
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 25/10/16

**gan Clive Nield BSc(Hon), CEng,
MICE, MCIWEM, C.WEM**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 13.12.2016

Appeal Decision

Site visit made on 25/10/16

**by Clive Nield BSc(Hon), CEng, MICE,
MCIWEM, C.WEM**

an Inspector appointed by the Welsh Ministers

Date: 13.12.2016

Appeal A, Ref: APP/E6840/C/16/3154351

**Site address: Land at Caxton Tower, Newbolds Farm, Rockfield, Monmouth,
Monmouthshire, NP25 5SY**

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 appeal is made by Mr Tony Cottrill against an enforcement notice issued by Monmouthshire County Council.
 - The enforcement notice, ref. E15/195, was issued on 9 June 2016.
 - The breach of planning control as alleged in the notice is, without planning permission, work to construct an outbuilding.
 - The requirements of the notice are to demolish the outbuilding completely and remove the resultant material from the land.
 - The period for compliance with the requirements is 3 calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
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Appeal B, Ref: APP/E6840/A/16/3154336

Site address: Caxton Tower, Newbolds Farm, Rockfield, Monmouth, NP25 5SY

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 Tony Cottrill against the decision of Monmouthshire County Council.
 - The application Ref DC/2015/01527, dated 2 December 2015, was refused by a notice dated 26 May 2016.
 - The development proposed is an amendment to the existing planning permission, Ref. DC/2013/00623, for rehabilitation and extension of the former hunting lodge to provide 1 No. 3 bed dwelling to include the construction of an outbuilding and underground service route to connect the dwelling and outbuilding.
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Decisions

Appeal A: APP/E6840/C/16/3154351

1. The appeal is allowed on grounds (f) and (g), and the enforcement notice is varied: by the deletion of the requirement in Schedule 4 and the substitution of the requirement
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“Partially demolish the outbuilding by removing the roof and lowering the walls to the eaves levels specified on Drawing No. 1233-02c, as approved under planning permission ref DC/2013/00623, and remove from the land any surplus materials not required to complete the outbuilding in accordance with that Drawing; and by the deletion of 3 calendar months and the substitution of 6 calendar months as the Time for Compliance.

2. Subject to these variations the enforcement notice 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.

Appeal B: APP/E6840/A/16/3154336

3. The appeal is dismissed.

Procedural and Background Matters

4. Caxton Tower is a derelict historic hunting lodge located on high ground in open countryside to the west of Monmouth. In 2009 planning permission was granted for rehabilitation and extension of the Tower to provide a 3 bed dwelling, including the construction of an outbuilding for ancillary use. Revised schemes were granted permission in 2012 and 2013, the latest being permission ref DC/13/00623 granted in September 2013.
5. Little work has been carried out on the Tower conversion so far but the outbuilding has been largely completed. Although built to the correct footprint and with the correct materials, the outbuilding has not been built in accordance with the 2013 permission. It has eaves and ridge heights some 0.4 m (though 0.7 m has also been mentioned) and 1.7 m higher than the permitted scheme as well as variations to several door and window details. A retrospective application was made for this varied scheme but was refused by the Council, and this refusal is the subject of Appeal B. The Council then issued an enforcement notice, and that is the subject of Appeal A.
6. More recently the Appellant has submitted a further revised proposal to the Council, which would retain the present eaves level and detail changes for the outbuilding but would incorporate shallower roof slopes to comply with the ridge height granted permission in 2013. That application was refused under the “non-material amendment” procedures and has now been submitted as a full planning application which has yet to be determined.

Appeal A on Ground (a) and Deemed Planning Application, and Appeal B

7. This ground of Appeal A is that planning permission should be granted for the outbuilding as built, which is the same development as that covered by Appeal B.
8. The increased height of the outbuilding roof has substantially increased the mass of the building and its visual impact. Although still considerably lower than the Tower, the balance between the relative scales of the 2 buildings has been changed such that the outbuilding has taken on a more important appearance than originally approved. This change has also been influenced by the design detail changes, albeit changes that are relatively insignificant in themselves.
9. Caxton Tower is not a listed building but it is still an attractive and distinctive historic building and will retain that interest even after the proposed extensions and refurbishment works have been carried out. The new outbuilding is an important part of its immediate surroundings and an integral part of its setting. Although public views

are limited and generally quite distant and the outbuilding is set against a wooded backdrop, its increased scale is not appropriate for an ancillary building and is detrimental to the setting of the Tower.

