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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 06/09/18

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

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 04.10.2018**

## Appeal Decision

Site visit made on 06/09/18

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

**an Inspector appointed by the Welsh Ministers**

**Date: 04.10.2018**

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**Appeal Ref: APP/T6850/A/18/3203461**

**Site address: Land between Afon Carno and A470**

**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 Ms Amber Davidson against the decision of Powys County Council.
  - The application Ref P/2017/0044, dated 27 February 2017, was refused by notice dated 6 December 2017.
  - The development proposed is change of use from agricultural land to site for one glamping pod and associated structures, to include improvements to vehicular access.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The development to which the appeal relates is a change of use of the land from agricultural land to use for the siting of a mobile holiday unit. I observed that the change of use has already occurred and I note from the evidence that the holiday unit has already been let to a number of guests. As such, the appeal before me seeks retrospective consent and I have considered the appeal under section 73A of the Town and Country Planning Act 1990 as amended.
  3. Subsequent to the Council's determination of the application, a new development plan for the area has been adopted. The decision notice refers to policy SP14 of the Unitary Development Plan which has since expired. The Council has confirmed that the appropriate development plan policy against which this development should be assessed is policy DM5 of the Powys Local Development Plan (2018) (LDP). I am satisfied that the parties have had sight of this policy and I have determined the appeal accordingly.
  4. I have used the Council's description of development as taken from the decision notice as it more accurately describes the development that has been carried out albeit I have not included reference to the retrospective nature of the development. Neither party has been prejudiced by my use of the Council's description of development.
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## **Main Issue**

5. This is whether appeal site can offer safe conditions for the occupiers of the holiday accommodation due to the risk of flooding.

## **Reasons**

6. The appeal site comprises a parcel of land which was formerly in agricultural use. The site is occupied by a timber constructed unit of holiday accommodation which is on wheels. There are secondary structures on site which appear to provide storage/sitting out areas which were considered by the Council in their determination of the application. Accordingly these structures have also been considered as part of my determination of the appeal.
7. Planning Policy Wales, Edition 9 (PPW), Chapter 13 aims to minimise and manage environmental risks and pollution and contains relevant policies on flood risk. Paragraph 13.2.3 expresses the basic principle of the policy which is that "the Welsh Government's objectives for sustainable development requires actions through the planning system to move away from flood defence and the mitigation of the consequences of new development in areas of flood hazard towards a more positive avoidance of development in areas defined as being of flood hazard."
8. The site falls within Zone C2 as defined on the Development Advice Maps that accompany the Welsh Government's Technical Advice Note 15 "Development and Flood Risk" (TAN 15). Flood Zone C2 is defined as areas of the floodplain without significant flood defence infrastructure and Paragraph 6.2 of TAN 15 identifies that new development should be directed away from Zone C and that highly vulnerable development (which includes all residential premises) and Emergency Services in Zone C2 should not be permitted. As such, the development is contrary to the principles of this national policy.
9. Natural Resources Wales (NRW) has confirmed that flood map information confirms the site to be within 1% (1 in 100 year) and the 0.1% annual probability fluvial flood outlines of the River Carno and its tributary. NRW have stated that they do not object to the proposal, however, this is based upon a subjective view of the flood statement submitted by the appellant and a site visit.
10. The appellant contends that only one unit is proposed, but this would be a valuable source of income which generates additional income for local shops and the pub. A statement has been produced detailing the arrangements for any occupants of the cabin in the event of a flood. The appellant states that NRW has no information of flooding at this location. It is also suggested that part of the site lies outside the flood zone, there is no historic record of flooding to the site and the unit is on a bank at a higher level than the opposite field which "bears the brunt" of any flooding.
11. The appellant has produced a flood statement which states that the floor level of the accommodation is 450mm above ground level and the ground level is 3 metres above the watercourse. It is asserted that the land opposite will disperse any flood water. In the event of a flood warning being issued for Afon Carno, the site owners will travel to the site and move the unit to higher ground. Any guests will be transported to the site owner's home. The evacuation route is not detailed.
12. At my site visit I observed that the holiday accommodation is skirted on two sides by the watercourse at a distance of approximately 5 metres, this degree of proximity has not been addressed in any of the evidence and I cannot be certain how quickly the site and evacuation route would be affected during a flood event.

13. I am not satisfied that the considerations expressed by the appellant or the lack of any objection from NRW are sufficient to outweigh the fundamental objection to the principle of siting highly vulnerable development in the C2 flood zone.
14. Overall, therefore, I am not persuaded that the proposal fully addresses the flood risk implications of the development which is contrary to national policy and guidance as set out in PPW and TAN 15. The proposal is also contrary to Policy DM5 of the LDP which states that development proposals must be located away from tidal or fluvial flood plains unless it can be demonstrated that the site is justified in line with national guidance and an appropriate detailed technical assessment has been undertaken to ensure that the development is designed to reduce /avoid the threat and alleviate the consequences of flooding over its lifetime.
15. 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.

### **Conclusion**

16. For the aforementioned reason, and taking into account all matters raised, I conclude the appeal should be dismissed.

*Janine Townsley*

Inspector