

**BRECON BEACONS NATIONAL PARK AUTHORITY
PLANNING, ACCESS & RIGHTS OF WAY COMMITTEE**

SUMMARY OF APPEALS

APPEAL LODGED (DEVELOPMENT CONTROL)

Ref	Date	Appellant	Dev/Location	Description of Development
18/16514/FUL	30.04.2019	Ms C Watling	Ty'r Y Wen The Hafod Cymro Road Llanelly Monmouthshire NP7 0HH	Reinstatement of former dwelling
ENF/15/01555/ BCPI	24.04.2019	Ahalia Navina Evans	Bancyfedwen Bethlehem Llandeilo SA19 6YH	Appeal against Enforcement Notice alledgeing that without planning permission, the erection of a replacement extension to the existing dwelling has occurred

Appeal Decision (Development Control)

Ref	Date	Appellant	Dev/Location	Description of Development
18/16266/FUL	03.04.2019	Mr & Mrs C Burgess	Ffynnonau Cerrigcochion Road Brecon LD3 9SP	Proposed glamping pods (four), with associated installation of sewage treatment Appeal Allowed – Appendix 1
18/16621/FUL	02.04.2019	Mr Ryan James	58 The Struet Brecon LD3 7LN	Proposed excavation and construction of retaining walls, with removal and partial rebuilding of boundary wall to create parking area Appeal Dismissed – Appendix 2



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 27/02/19

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 03.04.2019

Appeal Decision

Site visit made on 27/02/19

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 03.04.2019

Appeal Ref: APP/P9502/A/18/3218275

Site address: Ffynnonau, Cerrigochion Road, Brecon LD3 9SP

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 and Mrs C Burgess against the decision of Brecon Beacons National Park Authority.
 - The application Ref 18/16266/FUL, dated 15 June 2018, was refused by notice dated 27 September 2018.
 - The development proposed is glamping pods (four), with associated installation of sewage treatment.
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Decision

1. The appeal is allowed and planning permission is granted for glamping pods (four), with associated installation of sewage treatment at Ffynnonau, Cerrigochion Road, Brecon LD3 9SP in accordance with the terms of the application, Ref 18/16266/FUL, dated 15 June 2018, and the plans submitted with it, subject to the conditions set out in the annex to this decision.

Procedural Matters

2. Although at the time the planning application was determined edition 9 of Planning Policy Wales (PPW) was in force, it was replaced by edition 10 on the 5 December 2018. I am satisfied that the revised version does not make any material difference to the main issues in this case and I have had regard to it in my determination of the appeal.
 3. In coming to this conclusion, 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 (WCFG Act). I have taken into account the ways of working set out at section 5 of the WCFG Act and 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, as required by section 8 of the WCFG Act.
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Main Issue

4. The main issue in this case is whether the proposed development would accord with the development plan, having regard to the location of the proposed development within the Brecon Beacons National Park (BBNP).

Reasons

5. The appeal proposal relates to the provision of four glamping pods to be used as holiday accommodation. The pods themselves are of timber construction and located within a discreet area of semi-mature woodland in the open countryside.
6. The site is within the Brecon Beacon National Park. PPW states at paragraph 6.3.6 that *"In National Parks, planning authorities should give great weight to the statutory purposes of National Parks, which are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for public understanding and enjoyment of their special qualities. Planning authorities should also seek to foster the social, economic and cultural well-being of their local communities."* Whilst National Parks must be afforded the highest status of protection from inappropriate developments, this does not mean that there should be a blanket refusal on all applications for new development.
7. The Council's primary concern relates to the fact that the pods will be in situ all year round, which it states would constitute permanent structures in the countryside, representing sporadic development, which is unacceptable in the National Park. The Brecon Beacons National Park Authority Local Development Plan 2007 – 2022 (LDP) Policy CYD LP1 sets out that *"proposals for development within countryside locations will be required to contribute positively to their countryside setting and enhance the quality of the landscape without adverse impact on the wildlife, natural beauty, cultural heritage, environmental assets or biodiversity of the area."* It also sets out forms of development that would be acceptable, albeit subject to other relevant LDP policies. One such form of development is 'low impact development schemes' and this should be read in conjunction with LDP Policy 46.
8. LDP Policy 46 relates to non-permanent holiday accommodation and sets out the circumstances and locations in which temporary holiday accommodation sites may be acceptable. There is some disagreement between the parties about the relevance of this policy. However, LDP paragraph 7.8.3.1 helpfully states that *"temporary or non-permanent holiday accommodation covers all forms of accommodation which is located on the holiday site throughout the year. However, the form of temporary or non-permanent accommodation is that it is capable of being removed at any time without leaving a permanent trace."* As the pods are capable of being removed from the site without a trace it is clear that they fall to be considered under LDP Policy 46. I disagree that the purpose of this Policy is to enable the siting of structures for the holiday season only and that they should be removed from the site out of season. This approach would take the policy remit further than it requires.
9. LDP Policy 46 sets out four criteria that proposals would need to meet. The first of these a) relates to integration into the landscape. In this regard the Council states in their delegated report, dated 27 September 2018, that the proposed pods would have *"no detrimental impact on the character and appearance of the area and would not harm the visual amenity of the surrounding countryside."* Given the location and nature of the site, along with the scale and form of the development proposed I see no reason to disagree with the Council's assessment.

