
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 02/02/21

**gan Mr A Thickett, BA (Hons) BTP Dip
RSA MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 24/2/21

Appeal Decision

Site visit made on 02/02/21

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

an Inspector appointed by the Welsh Ministers

Date: 24th February 2021

Appeal Ref: APP/H6955/A/20/3262100

Site address: Glenmore Cottage, Higher Penly, Penly, LL13 0NB

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 Mr R Loughlin against the decision of Wrexham County Borough Council.
 - The application Ref: P/2020/0235 dated 6 April 2020, was refused by notice dated 9 October 2020.
 - The development proposed is the extension of the existing dwelling to form an additional 3-bedroom dwelling, conversion of disused garage to form single 2-bedroom dwelling and conversion of stables complex to form 2 No. 3-bedroom and 1 No. 4-bedroom units with associated parking and turning.
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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 character and appearance of the area
 - The living conditions of prospective occupiers with regard to the suitability of the proposed accommodation and privacy
 - Protected species
 - Highway safety
 - The use of public footpath 24, and
 - Whether the proposed development conflicts with policies designed to protect the countryside.

Reasons

Character and appearance

3. The appeal site lies in the open countryside between Penly and Overton. The appellant proposes to extend Glenmore Cottage to create a new dwelling, the extension and conversion of a garage to create a dwelling and the conversion of a
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stable block to create 3 dwellings. The existing access and drive would be improved to serve the proposed development.

4. Policy H3 of the Wrexham Unitary Development Plan 1996 – 2011, adopted 2005 (UDP) is permissive of the residential conversion of buildings in the countryside provided a number of criteria are met. Relevant to this issue these include that; buildings are structurally sound and capable of conversion without extensive rebuilding and the proposed development does not constitute an undesirable intrusion into the landscape.
5. The additions to the house and garage would respect the host buildings and the external alterations to the stables would be limited to changes to fenestration, including new windows. Land around the stables would be enclosed to create modest gardens and with sensitive boundary treatment, the change of use of the stables would have a minimal impact on the rural surroundings.
6. The countryside in the vicinity of the site is characterised by open fields bounded by mature hedgerows. The paddock between the garage and the road would become the garden to the converted garage. The paddock is large and its cultivation as a garden would introduce domestic paraphernalia and a formality at odds with the appearance of the adjoining fields and the character of the surrounding rural landscape.
7. This impact would be exacerbated by the loss of the existing mature and attractive hedge on the shared boundary with the A539 to create a visibility splay. The road here is characterised by strong hedgerows dotted with mature trees. Although it is proposed to replace the hedge, it would take some years to become established and the loss of the existing hedge would have a detrimental impact on the character and appearance of the area. I conclude, therefore, that the proposed development would have an adverse impact on the character and appearance of the area and conflicts with Policies H3, H4, H5, GDP1(a) of the UDP.

Living conditions

8. The distance between the dining room window to the dwelling proposed to be created by extending the cottage and the kitchen/dining room window to the converted garage would be 7m. This is significantly below the 21m recommended to safeguard privacy by the Council's design guidance. I agree with the appellant that it will not always be possible to achieve privacy standards in conversion schemes. However, by amending the design of either the garage conversion or new dwelling it could be achieved here. Privacy could also be safeguarded by the kitchen/diner window being obscured glazed which could be achieved by the imposition of a condition.
9. The stables are a U shaped building with an internal courtyard. The bedrooms to the ground floor units would be in the wings of the U and separated from the courtyard by a corridor. The only windows to the bedrooms would be on to the corridors. At 7m the space between the corridor windows falls far short of the Council's privacy standards. Given that the windows would serve a corridor, I am not concerned with regard to privacy. However, the only outlook from the bedrooms would be onto a corridor and I do not consider that this would provide satisfactory living conditions for prospective occupiers.
10. Footpath No. 24 runs through the appeal site. I address the footpath in more detail below but unless it is diverted, users of the footpath would have the right to walk through the garden to Unit A to the severe detriment of the privacy of the occupiers of that dwelling.

11. One of the 4 bedrooms to Unit B would be lit only by a rooflight and two of the others would only have a small pitching hole in addition to a roof light. I accept that roof lights are often used in dormer conversions. However, they offer little in the way of visual relief and the contrived use of them here in an attempt to create habitable spaces, in my view, represents poor design. Notwithstanding my finding that the imposition of a condition could overcome concerns with the relationship between the converted garage and new dwelling that would be created adjoining the cottage, I conclude that the proposed development would not provide acceptable living conditions for prospective residents.

