



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

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Eich cyf/Your Ref:

Ein cyf/Our Ref: A-PP106-07-035 formerly
APP T6850/X/99/513560/T

Dyddiad/Date: August 2000

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990:SECTION 77
CALLED-IN APPLICATION BY MR AND MRS I M WOOSNAM
APPLICATION FOR THE PROPOSED NEW DWELLING 8t ANCILLARY
AGRICULTURAL BUILDING AT UPPER GWESTYDD, CEFN MAWR, NEWTOWN,
POWYS.

1. Consideration has been given to the report of the Inspector, Mr S Wild MRTPI MIMGT, who reported on the application by Mr and Mrs Martin Woosnam for a proposed dwelling and ancillary agricultural building on land at Upper Gwestydd, Cefn Mawr, Newtown, Powys. The application was dealt with by written representations.

2. On 25 May 1999 the Welsh Office directed, under Section 77 of the Town and Country Planning Act 1990 (the 1990 Act), that the application be referred to it rather than being determined by the local planning authority. Since the date of the letter the Secretary of State's functions have been transferred to the National Assembly for Wales. On 12 July 2000 the Assembly resolved that a committee, to be known as Planning Decision Committee 2000/2 be established, in accordance with Standing Order 27 to discharge the functions of the Assembly under Section 77 of 1990 Act in respect of the application by Mr and Mrs Woosnam as described above. Accordingly, the Planning Decision Committee has considered the application and has resolved under Standing Order 2716 to adopt this letter.

3. The written representations submitted in support of the application together with those of Powys County Council have been considered by the Inspector. The Inspector visited the site and furnished a description of it. His appraisal is set out in paragraphs 7 - 17 of his report, a copy of which is enclosed. The Inspector recommended that planning permission be granted subject to conditions

4. *The formal decision is at paragraph 21 below: the Planning Decision Committee has not accepted the Inspector's recommendation, and planning permission is refused.*



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5. After the Inspector had completed his report Planning Guidance (Wales) Technical Advice Note (Wales) 6 was issued in June 2000 (TAN6). This is to be read in conjunction with Planning Guidance (Wales): Planning Policy First Revision April 1999 (PG(W) and cancels Technical Advice Note (Wales) 6 November 1996, and Annexes B, C, D, E, and F and the Appendix to Planning Policy Guidance Note 7 January 1992. On 26 June 2000 the Assembly's Planning Division wrote to you and Powys County Council inviting representations on the effect of the guidance in TAN 6 June 2000 on the issues relating to the application. On the, 14 July the Assembly wrote to you again seeking further information about the matters raised (copies of those letters are at the Annex to this letter). Your representations in response, and those of the your clients' accountants, have been taken into account. Powys County Council made no representations.

6. In determining this application, the Planning Decision Committee has had regard to Section 54A of the Town and Country Planning Act 1990 which requires it to determine the application in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan for the application site is the 1996 Powys Structure Plan. The Draft Montgomery Local Plan has been taken into account as a material consideration.

7. The Planning Decision Committee agrees with the Inspector that paragraph 5.1.1 and section 10.6 of PG(W), and policy H9 of the Powys Structure Plan on new dwellings in the open countryside, are particularly relevant in this case. The Committee also considers that TAN 6 is particularly relevant to the application.

8. The Planning Decision Committee having taken account of the guidance of PG(W) and TAN 6 consider that the current policy requires consideration to be given to whether the enterprise can function and be viable and to whether the full -time presence on site of a resident worker wholly or primarily engaged in the enterprise is needed and could be supported by the enterprise.

9. In your response on behalf of your clients to the Assembly's letter of 26 June 2000 you argued that ADAS have accepted the need for a new worker, and you also confirmed that, in making that statement, you were referring to the ADAS report dated 22 November 1999. You also argued that the present agricultural activity is financially sound.

