

**BRECON BEACONS NATIONAL PARK AUTHORITY
PLANNING COMMITTEE – 26TH JULY 2022**

SUMMARY OF APPEALS

Appeal Lodged (Development Management)

Ref	Date	Appellant	Dev/Location	Description of Development
21/20469/CPE	20.05.2022	Mr Luke Conod	Tanyrallt High Street Sennybridge Brecon LD3 8TN	The existing use is a one bedroom self-contained flat.
21/20323/FUL	07.07.2022	Mr Bruce Williams	The Mill Cottage The Square Talgarth LD3 0BW	Change of use from office/shop to residential use

Appeal Lodged (Enforcement)

Ref	Date	Appellant	Dev/Location	Description of Development	Note
ENF/16/01668/LB	10.06.2021	Andrew Burton	The Long Barn, Newton, LD3 8PA	Unauthorised works to a curtilage-listed cart shed that have affected its character, and removal of exterior steps to formerly existing granary	Appeal process has altered from written representation to hearing procedure. The Hearing will proceed on the 12/13 July 2022.

Appeal Decision (Development Management)

Ref	Date	Appellant	Dev/Location	Description of Development	Decision
20/18991/FUL	08.03.2022	Mrs June Spice	Cwmllwyd Gwynfe Llangadog SA19 9RR	To change the use of part of a stone barn into holiday accommodation, adding a shower room and kitchen area. Externally to remain as original.	Appeal Allowed (Appendix A)
21/19503/FUL	21.06.2022	Mr Chris Holborow	Fairview Cwmgarw Road Rhosamman Ammanford Carmarthenshire SA18 1DN	Proposed two storey side extension, proposed detached garage and extension of residential curtilage	Appeal Allowed (Appendix B)



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 21/09/21

gan P J Davies BSc (Hons) MA MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 08/03/2022

Appeal Decision

Site visit made on 21/09/21

by P J Davies BSc (Hons) MA MRTPI

an Inspector appointed by the
Welsh Ministers

Date: 08/03/2022

Appeal Ref: APP/P9502/A/21/3278942

Site address: Cwmllywd, Gwynfe, Llangadog SA19 9RR

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 failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mrs June Spice against Brecon Beacons National Park Authority.
- The development proposed is to change the use of part of a stone barn into holiday accommodation, adding a shower room and kitchen area, externally to remain as original.

Decision

The appeal is allowed, and planning permission is granted for the change the use of part of a stone barn into holiday accommodation, adding a shower room and kitchen area, externally to remain as original at Cwmllywd, Gwynfe, Llangadog SA19 9RR in accordance with the terms of application ref 20/18991/FUL, dated 25 August 2020, subject to the following conditions:

1. The development shall begin not later than five years from the date of this decision.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990

2. The development shall be carried out in accordance with the following approved plans: 1:1250 site location plan; 1:500 site plan; 1:500 treatment plant site plan; Proposed floor plans Drawing No: Cwmllywd 4; Elevations Drawing No: Cwmllywd 5; Biodiversity Enhancement Plan.

Reason: To ensure the development is carried out in accordance with the approved plans submitted with the application.

3. The development shall be occupied as holiday accommodation only and shall not be occupied as a person's sole or main place of residence or by any persons exceeding a period of 3 months in any calendar year. An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.

Reason: To prevent permanent residential use (LDP Policy CYD LP1).

4. The development shall not be occupied until the foul water drainage system has been implemented in accordance with the approved details. The drainage system shall thereafter maintained in accordance with the manufacturer's specifications for the duration of the development.

Reason: To safeguard public health, amenity and the local environment (LDP Policies 3, 10 and 57).

5. Prior to the installation of any external lighting on the property, details of such shall be submitted to and agreed in writing by the local planning authority. The lighting shall thereafter be installed and retained in accordance with the approved details.

Reason: To safeguard protected species (LDP Policy 6).

Application for Costs

An application for costs was made by Mrs June Spice against Brecon Beacons National Park Authority. This application is the subject of a separate Decision.

Background and Main Issue

The Authority's written statement of case says that a determination on the application has not been possible because it has not been able to establish the impacts on the River Tywi Special Area of Conservation (SAC), and whether the submitted biodiversity enhancements and lighting scheme are acceptable. The Authority confirms that the principle of the development is acceptable and I do not disagree. Similarly, I have not been given any grounds to suggest that the proposal would be harmful to other interests of material importance including highway safety, the character and appearance of the area or residential amenity. The Authority also considers that the development is acceptable in those respects.

The main issue therefore is the effect of the proposal on ecological interests.

