



Appeal Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 21/11/2023

Appeal reference: CAS-02752-M4C8C7

Site address: Cwm Farm, Cwm Lane, Llawhaden, Pembrokeshire, SA67 8HP

- 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 [REDACTED] against the decision of Pembrokeshire County Council.
 - The application Ref 21/0857/PA, dated 19 November 2021, was refused by notice dated 15 November 2022.
 - The development proposed is agricultural building, hardstanding and access track (retrospective).
 - A site visit was made on 13 November 2023.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the impact of the proposed development on the River Cleddau Special Area of Conservation (SAC).
 - the impact of the proposed development on the living conditions of nearby residents with regard to noise and odour,
 - the effect of the proposal on the use of bridleway SP 20/9,
 - whether the proposals for surface water drainage are adequate.

Reasons

The site and surroundings

3. The appeal site lies in the open countryside about 700m to the north of Llawhaden. The building includes a long open barn for livestock, additions to the north and south elevations for storage of hay, straw and feedstuffs and an enclosed element at the eastern end for machinery and tools. In addition there were a number of buildings and structures on the site including what looked like an office with open structure attached, a greenhouse and a lean to shed and storage containers on the area designated for bale

storage on the submitted plans. Only the proposed retention of the agricultural building, hardstanding and access track are before me.

The River Cleddau SAC

4. The agricultural building subject to the appeal application was in situ at the time of my visit. The appeal site lies in the catchment of the River Cleddau and around 800m from the River Cleddau SAC. As a development that may lead to an increase in the amount of phosphorus which could damage the SAC, NRW requested information regarding how manure would be stored and disposed and how pollution emanating from the development would be prevented and controlled.
5. The appellant submits a Manure Management Plan (MMP) accredited by a suitably qualified person. The MMP includes exporting manure to a farm in an area that also lies in the catchment of the River Cleddau SAC. NRW advise, should the land on which manure would be spread lie in the catchment of the River Cleddau SAC, an additional MMP would be required.
6. Further, in order to be able to conclude the proposed development would not have a likely significant effect on the SAC, there should be *'a robust and enforceable chain of custody [was] in place for the fate of manure from the site, controlling the location, beneficial use and method of land spreading.'* Nothing is submitted to show that the land to which manure would be exported and spread is not within the catchment of the River Cleddau SAC. Nor is there a MMP for that land or an enforceable mechanism for ensuring appropriate disposal off site.
7. With regard to spreading manure at Cwm Farm, the MMP states phosphorus is absorbed by grass and red and white clovers, *'which utilise and thrive from phosphorous and potassium in farmyard manure.'* NRW does not raise any concern in this regard and whilst this may be acceptable for the fields, according to the appellant's Drainage Plan the yards are permeable and *'water will soak down naturally.'* This could include water contaminated by manure. The appellant has not addressed how pollution emanating from the development would be prevented and controlled. I cannot be certain, therefore, that phosphorous would not find its way into the SAC.
8. In the absence of an enforceable mechanism for the appropriate spreading and disposal of manure off site, or proposals for managing pollution emanating on site, I cannot conclude that the proposal would not have a harmful effect on the integrity of the River Cleddau SAC. I find, therefore, that the proposal conflicts with Policies SP 1, GN.1 (4) and GN.37 of the Pembrokeshire County Council Local Development Plan up to 2021, adopted 2013 (LDP).

Living conditions

9. Broomhill Cottage is about 60m to the north of the appeal site. I note the history of activity on the site but my assessment is based on the appellant's stated intentions to use the site for a beef breeding and rearing enterprise. At the time the appellant's statement of case was drafted, livestock comprised 33 suckler cows, calves, 10 store cattle and a bull. I did not count the animals but at the time of my visit the building housed cows and calves.
10. If one lives in the countryside one should expect to experience noise and odours associated with agriculture. The Council's Pollution Control Officer initially did not object to the proposed development based on the housing of cattle (19 January 2022). The Pollution Control Officer amended their response in February 2022 following the receipt of complaints. With regard to animal noise and odour they said; *'The impact of pigs in*

close proximity to sensitive receptors is thought to be more significant with regard to noise and odour emissions compared to cattle.'

