wales, who can investigate complaints of maladministration against Welsh public bodies. However, the Public Services Ombudsman for Wales cannot change the decision.

Frequently asked questions

"Can the decision be reviewed if a mistake has happened?" – Although we can rectify minor slips in certain cases (such as planning and enforcement appeals), we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

"If you cannot change a decision, what is the point of complaining?" – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

"Why did an appeal succeed when local residents were all against it?" – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds whether these views justify refusing planning permission.

"How can Inspectors know about local feeling or issues if they don't live in the area?" – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have submitted.

"I wrote to you with my views, why didn't the Inspector mention this?" – Inspectors must give reasons for their decision and take into account all views submitted, but it is not necessary to list every bit of evidence.

"Why did my appeal fail when similar appeals nearby succeeded?" – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

"I've just lost my appeal, is there anything else I can do to get my permission?" – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out

of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to their planning officer about this might help you explore your options.

"What can I do if someone is ignoring a planning condition?" – We cannot intervene as it is the council's responsibility to ensure conditions are complied with. They can investigate and have discretionary powers to take action if a condition is being ignored.

Further information

Every year, we publish a Business and Corporate Plan which sets out our plans for the following years, how much work we expect to deal with, and how we plan to meet the targets which Ministers set for us. At the end of each financial year, we publish our Annual Report and Accounts, which reports on our performance against these targets and how we have spent the funds the Government gives us for our work. You can view these and obtain further information by visiting our website (see 'Contacting us'). You can also get booklets which give details about the appeal process by phoning our enquiries number.

Contacting us

The Planning Inspectorate
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Cathays Park
Cardiff CF10 3NQ

Phone: 0292 082 3866
E-mail: Wales@pins.gsi.gov.uk

Website

www.planningportal.gov.uk

Public Services Ombudsman for Wales

1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Tel 0300 790 0203 (local call rate)
Fax 01656 641199

Website: www.ombudsman-wales.org.uk
E-mail: ask@ombudsman-wales.org.uk
(General enquiries only)

Challenging the Decision in the High Court

Challenging the decision

Appeal decisions are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued. Decisions are therefore final unless successfully challenged, on legal points only, in the High Court. If a challenge is successful, the appeal will be returned to us to be considered again.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful, you would have to show that the Inspector misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers that this affected the decision and outcome of the appeal, it will return the case to us for re-consideration.

Different appeal types

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

Challenges to planning appeal decisions (including Tree Preservation Order appeals)

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a)), deemed application decisions or lawful development certificate appeal decisions. For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990. **Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.**

Challenges to enforcement appeal decisions

Enforcement appeal decisions under all grounds [see our booklet 'Making Your Enforcement Appeal'] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area consent enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65, you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

Important Note - This note is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

Hazard, Gaynor A.

From: Newland, Paul <Paul.Newland@pins.gsi.gov.uk>
Sent: 16 February 2015 14:43
To: Planning Appeals
Subject: Planning Inspectorate: Ref 2225629: The Mount, Coedypaen, NP4 0SY
Attachments: Decision Enclosed 2225629 16_02_2015.pdf; 2225629.pdf; Complaints and High Court Challenges Leaflet_2014.pdf

Following the recent issue of this appeal decision we would welcome your feedback on our administrative process and the Inspector's decision. Replies to the following questions will help us improve our service to all our customers. We may contact you after you have submitted the survey if your opinion of the Inspector's decision, or our administrative process has severely failed to meet the high standards we set ourselves.

Thank you for your assistance.

Ar ôl cyhoeddi'r penderfyniad ar yr apêl hon yn ddiweddar, byddem yn croesawu eich adborth ar ein proses weinyddol a phenderfyniad yr Arolygydd. Bydd ymatebion i'r cwestiynau canlynol yn ein helpu i wella ein gwasanaeth i'n holl gwsmeriaid. Mae'n bosibl y byddwn yn cysylltu â chi ar ôl i chi gyflwyno'r arolwg os yw'ch barn ar benderfyniad yr Arolygydd, neu ar ein proses weinyddol wedi methu'n ddifrifol i fodloni'r safonau uchel rydym wedi'u gosod i ni eu hunain.

Diolch yn fawr am eich cymorth.

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