10. As regards the need for a resident worker the ADAS report of 22 November 1999 concluded that under the present farming system ADAS would not be able to support a functional need for someone to reside on the holding throughout the year. However, ADAS considered that, with the lambing period running from January to early April and with the two periods when pheasants are on site, essential care would be needed on site for approximately half a year. The report stated that with the pheasant enterprise there would be a sufficient return to labour to exceed the minimum agricultural wage. It also stated that if it were deemed that the pheasant contract was not eligible for inclusion the business conducted from the unit would not be considered to have met the planning test and ADAS would not support the need for a agricultural worker to reside on the site. The Inspector concluded that although the pheasant contract did not strictly fall within the normal definition of agriculture, it was an activity entirely compatible with the agricultural use of the farm, and one which forms part of the economic activities of an agricultural area. He also concluded that a three year contract was long enough to take into account in considering the merits of this case. On this basis, and taking into account the benefit that having a permanent presence on site would have with regard to the proposed pedigree herd and pheasant rearing, and the difficulties of accessing the site in winter, he concluded that a permanent presence on the farm would be justified for about half the year.

11. As regards financial viability the Inspector concluded that the proposal did not currently satisfy the financial test. In response to the Assembly's request for representations on the relevance of TAN6 to the issues relating to the application the applicants' accountants state, with regard to current financial viability, that there were two small losses in the last two years to 1999 and that the most recently completed year to March 2000 is expected to show profits in the region of E1,000. The accountants stated that the losses were as a result of reinvestment, the inclusion of charges for home use as an office and motor expenses.

12. Although a small profit is expected in the year to 31 March 2000, on the basis of the evidence before them, the Planning Decision Committee find it difficult to conclude that the business as currently operated is viable in the sense of being able to support a worker engaged in the enterprise full-time or at least primarily.

13. The Planning Decision Committee have considered whether the full time presence on site of a resident worker wholly or primarily engaged in the enterprise is needed and could be supported by the enterprise. The Committee accept the ADAS assessment that, with the lambing period and the three year pheasant rearing contract, involving two periods each year when pheasants will be on site, it would be essential for a worker to be present for six months of the year. In reaching this view the Planning Decision Committee have taken into account the benefit, identified by the Inspector, of a presence on the site with regard to the pedigree herd and the pheasant rearing, and the difficulties of accessing the site in winter. The Committee also agree with the Inspector that an initial contract period of three years for pheasant rearing would be long enough to take into account in the finances of the business. However, the need for a presence on site for half the year would not meet the requirement of TAN 6 that there must be demonstrated that it is essential for the proper functioning of the enterprise that there should be one or more workers readily available at most times. The evidence provided on the pheasant rearing activity suggests that it does not fall within the strict definition of agriculture since the birds are reared primarily for sporting purposes and cannot therefore be regarded strictly as livestock. It is accepted, nevertheless that it is an activity entirely compatible with the agricultural use of the unit. However, even if the contract is included in the assessment there would only be a requirement for a worker to be available on site at all times for half the year and as such the proposal could not be regarded as meeting the requirements of TAN6. The Inspector also accepted that there was a good indication that the applicants would probably be able to extend the scale of their operation in the foreseeable future but the Planning Decision Committee do not consider there is sufficient evidence for them to conclude that this factor would create a need which satisfies the requirements.

14. Overall, taking into account the current financial state of the business, and the likelihood that its future operation as proposed by your clients would only require the presence of a full-time worker for half the year, the Planning Decision Committee does not consider that the proposal would be in accordance with the guidance of TAN6 regarding permanent agricultural dwellings.

15. While the Inspector considered that the proposal did not strictly meet the functional and financial tests he concluded that it was not appropriate to consider a temporary permission for a caravan on site as he considered the applicants personal circumstances were sufficiently exceptional to justify the grant of permission. A proposal for a temporary caravan permission does not form part of this application and the Planning Decision Committee does not propose to comment on whether a temporary permission would be appropriate in the circumstances of this case.

16. The Inspector cited two considerations in relation to the question of personal circumstances. At paragraph 15 of his report he referred to the applicants' long term commitment to agriculture, their long term ties with the area, their commitment to the growth of the farm business; and at

paragraph 18 he referred to the problems of access to the site in bad weather, the needs of lambing, the need to supervise the pheasant rearing, and the increased security risks associated with converting the sheep flock to a pedigree flock. The latter factors were taken into account by the Committee in their assessment that a need for a presence on site for half the year could be established.

