



---

## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 12/06/18

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 01/08/18

## Appeal Decision

Site visit made on 12/06/18

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 01/08/18

---

**Appeal Ref: APP/T6850/A/18/3198930**

**Site address: Land south of Broncafnt Lane, Llanfair Caereinion**

**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 outline planning permission.
  - The appeal is made by NL and KM Griffiths against the decision of Powys County Council.
  - The application Ref P/2017/0600, dated 25/05/2017, was refused by notice dated 27/10/2017.
  - The development proposed is outline application for the erection of up to 4 dwellings and associated infrastructure including installation of sewage treatment plant, with some matters reserved.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by NL and KM Griffiths against Powys County Council. This application will be the subject of a separate decision.

### Procedural matters

3. The planning application is submitted in outline with access considered at this stage. The description of the site 'Broncafnt Lane' is taken from the appellants' submissions and this differs from the application site address. I have used the address in the heading above for the purposes of this appeal. The appeal form indicates that the appeal is made against a refused approval of the matters reserved under an outline planning permission. The parties' submissions relate to an appeal against the refusal of planning permission and I have considered the appeal on that basis.
  4. The Council indicates that it objects to the inclusion of an amended plan showing a foul drainage connection to a watercourse from the private sewage treatment plant. The Council indicates that no weight should be given to this plan as it is outside the application site. The appellants indicate that the revised block plan showing the revised drainage was sent on 11/08/2017 with a verbal agreement from the Environmental Health Officer that this was acceptable. It is unclear whether the revised plan was the subject of public consultation and whether Natural Resources Wales (NRW) has been consulted on the change where its agreement and consent would now apply. Whilst the amendment to the proposal is seeking to address a
-

particular objection at appeal stage on drainage matters, the change may deprive those who have an interest and should have been consulted on the change the opportunity to comment. I am therefore not prepared to consider the change as this would prejudice the rights of interests parties, I shall therefore deal with the appeal as initially submitted.

5. On 17/04/2018 the Powys Local Development Plan (LDP) 2011-2026 was adopted. The LDP supersedes all former adopted development plans which were considered by the Council. Planning Policy Wales (PPW) Edition 9 (paragraph 2.1.2) indicates that 'Planning applications must be determined in accordance with the adopted plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004)'. This appeal must therefore be determined in accordance with the adopted LDP unless material considerations indicate otherwise. The parties' submissions take into account the relevant LDP policies.
6. The Council are considering another application for 3 dwellings on the site under reference P/2017/1311. The Members are resolved to refuse permission contrary to officers' recommendation on the basis that the development is unjustified in the countryside and has an adverse landscape impact. The Council now asks that consideration is given to these issues in this appeal. The appellants have responded to these matters in the final comments stage of the appeal. No prejudice would therefore arise and the appeal must be considered in the light of the current adopted LDP.

### **Main Issues**

7. These are as follows:
  - whether there are other material considerations sufficient to outweigh any conflict with local and national planning policies, and
  - the effect of the proposal on highway safety, and
  - whether there is sufficient information submitted on the suitability of the private sewage treatment plant by its means of drainage in relation to the pollution of grounds waters and the environment and living conditions.

### **Reasons**

#### *Local and national planning policies*

8. The appeal land is a field rising in land levels from the roadside. Land levels also fall from the roadside to the valley to the north-west of the site. The appeal site lies outside and opposite the settlement boundary for Llanfair Caereinion in the LDP. Llanfair Caereinion is classified as a town in the LDP, and has all the necessary facilities and services to sustain new residential development.
9. LDP Policy SP1 indicates that there is now upon the adoption of the LDP a total housing land supply of 5,588 units set against a housing requirement of 4,500 over the plan period. This now provides sufficient evidence that the Local Planning Authority has sufficient land which is genuinely available or will become available to provide a 5-year supply of land for housing as required by PPW (paragraph 9.2.3) and TAN 1<sup>1</sup>. Land has been identified in Policy H2 for the provision of dwellings on housing sites capable of providing 5 or more dwellings, and further land on small sites and

---

<sup>1</sup> Technical Advice Note 1 – Joint Housing Land Availability Studies

windfall sites. The settlement hierarchy in Strategic Policy SP5 comprises towns, large villages, small villages, rural settlements and open countryside, and establishes development limits for towns and large villages by designating development boundaries.

