

## 4. Penderfyniadau Apeliadau/Appeal Decisions

13-05-2021 - 02-06-2021

#	Cyfeirnod yr Apel / Appeal Reference	Cais / Gorfodaeth / Linked Application / Enforcement	Apeliwr / Appellant	Rhesymau dros apelio / Grounds for Appeal	Lleoliad / Location	Penderfyniad Allanol / External Decision	Dyddiad Penderfyniad Allanol / External Decision Date
1	APP/D6820/A/21/3269154	A200981	Mr A Szebeni (Rees & Soady)	Against refusal of permission	70 Cambrian Street, Aberystwyth, SY23 1NZ	Allowed with Conditions	19-05-2021
2	APP/D6820/E/20/3262818	A150941	Ms K Price	Against refusal of listed building consent.	Aberarth Chapel, Aberarth, Aberaeron, SA46 0LN	Dismissed	19-05-2021

## 5. Apeliadau a Dderbyniwyd/Appeals Received

13-05-2021 - 02-06-2021

#	Cyfeirnod yr Apel / Appeal Reference	Cais / Gorfodaeth / Linked Application / Enforcement	Apeliwr / Appellant	Rhesymau dros apelio / Grounds for Appeal	Lleoliad / Location	Penderfyniad Allanol / External Decision	Dyddiad Penderfyniad Allanol / External Decision Date
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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 13/04/21

gan **A L McCooey, BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 19/5/21

## Appeal Decision

Site visit made on 13/04/21

by **A L McCooey, BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 19/5/21

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**Appeal Ref: APP/D6820/A/21/3269154**

**Site address: 70 Cambrian Street, Aberystwyth, SY23 1NZ**

**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 A Szebeni against the decision of Ceredigion County Council.
  - The application Ref: A200981 dated 17 November 2020, was refused by notice dated 15 January 2021.
  - The development proposed is the conversion of a House in Multiple Occupation (HMO) into 3 no. self-contained residential flats to include extensions, alterations and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for the Conversion of a House in Multiple Occupation (HMO) into 3 no. self-contained residential flats to include extensions, alterations and associated works at 70 Cambrian Street, Aberystwyth, SY23 1NZ in accordance with the terms of the application, Ref: A200981 dated 17 November 2020, subject to the following conditions:
    - 1) The development 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: Sketch Proposals (Plans + Elevations), drawing no. 04 Rev D, received by the LPA 12-01-2021 and Site Plan - drawing no. 02, received by LPA 17-11-2020.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application
    - 3) No flat shall be occupied until the walls and floors of the units have been acoustically insulated in accordance with details to be submitted to and approved by the Local Planning Authority. The insulation shall be retained for as long as the flats remain occupied.

Reason: To safeguard the living conditions of local residents
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- 4) No flat shall be occupied until works to capture and dispose of any increased surface water run-off resulting from the development have been completed in accordance with details submitted to and agreed in writing by the Local Planning Authority.

Reason: To prevent flooding of adjacent properties and adverse impacts on the natural environment.

### **Application for costs**

2. An application for costs was made by the appellant against Ceredigion County Council. This application is the subject of a separate Decision.

### **Main Issues**

3. The main issues are whether the proposed top floor flat would be too small to provide acceptable living conditions for future occupants and whether the proposal would therefore represent over-development of the site.

