

Application Reference: FPL/2019/116

Applicant: Oblates of Mary Immaculate

Description: Cais llawn i newid defnydd hen eglwys i fod yn ddwy uned wyliau ynghyd ag addasiadau ac estyniadau yn /Full application for the change of use of former church into two holiday units together with alterations and extensions at

Site Address: St. Davids, Athol Street, Bae Cemaes Bay



Report of Head of Regulation and Economic Development Service (Joanne Roberts)

Recommendation: Permit

Reason for Reporting to Committee

At the request of the vice chairman of the Planning Committee, Councillor Richard Owain Jones.

Members visited the site on the 17th July 2019 and will now be familiar with the site.

Proposal and Site

The application is submitted for the conversion of the former Catholic Church into two holiday letting units together with alterations and extensions.

The application site is located within the development boundary of the Local Service Centre of Cemaes, the existing building itself lies outside but immediately adjacent to the designated Conservation Area and the proposed extension and parking area is within the Conservation Area.

Key Issues

The key issues in this case is whether or not the proposal is in accordance with relevant local and national policies and is acceptable in terms of design, impact upon the character and appearance of the designated Conservation Area, the amenities of neighbouring residential occupiers and highway considerations.

Policies

Joint Local Development Plan

Strategic Policy PS 1: Welsh Language and Culture

Policy ISA 2: Community Facilities

Policy TRA 4: Managing Transport Impacts

Strategic Policy PS 5: Sustainable Development

Strategic Policy PS 6: Alleviating and Adapting to the Effects of Climate Change

Policy PCYFF 2: Development Criteria

Policy PCYFF 3: Design and Place Shaping

Policy PCYFF 1: Development Boundaries

Strategic Policy PS 14: The Visitor Economy

Policy TWR 2: Holiday Accommodation

Strategic Policy PS 20: Preserving and where Appropriate Enhancing Heritage Assets

Policy AT 1: Conservation Areas, World Heritage Sites and Registered Historic Landscapes, Parks and Gardens

Planning Policy Wales (Edition 10, December 2018)

Supplementary Planning Guidance Holiday Accommodation (2007)

Supplementary Planning Guidance - Design Guide for the Urban and Rural Environment (2008)

Technical Advice Note 12: Design (2016)

Technical Advice Note 13: Tourism (1997)

Technical Advice Note 24: The Historic Environment (2017)

Conservation Area Character Appraisal - Cemaes

Response to Consultation and Publicity

| Consultee | Response |
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| Uned Polisi Cynllunio ar y Cyd / Joint Planning Policy Unit | Comments. |
| Ymgynghorydd Treftadaeth / Heritage Advisor | The proposed development would result in a moderate enhancement of the building, conservation area and view out of the Conservation Area. The Built Environment Section is therefore supportive of the proposal from a built heritage perspective. |

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| Pennaeth y Gwasanaeth - Prifffyrdd / Head of Service - Highways | Comments / conditions. |
| Adain Dechnegol (Draenio) / Technical Section (Drainage) | No observations. |
| Ymgynghorydd Ecolol ac Amgylcheddol / Ecological and Environmental Advisor | The likelihood of protected species issues is low, however given the protection of bats in law, as a precaution it is advised that where features in roofing areas that could potentially hide bats have to be removed/distrurbed, that this be done with care and if bats are found that NRW are contacted for advice. Advise that the Protected Wildlife and Buildings leaflet be sent to the applicant. |
| Cynghorydd Richard Griffiths | No response at time of writing report. |
| Cynghorydd Aled Morris Jones | No response at the time of writing the report. |
| Cynghorydd Richard Owain Jones | Request that the application be referred to the Planning Committee for determination. |
| Cyngor Cymuned Llanbadrig Community Council | The Community Council has received copies of objections by local residents, and acknowledge those objections regarding access, the development would be better as a single unit and the importance that the development is in keeping with the conservation area. |
| Cyfoeth Naturiol Cymru / Natural Resources Wales | No objection, comments. |
| Dwr Cymru Welsh Water | Comments and recommend condition. |

The application was afforded three means of publicity; these were the posting of a notice near the site, the serving of personal notification letters on the owners of neighbouring properties and an advert in the local press. The latest date for receipt of representations was 31/05/2019.

At the time of writing the report 7 representations had been received, with the main points raised summarised below:

- i. One writer notes that whilst they would be more than pleased to see this unsightly building and car park turned into an attractive and sensitive development, there are a number of issues.
- ii. Although 3 new parking spaces are being created there are already frequent problems with current holiday lets in the area who do not have parking spaces and cars are often left inappropriately, blocking access near the entrance to the square where a busy public house is located. Furthermore, if the spaces are not specifically allocated and fenced or otherwise controlled, will be used by renters of other holiday properties in the area.
- iii. When the church was in use, up to 8 cars were sometimes parked for the duration of services, but did not cause too much problems as this was only for approx. 1 hour per week. Three additional cars accessing the square on a frequent basis will be problematic and the additional traffic generation could be detrimental to highway and pedestrian safety.
- iv. The proposed building will be partly located in the Conservation Area and the proposal is an unattractive and cheap proposal, with very little done to enhance the design of the existing building.
- v. The visual impact of the proposed building is not in keeping with neighbouring houses. This is the oldest part of the village and care should be taken to develop a suitable property with a higher standard of design and appropriate use of materials.
- vi. There are already quite enough holiday homes in the village, displacing local people to the outskirts or neighbouring villages.

vii. The church frontage in particular has a great impact on the visual amenity of Athol Square and old Cemaes. All the other properties have features such as porched or deeply recessed doorways and symmetrically 4-paned windows that reflect the historic character of what was probably the heart of the original 18th century origins of Cemaes close to the harbour. The submitted design is not acceptable if the visual amenity of the area is to be enhanced.