10. Strategic Policy SP6 establishes the distribution of housing in accord with the settlement strategy the level of service provision and size, and subject to its capacity to accommodate sustainable growth. Policy SP6 sets out that a higher proportion of new development required will be directed to towns. At least 50% of the Plan's housing growth would be located in towns, and that this will be delivered through housing commitments and new allocations and on suitable sites within the development boundary. The policy also indicates that additional affordable housing will be permitted on exception sites forming logical extensions to the settlement.
11. The LDP has set out settlement boundaries for towns through Policy H1. Policy H1 would permit housing development in towns on allocated sites or on other suitable sites within the development boundary, or on sites forming logical extensions outside development boundaries for affordable housing.
12. The appeal site is located outside the settlement boundary of the town, on agricultural land that rises up a slope. Opposite the appeal site is a housing allocation in the LDP and this is situated on the sloping landform to the watercourse below. Llanfair Caereinion has developed around the valley floor and central core of the town centre and along main arterial routes that rise in a series of hills. This undulating landscape of hills and slopes has pockets of built development on sloping land and areas of undeveloped agricultural land. The proposed development would sit above the present development with the exception of one dwelling and above the proposed housing allocation. The appeal fields of rising land are undeveloped apart from one dwelling, and would be seen from the adjacent high point to the north-west from the Maes Gwyn estate off Watergate Street. I consider the development would be an encroachment into a hillside landscape which does not follow a logical or defensible natural boundary. The road comprises the current LDP boundary which is logical and defensible.
13. There is no case put forward that the proposed housing development outside but adjoining the settlement boundary would be for affordable housing or that it would be a logical extension. In my view, the appeal site would expand the built influence of the settlement into the countryside and up a visible steep slope. I consider that the proposal conflicts with LDP Policy H1 and Policy SP6 and Policy DM4, which seeks to protect valued characteristics and qualities of the Powys landscape.
14. The LDP provides the rational basis for decisions in accordance with the presumption in favour of sustainable development as set out in PPW (paragraphs 4.2.2 and 4.2.4). The countryside should be protected for its intrinsic sake and the need to promote a resource-efficient and climate change resilient settlement pattern that minimise land-take is one of the Well-being of Future Generations (Wales) Act 2015 goals.
15. I conclude that the development conflicts with local and national planning policies.

#### *Highway safety*

16. The appellants' submission acknowledges the substandard junction of the Broncafnt Lane with the B4389. Tanyfron Nursery which is owned by the appellants is located at the end of the lane. The appeal site is situated on the approach to the nursery and the carriageway is mainly single width. From the junction the lane turns and rises passed the appeal site. The appellants' submission is that they are willing to

relinquish the planning permission for the nursery as a trade-off in traffic movements for the proposed development.

17. The appellants Highway Impact Assessment indicates that as a general rule of thumb traffic generated by the development would account for 6-8 movements per dwelling. It is suggested that the Council revised this to 8-10 movements in line with trip rate information computer system (TRICS). The potential traffic generated from the development would be in the range of 32-40 movements per day.
18. The nursery operates and is licensed for up to 12 children. The Council say it is approved for a maximum of 11 children. The HIA indicates that traffic associated with the nursery would account for 48 movements per day. The HIA sets out that there is three permanent staff resulting in a minimum of 4 movements per day. The nursery also transports children from the nursery to a nursery school and picks up children from the primary school. These traffic movements are in addition, and the HIA quantifies a minimum of 52 movements per day from the nursery. It is also indicated that none of the children are walked to the nursery by their parents. The HIA suggests that the minimum reduction in traffic movements would be 12 movements per day, the difference between 52 and 40, and a maximum of 20 movements per day the difference between 52 and 32, representing a 23% and 38% reduction in traffic movements.
19. The Council questions the HIA figures on the traffic generation associated with the nursery use. It considers that the figures represent a greater number than the consented permission. However, the Council has not explained how this would make a significant difference to the issue of the trade-off. If the HIA indicates 4 movements per child then there would be broadly 44 movements per day associated with 11 children. Four less movements would not change the overall comparison.
20. However, the appellants indicate in an email dated 13/09/2016 that to ensure the trade-off is realised that they would be willing to relinquish the planning permission for the children nursery by entering into a legal agreement.
21. The appeal form indicates that a planning obligation will be submitted with the appeal. No planning obligation is before me, and I must therefore treat the possibility of the trade-off with very limited weight. If the appellants are to rely on a planning obligation then a certified and executed copy should have been submitted with the appeal and no later than 6 weeks from the start date of the appeal at the final comments stage. The absence of a planning obligation means that there is no betterment in terms of traffic generation from the proposed development in combination with all other traffic using the lane including that of the children's nursery. The junction of the Broncafnet Lane with the B4389 is undisputed to be severely restricted in visibility and the additional flow of traffic from the development in combination with traffic from the nursery and other properties would cause a significant risk to highway safety. The width of the junction is restricted and the junction turn is substandard. The length of the lane is mainly single width with few passing places. There are few pedestrian refuges along its length should the occupiers' of the development site choose to walk to town.
22. I note the concern about the proposed traffic movements associated with the dental practice site adjacent to the Broncafnet Lane junction. It is unclear what the junction arrangements would be for this scheme. Nevertheless, it was granted permission and I note that it was a former agricultural depot and there would have been some trade-off in traffic associated with the existing use and the proposal. I do not therefore consider that approval of this development addresses the significant concerns with the

