

BRECON BEACONS NATIONAL PARK AUTHORITY PLANNING COMMITTEE

SUMMARY OF APPEALS

Appeal Lodged (Development Management)

Ref	Date	Appellant	Dev/Location	Description of Development
21/19990/LBC	07.02.2023	Ms Abigail Keane	The Little Malt House, Standard Street, Crickhowell, NP8 1B	Internal works and configuration to restore property. New windows and proposed rooflights to front and back. Air source pump to the rear. Changes to garage.
21/19989/FUL	07.02.2023	Ms Abigail Keane	The Little Malt House, Standard Street, Crickhowell, NP8 1B	Internal works and configuration to restore property. New windows and proposed rooflights to front and back. Air source pump to the rear. Change
22/21029/FUL	03.02.2023	Ms Jennifer Rees	1 Dolgynog Penderyn Hirwaun Rhondda Cynon Taff CF44 9JT	Construction of Detached Dormer Bungalow

Appeal Lodged (Enforcement)

Ref	Date	Appellant	Dev/Location	Description of Development	Note
None	None	None	None	None	None

Appeal Decision (Development Management)

Ref	Date	Appellant	Dev/Location	Description of Development	Decision
22/20974/CPL	17.02.2023	Dr Andrew Lohfink	4 Derwen Fawr Crickhowell Powys NP8 1DQ	Conversion of existing garage from general storage to occasional family and friends accommodation / home office and associated works.	Appeal Allowed (Appendix 1)
21/20296/LBC	17.02.2023	Mr Andrew Bell	1 Union Mews Gipsy Castle Lane Hay-On-Wye Hereford HR3 5EB	Replacement of windows and frames on ground floor	Appeal Dismissed (Appendix 2)

Appeal Decision

by **A L McCooey BA MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Decision date: 17/02/2023

Appeal reference: CAS-02015-G1K6R4

Site address: 4 Derwen Fawr, Crickhowell, Powys, NP8 1DQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Dr Andrew Lohfink against the decision of Brecon Beacons National Park Authority.
- The application Ref 22/20974/CPL, dated 27 April 2022, was refused by notice dated 20 May 2022.
- The application was made under section 192(1)(a) & (b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is Conversion of an existing single storey detached double garage from general storage to occasional family & friends accommodation / home office and associated works.
- A site visit was made on 7 February 2023.

Decision

1. The appeal is allowed.

Procedural Matter

2. I have taken the description of the development for which the Lawful Development Certificate is sought from the Council's Notice of Decision as it represents a more concise and accurate description than that outlined on the Application Form. Given that the appeal is against the Council's decision not to issue a certificate and bearing in mind the fact that the description used on the Notice of Decision is broadly consistent with that outlined on the Appeal Form, I am satisfied that there is no prejudice in this respect.

Main Issue

3. The main issue is whether the Local Planning Authority's decision not to issue an LDC was well-founded.

Reasons

4. The garage was built at the same time as the dwelling and is within its curtilage. The proposed works are the removal of the garage doors to the front elevation to be replaced by a single door and the installation of patio doors and a window in the rear elevation with

2 rooflights (velux-type windows) in the rear roof. This constitutes development as defined in Section 55 of the Town and Country Planning Act 1990.

5. The use of the building as described in the application would fall within the ambit of purposes incidental to the enjoyment of the dwellinghouse as such. This would not require planning permission for a change of use. I note that the Local Planning Authority has concluded that there are no effective planning conditions that remove permitted development rights.
6. Turning to the consideration of the operational development comprising the proposed alterations to the building. Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) [the GPDO] grants planning permission for the classes of development described as permitted development in Schedule 2. Schedule 2 Part 1 Class E states that the provision of a building within the curtilage of the dwellinghouse is permitted development subject to certain conditions. Crucially it adds that the maintenance, improvement or other alteration of such a building is also permitted development. I have considered the Class E paragraphs entitled "development not permitted" and "interpretation". These provisions apply to a new building and not to alterations to an existing building. I cannot see any restrictions in Class E in respect of the alterations encompassed in the LDC application. I conclude that these works would therefore be permitted development under the GPDO.
7. The Officer report of the Local Planning Authority imports rooflight restrictions applicable to GPDO Schedule 2 Part 1 Class C, where the land is Article 1 (5) land (within a National Park). Class C relates to alterations to the roof of a dwellinghouse. Class E is the relevant class for consideration in this case and the Class C restrictions are not applicable to Class E. The officer report also erroneously states that the external works proposed to the garage are not specifically included in the GPDO, which is not the case. The works are explicitly permitted by the GPDO, Schedule 2 Part 1 Class E.

Other Matters

8. The Local Planning Authority has screened the application and concluded that a Habitat Regulations Assessment is not required as there is unlikely to be a source of additional phosphorus or pathway for impacts on the River Usk Special Area of Conservation. I concur with this opinion.

Conclusion

9. For the reasons given above I conclude that the proposal would be permitted development under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). The decision of the Local Planning Authority to refuse to grant a certificate of lawfulness of proposed use or development in respect of the conversion of an existing single storey detached double garage from general storage to occasional family & friends accommodation / home office and associated works was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful

A L McCooey

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191

(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(WALES) ORDER 2012: ARTICLE 28

IT IS HEREBY CERTIFIED that on 25 March 2021 the development described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

1. The proposal would be permitted development under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

Signed:

A L McCooey

INSPECTOR

Date: 17 February 2023

Reference: CAS-02015-G1K6R4

First Schedule: Conversion of an existing single storey detached double garage from general storage to occasional family & friends accommodation / home office and associated works.

