



Appeal Decision

by N Jones BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 18/03/2024

Appeal reference: CAS-03003-F2D0T7

Site address: Tyn y Caeau Farm, Northop Road Northop Flintshire CH7 6BE

- 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 Neil McCaddon against the decision of Flintshire County Council.
 - The application Ref FUL/000523/22 dated 30 September 2022, was refused by notice dated 3 April 2023.
 - The development proposed is described as alterations and extensions of former farm manager's unit to provide 2 bedroom dwelling.
 - A site visit was made on 5 March 2024.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of the appeal, Edition 12 of Planning Policy Wales (PPW) has been published. As it consolidates previously published content it does not raise any new matters that have any significant bearing on the decision.
3. Although the appellant confirms the appeal building was formerly used as farm manager's and staff accommodation, it was more recently used for domestic storage with ancillary overspill accommodation in association with the dwelling at Tyn y Caeau Farm, which is now separately owned. On the evidence before me, I consider the building to be an existing non-residential building and have considered the appeal on this basis.

Main Issues

4. The main issues are (i) whether the proposed development would conflict with local planning policies designed to protect the countryside and restrict housing development; and ii) the effect of the proposal on ecology.

Reasons

The countryside and housing development

5. Albeit the appellant is of the view that the appeal site is not in open countryside as the proposal lies within the original curtilage of the farmstead, and that incremental

developments over time have extended the 'building line', the Council confirms that the appeal site is outside any recognised settlement boundary as defined in the Flintshire Local Development Plan (LDP) and so is in a countryside location for the purposes of planning policies.

6. LDP Policy HN4 reflects the guidance in PPW, whereby new housing development in open countryside, outside settlement boundaries, is strictly controlled. It seeks to protect the open countryside from inappropriate housing development but to ensure that in exceptional circumstances specific types of new housing will be allowed. Amongst its exceptional circumstances, Policy HN4 permits housing outside defined settlement boundaries where it involves the conversion of an existing non-residential building with reference to LDP Policy HN4-B. Policy HN4-B states that the change of use to a dwelling of non-residential buildings outside settlement boundaries will only be permitted where it meets the specified circumstances listed, with preference being given to the conversion of rural buildings to employment related uses except where residential conversion is a subordinate part of a scheme for business re-use, or is contributing to an identified need for affordable housing. Policy HN4-B also sets out criteria against which qualifying residential conversion schemes are judged.
7. The appellant explains that Tyn y Caeau is no longer a working farm. However, there is no evidence that the appeal building could not be converted to provide suitable other employment uses or that it has been reasonably advertised for such a purpose. There is no evidence that the intended residential use would be a subordinate part of a scheme for business re-use. The appellant confirms that the appeal building was retained in his ownership with the long-term view to provide a residence for retirement, and, as his family has now grown, there is no longer a need for the large dwelling at the farmstead. However, there is no evidence to demonstrate that the resultant housing would contribute to an identified need for affordable housing to meet local needs.
8. It has not therefore been demonstrated that the proposal meets the exceptional circumstances set out in LDP Policies HN4 and HN4-B. As the proposal would accordingly be unacceptable in principle, the requirement to consider the scheme against the detailed criteria in Policy HN4-B (dealing with the structural soundness of the building; the effects of the proposal on the building's character; the effects of the proposal, including through the creation of a residential curtilage, on the character and appearance of the area and on the standard of living conditions provided) and general design guidance in LDP Policies PC2 and PC3, which the appellant argues are met, is not therefore engaged.
9. I conclude that the proposal would conflict with local planning policies designed to protect the countryside and restrict housing development as set out in LDP Policies HN4 and HN4-B.

Ecology

10. The appellant confirms the presence of bats locally. Technical Advice Note 5 'Nature Conservation and Planning' (TAN 5) confirms that the level of likelihood that should trigger a requirement for developers to undertake surveys should be low where there is a possibility that protected species might be present. Whilst I acknowledge the appellant's personal knowledge of the appeal site and background and experience in habitat creation, together with his willingness to install bat, swallow and swift boxes as part of the proposal, in the absence of a detailed survey to establish the baseline ecological state of the appeal site, I cannot be satisfied that such measures would be appropriate in relation to any protected species present.

11. From the evidence before me, it has not been demonstrated that the proposal would not harm protected species. The proposal would therefore conflict with LDP Policy EN6 which says, amongst other things, that development proposals that would have a significant adverse effect on locally designated sites or site with other biodiversity and / or geological interest, including priority species, will only be permitted subject to its listed criteria, including where: it can be demonstrated that the need for the development outweighs the biodiversity or geological importance of the site; the development cannot reasonably be located elsewhere; and any unavoidable harm is minimised by effective mitigation to ensure that there is no reduction in the overall biodiversity value of the area.

Other Matters

12. As this appeal is concerned only with the planning merits of the proposal, it is not before me to consider the administrative route taken by the Council to arrive at its decision.
13. I have had regard to the numerous residential conversions within the farmyard complex, but the appellant confirms these were permitted over 30 years ago. More recent alterations and additions to those converted properties are likely to have been considered against applicable policies relating to extensions, rather than those dealing with the principle of residential conversion. My attention was also drawn to the nearby veterinary surgery which was granted permission in the open countryside. Whilst I have not been provided with full details of the case, there is nothing to suggest it was a conversion scheme and, as a business rather than a residential use, it is not directly comparable to the appeal proposal which I have consequently considered on its own merits in relation to applicable policies of the recently adopted LDP.
14. I have taken into account the appellant's contention that the building would fall into ruin if the proposal did not proceed. However, given his consideration towards neighbouring occupiers in developing the appeal proposal, I do not consider this likely. Nevertheless, avoidance of the deterioration of a single small building at the appeal site would not outweigh the need to protect the wider countryside from inappropriate development.
15. I recognise the benefits of the use of an albeit sub-standard but wider and more visible access onto the A5119 than the existing main yard access to both the appellant and also some neighbours. I note that there were no local objections, and that the majority of consultees had no concerns regarding the development. However, these matters are not sufficient to outweigh the harm I have identified in relation to the main issues.

Conclusion

16. For the reasons given above, and taking all other matters raised into account, I 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 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