



Geraint John Planning

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The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Dear Sir / Madam,

**PLANNING INSPECTORATE REFERENCE: APP/Z6950/A/20/3251193
HEOL LAS FARM, LLANGAN, VALE OF GLAMORGAN, CF35 5DN
APPELLANT'S FINAL COMMENTS ON COUNCIL'S STATEMENT OF CASE**

In regards to the above appeal, and in accordance with the appeal timetable, please find enclosed our comments in response to the Local Planning Authority's (LPA) Statement of Case.

The Local Planning Authority's Statement of Case

The Statement of Case prepared by the LPA predominantly expands on the considerations and arguments made in respect of their decision to refuse the application. From reviewing the LPA's comments, it is considered that they can be logically broken down into two specific issues:

- The LPA's consideration that the proposals would be tantamount to a new dwelling, and not an annexe that is ancillary to another dwellinghouse (Reason for refusal two); and
- The loss of the use of the building for tourism purposes (Reason for refusal one).

These comments have therefore been broken down into two sub-headings to address the LPA's response on either issue.

Ancillary Residential Accommodation vs a New Dwelling

The majority of the LPA's Statement of Case focuses on whether the proposals could capably be considered to represent ancillary residential accommodation or not. A key focus of the comments seems to be on the "*functional relationship*" between the appeal site and Heol Las Farm, as the LPA considers that the holiday let / appeal site does "*not form part of the curtilage of Heol Las Farm at present, and would not even if the alterations suggested by the applicant were implemented.*" The case of *Attorney General ex rel Sutcliffe v Calderdale MBC, 1982* is quoted, and considered to be relevant in determining the curtilage of the building. There is of course no clear definition of 'curtilage', and whether or not something falls within a 'curtilage' is always a question of fact and degree. The term has been subject to many court judgements, going back to *Sinclair-Lockhart's Trustees v Central Land Board 1950*. In

this judgement, the curtilage is considered to be "*ground which is used for the comfortable enjoyment of a house or other building*", serving the purpose of the house or building in some "*necessary or useful way.*"

In Dyer v Dorest Council (1989) the word curtilage is referred to as "*a small court, yard, garth or piece of ground attached to a dwellinghouse*", not separated by any intervening land, and forming one enclosure with it.

Of relevance to the case law produced above is the historic use of the site subject of this appeal. Whilst the LPA have asserted that "*historically, the use of the barn would have formed part of the agricultural planning unit at the wider site and would not have formed part of the residential planning unit at Heol Las Farm*", the building was in fact previously used as storage for Heol Las Farmhouse. The building can accordingly have been considered to share a functional relationship with the farmhouse. The forecourt area was open and used as recreation space in association with Heol Las.

To evidence / illustrate this further, some images have been provided by the Appellant from approximately 15-20 years ago that show the appeal subject site as being used by the owners of Heol Las recreationally, for purposes incidental to the enjoyment of the property.

