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## Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 12/05/20

gan Hywel Wyn Jones BA(Hons) BTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 28.05.2020

## Appeal Decision

Site visit made on 12/05/20

by Hywel Wyn Jones BA(Hons) BTP  
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 28.05.2020

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**Appeal Ref: APP/T6850/A/20/3244554**

**Site address: Land Adjacent to Lawr y Cwm, Pantyffridd, Berriew, Welshpool, SY21 8BN**

**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 Miss J Haycock against the decision of Powys County Council.
  - The application (ref: 19/0201/FUL), dated 1 February 2019, was refused by notice dated 6 August 2019.
  - The development proposed is the erection of an affordable dwelling, garage, improvements to existing vehicular access, installation of a package treatment plant and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for an affordable dwelling, garage, improvements to existing vehicular access, installation of a package treatment plant and associated works at Land Adjacent to Lawr y Cwm, Pantyffridd, Berriew, Welshpool, SY21 8BN in accordance with the terms of the application, ref: 19/0201/FUL, dated 1 February 2019, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

### Main Issue

2. The main issue is whether the proposed location of an affordable dwelling is acceptable having regard to the rural restraint strategy of local and national planning policy.

### Reasons

3. The proposed two-storey, three bedroomed dwelling and detached garage would be sited within a corner of a small field fronting the B4390 highway and adjacent to Lawr y Cwm, which is a recently erected dwelling and outbuilding which appears to have been erected on land that was previously part of the same enclosure. The area is rural in nature with the wider surroundings generally characterised by fields and pockets of woodland with sporadic buildings, including dwellings and farmsteads.
  4. To one side of the field, on the same side of the road, lies a small cluster of generously spaced dwellings and outbuildings which mostly front the highway. On the
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opposite side of the highway to this group and the appeal site lie open fields. To the other side of the appeal site there are rows of more closely spaced dwellings fronting both sides of the road which include the neighbouring Lawr y Cwm as well as a small church and a well-maintained former telephone kiosk. The Council accepts that the proposed development would form a logical extension to the existing built form and would not have an adverse impact upon the character and appearance of the area.

5. Much of the housing in the settlement is fairly recent, and includes several that were granted planning permission as affordable or local need housing. These permissions were approved under the Powys Unitary Development Plan (UDP) which has since been superseded on adoption by the Council of its Local Development Plan (LDP). The LDP establishes a spatial distribution of new housing in accordance with its settlement hierarchy and indicates that rural settlements and the open countryside should account for no more than 15% of new development.
6. Policy H1 provides that in rural settlements affordable housing for a single dwelling in accordance with policy H6 may be permitted. There is no dispute that the 2 criteria of policy H6 can be met and that the appellant's personal circumstances means that she complies with its eligibility criteria for an affordable home. The reasoned justification for the policy explains that it "aims to help sustain rural communities and retain people in their local communities by allowing the development of small scale affordable homes to meet local identified housing need".
7. As the types of housing permitted by H1 in the open countryside do not include affordable housing, consideration of whether Pantyffridd is a rural settlement is at the heart of establishing whether the scheme complies with the housing strategy of the Plan.
8. The UDP identified Pantyffridd as a rural Settlement. The LDP does not list Rural Settlements, rather they are to be identified using characteristics set out in the reasoned justification to the LDP Strategy at paragraph 3.2.23. There is no doubt that the first of these is met, given that it is a historically recognised/named settlement. I shall consider the second requirement, which relates to the number of dwellings, against the qualification in the third bullet point of that paragraph.
9. The second characteristic is that a settlement must contain at least 10 closely grouped dwellings not counting farmhouses, rural conversions or dwellings originally granted for local need/affordable or agricultural/rural occupancy. Adopting this approach, the Planning Officers report records that of the 15 dwellings within the main cluster, there were only 9 'qualifying' dwellings. Of the remainder, 4 were granted permission as local needs dwellings subject to an occupancy condition/section 106 clause, and 2 dwellings were given a personal consent.
10. In response the appellant has carried out a detailed investigation into the status of each of the 15 dwellings within the main cluster and the outlier cluster to the northwest. In the main cluster it identified 10 qualifying dwellings. Of these, one (Talafof) is recorded as having a bungalow (annotated 'Talafof Annex' on the supplied copy of the permission) which is subject to an occupancy condition. A copy of the Section 106 agreement shows (both in its title and a location plan) the site to be between Talafof and Brynafof on land that remains a gap between the 2 dwellings. The Council has not taken the opportunity to dispute, or otherwise comment on these findings and, thus, I have no reason to dispute their veracity. Accordingly, I find that Pantyffridd is a Rural Settlement without the need to consider whether the smaller cluster of 7 dwellings, which include 3 qualifying dwellings, constitute part of the same settlement.