### **Reasons**

4. The site is within Aberystwyth town centre where the Ceredigion Local Development Plan (LDP) favours proposals for new dwellings. The Local Planning Authority has no objection in design terms to the proposed dormer or the rear extension to replace some sheds and an outside WC. Overlooking of existing residential properties from the proposed balconies would not materially affect the living conditions of neighbouring residential properties due to the layout and configuration of the properties. The area to the rear is not visible from the public realm and views from other properties are limited. The proposed works would therefore preserve the character or appearance of the Aberystwyth Conservation Area.
5. The placemaking policies of Planning Policy Wales, the recent Building Better Places policy document and LDP Policy DM06 seek the provision of good quality homes that support well-being and better physical and mental health. The Local Planning Authority contends that the proposed top floor flat would be too small to provide acceptable living conditions for future occupants. The Authority also recognises that there is no specific policy relating to internal space standards in the LDP or accompanying guidance.
6. The parties agree that the top floor flat would have a useable<sup>1</sup> floor area of 20m<sup>2</sup>. The flat could be occupied by a couple or a single person<sup>2</sup> and this would meet the Council's environmental health space standards for two persons (19m<sup>2</sup>). The Local Planning Authority considers other guidance to be informative and refers to the Development Quality Requirements (DQR) which sets out the regulatory code for dwellings developed or acquired by Housing Associations (Registered Social Landlords). A Welsh Government consultation on updating DQR is also cited<sup>3</sup>. The overview states that the new standards would apply to new build grant funded homes and affordable homes secured by planning obligations or conditions. Based on this consultation draft, the Council contends that the minimum floorspace for a 2 person one-bedroom flat should be around 50m<sup>2</sup> and even if for one person then half of that floorspace figure should be provided.

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<sup>1</sup> Excluding the shower room and landing.

<sup>2</sup> As conditions restricting occupancy would not be enforceable

<sup>3</sup> Entitled Beautiful Homes and Spaces July 2020

7. The Supplementary Planning Guidance (SPG) for LDP Affordable Housing Policy S05 refers to DQR net floor areas. The guidance relates to the minimum and maximum sizes for specific types of affordable dwelling to comply with LDP Policy S05. The guidance does not relate to open market housing. I also note that whilst DQR does include guidance on room sizes and facilities, it does not contain the net floor areas table quoted in the above guidance. The SPG guidance quoted is clear that the table is reproduced from Welsh Government *Acceptable Cost Guidance 2012*<sup>4</sup>. The purpose of that document is to provide guidance on the likely acceptability of scheme costs for grant purposes.
8. The indicative space standards borrowed from affordable housing guidance and draft guidance do not apply to this type of development. No Welsh planning policy that does apply any such standards was drawn to my attention.
9. Policy LU07 relates to the sub-division of dwellings. The Local Planning Authority argues that the proposal does not meet criterion 1: that the dwelling is of a suitable size and layout capable of conversion without substantial extension. As well as the size of the studio flat issue, it is claimed that there would be a lack of amenity space. The ground floor flat would have a small yard and the other two flats would have small balconies.
10. The proposed studio flat is small, but the appellant has demonstrated that the furniture, storage and circulation space specifications in DQR can be met. He states that it will be for a single person and that this can be controlled under other legislation. However, as the proposed studio flat meets environmental health space standards then how other controls would apply was not explained. The outdoor amenity areas are restricted.
11. However, there are other factors that fall to be considered. The property is in a sustainable location within the town centre, where amenity space around residential properties is restricted. The proposal therefore fits in with the local context of the building and surroundings (Policy DM06). The property is currently 5 bedsits with the yard as the only amenity space. Policy LU07 seeks to control new bedsit development due to the problems associated with a concentration of bedsits in a given area. The appellant argues that the replacement of bedsits with flats is a planning gain and there is some validity in this argument. Of more relevance is the fact that the current residential use is intensive, and the proposal would provide better quality accommodation in that 5 bedsits would be replaced by 4 bedrooms across 3 flats. The amenity space would also be slightly improved. In the context of the existing bedsit use, I am satisfied that the studio flat would provide sufficient space/facilities for day to day living. I conclude that the proposal meets Policy LU07.
12. Whilst the site is within a C1 flood zone, given the scale and nature of the proposed development, neither Natural Resources Wales nor the Local Planning Authority object to the development on this point. The application was supported by a viability assessment that demonstrated that a commuted sum for affordable housing would render the scheme unviable. The Local Planning Authority has accepted this assessment and states that an affordable housing contribution, in line with LDP Policy S05, would not be required.
13. As I am allowing the appeal, I do not need to consider the other examples of similar developments that were referred to by the appellant any further.

