

SECTION B – MATTERS FOR INFORMATION

APPEALS DETERMINED

a) Planning Appeals

Appeal Ref: A2016/0002 **Planning Ref:** P2014/0333

PINS Ref: APP/Y6930/A/15/3140798

Applicant: Mr Jonathan Jones

Proposal: Removal of condition 1 and 2 of Planning Permission P2009/0406 approved on the 21/07/09 to allow the property to be used as a residential dwelling house.

Site Address: Hendre Las Farm, Pentwyn Access Road, Rhos

Appeal Method: Hearing

Decision Date: 04/07/16

Decision: Appeal Dismissed

The main issue concerned whether the removal of conditions 1 and 2 of planning permission P2009/0406 complies with national and local policies designed to protect the countryside and promote sustainable development.

The conditions in dispute were nos. 1 & 2 which state that:

1. Notwithstanding the Town and Country Planning Use Classes Order 1987 (or any Order revoking or re-enacting that Order), the development hereby permitted shall be used for tourist holiday accommodation only. Occupation of the holiday accommodation hereby approved shall be restricted to a maximum of 12 weeks within a twelve month period for any individual.
2. From the date of first occupation of the building records shall be maintained of the names of visitors and their dates of

occupation and these records shall be made available to the Local Planning Authority at any time upon request.

The same reason is given for both conditions: To ensure that the accommodation is utilised for tourist holiday accommodation only.

The appellant confirmed at the Hearing that on completion his family occupied the building and that it has never been used as holiday accommodation. A second application seeking unrestricted occupation was submitted in June 2011 around the time the Council issued an enforcement notice requiring compliance with the occupancy conditions. Appeals against the subsequent refusal and the enforcement notice were dismissed, the Inspector concluding that the unrestricted occupation of the building would be unsustainable and was not justified. The enforcement notice was upheld albeit with an extended time for compliance which has now lapsed.

Although the appellant contended that as the building was 'almost identical in design and only marginally different in scale' to the permitted barn conversion, the inspector stated that no matter whether it was by accident or design the barn was demolished and a new building was erected. He stated that it has been a long established principle in planning policy that the approach to the conversion of existing buildings in the countryside is different from that for new build dwellings

The inspector did not accept that the occupation of the building as the appellant's family home is more sustainable than its use as holiday accommodation.

Although the building has never been used for tourism, LDP Policy TO2 allows for changes of use where it is shown that a use for tourism is not viable. The inspector noted the Council concerns regarding the marketing for alternative commercial uses but was satisfied that it has been shown that there is no interest. However, the inspector was not persuaded that it has been demonstrated that holiday use is not viable, noting that the marketing falls short of what one might expect and particularly that done to advertise the 3 cottages on the farm. He also indicated that the methods used to market the other 3 cottages, appears to have been successful and states it is difficult to understand why the same avenues have not been used for Coed y Nant Barn. The failure to

use the type of web sites used to market the 3 cottages makes it difficult to accept that there is little demand for a property of that size.

Furthermore the inspector established that the appellant was not able to provide a satisfactory answer as to why he has not advertised his property on the same sites as his father's cottages.

Despite the other cottages being let, appellant did not use such sites to advertise the cottage to holiday makers throughout the time it took the Council to determine the application (April 2014 to June 2015) or in the time leading up to the appeal and the Hearing (June 2015 to June 2016). The inspector agrees with the Council that this casts doubt on the appellant's commitment to letting the barn as a holiday cottage.

The appellant's argument that tourism is in decline in the area was considered to be undermined somewhat by his father's investment in the 3 cottages, the councils reference to the expansion of the nearby Swansea Valley Cottages, and the recent publication of the Neath Port Talbot Destination Management Plan 2015 to 2020, one of the aims of which is to demonstrate that the Council is committed to supporting the visitor economy in the County Borough.

Whilst the inspector refers to the attempts to sell the property have resulted in and the reduction in asking price he was unable to say whether the discount is appropriate. This was further backed up by the Council argument which stated that any potential investor in such a business, will, in part, base their decision on the success of that business. As it has never been used as a holiday cottage there is no record of how good or otherwise a business opportunity Coed y Nant Barn is.

To conclude, the inspector stated that due to the shortcomings in the marketing of the property, that he did not consider that it has been demonstrated that a holiday use is not viable. Consequently the removal of conditions 1 and 2 of planning permission P/2009/0406 conflicts with national and local policies designed to protect the countryside and promote sustainable development.

Comment

Members will note that following this successful appeal, and in accordance with a previous resolution at Committee, Officers will now formally advise the owner that a period of no greater than six months will now be allowed to comply with the terms of the extant Enforcement Notice at the property, which requires cessation of permanent residential use.