
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 20/12/16

gan A L McCooey BA MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 08.02.2017

Appeal Decision

Site visit made on 20/12/16

by A L McCooey BA MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 08.02.2017

Appeal Ref: APP/P9502/A/16/3153458

Site address: Grouse Cottage, Cymro Road, Gilwern, Abergavenny, NP7 0HH

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 Ms C Watling against the decision of Brecon Beacons National Park Authority.
 - The application Ref 15/13060/FUL, dated 21 December 2015, was refused by notice dated 3 March 2016.
 - The development proposed is the reinstatement of a former dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the reinstatement of a former dwelling at Grouse Cottage, Cymro Road, Gilwern, Abergavenny, NP7 0HH in accordance with the terms of the application, Ref 15/13060/FUL, dated 21 December 2015, and the plans submitted with it, subject to the following conditions:
 1. The development shall begin not later than five years from the date of this decision.
 2. The development shall be carried out in accordance with the following approved plans: 1:2500 Site Location Plan and Drawings numbered 1170[BD] 03, 1170[BD] 04 and 1170[BD] 06. The corresponding BBNPA reference numbers are: NP1v1, NP6v1, NP7v1 and NP5v1.
 3. Prior to the construction of the dwelling hereby approved details or samples of the materials to be used in the construction of the external surfaces of the dwelling and proposed parking/turning area have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 4. The development shall be carried out in accordance with all the required actions and recommendations on pages 28 to 35 of the Bat and Nesting Bird Survey Report by Acer Ecology dated September 2016, and in particular, the Licensing requirements on page 28.
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5. No external lighting shall be installed until an external lighting plan has been submitted to and approved in writing by the local planning authority. The submitted plan shall be in accord with the mitigation strategy of the Bat and Nesting Bird Survey Report. The development shall be carried out in accordance with the approved details.

Procedural Matter

2. The appeal proposal was the subject of a screening direction from the Welsh Ministers as to whether the project is Environmental Impact Assessment (EIA) development within the meaning of the relevant Regulations. The conclusion of this direction is that the proposal is not EIA development.
3. A major component of the above screening was to assess the effect of the proposal on protected species, in this case bats. To this end a Bat and Nesting Bird Survey Report was submitted to The Planning Inspectorate. This report contained measures to mitigate the effects of the proposal on bats in its required actions. It also draws attention to the legally binding need for a Licence to be obtained from Natural Resources Wales (NRW) prior to works taking place. NRW were consulted on this matter and confirmed that providing the mitigation measures set out in the report are implemented, the proposal is not likely to have a significant effect on protected species. NRW states that the developer will be required to seek a European Protected Species Licence prior to the commencement of any works. I am therefore satisfied, on the basis of this consultation reply, that no further assessment under the Habitats Regulations is required in this case. I also note that Brecon Beacons National Park Authority (BBNPA) has withdrawn its objection on this ground as a result of the above report.

Main Issue

4. The main issue is whether the proposal represents an unjustified encroachment into the countryside of the National Park because the use of the property as an open market dwelling has not been justified.

Reasons

5. The appeal property is a two storey building with extensions to the side and rear. It is sited adjacent to a minor road from Llanelly to Brynmawr at a high elevation overlooking Clydach Gorge. The existing access is very acute and there is no available turning space. There is a parking area in the form of a drive to the front of the property leading to a large side garden. There are large retaining walls to the rear of the building.
6. The appellant provided information on its history: the property was originally built as a dwelling in around 1830. It was used as a dwelling and beer house until around 1910, when it was used solely as a dwelling. It was purchased by a Trust in 1968 for use by members of a Field Club of Moseley Grammar School. It appears that the building was used primarily as accommodation for use by any members of the club. The information supplied indicates that at least one of the extensions was added without planning permission around 2009. The Authority states that various applications for the retention of an extension, retaining walls and engineering operations were granted in 2012. The Trust was also granted a Lawful Development Certificate (LDC) in 2011 for an "Educational residential study centre for use by Moseley School for the purposes of field study." The appellant states that the building was last used by the Trust in 2009 and was sold in April 2014, presumably to the appellant.