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<sup>4</sup> Revised 2015

14. The Local Planning Authority's suggested conditions have been re-worded to comply with guidance and reflect the model conditions in Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management.

**Conclusion**

15. The proposed second floor flat would be of restricted size. The size of the accommodation and bathroom facilities would meet the environmental health space standards. There are no planning space standards that apply to this type of dwelling. The facilities necessary to comply with DQR can be provided. The level of amenity space is commensurate with the building's existing use as bedsits and the character of other properties in this town centre location. All of the particular circumstances of this case (as set out above) mean that the proposal would comply with the thrust of guidance in Planning Policy Wales, Building Better Places, and Policy DM6 of the LDP. The proposal would not constitute over-development of the building in all these circumstances and would therefore comply with Policy LU07. In reaching my decision I have had regard to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). Whilst the size of the proposed dwellings may be restricted, I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act. For the reasons given and having considered all relevant matters I conclude that the appeal should succeed.

*A L McCooey*

**Inspector**



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## Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 13/04/21

gan **A L McCooey, BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 19/5/21

## Costs Decision

Site visit made on 13/04/21

by **A L McCooey, BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 19/5/21

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**Costs application in relation to Appeal Ref: APP/D6820/A/21/3269154**

**Site address: 70 Cambrian Street, Aberystwyth, SY23 1NZ**

**The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6.
  - The application is made by Mr A Szebeni for a full award of costs against Ceredigion County Council.
  - The appeal was against the refusal of planning permission for the Conversion of a House in Multiple Occupation (HMO) into 3 no self-contained residential flats to include extensions, alterations and associated works.
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### Decision

1. The application for an award of costs is refused.

### Reasons

2. The Section 12 Annex, Award of Costs, to the Development Management Manual advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
  3. The reasons for refusal reflect the Local Planning Authority's concerns regarding the size of the living accommodation proposed in the second floor flat (described as a studio flat). The Council is not bound to agree that the development is acceptable merely because it meets environmental health space standards. The consideration of an application for planning permission requires a wider assessment of the proposed development. As there are no adopted standards within national or local planning policy or guidance then the Local Planning Authority is entitled to exercise planning judgement. Whilst I have found against the Local Planning Authority and allowed the appeal, the relevant issues are finely balanced as set out in the main decision. It is the combination of circumstances that persuaded me that planning permission should be granted.
  4. These circumstances are unique to the proposal in this appeal. This distinguishes it from the similar approved developments that were referred to by the appellant. Each case must be considered on its own merits. The Local Planning Authority also advised that the development of 3 flats in a similar property next door was given consent 25 years ago at a time when planning policy was different to now.
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5. Policy DM06 contains 10 criteria related to design and placemaking. The delegated report indicates that the proposal complied with some of the criteria in the Policy, but not with others. I consider that the report is clear on which were the remaining issues of concern. There is no unreasonable behaviour in this regard.

**Conclusion**

6. For the reasons given above, I find that that the Local Planning Authority did not behave unreasonably in refusing planning permission. I therefore conclude that unreasonable behaviour resulting in unnecessary expense, as described in the Section 12 Annex to the Development Management Manual, has not been demonstrated. The application for an award of costs is refused.

*A L McCooey*

**Inspector**



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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 13/04/21

gan **A L McCooey, BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 19/5/21

## Appeal Decision

Site visit made on 13/04/21

by **A L McCooey, BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 19/5/21

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**Appeal Ref: APP/D6820/E/20/3262818**

**Site address: Bethel Chapel, Aberarth, Aberaeron, SA46 0LN**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- 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 Ms Kate Price against the decision of Ceredigion County Council.
  - The application Ref: A150941 dated 19 November 2015, was refused by notice dated 1 June 2020.
  - The works proposed are the conversion and extension of a former chapel into a dwelling.
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### Decision

1. The appeal is dismissed and listed building consent is refused for the proposed conversion and extension of a former chapel into a dwelling.

