

Application Reference: VAR/2019/84

Applicant: Rupert Paget

Description: Cais o dan Adran 73a i ddiwygio amod (02) (Dim gwaith i'w wneud adeg tymor nythu), amod (03) (Dim datblygiad tan bod mesurau lliniaru wedi cael eu cyflwyno a'u cymeradwyo) , amod (04)(Dim datblygiad tan bod datganiad dull wedi cael ei gyflwyno) ac amod (07) (Dim datblygiad tan bod cofnod ffotograffig wedi cael ei gyflwyno) o ganiatâd cynllunio 21C169/ Application under Section 73a for variation of condition (02) (No work to be done during nesting season), condition (03) (No development until mitigation measures have been submitted and approved by the Local Planning Authority), condition (04) (No development shall take place until Method Statement is delivered) and condition (07) (No development shall commence until full photographic record of the building has been submitted) of planning permission 21C169

Site Address: Rhos Bothan, Llanddaniel, Gaerwen



Report of Head of Regulation and Economic Development Service (David Pryce Jones)

Recommendation: Caniatáu / Permit

Reason for Reporting to Committee

The planning application is a departure from the development plan which the Local Planning Authority are minded to approve.

Proposal and Site

Planning permission (21C169) has been granted to convert an existing building which is located in a countryside location into a single dwelling. The development is currently under construction but the

following planning conditions of planning permission 21C169 have not been discharged in writing by the Local Planning Authority:

(02) No development in the conversion of the buildings hereby approved shall take place during the bird breeding season (1st March to 30th September in any year) unless the site has been surveyed by an ecologist and confirmed to be absent of nesting birds and a report on the findings has been submitted to an approved in writing by the Local Planning Authority.

(03) No development shall take place until mitigation measures for the loss of nesting bird sites, together with a timetable for their installation has been submitted to an approved in writing by the Local Planning Authority. The scheme shall thereafter proceed in accordance with the approved details.

(04) No development in respect of the conversion works shall take place until a method statement to deliver mitigation works outlined in Clwydian Ecology Protected Species Survey Report 22nd March 2016, together with a timetable for the works has been submitted to an approved in writing by the Local Planning Authority. The works shall thereafter proceed in accordance with the approved details.

(07) No development shall commence (including any demolition, site clearance or stripping-out) until a full photographic record of the building has been submitted to and approved in writing by the Local Planning Authority before being deposited with the regional Historic Environment Record.

This planning application is submitted under section 73a of the Town and Country Planning Act 1990 (as amended) to regularise the position and the information required to discharge the planning conditions above accompany the planning application.

Key Issues

- Compliance development plan policies in relation to the conversion of existing buildings in the countryside to a residential use.
- Lawfulness of the development implemented.
- Acceptability of the information submitted to discharge the planning conditions.

Policies

Joint Local Development Plan

Anglesey and Gwynedd Joint Local Development Plan (2017) "JLDP"

TRA 2: Parking Standards

PS 5: Sustainable Development

PCYFF 1: Development Boundaries

PCYFF 2: Development Criteria

PCYFF 3: Design and Place Shaping

PCYFF 4: Design and Landscaping

TWR 2: Holiday Accommodation

AMG 3: Protecting and Enhancing Features and Qualities that are Distinctive to the Local Landscape Character

AMG 5: Local Biodiversity Conservation

AT 3: Locally or Regionally Significant Non Designated Heritage Assets

Planning Policy Wales (10th Edition)

Technical Advice Notes 12: Design

Supplementary Planning Guidance: Design in the Urban and Rural Built Environment

Response to Consultation and Publicity

Cynghorydd Eric Wyn Jones: No observations at the time of writing.

Cynghorydd Dafydd Roberts: No observations at the time of writing.

Cyngor Cymuned Llanddaniel Fab Community Council: No observations at the time of writing.

Prifffyrdd / Highways: Observations awaited at the time of writing.

CNC: No observations at the time of writing.

Ymgynghorydd Ecolegol ac Amgylcheddol / Ecological and Environmental Advisor: No observations at the time of writing.

GCAG / GAPS: No observations at the time of writing.

The application was afforded three means of publicity. These were by the posting of a site notice near the site, the publication of a notice in the local press and the serving of personal notifications on the occupants of neighbouring properties. The latest date for the receipt of representation was 06.01.19. At the time of writing no representation had been received at the department.

Relevant Planning History

21C169 - Full application for change of use of outbuilding into a dwelling, improvements to the existing access together with the installation of a sewage treatment plant – Conditionally approved 21.07.2016.