10. The Council also says the enlarged building is an overbearing and visually intrusive feature as one enters the site. I do not consider it to be overbearing but it is an impressive and substantial feature that detracts from the character and appearance of the Tower itself. Its more substantial and complex appearance belies its role as an ancillary outbuilding for the main dwellinghouse (Caxton Tower when converted).
11. The Appellant has drawn my attention to the fact that Cadw has raised no objections to the enlarged building. However, in its consultation response Cadw has made it clear that its role is limited to providing advice on effects on designated listed historic assets. Consequently no conclusions can be drawn from its failure to comment on the current appeals as Caxton Tower is not a listed building.
12. The Council has made reference to several development plan policies and supporting advice, particularly Adopted Local Development Plan Policy DES1 and the Council's adopted Supplementary Planning Guidance on Policies H5 and H6. Policy DES1 covers general design considerations and includes requirements to respect the existing form, scale and massing of the development's setting and neighbouring buildings and to respect built and natural views and panoramas where they include historical features or attractive or distinctive buildings. Policy H6 relates to extensions to rural dwellings, and the Supplementary Planning Guidance advises that garages should be subordinate to and not detract from the character or appearance of the main dwelling.
13. Although it is arguable that the latter may not be directly applicable, the intentions of the policies are clear, and I consider the outbuilding as currently built conflicts with these basic planning principles and policies. My overall conclusion is that the current outbuilding is unacceptably harmful to the setting of Caxton Tower and to its character and appearance, contrary to development plan policy.
14. The Council has also made reference to Policy LC1, which provides a presumption against new built development in the open countryside, and raises questions about the Appellant's failure to show any evidence of work on the Tower itself. It is noteworthy that both the 2012 and 2013 planning permissions include conditions that the outbuilding shall only be used for purposes ancillary to the enjoyment of the approved dwelling, the converted Caxton Tower. Thus, without that conversion, the outbuilding has no lawful use. However, I have no reason to doubt the Appellant's genuine intentions to carry out that conversion or to suspect that he intends to use the outbuilding for any unlawful purpose. Consequently, I have given this matter no further consideration.
15. For the reasons given above I conclude that the appeal against refusal of planning permission and the enforcement appeal on ground (a) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Appeal A, Ground (f)

16. I turn now to the appeal on ground (f), which is that "the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections". The notice requires the complete demolition of the outbuilding and the removal of all the materials from the land. The Appellant argues that this is excessive and asks me to consider 2 alternatives: firstly, the removal of the present roof and its

replacement with a roof of much shallower slope so that the ridge height is the same as that approved under the 2013 planning permission; and secondly, the demolition of the present roof and partial demolition of the walls to the eaves height approved under the 2013 planning permission, which would then allow him to complete the building in accordance with the 2013 permission. The former is the scheme for which a planning application has recently been submitted to the Council but has yet to be determined.

17. The first proposal goes beyond the meaning of "lesser steps" and extends beyond the scope of ground (f) as it involves steps that are quite different and it amounts to a different development. That proposal is more appropriately considered under the planning application recently submitted to the Council. However, it would seem perverse not to accede to the second proposal. Although the Council was entitled to require complete demolition under the enforcement notice, particularly in view of its concerns about the Appellant's intentions for use of the building, I consider this to be excessive.
18. The notice describes the Council's reasons for issuing the notice, which are essentially the adverse visual impact of the building on the character and appearance of the Tower. However, in granting the 2013 planning permission, it was obviously of the opinion that the smaller outbuilding permitted would be acceptable, and the Appellant has indicated he would intend to comply with that permission in rebuilding the outbuilding. I consider that would overcome the harm to amenity that the enforcement notice aims to address.
19. For the reasons given above I conclude that the requirements are excessive and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (f) succeeds to that extent.

Appeal A, Ground (g)

20. Finally, it is submitted that the 3 months period given to comply with the notice is too short and a period of 12 months is requested. The Appellant says that the exposed and elevated nature of the site makes winter working difficult and that it will take some time to secure the specialist building skills needed to carry out the work. I accept the latter and to a lesser extent the former but consider 12 months would be too long to allow the present building to remain. I consider a period of 6 months would be sufficient and appropriate.
21. In the same way as for ground (f), I am varying the enforcement notice accordingly. The appeal under ground (g) succeeds to that extent.

Clive Nield

Inspector