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## **Penderfyniad ar yr Apêl**

Ymweliad safle a wnaed ar 12/4/22

gan **H W Jones, BA (Hons) BTP MRTPI**

**Arolygydd a benodir gan Weinidogion  
Cymru**

**Dyddiad: 17.08.2022**

## **Appeal Decision**

Site visit made on 12/4/22

by **H W Jones, BA (Hons) BTP MRTPI**

**an Inspector appointed by the Welsh  
Ministers**

**Date: 17.08.2022**

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**Appeal Ref: APP/T6850/C/21/3276825**

**Site address: Land formerly known as Corn Barn, Crickadarn, Erwood, LD2 3PJ**

**The Welsh Ministers have transferred the authority to decide this appeal to me  
as the appointed Inspector.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr J Charlton against the decision of Powys County Council.
  - The Enforcement Notice, numbered E/01/2021, was issued on 12 May 2021.
  - The breach of planning control as alleged in the notice is: Without planning permission, the demolition of a building and erection of a new building (“the Building”) in the approximate position marked with a cross on the Plan.
  - The requirements of the Notice are:
    - (i) Remove the Building marked at approximately ‘X’ on the attached plan.
    - (ii) Remove all associated infrastructure including septic tank installed for the sole use of the building identified at ‘X’ above.
    - (iii) Remove from the land the garage /storage building identified as ‘Y’ on the attached plan.
    - (iv) Remove from the land all building materials and rubble arising from compliance with the requirements (i), (ii) and (iii) above and restore the Land by levelling the ground and re-seeding with grass suitable to be used for agricultural purposes.
  - The period for compliance with the requirements is: Twelve months from the date the Notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2) (c), (e) and (f) of the Town and Country Planning Act 1990, as amended.
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## **Decision**

1. I direct that the enforcement notice be corrected in paragraphs 2 and 5 (i) by the deletion of “the attached plan” and substitution with “the plan appended to this decision”, and by the deletion of “LD2 3PG” and substitution with “LD2 3PJ” in paragraph 2.

2. I direct that the enforcement notice be varied by the deletion of requirement (iii) in paragraph 5, and in requirement (iv) by the deletion of “, (ii) and (iii)” and substitution with “and (ii)”.
3. Subject to those corrections and variations, the enforcement notice is upheld.

### **Procedural Matter**

4. The appeal form identifies the following grounds of appeal: (b), (c), (e) and (f). In an e-mail dated 2 February 2022, the appellant’s agent amended the grounds to those recorded in the banner heading. This was in light of its further assessment of the evidence and the variations to the notice proposed by the Council.

### **Reasons**

#### ***The Notice***

5. The plan accompanying the enforcement notice (EN) includes land that lies adjacent to the highway which is outside the appellant’s ownership. The appellant points out this inaccuracy and that the postcode used in the site address should read LD2 3PJ rather than LD2 3PG. The Council has acknowledged these errors and has produced a revised plan which excludes the land outside the appellant’s ownership, which is described as unregistered. I agree with it that it is not necessary to include land to the south which, although within the appellant’s ownership, is not directly affected by the EN.
6. In the interests of precision, I shall correct the notice to refer to the revised site plan, as appended to this decision, and the correct post code, satisfied that doing so causes no injustice to any party. As these matters form the basis of the ground (e) appeal, I need not deal with that matter any further.
7. The allegation described in the notice refers to a single building, the Corn Barn, which is identified with an ‘X’ on the accompanying plan. The plan identifies with a ‘Y’ a second building described in the notice as a garage, which is included in the requirements. In response to the appellant’s evidence that the works to this building, known as the Waggon Shed, does not constitute a breach of planning control the Council has suggested that the EN be varied to remove reference to Waggon Shed from the requirements. I am satisfied that the notice can be varied in this respect without causing any injustice to any party. I do not concur with the appellant’s assertion that it is necessary to amend the red line boundary to omit this building, nor do I accept that this correction causes difficulties in relation to the requirement of “levelling” the ground. It is clear to me that this requirement is concerned with the ground that will be directly affected by the demolition works set out in requirement (i) of the EN. My findings in this respect mean that it is not necessary for me to further consider the matters raised in the ground (c) appeal.

#### **The appeal under Ground (f)**

8. The buildings identified in the EN are statutorily listed buildings (grade II). The appellant suggests that the Council failed in its statutory duty under that Act to have special regard to the desirability of preserving the buildings and their setting when considering whether to pursue enforcement action. On that basis it avers that, as the EN requires 2 listed buildings to be demolished, it is unlawful.
9. As I intend to vary the notice to exclude the requirement to demolish the Waggon Shed, I shall focus on the Corn Barn in this ground of appeal, noting that the appellant is no longer pursuing the stance that the Corn Building is still standing. Accordingly,

and noting the detailed evidence provided by the Council, I find that it has been demolished and that a new building has been erected in its place. The appellant has chosen not to seek planning permission for the retention of the new building.

10. The Corn Barn formed part of a group of 7 listed buildings at Llawr Llan Farm that are under several separate ownerships. The Council has not yet decided whether to pursue action under the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to the demolition works. Whilst the Council was mindful of the listed status of the buildings prior to issuing the EN, as evidenced in the officers delegated report, the issue of setting appears not to have been directly addressed. It has subsequently reached the finding that the new building, which lacks the historic detailing and interest of the Barn, does not contribute to the understanding of the group at Llawr Llan. This is explained in the report of its Built Heritage Officer.
11. Drawing parallels with the judgment in R (Save Stonehenge World Heritage Site v Secretary of State for Transport [2021] EWHC 2161 the appellant criticises the Council's failure to consider the specific effect on each of the remaining listed buildings. However, I am satisfied that the reasoning advanced in relation to the effect on the group of buildings, holds true for each of them when considered individually, including the Waggon Shed. Therefore, I find that compliance with the EN would not affect the setting of any listed building such that it would harm its significance.
12. The purpose of the EN is to address the breach of planning control that has resulted in the erection of a new house which is in conflict with development plan policies designed to protect the countryside from inessential development. In this context I find that the requirement to demolish the building is a reasonable one. There are no lesser steps that would provide an effective alternative remedy. Accordingly, the ground (f) appeal fails.

### **Conclusion**

13. For the above reasons I shall correct and vary the notice and, subject to such changes, I shall uphold the notice.

*H W Jones*

Inspector

## Plan

This is the plan referred to in my decision dated:

**by H W Jones BA(Hons) BTP MRTPI**

**Land formerly known as Corn Barn, Crickadarn, Erwood, LD2 3PJ**

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