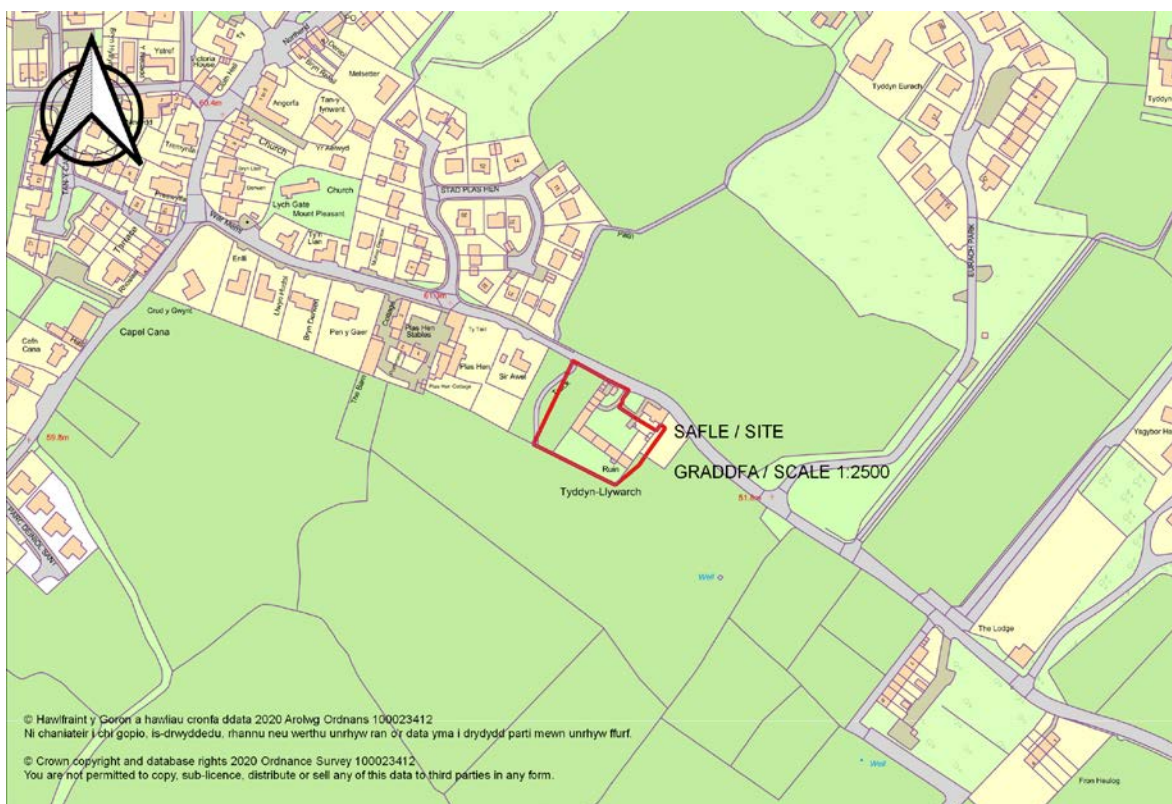


Application Reference: VAR/2020/43

Applicant: Uxbridge Paget

Description: Cais o dan Adran 73A i ddiwygio amod (08) (Cynllun traenio) (09) (Cynllun rheoli traffic adeiladu) (12) (Cofnod fotografig) (13) (Trywdded rhywogaeth wedi amddifin) o caniatâd cynllunio rhif 21C171 (Trosi adeilad allanol fewn i 4 annedd) er mwyn galleuogi cyflwyno manylion arol i'r datblygiad gychwyn yn / Application under Section 73A for the variation of condition (08) (Drainage scheme) (09) (Construction traffic management plan) (12) (Photographic record) (13) (Protected species licence) of planning permission reference 21C171 (Conversion of outbuilding into 4 dwellings) so as to allow details to be submitted after the development has commenced at

Site Address: Tyddyn Llywarch, Llanddaniel



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 (21C171) has been granted to convert an outbuildings which are located on the outskirts of the settlement but within the countryside location into 4 dwellings. The development is currently under construction but planning conditions (08) (Drainage scheme), (09) (Construction traffic management plan), (12) (Photographic record) and (13) (Protected species licence) of planning permission 21C171 have not been discharged in writing by the Local Planning Authority:

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: No observations at the time of writing.