Main Planning Considerations

Compliance development plan policies in relation to the conversion of existing buildings in the countryside to a residential use - The building subject to this application is located in the countryside under the provisions of PCYFF 1 of the JLDP. Under the former development plan the conversion of existing buildings in the countryside to a residential use such as that being applied for was permitted subject to the listed criteria. The JLDP was adopted on 31.07.17 and superseded the former development plan. Under the provisions of policy TAI 7 (Conversion of Traditional Buildings in the Open Countryside to a Residential Use) of the JLDP the conversion of existing buildings to residential purposes is only permitted where evidence is provided that an employment use of the building is not viable and then only for affordable housing purposes or as a subordinate element in a wider scheme. The planning application subject to this report does not comply with any of these requirements and has therefore been advertised as a departure from the current development plan comprising the JLDP.

Lawfulness of the development implemented - The application form states that the development commenced on the 30.09.19 which is within the statutory five year period of planning permission 21C169 but is currently in breach of planning conditions (02), (03), (04) and (07). Given that the proposal does not comply with the JLDP as described above it can only be considered acceptable if the planning permission 21C169 has been lawfully implemented and there then remains what is termed a "fall-back position".

To determine whether the development implemented is lawful requires consideration of various planning case law from which the following points can be derived and applied sequentially:

1. Is it a pre-condition to lawful development and if so, has it been complied with;
2. If it has not been complied with, can the developer bring himself within one of the recognised exceptions in case law such as if the breached condition is not central to the development non-compliance does not render the development unlawful.
3. Would a decision to initiate enforcement be judicially reviewable e.g. because it would be irrational or an abuse of power.

In terms of the first criterion planning conditions (02), (03), (04) and (07) are all conditions precedent which have not been complied with. Moving on to criterion 2. none of the conditions precedent breached are central to the development approved such that non-compliance would render the development unlawful and planning permission 21C169 is therefore considered lawful.

Acceptability of the information submitted to discharge the planning conditions - The third criterion need not therefore be applied in consideration of the lawfulness of planning permission 21C169. Information has been submitted with this planning application to regularise these planning conditions (02), (03), (04) and (07) and comments on the acceptability of these details are awaited at the time of writing.

Planning permission 21C169 included conditions requiring the implementation of the vehicular access to the development in accord with planning conditions (05) (visibility splays) and (06) (boundary details visibility splays) and the latter condition required that these details were approved in writing by the local planning authority. Work to the access have been completed and visibility splays provided with clawdd either side of the vehicular access lowered. The comments of the council's Highway Section on the acceptability of the work implemented in relation to the provisions of these planning conditions is awaited at the time of writing.

Conclusion

To sum up therefore it appears that planning permission 21C169 has been lawfully implemented and as there remains a "fall-back position" the proposal is considered acceptable notwithstanding the provisions of policy TAI 7. Subject to the comments of the outstanding consultees in relation to the acceptability of the information submitted to regularise planning permission (02), (03), (04) and (07) this application is considered acceptable.

Recommendation

Subject to the receipt of any comments from Natural Resources Wales, Ecological and Environmental Adviser, Gwynedd Archaeological Planning Service and the Highways Section that planning permission is granted subject to the following planning conditions:

(01) The development shall proceed in accordance with the following documents and plans, as amended by the conditions imposed:

ERW Consulting Project Statement (DAS) April 08, 2016;
Mitigation Method Statement (November 2019) York Associates
Rhosbothan, Llandaniel Fab Amount of Demolition plan ERW/14.03.2106;
Rhosbothan, Llandaniel Fab - Location Plan of Access drawing ERW/21.06.2016;
Maredudd as Iestyn drawing number C2.1 Ground Floor;
Maredudd ab Iestyn drawing number C2.2 First Floor;
Maredudd ab Iestyn drawing number C2.3 Elevations b
Maredudd ab Iestyn drawing number C2.4 Block Plan Revision E

Reason: To define the scope of this permission.

(02) The development shall be undertaken in accordance with the recommendations contained within Mitigation Method Statement (November 2019) York Associates and submitted under planning reference 21C169.

Reason To safeguard protected species and secure bio-diversity improvements.

The development plan covering Anglesey consists of the Gwynedd Structure Plan (1993), the Ynys Môn Local Plan (1996) and the stopped Unitary Development Plan. The following policies were relevant to the consideration of this application:

TRA 2, PS 5, PCYFF 1, PCYFF 2, PCYFF 3, PCYFF 4, TAI 7, AMG 3, AMG 5, AT 3.