10. The second criterion b) relates to on-site facilities. As washroom facilities are integrated within the pod no further on-site facilities are required. Similarly, criterion d) considers means of access for the delivery and removal of the accommodation. No objection has been raised in this regard by the Highway Authority, and from what I saw on my site visit I see no reason to disagree.
11. Criterion c) relates to the limiting of the use of the accommodation so that it cannot be occupied as permanent residential accommodation. The Council state that to fulfil this requirement the pods should be removed out of season, as low impact tourism accommodation must not result in the permanent siting of structures on the site. However, to my mind this can be achieved through the imposition of a planning condition to restrict the occupancy of the pods to certain times of the year. The supporting text only states that the accommodation is 'capable of being removed', not that it should be.
12. In reaching this opinion I have considered the Council's Supplementary Planning Guidance¹ (SPG), which is a material consideration. Paragraph 3.5 states that one of the main policy considerations is the structure's degree of permanency and whether or not it will be removed from the site out of season. Also, at paragraph 5.2 the SPG states that development proposals will be likely subject to conditions including that each unit is removed from the site during the out of season months.
13. In requesting analysis of whether the structures should be removed from the site out of season the SPG is seeking to limit the harm the proposals would have on the landscape. Yet, as set out in my findings above, the pods are small scale, constructed of traditional materials and located in a discreet parcel of woodland which limits the views of the pods from the surrounding area, even during winter months. Accordingly, there is no harm to the landscape of the National Park if the pods remain in situ all year round.
14. The Council refer to LDP Policy 45 'New buildings for holiday accommodation', which the Council states² "*sets a strategic policy position that there will be no creation of permanent structures for the purposes of providing holiday accommodation.*" Nonetheless, as the Council accepts, the pods are not permanent structures and given that their use is temporary and can be controlled by a planning condition, they cannot be considered as permanent buildings for holiday accommodation.
15. Given my findings, the proposed development fulfils the requirements of LDP Policies CYD LP1 and 46 and would comply with the development plan when read as a whole. It would not result in sporadic development in the countryside and would accord with the statutory purposes and duty of the National Park.

Other Matters

Setting of listed building

16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. This is also reflected in PPW.

¹ Non-permanent Tourism Development Incorporating Low Impact Tourism Accommodation

² Council Planning Appeal Statement, dated 30 January 2019.

17. The heritage asset relating to this appeal is the grade II listed Ffynnonau Cottage, which is located some 185 metres to the west of the appeal site. Both Cadw and the Council have not raised an objection regarding any harm to the setting of the listed building. Given that the development site is well screened and cannot be seen from the cottage due to the intervening buildings and tree cover, the development would have a negligible impact on the listed building, its setting and any features of special architectural or historic interest which it possesses.

Highway safety and access

18. The appeal site is accessed via a private drive off the Cerrigcochion Road. Third parties have raised concerns that increased traffic using the drive and junction would harm highway safety. The majority of the drive is single track with only limited places to safely pass other vehicles. However, there is good visibility along its length so that vehicles would have time to manoeuvre and wait for an approaching vehicle to pass by. Similarly, the junction with Cerrigcochion Road has good visibility in both directions and given the limited amount of traffic associated with proposed development there will be no material harm to highway safety. In reaching this conclusion I note that the Highway Authority has raised no objections to the proposal.

Biodiversity

19. The appellant has submitted Great Crested Newts (GCN) survey, dated June 2018. Whilst no GCN were found, it recommends a mitigation strategy to safeguard amphibian interest and the creation of a hibernaculum. Such matters can be secured by a planning condition.
20. The pods are located in naturally occurring glades within the woodland and will be accessed by foot. However, the proposed works have the potential to impact on root protection areas. Therefore, a planning condition would need to be imposed to address this and ensure that the local landscape character is retained.
21. The proposal has the potential to increase light pollution in the area which can impact on bat roosting areas and wildlife corridors. The external lighting includes one light at the entrance to each pod, located under the canopy to reduce upward light spill. This and any additional external lighting could be controlled by a planning condition.

