
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 15/10/18

gan **Richard E. Jenkins BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 15/01/2019

Appeal Decision

Site visit made on 15/10/18

by **Richard E. Jenkins BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 15/01/2019

Appeal A - Ref: APP/B6855/C/18/3209903

Site address: Land to the south of 2 Glyndefaid Cottages, Ynys Y Mond Road, Glais, Swansea, SA7 9JA

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 R Williams against an enforcement notice issued by City and County of Swansea Council.
 - The enforcement notice, numbered ENF2016/3086, was issued on 1 August 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a building for use as a Farriers workshop/ office and office and training centre for Equestrian Centre.
 - The requirements of the notice are to demolish the building and remove all resulting material to an authorised place of disposal.
 - The period for compliance with the requirements is three months beginning with the day on which the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B - Ref: APP/B6855/A/18/3209413

Site address: Land adjacent to 2 Glyndefaid Cottage, Ynys Y Mond Road, Glais, Swansea, SA7 9JA

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 R Williams against the decision of City and County of Swansea Council.
 - The application Ref: 2017/2593/FUL, dated 5 December 2017, was refused by notice dated 9 May 2018.
 - The development proposed is the retention and completion of a building for use as a Farriers workshop/ office and office and training centre for equestrian centre.
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Decision

Appeal A - Ref: APP/B6855/C/18/3209903

1. The appeal is allowed insofar as it relates to ground (g) only. It is directed that the enforcement notice be varied by the deletion of 3 months and its substitution with
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6 months as the period for compliance. Subject to that variation the enforcement notice is upheld.

Appeal B - Ref: APP/B6855/A/18/3209413

2. The appeal is dismissed.

Background and Preliminary Matters

3. As set out above, there are two appeals relating to the appeal site. Whilst I shall determine each appeal on its individual merits, to avoid any duplication, I shall deal with the two appeals together in this single document, albeit with separate formal decisions.
4. The appeals relate to a substantial building that has been constructed without the benefit of planning permission at a largely wooded area located to the south of No.2 Glyndefaid Cottages off Ynysymond Road in Glais. The stone work on the building had been largely completed to wall plate level by the time I visited the site and roof trusses were in place. However, large openings remained unfilled, with scaffolding skirting the building. The building is located on uneven ground and incorporates a substantial retaining wall.
5. The Local Planning Authority (LPA) commenced its enforcement investigation at the site in 2016 following a complaint that a new dwelling had been erected. However, it was clear following the subsequent investigations that the building was not in use and the appellant has since clarified that it is intended that the building be used as a farriers workshop/ office and office and training centre for a nearby equestrian centre.
6. Following initial correspondence, a planning application was submitted in December 2017¹ for the retention and completion of the building for the aforementioned use. However, that application was refused by the LPA in May 2018 and an enforcement notice attacking the operational development was issued in August 2018. Appeal A relates to the enforcement notice and Appeal B comprises an appeal under Section 78 against the Council's decision to refuse planning permission.
7. The Welsh Government (WG) published an updated version of Planning Policy Wales (Edition 10, 2018)(PPW) during the determination of the appeal. Given that both parties were given the opportunity to provide comments on the implications of such a change to national policy, I am satisfied that the timing of the publication has not resulted in any prejudice to the parties.
8. Finally, in an attempt at addressing the matters that constitute the LPA's reasons for refusing the application submitted under Ref: 2017/2593/FUL, the appellant submitted a revised planning application which proposed to reduce the overall scale of the building. Given that the revised scheme was never determined by the LPA, or considered as part of the application under 2017/2593/FUL, it is beyond my jurisdiction to consider the merits of such a proposal in determining these appeals.

Reasons

Appeal B – The Planning Merits

9. There is no appeal under Section 174(2)(a) of Appeal A meaning that there is no application for planning permission deemed to have been made under section 177(5) of the Act. However, as set out above, the appellant has submitted an appeal against

¹ Ref: 2017/2593/FUL

the LPA's decision to refuse planning permission for the retention and completion of a building for use as a Farriers workshop/ office and office and training centre for equestrian centre². Having considered the evidence in relation to this proposal, I consider the principal issues to be: whether the development is acceptable in principle, having particular regard to the development plan framework; the effect upon the character and appearance of the area; and the effect upon nature conservation interests and protected species. It is also important that any harm is weighed against any economic or other benefits that might arise should the scheme be approved and implemented.

