
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 01/07/20

gan **A L McCooey BA MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 05.08.2020

Appeal Decision

Site visit made on 01/07/20

by **A L McCooey BA MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 05.08.2020

Appeal Ref: APP/Z6950/A/20/3251193

Site address: Heol Las Farm, Llangan, Vale of Glamorgan, CF35 5DN

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

- 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 Ms E Davey against the decision of The Vale of Glamorgan Council.
 - The application Ref 2019/01246/FUL, dated 14 November 2019, was refused by notice dated 31 January 2020.
 - The development proposed is to convert existing holiday let to a residential annexe.
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Decision

1. The appeal is dismissed.

Main Issues

2. The issues are considered to be:
 - Whether the proposal represents a new dwelling as opposed to an annexe to an existing dwelling; and
 - Whether the proposal would be in a sustainable location in the light of local and national planning policy; and
 - The effect of the loss of a tourism facility on the tourism industry.

Reasons

3. The site is in the open countryside around 3km to the east of the outskirts of Bridgend. The site is accessed by narrow roads from Treoes to Llangan. The holiday let is a single storey building adjoining the road with its own separate access. The main access to Heol Las farmhouse and farmyard adjoins to the east. The large farmhouse adjoins the farmyard and has a garden area on the opposite (eastern) side of the house, surrounded by a wall. A range of outbuildings and a larger barn are located to the south of the holiday let. The building is separated from the farm yard by a fence containing a gate. It has its own garden/amenity space and gravelled parking area.
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Background

4. The conversion of a disused barn to tourist accommodation was approved in 2010. Condition 3 states "The accommodation hereby approved shall be used or occupied solely as holiday accommodation only and not as a permanent dwelling house". The reason for this condition was that permanent residential accommodation in this rural location would be contrary to national and local planning policy. The appellant's evidence reiterates that the building was in agricultural use at the time of the application for its conversion. No changes to the building or its layout are proposed as part of this appeal. It is proposed to close the vehicular access to the building and remove the fence separating it from the farmhouse and yard.

New Dwelling or Annexe

5. The application is for a residential annexe as set out in the banner heading on page 1 above. The intention is for the appellant to reside in the annexe, whilst allowing her son to continue to reside in the main house. Thus, both would have independence, whilst relying on the main house for day to day residential functions, it is argued. The works to block the separate access and remove the fence separating the holiday are also noted. In discussions with the Local Planning Authority the appellant was willing to accept any reasonable conditions or obligations considered necessary to restrict the use to an annex. She has offered to remove a washing line, washing machine and even one of the bedrooms. These plans are not before me nor has any planning obligation been submitted. The appellant indicates that the ability to live in the proposal would assist the farming business and meet the needs of a family of long-standing in the area.
6. The main issue of the nature of the proposal is before me and both parties have clearly presented their arguments. The building is subordinate in size to the farmhouse. However, the farmhouse is large and so this factor is not determining. It is proposed that the building would share a vehicular access with the separate access being removed. The building is within 10m of the farmhouse but is separated from it by the main access and farmyard. It reads as a separate unit well-enclosed by walls fences and buildings. It has its own parking and garden areas. In addition, the building has all the facilities needed for independent living comprising of a large lounge/dining room, a kitchen/ breakfast room, a bathroom and two bedrooms. There is no convincing explanation of what residential functions would be provided by the main house.
7. There was considerable argument by both parties as to whether the building was within the curtilage of the farmhouse. Planning legislation provides for such issues to be determined by an application for a Certificate of lawfulness of existing use or development. In this way the evidence can be tested with reference to the caselaw cited by the parties. Whilst there is no such certificate in this case, on the limited evidence available, I consider that the approval of a holiday let has created a new planning unit and probably removed any former connection with the farmhouse.
8. The proposal would create a self-contained residential unit with little functional relationship with the farmhouse. There would be a degree of separation by the main access and farmyard. There would be little functional inter-dependence. The only link would be that the new unit would be occupied initially by a member of the same family. In all the circumstances set out above, I conclude that the proposal must be considered as for the change of use of a holiday let to a new dwelling. This being the case then conditions restricting the use to an annexe would not be reasonable or enforceable.

