



## Appeal Decision

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by N Jones BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 14/02/2024

Appeal reference: CAS-02653-H7P4P4

Site address: Land opposite Tan yr Allt, Coxhead, Tregaron, SY25 6PB

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- 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 Jane C Morgan against the decision of Ceredigion County Council.
  - The application Ref A210091, dated 28 January 2021, was refused by notice dated 12 October 2022.
  - The development proposed is described as a retrospective planning application for agricultural implement and storage shed and improvements to existing vehicular access.
  - A hearing was held on 16 January 2024.
  - A site visit was made on 16 January 2024.
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### Decision

1. The appeal is allowed, and planning permission is granted for an agricultural implement and storage shed and improvements to existing vehicular access at land opposite Tan yr Allt, Coxhead, Tregaron, SY25 6PB, in accordance with the terms of the application, Ref A210091, dated 28 January 2021, subject to the conditions set out in the schedule to this decision letter.

### Procedural Matters

2. I have considered the appeal under section s73A (2)(a) of the Town and Country Planning Act 1990 as the development has already been carried out.
3. At the hearing the appellant clarified the use of the building as an implement and storage shed which is also used on a temporary seasonal basis during lambing. I have considered the appeal on this basis.
4. On 18 October 2023, the Welsh Government published changes to Chapter 6 of Planning Policy Wales (PPW) with immediate effect in relation to the incorporation of green infrastructure into development proposals, following a step-wise approach to demonstrate the steps which have been taken towards securing a net benefit for biodiversity and ecosystem reliance. Both parties have had the opportunity to comment on the changes to PPW. I have taken the changes into account in my decision.

## **Main Issues**

5. The main issues are whether there is justification for the development in this location; the effect of the development on the future ability to provide for more sustainable travel, with particular regard to a disused railway route; and the effect of the development on the character and appearance of the area with particular regard to the Teifi Valley Special Landscape Area (SLA).

## **Reasons**

### *Justification*

6. The appeal site is a parcel of agricultural land to the east of the A485 between Tregaron and Lampeter. As well as improvements to visibility at an existing access, the development includes a shed which measures approximately 128m<sup>2</sup> on plan reached along a straight gravel track leading downhill from the A485. The shed lies on part of the track bed of the now disused Aberystwyth to Carmarthen railway line (the line). There is no dispute between the parties that the appeal site is within an 'other location' which includes areas of open countryside for the purposes of planning policy.
7. Paragraph 3.38 of PPW advises that the conservation and, where possible enhancement of the countryside should be balanced against, amongst other things, the economic needs of local communities. Ceredigion Local Development Plan (LDP) Policy S04 recognises that a degree of development to meet the needs of existing communities is required in 'other locations' and sets out the limited circumstances in which such development will be permitted. Criterion 4 and explanatory paragraph 6.161 identify, amongst other things, rural enterprises in accordance with advice within Technical Advice Note 6 'Planning for Sustainable Rural Communities' (TAN 6), could constitute such a circumstance.
8. Paragraph A23 of TAN 6 recognises that the scale, form and siting of new agricultural buildings are usually influenced by the operational needs of the enterprise. The Council is concerned that given what it considers to be the small scale of the owned holding, uncertainty regarding the availability of rented land, and extent of activities related to the small-scale enterprise, the scale of the shed is not justified. However, neither Policy S04 nor TAN 6 stipulate any minimum size for an agricultural enterprise, nor require a business plan to be submitted to support proposals or require that the person running that enterprise should live on the site.
9. It was confirmed at the hearing that the appellant has been actively involved in agriculture locally for many years. There is no indication that her current land rental arrangements are likely to cease but the building has been erected on owned land as the appellant does not reside at the appeal site and has no suitable storage facility available at her home. Cogent evidence was provided of the acquisition and need for, and the use, of the implements stored. The building is also used to store hay produced on the holding and I saw during my site visit that it is being used to capacity for storage purposes for implements, tools, equipment, and feed consistent with the agricultural activities being undertaken. Sheep were present on the land during my visit and there is a demonstrable need for the shed to house livestock during lambing to avoid losses due to circumstances such as illness or inclement weather. The appellant confirmed that concerns over security and deterioration or damage to implements would be secondary to animal welfare considerations when some implements would have to be stored outside to make space for lambing.
10. On the evidence before me, there is a justifiable need for a building of this scale in this location to support the agricultural activities being undertaken on the holding. The development therefore complies with LDP Policy S04 and TAN 6 advice.