viii. Whilst acknowledging that the building lies outside the Conservation Area, part of the site and three of its four boundaries are within the Conservation Area. Any development of the site must take this siting into account and should enhance the setting, not detract from it. The current church building was considered to be out of keeping in 2017 and therefore the current proposal must also be so considered.

ix. This is an ideal opportunity of a sensitive scheme to be developed which would enhance the setting of the Conservation Area and remove an ugly, unwanted building from what must be the oldest square in Cemaes Bay.

x. The density of the proposal is totally inappropriate for the site. The accommodation of two holiday units will create significant problems with access and parking.

xi. The overdevelopment of this plot will certainly increase the levels of noise and disturbance to neighbouring houses. By limiting it to one holiday unit and re-designing the property to a higher standard, a small private garden could be created using the gained space. The development of one quality unit on the site could protect and even enhance the local environment for both existing residents and the Cemaes community.

xii. The rooms in the holiday units are very small and there is no outside space other than the parking area for people to sit outside. Visitors to other holiday lets without gardens often take chairs out into the square and this causes noise and disturbance.

xiii. The use of loose gravel in the parking areas is a cheap option that will impact upon the other properties in the square.

xiv. The site which was previously occupied by 3 cottages was gifted to the church with a stipulation that it could only be used as a church, it would never have been handed over for free if it had been known that it would later be sold on for profit. It is consecrated land and it is abhorrent to imagine the use of this land as a profit making venture.

xv. The main water pipe for the adjacent public house is located under the church.

xvi. There would be no room for fire or ambulance services.

xvii. An application for the demolition of the former bakery nearby and the erection of a dwelling was refused in 2006 on highway grounds, which also apply with the proposed development.

xviii. Athol Square is an unadopted highway, maintained at frontage residents expense. Properties using it have legally enforceable vehicle and pedestrian 'rights of way' over it. There is also separate 'rights of way' which have been granted over the driveway along the flank frontage of the church. These 'rights' of way have not been shown in or on the application documents as required by section 10 of the relevant forms and no consultation with residents has been undertaken regarding these rights during development of this application. These rights need to be considered and carefully protected either by the applicants scheme or by relevant condition.

xix. The access to the two bedroom unit is at the rear of the building and to access it, pedestrians will have to use the shared access way. The presence of manoeuvring vehicles in such a restricted area results in a patently unsafe arrangement for a main entrance and this location is much better suited to a secondary or occasional 'back door' type of entrance.

xx. In the event that approval of the application is recommended, then it is requested that conditions be imposed prohibiting the application of any finish to external surfaces such that the width of adjacent accesses is narrowed, that the car parking area be surfaced in a permeable bound material and that the surfaced areas of Athol Square and access drives leading from it should be reinstated to at least the condition prevailing at the start of work.

xxi. The proposal will have an impact upon the privacy of the properties to the South and East some of which have a right of way out of the back of where the new buildings would be.

Points i – ix above are addressed within the main body of this report and in response to points x – xxii I would comment as follows:

x. The application is submitted for the conversion and extension of the existing building to create two holiday letting units with a combined total number of 3 double bedrooms, accommodating a maximum of

6 persons. Notwithstanding that the application must be assessed and determined on the basis of that submitted, were the proposal for a single holiday unit then it could potentially have 4 to 5 bedrooms, accommodating 8 to 10 persons, arguably giving rise to greater impacts than the current proposal. xi & xii. It is noted that no outside space, other than the parking area, is proposed as part of the application, however being an application for holiday accommodation, it is anticipated that the units would be used by visitors as a base from which to explore the wider area, the application site is located in the village centre, close to the beach and other amenities, furthermore the absence of outside space is likely to lessen the potential for noise and disturbance to neighbouring properties. It is also important to consider that, notwithstanding the building has been vacant for the past 3 years, its authorised use is as church falling within Class D1 of the Use Classes Order. Therefore not only could the use as a church lawfully recommence at any time, the building could be utilised for any purpose falling within Use Class D1 without the need for planning permission, such permitted uses include, clinics, health centres, creches, day nurseries, museums and public halls. It is therefore necessary to balance the potential impacts of the proposed development against the potential impacts of other permitted uses. In this instance it is not considered that the proposed development would give rise to any greater impacts than may occur from the various other uses that the building could be lawfully put to.

xiii. It was noted during the site visit that the existing parking area is comprised of gravel, furthermore the highways department have been consulted on the application and have raised no objection in terms of the surface material of the parking area.

xiv. In the event that any restrictive covenants were imposed at the time the property was gifted to the church, then this would be a private legal matter between the relevant parties, and would not prohibit the grant of planning permission. It is also noted that the writer confirms that prior to the erection of the church the site was previously occupied by residential cottages.

xv. The proposal involves the change of use of the existing building together with a small extension, it is not therefore anticipated that existing services would be detrimentally impacted by the development.

xvi. It is not considered that proposed development exacerbates accessibility by emergency services to any greater extent than presently exists.

xvii. In light of the 2006 refusal of an application for the demolition of the nearby former bakery and erection of a new dwelling on highway grounds, further comments have been sought from the highways department. The highways department have commented that as the application site benefits from an existing authorised use (church), then it must be accepted that some form of redevelopment is acceptable. There are a number of properties which are served by this narrow highway referred to in the reasons for refusal of the former bakery application. In the opinion of the Local Highway Authority, the conversion of the chapel into 2 holiday units will not generate a significant increase in traffic which will have a material effect on the existing use of the narrow public highway referred to. There are approx. 20 properties which use this road and the current application does not propose to significantly increase that use. Furthermore, it is not considered that direct comparisons between this and the former bakery application is appropriate in this instance. In the case of the former bakery, its use as a bakery had ceased many years prior and the building at the time of the application had been in use as storage with little associated traffic and as such the proposal to develop a dwelling in its place would have resulted in an increase in traffic. In contrast to that, the building subject of the current application, has an authorised use as a church which only ceased some 3 years ago. Therefore, not only could the use recommence at any time, any number of other D1 uses as noted above could be made of the building without the need for planning permission.