11. In June 2022 the Pollution Control Officer reported their concerns were; *'specifically related to the adverse impact from noise associated with agricultural machinery and a generator and noise and odour associated with the housing of pigs all of which take place in very close proximity to a neighbouring dwelling.'* The Council argue its Public Protection Department object to any livestock being housed within the building but nowhere have I seen the Pollution Control Officer raise any specific mention or concern related to cattle.
12. No machinery was in operation at the time of my visit. Standing in the garden to Broomhill Cottage, I could hear no noise from the cattle. With regard to odour, I did not smell anything I would not expect in a rural area, nothing at an unacceptable level nor which I could specifically associate with the farm. Subject to a condition prohibiting the keeping of pigs, I do not consider the proposed development would have an unacceptable impact on neighbouring occupiers with regard to odour.
13. The appellant suggests the imposition of a condition limiting when machinery and generators may be used. Farming is a 24/7 operation and cows will calve when they're ready, whatever the time of day. Nevertheless, intervention by the farmer is not always necessary. I consider a condition limiting the hours machinery may be used and requiring the implementation of a noise attenuation scheme with regard to the generator would ensure the proposed development would not have an unacceptable impact with regard to noise. I conclude, therefore, that subject to conditions, the proposal would not have an adverse impact on the living conditions of nearby residents and complies with Policy GN.1 (2) of the LDP.

Bridleway

14. The bridleway runs northwards from Llawhaden. Up to Broomhill Cottage it takes the form of an unmetalled lane. The Council argue motor vehicles accessing the proposed development prevent or deter the public using the bridleway for riding, walking or cycling. In my experience, it is not uncommon for bridleways to run along tracks used by motor vehicles and I saw hoofprints which indicates the bridleway is being used by horse riders.
15. The bridleway provides the only vehicular access to Broomhill Cottage and serves other properties and a water treatment plant. Further, there are a number of fields to which the bridleway provides access. No doubt the proposed development generates more vehicle movements than would a field with cattle but the appellant's traffic statement estimates 4 to 5 visits to the site per day in winter, fewer in summer. Vehicles would be a 4x4 or tractor, sometimes with a trailer. Cattle would be transported by a small lorry.
16. I do not consider the type or frequency of vehicle movements is such that it would preclude the use of the bridleway by the public. With regard to alleged interference, the Highway Authority may assert and protect the rights of the public's use and enjoyment under Section 130(2) of the Highways Act 1980. I conclude that the proposed development would not conflict with Policy GEN.1 (5) of the LDP.

Drainage

17. The appellant's aim is to collect rainwater off the building rooves for use on the farm. All gutters drain to water tanks which, in turn, feed water troughs. If the tanks become full, water would be pumped from an overflow tank to header tanks to the west of the building. According to the appellant, yards are permeable and water will generally soak down naturally. A line of gabions on the northern boundary of the yard would hold rainwater and, according to the appellant, no water would discharge from the gabions overland.

18. The system would rely on solar power to pump water from the overflow to the header. The Council is concerned that, in the absence of a contingency plan, adjoining land may flood if the solar pump fails. I do not make light of the risk of flooding but the extent to which this might occur is unclear and I see no reason why a contingency plan could not be secured by condition. Subject to such a condition, I do not consider the proposed drainage arrangements are unacceptable and I conclude, insofar as it is relevant to this issue, the proposed development would not conflict with Policy GEN.1 of the LDP.

Conclusion

19. SACs are afforded the highest level of ecological protection. Notwithstanding my findings regarding living conditions, drainage and the use of the bridleway, I am unable to conclude that the proposed development would not have an adverse effect on the integrity of the River Cleddau SAC. For the reasons given above and having regard to all matters raised, I conclude the appeal should be dismissed.
20. 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 building an economy based on sustainability.

A Thickett

Inspector