

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 05/07/21

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 28/7/21

Appeal Decision

Site visit made on 05/07/21

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

an Inspector appointed by the Welsh Ministers

Date: 28/7/21

Appeal Ref: APP/N6845/C/21/3271048

Site address: Land known as Cwm Farm, Cwm Lane, Llawhaden, Narberth, SA67 8HP

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 [REDACTED] against an enforcement notice issued by Pembrokeshire County Council.
- The enforcement notice, Local Planning Authority Reference: INV/0251/18 was issued on 10 February 2021.
- The breach of planning control as alleged in the notice is i) Without the benefit of planning permission the construction on the land of an agricultural building comprising a goat shed / cattle shed / parlour and dairy (located approximate position 'A' on the plan attached); a 'pole barn' building (located approximate position 'B' on the plan attached); a solar array (located approximate position 'C' on the plan attached); a wind turbine (located approximate position 'D' on the plan attached); a static caravan with porch arrangement (located approximate position 'E' on the plan attached); a farm track around the perimeter of the field (located approximate position 'F' on the plan attached); ii) Without the benefit of planning permission, the making of a material change of use of the land from agriculture to a mixed use of agriculture, siting of a static caravan (position 'E' on attached plan) and for the storage of vehicles and scrap/waste materials including tyres, pallets, storage containers etc.
- The requirements of the notice are 1. Demolish the agricultural building comprising the goat shed / cattle shed / parlour and dairy ('A'); pole barn ('B'); solar array ('C'); wind turbine ('D'); and caravan/porch structure ('E') and permanently remove all of the resulting material from the land. 2. To apply a soil capping layer to the existing ground topography over the footprint of the agricultural livestock building to the following depths: 200mm – topsoil, 300mm – engineered soil or suitably graded subgrade lightly compacted. Minimum slope of 8% to ensure surface water does not sheet off at high rates before filtering into the ground. 3. Permanently remove the static caravan from the land ('E'); 4. Permanently remove the farm track ('F') by covering the track with a soil layer to reinstate the land to its condition immediately preceding the unauthorised works; 5. Permanently cease the use of the land for the storage of vehicles, scrap, waste materials and remove all such stored material from the land.
- The period for compliance with the requirements is: 1. 3 months from the date on which this notice takes effect. 2. 4 months from the date on which this notice takes effect. 3. 3 months from the date on which this notice takes effect. 4. 3 months from the date on which this notice takes effect. 5. 3 months from the date on which this notice takes effect
- The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is allowed, and it is directed that the enforcement notice be varied by extending the time for compliance by the deletion of "3 months from the date on which this notice takes effect" for requirements 1, 3, 4 and 5, and "4 months from the date on which this notice takes effect" for requirement 2 and substituting them with the words "Nine (9) months beginning with the day on which this notice takes effect" for each of the requirements (1. to 5.) within section 4 of the notice. Subject to the variation, the enforcement notice is upheld.

Procedural Matters and Planning Merits

2. The appeal site is an area of land located in open countryside to the north of Llawhaden and accommodates a large agricultural shed and other structures which are being used to house animals and machinery. A caravan is also sited on the land which appears to be in residential use. I saw that excavations have taken place within the site to provide areas of hard standing and to provide access onto surrounding fields which have been fenced off and contain livestock.
3. It is noted that a planning application was submitted in 2019 for an agricultural shed to house milking goats (in retrospect)¹ which was refused in August 2019, and a further application for an agricultural shed to house and milk goats and rear beef, construction of track and yard, siting of caravan for domestic welfare for owners and staff (in retrospect), extension to shed and siting of solar panels on shed roof and relocation of pole barn² was refused in September 2020. The Enforcement Notice (EN) subject to this appeal was subsequently served by the Council.
4. The Appellant, the Council and third parties have made representations for this enforcement appeal which relate to the planning merits of the unauthorised development. However, since there is no ground (a) appeal (deemed planning application), I cannot consider or make any determination on the planning merits of the development.

The Appeal on Ground (g)

The Approach to Ground (g)

5. Ground (g) is that the period for compliance with the notice falls short of what is reasonable. The period for compliance stated in the EN varies between 3 and 4 months for the individual requirements set out within the EN. The Appellant seeks nine (9) months rather than the specified three and four months to cease the use on the site and to demolish and remove all buildings.
6. Where an appeal is made on ground (g) alone, the Appellant does not make any case that the alleged development is lawful, or that planning permission ought to be granted for the development, or the requirement(s) of the notice should be varied. The Appellant will know that the notice will come into force in exactly the form it was issued. The only reason for appealing is to gain more time to comply.
7. So, where the only ground is (g), the Inspector can usually take account of the time taken in the appeal process when deciding what would be a reasonable period for

¹ Planning application Ref: 19/0317/PA

² Planning application Ref: 19/0987/PA

complying with the notice. I will consider what would be a reasonable time for compliance with the notice from the date of this decision.

Findings on Ground (g)

8. The Appellant made this appeal on the basis that the periods of 3 and 4 months specified on the EN would be insufficient time for him to appoint an appropriately qualified person to prepare a planning application, instruct a drainage engineer to attend the site and prepare a full drainage statement and submit a Sustainable Drainage System (SuDS) application to address the issues raised by Natural Resources Wales and Pembrokeshire County Council Pollution Officer.
9. I understand the Council's view that the Appellant has submitted two planning applications previously, and in its opinion the drainage and pollution issues on the site are such that they may not be capable of being addressed. Nevertheless, it would appear that the Appellant was not adequately professionally represented at the time of the previously refused planning applications and he acknowledges that he had produced a *"relatively poor-quality submission with no professional guidance"*.
10. It is clear that the Appellant has not fully understood the planning process which can often be very complex and intimidating, especially to those who are not professionally represented. The Appellant is willing to work with the Council and other bodies in an attempt to rectify matters through the future submission of a comprehensive planning application prepared by professional advisers. In my experience, preparing a detailed planning application to address the issues raised by the unauthorised development takes a lengthy period of time.
11. In addition, at the time the second planning application was determined and the EN was served by the Council, the UK continued to be subject to significant restrictions in response to the Coronavirus/COVID-19 pandemic. I am also mindful of the fact that many of the restrictions continue to remain in place with many office workers and other professionals working from home and not able to travel freely or undertake their work in the same manner as the period before the pandemic. I am also concerned that the Council might have difficulty enforcing the notice if the current periods for compliance are not varied.
12. The Appellant contends that a nine (9) month period for compliance would be reasonable, and I accept that this would be a reasonable and pragmatic period for the Appellant to commission the necessary work in preparing and submitting a planning application. Indeed, it would also provide the Appellant with an opportunity to provide added flexibility given the ongoing COVID-19 pandemic. I am therefore satisfied that a 9 month period would strike an appropriate balance between the competing interests.
13. Having regard to the submissions from the Council, the Appellant and interested parties, I shall vary the enforcement notice at Section 4 by substituting the time for compliance periods underneath each of the requirements of the notice (1 – 5) with the following words: "Nine (9) months beginning with the day on which this notice takes effect". To this limited extent, the appeal under ground (g) shall succeed.

Conclusions

14. For the above reasons and having considered all matters raised, including those by interested parties, I conclude that the appeal succeeds on ground (g), and that it is

reasonable and proportionate to extend the time for compliance to nine months. The appeal on ground (g) succeeds to that extent, and so the enforcement notice will be upheld with this variation.

15. 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 Duggan

INSPECTOR