



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Mr L W Wrangles

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Eich cyf / Your ref

Ein cyf / Our ref

Dyddiad / Date 28 November 2001

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 62, 77 & 174

APPLICATION AND APPEAL BY MISS S WILLIAMS AND MR O ISAAC

LAND AT THORNHILL, LLANDYFAN, AMMANFORD

1. Consideration has been given to the report of the Inspector Mr A Vaughan BSc(Hons) C.Eng, MICE, MRTPI who held a public inquiry, on 22 May and 12 June 2001, into your clients'

(i) application for planning permission made under section 62 of the Town and Country Planning Act 1990 for the renovation of the former farmhouse to be used as a dwelling and the re-instatement of an access at Thornhill,

Llandyfan, Ammanford; and

(ii) appeal under section 174 of the 1990 Act against the enforcement notice, dated 28 September 2000 and issued by the Brecon Beacons National Park Authority, alleging the unauthorised erection of a building which looks like and appears to have been designed as a dwellinghouse and works for the upgrading of an access track and associated engineering works on the same land.

The appeal against the enforcement notice was made on grounds (c) and (f) of section 174(2) of the 1990 Act.

2. On 7 February 2001 the National Assembly for Wales called-in the planning application under section 77 of the 1990 Act. On 12 March 2001 the Planning Inspectorate notified you that the enforcement appeal relating to the same site would be determined by the National Assembly rather than by a planning Inspector. On 20 November 2001 the National Assembly resolved that a committee to be known as Planning Decision Committee 2001/7 be established in accordance with Assembly Standing Order 35 to discharge the functions of the Assembly under sections 79 and 174 of the Town and Country Planning Act 1990 in respect of the above application and appeal. Accordingly, the Planning Decision Committee has considered the application and appeal and I, as the Chair of the Committee and as required by Standing Order 35.16, have signed this letter which the Committee has resolved to adopt.

3. The Inspector's conclusions are set out in paragraphs 32 to 59 of his report, a copy of which is enclosed, and those conclusions are reproduced as an Annex to this letter. The Inspector recommended that the application for planning permission be refused; that the enforcement notice be corrected and varied, that the appeal against the notice be dismissed and the application for planning permission deemed to have been made as part of the appeal against the notice also be refused.

4. The Inspector carried out an accompanied site visit on 12 June 2001.

Summary of the decisions

5. The formal decisions are set out in paragraph 17 below. Planning permission is not being granted for the renovation of the former farmhouse and, subject to amendment, the enforcement notice is being upheld.

Reasons for the decisions

Application for planning permission

6. Section 54A of the Town and Country Planning Act 1990 requires the determination of a planning application to be in accordance with the development plan unless material considerations indicate otherwise. The adopted Brecon Beacons National Park Local Plan and the approved Dyfed Structure Plan form the development plan for the purposes of this application. The relevant Plan policies and the relevant extracts from national planning policy have been reproduced by the Inspector in his report at

paragraphs 7-10.

7. The Committee agrees with the Inspector that the benefits of the scheme are not sufficiently important or exceptional to outweigh the strong planning policy objections to the proposal, and that local and national plan policy cannot be met because major rebuilding would be required to make the ruins habitable again. It is proposed, therefore, not to grant the planning permission for which application was made.

Enforcement notice appeal

8. The Inspector concludes that the enforcement notice cannot stand as originally drafted by the planning authority and has recommended correcting and varying it. The Committee agrees that the enforcement notice needs amendment but takes the view that it needs greater amendment than that recommended by the Inspector.

9. The Inspector considered the appeal on ground (c) – that the matters alleged in the notice do not constitute a breach of planning control - in respect of the works carried out to the building at paragraphs 35 to 39 of his Report. For the reasons given by the Inspector, the Committee agree that those works did constitute a breach of planning control and this aspect of the appeal on ground (c) fails.

10. Under the provisions of section 177(5) of the 1990 Act your clients are deemed to have made an application for planning permission for the development enforced against. In that respect the Committee's conclusions on the planning merits of this deemed application are the same as those reached in respect of the application made under section 62. For those reasons the deemed application is also refused.

11. In respect of the works carried out to the building the Committee concludes that the requirements in the enforcement notice as issued are precise but agrees with the Inspector that they are excessive – the breach of control that has been carried out essentially relates to the construction of new walls and the minimum action necessary to remedy that breach would be the removal of those walls. For this reason the Committee also consider the requirements suggested by the Authority are excessive as they required the restoration of the building to its previous condition.

12. However, the Committee has not accepted the Inspector's suggestion to take down those parts of the building which had been erected in the year 2000 and the removal of materials from the site imported for those works. This is considered to be imprecise and, therefore, unenforceable. The Committee has decided instead that the breach of planning control would be remedied by returning the building to the condition as shown as existing on drawing number 41-002. They take the view that the requirement of the enforcement notice can be amended in this way without injustice to either your clients or the local planning authority and is within the powers of amendment provided by section 176 of the 1990 Act. To this extent the appeal on ground (f) succeeds.

13. The Committee has considered the periods for compliance originally contained in the notice for the removal of the building and other materials and takes the view that a period of compliance of 4 months would be reasonable to enable the requirements referred to in the previous paragraph to be carried out

14. In respect of the access track, from the evidence submitted the Committee considers it unclear as to whether the works carried out on the access track is permitted development and therefore whether your clients can be required, through this enforcement action, to remove materials and restore the track to its previous state. Although this has not been discussed in any detail by the parties, the Committee considers that there is no need to obtain further evidence in this respect because it considers there to be a flaw in the enforcement notice as far as it relates to the access track. The requirement in the Notice is that

"the track needs to be restored to its former appearance

15. This requirement is imprecise and does not tell your clients fairly and squarely what they must do to comply with the requirement or enable them or the local planning authority to determine when the requirement has been complied with. The Committee consider this flaw to be fundamental and beyond the powers of amendment provided by section 176 of the 1990 Act. Reference to the access track will, therefore, be deleted from the enforcement notice.

16. In respect of the drainage works the Committee agrees with the Inspector that the enforcement notice be amended to exclude reference to the ditches.

Overall conclusion

17. Subject to the above comments, the Planning Decision Committee agrees with the Inspector's conclusions and accepts his recommendation. For those reasons the Planning Decision Committee hereby

(i) refuses your clients' application under section 62 of the 1990 Act and refuses to grant the planning permission for which application was made; and

(ii) directs that the enforcement notice dated 28 September 2000 be amended by

"(a) the deletion of all the words in paragraph 3 after the heading and the substitution of the following words therefor

"Without planning permission the erection of a building which looks like and appears to have been designed as a dwellinghouse"

(b) in paragraph no. 5

(i) the deletion of the sentences numbered (i), (ii) and (iii) and the substitution therefor of the words

(a) Remove all unauthorised works so

that the building will be returned to the condition indicated on plan 41-002 (amended 27 October 2000) as being the existing state of the building; and

(b) Remove from the land all materials and rubble arising from compliance with condition (a).";

(ii) the deletion of the heading "Remedial works" and paragraphs nos. 1 and 2 thereafter; and

(iii) the deletion of steps 1, 2 and 3 of the time for compliance and the substitution of the following words therefor

"4 months after the date on which the notice takes

effect"

Subject thereto, the Planning Decision Committee dismisses your clients' appeal and

uphold the enforcement notice.

18. A copy of this letter has been sent to the National Park Officer, Brecon Beacons National Park Authority, and to those persons and organisations represented at the inquiry.

Yours faithfully

DAVID DAVIES AM

Chair, Planning Decision Committee 2001/7