appeal proposal. I am also uncertain whether other examples of developments referred to in the area are similar to the circumstances of the appeal development, as each appeal/application must be considered on its individual merits.

23. I note the detailed discussions that preceded the application and continued after it was refused with the Highway Authority and others. However, whatever position they have taken on the potential trade-off, I must have full regard to the Council's stance on this appeal, which is set out in its statement of case.
24. The residual effect of the proposed development in terms of highway safety would be severe and harmful in combination with other established uses along the lane. The proposal would harm highway safety.
25. I give substantial weight to the harm that would be caused by the proposal. This material consideration would not be considered as a factor in favour of the development and would not outweigh the policy objection of the LDP. The proposal would conflict with LDP Policy T1 in relation to managing any impacts to the transport network to acceptable levels and mitigate any adverse impacts and would not provide safe and efficient flow of traffic for all transport users from the development.

#### *Foul drainage*

26. The drainage from the proposed sewage treatment plant would soakaway in the field below Broncafnt Lane. The Council's Environmental Health Officer raised concerns whether the soakaway system would be suitable due to the terrain and that no percolation tests had been provided. An assessment of the suitability of the treatment plant should be provided to establish that receiving ground conditions can adequately cater for the soakaway and that the effluent discharge from it meets the standards and conditions set by NRW. The proposal for the plant should also set out clearly the responsibility and means of operation and maintenance to ensure the discharge permit or the relevant exemption conditions will be met throughout the life of the plant.
27. The decision on whether to grant planning permission for the plant should be based on a thorough assessment of the likely impact of the foul drainage proposal on public health, amenity and the environment, assessed by reference to the factors concerning ground conditions and nearby watercourses, and full account should be taken of the views of NRW and other appropriate bodies.
28. The absence of an assessment would lead me to take a precautionary approach to the issue of foul drainage and the imposition of a planning condition would not alter this point of view, as to the suitability of the foul drainage arrangements.
29. I conclude that insufficient information has been submitted on the suitability of the private sewage treatment plant by its means of drainage in relation to the potential for polluting ground waters and the environment and any adverse effect on living conditions. The proposal would fail to comply with LDP Policy DM13 (11).

#### **Planning Balance and Overall Conclusions**

30. I consider that the development would fail to accord with important policies of the LDP which seeks to control residential development outside settlement boundaries. I consider that the proposal would harm the character and appearance of the area by expanding the built influence of the settlement up a hillside landscape, resulting in encroachment of the countryside. The whole appeal site is located outside the settlement boundary of the town where no justification has been made for it.

31. The LDP provides the rational basis for decisions in accordance with the presumption in favour of sustainable development, that the available evidence indicates that there is sufficient land which is genuinely available or will become available to provide a 5-year supply of land, and that the countryside should be protected for its intrinsic sake in order to promote a resource-efficient and climate change resilient settlement pattern that minimise land-take. The proposal would also fail to meet the exception site policy for affordable housing adjacent to the development boundary.
32. 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 my 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 in section 8 of the WBFG Act.
33. My conclusion is that other material considerations are insufficient to outweigh the conflict with important local and national planning policies. In relation to highway safety and drainage the proposal fails to satisfy these important material considerations.
34. The planning balance is against allowing this appeal.

*Iwan Lloyd*

INSPECTOR