Living conditions of neighbouring occupiers

22. Neighbouring occupiers have raised concerns that the proposal would increase noise and would pose a security threat. Furthermore, due to its location within a wooded area there would be an increased risk of fire.
23. I accept that vehicle movements related to the operation would result in some noise and disturbance to occupiers of nearby dwellings, although the expected level of vehicle movements is modest. Some noise and disturbance is also likely from activities within the site, although the nearest residential properties are some 100 metres from the appeal site and due to the limited scale of the pods such impact would be limited.
24. There has been no objection on grounds of fire risk from the Public Health and Protection Unit of Powys County Council or the Fire and Rescue Service. I have no evidence before me that would lead me to doubt this professional opinion. Whilst I do not underestimate the concerns of local residents, these concerns do not lead me to conclude that the proposal is unacceptable.

Conditions

25. I have considered the suggested conditions and, having had regard to the advice in Welsh Government Circular 16/2014: The Use of Planning Conditions for Development Management (October 2014), have adjusted their wording in the interest of clarity and precision. The conditions and their associated reasons are set out in the annex below.
26. The Council requested a condition to ensure that the pods were removed from the site during the winter season. However, given my findings above this condition is not necessary in this case.

Conclusion

27. For the above reasons, and taking into account all other matters raised, I conclude that this appeal should be allowed subject to conditions.

Joanne Burston

INSPECTOR

ANNEX

Conditions attached to appeal reference APP/P9502/A/18/3218275

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in all respects strictly in accordance with the approved plans unless otherwise agreed in writing by the local planning authority.

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.

3. No development shall commence until an assessment of the nature and extent of any site contamination is undertaken in accordance with a methodology which must first be submitted to and approved in writing by the local planning authority.

Such an assessment shall include details of:

- i. the nature, extent and type of any contamination and their impacts on land and controlled waters, and details of all potential source, pathway and receptor linkages;
- ii. in instances where a desk top assessment has demonstrated it to be necessary, the results of an intrusive site investigation report; and
- iii. any measures identified as necessary to treat/remove the contamination to ensure the site is fit for the proposed use.

The development hereby approved shall not be brought into use until all the measures identified as necessary to decontaminate the site, as contained in a report that is approved in writing by the local planning authority, are implemented and the Authority is provided with a validation report signed by a suitably qualified person that confirms that such measures and/or works have been fully implemented.

Reason: To ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

4. If, during the course of development, any contamination is found which has not been identified in the site investigation required by condition 3 additional measures for the remediation of this source of contamination in the form of a remediation scheme shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate all approved additional measures and shall be completed before the development hereby approved is brought into beneficial use.

Reason: To ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters,

property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

5. The development shall be carried out strictly in accordance with the recommendations in Section 5 of the ecological report dated June 2018. The biodiversity mitigation measures shall be undertaken and/or installed prior to first use of the development. Following the installation of the mitigation, a report (prepared by a suitably qualified bat consultant) confirming their adequate installation shall be submitted to the local planning authority.

Reason: To comply with Section 6 of Planning Policy Wales (2018), Technical Advice Note 5 and Policies SP3, 1, 6, 7 and 12 of the adopted Local Development Plan for the BBNP. To comply with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 and the Environment (Wales) Act 2016.

6. The biodiversity enhancement scheme as shown on drawing no. 17/4345/5 shall be undertaken and/or installed prior to the first beneficial use of the development hereby approved, in accordance with the approved details. Following the installation of the approved scheme, a report confirming adequate installation shall be submitted to the local planning authority.

Reason: To comply with Section 6 of Planning Policy Wales (2018), Technical Advice Note 5 and Policies SP3, 1, 6, 7 and 12 of the adopted Local Development Plan for the BBNP. To comply with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 and the Environment (Wales) Act 2016.

7. Prior to the first beneficial use or operation of the development, a Habitat Restoration and Management Plan shall be submitted to and agreed in writing with the local planning authority. The plan shall include a timetable for implementation of future management and shall be implemented as approved.

Reason: To comply with Section 6 of Planning Policy Wales (2018), Technical Advice Note 5 and Policies SP3, 1, 6, 7 and 12 of the adopted Local Development Plan for the BBNP. To comply with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 and the Environment (Wales) Act 2016.

8. External lighting shall only be installed at the site as shown on drawing no. 18/4345/4. No additional external lighting shall be installed until a revised external lighting plan is submitted to and approved in writing by the local planning authority. The revised scheme shall avoid conflict with bat mitigation/enhancement measures and wildlife corridors and shall be implemented as approved.

Reason: To comply with Section 6 of Planning Policy Wales (2018), Technical Advice Note 5 and Policies SP3, 1, 6, 7 and 12 of the adopted Local Development Plan for the BBNP. To comply with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 and the Environment (Wales) Act 2016.

