

PLANNING (SITE VISITS) SUB COMMITTEE

28TH JUNE 2012

ENVIRONMENT SERVICES

REPORT OF THE HEAD OF PLANNING – G. WHITE

PART 1 – Doc.Code: PSVS-280612 -REP-EN-GW

SECTION A – MATTERS FOR DECISION

1. PLANNING APPLICATION RECOMMENDED FOR APPROVAL

<u>ITEM 1</u>	
<u>APPLICATION NO:</u> P/2011/1127	<u>DATE:</u> 17/01/2012
PROPOSAL: Part retention of, and external alterations to, an unauthorised structure and use as an agricultural building.	
LOCATION:	Blaencwmbach Farm, Fairyland Road, Neath
APPLICANT:	Mr David Morgan
TYPE:	Full Plans
WARD:	Tonna

Background

This application has been referred back to the Planning (Site Visits) Sub Committee for consideration as the former report did not include all correspondence received from the applicant's agent nor did it include a response to the issues raised by the applicant's agent. This report has been updated to reflect those previous omissions.

Planning History

P2007/1713 – Replacement dwelling: Refused 25/03/2009

P2009/0603 – Retention of building to be used as holiday accommodation: Refused 01/09/2009 – Appeal dismissed 08/03/2010

P2010/0401 – Retention of dwelling for agricultural worker: Refused 12/10/2010 – Appeal dismissed 22/03/2011

E2011/0127 – Enforcement Notice requiring demolition of the building dated 01/04/2011 – Appeal upheld subject to minor amendments and extending the time for compliance to 6 months 06/10/2011

Publicity and Responses if applicable:

Number of properties consulted: 0

Site notice erected: No response

Description of Site and its Surroundings and relevant planning history.

The site is located within a group of traditional stone farm buildings on an active farm at Blaencwmbach. The group is set in a landscape of open pasture interspersed with forestry plantations high on the plateau above the Vale of Neath. The stone buildings and enclosures are mostly without roofs and appear generally in poor condition. The site itself is that of the former farmhouse together with a portion of land including an area of farmyard, although it was established at the second appeal that the footprint of the building is considerably larger than the former farmhouse. The applicant has farmed the land at Blaencwmbach and at nearby Ty Cwm, to the south, and east, since 1994 but has owned it for a shorter period. Before that he also farmed Sunnybank Farm, Aberdulais where he continues to live although he no longer has any agricultural interest there.

It seems that the Blaencwmbach farmhouse was last occupied as a dwelling in 1991 but in 1994 it fell into disrepair. The applicants intention was to refurbish the farmhouse and, having received approval to do so under the Building Regulations set out to do so. After commencing work on the refurbishment, it appears that the remains of the farmhouse collapsed and the owner commenced redevelopment of the site without

first obtaining planning permission. The redevelopment came to the attention of the planning department when the two storey structure was at eaves level. The developer was advised to cease work immediately but he ignored this advice and continued work on the site. Following this a series of planning applications and associated appeals have been determined. The building as intended as a dwelling has been completed externally with the exception of a porch, but internally the upstairs floor and internal walls were not installed.

The first application sought permission for the retention and completion of the structure as a dwellinghouse in 2007 (P2007/1713). This application was refused as it was considered that the development was unjustified and detrimental to visual amenity and highway and pedestrian safety.

A further application was submitted in 2009 (P2009/0603) for the use of the structure as holiday accommodation, this was also refused and a subsequent appeal dismissed in March 2010. The appeal was dismissed on the grounds that its retention would be significantly harmful to the rural character and appearance of the countryside. There was not enough supporting evidence that the general need for holiday accommodation could not be met within or adjacent to settlement boundaries where the visual impact would be reduced and the need for travel by car would be reduced. Furthermore whilst the proposal was considered to be a small scale employment generating enterprise, as the site is not adjacent to a rural settlement it has not been shown to be necessary for agricultural or forestry purposes associated with farm diversification. However, the Inspector did not accept that the proposal would be detrimental to highway safety.

In addition to the dismissal of the appeal to use the structure as holiday accommodation the Inspector pointed out during the 2010 appeal that there was no suggestion then that the dwelling was needed for an agricultural worker. Nevertheless another application was submitted for its use as an agricultural worker's dwelling which was refused planning permission (P2010/0401).