### Procedural Matters

2. The appellant refers to revisions to the plans that were submitted to the Local Planning Authority in 2018. The revised plans were not included with the submitted drawings that accompanied the appeal. However, the revised plans were supplied by the Local Planning Authority and included by the appellant in an appeal document listing correspondence with the Council. I have taken these amended plans into consideration in this appeal. I have also taken into account the description of the revisions in the appellant's email to the Local Planning Authority of 13 September 2018. In the light of the revisions listed in that email, the references to glazing bars in the windows of the proposed extension on the revised plans and to the corbelled detail at floor level of the extension in the appeal statement appear to be in error.
  3. The Local Planning Authority statement of case sets out the details of the proposed development in section 4. The appellant has not indicated that any of the works set out in section 4 are incorrect. The reference to Heritage Statement in section 4 presumably relates to the content of the submitted Design and Access Statement, which has been supplied by the appellant, that is considered in this decision.
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## **Main Issue**

4. The main issue is the effect of the proposed extension and alterations of Bethel Chapel on the integrity, character and historic interest of the listed building

## **Reasons**

5. The former chapel is situated in the centre of the small village of Aberarth. It is a Calvinistic Methodist chapel built in 1848 with some alterations recorded in 1900 (possibly the porches) and is listed at Grade II. The reason for the listing is "the chapel is the principal building in Aberarth, an unusually closely-built village, and retains its character as a simple but spacious lateral-fronted chapel, still with original box-pews". The building has two entrances from similar porches. The doors and windows create perfect symmetry to the front elevation. The attached former stable and store is built into the bank to one side and appears subservient to the chapel. The interior of the chapel is an important feature, referred to in detail in the listing. The large pulpit is located in the centre of the building between the doors. There are symmetrical box pews radiating from the pulpit and the centre block of pews.

### *Policy and Guidance*

6. Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses when considering whether to grant listed building consent for any works. Chapter 6 of Planning Policy Wales (11th Edition) (PPW) and Technical Advice Note 24 (TAN 24) reflect these statutory duties. TAN 24 states that the physical features of the building which justify its listing and contribute to its significance such as its form and layout and features of interest such as the interior should be taken into consideration. Other important issues are the impact of the proposed works on the significance of the building and whether there would be substantial community benefits. Some buildings are listed precisely because they are relatively unaltered examples of their kind and their special interest can be damaged by inappropriate alteration or extension.
7. More detailed guidance<sup>1</sup> states that proposals should "Retain historical details wherever possible; repair where necessary; reinstate where appropriate and respect historic character in any replacement." It is important that the need for the work is fully justified and that there is comprehensive information provided to enable the decision-maker to assess the impacts of the works on the significance of the building. The quality of the design and the proposed works must add value. The proposed changes should be reversible or not prejudice future alternative solutions.<sup>2</sup>

### *Background and Benefits of the Proposal*

8. The principle of conversion of the chapel and returning it to beneficial use was welcomed by the Council, Cadw and neighbouring residents. The building shows some signs of deterioration but remains largely intact. The supporting information states that the appellant, an internationally renowned musician, is from the village originally and wishes to create a dwelling and studio for teaching and training. The building has the correct acoustics for this and the proposal would bring it back into beneficial use

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<sup>1</sup> Managing Change to Listed Buildings in Wales, Cadw 2017

<sup>2</sup> Conservation Principles, Cadw (2011)

and prevent further deterioration. Securing the long-term survival of listed buildings is a very important consideration in guidance and policy. The proposed alterations involve splitting the chapel in two with a music studio and void on one side and the residential accommodation over two floors on the other. A 3-storey extension is proposed to the riverside gable end and details of the proposed materials are shown on the plans.