Reasons

The appeal site is a stone barn in need of some restoration which is situated within the curtilage of an existing dwelling. It is located in a remote rural location away from any settlement. The barn is currently used as storage and a workshop. The proposal would involve the conversion of part of the first floor of the barn to create a holiday let. It would be accessed by existing external stone steps with new shower, toilet and sink facilities and a kitchen area. The submitted floor layout does not specify the number of bedrooms but the appellant suggests that there will rarely be more than 4 persons on the entire property. Having regard to the small size of the accommodation I do not dispute this.

The appeal proposal includes a new foul water drainage system in the form of a private package treatment plant (PPTP), which has been registered with Natural Resources Wales (NRW) and has a water discharge exemption under the Environmental Permitting (England and Wales) Regulations 2010. The PPTP would be situated within the curtilage of the appeal barn and the associated dwelling, and would discharge to a nearby watercourse which is hydrologically connected to the Afon Tywi, a riverine Special Area of Conservation (SAC).

Welsh Government Circular 008/2018 advises on the use of private sewerage in new development. It says that the first presumption must always be to provide a system of foul drainage discharging into a public sewer. If, by considering the cost and/or practicability, it can be shown that connection to a public sewer is not feasible, a package sewage treatment plant can be considered. The site is in a remote rural location where there is limited public infrastructure, and the existing dwelling is served by a private septic tank. The Authority confirm in its statement that the proposal would comply with Policy 57 of its Local Development Plan relating to the use of non mains sewerage solutions. On the available evidence I have no reason to disagree.

In January 2021 NRW published the results of its Compliance Assessment of Welsh River Special Areas of Conservation against Phosphorus Targets ('the Compliance Assessment'). This identifies that there are no phosphate failures in the Afon Tywi. NRW advice has been followed in screening the development that is subject to this appeal. NRW acknowledge that the water body which the proposal would feed into is passing its phosphate target. However, as the proposal would create new foul water sources, it would increase the volume of foul wastewater entering the SAC. It cannot therefore be screened out as not likely to have a significant effect on the SAC. A Habitats Regulation Assessment (HRA) under the Conservation of Habitats and Species Regulations (2017) ('the Regulations') has therefore been carried out and is attached as an Annex to this decision.

For the reasons set out in the HRA, I have found that the development would not have any significant adverse effect on the SAC. The Afon Tywi SAC currently has no phosphate failures and is meeting its targets. The development is small scale and the volume of foul waste water and phosphorous discharge would be acceptably managed.

In terms of other ecological matters, a Biodiversity Enhancement Plan has been submitted with the appeal. This proposes bird/bat boxes and refuges for reptiles, amphibians and stag beetles, as well as information on their maintenance. I am satisfied that the proposal makes adequate provision for biodiversity in line with the Environment (Wales) Act 2016. With regard to bats, the Authority is satisfied that a bat survey is not required. The barn has an existing external light above the first floor entrance to the proposal holiday let. It is not proposed to install any additional external lighting. A condition to require approval of any external lighting would ensure that ecological interests are safeguarded.

In the above circumstances, I conclude that the proposal would not be harmful to ecological interests and it would comply with Policies 3, 6, 7 and 10 of the Brecon Beacons National Park Local Development Plan (LDP).

Conditions

As set out above, and in addition to the time commencement and plan compliance conditions, I have imposed a condition relating to external lighting. I have also imposed a condition to secure the management and maintenance of the PPTP to ensure there are no adverse effects public health, amenity or the local environment. Having regard to the strict policy presumption against new residential development in the countryside and in line with the Authority's suggested conditions I have imposed a condition limiting the use the occupancy of the development to holiday accommodation. I have used the more concise model condition set out in Circular 016/2014 'The Use of Planning Conditions for Development Management' which achieves the required policy objective.

Conclusions

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 one or more of the Welsh Ministers' well-being objectives.

For the above reasons and having regard to all matters raised the appeal is allowed.

P J Davies

INSPECTOR

Annex: Habitats Regulations

Assessment Preliminary Matters

1. In accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (the Regulations), the purpose of this Appropriate Assessment (AA) is to report on the impacts of the scheme on the Afon Tywi SAC, which is a European protected site. As required by Regulation 63(3) of the Regulations I have had regard to the comments of NRW as set out in their responses dated 27 August 2021, 3 December 2021, 22 December 2021, and 27 January 2022.