The application for the agricultural worker's dwelling was subject to appeal. The Inspector concluded in his decision letter that the application was made without the robust justification required to support a further

dwelling on the farm in terms of agricultural need and that the substantial structure would be significantly harmful to the rural character of the area.

Following the appeal decision an enforcement notice was served on the 1st April 2011 against which the applicant appealed. The Inspector subsequently upheld the enforcement notice, although the time was extended for compliance from 3 months to 6 months. Furthermore he concluded that its retention for use partially for agricultural storage and partially as a bunkhouse would not overcome the objections. Therefore the Notice requires the demolition of the building on or by the 6th of April 2012. However, the building has not yet been demolished.

Brief description of proposal (Eg. size, siting, finishes)

Notwithstanding all of the above history this application seeks full planning permission for the part retention and part alteration of the unlawful building to be used for agricultural purposes.

The submitted plans indicate that the alterations proposed to the structure mean that the building will utilise the same footprint, 7m x 19.2 but the ridge height has been reduced from 7.6m to 6.5m and the eaves lowered from 5m to 2.5m. The structure will incorporate a green box profile roof, with only a single door opening on the north west elevation whilst the south east elevation will incorporate two windows. An existing patio door on the south west elevation would be replaced by a gate and a gate 3.2 m. wide to eaves height opened up on the north east elevation. All the other windows within the existing unauthorised structure will be blocked up. Nevertheless the render finish will be retained and subsequently its residential character.

Policy Context

Policy GC1 New buildings/structures and changes of use
Policy ENV17 Design
Policy ENV1 Development in the Countryside
Planning Policy Wales Technical Advice Note 6 – Planning for Sustainable Rural communities

Proposals within the countryside will not be permitted unless they meet certain criteria. Part a) of Policy ENV1 will permit development if it is

for agricultural or forestry purposes, and it has been demonstrated that the development is necessary to meet the needs of the farming or forestry practices and it justifies a countryside location. Furthermore the application has to meet the criteria outlined in Planning Policy Wales Technical Advice Note 6.

In reference to the above, the applicant provided details of his farming enterprise within the accompanying Design and Access Statement which confirmed that the proposed structure would cater for;

- 1000 ewes
- 500 ewe lambs
- 75 suckler cows
- 50 followers and 40 stores
- 2 sows
- 3 ponies

An assessment of the enterprise was carried out to see if the proposal meets the test for Agricultural Need, the findings are as summarised as follows:

The land on which the building sits and the immediate adjacent land makes little or no contribution towards the trade and business that is the farming enterprise. The yard at Ty Cwm and the dwelling adjacent to that is the principle centre for the enterprise and there is no compelling evidence to explain why any additional livestock or storage buildings would not be better placed adjacent to that yard, particularly for a use that may ultimately require an on site presence.

It is proposed to dedicate the ground floor of the building to accommodate lambing, calving and storage. The lambing is currently carried out in more suitable buildings less than a mile away and not only would the transfer of these activities to the subject site area create an artificial need, it would be and is better located at Ty Cwm. If the existing buildings at Ty Cwm need to be extended in order to fully accommodate the elements of the enterprise, an application can be made accordingly.

In view of the above the proposal fails to meet the test for agricultural

need and is therefore contrary to Policy ENV1 of the Neath Port Talbot Unitary Development Plan and Planning Policy Wales - Tan 6.

The agent working on behalf of the applicant studied the agricultural assessment and fielded a number of questions which were all focused on meeting the tests for agricultural need. The agent's statements can be seen in bold below with the councils response after it.

The application was accepted on the basis that the existing building is unauthorised and therefore the site is 'Greenfield.' It is as identified above. The building has no planning permission either for its use or the structure. The underlying use of the land is indeed agriculture, the assessment however examines whether the site actively contributes towards the use of the larger holding for agriculture as an enterprise carried out for a trade or business.