Historic / Relevant Images

Images from Current Owner

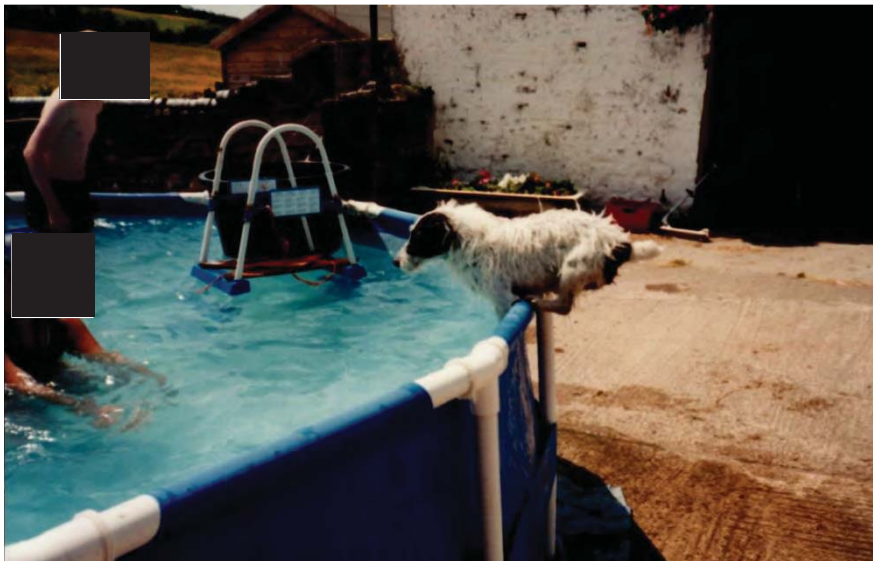




Image from Previous Owner



In addition to the above, and prior even to this, the 1841 tithe map (from the National Archive of Wales) shows who owned and rented land and property in 1841. The map extract provided below shows 268 as the oldest part of the farmhouse and 269 is where the current holiday let resides. Both were owned by the Earl of Dunraven (Dunraven Estate) and rented to a tenant farmer by the name of William Richards:



| Parcel Number | Owner/Description | Use |
|---------------|-------------------|---------|
| 256 | Eriw Iutisiron | |
| 265 | Eriw | pasture |
| 266 | Eriw pullan | pasture |
| 267 | y pullan | pasture |
| 268 | Ty gardd a llath | |
| 269 | Gardd | |
| 273 | Caean bach | pasture |
| 278 | Cae mwydd | pasture |

The area 268 is named as "ty gard a llath", which translates to the house and yards. The area 269 is named as "y gard", which translates to the garden.

As can be seen from the records, both were owned and used as one in 1841, and for at least the last 180 years both parts have been owned under a single deed, used as a farmhouse and garden / curtilage throughout the duration of that period.

All of the above demonstrates that there is no question that the appeal site is within the 'curtilage' of Heol Las, with a functional relationship existing between the two over many years. Whilst minor cosmetic changes have been made e.g. the fence erected between Heol Las and the holiday let to provide a form of privacy, there has always been a gate between the two (images below), and as such they have never been "physically divorced" from one another. Notwithstanding this, the Appellant has also offered to remove the fence for the purposes of the application, in order to try and satisfy the Local Authority.



Images Illustrating the Gate Between Heol Las and the Holiday Let

In relation to the above, the LPA have also set out that they consider the holiday let to be *"of a size that can sustain itself as an independent dwelling house and clearly possesses all of the amenities to do so."* The Appellant would question why, if this was the case, there was no concern raised by the LPA within the Officers Report for 2010/00973/FUL over the size of the holiday accommodation proposed and whether it was excessive for the use. In fact, the Officers Report advises that *"it is considered that the proposed conversion would maintain the simple form and rural appearance of the barn, thereby preserving its character and that of the wider rural area."*

Notwithstanding this point, given the lack of any residential space standards in the Vale of Glamorgan Local Development Plan or the Adopted Supplementary Planning Guidance (SPG), it is a matter of judgement as to what size building could comfortably function as an independent dwelling house. It is not considered that any of the facilities accommodated within the building go over and above what you would typically expect to find within an annexe. It is also considered that the proposals could not capably operate as an independent dwelling house for the following reasons:

- The proximity of the annexe to Heol Las, which as evidenced above, is within the curtilage of the property;
- The proposed annexe will share an access point and parking area with Heol Las Farm (given the proposed stopping up of the second access);
- The annexe will lack any private external amenity space (where the Residential and Householder Development SPG requires at least 20sqm. per person, the majority of which should be private garden space); and
- The unit is approximately 25% of the floorspace of Heol Las and is therefore evidently secondary. This was acknowledged by the LPA in their statement, where it is recognised that *"the appeal site is significantly smaller than Heol Las Farm."*

Given the proximity to the main dwelling, the dependence of the annexe on shared facilities with Heol Las Farm, and the scale being significantly smaller than the main dwelling in terms of footprint and height the proposal is clearly secondary and not capable of separation to a single independent dwelling.