Screening

2. NRW advice is contained on its website under the heading 'Advice to planning authorities for planning applications affecting phosphorous sensitive river Special Areas of Conservation'. This says that the screening process applies to developments within river SAC water body catchments and non-SAC tributaries flowing into them. In this case, the Afon Tywi is particularly important for its migratory fish populations. The entry in the register of European sites for Wales identifies Allis and twaite shad, Bullhead, River and Sea lamprey, and Otter as species which are a primary reason for its selection as a SAC.
3. NRW advice has been followed in screening the development that is subject to this appeal. The proposal involves a private package treatment plant (PPTP) that would discharge to a tributary to the Afon Tywi SAC. NRW acknowledge that the water body which the proposal would feed into is passing its phosphate target. However, as the proposal would create new foul water sources, it would increase the volume of foul wastewater entering the SAC. It cannot therefore be screened out as not likely to have a significant effect on the SAC and an AA is necessary.

Appropriate Assessment

4. The location of the proposed PTP is shown on a 1:500 scale plan which also indicates the point of discharge to the nearby watercourse. The PPTP has been registered with NRW and has a water discharge exemption under the Environmental Permitting (England and Wales) Regulations 2010. NRW advises that the exemption should not be relied upon as evidence for informing the HRA, however it also acknowledges that the exemption indicates that the likelihood of the development affecting the integrity of the SAC would be low.
5. The appellant has provided certification which indicates that the PPTP can achieve a performance phosphate output of 5.7mg/l. NRW cannot provide a generic threshold of acceptability for phosphates standards and therefore advise a site specific assessment and submission of appropriate information by the appellant. No water quality modelling has been undertaken by the appellant, nonetheless, given the small scale nature of the development, and that the SAC is comfortably passing its phosphate targets, I consider the requirement for such information to be disproportionate and unnecessary. NRW also confirm that they do not undertake water quality modelling for exempt activities.
6. Specific guidance has been sought from NRW in order to inform my understanding of the likelihood of significant impacts. However the advice that has been received is inconclusive. In particular, it has failed to identify the potential significance of any alleged deficiency in the available information in the specific context of this case. I have therefore reached a decision on the evidence that is available to me and having regard to the individual circumstances of this case. The proposal is a small scale holiday let involving part of the first floor of a large barn. Although it would increase the amount of

phosphorous into the Afon Tywi SAC, the amount of discharge would be controlled by the PTP. NRW's Compliance Assessment confirms that the two water bodies on the Tywi, for which data is available, comfortably pass their phosphates targets and no failures have been identified. In these circumstances, I find nothing of substance to support a conclusion that the proposal would have any significant effects on the SAC. I have considered the cumulative effect of development but having regard to the significant headroom in the SAC and the minor nature of the development there is similarly no evidence that the proposal alone or in combination with other plans or projects would lead to any significant effects on the integrity of the SAC.

Conclusion

7. I conclude that it has been satisfactorily demonstrated that the scheme would not have a significant adverse effect on the integrity of the Afon Tywi SAC. The proposed development therefore complies with the Habitats Regulations.

P J Davies

INSPECTOR



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 16/05/22

**gan Richard Duggan BSc (Hons) DipTP
MRTPI**

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 21.06.2022

Appeal Decision

Site visit made on 16/05/22

**by Richard Duggan BSc (Hons) DipTP
MRTPI**

**an Inspector appointed by the
Welsh Ministers**

Date: 21.06.2022

Appeal Ref: CAS - 01677

address: Fairways, Cwmgarw Road, Rhosamman, Ammanford SA18 1DN

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 Chris Holborow against the decision of Brecon Beacons National Park Authority.
 - The development proposed is a Proposed two storey side extension, proposed detached garage and extension of residential curtilage.
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Decision

The appeal is allowed and planning permission is granted for a two-storey side extension, proposed detached garage and extension of residential curtilage at Fairways, Cwmgarw Road, Rhosamman, Ammanford SA18 1DN in accordance with the terms of the application, Ref 21/19503/FUL, dated 25 January 2021, subject to the conditions in the attached schedule.

Procedural Matters

During the course of determining the application the Appellant agreed to amend the description of the development to include the extension to the residential curtilage. Therefore, the description of the development set out in the banner heading above has been taken from the Authority's decision notice as this more accurately describes the appeal development.

Outline planning permission was granted in 2013 (Reference: 13/08916/OUT) for the development of two residential units, and subsequent reserved matters planning applications relating to the layout, scale, appearance and landscaping of the site (Reference: 15/13021/REM and 16/13628/REM) were subsequently approved in 2015 and 2016. The two dwellings subject to these approvals, including the appeal property, have been constructed and completed.

Notwithstanding the planning history of the site, this appeal relates to an application for planning permission for a two-storey side extension to the appeal property, a detached garage and an extension to the curtilage. Therefore, irrespective of the red line

boundaries approved as part of the outline planning permission and subsequent reserved matters approvals, my determination and assessment of the appeal proposals is based on the individual merits of the case having regard to the current site context and characteristics, the prevailing local and national planning policies, and any other material considerations.