xviii. The rights of way referred to in section 10 of the planning application forms refers to 'public rights of way' i.e. public footpaths and not private rights of way. Certificate B has been completed as part of the application serving notice on the owners of private highway and properties affected by the development, including the individual who has made this representation. It was due to the absence of this information as part of the previous application that the application was subsequently withdrawn.

xix. The entrance door to the two bedroom unit, utilises an existing door into the building and even if access were proposed by another means, it would still be via the shared access way. The shared access way, provides a vehicular access to only one property and a pedestrian access to others. Whilst the comment regarding safety is noted, traffic volume and speed along this narrow shared driveway is likely to be low and it is not therefore considered that any danger is such that refusal of the application on these grounds could be warranted.

xx. Appropriate conditions will be imposed on any permission granted. In relation to the finish of the external surfaces, the proposal has been amended such that the building will now be insulated internally, the external walls will be finished with a render finish with a maximum thickness of 16mm so as to ensure that the development does not result in a narrowing of the adjacent access way.

xxi. A condition will be included in any permission granted, requiring that all windows in the Southern elevation be obscurely glazed, to mitigate any overlooking and protect the privacy and amenities of those properties potentially affected.

Relevant Planning History

FPL/2018/18 Full application for the change of use of former church into two holiday units together with alterations and extensions at St David's Church, Athol Street, Cemaes – Withdrawn 25.04.2019

Main Planning Considerations

The application is submitted for the conversion of the former catholic church into two holiday letting units, comprising 1 one bedroom unit and 1 two bedroom unit, together with a small extension to the Eastern elevation to provide a bedroom and bathroom, alterations are also proposed to the windows and doors, the installation of 6 roof lights in the Southern roof slope and the rendering of the existing walls. The proposal also includes parking provision for 3 cars.

The designated Conservation Area immediately adjoins the site on three sides, whilst the proposed extension and parking area is within the Conservation Area, the building itself is not.

The application site is located within the development boundary of the Local Service Centre and as such accords with the provisions of policy PCYFF 1 of the JLDP.

Policy PCYFF 2 of the JLDP requires that proposal demonstrate compliance with relevant local and national planning policies and guidance.

Policy PCYFF3 requires that all proposals will be expected to demonstrate high quality design which fully takes into account the natural, historic and built environment context and contributes to the creation of attractive, sustainable places. Proposals will only be permitted provided they conform, where relevant, to the listed criterion.

Criterion 1 of the policy requires that the development enhances the character and appearance of the site, building or area in terms of siting, appearance, scale, height, massing and elevation treatment.

Criterion 2 requires that the development respects the context of the site and its place within the local landscape...

Criterion 3 requires that it utilises materials appropriate to its surroundings and incorporates hard and soft landscaping and screening where appropriate, in line with policy PCYFF 4.

Criterion 5 requires that drainage systems are designed to limit surface water run-off and flood risk and prevent pollution.

Strategic Policy PS 14: The Visitor Economy states that whilst ensuring compatibility with the local economy and communities and ensuring the protection of the natural, built and historic environment the Councils will support the development of a year-round local tourism industry by managing and enhancing the provision of high quality un-serviced tourism accommodation in the form of self-catering cottages and apartments, camping, alternative luxury camping, static or touring caravan or chalet parks.

Policy TWR 2 of the JLDP supports proposals for the conversion of existing buildings into holiday accommodation provided they are of a high quality in terms of design, layout and appearance that that all the relevant policy criteria can be met.

Criterion ii. requires that the proposed development is appropriate in scale in considering the site, location and/or settlement in question.

Criterion iv. requires that the development is not sited within a primarily residential area or does not significantly harm the residential character of the area.

Criterion v. requires that the development does not lead to an over-concentration of such accommodation.

Policy AT 1: Conservation Areas, World Heritage Sites and Registered Historic Landscapes, Parks and Gardens states that proposal within or affecting the setting and/or significant views into and out of Conservations Areas must have appropriate regard to the adopted Conservation Area Character Appraisal, Conservation Area Plans and Delivery Strategies.

Policy ISA 2: Community Facilities states that proposals leading to the loss of community facilities will be resisted unless the proposal conforms to the relevant criteria listed in the policy.

Criterion 2i. of the policy requires that a suitable replacement facility can be provided by the developer either on or off site, and within easy and convenient access by means other than the car, or ii. it can be demonstrated that the facility is inappropriate or surplus to requirements.

The existing building is of a simple bland design constructed of grey brickwork. During the Cemaes Conservation Area Character Appraisal process, the existing building was identified as being an unsympathetic development within the original designated area and consequently, under a boundary review the conservation area boundary was revised to omit the building, the area to the side and front were however retained within the Conservation Area Boundary.

As part of the proposed conversion, it is proposed to render the building, make amendments to some of the windows and doors, install 6 roof lights on the Southern roof slope and erect a small extension measuring 5.8m x 4.9m to the front gable elevation comprising bedroom and bathroom.

As noted above, a number of objections have been received, which include comments relating to the design of the proposal, which has been described as an unattractive and cheap proposal with very little done to enhance the design of the existing building and that it should be developed to a higher standard of design utilising appropriate materials.

The existing building on the site exhibits little architectural or aesthetic merit and given the very constrained nature of the site and fact that the proposal is for a change of use rather than re-development, the scope to make significant alterations to the existing building may be somewhat limited, nevertheless the Local Planning Authority must assess and determine the application on the basis of that submitted.

The proposed extension and other alterations are relatively minor in nature, finished with materials similar to nearby properties which are predominantly either painted render or pebble dash.