11. On the main issue I conclude that, as the appeal site is well integrated in relation to a Rural Settlement, it accords with the LDP's settlement hierarchy and with policies SP5, SP6 and H1, and the Council's Affordable Housing Supplementary Planning Guidance. It follows that the proposed affordable dwelling is therefore acceptable having regard to the rural restraint strategy of local and national<sup>1</sup> planning policy.

### **Conditions**

12. I have considered the conditions suggested by both parties in the light of Circular 016/2014: The Use of Planning Conditions for Development Management. To avoid repetition and unnecessary requirements I have not included some of the highway and landscaping conditions suggested noting that, in relation to the former, the Highway Authority can exercise suitable control of some of the matters under its powers. As the details of the access are also shown on the approved drawings specific conditions specifying details are not necessary. I have also omitted some suggested requirements which I consider excessive to cater for the traffic associated with a single dwelling. The location of the proposed new access means that it is not necessary to require the stopping up of the existing access.
13. To ensure that the dwelling remains affordable I agree that removing permitted development rights is reasonable in this instance, however, as permission is granted in full specifying the maximum floor area is not necessary. As the external materials are shown on the submitted plans, I shall not require approval of samples. Given the steep topography of the site I consider that it is necessary to agree ground and finished floor levels before commencing work to ensure no adverse visual impact on the surrounding landscape.

### **Conclusions**

14. I have taken into account all other matters raised in reaching a finding that the scheme is acceptable and thus I shall allow the appeal
15. 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 the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Hywel Wyn Jones*

INSPECTOR

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<sup>1</sup> Planning Policy Wales (10th Edition, 2018) and Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities (2010)

## Schedule of Conditions

- 1) The development shall begin not later than five years from the date of this decision.  
*Reason: To comply with Section 91 of the Town and Country Planning Act 1990.*
- 2) The development shall be carried out in accordance with the following approved plans and documents: KI 5382 1 REV A, KI 5382 2, KI 5382 3, KI 5382 4B, KI 5382 5B, KI 5382 6, KI 5382 7, KI 5382 8.  
*Reason: To ensure that the development is carried out in accordance with the approved drawing and other details submitted during the application.*
- 3) Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of Technical Advice Note 2 or any future guidance that replaces it. The scheme shall include:
  - i) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - ii) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.  
*Reason: To ensure the occupation of the dwelling remains affordable in line with LDP policies H1 and SP3.*
- 4) No development shall commence until details of existing and proposed ground levels and proposed finished floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.  
*Reason: To ensure the occupation of the dwelling remains affordable in line with LDP policy DM4.*
- 5) Any entrance gates shall be set back at least 5 metres from the nearest edge of the adjoining carriageway and shall be incapable of opening towards the highway.  
*Reason: In the interests of highway safety and in accordance with the provisions of LDP policy DM13 and T1.*
- 6) The visibility splays detailed on the approved drawing KI 5382 5B shall be constructed prior to any other work on the site. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.  
*Reason: In the interests of highway safety and in accordance with the provisions of LDP policy DM13 and T1.*
- 7) The proposed parking and turning areas shown on drawing KI 5382 4B shall be retained for their designated use for as long as the development hereby permitted remains in existence.  
*Reason: In the interests of highway safety and in accordance with the provisions of LDP policy DM13 and T1.*

- 8) Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
- Reason: In the interests of highway safety and in accordance with the provisions of LDP policy DM13 and T1.*
- 9) Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 11 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
- Reason: In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.*
- 10) Upon formation of the visibility splays as detailed in condition 6 above the centreline of any new or relocated hedge should be positioned not less than 1 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
- Reason: In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.*
- 11) Prior to commencement of development a detailed New Hedgerow Planting Scheme including details of the improvements to the southern (southeast) hedgerow boundary and a Hedgerow Translocation Plan shall be submitted to and approved in writing by Local Planning Authority and implemented and maintained as approved thereafter.
- Reason: In the interests of landscape appearance and to comply with LDP Policies DM2 and DM4.*
- 12) Prior to commencement of development a Tree Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
- Reason: In the interests of landscape appearance and to comply with LDP Policies DM2 and DM4.*
- 13) Prior to the commencement of development, a detailed landscaping and tree planting scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition. The scheme shall be carried out in accordance with the approved details.
- Reason: In the interests of landscape appearance and to comply with LDP Policies DM2 and DM4.*
- 14) No external lighting shall be installed unless a detailed external lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on

nocturnal wildlife. The development shall be carried out in accordance with the approved details.

*Reason: In the interests of landscape appearance and local ecology, and to comply with LDP Policies DM2 and DM7.*

- 15) Notwithstanding the provisions of schedule 2, part 1, classes A to E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), no extensions or buildings shall be erected other than those expressly authorised by this permission. The garage hereby approved shall at no time be converted to habitable residential accommodation.

*Reason: To ensure the occupation of the dwelling remains affordable in line with policies H1 and SP3 of the Local Development Plan (2018).*