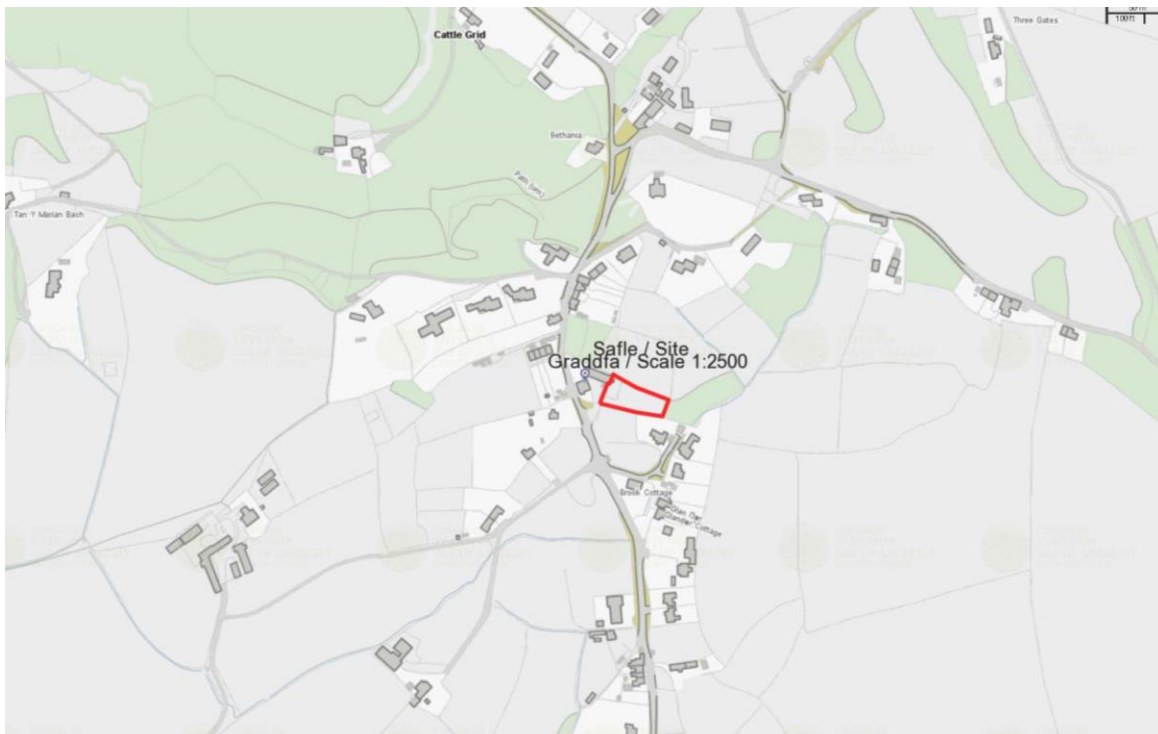
In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

Application Reference: VAR/2019/87

Applicant: Mr & Mrs Roberts

Description: Cais o dan Adran 73 i ddiwygio amod (12) (Cynlluniau a gymeradwyd) o caniatâd cynllunio rhif 35C237D/VAR (Codi annedd) er mwyn diwygior dyluniad yn / Application under Section 73 for the variation of condition (12) (Approved plans) of planning permission reference 35C237D/VAR (Erection of a dwelling) so as to allow amended design at

Site Address: Isfryn, Glanrafon



Report of Head of Regulation and Economic Development Service (Sion Hughes)

Recommendation: Caniatáu / Permit

Reason for Reporting to Committee

The application is recommended for approval which is contrary to Policy TAI 6 of the Anglesey and Gwynedd Joint Local Development Plan.

Proposal and Site

The site is located within the settlement of Glanrafon which is listed as a cluster under the provisions of the JLDP. The site is currently garden area which includes existing access. The enclosure is flanked by mature trees to the rear and a hedgerow which defines the boundary. Existing planning permission for a dwelling is valid on site under 35C237D/VAR which is a two storey dwelling. The application is made to amend the design of the approved dwelling.

Key Issues

The key issue is whether the proposal is an improvement to that originally approved under application reference 35C237D/VAR.

Policies

Joint Local Development Plan

Joint Local Development Plan

Policy PCYFF 2: Development Criteria
Policy PCYFF 3: Design and Place Shaping
Policy TAI 6: Housing in Clusters
Policy PCYFF 3: Design and Place Shaping
Technical Advice Note 12: Design (2016)
Supplementary Planning Guidance - Design Guide for the Urban and Rural Environment (2008)
Policy TAI 6: Housing in Clusters

Response to Consultation and Publicity

Ymgynghorydd Tirwedd / Landscape Advisor: Observations

Cynghorydd Carwyn Jones: No response

Cynghorydd Lewis Davies: No response

Cynghorydd Alun Roberts: No response

Cyngor Cymuned Llangoed Community Council: No objection

Uned Polisi Cynllunio ar y Cyd / Joint Planning Policy Unit: No response

Relevant Planning History

35C237D/VAR - Cais o dan Adran 73 i diwygio amod (01) o caniatâd cynllunio rhif 35C237C (full application for the erection of a dwelling) er mwyn rhoi estyniad 5 mlynedd i ddechrae y datblygiad yn / Application under Section 73 for the variation of condition (01) from planning permission reference 35C237C (full application for the erection of a dwelling) so as to allow a further 5 years to commence the development at Isfryn, Glanrafon, Llangoed. Approved 16/9/2015

35C237E/SCR - Screening Opinion - Barn sgrinio ar gyfer codi annedd yn / Screening opinion for the erection of a dwelling at - Isfryn, Llangoed. EIA NOT REQUIRED 20/8/2015.