It is therefore considered that the proposal will result in a moderate enhancement to the building, conservation area and views out of the conservation area and is acceptable in terms of design and scale in accordance with policies PCYFF 3, TWR 2 and AT 1 above.

With regard to criterion iv. of policy TWR 2, whilst the site is located within a primarily residential area, there are two public houses in very close proximity, one immediately next door and the building itself was of course formerly a catholic church, it is not therefore considered that the proposal will significantly harm the residential character of the area.

A business plan has been submitted in support of the application and it is considered that the level of detail is commensurate with the proposed development such that compliance with criterion v. of policy TWR 2 has been demonstrated.

The supporting documentation submitted with the application confirms that the church has been unoccupied since 2016 when it was permanently closed following a parish review of church services by the Diocese of Wrexham, consequently it is considered that it has been demonstrated that the facility is surplus to requirement as per policy ISA 2.

The highways department have also been consulted on the application and the comments received, whilst acknowledging objections, accepts that there is an existing use associated with the site and that therefore it must be accepted that some form of redevelopment is acceptable. Three parking spaces are provided as part of the scheme, which is sufficient to cater for the development which comprises one, 1 bed unit and one 2 bed unit. The Highway officer notes that the existing use, as demonstrated within an objection letter, could generate up to 8 vehicles at the site at a time and which would cause much more inconvenience than the proposed use.

The officer further notes that, notwithstanding any existing issues there may be with car parking in this area, it would be unreasonable to punish this development in this instance as sufficient parking provision is included to cater for the development.

The officer concludes that the proposed development will not generate a significant increase in use which would have a negative impact on the highway network and conditions are recommended regarding the car parking provision and the submission of a Construction Traffic Management Plan prior to the commencement of works.

Given the lawful use of the existing building (Class D1 Church) and other potential D1 uses which could lawfully be made of the building, it is not therefore considered that the proposed development will give rise to unacceptable impacts upon the privacy and amenities of neighbouring properties, furthermore a condition will be imposed requiring that all windows in the Southern elevation be obscurely glazed to mitigate any overlooking and protect the privacy and amenities of those properties potentially affected.

Conclusion

The proposal is considered to be acceptable and accords with relevant local and national planning policies and it is not considered that the development gives rise to unacceptable impact upon the character and appearance of the designated Conservation Area or upon the privacy and amenities of nearby residential occupiers subject to conditions.

The recommendation considers the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). The recommendation takes into account the ways of working set out at section 5 of the WBFG Act and it is considered that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

Recommendation

(01) The development shall begin not later than five years from the date of this decision.

Reason: To comply with the requirements of Section 91(1) of the Town and Country Planning Act 1990 (as amended).

(02) The commencement of the development shall not take place until there has been submitted to and approved in writing by the Local Planning Authority, a Construction Traffic Management Plan (CTMP). The CTMP shall include:

- (i) The routing to and from the site of construction vehicles, plant and deliveries, including any Temporary Traffic Management Measures and Traffic Regulation Orders necessary to facilitate safe construction of the scheme including any advance, preparatory and demolition works;**
- (ii) The type size and weight of construction and delivery vehicles to be used in connection with the construction of the development, having regard to the geometry, width, alignment and structural condition of the highway network along the access route to the site;**
- (iii) The timing and frequency of construction and delivery vehicles to be used in connection with the development, having regard to minimising the effect on sensitive parts of the highway network and construction routes to the site, including regard for sensitive receptors e.g. schools and network constraints;**
- (iv) Measures to minimise and mitigate the risk to road users in particular non-motorised users;**
- (v) The arrangements to be made for on-site parking for personnel working on the Site and for visitors;**
- (vi) The arrangements for storage of plant and materials and the loading and unloading of plant and materials**
- (vii) Details of measures to be implemented to prevent mud and debris from contaminating the adjacent highway network;**

The construction of the development shall be completed in accordance with the approved plan.

Reason: To ensure reasonable and proper control is exercised over construction and demolition traffic and construction activities in the interests of highway safety.

(03)The car parking accommodation shall be completed in full accordance with the details as shown on the submitted plan drawing reference 035 04 rev A before the use hereby permitted is commenced and thereafter retained solely for those purposes.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

(04) Prior to the commencement of the development hereby approved the colour of the external render proposed to be used on the external surfaces of the building shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance of the development.

(05) The development shall be occupied as holiday accommodation only and shall not be occupied as a person's sole or main place of residence or by any persons exceeding a period of 28 days in any calendar year. An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.

Reason: To define the scope of this permission.

(06) Before the development hereby permitted is brought into use, all windows in the Southern elevation shall be fitted with obscured glazing, details of which shall first be submitted to and agreed in writing by the local planning. The windows shall be permanently retained in that condition thereafter.

Reason: To protect the amenities of nearby residential occupiers.

(07) No surface water from any increase in the roof area of the building / or impermeable surface within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

(08) The development hereby permitted shall be carried out in strict conformity with the details shown on the plans below, contained in the form of application and in any other documents accompanying such application unless included within any provision of the conditions of this planning permission:

- **035 03: Proposed Floor Plans and Elevations**
- **035 04 rev A: Proposed Block Plan**
- **035 SK1: Detail of proposed finishes to existing church external wall.**
- **Structural Inspection: JP Structural Design, RP-07380-001, Issue 1, December 2018.**

Reason: To ensure that the development is implemented in accord with the approved details.

The development plan covering Anglesey is the Anglesey and Gwynedd Joint Local Development Plan (2017). The following policies were relevant to the consideration of this application: PS1, ISA2, TRA4, PS5, PS6, PCYFF1, PCYFF2, PCYFF3, PS14, TWR2, PS20 and AT1.

