

**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
None				

Appeal Decision (Development Control)

Ref	Date	Appellant	Dev/Location	Description of Development
18/16514/FUL	29.07.2019	Ms C Watling	Ty'r Y Wen The Hafod Cymro Road Llanelly Monmouthshire NP7 0HH	Reinstatement of former dwelling Appeal Dismissed – Appendix 1
ENF/15/01555/ BCPI	29.07.2019	Ahalia Navina Evans	Bancyfedwen Bethlehem Llandeilo SA19 6YH	Appeal against Enforcement Notice allegeing that without planning permission, the erection of a replacement extension to the existing dwelling has occurred Enforcement Notice Varied – Appendix 2



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 27/06/19

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 29.07.2019

Appeal Decision

Site visit made on 27/06/19

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 29.07.2019

Appeal Ref: APP/P9502/A/19/3226717

Site address: Ty'r y Wen, The Hafod, Cymro Road, Llanelly 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 18/16514/FUL, dated 15 August 2018, was refused by notice dated 15 October 2018.
 - The development proposed is the reinstatement of former dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Authority raised concerns that the 'red line' area for the development did not extend to the adopted highway. Nevertheless, it is up to the applicant to decide where they draw their red line. Whilst one of the reasons for refusal related to failure to comply with Article 10 of the Development Management Procedure Order, the applicant has certified that they have signed the relevant certificates. Therefore, the Authority's accusation to the contrary is a matter for the courts.
3. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

Main Issues

4. The main issues in this case are:
 - Whether a suitable access can be achieved; and
 - 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

Background

5. The appeal property is a two storey semi-derelict building. It is sited above a minor road from Llanelly to Brynmawr at a high elevation overlooking Clydach Gorge and the surrounding hills. The appeal site is situated within the Brecon Beacons National Park (BBNP) where Planning Policy Wales, edition 10 (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."*
6. The Brecon Beacons National Park Authority Local Development Plan 2007-2022 (LDP) 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, Policy 7: Protected and Important Wild Species, Policy 25: Renovation of Former Dwellings in the Countryside, which is a detailed housing policy and Policy 59: Impacts of Traffic. Policy CYD LP1 is supported by Supplementary Planning Guidance (SPG) dated May 2015.

Suitable access

7. Access to the building is taken from the Llanelly to Brynmawr road, via an agricultural track. The track is relatively narrow and steep, with a loose stone, soil and grass surface. This track is also a public footpath. The track is privately owned, but the appellant states that she has a right of access over it. Thus, the remit of the Highway Authority has been limited to assessment of the junction with the Llanelly to Brynmawr road.
8. The Highway Authority objected to the proposed development, but highway safety was not directly stated as a reason for refusal. Nevertheless, highway safety is alluded to in the Authority's statement and the appellant has had the opportunity to comment. In particular, the Highway Authority states that *"the track is not suitable in its current form to provide access for residential use. Considering the daily movements from a residential dwelling and its servicing requirements i.e. deliveries, refuse collection, post etc. the track is not considered fit for purpose in accordance with current design standards."*
9. I accept that in rural areas it is not unusual for waste collections and mail to be left at a junction with the highway in a suitable receptacle. Nevertheless, the track is neither owned by the appellant or included within the red line of the planning application to ensure that such a facility is provided and maintained.
10. In particular given the acute junction with the highway when turning out of the track towards the south, vehicles have to make a number of manoeuvres to complete the turn. The situation is similar when traveling from the south and turning onto the track. The character of the road is such that even a modest increase in movements at a severely substandard junction would be detrimental to highway safety.
11. Furthermore, the current track is impracticable for regular day to day use by any future occupier, visitors or delivery/service vehicles. I am also concerned that given the narrow nature of the track conflicts would occur between walkers and vehicles. Moreover, I accept that the use of the track by agricultural machinery and tractors

does present similar problems, but the high driving position of such vehicles allows a better view of the road, walkers and oncoming traffic.

