



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 15/2/17
Ymweliad â safle a wnaed ar 15/2/17

gan Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI
Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12.04.2017

Appeal Decision

Hearing held on 15/2/17
Site visit made on 15/2/17

by Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI
an Inspector appointed by the Welsh Ministers

Date: 12.04.2017

Appeal A Ref: APP/T6850/A/16/3158750

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
 - The application Ref. P/2014/0632, dated 12 June 2014, was refused by notice dated 18 March 2016.
 - The development proposed is the 'Erection of 4 No. dwellings and formation of associated access'.
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Appeal B Ref: APP/T6850/A/16/3161920

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
 - The application Ref. P/2016/0902, dated 19 August 2016, was refused by notice dated 25 October 2016.
 - The development proposed is the 'Erection of 4 No. dwellings and formation of associated access'.
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Appeal C Ref: APP/T6850/E/16/3158754

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
 - The application Ref. P/2014/0633, dated 12 June 2014, was refused by notice dated 16 March 2016.
 - The works proposed are the 'demolition of existing wall to provide new vehicular access in connection with P/2014/0632'.
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Appeal D Ref: APP/T6850/E/16/3161930

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
- The application Ref. P/2016/0901, dated 19 August 2016, was refused by notice dated 25 October 2016.
- The works proposed are the 'Demolition of an existing wall to provide new vehicular access in connection with P/2016/0902'.

Decisions

1. Appeals A & B are dismissed.

Application for Costs

2. At the Hearing an application for costs was made by Mrs Julie Trimble of Trimwright Homes Ltd against Powys County Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appellant submitted two listed building applications to the Council for determination. Prior to the Council's determination of the first application the appellant disputed that the works covered by that application did in fact relate to a listed structure associated with Ivy House, a grade II listed building; this stance has been sustained during the course of the Council's consideration of the second application and the appeal process.
4. Therefore the parties do not agree on the listed status of the wall that is proposed to be partially demolished by schemes A & B. Whether an existing structure in proximity to a listed building is deemed to be curtilage listed is a matter of fact and degree. Having reviewed the evidence, including the historic maps and more recent photographic evidence contained within the submitted Heritage Impact Statement (HIS), relevant case law, and what I heard during the appeal and saw on site, it appears to me that the western boundary wall that is proposed to be partially demolished is not a curtilage listed structure.
5. The appellant accepts that the stone wall that runs along the historic access that serves Ivy House and which exits out onto a minor road known locally as Mount Bank, is curtilage listed and that the western boundary wall which it connects into has, at least in its northern section, a direct connection to the listed dwelling. However simply because this wall then connects onto the rest of the western boundary wall, it does not follow that the rest of the wall is curtilage listed, even if it were attached at the time of listing. To my mind, the rest of the wall i.e. from approximately a line just south of the existing pedestrian doorway down towards the A458 derives its provenance from the remnants of earlier structures that bordered the appeal site in bygone years, and which also appear to have been subject, at least in part, to a degree of rebuilding; these structures have no functional or historical connection to Ivy House. The appellant accepts that a small area of the site around the pedestrian

doorway formed part of the historic residential curtilage, however based on the submitted evidence and my observations on site, it appears to me that whilst the appeal site has had a long association with Ivy House, that association for the majority of the area concerned has been as a paddock/orchard area as opposed to domestic use; the Council provided no significant evidence to the contrary.