17. The Planning Decision Committee has therefore gone on to consider whether the personal circumstances of the applicants referred to at paragraph 15 of the Inspector report can be considered sufficient to outweigh the policy objection to the proposal. The advice of PG(W) is that while such considerations will rarely outweigh the more general planning considerations the personal circumstances of occupiers personal hardship or the difficulties of businesses which are of value to the local community, may be material to the consideration of a planning permission. The Planning Decision Committee considers that personal circumstances may be weighed in the balance whenever other planning considerations are not decisive. The Inspector concluded that it was possible to justify granting planning permission on the grounds of personal circumstances but in doing so he regarded the factors identified in paragraph 18 of his report as personal to the applicants and he also formed this view without being able to refer to the policy guidance in the new TAN6.

18. Having particular regard to the guidance of TAN 6 guidance the Planning Decision Committee conclude that there is a clear policy objection to the proposal. The Committee are sympathetic to the applicants' intentions to expand the business on the site and do not dispute that they are genuine. However, the Committee do not consider that the personal circumstances, as identified by the Inspector, concerning their commitment to agriculture, the growth of their business and their ties with the area, are sufficiently exceptional to overcome the policy objection to the proposal. The Inspector also referred to the lack of current evidence of existing dwellings available for sale or rent to the applicants in the immediate vicinity of the farm. In view of the Committee's conclusion that the need for a dwelling on the site has not been established this is not a factor which would materially affect the decision.

19. The Planning Decision Committee accept the Inspector's conclusion that there are no overriding objections to the proposal with regard to its visual, environmental and access implications, and that the matter of the approval of a landfill site in the area would not affect the proposal. However, the Committee do not consider that any of these matters, or the imposition of the conditions discussed by the Inspector, would materially affect its conclusion that the application should be refused.

FORMAL DECISION

20. For the reasons set out above, the Planning Decision Committee hereby refuses to grant planning permission for your clients' proposed development of a dwelling and ancillary agricultural building at Upper Gwestydd, Cefnmawr, Newtown Powys in accordance with application no. M99/40.

21. A copy of this letter has been sent to the Director of Planning, Powys County Council, the Shire Planning Officer, Montgomery and Mr and Mrs Woosnam.

Yours sincerely



Dr Richard Edwards AM
Chair, Planning Decision Committee 2000/2

Enc: Leaflet "HC"



Adroddiad

ymweliad a safle cynhaliwyd ar 01/03/2000

Report

site visit held on 01/03/2000

gan/by Stuart B Wild MRTPI MIMgt

Arolygydd cyfarwyddwyd gan Cynulliad
Cenedlaethol Cymru

an Inspector instructed by the National
Assembly for Wales

Dyddiad/Date

Reference: APP/T6850/X/99/513560

- The application was called in for decision by a direction made under Section 77 of the Town and Country Planning Act 1990, for the following reason:
 - i. The Secretary of State is of the opinion that the proposed development raises planning issues of more than local importance, and therefore, he considers that he ought to determine the application himself.
- The application was made by Mr & Mrs I M Woosnam to Powys County Council.
- The site is located at part of Upper Gwestydd, Cefn Mawr, Newtown, Powys SY16 3LA.
- The application (ref:M99/40), dated 17/07/98, was submitted on 7/01/00.
- The development proposed is a new dwelling and ancillary agricultural building.

Summary of Recommendation: I recommend that planning permission be granted subject to conditions set out below.

Procedural matters

1. Since the date of the call in letter the Secretary of State's functions have been transferred to the National Assembly for Wales. In a letter dated 3 September 1999 the Assembly stated that the following matters appear likely to be amongst those relevant to its consideration of the application;
 - ii. The visual, environmental and access implications of the proposed development on the site and surrounding areas, and
 - iii. National and development plan policies, especially in relation to policy on housing in open countryside as set out in Planning Guidance (Wales): Planning Policy (First Revision) and the adopted Powys County Structure Plan (Feb 1996).
2. This report includes a description of the proposal, the site and its surroundings, my appraisal (on the basis of my observations and the written representations of the parties) and my recommendation as to the decision which might be made in this case.