### *Sustainable Travel*

11. LDP Policy DM04 states that the protection, enhancement or complementary development of former or existing transport infrastructure with potential to provide for more sustainable travel will be a material consideration in all development. Its explanatory text draws the attention of applicants to the need to make the most of opportunities for walking, cycling and the use of public transport. The shed is sited on part of a disused railway line. However, the Council confirmed it has no current active travel proposals for the line at present and given the availability of residual land, it acknowledged it is unlikely that the development would compromise future ability to provide for such sustainable travel routes.
12. In terms of future rail use, whilst it seeks to protect amongst other things, former infrastructure, Policy DM04 is aspirational in nature. PPW (para. 5.3.8) seeks to safeguard disused railways and associated infrastructure only from development which could adversely affect them being brought back to rail use in the future. The Council drew my attention at the hearing to Technical Advice Note 18 'Transport' (TAN 18) which contains similar safeguarding advice.
13. Interested parties assert that a Feasibility Study funded by the Welsh Government in 2018 concluded there is no engineering obstacle to reopening the line and they also state that the anticipated build costs would be comparable to recent road schemes. Nevertheless, there are no proposals, funding, or landowner consents in place and there is no disagreement that proposals are unlikely to emerge in the short term.
14. Policies 11 and 12 of Future Wales The National Plan 2040 (FW) identify the importance of rail infrastructure and services to an effective and efficient transport network and to national connectivity across Wales and its regions. In relation to movement in Mid-Wales however, Policy 26 of FW states that it is recognised that travel by road and car is central to regional movement across this area, but investment to support increased use of public transport (including rail) is confirmed alongside investment in the region's road network. A Strategic Corridor Developments diagram in FW extracted from 'A Railway for Wales – Meeting the needs of future generations' (2019) (A Railway for Wales) (which sets out the Welsh Government's Strategic Railway Development Programme) indicates that north-south connectivity ambitions may include re-opened lines. Nevertheless, A Railway for Wales does not acknowledge or promote the re-opening of this particular line. Moreover, its proposals are aspirational as the appellant's evidence indicates that neither the UK nor Welsh Governments have plans to restore this line at present and that there are no proposals under consideration nor evidence of funding being available. From the evidence before me, there is no realistic potential for the reopening of the line within the foreseeable future.
15. Whilst 3% of the former line has been developed since its closure, the appeal shed occupies only a small area of the former track-bed. I acknowledge concerns regarding the cumulative effect of allowing piecemeal development on the track. However, much of the line is in a predominantly rural location where national planning policy requires development to be justified on its own merits. Although the appellant would be willing to move the shed to facilitate rail use, there is no certainty the land will remain in her ownership in the future. Paragraph 3.7 of PPW acknowledges that in some instances, to unlock the development potential of sites, the use of compulsory purchase powers should be used to secure better development outcomes where a compelling case in the public interest can be demonstrated which outweighs the loss of private interests. The Council expresses concerns that this would be a long and costly process, but the considerations

in this case are unlikely to be different to any other major infrastructure schemes.

Nevertheless, albeit there is no detailed scheme in place, there is no evidence that the development would have any adverse effect on or be incompatible with future rail use.

16. Whilst there is a minor breach of LDP Policy DM04, given the aspirational nature of the policy and that there is little evidence that the development would harm the future ability to provide for more sustainable travel, this would be insufficient to justify withholding planning permission.