We would again like to emphasise that throughout the process the Appellant has proffered all manner of restrictions and supporting physical works in order to enable the LPA to accept the use as being ancillary to the main dwelling. This includes revised plans and drawings, conditions and a legal agreement. The LPA has however offered limited engagement in return.

The Loss of the Use of the Building for Tourism Purposes

Further to the above, it is evident that the 1st reason for refusal is linked to the position the LPA have adopted in that the proposals cannot be considered an annexe – as the LPA have applied policies MD11 and MD13 on the basis that the proposal is for a new independent residential dwelling. As set out in the proceeding section, this is not the case, and does not reflect the application as submitted.

Policy MD11 sets out a range of criteria that apply to any proposals that seek to convert a rural building to a rural enterprise, tourism, community or residential use. In this respect, the LPA's Statement of Case states *"no exemption exists within policy MD11 or the supporting text to suggest it would not apply if a further application were submitted for the use of the building as an independent dwelling house"*. As set out within the application, as well as the Appellants Statement of Case, the proposed development is not for an independent dwelling house. Therefore, limited weight should be applied to this policy when assessing the development. The proposals would result in the re-use of an existing building for ancillary accommodation, used in association with Heol Las Farmhouse. The development will therefore accord with the general objectives of Policy MD11, in that the proposal will not result in a *"new dwelling being created in an unsustainable location"* but will make use of an existing building.

In relation to this point, the Council have considered within their Statement of Case that *"No evidence has been submitted to support the suggestion that the occupation of the barn would result in less car movements. Indeed, if the business were failing, then it would be very likely that the holiday let would not be in permanent use. Therefore, the occupation of the barn permanently would undoubtedly result in more car movements."*

It is however the case that within the Officers Assessment of application reference 2010/00973/FUL (conversion of the building to a holiday let) the increase in vehicle movements associated with the use of the building as a holiday let is acknowledged. Therefore, taking into account the **potential** trip generation associated within the holiday let use, it is considered that the development would result in an overall reduction in vehicular movements to and from the site, as the annexe would be used in association with the main farmhouse and not by separate persons.

In terms of Policy MD13 'Tourism and Leisure', the LPA have placed strong emphasis within their Statement of Case on the *"absence of any evidence submitted by the appellant to suggest that the tourism facility is not viable"*, and state that this is one of the contributing factors as to why they

consider that MD13 has not been complied with. Whilst, as stated above, the Appellant considers this policy to have limited weight in the assessment of this application, it also the case that they consider that they were never provided with adequate opportunities to present such evidence.

The figures provided in the table above do of course not take into account the running costs etc. and are provided in order to give an indication of the year on year reduction in occupancy levels and money generated accordingly.

To summarise, the key factor in determining the appeal is that the proposed development **is not** for an independent dwelling within the countryside, but for annexe accommodation to be used in association with Heol Las Farmhouse, in order to accommodate the needs of the owners / occupiers. Whilst not strictly a planning matter, it is worthy to note that the Appellants are local farmers, who require the annexe in order to sustain the rural business they operate. They grow over 50 foods at the site, have invested heavily in green technology (have 2 sets of solar panels, a pellet mill and a solar kiln), have planted over 500 trees of 17 species and are a small producer of high quality Welsh lamb, with poultry and geese that they breed. Due to the farming needs associated with the above, it is of high importance that the Appellants can live within proximity of the farm, which the proposed development would allow.

Conclusions

The Appellant's comments in regards to the content of the LPA's Appeal Statement are provided above. These comments should be considered alongside the Appellant's Written Statement as previously submitted, and which together, make the Appellant's case.

If you should require any further information relating to the above, please contact me.

Yours sincerely,


Geraint John
Director
Geraint John Planning Ltd.