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

Application Reference: VAR/2019/14

Applicant: Mr & Mrs Ashworth

Description: Cais o dan Adran 73A ar gyfer dileu amod (08) (lefel llawr gorffenedig) ac amrywio amod (11) (cynlluniau a ganiatawyd dan cais am y materion a gadwyd yn ôl rhif 15C48J/FR/DA) o ganiatad cynllunio amlinellol rhif 15C48H (cais amlinellol ar gyfer codi annedd ynghyd a creu mynedfa newydd i gerbydau) er mwyn galluogi diwygio gosodiad a dyluniad yr annedd a'r modurdy a ganiatawyd gynt ynghyd a codi wal amddiffyn llifogydd perimedr newydd yn / Application under Section 73A for the deletion of condition (08) (finished floor level) and the variation of condition (11) (plans approved under reserved matters application ref 15C48J/FR/DA) of outline planning permission reference 15C48H (outline application for the erection of a dwelling together with the construction of a vehicular access) so as to allow for amendments to the siting and design of the previously approved dwelling and detached garage together with the erection of a new perimeter flood defence wall at

Site Address: Cae Eithin, Malltraeth



Report of Head of Regulation and Economic Development Service (Joanne Roberts)

Recommendation: Permit

Reason for Reporting to Committee

At the request of the Local Members due to concerns regarding access and land ownership issues.

At the meeting held on the 3rd July, members resolved to visit the site. The site visit took place on the 17th July 2019 and members will now be familiar with the site.

Proposal and Site

The application is submitted under Section 73A for the deletion of condition (08) (finished floor level) and the variation of condition (11) (plans approved under reserved matters application ref 15C48J/FR/DA) of outline planning permission reference 15C48H (outline application for the erection of a dwelling together with the construction of a vehicular access) so as to allow for amendments to the siting and design of the previously approved dwelling and detached garage together with the erection of a new perimeter flood defence wall.

The application site is located within the development boundary of Malltraeth which is identified as a Coastal Village in the Joint Local Development Plan.

Key Issues

The key issues are whether the development is in compliance with local and national planning policies, and whether it is acceptable in terms of siting, design, impact upon flood risk, the character and appearance of the area and amenities of neighbouring properties.

Policies

Joint Local Development Plan

Strategic Policy PS 5: Sustainable Development
Policy PCYFF 2: Development Criteria
Policy PCYFF 3: Design and Place Shaping
Policy PCYFF 1: Development Boundaries
Strategic Policy PS 17: Settlement Strategy
Policy TAI 4: Housing in Local, Rural & Coastal Villages
Policy TAI 15: Affordable Housing Threshold & Distribution
Policy AMG 2: Special Landscape Areas
Planning Policy Wales (Edition 10, December 2018)
Supplementary Planning Guidance - Design Guide for the Urban and Rural Environment (2008)
Technical Advice Note 15: Development and Flood Risk (2004)

Response to Consultation and Publicity

| Consultee | Response |
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| Awdurdod Glo / Coal Authority | The application site does not fall within a Development High Risk Area. |
| Cyfoeth Naturiol Cymru / Natural Resources Wales | No objection. |
| Cynghorydd Peter Rogers | Request that the application be referred to the Planning Committee on the grounds that there is a dispute over ownership of the land and there are further claims that the development has breached the original planning decision. |
| Cynghorydd Bryan Owen | Request that the application be referred to the Planning Committee due to access and land ownership issues. |

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| Cyngor Cymuned Bodorgan Community Council | Objection with regard to access and landownership issues and concern regarding the visual impact of the proposed flood defence wall. |
| Pennaeth y Gwasanaeth - Priffyrdd / Head of Service - Highways | No objection. |
| Adain Dechnegol (Draenio) / Technical Section (Drainage) | As the application site is within a C2 flood zone we shall allow NRW to comment upon the flood risk aspect of the application. |
| Dwr Cymru Welsh Water | No comments. |

The application was afforded two means of publicity. These were by the posting of notices near the site and serving of personal notification letters on the occupiers of the neighbouring properties. The latest date for the receipt of representations was the 07/05/2019. At the time of writing this report, four letters had been received, the main points raised are summarised below:

- i. The development will increase the visual impact of the development.
- ii. The dwelling is 250mm wider, 250mm longer and 25% higher than approved.
- iii. The erection of a new flood defence wall will exacerbate the problem of visual impact still further.
- iv. The height of the dwelling impacts upon the amenities of the neighbouring property particularly as it has been built higher than the proposed plans previously approved.
- v. The proposed flood defence wall would potentially cause more problems with water to drain into the adjoining field which will make it wet for livestock unless they have adequate drainage in place.
- vi. The application relates only to the changes to the dwelling and does not relate to the issues of the access to the property. This is vital as there are land ownership issues with the access and they cannot comply with highways requirements. This should be resolved first as it stand there is no right of way for vehicles.

Points i - vi above are addressed in the main body of this report and in response to points v & vi I would comment as follows:

- vii. The dwelling is located on higher ground than the paddock to the front, therefore should a flood event occur the paddock would be affected, it is not anticipated that any flooding of the paddock, or the surrounding area would be exacerbated further as a result of the flood defence wall due to the fact that the proposed wall is to be constructed close to the dwelling.
- viii. The LPA are aware of issues relating to the access as regards a breach of condition and an ongoing land ownership dispute. Proposals have been drawn up in an effort to resolve the planning issues and a further application will be submitted pending determination of the current application. The access and driveway to Cae Eithin was approved as a separate and stand-alone permission following the grant of the original outline and reserved matters permissions in which the original access to the proposed dwelling was via the shared access drive serving Pen Parc. The development of the dwelling has been undertaken and is served by its own private access and driveway subsequently approved, but in relating to this an ongoing enforcement investigation is proceeding. However, given that the amendments to the dwelling potentially render it unauthorised, it was deemed prudent to deal with these matters first to regularise matters relating to the dwelling.