On my site visit I saw that work has already commenced on the foundations to the extension and the garage, and that the curtilage/garden area has already been extended, landscaped and fenced off. Therefore, I have dealt with this appeal as being partly retrospective.

Main Issue

I consider the main issue to be the impact of the development on the character and appearance of the area and on the special qualities of the National Park.

Reasons

The village of Rhosamman does not have a settlement boundary, therefore, the appeal site is identified as lying within open countryside within the Adopted Brecon Beacons Local Development Plan (LDP) 2013. There is a presumption against development within open countryside with the exception given to those developments where there is an essential need for a countryside location. Policy CYD LP1 sets out the forms of development that are considered acceptable within these parameters.

Criterion 1 (a) of Policy CYD LP1 allows extensions to dwellings where this would result in a net increase of no more than 30% of the original dwelling size. This restriction is aimed at ensuring that the extension is of an appropriate scale, form and design, especially when they relate to traditional dwellings within the open countryside; and to ensure that a range of dwelling sizes are available to support a living working landscape. The Authority advises that the extension is 40% of the original dwelling size, and whilst such an increase could be considered acceptable in certain circumstances, the fact that it requires an extension of the curtilage in order to facilitate the changes means that, taken together, the proposals are considered to be unacceptable to the Authority.

Policy 27: 'House Extensions and Ancillary Buildings' states that *Extensions and ancillary buildings to dwellings will be permitted where: a) the proposal is appropriate to the scale and design and setting of the original dwelling; b) no loss of on-site parking space will result, and adequate on-site parking provision can be provided for the extended dwelling; c) an area of private amenity space is retained that is reasonably proportionate to the proposed size of the dwelling; and d) there is no significant loss of privacy to an adjoining property.* The Authority confirms that the proposal is partly compliant with policy 27. However, it is concerned that the extension of the curtilage to this extent to accommodate the development is not considered appropriate in scale and is therefore contrary to criterion a) of Policy 27. The National Park's supplementary planning guidance (SPG) on development in the countryside (Enabling Appropriate Development in the Countryside) also indicates a presumption against extending the curtilage into what was previously farming land.

I am also mindful of National planning policy guidance set out within Planning Policy Wales (PPW) and Technical Advice Note 12 'Design' (TAN12) which advises that *'understanding the site and its immediate and wider context is the basis for a meaningful and sustainable design response... Opportunities for innovative design will depend on the existing context of development and the degree to which the historic, architectural, social or environmental characteristics of an area may demand or inhibit a particular design solution.'*

Although the two-storey extension would exceed the 30% figure set out within Policy CYD LP1, the Authority concedes that “a 40% increase could be considered acceptable in certain circumstances”, especially given the primary aim of the restriction as set out above i.e. the appeal proposals do not relate to a traditional rural dwelling but relate to a large modern house which is clearly capable of accommodating a larger extension; and its size would inevitably take it out of the financial reach of those working within the rural and working landscape. The use of materials on the extension and garage would match those used on the existing dwelling, the extension would be set back from the front elevation, and the height of the ridgeline would be set below that of the original house. In my opinion, these design features make these additions appear subordinate to the existing dwelling, thus complying with criterion a) of Policy 27 as they would be appropriate to the scale and design and setting of the original dwelling.

The appeal site is larger than other dwellings and gardens in the area and the extended curtilage is extensive. Nevertheless, in my judgement, it is not disproportionate to the size of the host dwelling or to others in the area, especially given that the site is located within the confines of the village and is viewed as being surrounded by existing development. I acknowledge that a more intensive residential use of the site has ensued following the work that has already taken place to extend the garden area, with further ornamental planting, hard landscaping, domestic paraphernalia, garden buildings and structures. However, I do not consider this has caused any harm to the character of the street scene or the appearance of the wider surrounding area.

Although the development proposals extend into open countryside, the character of the site is not rural in nature. To the contrary, I saw that the appeal property is located within the confines of the village with other residential properties sited to the east and west along Cwmgarw Road. The appeal property is already a large, detached dwelling and together with the neighbouring property of ‘Golygfa Mynydd Du’ they further emphasise the built up nature of this part of the village. I saw that the property is visible from surrounding viewpoints, especially when travelling along Cwmgarw Road, and whilst the house is clearly visible it is seen within the context of other residential properties and development in the area. Therefore, I do not consider that the extension to the house, the detached garage or the extension to the curtilage would be seen as alien features within this more urban context, and would not, therefore, harm the landscape surrounding the property especially from public viewpoints close-by.