*The Effect of the Proposal on the Listed Building*

9. The extension would be almost as high as the chapel roof apex and would be much higher than the former stable and coach house (now a store) to the opposite gable. Much of the side and rear walls would consist of large windows. Whilst the lower part of the front elevation would match the chapel, the second floor would be clad in slate. Its height, form and detailing would appear dominant and would be out of character with the existing building. The proposal would be contrary to Cadw guidance in 'Chapels in Wales, Conservation and Conversion' (1999) which states that 'any addition or extension to the existing building should be kept to a minimum. It should be carefully positioned in relation to the original building and should be in scale with it.' Cadw concluded that the elaborate and competing design of the extension bears no relationship to the simple and restrained character of the chapel. Overall, I consider that the proposed extension would not complement the simple form of the listed chapel. It would not preserve the building or its setting.
10. The proposal would retain the front and rear elevations of the chapel largely unaltered, which is an important positive aspect. The detailed design of the scheme in terms of the internal layout and impact on features of special architectural or historic interest is also important. Change of use will almost invariably result in loss of historical form, fabric or detail, such as internal fittings but these losses should be kept to the minimum necessary so that the original use can still be legible<sup>3</sup>.
11. I agree with the appellant that it would not be possible to convert the building whilst retaining all of the box pews. However, the significance of the internal fittings should be properly assessed. The approach seems to have been to treat the building as an empty shell. There has been no comprehensive assessment of the internal features leading to a design that reflects proper consideration of them and their significance to the listed building. The revised plans merely retain some seating and propose to re-locate part of the pulpit from its central position in an attempt to address the concerns raised.
12. Cadw and the Local Planning Authority consider that splitting the building in two to create the studio and residential accommodation would adversely affect its symmetry. The residential accommodation would be over two floors. I note that the building's full height would be retained in the studio and that the first floor of the dwelling is open plan with all the chapel ceilings are now to be retained. The over-development of half of the building to provide the accommodation and living space would cause an imbalance in the building's interior to the detriment of its character. The proposed works would result in the loss of the internal form and symmetry of the chapel. The fact that these works may be reversible does not address their adverse impact on the listed building going forward.
13. New openings from the chapel to provide doorways into the extension and the former store would result in the loss of fabric and window openings to the side elevations. It

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<sup>3</sup> Managing Change to Listed Buildings in Wales, Cadw (2017)

is not clear from section drawings how the new floors would be supported nor how they will intersect with existing window openings. The internal walls of the chapel are to be drylined with insulated plasterboard. Cadw expresses concern that no details have been provided of the specification, detailing at junctions with existing windows and doors, or the impacts on existing plaster and other wall finishes. The use of dry lining to the walls could be detrimental to the internal features and the building's ability to breathe. No assessment of the likely effects on the breathability of the historic fabric has been undertaken. They are important considerations related to possible detrimental impacts on the fabric and long-term viability of the listed building.

#### *Other Matters*

14. The appellant points out that the Local Planning Authority has delayed a decision on the listed building consent for 5 years after planning permission was granted. Just because planning permission is granted it does not mean that the effect on the listed building should not be considered separately and appropriately. There is a statutory duty to pay special attention to the features of special architectural or historic interest which it possesses when considering applications for listed building consent. This assessment is quite different to the consideration of a planning application.
15. The appellant refers to alleged maladministration on the part of the Council. Such matters are not within the remit of a planning appeal and are covered by the Ombudsman. Cadw have commented on the appeal and the application in its role as the statutory advisor on heritage matters. Cadw has consistently expressed concerns regarding the proposal irrespective of which officer was involved. The appellant's comments that perverse personal opinion of a single officer and lack of appreciation of conservation principles has influenced the consultation replies are without foundation. I note the agent's comments on the unsuitability of the suggestions put forward by a Cadw officer at a site meeting. However, I must consider the scheme that is the subject of this appeal.

#### **Conclusion**

16. For the reasons given above, I conclude that the proposed works would fail to preserve the listed building or its setting or its features of special architectural or historic interest and therefore does not comply with the statutory test in Section 16 (2) of the 1990 Act. I have taken into account the benefits of the proposal and the other evidence of support from local residents. These considerations do not outweigh the harm that has been identified and I therefore dismiss the appeal.
17. 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 have had regard to advice in PPW Chapter 6 on Distinctive and Natural Places and the ways in which distinctive and natural places contribute to the seven goals of the Act. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' revised well-being objectives to build healthier, more resilient communities and environments.

*A L McCooey*

**Inspector**