



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 08/02/18

Ymweliad â safle a wnaed ar 08/02/18

**gan Janine Townsley LLB (Hons)
Cyfreithiwr (Nad yw'n ymarfer)**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 22.03.2018

Appeal Decision

Hearing Held on 08/02/18

Site visit made on 08/02/18

**by Janine Townsley LLB (Hons) Solicitor
(Non-practising)**

an Inspector appointed by the Welsh Ministers

Date: 22.03.2018

Appeal Ref: APP/E6840/A/17/3187998

Site address: Llan y Nant Farm, Trellech Grange, NP16 6QN.

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 George Prichard against the decision of Monmouthshire County Council.
 - The application Ref DC/2017/00524, dated 2 May 2017, was refused by notice dated 25 September 2017.
 - The development proposed is restoration and conversion of stone barn in accordance with supporting documents and plans.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal site is situated outside of any settlement boundaries and is therefore within the open countryside for the purpose of development plan policies. Local Development Plan (LDP) strategic policy S1 states that outside settlement boundaries permission will only be allowed for certain types of new residential development, including dwellings necessary for agricultural, forestry or other appropriate rural enterprises in accordance with Technical Advice Note 6 *Planning for Sustainable Rural Communities* (TAN6). TAN 6 states that one of the few circumstances in which new isolated residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at, or close to, their place of work. The TAN sets out the criteria to establish when a new dwelling on a new rural enterprise may be justified and sets out the criteria to be satisfied by proposals. The proposal is for an additional dwelling on an existing enterprise.
3. TAN 6 requires that applications for new rural enterprise dwellings in the open countryside should be supported by robust evidence¹ and that a rural enterprise dwelling appraisal must accompany planning applications. The appraisal should

¹ Paragraph 4.7.1

address the functional, time, financial, other dwelling and other normal planning requirements tests.

4. The Council accepts that the proposal falls within the TAN 6 definition of a rural enterprise and that the permission sought for residential use is in connection with the rural enterprise.
5. The Council has confirmed in written evidence and at the hearing that planning officers are satisfied that there is a functional need for a full time worker and that the employment is likely to remain financially sustainable. However I have not seen any detailed evidence relating to the functional and time test, nor have I seen any accounting evidence in relation to the financial test nor a business case as required by the TAN². This means I am unaware how much of the farm's income is derived from farming as opposed to other income, for example rental income. This is set out in more detail within the reasons for this decision.
6. Accordingly, the Council's concern in this case is whether the functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise and if it could not, whether this proposal would meet the usual planning requirements set out in local and national policy. Therefore the main issue to be considered in this decision is:
 - Whether the proposed rural enterprise dwelling is justified with particular reference to the alternative dwelling and usual planning requirements tests set out in TAN 6 and local planning policy.

Reasons

7. The appeal site comprises a barn which consists of stone walls and no roof. This falls within a farm holding known as Llan y Nant farm of some 277 acres with a further 140 acres of grassland occupied by annual arrangement. The proposal is for an additional dwelling for the appellant's daughter who, I heard, works full time on the farm, her primary role being the day to day management of the dairy herd. I note the appellant's representations that she can no longer share the farmhouse with her parents now that she is married. At the hearing, the appellant stated that the proposed residence would provide accommodation for the appellant's daughter, her husband and her stepson.
8. The appellant's evidence is that this should not be considered to be a conversion but rather a simultaneous renovation and conversion and that the application should not be considered under the LDP conversion policies. At the hearing I asked that this be clarified in order that I could ascertain what distinction was being made. However the appellant was unable to offer any further clarification other than to assert that the proposal was not a total re-build. This does not change the position that the application was made for a rural enterprise dwelling; the Council have determined the application as such and I have determined the appeal on this basis.

The Alternative Dwelling Test

9. The Council states that the proposal does not meet the alternative dwelling test outlined within paragraph 4.11 of TAN 6 as it has not been demonstrated that the functional need of the enterprise could not be fulfilled by another building suitable for conversion at the farm or that a new build dwelling could not be constructed with the group of farm buildings.