A further letter was received following the Planning Committee held on the 3rd July 2019, the content of the letter and the Local Planning Authority's response is detailed in the main body of the report.

Relevant Planning History

15C48 – Erection of 10 starter homes on O.S 8694 & 9090, Pen Parc, Malltraeth – Refused 08/01/1990

15C48A - Erection of 10 starter homes on O.S 8694 & 9090, Pen Parc, Malltraeth – Refused 20/08/1990

15C48F - Outline application for the erection of 24 dwellings, comprising of 13 detached dwellings and 11 affordable dwellings together with construction and alterations to the vehicular access and the construction of a new pedestrian access on land between David St and Viaduct Road, Malltraeth – Refused 06/07/2005

15C48G – Outline application for residential development on land at Pen Parc, Malltraeth – Refused 18/06/2007

15C48H – Outline application for the erection of a dwelling together with the construction of a vehicular access on land adjacent to Pen Parc, Malltraeth – Granted 07/02/2012

15C48J/FR/DA - Application for reserved matters for the erection of a dwelling together with the construction of a vehicular access on land adjacent to - Pen Parc, Malltraeth – Granted 17/03/2015

15C48K/FR - Full application for the construction of a new vehicular access and drive at - Pen Parc, Malltraeth - Granted 25/06/2015

15C48L/MIN - Minor amendments to scheme previously approved under planning permission 15C48J/FR/DA so as to install solar - Pen Parc, Malltraeth - Granted 23/12/2015

Main Planning Considerations

The principle of a dwelling in this location has already been established under outline planning permission reference 15C48H and subsequent approval of the reserved matters under planning permission reference 15C48J/FR/DA and has since been completed and occupied.

As part of the initial outline and reserved matters permissions, it was originally intended that access to the property would be shared with Pen Parc with an access and driveway constructed from the existing driveway to Pen Parc into the plot, however planning permission was subsequently granted in June 2015 for a separate private access and driveway to Cae Eithin under planning permission reference 15C48K/FR.

The application has been submitted following an enforcement investigation relating to a breach of conditions of the above mentioned separate and stand alone planning permission for the access (ref 15C48K/FR) during which anomalies relating to the dwelling itself were identified.

The identified issues in relation to this application are:

- i. The finished floor level (FFL) of the dwelling is 170mm below the minimum level of 4.42m Above Ordnance Datum (AOD) stipulated in condition (08) of the outline permission;
- ii. The dwelling is sited some 2m further North East than approved;
- iii. The dwelling is 250mm longer and 250mm wider than approved;
- iv. Amendment to the orientation of the garage.

In addition to the above, breaches were also identified in relation to an extension to the curtilage and conditions of the planning permission for the access. Separate applications will be submitted in an effort to regularise these matters pending determination of the current application.

The current application has been called-in by the Local Members on the grounds of issues relating to the access and land ownership. The LPA acknowledge issues relating to access and land ownership, however they have little bearing in relation to this application which relates specifically to the dwelling. The private access and driveway to Cae Eithin was approved as part of a later, separate and stand-alone application and pending determination of this application, a further application will be submitted in an effort to regularise outstanding planning issues relating to the access. Whilst land ownership disputes are

generally private legal matters, it is anticipated that any issues there may be in this regard will be resolved as part of the forthcoming application.

Notwithstanding that development plan policies have changed since planning permission was originally granted through the adoption of the Anglesey and Gwynedd Joint Local Development Plan, the site is nevertheless located within the development boundary of Malltraeth and Policy TAI 4: Housing in Local, Rural & Coastal Villages states that subject to the requirements of Policy TAI 15 regarding the provision of affordable housing, proposals for open market housing will be granted provided they conform to all the following criteria:

- i. That the size, scale, type and design of the development corresponds with the settlement's character,
- ii. The site is within the settlement's development boundary.

As the application relates to a single dwelling, there is no requirement to provide an element of affordable housing in this instance.

The principle of the development is therefore considered to be acceptable and in accordance with the provisions of policy TAI 4.

In relation to the specific issues that this application is seeking to regularise:

Finished Floor Level (FFL)

Condition (08) of the outline permission ref 15C48H required that the finished floor level (FFL) of the dwelling be set at a minimum of 4.42m AOD to safeguard the development and future occupants from flooding for the lifetime of the development, however the actual finished floor level of the dwelling is 4.25m AOD, therefore 170mm lower than the level specified in the condition.

Prior to the submission of the application the applicant employed the services of a Flood Management Consultant and liaised with Natural Resources Wales to explore the options available to address the identified flood risk as a result of the reduced FFL.

It is proposed to construct a new perimeter flood defence wall around the property with the top of the flood defence wall set at 4.7m AOD to reflect the fact that the flood zone for the area has been reclassified from a C1 zone to a C2 zone since the initial permissions were granted. This level represents the 0.5% Annual Exceedence Probability (AEP) sea level with allowances for 100 years of climate change. The average height of the wall will be 600mm +/- approx. 200mm dependant on ground levels.

The proposed flood defence wall will be constructed close to and around the entire dwelling with a small gap in the Northern corner fitted with a flood defence guard to allow for access and egress. The wall will be finished to match the existing dwelling.

The dwelling is located approximately 118m from the highway, separated therefrom by a paddock. The lower parts of the dwelling are largely screened by existing landscape features and consequently it is not considered that the proposed flood defence wall which will be finished to match the existing dwelling will give rise to an unacceptable visual impact.

Natural Resources Wales have been consulted as part of the application and have raised no objection, indeed in light of the fact that the flood risk of the area has since been reclassified from a C1 zone to a C2 zone and that the height of the flood defence wall takes account of this, the dwelling will in fact be better protected from flooding events than would have been the case had the dwelling been constructed in accordance with the original details. In addition, given the proposed walls close proximity to the dwelling, coupled with the fact that the dwelling is located on slightly higher ground than the neighbouring property, it is not anticipated that the neighbouring property would be impacted to a significantly greater extent should a flooding event occur.