Ymgynghorydd Ecolegol ac Amgylcheddol / Ecological and Environmental Advisor: In relation to the protected species licence this has been issued and there are therefore no issues with condition (13).

GCAG / GAPS: Have no record of a photographic survey being submitted and this is being queried at the time of writing.

Gwynedd Drainage: No observations at the time of writing.

Natural Resources Wales: No observations at the time of writing.

The application was afforded three means of publicity by 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 will be the 08.09.20. At the time of writing no representation had been received at the department.

Relevant Planning History

21C171 Full application for conversion of the outbuilding into 4 dwellings including alterations and extensions, installation of package treatment plant together with improvements to the existing agricultural access and the access to the building – approved 18/8/2016

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 01.07.20 which is within the statutory five year period of planning permission 21C171 but is currently in breach of planning conditions (08) (Drainage scheme), (09) (Construction traffic management plan), (12) (Photographic record) and (13) (Protected species licence). Given that the proposal does not comply with the JLDP as described above it can only be considered acceptable if the planning permission 21C171 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 all the planning conditions are conditions precedent which have not been complied with. Moving on to criterion 13 (Protected species licence) could be regarded as central but as explained in the comments of the Council's Ecological and Environmental Adviser a Protected Species Licence has been granted such that this planning condition is no longer required.

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 21C171. Information has been submitted with this planning application to regularise these planning conditions (08) (Drainage scheme), (09) (Construction traffic management plan), (12) (Photographic record) and comments on the acceptability of these details are awaited at the time of writing though queries have been raised by GAPS which are being considered at the time of writing.

Conclusion

To sum up therefore it appears that planning permission 21C171 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 conditions (08) (Drainage scheme), (09) (Construction traffic management plan), (12) (Photographic record) this application is considered acceptable.

Recommendation

Subject to the receipt of any comments from outstanding consultees that planning permission is granted subject to the expiry of the notification period on the 08.09.20 and no representations being received which raise matters not considered in this report that planning permission is granted subject to the following planning conditions and any recommended by outstanding consultees:

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

Promap ERW/11.02.2016 * Revised 13/06/16
Block Plan C2.5 b
Plans 1+2 C2.1 a
Elevations C2.3 a
Plans 3+4 C2.2
Bat Activity Survey (29.06.2016) Clwydian Ecology
Bat/Bird Mitigation Report 06.07.16) Clwydian Ecology
Building Survey Report (25.04.2016) ERW Consulting
Project Statement (DAS) (25.04.2016) ERW Consulting
Protected Species Survey (26.03.2016) Clwydian Ecology
Construction Traffic Management Plan (CTMP) July 08 2020 ERW Consulting
Conversion To Dwellings Site Plan C

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

(02) Any further structural alterations which may be required to be carried out to the building, and which would be likely to affect its external appearance, consequent upon the implementation of this permission, shall form the subject of an application which shall be submitted to and approved by the local planning authority before any work is commenced on such alterations.

Reason: For the avoidance of doubt.

(03) 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: In order to minimise danger, obstruction and inconvenience to users of the highway and the development.

(04) The access shall be laid out and constructed strictly in accordance with the submitted plan before the use hereby permitted is commenced and thereafter shall be retained and kept free from permanent obstruction and used only for access purposes.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and the development.

(05) The access shall be constructed with its gradient not exceeding 1 in 20 for the first 5 metres back from the nearside edge of the adjoining carriageway.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and the development.

(06) The highway boundary wall/hedge/fence or any new boundary erected fronting the highway shall at no time be higher than 1 metre above the level of the adjoining county road carriageway along the whole length of the sites boundary with the adjoining highway and nothing exceeding this height erected within 2 metre of the said wall/hedge/fence or any new boundary.

Reason: To provide adequate inter-visibility between the access and the existing public highway for the safety and convenience of users of the highway and the access.

(07) The access shall be completed with a bitumen surface for the first 5 metres from the nearside edge of the County Highway.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and the development.

(08) No surface water from within the curtilage of the site shall discharge onto the county highway.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and the development.

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.