The proposal

3. The application form is dated 17 July 1998 and refers to an application for a new dwelling and ancillary agricultural building. This form related to a previous application which was withdrawn before determination. The same form was resubmitted on 7/01/00. The application before me contains no details of the agricultural building, the installation of a septic tank or new vehicular access. My

understanding is that this application is in outline for a single dwelling with all matters of detail reserved for subsequent approval by the local planning authority. It is on this basis that I shall consider the case.

The site and surroundings

4. The site is located in open countryside about 1 mile (1.5km) north of the outskirts of Newtown. The dwelling would be erected on a site in the south western corner of a field adjacent to a large modern agricultural building. The western boundary of the site fronts onto an unclassified road, and the southern boundary fronts onto an unsurfaced field access track. The applicants own and farm 9.91ha (24.5 acres), edged blue on the application plan. They farm a further 2.22ha (5.5 acres), on an 11 month tenancy, edged green on the application plan, which lies immediately across the unclassified road.
5. The land lies on the relatively high ground above the valley which contains Newtown. Access to the site from Newtown is via a B road and two alternative single vehicle width narrow lanes. The area is characterised by rolling farm land, mainly used for sheep and cattle rearing, with occasional areas of woodland. Within this broadly open countryside there is a long established pattern of individual and small groups of dwellings and farmsteads. Some of the dwellings and farms in the immediate area are of considerable age, whilst others are very modern.

The policy framework

6. Government policy is set out in Planning Guidance (Wales): Planning Policy (first revision) (PGW) and the associated Technical Advice Notes. Paragraph 5.1.1 on countryside and section 10.6 on agriculture and forestry dwellings of PGW are particularly relevant to this case.
7. In the Committee report the Council's officers refer to the Powys Structure Plan and Draft Montgomeryshire Local Plan. Structure Plan policy H9 states that new dwellings in the open countryside will not be permitted unless it can be established that the dwelling is essential to house a worker employed in agriculture who must live on the spot rather than in a nearby settlement. Local Plan policy HD10 emphasises that new housing in the countryside will require special justification that an isolated dwelling is essential for the proper functioning of a rural enterprise. Policy ENV33 refers to contaminated land and DC1 refers to foul drainage provision.

Inspector's appraisal

8. Mr and Mrs Woosnam both have other jobs not on the farm unit. They are a young couple with a young son. They devote a large amount of their spare time to running the farm business. They both have life long associations with farming and Mr Woosnam has very close ties to this particular area. His brother owns the adjoining farm and they assist each other. It is clear from the standard of the farm, its stock and new building that the applicants have invested much time and money over recent years to establish a serious and improving farm business. However, the limited amount of land has so far prevented them from expanding to the stage that one or both of them can become solely or mainly employed in agriculture.
9. An ADAS report was prepared for Powys CC dated 22 November 1999. That described the farm as a beef and sheep rearing unit. At the time there were 105 ewes, 24 lambs and 2 rams on the unit. Normally about 10 bullocks are purchased in late April/early May and reared on to mid October. Since the Council considered the proposal the applicants have entered into a 3 year contract to raise 20,000 pheasant chicks each year.