In light of the above it is therefore considered that the deletion of condition (08) is acceptable in lieu of the construction of the flood defence wall and a condition will be imposed requiring that the flood defence wall be constructed within 6 months of the date of the permission and that the dwelling shall not be occupied until it is completed and operational.

Siting

Following the discussion at the Planning Committee on the 3rd July and the Members decision to undertake a site visit, further representations have been received drawing attention to a perceived error in the initial report in relation to the position of the dwelling in relation to the neighbouring property and the boundary between them.

The representation quotes the following extract from the report:

"The dwelling has been constructed some 2m North East of the approved position (further away from Pen Parc). It was noted during the enforcement investigation that there has been an alteration in the position of the boundary between Pen Parc and Cae Eithin such that the boundary now lies some 2m closer to Cae Eithin than was shown on the plans submitted as part of the initial planning applications and which may account for the slight adjustment in the position of the dwelling."

The writer has provided two aerial photographs taken in 2018 and prior to 2015 and states that these demonstrate that the boundary fence has not be re-sited and that the information submitted to the Planning Committee was therefore incorrect.

The writer further states that the confusion has been caused by the fact that the plans submitted as part of the initial planning applications do not conform with OS plans, Land Registry Plans or reality and that at the time of setting out the new building both the groundworks contractor and the main building contractor, who were furnished with the drawings, were, for several days, unable to reconcile these with the real world and requested access to the neighbouring property on numerous occasions to measure and re-measure from points of the adjacent buildings. Their attempts to take corroborating measurements from the fence between the two properties to the new build failed.

It goes on to state that during the enforcement investigation the Enforcement Officer was presumably using the same submitted drawings when considering the position of the new building. The question then has to be asked, is the building correctly sited because it complies with the position shown on the inaccurate but approved application? Or is it correctly sited with reference to the other buildings? This should be established prior to regularising the breach of conditions as a breach may not exist at all.

It further comments that what is known is that the stock proof fence between the properties is 2 metres to the South West of the legal property boundary and is depicted on OS plans and Land Registry Plans. This again is evidence of the inaccuracy of the submitted plans and can be determined from examination of the attached drawings. An extrapolation in a North Westerly direction of the fence line shown on the Proposed Location Plan gives a line which does not make contact with Pen Parc Bungalows. By comparison the projected line on OS plans and the Land Registry Plans passes through 7 Pen Parc Bungalows. The new construction is therefore probably 2m closer to Pen Parc than the Enforcement Officer calculated, not further away.

The writer goes on to acknowledge that it is appreciated that the Planning Department cannot become involved in land ownership disputes but explains that it is errors as detailed above, in the plans submitted as part of the initial planning application, and their variance with legal documentation and OS plans, which triggered the initial boundary dispute. The entire boundary between the two properties detailed on the submitted plans has been shown to be incorrect in relation to the OS plans and Land Registry plans (all in the applicant's favour).....

Following receipt of the above representations further assessment has been undertaken in order to understand and establish the situation in relation to the actual position of the boundary and dwelling in

comparison the details which were initially submitted and approved as part of the outline and reserved matters applications.

The position of the boundary between Pen Parc and Cae Eithin as shown on the plans submitted as part of both the outline and reserved matters applications was 2.4m from the rear of Pen Parc's detached garage (excluding the lean to extension to the rear of the garage). In reality the boundary (stock-proof fence) lies 4.6m from the rear of the garage.

The LPA do not dispute however that the position of the fence has been altered but rather it was positioned in the incorrect location at the outset. That this caused difficulty and confusion for the builders at the time of setting out the new dwelling is entirely understandable.

It can be confirmed that the submitted (and approved) plans were used during the enforcement investigation when considering the position of the new dwelling, there were after all no other details against which to assess matters, in addition that there are discrepancies between OS data and actual measurements is an issue which became apparent when attempting to establish whether the new access and driveway conformed with the approved plans and which has served to only confuse matters further. In relation to Land Registry plans, it is not uncommon for Land Registry plans to differ from planning application plans, hence the reason the LPA do not become embroiled in land ownership disputes.

The writer claims that the stock-proof fence is 2 metres to the South West of the legal property boundary and is depicted on the OS plans and Land Registry Plans, assuming that the plans referred to are those accompanying the e-mail, then it is pointed out that the position of the boundary on each of the plans is different, with the actual position broadly depicted correctly on the Land Registry Plan and which is in fact, on average approx. 2m to the North East than the position indicated on the plans submitted as part of the outline and reserved matters applications.

The question is asked whether the building is correctly sited because it complies with the position as shown on the inaccurate but approved plans or is it correctly sited with reference to the other buildings?

According to the proposed site plan approved under the reserved matters application, the distance between the gable of Pen Parc and the gable of Cae Eithin was 23.2m (12m between the rear of Pen Parc's garage and Cae Eithin). The actual distance (based on OS data) is 24.8m between the gable's of each property and 13.6m from the rear of Pen Parc's garage. Cae Eithin is therefore 1.6m further away from Pen Parc than was shown on the approved plans. The result of this is that it is Pen Parc which has in fact benefited because the boundary is located some 2m further away from Pen Parc than was approved and does not favour the applicant as claimed.

In response to the above question, the answer is therefore 'neither'. It appears that the position of the dwelling has been determined in relation to the 'altered' position of the boundary and that as a result of boundary being 1.6m further away from Pen Parc than it's approved position, the dwelling has moved commensurate with it.

It is not considered that this slight variation, results in a development which is materially different to that which was approved or impacts upon the amenity of the area and neighbouring properties such that refusal of the application could be justified in this regard.

Scale

It was also found during the enforcement investigation that the dwelling measures 250mm longer and 250mm wider than approved.