Highway safety

12. The section of the A539 in the vicinity of the appeal site is subject to the national speed limit. The site lies on a long, straight stretch and I observed that vehicles pass at speed. The appellant questions the Highway Authority's view that 2.4 by 215m visibility splays are required but this accords with the guidance in Technical Advice Note 18, Transport. The hedge on each side of the existing access impedes visibility in either direction. The access plan submitted by the appellant shows that this can only be achieved to the north west by using land not within the appellant's control.
13. The appellant argues that the scale of the plan is too small to show definitively that the splay would cross third party land but I have no other evidence before me. Welsh Government Circular 16/14 warns that where necessary works need to be carried out on land not controlled by an applicant/appellant, a condition prohibiting the implementation of development until those works are completed should not be imposed where there are no prospects of the action in question being performed within the time limit imposed by the permission.
14. I have seen nothing to indicate that, if it is needed, the agreement of the adjoining landowner would or would not be forthcoming. From the submissions before me, I am not satisfied that the access could be improved to the required standard. Without the provision of the required visibility splays, the proposed development would inevitably lead to the increased use of a sub-standard access to the detriment of highway safety and as a consequence conflicts with UDP Policy GD1(d).

Protected species

15. The appellant does not dispute the Council's contention that there are known populations of Great Crested Newts in the area. The Council's Ecology Officer advises that a historical record search should be completed and an assessment of water bodies within 250m of the appeal site.
16. The appellant's ecologist discovered evidence of bat ingress, concluded that the cottage and stables provide moderate roosting potential and warned that the proposed development has the potential to negatively impact upon roosting bats. NRW were consulted and having considered its response, I consider that a condition could be imposed to mitigate any adverse impact. However, in the absence of a survey in relation to Great Crested Newts, I cannot be certain that the proposed development would not have a detrimental impact on protected species and must find conflict with UDP Policy EC6.

Public footpath

17. Public footpath No. 24 runs along the drive to Glenmore Cottage before passing along the southern side of the house, through its garden and to the south of the stable block. The appellant disputes the Council's assertion that the footpath would run

through the parking area to the converted stables and through the garden to Unit A. None of the plans submitted by either party enable me to determine the exact route of the footpath. If the Council is right the path would pass through the parking area which would result in conflict between residents and walkers and should it pass through the garden to Unit A, this would be seriously detrimental to the privacy of the occupiers of that dwelling.

18. The granting of planning permission does not authorise any obstruction of a right of way. UDP Policy CLF6 seeks to protect the existing pattern of public rights of way through the area. The appellant is happy to divert the footpath but nothing is submitted to demonstrate how the footpath could be diverted and retain a satisfactory link to adjoining land, thereby maintaining the route overall. Looking at the Location Plan and block plan it is not clear whether all the garden to Unit A lies within the red line application site boundary and as any diversion may have to be across land outside the appellant's control, I cannot be certain that it would be secured. I am not satisfied, therefore, that the proposed development would protect Public Footpath No. 24 or that it could be protected through the imposition of a condition and conclude that the proposed development conflicts with Policy CLF6.

Countryside

19. With regard to conversions, Policy H3(e) requires the existing building to be of sufficient size to create a habitable dwelling. The Council's Local Planning Guidance Note No. 3, Converting Rural Buildings, was adopted following public consultation and I afford it significant weight. The Guidance states that the emphasis in any conversion must be on demonstrating that the building in its present form is suitable for the proposed new use without the need for large extensions.
20. The creation of a new dwelling utilising part of the cottage includes a two storey extension to provide a kitchen with a bathroom and bedroom above. I consider that the proposed extension would be a large addition to the building and the proposal, therefore, conflicts with Policy H3(e).
21. I acknowledge that at 42m² the floor space of the garage exceeds the minimum required for residential conversions by the Council's design guidance (40m²). Nevertheless, only just and an extension would be required to provide satisfactory living conditions. Although the proposed extension could not be described as large and its design respects its host, it would increase the size of the building by about 1/3rd. As a result, I consider that the proposed conversion of the garage conflicts with the principles and objectives of Policy H3(e) and the Guidance Note and conclude that the proposed development conflicts with policies designed to protect the countryside.

Conclusions

22. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.
23. 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 driving sustainable growth.

Anthony Thickett
Inspector