² At paragraph 4.4.1

10. Most of the existing buildings within the farm are grouped together. Adjacent to the farmhouse are two barn conversions and a group of barns one of which is unused (and referred to within the evidence as barn B) and the others house animals. Between this group of buildings and the entrance of the farm is a bungalow.
11. I observed that the appeal barn (referred to within the evidence as barn A) is located some distance away from the other farm buildings, towards the farm boundary. Barn A itself is open to the elements, without a roof. Adjacent to barn A is another open barn, partially roofed but generally open to the elements. These are set within the contours of the land, partially built into the slope. Behind a row of trees there is just visible a highway and a small group of houses which fall just outside the farm boundaries. None of the other farm buildings are visible from barn A and due to this and the physical separation distance of approximately 0.8 of a mile, it cannot be said that that barn A relates to the other buildings. It is clearly isolated from them. This is so even if it is possible to use an off road vehicle to drive directly between it and the other farm buildings.
12. A structural appraisal has been submitted which concludes that barn A is in generally good condition and that the degree of rebuilding required would be limited. The appellant states that the proposal represents an achievable solution based on its size and the cost of works. However, due to the lack of financial information provided, it is not possible for the appellant to be able to demonstrate that the size of dwelling which the enterprise can afford to build and maintain has been assessed. Whilst I note the appellant's representations that the proposed dwelling would be affordable, this is not based on any detailed financial information relating to the farm.
13. The appellant states that it has yet to be established that Barn B is capable of conversion, however the onus is on the appellant to demonstrate that there are no other dwellings or buildings suitable for conversion which are available to meet the need³.
14. The Council's written evidence refers explicitly only to barn B as a potential alternative. Whilst I note the appellant's representations that barn B is larger and therefore would be more costly to convert, I have not seen any evidence to confirm that this would be the case, nor that it would be necessary to convert the whole structure. The only evidence submitted in relation to barn B states that it was originally intended for conversion to three rental properties and reference is made to pre-application discussions for this. I note also that the appellant states that barn B would be needed if any future expansion of the herd were to take place, however there is no evidence of when that expansion is planned, nor whether any such expansion could be facilitated by other facilities on site. The appellant has therefore failed to satisfy the alternative dwelling test in this regard.
15. There was a smaller barn shown during the site visit which the appellant confirmed is used for calves. The appellant explained that this area was an integral part of the farm and essential for animal welfare and I see no reason to doubt that. Further, from my own observations, whilst the barn had a traditional appearance from the front section, this area was limited in size and the majority of the barn was of corrugated sheeting material.
16. I am mindful of paragraph 4.11.1 of TAN 6 which states that if there are existing dwellings on the enterprise it needs to be shown why these cannot be used to meet the needs of the enterprise for a resident worker, and why labour or residential

³ TAN 6 4.11.1

arrangements cannot be re-organised to ensure that the existing accommodation meets the needs of the enterprise without the need for a further dwelling. In this particular case there are four existing dwellings on the appeal site. In addition to the farmhouse where the appellant's daughter and her family currently reside, there is a bungalow which I understand to be owned and occupied by the appellant's mother and two barn conversions which are privately rented out. One of these is a single bedroomed dwelling and the other has two bedrooms. The appellant states that these were developed as farm diversification and they are rented out, the income from which makes up a significant proportion of the overall farm income.

17. Without any financial evidence, I am unable to ascertain how much of the farm income derives from these rental properties as opposed to farming income which would be used to justify an additional dwelling. Likewise, without evidence relating to these properties it is not possible to determine that these should not be taken into account as a potential alternative for the needs of the enterprise. This too is a factor which leads me to conclude that the alternative dwelling test has not been satisfied in this case.
18. I heard that the Council do not expect the appellant to produce evidence of alternative properties which may be available to buy or rent in the locality due to the isolated location of the farm. This, I am told, means that no other properties would be reasonably accessible. I see no reason to question this position. This, however, does not alter my overall conclusion that the appellant has failed to satisfy the alternative dwelling test.
19. The Council also states in evidence that a new build would be preferable to the appeal proposals but the appellant asserts that this is not anticipated by the TAN 6 guidance. The Welsh Government Practice Guidance to TAN 6 provides clarity on this issue and states that a new build dwelling should only be considered where it has been demonstrated that no reasonable alternative is available. For the above reasons, I have concluded that this does not apply in this case.

The Usual Planning Requirements Test

20. I have already concluded that the proposal fails the alternative dwelling test, however, even had the evidence in support of the proposal satisfied this requirement, TAN 6⁴ states that proposals should also satisfy the usual planning requirements in terms of design, sustainability and access and that the siting of the proposed dwelling should relate closely to the activities for which there is a need; "In most cases this will mean that the new dwelling should be sited in close proximity to existing buildings and in the case of dwellings for agricultural enterprises, should not be isolated from the farmstead or in locations that could encourage farm fragmentation".
21. The appellant states that there has been a structure at the appeal site for many years and that it is an established part of the landscape. This is not disputed. Against this background, the Council has not set out in any detail why it is felt the proposal would have an unacceptable impact on the landscape and when asked to elaborate at the hearing no detailed reasons were forthcoming. Notwithstanding this, I have already found that the proposal fails to meet the alternative dwelling test set out in TAN 6 and in this regard, the proposal fails to comply with policy S1 of the LDP.
22. Without that agricultural justification, the proposed dwelling constitutes unjustified new development in the open countryside that is not grouped with existing buildings

⁴ At paragraph 4.12.1

contrary to policies S1 and LC1 of the LDP. Accordingly, I conclude that the usual planning requirements test has not been satisfied.

Conclusion

23. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.
24. For the aforementioned reasons, and taking into account all matters raised, I conclude the appeal should be dismissed.

Janine Townsley

Inspector

DOCUMENTS

- 1 Letter of Notification of Appeal

APPEARANCES

FOR THE APPELLANT:

Robert Fox Fox Rural

George Prichard

Laura Kitson

FOR THE LOCAL PLANNING AUTHORITY:

Craig O'Connor Monmouthshire County Council

INTERESTED PERSONS:

Cllr Ruth Edwards