35C237B - Adnewyddu cais cynllunio 35C237A cynlluniau llawn ar gyfer codi annedd ynghyd ag addasu'r fynedfa bresennol yn / Renewal of planning permission 35C237A full plans for the erection of a dwelling together with the alterations to the existing access at Former Coal Yard, Glanrafon, Llangoed. Approved 21/6/2010.

35C237C - Cynlluniau llawn ar gyfer codi annedd newydd ynghyd ag addasu'r fynedfa bresennol yn / Full plans for the erection of a dwelling together with alterations to the existing access at Former Coal Yard, Glanrafon, Llangoed. Approved 18/8/2010.

35C237 - Cais amlinellol ar gyfer codi annedd yn/Outline application for the erection of a dwelling at Coal Yard, Llangoed. Approved 30/9/2004.

35C237A - Cynlluniau llawn ar gyfer codi annedd ynghyd a addasu'r fynedfa presennol yn / Full plans for the erection of a dwelling together with alterations to the existing access at Former Coal Yard, Llangoed. Approved 2/8/2005.

Main Planning Considerations

The principle of a dwelling in this location has been established under previous planning permission 35C237D/VAR which was permitted on the 16/09/2015 and therefore valid until 16/09/2020.

Joint Local Development Plan

Since the adoption of the Joint Local Development Plan, Glanrafon is identified as a Cluster Village under the provision of Policy TAI 6. The policy does not support the provision of open market housing. However, as the application site has an extant planning permission the following must be considered:-

- Is there a likelihood that the existing permission can be implemented.
- Are the amendments to the permission better than that previously approved.

A full application reference 35C237D/VAR was approved on the 16/09/2015 and is likely to be implemented.

Amendments

The original proposal had a total external floor area of 181m² spanning two storeys whilst this proposed scheme has a reduced total external floor area of 157m² which again spans two storeys.

The design of the proposal will be modernised with areas of glazing and a balcony to the front elevation. Within the settlement of Glanrafon there is a rich diversity of housing designs including modern contemporary therefore it is not thought that the proposal would damage the character or street scene of the area.

Residential Amenities

The adjoining property is situated close to the boundary and at a distance of 19 metres away from the kitchen window of the new dwelling. This distance complies with the required supplementary planning guidance distance of 15 metres therefore it is considered that any potential overlooking would be to an acceptable level and would not warrant refusal. The first floor balcony which serves bedroom 2 will not overlook the adjoining property as the angles of viewing would only make the drive area visible from the balcony.

The application is contrary to Policy TAI 6 of the Joint Local Development Plan; however the fallback position is that the application site has an extant planning permission for an open market dwelling.

Conclusion

It is considered that the previous application 35C237D/VAR is likely to be implemented and the amendments are an improvement to that previously approved. A condition will be placed on the permission which will preclude the implementation of the previous permission.

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 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.

- **Location Plan / S723.01**

- **Proposed Site Plan / D723.03**
- **Proposed Floor Plans / D711.06**
- **Proposed Elevations / D711.07**

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

(03) The access shall be completed with a bitumen surface for the first 5 metres from the nearside edge of the County Highway with the surface water drainage system completed and in perfect working order before the use hereby permitted is commenced.

Reason: To comply with the requirements of the Highway Authority.

(04) The turning area shall be completed in full accordance with the details as submitted before the dwelling is occupied and thereafter retained solely for those purposes.

Reason: To comply with the requirements of the Highway Authority.

(05) The car parking accommodation shall be completed in full accordance with the details as submitted before the use hereby permitted is commenced and thereafter retained solely for those purposes.

Reason: To comply with the requirements of the Highway Authority.

(06) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Contamination Proposals' then revised 'Contamination Proposals' shall be submitted to the local planning authority.

Reason: To prevent pollution of the water environment.

(07) If during development work site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed 'Contamination Proposals'.

Reason: To prevent pollution of the water environment.

(08) 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 ensure no detriment to the environment.

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

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

(10) Land drainage run-off shall not be permitted to discharge either directly or indirectly into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

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: PCYFF 3, TAI 6.

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.