12. I acknowledge that the building has been used in the past as a dwelling. However, the former occupants left in 1976 and traffic movements today are now much more intensive. For example, an increase in home deliveries, travelling for employment and greater leisure opportunities. Whilst conditions could be imposed to upgrade the track to the required Authority standards, given this would be on land outside the applicant's control I am unable to do so.
13. The appellant states that the provisions of Schedule 2, Part 9 Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 could be used to repair the track. Nonetheless, the works required to bring the track up to a suitable standard, such as visibility splays, would require works to land greater than the boundaries of the private way. In any case I have no details of the work the appellant envisages to the track to know whether Part 9 would apply or whether such works would conserve and enhance the natural beauty of the National Park.
14. Accordingly, the proposal would be contrary to LDP Policy 59, which seeks to ensure that appropriate access can be achieved, particularly where there is an unacceptable impact on road safety.

Encroachment into the countryside

15. The appellant states that the building was a former dwelling with additional agricultural storage and not actively used to house livestock. Services such as a power supply and telephone line are available, and a water supply is from a natural spring. Furthermore, since the former owners left the property in 1976 the doorways were not properly secured, and animals have been able to roam through and seek shelter within the building. The Authority argue that *"a portion of the building was once a dwelling and another part an agricultural barn, however, the entire property has been used for the housing of livestock and agricultural purposes."*
16. As I saw on my site visit part of the building has the appearance of a dwelling, particularly the external fenestration and the internal subdivision, containing a fireplace and bread oven. Whilst some services are available, the building would require major work to make it habitable and as such residential use appears to have been abandoned.
17. LDP Policy CYD LP1 and the accompanying SPG are in accordance with the Plan's spatial strategy and states 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."*
18. The Authority, in its reasons for refusal, refer to the criterion 1 of LDP Policy CYD LP1 relating to conversion of farm and other buildings to dwellings. However, this criteria and certain elements of the spatial strategy do not apply to certain types of development such as reinstatement of former dwellings, as set out in paragraph 1.3 of the SPG. This approach is sound as Policy 25 allows for the renovation of former dwellings with no reference to consideration of the need for affordable housing or other uses.
19. The Authority states that whilst the appeal property would have been a dwelling in the past, it is now used for a variety of non-residential uses and therefore LDP Policy 25 does not apply. Nonetheless, I have no evidence that the use of the building has been

lawfully changed, such as a planning permission. Indeed, the Policy must be interpreted on its face and not how the BBNPA wish it to be interpreted. Therefore, to my mind, the building's status is that of a former dwelling, now abandoned, and criterion 1 of LDP Policy CYD LP1 would not apply in this case. Whilst LDP Policy 25 was not directly stated in the reasons for refusal, it was considered in the Authority's statement and the appellant has had the opportunity to comment.

20. I accept that a proportion of the building is that of an agricultural store, rather than a dwelling, however LDP Policy 25 permits extensions, where appropriate to the scale and design of the original building. Thus, the incorporation of the store into the reinstatement would allow the continued appreciation of the building as a whole and its setting.
21. Policy 25 also contains further criteria that must be met for a proposal to be considered acceptable in planning terms. In particular LDP Policy 25 permits the redevelopment of former dwellings where: Criterion a) ii) the building shows evidence of the original roof height, shape and features; Criterion d) no new or enlarged curtilage is required; and criterion e) any new or enlarged access and parking can be provided without significant damage to the setting of the proposed or surrounding landscape.
22. In terms of criteria 'a' the appellant proposes to alter the roof from a mono pitch to a gable roof form, which would increase its height. This renovation would not retain the original roof structure, however, the policy states 'where appropriate'. In this case the proposed gable roof design would better reflect other dwellings in the area and the use of natural slate would reflect local distinctiveness.
23. The Authority states that the proposed dwelling would have an enlarged curtilage at the front (east) and to the side (north). This is primarily required to facilitate the proposed parking and turning area. However, I have no evidence as to why a parking area cannot be accommodated in the existing curtilage and without further detail, I cannot be sure that such works would not cause significant damage to the surrounding landscape.
24. Both parties have brought appeal decisions¹ to my attention, said to be made in similar circumstances. However, in one case the dwelling seemed to lack any basic services. Whereas in the other, whilst I agreed with that Inspector regarding the interpretation of LDP Policy LYD 1, other concerns were raised with regard to LDP Policy 25 which differentiate these appeals from the one now before me. In any event each appeal stands to be considered on its own merits, as I have done here.
25. Therefore, whilst LDP Policy CYD LP1(criterion 1) is not relevant in this case, the proposal would fail to comply with LDP Policy 25 relating to restoration of former dwellings in the countryside.