Whether the site is in a sustainable location

9. The parties refer to the sustainable development and placemaking objectives of Planning Policy Wales that are based on the Well-being of Future Generations (Wales) Act 2015. The site is in the countryside where national and local policies are that new development must be strictly controlled and generally directed to suitable settlements. Strategic Policy SP1 of the Vale of Glamorgan Local Development Plan (LDP) promotes sustainable transport in order to reduce dependence on the car. This is also reflected in Policy MD1 at point 5. Policy MD11 provides for the conversion of rural buildings to rural enterprise, tourism community or residential use, subject to 4 criteria. The policy expresses a preference for uses that contribute to the rural economy. The last two criteria only apply to proposals for conversion to residential use. Criterion 4 applies to residential uses and requires that the site is in a sustainable location in terms of access to local services, community facilities and public transport.
10. The site is around 2km away from the nearest small settlements. The range of facilities in these settlements is very limited. The roads leading to the site are narrow with no footways and high hedges in places. The nearest bus stop is approximately 400m away and the bus route does not have regular services. I consider that the combination of the distance from any services and the narrow unlit roads means that residents are likely to rely on a car. Little evidence was submitted to support the appellant's contention that the proposal would generate less traffic than the existing use. In any event, policy MD11 expresses a preference for uses that contribute to the rural economy. The benefits of such uses to the economy would outweigh the harm caused from a more remote location. To allow buildings converted to tourism uses to be subsequently changed to residential solely on the basis that the latter is likely to generate fewer car movements, would effectively undermine the restriction that criterion 4 of MD11 applies exclusively to residential uses. The evidence demonstrates that the location of the building is not sustainable. The proposed conversion to residential use is therefore contrary to criterion 4 of Policy MD11, as well as Policies SP1 and MD1.

Loss of a Tourism Facility

11. Criterion 3 of Policy MD11 states that proposals for residential use must demonstrate that a range of alternative uses are not viable. Policy MD13 resists proposals that would result in the loss of tourism facilities unless there is sufficient supply in the area and/or the facility has been marketed and proven to be no longer economically viable.
12. The tourism use has been operating for some time. The Council confirms that it was awarded 4 stars by the Wales Tourist Board and forms part of the varied tourism offer of the Borough. The appellant argues that there are many similar facilities in the Council area and so an adequate supply would remain. This claim is not supported by any evidence. Whilst the supporting text of Policy MD13 refers to a particular problem in Barry and Penarth, it cannot be inferred that the policy only applies to the loss of tourism facilities in those areas alone. The appellant contends that there was no opportunity to rebut this point. I do not agree. This issue is articulated in the Officer's report and forms the first reason for refusal. There was ample opportunity to address this issue in the grounds of appeal. The loss of this facility would be contrary to Policy MD13 and MD11 as no convincing evidence has been supplied to demonstrate either a sufficient supply of facilities in the area to meet demand or that the facility has been marketed and is no longer viable.

Other Matters

13. I have taken account of the appellant's argument that there would be little harm in the use of an existing building to meet the needs of a family of long-standing in the area. Little evidence of how the proposal would assist the farming business was submitted. I consider that the proposal would cause harm to the sustainability objectives of local and national policy and that these personal circumstances do not outweigh this harm.
14. Several examples of other approved residential annexes were cited as being similar to the appeal proposal. Each case must be considered on its own merits in the light of the facts pertaining to its determination. The Local Planning Authority explained how the circumstances of those cases differed from the appeal proposal. Having considered the evidence I consider that they do not therefore justify approval of the appeal proposal.

Conclusion

15. I conclude on the main issues that the proposal is for a new dwelling rather than an annex. The site is not in a sustainable location and the proposed dwelling is therefore contrary to national policy and LDP Policies SP1, MD1 and MD11. The evidence does not justify the loss of a tourism facility and the proposal is contrary to the requirements of Policies MD11 and MD13. I have considered all the appellant's arguments in favour of the proposal, but they do not outweigh the identified harm and policy objections.
16. Having considered all relevant matters, I conclude that the appeal should be dismissed for the reasons given. 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' revised well-being objectives to build healthier, more resilient communities and environments.

A L McCooey

Inspector