- ***I fail to understand why the Consultant states that the site and the immediately adjoining land makes little or no contribution to the farming enterprise. This land forms the farm yard to Blaencwmbach Farm and has done so for well over a hundred years. The adjoining, albeit, run down, buildings provide the only shelter for some 28 ha of the holding and provides facilities for lambing, calving and storage. The yard also provides storage and parking of farm vehicles. Ty Cwm is about a mile away and it is not practical or desirable to herd or transport ewes and cattle that are about to give birth that distance, particularly during emergencies. The facilities at Ty Cwm can handle stock kept at that location and if an additional building is required, it makes sense, from a farm management perspective, to locate it where the need is.*** There is insufficient evidence to show why the principal source of any need from the holding cannot be based at Ty Cwm, where it has been accommodated satisfactorily to date. To insist on carrying out functions at Blaencwmbach where there are insufficient resources to address them seems illogical and artificial given that there are existing resources in terms of agricultural buildings and an agricultural dwellinghouse to serve this enterprise at Ty Cwm.
- ***It is necessary to separate certain cattle from each other, eg heifers and bulls and cows that are bred with certain bulls.*** This

point is agreed but can be done with a single yard and holding, as on many other farms.

- ***The enterprise, being split into two separate areas is ideal for this. During breeding times, presence is required for long periods of the day and night and not only would the proposed building serve to house these animals but It would also provide shelter for personnel.*** The proposal is for an agricultural building only and it would appear that the agent highlights here that to allow it might lead to a subsequent application for a dwelling to address the resulting management need. The issue of an agricultural dwelling at this location has previously been assessed by the Planning Authority and at appeal where it was dismissed as unnecessary.
- ***Finally the agent comments on the observations made by the assessment in terms of the design of the structure. The agent has offered to amend the design of the structure to secure an approval.*** Any amendments to the design to make the application acceptable visually would have to be extensive. That being said, the principle of having an agricultural building at this location is still not justified and therefore producing a suitable design is irrelevant.

Following the above the agent has submitted 3 further letters of support which respond to the Council's Independent agricultural consultants advice. He has requested that these are reproduced verbatim within this report. However it is the Council's policy to summarise these letters and respond to them within the report and it is not proposed to deviate from this in this instance. As a result the letters are summarised and addressed as follows:

Members must note these are the agents opinions. The agents responses to these quotes are in bold below

It is stated in the report by the Authority that lambing is currently being carried out at Ty Cwm. This is not the case, it has been pointed out on a number of occasions that lambing and calving is, and has always been, carried out at both Blaencwmbach and Ty Cwm, depending where the stock is held and therefore, an artificial need is not being created. Even if this was proven, the

council still maintains the assessment that insufficient evidence to show why the principal source of any need from the holding cannot be based at Ty Cwm, where it has been accommodated satisfactorily to date has been provided by the applicant.

- (a) *The building was not on agricultural land and therefore the first test was not met. **It would now appear that it is accepted that it is on agricultural land and therefore this test is met.*** In response to this it is acknowledged that this land is agricultural and has not been disputed.
- (b) *The proposal fails the second test, **The farm yard at Blaencwmbach forms an integral part of the farm holding and for the reasons stated it is not desirable to move all the stock to Ty Cwm as 28 ha of grazing land is located around Blaencwmbach. The Consultant accepts that the building is for the purpose of an agricultural trade or business. Therefore this test is met.*** There has been no change in circumstances since the original submission of this application and it is not accepted that there is a need for this additional agricultural building at this location.
- (c) *That the building is not reasonably necessary for the purposes of agriculture. **It is accepted that the principal source of need for the holding should be met at TY Cwm. However that part of the holding at Blaencwmbach is about a mile away and the two areas of land are separated by another farm. The existing farm buildings at Blaencwmbach are inadequate and run down and it is reasonable to provide a more suitable building to carry out the necessary agricultural functions at this location. In respect of providing shelter, it was not implied or intended that approval could lead to a subsequent application for a dwelling. This comment is completely unrelated to the application. It is considered that this building is reasonably required for agricultural purposes and therefore this test is also met.*** The Council disagrees with this assessment of need. The Independent consultant has assessed the level of livestock maintained at the holding and its spatial relationship with the other farm holding and it is considered that the existing buildings can provide for the needs of both farm holdings as has always been the case.