6. Bearing the above in mind, a listed building consent application is not required for the works as proposed; it follows that there is no valid appeals for determination and therefore I shall take no further action in regards to appeals C & D.
7. I note the name of the appellant and description of site address differs slightly on the joint planning application/listed building consent form for the various appeals. At the Hearing it was confirmed that the appellant is Mrs Julie Trimble of Trimwright Homes Ltd which is reflected in the banner headings above. The description of the site address as advertised and stated on the Council's decision notices for appeals A & B, and copied into the banner headings above is more accurate and concise; it is on this basis that I have determined the appeals.
8. Appeals A & B relate to the erection of 4 dwellings and a new vehicular access onto Mount Bank. In broad terms the difference between the proposed schemes relates to the treatment of the access to the site, with appeal A retaining more of the stone wall along Mount Bank and a resultant narrowing of the adjacent carriageway; in addition the site as edged in red between the schemes varies slightly along the eastern boundary with Ivy House. Bearing in mind the similarities of the appeals, I have combined my consideration of them, referring to any differences as required.
9. I note that Planning Policy Wales (PPW) Edition 9 was issued on 17/11/2016 and replaces PPW Edition 8; consequently I have dealt with the appeals on the basis of the revised PPW. Both parties were afforded the opportunity to consider the implications this may have had for their cases; the appellant responded with additional information which I have taken into account in my determination of the appeals.

Main Issues

10. Bearing the above in mind, I consider the main issues to be the effect of the proposed development on the setting of Ivy House and on highway safety with particular regard to the narrowing of the highway.

Reasons

11. The appeal site is roughly rectangular in shape and is sited near to the junction of the A458 trunk road and Mount Bank within the settlement of Middletown; land levels rise gently northwards from the A458. The majority of the site has historically been used as a paddock/orchard, however latterly it has been grazed with livestock. The site is bounded to the north by a stone wall that separates it from an access drive that serves the adjacent Ivy House, the only listed building within the settlement; this wall links into a further stone wall that runs the length of the western boundary of the site along Mount Bank. The southern/A458 facing boundary to the site has mature landscaping in the form of trees and hedges, whilst the eastern boundary is delineated for the majority of its length by a mature conifer hedge, beyond which lies the garden associated with Ivy House.
12. Ivy House is a two storey country house and dates from the early to mid-19th century and appears to have been built for a Benjamin Thomas, a farmer, who according to

the HIS was 'clearly a man of means'. The main part of the house is characterised by the use of a pebbledash finish on the exterior walls and a slate roof, with the front elevation being late Georgian in appearance. The appearance and style of the front facing Georgian elevation is very pleasing to the eye and even from the nearby public highway architectural details such as the ornate scalloped bargeboards can be seen; the rear of the building has been remodelled over the years and utilises a mix of building materials. To the rear can be found a cobbled courtyard and outbuildings, whilst to the front and sides of property facing onto the A458 is an informally laid out garden, which unlike the majority of other properties in the vicinity is very spacious. The property is accessed by vehicular traffic from Mount Bank; a pedestrian access to the house is found onto the A458. Whilst set back from adjacent roads, nonetheless Ivy House can be glimpsed from various vantage points. Collectively these features make up a large proportion of the significance of Ivy House as a designated heritage asset.

13. The wider area to the north, west and south around the site is characterised in the main by relatively modern residential development set within modest plots, whilst to the immediate east adjacent to open land associated with Ivy House lies All Saints Church.

Effect on Listed Building

14. Section 66(1) of the Act¹ require the decision-maker, in considering whether to grant planning permission for development affecting a listed building, or its setting, 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; PPW reiterates this stance.
15. The appellant refers to the Powys Unitary Development Plan adopted in 2010 (UDP) being 'out of date'. Whilst the UDP plan period expired in December 2016, nonetheless policies GP1 & ENV14, which seek to protect heritage assets, are broadly consistent with recent national planning policy in PPW.
16. Contrary to the appellant's view I do not consider the significance of Ivy House is limited to its date of construction, façade detailing and its relationship to the rear outbuildings. The Welsh Government publication 'Conservation Principles for the sustainable management of the historic environment in Wales' defines setting as 'the surroundings in which an historic asset is experienced'. The HIS clearly establishes a historic relationship between Ivy House and the ground forming the appeal site, with the land most likely to have been used as a paddock or orchard associated with the house. The land associated with Ivy House, including the appeal site, sets it apart from the relatively undistinguished dwellings that surround it and to my mind serves as a visual reminder of the property's original higher status and forms part of the setting to the house. Whilst I appreciate that the existing stone wall and vegetation restrict views of Ivy House, nonetheless it can be glimpsed in views looking across the appeal site, with specific detailing such as the slate roof, brick chimney stacks and ornate scalloped bargeboards being evident from a number of vantage points locally. The appeal site despite its central location within the settlement has a tranquil, verdant and visually open spacial quality to it. For these reasons the appeal site

¹ The Planning (Listed Buildings and Conservation Areas) Act 1990

makes a positive contribution to the setting and therefore significance of the heritage asset.

