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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 22/11/21

gan **Richard Duggan BSc (Hons) DipTP MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 06/01/2022**

## Appeal Decision

Site visit made on 22/11/21

by **Richard Duggan BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 06/01/2022**

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**Appeal Ref: APP/T6850/A/21/3278094**

**Site address: Mathafarn, C2164 From Junction with B4404 Cemmaes Road Near Mathafarn To Junction with Access Road for Llanwrin, Machynlleth SY20 8QJ**

**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 failure to give notice within the prescribed period of a decision on an application for approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 1995.
- The appeal is made by Mr Samuel Carey against Powys County Council.
- The application Ref 21/0183/AGR, is dated 3 February 2021.
- The development proposed is described as a '*Steel Portal Framed Agricultural Building together with all associated works. The Building is to be a General Purpose Agricultural Building*'.

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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The GPDO grants planning permission for certain classes of development without any requirement for an application to be made under Part III of the Town and Country Planning Act 1990.
3. Schedule 2, Part 6, Class A of the GPDO enables, as permitted development, works for the erection, extension or alteration of an agricultural building; or any excavation or engineering operations which are reasonably necessary for the purposes of agriculture within that unit and the agricultural land unit is 5 hectares or more<sup>1</sup>. In this case the agricultural unit extends to 230.2 hectares.
4. The GPDO procedures require that before starting work, the developer applies to the local planning authority for a determination as to whether prior approval of the authority will be

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<sup>1</sup> Subject to certain caveats.

required to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be. The Council confirmed that prior approval would be required on 16 March 2021.

5. In operating these provisions, local planning authorities will have due regard to the operational needs of agricultural businesses and the need to avoid imposing any unnecessary or excessively costly requirements. However, they will also need to consider the effect of the development on the landscape in terms of visual amenity and the desirability of preserving ancient monuments and their settings, known archaeological sites, listed buildings and their settings, and sites of recognised nature conservation value.
6. The appeal was submitted on 30 June 2021 prior to the Council making a decision on the application. However, the Council has since determined the application during the period since the appeal was lodged. The Council stated on its decision notice, dated 23 July 2021, that *“Insufficient information has been provided to demonstrate that the siting of the proposed development would not have an unacceptable impact upon European Protected Sites and the wider natural environment as a result of aerial emissions and pollution in accordance with Policies DM2 and DM13 of the Powys Local Development Plan (2018), Technical Advice Note (TAN) 5: Nature Conservation and Planning, and Planning Policy Wales (Edition 11, 2021) Environment Act Wales 2016, and the Conservation of Habitats and Species Regulations 2017 (as amended)”*.

### **Main Issue**

7. Given the above, I consider the main issue to be whether the details provided under the Prior Approval procedure, in terms of siting, design and external appearance, are acceptable.

### **Reasons**

8. As set out above, the Council refused the application based on its concerns relating to the siting of the proposed building and its impact upon European Protected Sites and the wider natural environment. Nevertheless, I consider it would be helpful to look at each of the specific matters which are the subject of prior approval.

#### Design and external appearance

9. The proposed building has been confirmed to be for general purpose machinery and equipment storage, bedding and fodder storage. It would consist of two parts: the first measuring approximately 6 metres in width and 40 metres in length, and the second measuring approximately 8 metres in width and 15 metres in length, with both aspects measuring approximately 2.57 metres to the eaves and 3.2 metres to the ridge. The building would be finished with concrete lower walls, with box profile steel sheeting in slate grey above, under a box profile steel sheeting roof in slate grey. The Council has confirmed that the building would be of an acceptable design, scale, height and massing with materials that are appropriate for an agricultural building at this location. I would agree with this assessment.
10. The proposed building would be located adjacent to existing agricultural buildings. As such, the Council considers that the development would not have an adverse impact on the landscape when viewed from public vantage points. Having viewed the site myself from various viewpoints I would agree that the proposed building would assimilate well within the site and would not lead to any harm to the landscape.

## Siting

11. Whilst the principle of the development being proposed (as amended by the submission of further information by the applicant during the course of the application) has been established by the Council, the application as submitted failed to demonstrate that the siting of the agricultural shed in this location would not have a detrimental impact upon the natural environment.
12. The Council confirms that the appeal site is located approximately 50 metres away from the River Ceirig, which joins the River Dyfi about 430 metres to the south, and falls within the C2 Flood Zone<sup>2</sup> of these rivers. As such, the Council deemed that prior approval was required in order to thoroughly assess the siting of the proposed building, and accordingly Natural Resources Wales (NRW) was consulted.
13. NRW states that agricultural developments have the potential to impact protected sites through aerial emissions (ammonia and nitrogen deposition), and NRW assesses the air quality impact a development may have on European protected sites and Sites of Special Scientific Interest (SSSIs) within a screening distance of 5km of the unit. NRW confirmed<sup>3</sup> that it has significant concerns with the proposed development and requested further information in the form of: (a) clarification on whether there will be any stock increase as a result of the proposal to ascertain whether an assessment of the potential impact of the proposal on protected sites is required; (b) site drainage plan, to confirm the drainage system has been designed not to cause pollution to the wider environment; and (c) pollution prevention plan, to detail a method statement for the construction of the proposal to ensure pollution to the wider environment does not occur.
14. In response to NRW's request the Appellant submitted a 'Method Statement and Pollution Prevention Plan' (PPP)<sup>4</sup> in April 2021. Having assessed the PPP, NRW stated<sup>5</sup> that it continued to require the outstanding information (clarification on stock numbers and a drainage plan) as this could affect the PPP. Although the Council contacted the Appellant in May 2021 to request that this additional information be submitted, no further documentation or information was provided to the Council prior to the submission of this appeal.
15. Whilst I note the suggested measures that would be implemented during the construction and operation of the agricultural building as put forward within the PPP, in the absence of the additional information which has been requested by NRW it is not possible for me to fully assess whether the development would adversely affect European Protected Sites and the wider natural environment.
16. Given these circumstances and adopting the precautionary principle, on the evidence presented, I consider that the proposal has the potential to adversely affect the neighbouring waterbodies and the surrounding natural environment, in conflict with Policies DM2 and DM13 of the Powys Local Development Plan (2018), Technical Advice Note (TAN) 5: Nature Conservation and Planning, and Planning Policy Wales (Edition 11).

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<sup>2</sup> As shown on the Development Advice Map and associated National Planning Policy Technical Advice Note 14 (TAN15): Development and Flood Risk

<sup>3</sup> NRW Consultation Response dated 16 April 2021

<sup>4</sup> Method Statement and Pollution Prevention Plan, prepared by Roger Parry & Partners LLP

<sup>5</sup> NRW email to Powys County Council, dated 10 May 2021

## Conclusion

17. Having regard to the above and considered all other matters raised by the Appellant in support of the appeal, I conclude that the details provided are unacceptable and prior approval should be not be granted and that the appeal should be dismissed.
18. 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 objectives of building a stronger, greener economy as we make maximum progress towards decarbonisation, making our cities, towns and villages even better places in which to live and work and embedding our response to the climate and nature emergency in everything we do.

*Richard Duggan*

INSPECTOR