



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 1/3/22

gan Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 05.03.22

Appeal Decision

Site visit made on 1/3/22

by Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 05.03.22

Appeal Ref: APP/E6840/A/21/3282973

Site address: Bentra Farmhouse, Pentre Road, Llangovan, NP25 4BU

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 grant of planning permission subject to conditions.
- The appeal is made by Mr Richard Harry against the decision of Monmouthshire County Council.
- The application Ref DM/2020/01805, dated 8 December 2020, was approved on 7 April 2021 and planning permission was granted subject to conditions.
- The development permitted is to 'replace existing Juliet balcony with timber/glass balcony'.
- The condition in dispute is No. 3 which states that: The 1.8 m privacy screen as detailed on drawing KS056-102 Revision A shall be installed in its entirety prior to the balcony hereby approved being brought into beneficial use and shall be retained as such in perpetuity.
- The reason given for the condition is: In the interests of preserving third party residential privacy and amenity and to ensure compliance with policies DES1 and EP1 of the adopted LDP.

Decision

1. The appeal is allowed and the planning permission Ref DM/2020/01805 to 'replace existing Juliet balcony with timber/glass balcony' at Bentra Farmhouse, Pentre Road, Llangovan, NP25 4BU, granted on 7 April 2021 by Monmouthshire County Council, is varied by deleting condition No 3.

Procedural Matters

2. I note the description of the site address vary slightly between that stated on the planning application form and the Council's decision notice; I have used the former description as it is more concise.

3. I note that the balcony as proposed has already been constructed on site albeit not in full accordance with the permitted plans i.e. as detailed by the appellant 1.1m clear glazing has been provided to all sides of the balcony. Notwithstanding the works carried out to date, I have considered and determined this appeal based on the submitted drawings as referenced in the Council's decision notice.

Background and main issue

4. The appeal relates to a proposal for the erection of a balcony to rear elevation of a detached dwelling known as Bentra Farmhouse, Pentre Road, Llangovan. The balcony as detailed on the submitted plans replaces the existing Juliet balcony on the rear elevation of the house. The balcony projects 2.5m from the rear elevation and measures 3.8m in width. As detailed on the submitted drawings, the side of the balcony facing towards the adjacent property known as Bentre Millhouse would comprise of opaque glazed screening, topped with timber privacy slats upto a height of 1.8 m. The Council approved the scheme subject to a condition (No. 3) which required that the 1.8 m privacy screen as detailed on drawing KS056-102 Revision A was to be installed in its entirety prior to the balcony being brought into beneficial use and retained thereafter.
5. In summary, the appellant considers the imposition of any form of 1.8 m screening to be unnecessary and that the condition should be deleted.
6. The main issue is whether the disputed condition is necessary and reasonable, having regard to the living conditions of occupiers of the adjacent dwelling with particular reference to privacy.

Reasons

7. The proposal is for a balcony to the rear of Bentra Farmhouse. The structure as permitted was in part to replace a Juliet balcony that already afforded views into the garden of Bentre Millhouse which is sited to the north. The Council planning report states that given the topography of the site with the garden of Bentre Millhouse being set at a lower level, that without mitigation the proposal would reinforce potential overlooking and loss of privacy and as a result it was considered a 1.8 m high screen to the northern boundary was appropriate.
8. The now replaced Juliet balcony that served the appeal property already allowed for a degree of overlooking of the adjacent property. The balcony as proposed is located at just over 12 m from the boundary with Bentre Millhouse beyond which at roughly the same distance that property is sited; such a distance between property boundaries is commonplace, albeit normally associated with a back to back relationship.
9. Notwithstanding the elevated nature of the proposal relative to the adjacent property, the presence of landscape screening in the form of existing bushes/trees in not only the appellant's property but also the adjacent property provide significant screening of extensive areas of the adjacent garden. As a result I do not consider there would be any material or significant increase in overlooking or impact on the privacy of the nearby dwelling or garden due to overlooking, or impacts on general privacy by way of noise disturbance, especially bearing in mind the distances involved between the balcony and the common boundary, the fact that large parts of the adjacent garden such as the area with furniture sited on it are significantly further away than that yet again, and the significant screening effects of landscaped features within the adjacent property.
10. Whilst the screening effects of vegetation would be more limited for parts of the year, nonetheless even out of leaf, as I witnessed during my site visit existing vegetation does provide a significant degree of screening.

11. In arriving at the above conclusion I am conscious that the Council have not identified any set guidance in regards to matters pertaining to amenity. In the absence of such guidance, the site specifics would indicate that there would be no significant detriment to the amenity of nearby properties.
12. Based on my findings above, such a requirement as per condition No. 3 is not necessary, nor reasonable in the interests of residential amenity for the reasons highlighted above; no element of the privacy screen is justified. Accordingly, I shall delete the condition in terms of any reference to any 1.8 metre high privacy screen.

Other Matters

13. In support of his objection to the deletion of condition 3, the adjacent occupier drew attention to the fact that such a privacy measure would also be consistent with the previously required use of obscured glass in the north facing windows on the appeal property, however I do not know the full circumstances that lead to those windows being obscured glazed; in any event each application is decided on its own merits.
14. The neighbouring property owner also refers to the fact that works were carried out in breach of the planning permission, however this appeal is not concerned with such matters. As previously referred to above, I have considered the scheme based on the details as originally submitted and determined by the Council.

Conclusions

15. For the reason given above, I conclude that the appeal should succeed. I shall vary the planning permission by deleting the disputed condition. Deletion of condition No. 3 condition would not run contrary to the Monmouthshire Local Plan policies DES1 and EP1 which collectively seek to safeguard residential amenity.
16. In reaching my decision, I have taken account of 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 one or more of the Welsh Ministers' well-being objectives as required by section 8 of the Act.

Declan K Beggan

Inspector