10. The report comments that under the present farming system ADAS would not be able to support a **functional need for someone to reside on the holding throughout the year**. However there are other considerations. Proposals to change the sheep flock into a pedigree one have been considered as have rearing bucket fed calves. Both proposals would not be instigated unless planning permission for a dwelling was permitted. The contract to rear 20,000 pheasants is in two batches, each for a seven week period. Mortality rates in such birds can be very high unless prompt attention is available. It would be expected, even with prompt care and attention, that up to 10% of the birds may die. This percentage would substantially increase if the level of care was not substantial. With returns on birds of between £1 and £1.50 per bird this contract offers a substantial input into the business.
11. The report continues that with lambing running from early January through to early April and with two periods when pheasants are on site there would be approximately half the year when essential care would be needed on site. With the pheasant enterprise there would be sufficient return to labour to exceed the minimum agricultural wage. However there are two points to consider. Does the rearing of pheasants fall under the definition of agriculture if their primary aim is a sporting one? Secondly is a three year contract long enough to be included in the appraisal?
12. In my view the farm as currently operated does not satisfy the functional test. Nor does it currently satisfy the financial test. The rearing of pheasants is related to sporting activity and does not, in my view, strictly fall within the normal definition of agriculture. However, it is an activity entirely compatible with the agricultural use of the farm and is an activity that forms part of the economic activities of a rural area. In my view an initial contract period of three years is long enough to take into account in the finances of the business. Therefore I consider that the contract should be taken into account in considering the merits of this case.
13. The applicants' 5 year plan, particularly the intention to convert to a pedigree sheep flock, and the success of the pheasant rearing would benefit greatly from a permanent presence on the farm. The applicants live in Newtown about 3 miles (5km) from the farm. This may appear relatively close. However, the farm is on the high ground above Newtown and access is via a long steep hill and, in part, by narrow lanes. In winter if bad weather coincides with lambing then the applicants would have very great difficulty in reaching the farm. This could result in serious loss of stock. In my view this consideration, together with the pheasant contract justifies a permanent presence on the farm for about half of each year.
14. Whilst the land owned by the applicants is relatively small, there is a clear indication that they may well be able to extend by a substantial degree on to the immediately adjoining land which is owned by a farmer nearing retirement age. Whilst this and the tenanted land are not part of the applicants' current ownership they do give a good indication that the applicants will probably be able to extend the scale of their operation in the foreseeable future.
15. The applicants are people with a long term commitment to agriculture. They have long term ties to this particular area. They have demonstrated their commitment to the growth of their farm business. There is no current evidence that there are existing dwellings available for sale or rent to the applicants in the immediate vicinity of the farm. Whilst they do not strictly satisfy the tests for an agricultural workers dwelling I consider that their personal circumstances are sufficiently exceptional to justify granting consent for a dwelling without first considering some form of temporary accommodation such as a caravan.

16. Turning to the visual, environmental and access implications, the dwelling would be located next to the existing barn, it would be on the road frontage and in the corner of the field. It would have limited visual impact in this location and would have the appearance of similar scattered dwellings and farms in this immediate area. In these circumstances a dwelling and its curtilage would not be unacceptably harmful to the appearance of the area. In my view a reasonable standard of access could be provided off the unclassified road satisfying all normal requirements regarding visibility. There are no indications on site to prevent a satisfactory form of foul drainage being provided.
17. Mention was made in the consultations regarding an approval for a landfill site within the area. I was shown the site which had been approved. It is outside the current farm unit and there is no sign on site that any material was ever tipped on the site. In my view this matter does not affect this proposal.

Conclusions

18. There is a clear conflict between this proposal and the policy background set out in PGW and Structure Plan policy H9. However, bearing in mind the problems of access to the site in bad weather, the needs of lambing, the need to supervise the pheasant rearing, and the increased security risks associated with converting the sheep flock to a pedigree flock, I conclude that these represent exceptional personal circumstances of the applicants which are sufficient to outweigh the policy objections. These are sufficient special circumstances to justify granting permission for the proposal to these applicants, subject to the conditions set out below, which are unlikely to be repeated often elsewhere.

Conditions

19. The normal time limit and outline conditions are necessary in this case. The reserved matters would deal with all matters of detail. In addition since the justification of the dwelling is because of the need to live on the farm unit an occupancy condition is appropriate and necessary. However, given the current jobs held by both applicants, I do not consider that they would satisfy the wording of being solely or mainly working in agriculture. If the standard condition advised in Circular 35/95 were imposed then it would be open for Mr and Mrs Woosnam to argue that they had occupied the dwelling in breach of that condition. My recommendation is in effect for a personal permission. I would therefore advise that the condition be amended to read:
- i. The occupation of the dwelling shall be limited to Mr & Mrs I M Woosnam or a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

Recommendation

20. I recommend that planning permission be granted subject to the conditions outlined above.



Inspector

Persons present at the site inspection

Mr & Mrs Woosnam - The applicant and his wife

Mr Humphries - David Meade & partners - Applicants' agent

Mr Ladd - Powys CC