(d) The building is not designed for an agricultural building. It is unclear how the retention of two windows which are required to give light into the centre of the building, or a door which would secure the store, would make the building unsuitable for agricultural use. The proposed internal design is exactly what is required at that location. The two open pine ends provide sufficient ventilation and the construction is structurally sound. The proposed hay loft is typical of many farm buildings and hay can be lifted by an elevator or front loader to a person in the loft for distribution and vice versa. The offer to amend was given, if any of these features are critical to the assessment. The use of materials and the proportions of the building are not what would normally be considered akin to a modern agricultural barn which are usually constructed from metal cladding rather than a blockwork rendered building. Whilst an assessment of the use of the building as a residential property is not appropriate as part of this application, and would require a further planning permission the merits associated with which would be considered at that time.

The agent also offers the following additional comments;

- *In respect of visual amenity, whilst the existing farm buildings are of stone, the previous farm house was render as are most of the buildings in the surrounding countryside. An existing farm building at Ty Cwm is of concrete block construction with profile sheeting, as are many agricultural buildings. It is considered that render is aesthetically better than blockwork. This building at Ty Cwm, is some 29m long by 15m wide and 8m high which is much larger in scale and massing than the proposed building and in a much more prominent location. It is suggested in the report that it would be better, visually, to erect another building at Ty Cwm, this would have a much bigger impact on the countryside than the proposed building which cannot be easily seen.*
- *The Inspector at the previous appeal was assessing the previous building and therefore his comments do not apply to the reduced and amended design.*

- ***It would appear that the Council's Consultant, who resides in Oxford, has not visited the site and it is requested that Members hold a site visit to see for themselves that the amended building would not be an unjustified form of development in the countryside and would satisfy the tests of agricultural need.***

In response to these comments made by the agent, Members should note that most of the above has been addressed in detail within the following sections of the Report. With reference to the agricultural consultant's report, the Consultant is commenting on the use of the building and its suitability within the farm enterprise rather than the visual impact the unlawful structure itself has on the surrounding countryside location, which it not within his remit. With regard to the agents comment concerning the statement made by the inspector referring to the previous appeal; the change in design is acknowledged, however the design retains the same footprint, use of render with a slightly reduced maximum ridge level. Therefore it is considered to provide a similar visual intrusion into the countryside as the existing/previous design did and as a result the visual assessment remains the same in terms of the negative impact on its countryside location.

Following the Planning (Site Visits) Sub Committee meeting on the 12th June 2012, the agent submitted a further letter which is summarised and addressed as follows:

- ***It is once again stressed that lambing and calving has taken place on the Blaencwmbach land and that the Agricultural consultant used by the council resides in Oxfordshire.*** This is noted, the consultant however based his observations on the need for such a facility for this farming enterprise having regard to the detailed information supplied by the agent within the Design and Access Statement. Photographic information gained by the Planning officer was also forwarded to the consultant to ensure that he was aware of all the material information associated with this farmholding. The agricultural consultant was not considered to be at a disadvantage having not visited the site. In fact the consultant

is extremely familiar with the enterprise having provided observations on the previous applications and appeals at this site.

- ***Reference is again made to the visual appearance of the unauthorised structure and its use of render. Which the agent considers to be appropriate.*** Visual amenity has been discussed at length in the upcoming visual amenity section. The agent refers to a previous application at a nearby location, however it should be noted that each application must be treated on its own individual merits.
- ***The agents suggest that a reference used in the appraisal taken from Planning Policy Wales (PPW) is not relevant as it refers to a single dwelling and does not apply to agricultural buildings.*** This is not the interpretation the council has taken as it clearly refers to new house building and other new development in the open countryside. The following is an extract taken from PPW.....
“New house building and other new development in the open countryside, away from established settlements, should be strictly controlled.” It is clear that this refers to any development in the open countryside.
- ***The application meets the requirements under PPW as far as the new building be sited on land which is in use for agriculture, is for purposes of a trade or business, and must be reasonably necessary for the purposes of agriculture.*** These arguments have been fully addressed in the Policy Section of the Appraisal.
- ***The agent addresses a comment made by the consultant that this application may lead to a subsequent application for a dwelling.*** This application was determined based on the proposal put forward by the agent and applicant only. The merits of the unlawful building as an agricultural building were the only merits considered in the determination of this application.

