



## Appeal Decision

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by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 23/01/2023

Appeal reference: CAS-01982-H6X3Z7

Site address: Land at Little London, Llandinam, SY17 5AQ

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- 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 Mrs Selena Clayton against the decision of Powys County Council
  - The application Ref: 21/1792/FUL, dated 1 October 2021, was refused by notice dated 29 November 2021.
  - The development proposed is the erection of a rural enterprise dwelling, installation of package treatment plant, new vehicle access and all associated works to be considered under the One Planet Development.
  - A site visit was made on 19 December 2022.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. I have taken both the site address and the description of development from the Council's Notice of Decision. As these are consistent with those outlined on the Appeal Form, I am satisfied that there is no prejudice in this respect.

### Main Issues

3. Having regard to the written submissions, I consider the main issues in the determination of the appeal to be: whether the development would be acceptable in principle, having particular regard to the planning policy framework relating to One Planet Development (OPD); and whether the site would be acceptably drained.

### Reasons

4. The appeal relates to a modest area of land located on the north-western flank of an unclassified highway some 3km from Caersws in Powys. The land currently comprises pastureland with a hedgerow defining its roadside boundary, with the wider landscape generally defined by agricultural use. There are however some scattered dwellings and holiday lets in the area and I have also been advised that planning permission has been granted for a poultry unit to the south of the application site. The appeal proposal seeks

planning permission to construct a rural enterprise dwelling, under the provisions of the Welsh Government's (WG) One Planet Development (hereinafter referred as OPD) policy prescribed by Planning Policy Wales (Edition 11, 2021) (PPW) and Technical Advice Note 6: *Planning for Sustainable Rural Communities* (2010) (TAN6). The development would also include the installation of a package treatment plant, new vehicular access and associated works.

### ***Principle of Development***

5. The appeal site is located some distance from the settlement boundaries defined by the adopted Powys Local Development Plan 2011- 2026 (Adopted 2018) (hereinafter referred as the LDP) and is therefore located within the countryside for the purposes of planning policy. Consistent with the general thrust of national policy, the adopted LDP seeks to strictly control development in such locations. National policy does however provide for development in such locations where it satisfies policy exemptions. These include OPD schemes. The adopted LDP does not include a specific OPD policy, although it is material to note that the LDP is generally permissive of residential development that satisfies such national policy exemptions. I shall therefore determine the appeal on the basis of its compliance, or otherwise, with the OPD policy prescribed by PPW and TAN6.
6. PPW states that OPD is development that, through its low impact, either enhances or does not significantly diminish environmental quality. It can take a number of forms and can either be single homes, cooperative communities or larger settlements and can be located within or adjacent settlements or within the open countryside. OPD in the open countryside should provide for the minimum needs of the inhabitants in terms of income, food, energy and waste assimilation over a period of no more than five years from the commencement of work on the site. This should be evidenced by a management plan produced by a competent person(s) and that document should be used as the basis of a legal agreement relating to the occupation of the site. Where this cannot be demonstrated, proposals should be considered against policies which seek to control development in the open countryside.
7. OPD should initially achieve an ecological footprint of 2.4 global hectares (gha) per person or less in terms of consumption and demonstrate clear potential to move towards 1.88 gha over time (the global average availability of resources in 2003). They should also be zero carbon in both construction and use. TAN6 expands upon the policy position set out in PPW, specifically requiring the submitted management plan to include a business and improvement plan to identify whether there is a need to live on the site and to establish the level of the inhabitants' requirements in terms of income, food energy, and waste assimilation that can be obtained directly from the site. It should also include ecological footprint analysis, carbon analysis, biodiversity and landscape assessment, community impact assessment and a transport assessment with travel plan. That same document also goes on to state that an annual monitoring report should be submitted to the LPA to evidence compliance with the objectives of the approved management plan.
8. In this case, the development is advanced as a land based development and is supported by a '*Land Management Plan*'. However, there is no doubt that that document, and the wider evidence package, is severely lacking in detail in respect of each of the aforementioned topics. Indeed, the evidence fails to satisfactorily justify both the need to live on the site and to robustly quantify how the inhabitants' requirements in terms of income, food, energy and waste assimilation can be obtained directly from the site. The evidence also fails to demonstrate that the development would satisfy the relevant requirements in respect of carbon analysis, with little to confirm that it would be zero carbon in construction and use. Moreover, the methodology and findings of the required

ecological footprint analysis is unclear and, whilst some details in respect of biodiversity enhancement are specified, they lack sufficient detail. There is also no separate landscape assessment and there does not appear to be a robust assessment against LANDMAP classifications.

9. There is limited information to make a full assessment of waste arisings and how it would be minimised and managed, and the Council contends that there is insufficient information to fully consider the impact of the proposed development upon water quality in the surrounding area. Such concerns are consistent with the written representations submitted by Natural Resources Wales (NRW) which raise concerns regarding pollution from wastewater arisings. The appellant notes that NRW's comments were made without the benefit of seeing the '*Management Plan*' and associated evidence. However, NRW was notified of the appeal and did not make any further submissions. In any event, I have fully considered the appellant's evidence package and have not seen anything to lead me to conclude that the proposal would be acceptable in this respect.
10. It is also material to note that the submission does not appear to include a fully detailed transport assessment or travel plan that would satisfy the requirements of national policy. A robust schedule of mitigation measures and an exit strategy are also omitted from the evidence. Finally, the scheme is not supported by a planning obligation executed under Section 106 of the above Act, despite TAN6 specifying that one is necessary to tie the proposed dwelling to the wider use of the land which would, in itself, be the justification for the grant of planning permission.

Based on the foregoing, I concur with the Council's assessment that the evidence is not sufficiently robust to satisfy the stringent requirements of national policy in respect of OPD. In the absence of compliance with OPD policies, the proposal falls to be considered against wider policies that seek to strictly control development in the countryside. Indeed, it is on this basis that I conclude that the proposed development would conflict with both the development strategy promoted through the adopted LDP and the aims of national policy. The development would therefore be unacceptable in principle. Of particular relevance is the general conflict with Policies SP1, SP5, SP6, DM2, DM13, DM15 and H1 of the adopted LDP, as well as national policy set out in PPW and TAN6.

### ***Site Drainage***

11. The appeal proposal seeks to dispose of foul drainage to a treatment plant and the appellant now states that the outfall would be discharged to a watercourse. I have not seen anything to suggest that a connection to the main sewer is feasible and NRW has confirmed that a '*Water Discharge Exemption*' was issued in 2019. That exemption indicates that discharge should be to a British standard infiltration system/ drainage field and that there should be no overflow to surface waters, or onto land, and that the discharge should be fully contained within the infiltration system.
12. The proposed '*Site Plan*' illustrates discharge to a reed bed, instead of an infiltration system/ drainage field. NRW has advised that such an approach would not be in accordance with its exemption letter. Given the discrepancies between what is proposed and that referred within the exemption letter, I share concerns raised by both the LPA and NRW that insufficient information has been provided to demonstrate that foul drainage would be adequately drained from the site. The development would therefore conflict with the thrust of both Policy DM13 of the adopted LDP and Welsh Government (WG) Circular 008/2018: '*Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants*' (2018).

***Overall Conclusions***

13. For the aforementioned reasons, and having considered all matters raised, I conclude that the appeal should be dismissed. In coming to this conclusion, 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 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and 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, as required by section 8 of the WBFG Act.

*Richard E. Jenkins*

INSPECTOR