



Appeal Decision

by G Hall BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/12/2024

Appeal reference: CAS-03511-S7P9C7

Site address: Ty Talcen, Llanwnnen, Lampeter, SA48 7LQ

- 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 Ian Cooper against the decision of Ceredigion County Council.
 - The application Ref A210684, dated 8 July 2021, was refused by notice dated 29 January 2024.
 - The development proposed is described as “demolish the existing building, which is structurally unsound and beyond reasonable repair, and replace it with new two bedroom/three person house”.
 - A site visit was made on 19 November 2024.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant says that the last recorded use of the existing building as a dwelling was October 1945; that the date the building ceased to be used as a dwelling is not known; and that more recently the building has been used to house chickens. They have stated the existing building is structurally unsound and beyond reasonable repair. The Council consider this evidence demonstrates that the building is no longer in lawful residential use, and as there is no viable fallback position for a residential use, they determined the proposal as being for the creation of a new dwelling rather than a replacement of an existing dwelling.
3. The lawful use of the site can only be definitively determined through a Certificate of Lawful Use or Development. However, given the substance of the appellant’s case it is necessary to consider the planning status of the site before addressing the planning merits of the scheme. I consider there are four criteria which can help establish whether a use has been abandoned.
4. *Physical Condition of the Main Building* - The building consists of two sections, one roofed and likely previously used for habitation, and the other unroofed, previously housing animals and fodder. Significant structural issues, including a failed roof truss and severe wall instability, render the structure beyond repair or renovation. It has lacked basic dwelling facilities for years and is no longer suitable for residential use.

5. *Cessation of Residential Use* - While records confirm the building was used as a dwelling in 1945, it is unclear when residential use ceased. It has clearly not been used as a dwelling for a substantial period.
6. *Alternative Use of the Building* - The previous owner, Mr. Picton Jones, used the property for housing chickens, reflecting its non-residential purpose before its acquisition by the current owner.
7. *Owner's Intentions and Conclusion* - The previous owner took no steps to maintain the building to enable the resumption of the residential use. The current owner deems it structurally unsound.
8. In the circumstances I conclude that the proposal represents a new dwelling rather than a replacement of an existing one.

Main Issues

9. These are whether the proposed location of the development is suitable having regard to the principles of sustainable development; whether the development in a flood zone is justified having regard to local and national policies; whether the proposed development should make a contribution to affordable housing in line with local policy; and the acceptability of the proposed drainage arrangements including any effect on the Afon Teifi Special Area of Conservation (SAC).

Reasons

10. The appeal site consists of a detached building fronting the road, situated on a small, flat plot of partially grassed land. It is located within a small hamlet, which is characterised by a compact arrangement of dwellings and outbuildings. The building on the appeal site and the surrounding structures share a traditional appearance, are modest in scale, and are positioned directly along the highway. To the southeast set away from the compact arrangement of buildings in the hamlet, is a building under construction.

Sustainable Location

11. Ceredigion County Council Local Development Plan's (LDP) three-tiered settlement hierarchy is based on Urban and Rural Service Centres, settlements linked to these respective centres known as Linked Settlements, and other settlements known as Other Locations. Spatial Settlement Groups are identified based on the geographic relationship between each Service Centre and its associated Linked Settlements and Other Locations. The majority of new housing is directed to the largest Urban and Rural Service Centres. Policy S04 'Development in Linked Settlements and Other Locations' tightly controls general housing provision in Other Locations and states that these places are inappropriate for housing development unless justified on the basis that it meets a demonstrated unmet affordable housing need in the locality or meets a need for a rural enterprise dwelling in line with *Technical Advice Note (TAN) 6 Planning for Sustainable Rural Communities*.
12. These local policy provisions align with the objectives of *Planning Policy Wales (PPW)*, which aim to ensure development is located in a way that minimises the need for travel, reduces reliance on private cars, and supports sustainable access to employment, local services, and community facilities. The proposed scheme is not for an affordable house or a rural enterprise dwelling.
13. LDP Policy DM03 'Sustainable Travel' seeks, amongst other things, to minimise the need to travel, and to provide opportunity for and promote sustainable modes of transport in Ceredigion. LDP Policy DM04 'Sustainable Travel Infrastructure as a Material Consideration' supports opportunities for walking, cycling and the use of public transport.

14. By virtue of its position in the settlement hierarchy as an '*Other Location*', the LDP acknowledges that the settlement is less sustainable compared to Urban or Rural Service Centres. While the site is within a hamlet, it is neither within nor adjacent to a defined settlement. During my visit, I did not observe any services within a reasonable walking or cycling distance. As a result, and as acknowledged by the appellant, future occupants would likely depend on private cars to access essential facilities. I consider the appeal proposal conflicts with sustainability principles, which prioritise proximity to services within defined settlements and access to sustainable transport to reduce car dependency.
15. I have given consideration to the appellant's view that the building has been part of the hamlet since 1800 and was previously occupied as a dwelling; that the availability of sustainable transport options is beyond their control; and that technology, home deliveries, private cars and taxis can support rural living. The residential use of the property has not been established and the historic residential use of the site does not justify the proposed development. Both local and national policy are clear that new residential development is best located in the most sustainable locations, and the factors identified by the appellant do not outweigh these clear policy objectives.
16. The appellant has drawn to my attention a dwelling on land to the southeast that they say was permitted in 2021 and is now under construction. I do not have full details of the circumstances that led to that permission, which may not be directly comparable to the appeal scheme. I have assessed the proposal against the provisions of the LDP.
17. I conclude that the proposed new dwelling would be harmful to the principles of sustainable development, contrary to the objectives of LDP Policies S04, DM03 and DM04.

Flooding

18. The parties agree that the site is located within flood zone C2 as defined by the Development Advice Map (DAM) accompanying *TAN 15 Development and Flood Risk*. Zone C2 is described as an area of the floodplain without significant flood defence infrastructure. TAN 15 identifies all residential premises as highly vulnerable development (HVD). The Chief Planner for Wales confirmed in a letter dated 15 December 2021 that the publication of a new version of TAN 15 is paused, and that during the pause period, the existing policy framework of PPW, TAN 15 and the DAMs remain in place. The letter advises that the Flood Map for Planning (FWfP), which provides better and more up to date information than the DAM, may be regarded as a material consideration.
19. PPW paragraph 6.6.22 states that planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers. TAN 15 also sets out a precautionary framework to guide planning decisions and directs development away from areas at high risk of flooding. The FWfP confirms the site is at risk of flooding.
20. Paragraph 6.2 of TAN 15 states unequivocally that HVD in Zone C2 should not be permitted. Consequently, there is no need for me to consider the Flood Consequences Assessment report any further.
21. In the above circumstances, I conclude that the proposal would not be appropriate in this location having regard to flood risk and would conflict with PPW and TAN 15.

Affordable Housing

22. LDP Policy S05 'Affordable Housing' 2ii states that where the individual circumstances of a scheme mean that a whole affordable unit cannot be provided, '*at the discretion of the Local Planning Authority, a commuted sum at the 'equivalent value' of 10% of Open Market Value of the development as valued at the time of application*' will be required.
23. In response to the Council's reason for refusal, the appellant in their appeal evidence has said that they would have no objection to an affordable housing contribution. However, none has been provided. In the absence of a legal agreement that would secure a contribution in line with the policy requirement, I conclude that the proposed development would fail to provide a contribution to the provision of affordable housing, contrary to the objectives of LDP Policy S05.

Drainage including the effect on the Afon Teifi Special Area of Conservation

24. The appellant has provided detail on their proposed new wastewater system (Tricel 6PE UK) and supporting information on the proposed drainage arrangements. In determining the planning application, the Council considered in the absence of detailed plans of the proposed package treatment plant, and a Construction Environmental Management Plan to address pollution control, it was not possible to assess the potential impact of the development on the Afon Teifi SAC.
25. Welsh Government Circular 008/2018 '*Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants*', sets out information and guidance to be used when considering proposals for new development in areas with no public sewerage system. The Circular includes 12 factors that private drainage proposals should fully and in detail consider. These include issues such as adverse effect on water sources, damage to the environment and amenity, flooding, and maintenance plans.
26. The appeal site is within the catchment of the Afon Teifi SAC. Natural Resources Wales (NRW) has published guidance to support the planning process in SAC catchments including '*Principles of nutrient neutrality in relation to development or water discharge permit proposals*' (last updated October 2022) and '*Advice to planning authorities for planning applications affecting nutrient sensitive river Special Areas of Conservation*' (last updated July 2024).
27. In short, the guidance states that high concentrations of phosphorus lead to the process of nutrient enrichment and can alter the balance of plant species in rivers causing significant ecological damage. New housing developments can lead to increased amounts of nutrients entering the river environment from additional wastewater.
28. The evidence provided does not include full and detailed consideration of the 12 factors identified by the Circular and this is a significant omission. The evidence also does not clearly establish that the drainage arrangements for the proposal would be able to comply with the NRW advice. The proposed scheme shows the discharging of wastewater to a ditch running through a meadow field to the southwest of the site. No evidence has been submitted to demonstrate whether the appellant owns or controls this land and would be able to provide the proposed arrangements, nor are there any details provided on future maintenance mechanisms.
29. The scheme has not adequately demonstrated that the sewage treatment plant proposed would secure compliance with the required criteria and would not add to the phosphate levels within the river, contributing to the continued failure of the waterbody to meet its phosphorus target. As a consequence, I am unable to conclude that phosphate levels attributable to the appeal scheme would not have a detrimental impact on the ecological

value of the Afon Teifi SAC. As I am dismissing the appeal it has not been necessary for me to undertake an Appropriate Assessment under the Habitats Regulations.

30. I conclude that in the absence of adequate information on the proposed drainage arrangements, I find the proposed development would cause potential harm to the water environment, including the potential to add phosphates to the Afon Teifi SAC, contrary to the objectives of PPW and LDP Policies DM14 'Nature Conservation and Ecological Connectivity' and DM15 'Local Biodiversity Conservation'.

Conclusion

31. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

32. 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.

G Hall

INSPECTOR