Conclusions

26. For the reasons given above and taking all other matters into consideration, I conclude the appeal should be dismissed.

Joanne Burston

INSPECTOR

¹ APP/P9502/A/16/3153458 & APP/P9502/A/16/3162848



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 01/07/19

gan Richard E. Jenkins BA (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 29.07.2019

Appeal Decision

Site visit made on 01/07/19

by Richard E. Jenkins BA (Hons) MSc
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 29.07.2019

Appeal Ref: APP/P9502/C/19/3225523

Site address: Land at Bancyfedwen, Bethlehem, Llandeilo, SA19 6YH

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 Mrs Navina Evans against an enforcement notice issued by Brecon Beacons National Park Authority.
- The enforcement notice, numbered ENF/15/01555/BCP1, was issued on 28 February 2019.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a replacement extension to the existing dwelling.
- The requirements of the notice are to: i) Remove the extension and resultant materials from the land shown outlined in red on the attached plan.
- The period for compliance with the requirements is 18 months after the Notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is allowed on ground (f) and it is directed that the enforcement notice be varied by the deletion of the Plan attached to the Enforcement Notice and its replacement with Plan No.1 and Plan No.2 attached to this Decision. It is also directed that criterion i), under Section 5: '*What You Are Required To Do*', be deleted in its entirety and replaced with the following words: "*i) Remove the extension and resultant materials illustrated on Plan No.1 and Plan No.2 (attached) from the land*". Subject to these variations, the Enforcement Notice is upheld.

Procedural Matter

2. The appeal is proceeding solely under the ground set out under Section 174(2)(f) of the above Act. That is the steps required to comply with the requirements of the Notice are excessive and that lesser steps would overcome the objections. For the avoidance of any doubt, the planning merits of the development are not therefore relevant to the determination of the appeal.

Reasons

3. Planning permission was granted at the appeal site, under Ref: 14/11178/FUL, for the demolition of attached outbuildings and their replacement with an extension to the adjoining residential property. The outbuildings were subsequently demolished and an extension to the residential property at Bancyfedwen constructed. Nevertheless, the

extension was not built in accordance with the approved plans and retrospective planning permission, sought under Section 73A(2)(a) of the Act, was refused by the National Park Authority (NPA) in 2017¹ and subsequently dismissed at appeal². The NPA issued an Enforcement Notice against the development in February 2019³, with the requirements of that Notice requiring the removal of the extension and resultant materials from the land shown outlined in red on the plan attached to the Notice. It is against this requirement that the appeal under ground (f) relates.

4. The appellant has contended through the written submissions that the requirements of the Notice are excessive given that the red line area of the Plan attached to the Enforcement Notice incorporates an element of the original building. The NPA has since confirmed through its written submissions that the Plan attached to the Enforcement Notice erroneously includes an element of the building that should not be attacked by the Notice. In light of such common ground, the parties have jointly submitted corrected plans that seek to clearly and unambiguously define the elements of the building that are captured by the Enforcement Notice.
5. The proposed changes satisfy the appellant's objections and reflect the NPA's intentions in preparing the Notice. As such, and in the absence of any evidence to lead me to a different conclusion, I conclude that the requirements of the Enforcement Notice are in fact excessive. I shall therefore vary the Enforcement Notice by replacing the Plan attached to that document with Plan No.1 and Plan No.2 attached to this Decision. I shall also replace criterion i) under Section 5: '*What You Are Required To Do*' in its entirety with the following wording: "*i) Remove the extension and resultant materials illustrated on Plan No.1 and Plan No.2 (attached) from the land.*"
6. Subject to these variations, the appeal under ground (f) should succeed.