10. The appeal site is located outside of the settlements defined by the adopted City and County of Swansea Unitary Development Plan (2008)(UDP) and is therefore located in countryside for the purposes of planning policy. Consistent with national policy, the adopted UDP seeks to strictly control development within such countryside locations. It is however common ground that the use of the building as a Farriers workshop/ office and equestrian centre comprises a rural enterprise as referred within PPW and Technical Advice Note 6: *Planning for Sustainable Rural Communities* (2010)(TAN6). Such policy documents are generally permissive of the principle of rural enterprises being located in such countryside locations, subject to other planning considerations being found to be acceptable.
11. The building is located in a largely isolated position, incorporates a substantial footprint and has a maximum ridge height of approximately 10.9 metres. As such, despite being relatively well-screened by existing vegetation, I was able to confirm at the time of my site inspection that, by reason of its scale and overall massing, the development and associated works cause material harm to the rural character of the local environs. Much of the appellant's arguments turn on the contention that the building is located on previously developed land and that it comprises the re-construction of a former colliery building that used to occupy the site. Indeed, it is alleged that the footprint, height and external elevations of the building constructed on site are consistent with the corresponding features of the original structure. It is also contended that the stone used in the construction of the building has been taken from the demolished colliery building.
12. Nevertheless, whilst Edition 10 of PPW continues to provide a preference for the re-use of previously developed land over greenfield sites, I have not seen any cogent evidence to support the appellant's contention that the building replicates the former building in terms of scale and design. In any event, any former building on site has since been demolished, with nothing to suggest that the development comprised the conversion of a rural building. It therefore follows that the former building does not represent a lawful fall-back position that should be attributed significant weight in the determination of this appeal.
13. The appellant contends that the positive benefits of the scheme outweigh any adverse impacts, including the effect upon the character and appearance of the area. In support of such assertions, letters of support have been received from an existing farrier business that currently operates from Pontardawe. Support has also been received from a nearby equestrian centre. Specifically, the farrier business has expressed an interest in renting space within the appeal building, whilst the equestrian centre contends that the development would be beneficial to the tourism industry generally. The equestrian business also cites the potential for horses to be kept at the appeal building when shows, clinics and other events are held at their own premises.

² Appeal B

14. In accordance with the provisions of both local and national planning policy, the benefits to the local equestrian industry weigh in favour of the proposal. However, the weight to be attributed to such positive benefits depends upon the individual circumstances of each case. In this case, whilst the development could potentially reduce the need for a local farrier to travel, I have not seen an essential need for such a relocation, with the existing business described as mobile and only located some 2.5 kilometres away. I have also not seen anything to indicate that the farrier's work would be exclusive to the aforementioned equestrian business, meaning that the need to travel to other enterprises for work would subsist, thereby diluting the sustainability credentials advanced as part of the appellant's case.
15. Notwithstanding such matters, much of the benefits cited by the appellant would only be realised should the permission granted for the expansion of the nearby equestrian use be implemented. I have not seen any assurances of such developments progressing meaning that such arguments should also be considered tentatively. Indeed, I concur with the LPA's position that such a matter could not be satisfactorily addressed via the imposition of a suitably worded grampian condition. The need for the building to be located at the appeal site is also brought into question by the fact that the appellant contacted the LPA after the development had commenced and initial enforcement investigations had taken place to consider what uses would be considered acceptable to the Council.
16. Therefore, whilst I am satisfied that locating a rural enterprise in such a countryside location may be acceptable in principle, having had regard to the particular merits of the scheme proposed in this case, I do not consider the development to be justified or appropriate. Indeed, on the balance of the evidence available I consider that, by virtue of its isolated location, excessive scale and overall massing, the development would cause material harm to the character and appearance of the site and its immediate surroundings. Such harm would not be outweighed by the arguments in favour of the development, including the positive economic benefits that have been advanced. I therefore consider that the proposed development would run counter to the aims of Policies EV1, EV2, EV22, EC11 and EV21 of the adopted UDP and, for the same reasons, also conflict with the general thrust of national policy.
17. I have had full regard to the LPA's concerns regarding the effect of the proposed development upon nature conservation interests and, in particular, protected species. However, as such concerns are largely unsubstantiated by evidence or objections from specialist ecologists or statutory consultees, I consider that such concerns merit limited weight in the balance. However, such a finding does not detract from the foregoing concerns which amount to compelling reasons why planning permission should be withheld. For this reason, and having considered all matters raised, I conclude that Appeal B should be dismissed.