17. As referred to above, the HIS indicates that historically there were buildings bordering part of the appeal site, however it appears these were demolished in the mid part of the 20th century, with the remnants highly likely to have formed, at least in part, the western boundary wall. It is clear to me that for approximately 60 years, Ivy House has been seen as a relatively large dwelling adjacent to an area which is open and generally devoid of built structures, and would have been seen in this context particularly so at the time of listing. In addition, the interior of the site appears to have always been devoid of development.
18. The proposed development would result in a development of four 2 storey dwellings; a terrace of three and one that is detached, that would extend along the side gable and in front of Ivy House, and occupy a significant footprint within the site. The proposed dwellings are contemporary in design. I appreciate the land levels on the site may allow for a development that is lower than Ivy House, nonetheless based on my site observations, the proposed two storey dwellings would be highly likely by virtue of their scale, siting and form to be a visually dominant feature within the setting of the listed building.
19. The proposed dwellings would have a significant detrimental impact on the open spacial/visual relationship that has existed for many years and on the historic function and relationship of the land to the listed house; little of the sense of that historic relationship would remain. In addition the existing partial and filtered views of Ivy House would be highly likely to be either obscured completely or significantly compromised, particularly when viewed from nearby vantage points.
20. As referred to previously, the proposed development would result in the partial demolition of the western boundary wall to form the proposed access into the site. Scheme A would result in a modest indent section of the wall being demolished, whilst scheme B would result in the same indent being removed in addition to the demolition and rebuilding of modest sections of the wall to provide for visibility splays. I appreciate the proposed access would result in the loss of an interesting indent feature; nonetheless the demolition works in either scheme are limited and restricted to sections of a non-listed wall that owe their origins to other structures which had no functional or historic connection to Ivy House. I also appreciate the proposed access works would reduce in part the site's sense of enclosure, however this would not be significant bearing in mind the majority of the boundary wall is to be retained or rebuilt. Therefore the works to the boundary wall in itself would not be unduly detrimental to the setting of the listed building, nor justify refusal of the proposed development in either scheme.
21. I do not consider the detailed design of the proposed dwellings would be unduly detrimental to the setting of Ivy House. The contemporary detailed design of the proposed dwellings avoids being pastiche and reflects in part a connection to the listed building by the use of slate, render and stone. Notwithstanding my views on the detailed design of the proposed dwellings and the materials to be used, these would not overcome the more fundamental aspects of the scheme in regards to its dominating scale, siting and form on the adjacent listed house.
22. I accept that the setting of Ivy House has been compromised to a degree by surrounding modern residential development, particularly to the north; nonetheless,

this cannot justify additional development that would further erode its setting, particularly as that development is within land that has historically been associated with the house, and would be prominently located along the side, and forward of the front elevation of the listed property.