Second Schedule: 4 Derwen Fawr, Crickhowell, Powys, NP8

1DQ NOTES

1. This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use/ operations described in the First Schedule taking place on the land specified in the Second Schedule was/ were lawful, on the certified date and, thus, was/ were not liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the use/ operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/ operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the Local Planning Authority



PLAN

This is the plan referred to in the Lawful Development Certificate dated 17 February 2023

By: Mr A L McCooley BA MSc MRTPI

Land at: 4 Derwen Fawr, Crickhowell, Powys, NP8 1DQ

Reference: CAS-02015-G1K6R4



Plan Reference Number: TQRQM22059095052100

Scale: 1:500 @ A4

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Appeal Decision

by **A L McCooley BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Decision date: 17-02-2023

Appeal reference: CAS-02124-C5B7N1

Site address: 1 Union Mews, Gipsy Castle Lane, Hay-on-Wye, Hereford, HR3 5EB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr Andrew Bell against the decision of Brecon Beacons National Park Authority.
- The application Ref. 21/20296/LBC, dated 18 August 2021, was refused by notice dated 25 July 2022.
- The works proposed are the replacement of windows and frames on the ground floor.
- A site visit was made by the Inspector on 13 January 2023.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposed works on the application form was stated as: “we wish to replace the windows and frames on the ground floor at the front of the property. There are 4 windows which are beyond repair and are not the original windows. We are proposing to replace these with sustainable wooden frame windows which are double glazed and will be safer, more thermal efficient, and easier to maintain.” The Local Planning Authority has used the following description “Replacement of windows and frames on ground floor”. I note from the file that the appellant had agreed to this change. I shall adopt the above description as it more accurately and concisely explains the proposed works.

Main Issue

3. The main issue is the effect of the proposed works on the special interest of the listed building.

Reasons

4. The listed building is Grade II and was built in 1837 for the Hay poor Law Union. It is a large cross shaped building. The listing describes it as a standard grid plan form with transverse and spinal ranges linked by central octagonal block, and a classical 8-bay freestone front with extensions to either end. At the time of listing in 1988 it had been converted to housing. The listing notes that No. 1 has a 2-storey modern extension to left with upper floor set back and with implied blocked windows, slightly set back with sash windows. The building is set back down a private road behind a terrace of dwellings.

5. The application was refused because insufficient information had been submitted to describe the proposed new windows. The Local Planning Authority argues that it was not possible to assess the impact of the proposal on the listed building. This is required to be assessed by statute and Local Development Plan and national planning policy and guidance.
6. From the information before me it appears that the application related to the replacement of 5 ground floor windows – 4 on the front elevation and 1 around the corner on the side modern extension. The Local Planning Authority file shows that the application was submitted on 18 August 2021 and comprised a site location plan, a block plan, photographs of the existing windows and a manufacturer's brochure showing various window designs. The application was accompanied by a Heritage Impact and Access Statement which states that full details of the windows are contained in the brochure. A front elevation plan was supplied in October 2021. This does not give any details of the existing or proposed windows.
7. The appellant contends that details of the 5 proposed windows were supplied to the Local Planning Authority sometime between August and November 2021. He does not provide any record of this submission. The Local Planning Authority states that no detailed designs were supplied. There is no record of these details being received on the application file sent as part of the appeal questionnaire. As the appellant points out, the heritage officer comments do refer to the proposed replacement windows being double glazed, side hung casements. However, there is no reference to the source of this information. It could have been deduced from the elevation and brochure supplied with the application.
8. The appellant refers to his concerns in relation to the comments of the Heritage Officer. He did not accept the necessity for the suggested revised design and indicated a compromise suggestion on 14 February 2022. No details of this compromise were submitted. The Local Planning Authority supplied emails where scale drawings were requested (dated 21 January and 16 February 2022) and two emails chasing a response or update from the appellant (dated 1 April and 15 June 2022). The appellant sought advice on how to appeal on 19 July 2022. It was not until after the application had been refused that he set out more information, but no details of the proposed windows were supplied other than reference to a like for like replacement purely on maintenance grounds. The proposal was not a like for like replacement as the existing windows are single glazed with secondary glazing, whereas the proposal is for double-glazed windows.
9. The elevation provided does not show any construction details of the proposed windows and the side elevation is not provided at all. The Heritage Impact and Access Statement does not assess the proposed windows in any detail. Having considered all the correspondence, emails and submissions, I conclude that sufficient information of the proposed windows was not submitted with the application for listed building consent and that the refusal of the application for this reason was well founded.

Other Matters

10. I have taken the support of an adjoining resident and the fact that the town Council did not object to the works into account. This does not alter my conclusions that insufficient information has been submitted to support the application for listed building consent.

Conclusion

11. For the reasons given above I conclude that the appeal should fail.
12. 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 to make our cities, towns and villages even better places in which to live and work.

A L McCooley

INSPECTOR