#### *Special Landscape Area*

17. The SLA is a landscape of river valleys devoid of much development, with field boundaries denoted by hedges, rather than stone walls or other features, being a particular characteristic. To avoid the proliferation of buildings and the cumulative effects of piecemeal new development, TAN 6 (para. A14) advises that new buildings should normally form part of a group. Whilst the Council considers users of the A485 would expect rural vistas in the area from which the development detracts, it acknowledges, consistent with my observations, that views of the building would be localised, and that new planting undertaken by the appellant since the application was determined, which I saw currently reaches eaves height, ameliorates the visual effects of the shed.
18. The Council's principal concerns were related to the visual effects of the outdoor storage of machinery and paraphernalia at the appeal site and the loss of part of a characteristic hedge boundary feature as a result of the modified visibility splays at the access. However, the shed would provide a facility to store items out of sight, and there is no evidence that it would not be used for its intended purpose. It was being fully utilised for storage at the time of my visit. Moreover, compensatory hedge planting to the rear of the visibility splays would address its concern about the loss of this characteristic feature and would assist in screening the development. Whilst some outside storage of machinery and equipment would occur to allow sheep to be accommodated during lambing, this would be a short-term seasonal use and would have no long-term harmful effects.
19. I conclude that subject to compensatory hedgerow planting, the development would not harm the character and appearance of the area. It would therefore comply with LDP Policy DM18 which says that proposals for development within SLAs will be assessed in relation to scale and nature of development and their ability to be accommodated without significant damage to, and where possible the enhancement of, its valued visual, historic, geological, ecological and cultural characteristics.

#### **Other Matters**

20. There is no dispute between the parties in relation to the effect of the development on highway safety or the living conditions of neighbouring occupiers. From the evidence before me and my own observations, I do not disagree.
21. The appeal scheme pre-dates changes to Chapter 6 of PPW. However, a Green Infrastructure Statement provided in support of the appeal confirms that works such as the placing of nesting boxes and tree planting have already been undertaken and which I saw on my site visit. A planning condition would secure biodiversity enhancement.
22. The development sits outside but alongside the Rhosydd Bryn-Maen Site of Special Scientific Interest (SSSI). Natural Resources Wales (NRW) objected to an original proposal to discharge overflow from a roof water collection tank directly into the SSSI. The scheme was amended to discharge any overflow to a soakaway. Subject to implementation of this drainage scheme, and the management of manure in accordance with current legislative requirements, NRW confirmed it had no concerns in relation to the

effect of the development on the SSSI. From the evidence before me, I have no reason to reach a different conclusion.

23. The appeal site is also within the catchment of the Afon Teifi Special Area of Conservation (SAC). NRW confirms that the SAC is not compliant with the phosphate targets set for it. Accordingly, new development within any part of the catchment which will increase the amount or concentration of wastewater effluent or organic materials discharged directly or indirectly into the catchment's waterbodies has the potential to increase phosphate levels within those waterbodies, risking further failures. Paragraph 6.4.18 of PPW says that development can normally only be authorised if the planning authority ascertains that it will not adversely affect the integrity of the SAC site.
24. NRW advise is that it is possible that new developments can be authorised if it can be demonstrated they will not lead to further deterioration of water quality in the SAC and will not undermine the ability for the SAC to meet its conservation objectives. Sheep are already present on the holding and manure is already managed in accordance with other legislative requirements. The appellant confirmed no silage is stored within the building. Limiting the use of the building through a planning condition to that applied for as an integral part of the development would ensure that no increased volume of discharge would be produced and no new pathways for effects on the integrity of the SAC would be created. Accordingly, the development would not give rise to significant effects on the integrity of the SAC, and it can therefore be screened out of a requirement for appropriate assessment under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
25. I have had regard to the examples of other structures built on part of the disused railway line brought to my attention by the appellant and note the contended inconsistent application of Policy DM04. However, I am not aware of the full circumstances of housing development and the scheme at Ysgol Henry Richard was for a temporary consent. The Council states that it is not aware that permission has been sought for some of the sheds built on the line, whilst the existence of other buildings as part of a farm complex influenced its decision on an application for prior approval for an agricultural shed. These schemes are not therefore directly comparable to the appeal scheme which I have consequently considered on its own merits.
26. I have taken the appellant's personal circumstances into account, including the written submissions made regarding the benefits of the use of the shed for the wellbeing of her daughter. Because of these circumstances, the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 are engaged. However, in view of my decision to allow the appeal, no harm would arise in relation to these considerations.

### **Conditions**

27. The Council's suggested conditions were discussed during the hearing and I have had regard to advice in Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management as to whether to impose them. A condition requiring the development to be carried out in accordance with the approved plan is unnecessary as the development has already been undertaken. However, it is necessary to limit the use of the building to that applied for and to ensure that the drainage scheme is completed in accordance with the approved plan in the interests of protecting the SSSI and SAC. There is no evidence to indicate that the appellant would not primarily use the building for its intended storage purpose and the Council agreed that a condition requiring indoor storage of equipment and paraphernalia was related to site management rather than directly related to the development. Moreover, some temporary outdoor storage

would occur during use of the building for lambing. The suggested condition is therefore unreasonable and unnecessary. Conditions requiring biodiversity enhancement and controlling future external lighting were considered necessary to meet PPW and FW Policy 9 objectives. A condition requiring compensatory hedgerow planting is also necessary to safeguard the visual qualities of the SLA.

### **Conclusion**

28. For the reasons given above, and taking all other matters raised into account, including consideration of the development plan as a whole, I allow the appeal.
29. 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 this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's wellbeing objectives as required by section 8 of the Act.

*N Jones*

Inspector

## SCHEDULE OF CONDITIONS

1. The building hereby approved shall only be used for storage purposes, excluding silage, and for lambing. No other livestock shall be housed within the building.

Reason: To safeguard the nearby Rhosydd Bryn-maen Site of Special Scientific and Afon Teifi Special Area of Conservation

2. Within 1 month of this decision the drainage scheme shall be implemented in accordance with the details shown on Proposed Block Plan, Drawing No.3 Rev A and shall thereafter be retained for the lifetime of the development. No other method of surface water drainage shall be permitted.

Reason: To safeguard the nearby Rhosydd Bryn-maen Site of Special Scientific and Afon Teifi SAC

3. Within 6 months of this decision a scheme of biodiversity enhancement shall be submitted to and agreed in writing by the local planning authority, including a timetable for the proposed scheme. The scheme shall be carried out, and thereafter retained, in accordance with the approved details.

Reason: In the interest of maintaining and enhancing biodiversity, in accordance with Future Wales Policy 9.

4. Within 6 months of this decision details of compensatory hedgerow planting along the site frontage, but behind the required visibility splays (shown on Proposed Block Plan Drawing No.3 Revision A) shall be submitted to and approved in writing by the local planning authority. These details shall include planting plans; schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; an implementation programme (including phasing of work and replacement planting where relevant). The landscaping works shall be carried out and thereafter retained, in accordance with the approved details.

Reason: To safeguard the visual amenities of the area, and to ensure compliance with LDP Policies DM14 & DM15.

5. Any exterior security or decorative lights shall be less than 3 m from the ground and fitted with hoods to direct the light below the horizontal plane, at an angle of less than seventy degrees from vertical, and shall not be fixed to or directed at, bat boxes or gables or eaves. Lighting must be less than 3 lux at ground level and there shall be no light splay exceeding 1 lux along buildings, eaves or roof or adjacent hedgerows or trees. Any lighting shall be Passive Infrared (PIR) triggered.

Reason: To safeguard protected species in accordance with LDP policies DM14, DM15 and TAN5.