I have had regard to the Authority’s concerns regarding the scale of the curtilage extension and the conflict with the policies and design guidance of the Authority. However, my findings in this appeal must be based only on the individual planning merits of the scheme and the particular site context of the case that is before me. In this case, the appeal property is already relatively large and is clearly within the village of Rhosamman. Whilst it may be defined as being within open countryside within the LDP, the characteristics of the site and the built up nature of this part of the village result in the proposals being viewed within the context of existing built form, and not as part of the countryside. The circumstances of other sites and cases would be likely to be different and if proposals for extensions to dwellings and traditional farmhouses came forward elsewhere within the national park, they would be assessed in the light of the individual factors relevant to those cases.

Having regard to the above, I find that the proposals do not have a detrimental impact on the character and appearance of the area or on the special qualities of the National Park. Therefore, they comply with the related aims of PPW, and Policies CYD LP1 and 27 of the LDP.

Other Matters

I have taken into account the personal circumstances of the Appellant and the need for the extension to accommodate the requirements of his family. However, personal circumstances rarely outweigh general planning matters because the effect of the development would remain long after the personal circumstances no longer apply. As such, taking all relevant matters into account, I have given only very limited weight to the personal circumstances identified by the Appellant, and they have not been determining factors in my decision.

The Appellant has also raised concerns regarding the way in which his application has been determined and the way he has been treated during the process. However, these are not matters that are material to my consideration of this appeal and I have given these no weight in my decision.

Conditions

I have considered the suggested conditions put forward by the Authority and had regard to the advice in Welsh Government Circular 016/2014: *The Use of Planning Conditions for Development Management* (October 2014).

In addition to the standard time limit and approved plans conditions, I agree with the Authority that the two conditions (3 and 4) relating to biodiversity enhancement and lighting are necessary to protect local biodiversity interests, and a landscaping condition (condition 5) is necessary to protect the character and appearance of the area.

The conditions and their associated reasons are set out in the schedule below.

Conclusion

Having regard to the above and considered all other matters raised, I conclude that the appeal should be allowed, subject to the conditions set out in the schedule attached to this decision.

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 objectives of building a stronger, greener economy as we make maximum progress towards decarbonisation, making our cities, towns and villages even better places in which to live and work and embedding our response to the climate and nature emergency in everything we do.

Richard Duggan

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.

Reason: *To comply with Section 91 of the Town and Country Planning Act 1990.*

- 2) The development shall be carried out in accordance with the following approved plans and documents: 001 – Location Plan 1:1250 & 1:500; 002 – Plans as Existing

(Dwelling); 003 - Elevations as Existing (Dwelling); 004 - Plans as Proposed (Dwelling); 005 - Elevations as Proposed (Dwelling); 005 - Elevations as Proposed (with annotations); 006 – Plan and Elevations as Proposed (Garage); Tree Planting Proposal

Reason: *To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application.*

- 3) The biodiversity enhancement scheme as shown on Drawing no. 005 ‘Elevations as Proposed’ (with annotations) received 15th March 2021, shall be installed prior to the first beneficial use of the development hereby approved, in accordance with the approved details and maintained thereafter. Following the installation of the approved scheme, a report confirming adequate installation shall be submitted to the Local Planning Authority.

Reason: To ensure that the development hereby permitted does not have a detrimental impact on local biodiversity as required by Policies SP3, 1, 3, 4, 6, 7 and 12 of the Local Development Plan.

- 4) External lighting shall only be installed as shown in Email title “Re: 21/19503/FUL Faiways” from Philip Johnson dated 30th March 2021, and on Drawing no. 005 ‘Elevations as proposed’ (with annotations) received 15th March 2021. No additional external lighting shall be installed unless otherwise agreed in writing by the Local Planning Authority. Any revised scheme shall avoid conflict with bat mitigation/enhancement measures and wildlife corridors and shall be implemented as approved.

Reason: To ensure that the development hereby permitted does not have a detrimental impact on local biodiversity and to ensure compliance with the terms of Policies SP3, 1, 3, 4, 6, 7 and 12 of the Local Development Plan.

- 5) The landscaping scheme shown on “Tree Management Plan” dated 17th March 2021 and “Tree Planting Proposals for Fairview, Cwmgarw Road, Rhosaman” dated 9th March 2021 shall be carried out in the first planting and seeding seasons following the completion of the development hereby approved. The Scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority give written consent to any variation.

Reason: To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area as required by Policies SP3, 1, 3, 4, 6, 7 and 12 of the Local Development Plan.