7. The primary purpose of a National Park is to conserve and enhance its natural beauty. Brecon Beacons National Park Authority Local Development Plan 2007-2022 sets out a spatial strategy aiming to direct development to sustainable locations and a presumption against development in the countryside. The principal policies of relevance are Policy CYD LP1: Enabling Appropriate Development in the Countryside and Policy 25: Renovation of Former Dwellings in the Countryside, which is a detailed housing policy. Policy CYD LP1 is supported by Supplementary Planning Guidance (SPG) dated May 2015.
8. Policy CYD LP1 and the accompanying SPG are in accordance with the Plan's spatial strategy and states that applications for the conversion of redundant farm buildings to open market dwellings will only be considered if evidence has been supplied to demonstrate that there is no need for affordable housing in the area or for other defined beneficial uses. However, this policy and these elements of the spatial strategy do not apply to certain types of development such as replacement dwellings, extensions to dwellings and reinstatement of former dwellings, as set out in paragraph 1.3 of the SPG. This is logical as Policy 25 allows for the renovation of former dwellings with no reference to consideration of the need for affordable housing or other uses. To my mind, the wording of Policy 25 and the SPG allows for the reinstatement or renovation of a former dwelling back to residential use as a dwelling. In this case, the building is in good order and has the appearance of a dwelling.
9. The BBNPA states that Policy 25 does not apply because the dwelling has not been abandoned but rather lawfully changed to a Use Class C2 use. This is presumably a reference to paragraph 6.2.1.1 in the introduction to the Policy. I can see no justification for this in Policy 25 itself. I read the above paragraph as explanatory and introductory remarks. The Policy must be interpreted on its face and not how the BBNPA wish it to be interpreted. The Policy itself refers to former dwellings. This is a former dwelling and I consider that Policy 25 therefore applies and the principle of change of use back to a dwelling is acceptable. The BBNPA assertion that a change of use to Class C3 would be required before any consideration could be given to applying Policy 25 is patently wrong given the wording of this Policy. In any event, I consider that the use as a dwelling has been abandoned by virtue of the intervening use as an educational residential study centre. The fact that there may have been an intervening use is not referred to in Policy 25 and so such cases are not ruled out.
10. The use of the dwelling was not lawfully changed to a C2 use. A Lawful Development Certificate (LDC) in the terms specified was granted. The LDC merely established that the specified use was lawful at the time of the application. No planning permission has been granted for such a use. The appellant argues that the specified use did not fall within Class C2 anyway, because it was not used as a school, merely a bunkhouse. None of this affects the building's status as a former dwelling. There was considerable evidence about the lawful use and whether it had been abandoned. It is reasonably clear that the use as a residential study centre has been abandoned by the former owners, who have sold the building. The last use of the building and the abandonment of that use are not of direct relevance to the matter at hand in this application and I do not need to consider them further.
11. Policy 25 also contains criteria that must be met for a proposal to be considered favourably. As the building is in good structural condition, the sole issue raised in this regard was an extension of the curtilage to provide a 6m wide parking area immediately adjacent to the building. The proposal would enable vehicles to enter the site turn and leave in either direction. At the moment it is impossible to leave the site

and return in the same direction from whence one came. The BBNPA acknowledges that this would be beneficial in terms of highway safety. I agree. This is a very narrow "mountain" road with a steep drop on the other side. A reasonably long distance would have to be travelled by residents wishing to find a suitable place in which to turn around and go back the way they came. Attempting to reverse in and turn would be a hazardous manoeuvre given the restricted road width.

12. The Authority's concern is that the extended area would be too large. It refers to an 11m depth of parking area. This is an exaggeration because around 3m of this depth is the existing ramped concrete access. This area together with a part of the existing access could then be readily used to drive in, turn and park facing the road, thus achieving the highway safety benefits alluded to above. The required retaining wall would be faced with natural stone and the gravel area in front of the building would be reduced to a path with grass areas on either side. The effect on the natural beauty of the National Park would be limited by the small scale of the works and the close proximity to the building. Details of the materials to be used can be required by condition so the Authority can retain control of the final appearance. I consider that the proposed modest encroachment into the countryside would be justified by the highway safety benefits that would accrue.
13. The standard time limit and plan specification conditions are required as suggested in Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management. It is necessary that the materials to be used in the dwelling and parking area are under the control of the Authority, as stated above. I have also concluded above that the proposal is not likely to have a significant effect on protected species providing the mitigation measures set out in the Bat and Nesting Bird Survey Report are implemented. It is necessary that the mitigation measures are provided and this is the subject of conditions 4 and 5. I have referred to the need for the appellant to obtain a European Protected Species Licence from NRW prior to the commencement of any works in the conditions.

Conclusion

14. 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 WCFG Act"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WCFG 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 WCFG Act.
15. I conclude that the proposal would comply with Policies CYD LP1 and 25 of the Local Development Plan, its spatial strategy and the Plan as a whole. It would not conflict with the statutory purposes of a National Park. The detail of the proposal would also be acceptable. Mitigation measures will ensure that the proposal is not likely to have a significant effect on protected species. Having considered all the evidence raised, including the letters of support for the proposal from local residents, I conclude that the appeal should be allowed.

A L McCooey

Inspector