9. Prior to any site clearance or construction works commencing on site, the applicant shall provide an arboricultural method statement giving comprehensive details and plans for the following:

- a tree protection plan in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction – Recommendations" giving root protection areas and showing how all trees adjacent to any of the proposed works will be fenced off from the works;
- a plan showing the location of the proposed trenches and a method statement on how this will be excavated without causing damage to tree roots; and
- a method statement on how the existing gateway will be connected to the proposed parking area, and how the proposed parking area will be constructed so as not to damage any tree roots in that area.

The development shall be carried out in accordance with the approved details.

Reason: To protect trees on site.

10. The tree protection fencing shall be installed and inspected by the BBNP Authority Tree Consultant prior to any site clearance or construction works commencing on site.

Reason: To protect trees on site.

11. The development hereby approved shall not be let to or occupied by any one person or group of persons for a continuous period of longer than 3 months between November 5th in any one year and March 15th in the succeeding year and, in any event, shall not be used as a permanent accommodation. A register of the lettings, including the names and main home addresses of guests, shall be kept up-to-date and made available for the local planning authority to inspect at all reasonable times.

Reason: To ensure the approved holiday accommodation is not used for permanent residential accommodation as the National Park Authority is not prepared to allow the introduction of an unrestricted unit of residential accommodation in this rural location.

- **END** -



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 25/03/19

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 02.04.19

Appeal Decision

Site visit made on 25/03/19

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

an Inspector appointed by the Welsh Ministers

Date: 02.04.19

Appeal Ref: APP/P9502/D/19/3221823

Site address: 58 The Struet, Brecon, LD3 7LN

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 Ryan James against the decision of Brecon Beacons National Park Authority.
 - The application Ref: 18/16621/FUL, dated 17 September 2018, was refused by notice dated 12 November 2018.
 - The development proposed is the excavation and construction of retaining walls, with removal and partial rebuilding of boundary wall to create parking area.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are: the effect of the proposed development on highway safety; and whether the development would preserve or enhance the character or appearance of the Brecon Conservation Area.

Reasons

3. The appeal relates to an end of terrace residential property located at No.58 The Struet in Brecon. The property is located within the Brecon Conservation Area, is set at an elevated position relative to the adjacent public highway, is fronted by an existing stone wall and incorporates a substantial area of amenity space to the side of the property. The appeal proposal seeks full planning permission for the excavation of a significant proportion of the amenity space located to the side of the property and the construction of new retaining walls to create an area of off-street car parking.
4. It was clear at the time of my site inspection that The Struet represents an arterial route within Brecon and it was also clear that parking along the carriageway within the vicinity of the appeal property is restricted by double yellow lines. In this respect, there is little doubt that the appeal proposal would provide the appellant with a convenient location to park a vehicle. Nevertheless, despite incorporating visibility splays that would appear to satisfy national policy guidance¹, the development does

¹ Technical Advice Note 18: *Transport*; and Manual for Streets

not appear to make provision for a turning area meaning that it would inevitably lead to the need for reversing movements into or out of the appeal site. Such an arrangement would clearly be detrimental to the free flow of traffic in the area and would also represent a material risk to the safety of the users of the highway.

5. I note the appellant's contention that visibility would be sufficient even when undertaking reversing movements. However, I am not satisfied that the principle of reversing on the public highway represents a suitable design solution in this case, not least because of the volume and speed of traffic utilising the carriageway. Indeed, I consider that such regular reversing movements would significantly undermine highway safety and run counter to Policy 59 of the adopted Brecon Beacons National Park Authority Local Development Plan (2013)(LDP). I note the fact that there are other private driveways in the wider area. However, I have not seen any evidence to suggest that such driveways incorporate the exact set of circumstances as that proposed in this case and, in any event, I have not seen anything to suggest that they were granted planning permission under the policy framework set by the adopted LDP.
6. The National Park Authority (NPA) also objects to the proposed development on the basis that it would create a gap in a boundary wall that is considered to represent an important component of the Brecon Conservation Area. Nevertheless, whilst I agree that the wall represents an important feature of the area, the gap would be relatively modest and the use of materials could be satisfactorily controlled through the imposition of a suitably worded planning condition. I am therefore satisfied that the development would preserve the character and appearance of the conservation area and, therefore, dispute the NPA's assessment that the development would run counter to Policies 1 and 19 of the adopted LDP.
7. Therefore, whilst I have found that the development would comply with the legislative and policy framework relating to the Brecon Conservation Area, I have set out above why I consider that the development would represent a material threat to highway safety. I consider such harm and policy conflict to amount to a compelling reason why planning permission should be withheld and it is for this reason that I conclude that the appeal should be dismissed. In coming to this conclusion, 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 this decision is in accordance with the sustainable development principle through its 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