Richard E. Jenkins

INSPECTOR

¹ NPA Ref: 17/14857/FUL

² Appeal Ref: APP/P9502/A/17/3183918

³ Enforcement Notice Ref: ENF/15/01555/BCP1 – subject of this appeal



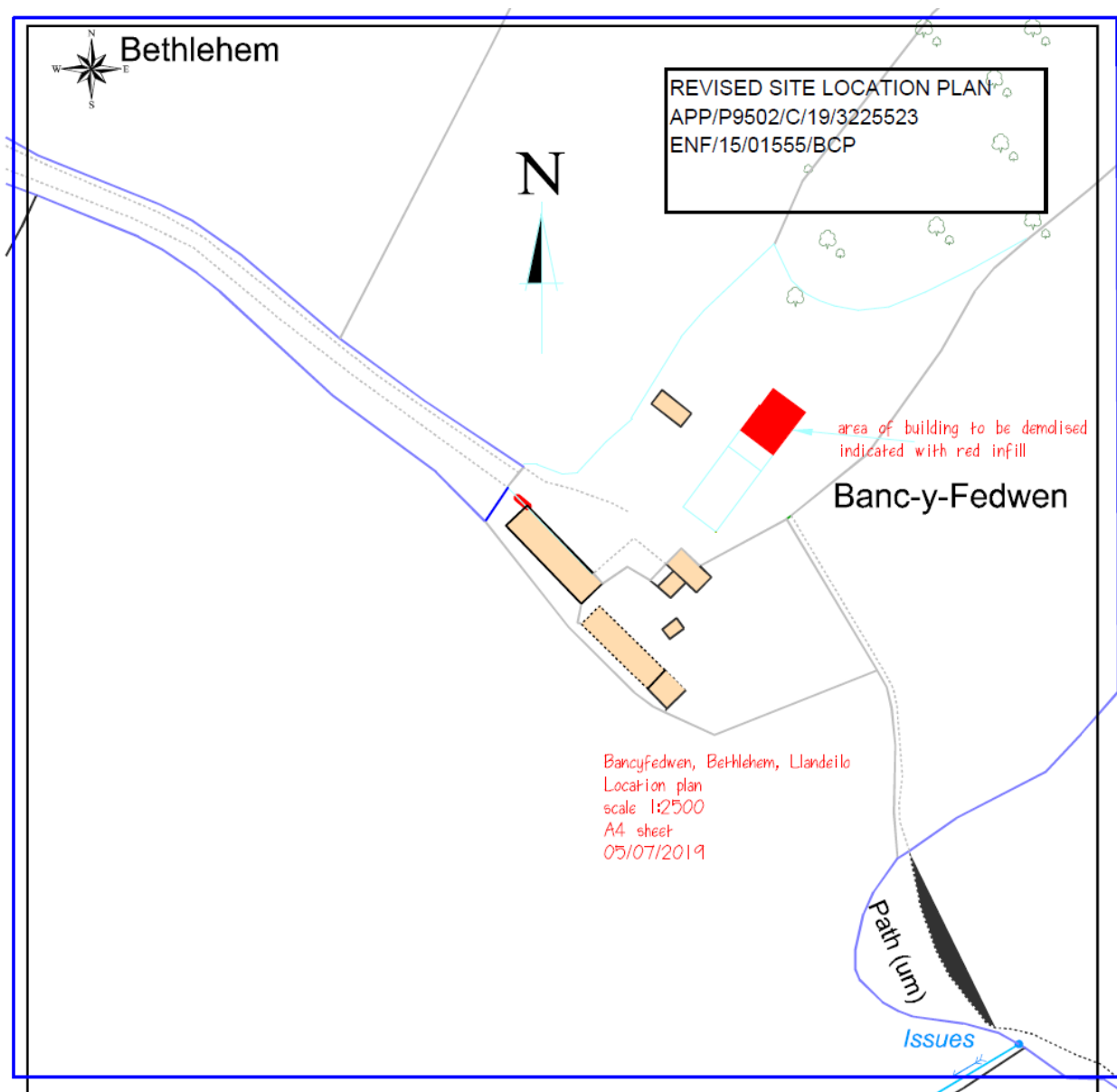
Plan No.1

Plan No.1 referred in Decision:

Reference: APP/P9502/C/19/3225523

by Richard E. Jenkins BA (Hons) MSc MRTPI

Land at: Land at Bancyfedwen, Bethlehem, Llandeilo, SA19 6YH





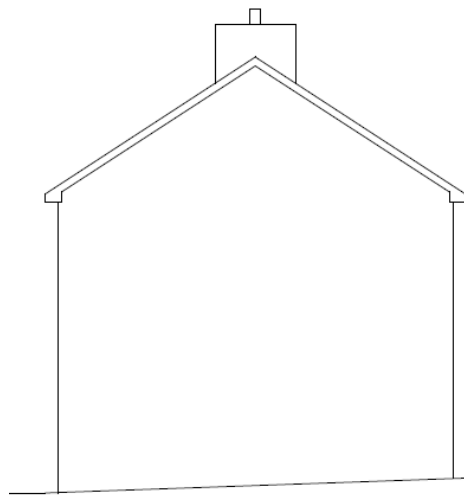
Plan No.2

Plan No.2 referred to in Decision:

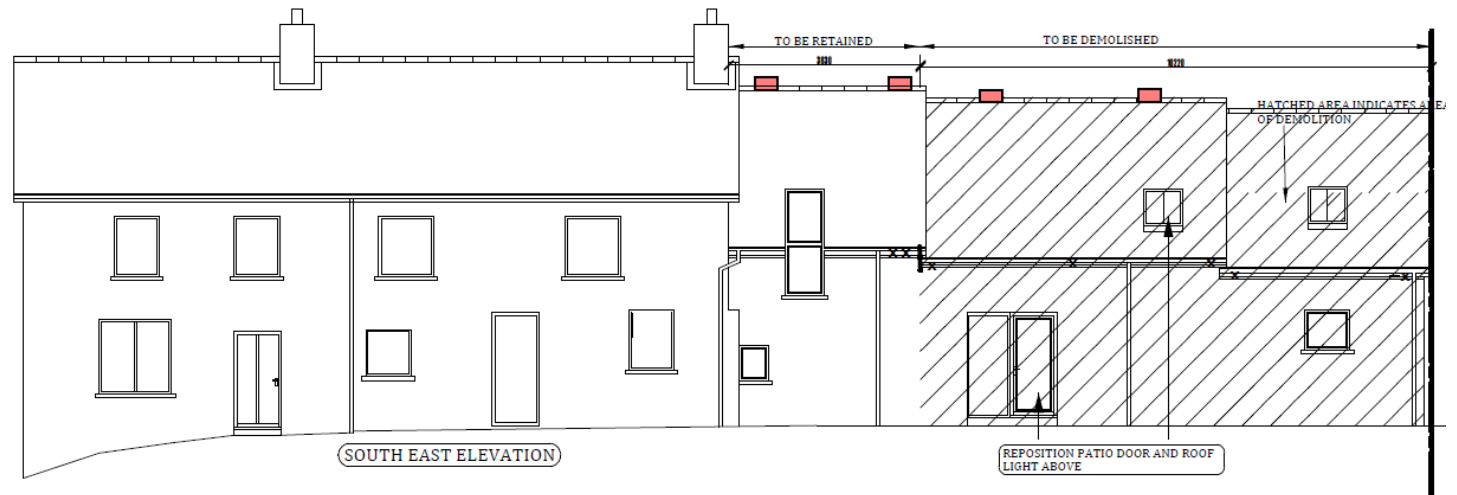
Reference: APP/P9502/C/19/3225523

by Richard E. Jenkins BA (Hons) MSc MRTPI

Land at: Land at Bancyfedwen, Bethlehem, Llandeilo, SA19 6YH

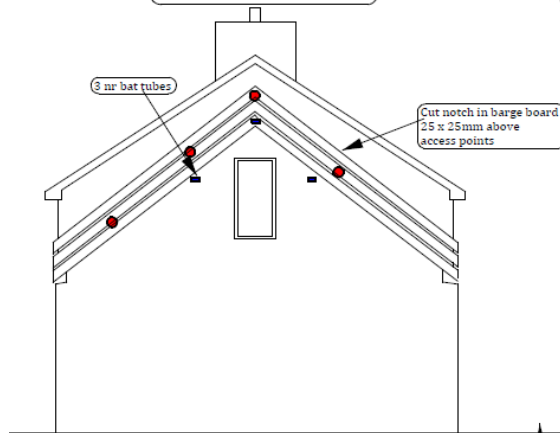


SOUTH WEST ELEVATION

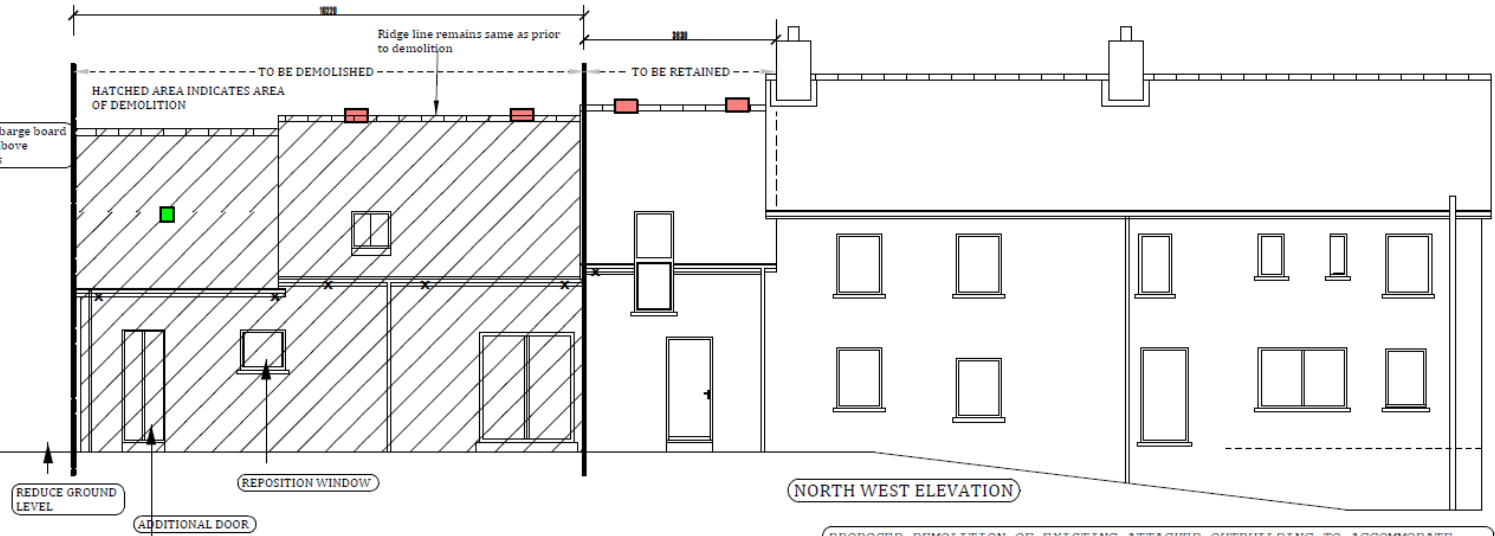


SOUTH EAST ELEVATION

REPOSITION PATIO DOOR AND ROOF LIGHT ABOVE



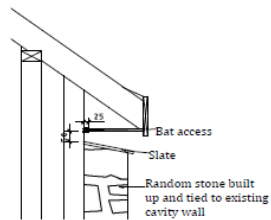
NORTH EAST ELEVATION



NORTH WEST ELEVATION

PLAN 2 EXTENT OF DEMOLITION SHOWN HATCHED

APP/P9502/C/19/3225523
ENF/15/01555/BCP



EAVES DETAIL 1.25 SCALE

- Raised ridge bat access
- Bat tubes
- Access point to loft
- Bat access tile
- x Bat access point in soffit

PROPOSED DEMOLITION OF EXISTING ATTACHED OUTBUILDING TO ACCOMMODATE CONSTRUCTION OF NEW DOMESTIC DWELLING EXTENSION AND RETENTION OF TWO ROOF/WALL LIGHTS AT BANCYFEDWEN, BETHLEHEM.

CLIENT: MR. & MRS. R. & N. EVANS

DRAWING : AS BUILT ELEVATIONS. SCALE 1:100 A3 SHEET REF. 3A
DATE : 04/07/2019

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AMENDMENTS

1. FLOOR AND GROUND LEVEL OF NORTH EXTENSIONS TAKEN DOWN TO HOUSE LEVEL
2. RIDGE AND EAVES HEIGHTS OF NORTH EXTENSIONS INCREASED
3. ADDITIONAL DOOR ON UPPER END OF NORTH WEST ELEVATION.
4. REPOSITION WINDOW ON UPPER END OF NORTH WEST ELEVATION
5. ADDITIONAL WINDOW IN ROOF SPACE ON NORTH EAST ELEVATION
6. REPOSITION PATIO DOOR AND ROOF LIGHT ON SOUTH EAST ELEVATION
7. REDUCE GROUND LEVEL AROUND NORTH EXTENSIONS