Visual Amenity

In terms of visual amenity the surrounding structures within the

immediate area have been constructed using natural stone. The proposed changes include replacing the tiled roof with green cladding whilst keeping the same render to the outside. Therefore aside from the infilling of certain openings on the side elevations and a replacement roof with a reduced eaves level, the structure remains largely the same. It is considered that the structure albeit with its reduced eaves level still incorporates excessive massing (ridge height only lowered by 1.1m), this together with its render finish is at odds with its rural countryside setting. Approving this application will therefore result in the retention of an alien structure to the detriment of the visual amenity and character of this rural area as a whole. This is a view shared by the Inspector in the previous appeal for the agricultural dwelling whereby he concluded that the substantial structure would be significantly harmful to the rural character of the area and in conflict with those policies designed to protect the countryside. Therefore in conclusion the proposed alterations to the unlawful building are not significant enough to warrant agreement in terms of its impact upon visual amenity. It is therefore maintained that the retention of this unauthorised structure will continue to have an unacceptable adverse affect on visual amenity.

Residential Amenity (Eg. Overlooking, Overbearance, Overshadowing)

There is no adverse affect on residential amenity by virtue of the proposals isolated countryside location.

Highway Safety (Eg. Parking and Access)

The Head of Engineering and Transport (Highways) offers no objections. The department had previously recommended refusal on highway grounds when this structure was being considered as a dwellinghouse and holiday accommodation. However, this was not accepted at the appeal in 2010. The use as an agricultural building however will have a much smaller number of vehicular movements than those associated with the other uses. For this reason, there is no adverse affect on highway and pedestrian safety.

Others (including objections)

Two letters of support have been submitted by the Farmers Union of

Wales and NFU Cymru respectively. They support the application and stress that in their opinion the applicant carries out the majority of the lambing at Blaencwmbach Farm and that an enclosed structure is important in maintaining good farming practice in terms of reducing the risks to farmers and farm workers related to the handling of sheep and cattle (a letter sent in by the agent also stresses this point for sheltered accommodation). The NFU letter also states that birth rate survival is far higher for those born indoors.

A third letter of support has been submitted from Afon veterinary Centre. The letter states that the land at Blaencwmbach holds cattle and sheep and therefore there is a need to have facilities available on site to house stock when required. It goes on to state that the land at Blaencwmbach is separated by land under different ownership from the applicants main stock accommodation and so there is a requirement on welfare grounds for suitable facilities to be present to house stock when needed at this location.

In summation, the additional information sent in by the agent which was summarised and addressed earlier in this report together with the three supporting letters above, are not considered to provide any additional evidence needed to prove why the development needs to be located at the Blaencwmbach location rather than the better equipped Ty Cwm site, which is also within the applicants control. In fact whilst both the veterinary centre, NFU and farmers union letters stress the need for sheltered livestock accommodation, the specific need for it to be provided at the application site, outside of the existing cluster of farm buildings and dwellings is not supported. As such, it is not considered that these additional comments alter the view of the Authority, that the development is not necessary at this location, and does not alter the recommendation set out below.

Conclusion:

The retention and alteration of this unauthorised structure as an agricultural building would result in the retention of an unjustified form of development in the open countryside, which fails to satisfy the tests of agricultural need outlined in Planning Policy Wales Technical Advice Note 6 and as required under Policy ENV1. This unjustified form of

development which together with its scale, design and massing has a detrimental impact upon the character and appearance of the surrounding countryside contrary to the overarching need to protect the countryside for its own sake. The proposal is therefore also contrary to Policies ENV1 and ENV17 of the Neath Port Talbot Unitary Development Plan.

Recommendation: Refusal

REASONS FOR REFUSAL;

(1) The retention and alteration of this unauthorised structure as an agricultural building would result in the retention of an unjustified form of development in the open countryside, which fails to satisfy the tests of agricultural need outlined in Planning Policy Wales Technical Advice Note 6 and the criteria outlined in Policy ENV1 of the Neath Port Talbot Unitary Development Plan.

(2) This unjustified form of development which together with its scale, design and massing will have a detrimental impact upon the character and appearance of the surrounding countryside contrary to the overarching need to protect the countryside for its own sake. The proposal is therefore contrary to Policy ENV1 and Policy ENV17 of the Neath Port Talbot Unitary Development Plan.