Again, it is not considered that this slight variation, results in a development which is materially different to that which was approved or impacts upon the amenity of the area and neighbouring properties such that refusal of the application could be justified in this regard.

Garage

As access to the property was initially via the existing access and driveway serving Pen Parc, the approved garage was orientated with the front gable facing Pen Parc. A separate private access and driveway was subsequently granted and as a result the orientation of the garage has been altered such that the front gable of the garage now faces the new driveway. This is considered to be an acceptable and reasonable adjustment which does not give rise to any detrimental impacts upon the character and appearance of the area or the amenities of neighbouring properties.

Height

Concerns have been raised that the height of the dwelling is in breach of condition (10) of outline planning permission ref 15C48H which states that the building proposed to be erected on the site shall be of a single storey or of a dormer construction and the ridge height shall not exceed 6 metres.

It was clear from the outset, as part of the original outline application (15C48H), that as the site was located within a flood risk area, that it would be necessary to raise the original ground level in order to achieve minimum finished floor level to mitigate the risk of flooding and in accordance with NRW's requirements a condition was imposed stipulating the minimum finished floor level.

Information contained within the Design and Access Statement submitted as part of the outline application clearly stated that, in terms of the scale of the dwelling, the ridge height would be no higher than 6m from the finished floor level – not original ground level and the outline planning permission subsequently issued included a condition stipulating the minimum finished floor level together with a condition that the ridge height shall not exceed 6m.

It is therefore evident that in both the outline and reserved matters applications, that the maximum ridge height was determined from the proposed finished floor level, having regard to the necessity to increase the ground level to mitigate the flood risk and not the original ground level and it is on this basis that both applications were assessed and determined.

The original ground level has been increased by approximately 1m and the height from the new ground level to the floor is 300mm, the height to ridge from the floor level is 5.85m giving an overall height from the original ground level to ridge of approx. 7.15m.

It is noted however, that whilst condition (10) of the outline permission stipulates that the ridge height shall not exceed 6 metres, it does not however specify from where measurements ought to be taken, consequently it is not considered that the condition meets the Circular tests for conditions as regards precision and would therefore likely be unenforceable.

It is clear, based upon the plans that were submitted and subsequently approved under the reserved matters application that the overall height to ridge from the original ground level would in fact exceed 6m. Therefore, had the original intention of the condition been to limit the height of the dwelling from the original ground level, then not only should the condition have been clearer in this regard but the plans would need to have been amended to reduce its height to take account of this.

Concern has also been raised regarding the impact of the increase in the width of the dwelling, by 250mm upon the height of the roof and that the actual height of the dwelling exceeds the permitted height by 450mm.

The approved height from the FFL to Ridge was 5.40m, the actual height from FFL to ridge is 5.85m, a difference of 450mm. However, taking into account a small increase as a result of the increase in width and the fact that the FFL should have been 170mm higher than it has been constructed, the overall increase in the height of the dwelling is 280mm. This represents a minor increase to the approved height, but which remains under 6m from the FFL as required by condition (10) of the outline permission.

Notwithstanding the potential unenforceability of the condition, in terms of the impacts on the amenity of the locality and nearby residential occupiers, it is not considered that the height of the dwelling as built has an unacceptable impact such that refusal of the application could be warranted.

Conclusion

The proposed flood defence wall will mitigate the flood risk to the property consequently the deletion of condition (08) of the outline planning permission is considered to be acceptable subject to a new condition requiring the wall to be constructed within 6 months and that the dwelling shall not be occupied until it is completed and operational.

The variation to the siting and scale of the dwelling and amendment to the orientation of the garage does not, in the opinion of the Local Planning Authority, lead to a development which is materially different to that which was originally granted. The amendments are considered to be acceptable and do not give rise to any detrimental impacts upon the character and appearance of the area or the amenities of neighbouring properties.

Whilst every effort has been made to establish the precise facts in relation to various aspects of this matter, it is evident that this has not always been possible. Planning issues (particularly in relation to planning enforcement) are rarely black and white and there are often 'grey areas'.

The extent of the differences between what has been approved and what has been built is less important than the overall impacts of the changes. What is clear, is that notwithstanding some minor variations, the development as built does not depart from the approved details to such an extent that it give rise to considerably greater impacts such that the application should be refused.

The recommendation considers the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). The recommendation takes into account the ways of working set out at section 5 of the WBFG Act and it is considered that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

Recommendation

(01) Foul water and surface water discharges must be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

(02) No surface water shall be allowed to connect either directly or indirectly to the public sewerage system unless otherwise approved in writing by the local planning authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and to ensure no detriment to the environment.

(03) No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

(04) The car parking accommodation shall be completed in accord with the details hereby approved before the use hereby permitted is commenced.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

(05) Within 6 calendar months of the date of this permission, the flood defence wall and gate shall be constructed in accordance with the details contained in the Flood Mitigation Assessment (Phil Jones Consultancy, August 2018) and details shown on drawing number 2250:19:3: Proposed Site Plan and Section. The dwelling shall not be occupied until the flood defence wall and gate have been completed and are operational.

Reason: To safeguard the development and future occupants from flooding for the lifetime of the development.

(06) The development hereby permitted shall be carried out in strict conformity with shown on the plans below, contained in the form of application and in any other documents accompanying such application unless included within any provision of the conditions of this planning permission:

- 2250:19:3: Proposed Site Plan & Section**
- 2250:19:4a: Proposed Elevations**
- Flood Mitigation Assessment, Phil Jones Consultancy, August 2018**

Reason: To ensure that the development is implemented in accord with the approved details.

The development plan covering Anglesey is the Anglesey and Gwynedd Joint Local Development Plan (2017). The following policies were relevant to the consideration of this application: PS5, PCYFF1, PCYFF2, PCYFF3, PS17, TAI4, TAI15 and AMG2.

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.