The Appeal under Ground (f) of Appeal A

18. The appeal under ground (f) is that the requirements of the enforcement notice are excessive and that lesser steps would overcome the objections. In the context of this particular case, the appellant contends that the requirement to remove the building in its entirety is excessive and has put forward a series of alternative options for consideration. Firstly, it is suggested that the building could remain on site, less the roof timbers, with the appellant specifically suggesting that the structure would, in time, become an '*excellent habitat for reptiles and birds*'. The second suggested lesser step is for elements of original wall structures and the substantial retaining wall to be retained on site. It is contended that this option would prevent instability in the supporting bank. Finally, the third lesser step advanced is that only the imported

materials should be removed from the site given that the stone used to face the building was taken from the building originally in situ. I shall deal with the three suggested options in turn.

19. There is little doubt that the first option would do little to remedy the breach of planning control or the injury to amenity. Indeed, even with the roof timbers removed, the building would represent a substantial structure in an otherwise rural setting. I have already set out why the building is not justified by planning policy and, whilst I acknowledge that it could, in time, become a habitat for local ecology, I do not consider such a potential benefit to outweigh the identified harm and associated policy conflict. This option does not therefore represent an appropriate lesser step.
20. In terms of the second option, it was noticeable at the time of my site visit that a retaining wall formed a large part of the works on site. Indeed, it is a critical and integral element of the overall building erected on site. The appellant also alleges that a smaller element of wall located to the south of the building represents an original feature. However, the evidence suggesting that such features are in fact lawful is far from compelling, with photographs failing to satisfactorily corroborate such assertions. I have fully considered the appellant's contention that the retaining wall should be retained in situ for land stability purposes. However, I have not seen any cogent evidence by way of structural reports to corroborate such assertions and, in any event, there is nothing to preclude an application being submitted to authorise any necessary engineering works on site. Such factors lead me to believe that this lesser step would again fail to satisfactorily remedy the breach of planning control and injury to amenity.
21. The final lesser step advanced by the appellant suggests that only imported materials should be removed from the site. However, the evidence indicates that the original building was dismantled to make provision for the building currently on site, with nothing to indicate that the building on site comprises a conversion. I do not therefore consider that such a suggestion represents a suitable lesser step, not least because the demolished building does not represent a suitable fall-back position. It is also clear that the storage of such material on site would in itself have an adverse impact on local amenity.
22. For these reasons, and having considered all matters raised, I find that the requirements of the notice are not excessive and that the appeal under ground (f) should fail.

The Appeal under Ground (g) of Appeal A

23. The appeal under ground (g) is that the time given to comply with the requirements of the enforcement notice is too short. Specifically in this case, the appellant contends that the three months specified by the enforcement notice would not be sufficient to commission and successfully implement the requirements.
24. In considering such matters, I am particularly mindful that unnecessarily extending the period of compliance would serve to prolong the harm identified above. Nevertheless, given the extent of the works undertaken on site, I consider that a period in excess of the three months is justified in this case. It is within this context that I consider that a period of 6 months would represent an appropriate balance between the competing interests. The enforcement notice should be varied accordingly.
25. To this limited extent, the appeal under ground (g) succeeds.

Overall Conclusions

26. Based on the foregoing, and having considered all matters raised, I conclude that Appeal A should be allowed, but only insofar as it relates to ground (g), and that the enforcement notice should be varied by the deletion of 3 months and its substitution with 6 months as the period for compliance. Subject to such a variation, the enforcement notice should be upheld. Moreover, for the reasons set out above, Appeal B should be dismissed.
27. In coming to such conclusions, 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 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that these decisions are in accordance with the sustainable development principle through their contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR