Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 09/06/23

gan Janine Townsley LLB (Hons) Cyfreithiwr (Nad yw'n ymarfer)

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 02/08/2023

Appeal Decision

Site visit made on 09/06/23

by Janine Townsley LLB (Hons) Solicitor (Non-practising)

an Inspector appointed by the Welsh Ministers

Date: 02/08/2023

Appeal Ref: CAS-02241-N7L1S5

Site address: Land at Coed Cornel, Allt Y Gelli, Llangynog, Carmarthen.

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

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act.
- The appeal is made by Mr Lloyd Kenneth Dall against an enforcement notice issued by Carmarthenshire County Council.
- The enforcement notice, numbered W/ENF/09167, was issued on 08 September 2022.
- The breach of planning control as alleged in the notice is "*Without planning permission, unauthorised change of use from forestry to a mixed use of forestry and residential/leisure plot, including the erection/siting of a timber chalet.*
- The requirements of the notice are:
  1. *Permanently cease the use of the land as a residential/leisure plot.*
  2. *Permanently remove from the land the timber chalet, any associated foul drainage and all residential/leisure paraphernalia.*
  3. *Restore the land to its former condition.*
- The period for compliance with the requirements is 3 months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

2. The grounds of appeal state that the site was purchased by the appellant and the chalet was constructed for tourism use and as a temporary personal retreat. This use

did not ensue due to the covid-19 pandemic restrictions. His stated intentions were to rent out the chalet for holiday use and for his own personal use.

3. The appellant states that the chalet falls within the statutory definition of a caravan. He states that it has no foundations or utilities and could be removed by the installation company without the use of cranes. The enforcement notice (EN) alleges a material change of use including the erection/siting of a timber chalet. It does not allege operational development so it is not necessary for me to draw any conclusions on whether the chalet is a building. In any event, the appellant has not given any details on how the chalet and attached terrace could be removed from and transported from the site. For these reasons I have not considered this matter further in this decision.

4. The change of use alleged in the EN comprises a mixed use of forestry and residential/ leisure use. There is no suggestion that any substantive forestry work has been carried out and the appellant makes it clear in his submissions that he does not propose to undertake any significant forestry work in the future. Notwithstanding that, there is no requirement of scale of forestry work in Part 7 of the General Permitted Development Order and the appellant has stated that he undertakes thinning, felling of dangerous, dead, or dying trees, as well as scrub clearance. For this reason, I am satisfied that an allegation of a mixed use in the EN is appropriate and no amendment to the breach is required.

The Ground (a) Appeal

5. This ground of appeal is that the development alleged in the enforcement notice (EN) ought to be granted planning permission. The reasons given by the Council for the taking enforcement action are set out in paragraphs 2-6 of the EN.

6. In relation to the ground (a) appeal I consider the main issues to be the extent to which the change of use is acceptable in principle having regard to local and national planning policy and the effect of the development on the character and appearance of the area.

Reasons

Principle of development

7. The appeal site comprises approximately 1.5 hectares of woodland which is located approximately 2.5km from the nearest settlement of Llanynog. It falls some distance from the settlement boundary and is in the countryside by reference to local development plan policy.

8. The development set out in the notice is a change of use to a mixed use of forestry and residential/leisure plot and the siting of a timber chalet. The chalet is positioned in an elevated position, accessed by steps and with an exterior timber terrace. The appellant has stated that he has used the chalet for overnight accommodation but not as a principal residence. At the time of the service of the EN it was his intention to use it also as tourist accommodation.

9. Policy GP2 of the Carmarthenshire Local Development Plan (December 2014) (“LDP”) defines development limits for a range of settlement types within Carmarthenshire’s identified settlement framework. It states that proposals within defined development limits will be permitted, subject to other policies and proposals of the Plan, national policies and other material considerations. The accompanying text within the written statement explains the purposes of defining development limits as including to prevent inappropriate development in the countryside; to prevent coalescence of settlements,

ribbon development or a fragmented development pattern; and to promote effective and appropriate use of land concentrating growth within defined settlements.

10. From the above it is clear that policy GP2 seeks to direct new development primarily to locations within the development limits of the settlements identified by the Plan. Whilst the logical corollary to this is that it is not generally permissive of proposals outside the development limits of settlements, policy GP2 does not explicitly prohibit all development in such locations.

11. Planning Policy Wales states that development in the countryside should be located within and adjoining the settlements where it can best be accommodated. It goes on to state that new building in the open countryside should be strictly controlled (paragraph 3.60). Certain exceptions to that principle are set out including rural enterprise dwellings and affordable housing proposals.

12. There is no suggestion from either of the parties in this case that any rural exception policy applies. The appellant's position is that the chalet would provide therapeutic benefits for his health and wellbeing for overnight stays but not as a permanent residence. The appeal grounds state that the appellant seeks the retention of the chalet for his personal use and tourist use. The final comments state that that the use of this chalet is for forestry birdwatching and other forms of nature watching and preservation. The chalet is suitable for overnight accommodation and has been used as such.

13. I note the appellant's assertion that the chalet should be considered as falling under class C2 under the Use Classes Order. Class C2 is a residential institution use class including residential care homes, hospitals and nursing homes. There is no justification put forward for this assertion. In any event, there is no exceptions policy for C2 development in the countryside. Irrespective of the appellant's future intentions for the chalet, at the time the EN was served the appellant was using the chalet for overnight accommodation related to a leisure use of the site and he intended using the chalet as a holiday let. Whilst there is policy provision for tourist accommodation within the LDP, there are requirements relating to sustainability of the location of such uses. The appellant has not made any representations of policy support for the development on site.

14. Accordingly, I conclude that the development which has taken place falls within the countryside without policy justification and therefore fails to accord with LDP policies SP1 and GP2 which seek to direct development to sustainable locations.

Character and Appearance

15. The alleged change of use of the appeal site to a mixed use of forestry and residential/ leisure use is facilitated and supported by the siting of the chalet. The chalet sits above ground level to allow views into the tree canopy, is accessed by timber steps and has a terrace which wraps around two sides of the chalet. The structure itself is single storey finished in log-lap externally with a pitched roof with a chimney flue. There are windows to the internal rooms with a woodstore and generator to the exterior. There are no visible tools or machinery. The overall design of the chalet is domestic in character, and it is large enough to provide residential accommodation.

16. The remote nature of the site means that the chalet is not visible from the highway or other public vantage points. The evidence indicates that the site forms part of a wider woodland which comprises parcels of privately owned land. Access is via a gated track. Even from within the woodland, views of the chalet are limited due to the presence of trees and the elevated siting of the structure. There is no suggestion of public access or rights of way through the woodland. Upon this basis I conclude that the chalet is not

visible from any public vantage points. Despite this, the domestic style of the chalet contrasts with the woodland setting of the site and has a negative impact on the character of the site.

17. The site falls within a remote and tranquil woodland and the domestic character of the chalet conflicts with this. The use which the appellant describes for the site is a leisure use. This use is incompatible with a forestry use of the site and has a harmful impact on the character of the woodland setting. The development therefore conflicts the advice set out in PPW and fails to accord with policy GP1 of the LDP which states that development will be permitted where it conforms with the character and appearance of the site.

Other matters

18. The appellant has sought to justify the development by reference to the health benefits he enjoys from staying at the chalet where he can enjoy the tranquillity of the woodland and he can bird-watch. Whilst I understand the therapeutic benefits of having these facilities, these personal circumstances do not outweigh the planning harm I have identified above in relation development in the countryside which is out of character with the area.

19. Taking all these matters into account, I consider that the development conflicts with national and local planning policy and the material considerations cited do not justify the departure from policy. For these reasons, the ground (a) appeal fails.

The Appeal on Ground (f)

20. This ground of appeal is that the steps required by the notice exceed what is necessary and lesser steps could be taken to remedy the breach or address the injury to amenity.

21. The purposes of an enforcement notice are set out in Section 173(4) of the Act and are to remedy the breach of planning control (s173(4) (a)) or to remedy injury to amenity (s173(4)(b)). Since the EN requires the unauthorised mixed use to cease the purpose of the EN is to remedy the breach.

22. The ground (f) appeal is that the chalet should be permitted to remain for forestry work. Reference is made by the appellant to permitted development rights for development related to forestry and he states that to require the removal of the chalet would interfere with permitted development rights.

23. The forestry works the appellant has undertaken at the site have been limited to thinning, felling of dangerous, dead, or dying trees, and scrub clearance. The appellant has acknowledged that he does not intend to undertake any significant forestry work in the future. I have already described the exterior of the chalet in the context of the character of the area as being domestic in size and design. I also observed the interior of the chalet which has separate spaces for sitting and sleeping, bathroom facilities and an area for meal preparation. A wood burner and sofas are present and the interior, although simple, is comfortable enough to serve as residential accommodation. The appellant's evidence confirms that it has been used as such. Therefore, the facilities and design of the chalet go beyond what would be reasonably necessary for forestry shelter. In this case, the forestry work which had been carried out is limited. Therefore, the chalet is not reasonably necessary for forestry and would not benefit from permitted development rights.

24. Requiring the removal of the chalet is necessary to achieve the Council's purpose in issuing the EN. Any variation which leaves the chalet in place would defeat the

purpose of the notice and would be tantamount to granting planning permission in circumstances where the ground (a) appeal has failed. The ground (f) appeal fails.

The Appeal on Ground (g)

25. This ground of appeal is that the time for compliance set out within the EN (in this case three months) is insufficient.

26. The appellant states that this will not be sufficient time for the chalet to be removed and relocated. Twelve months is requested for this to take place.

27. The appellant has not explained why the removal of the chalet cannot be arranged within a three-month period. His evidence states that the company he purchased from would be able to dismantle and remove it and this can be readily achieved without the need for cranes. I note his concern that he would need to identify another place for the chalet to be erected but no indication is provided as to why this cannot be achieved in three months. In the absence of any information as to why the period for compliance is inadequate, it is not possible to justify prolonging the planning harm which I have identified in this decision any further than the time for compliance already set out in the EN. Accordingly, the ground (g) appeal fails.

Overall Conclusion

28. For the reasons give above, I conclude the appeal should be dismissed, the EN is upheld and I refuse to grant planning permission for the application deemed to have been made under section 177(5) of the 1990 Act as amended.

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 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.

Janine Townsley
Inspector