23. The Council does not have a 5 year supply of residential land as required by PPW and advocated by policy HP3 of the UDP. Clearly the lack of a 5 year supply is a significant material consideration that weighs in favour of the proposal. Technical Advice Note 1: Joint Housing Land Availability Studies 2015 (TAN 1), states that the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national policies. However for the reasons given previously the benefits from the proposal in terms of the contribution to housing land supply do not outweigh the considerable conflict with the development plan and national planning policy which seeks to safeguard heritage assets.
24. I appreciate the proposed development is located within an existing settlement and would offer the opportunity for future occupants of the site to avail of means of transport other than the private car, and would be likely to contribute to a cohesive community, however these sustainable benefits, either individually or combined with any other benefits associated with the proposals, would not outweigh the harm identified to the heritage asset.
25. One of the Council's refusal reasons as detailed in the decision notices for appeals A & B refers to the removal of a section of wall contrary to paragraph 106 of Welsh Office Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas. Paragraph 106 deals with the issue of granting listed building consent; bearing in mind my findings on the wall, I don't propose to address this reason for refusal any further.
26. Overall, I therefore conclude that the proposed development would materially harm the setting of a listed building, contrary to the Act, PPW and policies GP1 & ENV 14 of the UDP, which collectively seek to protect heritage assets.

Highway Safety

27. The essential difference in highway terms between scheme A & B is that scheme B did not involve the narrowing of the highway to facilitate the proposed access, consequently the Council did not object to this scheme on highway grounds. As regards scheme A the proposed works would allow for appropriate visibility to be achieved; the Council confirmed at the Hearing that it raised no objections to appeal scheme A in terms of the visibility being provided.
28. Mount Bank serves approximately 70 properties from various cul de sacs, in addition to a quarry, and also allows access to an area of Common Land to the north; in the vicinity of the appeal site it varies in width from approximately 5.28 m to the north, 6.0 m opposite the proposed access, and 5.48 m to the south and has footpaths either side. The proposed development would result in the highway opposite the access being reduced to 5.4 m by the use of a dropped kerb arrangement; the dropped kerb would allow for an overrun area. The appellant states the quarry runs a one vehicle in and one vehicle out policy; the Council confirmed at the Hearing they had no evidence to the contrary. The HGV movements associated with the quarry are therefore likely

to be very limited, and I have no substantive evidence before me that this is likely to change anytime soon.

29. The Council maintain that the narrowing of the highway would be detrimental to highway safety especially when two HGV's meet, however, provides little in the way of substantive technical evidence to support their stance. The overrun area effectively maintains the overall width of the road thereby allowing larger vehicles to pass each other, and therefore the proposed works do not materially alter the highway situation which currently exists.
30. There is no evidence to indicate that the proposed works would result in the existing footway being mounted by traffic meeting in the vicinity of the works; the only area that would be mounted by traffic in such a situation is the overrun and this would be designed for that purpose. In addition there is no evidence to indicate the overrun areas would interfere with pedestrian desire lines as the existing footway is being retained, nor unduly affect any other road user.
31. Concluding on this issue, there is no compelling evidence to indicate that the proposed development would be detrimental to highway safety, nor be contrary to Policy GP4 of the UDP, TAN 18, or PPW, which collectively seek to safeguard highway safety.

Other Matters

32. A third party raised concerns in regards to impact of the proposed development on the ecology of the area with particular regard to Slow Worms which are known to reside on the site, however, I note the Council raise no objections in this regard and based on the submitted ecology reports I have no reason to take a contrary view.

Conclusion

33. I have considered 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"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and 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.
34. After taking account of all the evidence before me, and for the reasons given above, the proposal would have a detrimental impact on the setting of a listed building. On this basis the proposal falls contrary to the Act, PPW and the development plan. I therefore conclude that appeals A & B should be dismissed.

Declan Beggan

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Niall Blackie LARTPI	Solicitor
R K Morriss MA (Hons) MSocSc	Richard K Morris & Associates Historic Building Consultants
A Goff	Woodsyde Developments Ltd
G Hickman	Gareth Hickman Architectural Ltd
J Trimble	Appellant

FOR THE LOCAL PLANNING AUTHORITY

L Evans	Principal Planning Officer
D Lewis	Built Heritage Conservation Officer

DOCUMENTS SUBMITTED AT THE HEARING

1. Council's notification letter and list of those notified
2. Revised Highways Statement
3. Suggested conditions as submitted by the appellant
4. Copy of listing description for Ivy House
5. Appellant's written submission regarding an application for costs