

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

DATE: **20th FEBRUARY 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR STEPHEN BAILEY AGAINST THE DECISIONS OF FLINTSHIRE COUNTY COUNCIL TO REFUSE A CERTIFICATE OF LAWFUL USE OR DEVELOPMENT FOR THE SITING OF A MOBILE LOG CABIN ON THE LAND FOR USE AS ANCILLARY RESIDENTIAL ACCOMMODATION WITHIN THE CURTILAGE OF PENTRE BACH FARM, FFORDD PENTRE BACH, NERCWYS, MOLD, CH7 4EG.**

1.00 APPLICATION NUMBER

1.01 **048799**

2.00 APPLICANT

2.01 **MR AND MRS S BAILEY**

3.00 SITE

3.01 **PENTRE BACH FARM, FFORDD PENTRE BACH, NERCWYS, MOLD, CH7 4EG**

4.00 APPLICATION VALID DATE

4.01 **08.07.2012**

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision, following the refusal under officer delegated powers of a Lawful Development Certificate for a proposed use or development - Siting of a mobile log cabin on the land for use as ancillary residential accommodation at Pentre Bach Farm, Ffordd Pentre Bach, Nercwys, Mold, CH7 4EG. The appeal was considered by way of an exchange of written representations and was

DISMISSED.

6.00 REPORT

- 6.01 The Inspector considered the main issue in this case, was the siting of a mobile cabin as ancillary accommodation within the residential planning unit of Pentre Bach Farm lawful or would it require planning permission ? He considered that the case depends on the interpretation of whether the structure is a caravan or a building. If the former, it is accepted that no material change of use would be involved, and if the latter, it is not disputed that the building would not benefit from permitted development rights and therefore would require planning permission.
- 6.02 It was the Inspector opinion that the Council's decision not to issue a certificate was well founded in relation to the interpretation of these points.
- 6.03 Pentre Bach Farm includes the dwelling house as extended, a range of outbuildings and a defined residential garden. Planning permission was granted in 1977 for alterations and extension to the dwelling and in 2008, for the conversion and alteration of an existing cowshed attached to the house and incorporated to provide domestic accommodation.
- 6.04 The inspector noted that the Appellants description of the application as a mobile log cabin and as a twin unit caravan in their supporting documents. The proposed use was to provide seasonal additional accommodation for the Appellants' elderly parents. The floor plan of the unit shows a bedroom, bathroom, study, hall, sitting room and a corridor. There would be no kitchen area as the parents would use the facilities of the main house and share the infrastructure provided, such as the water supply, electricity, septic tank, drive and parking area.
- 6.05 The Council's main contention was that the proposed structure cannot be a twin unit caravan as statutorily defined, unless, when assembled, it is physically capable of being moved and having regard to its size, construction, appearance, intended lifespan, the operations involved in assembling the structure and its lack of mobility, that it amounts to a building operation requiring planning permission.
- 6.06 The Appellants indicated that the transportation of the cabin would be in two units with two lorries required to transport them and to unload and to manoeuvre the units onto a pre-prepared base. The units would be fully fitted in the manufacturer's workshop and only the bolting together of the units and weatherproofing and connections to the utilities are needed to complete the installation.
- 6.07 The inspector was of the opinion that none of the statements confirm that the assembled structure was physically capable of being moved

by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), as set out in the Caravan Sites Act 1968. Based on the available evidence it had not been shown that the unit when assembled falls within the twin-unit caravan definition of the Caravan Sites Act 1968.

- 6.08 Having concluded that the structure is not a caravan as statutorily defined, the issue was then whether it was a building. A building is defined as including any structure or erection and any part of a building, but not plant or machinery comprised within a building. Three primary factors are identified as decisive of what is a building, (a) that it is of a size to be constructed on site, as opposed to being brought on to the site, (b) permanence, and (c) physical attachment. No one factor being decisive.
- 6.09 It was not clear how the unit would be supported on the land. The Appellants only indicate that it would not be permanently attached to the ground in any way. If the unit rests on the concrete base through its own weight then affixation by this means together with the resultant physical change to the characteristics of the land is sufficient, when taking into account all other factors of size and permanence, to conclude as a matter of fact and degree that it would be a building. The inspector noted the arguments put forward in relation to the construction of a hard surface to form a base for the unit, but this matter did not affect his consideration of whether the proposed unit could lawfully be placed there.

7.00 CONCLUSION

- 7.01 The Inspector concluded that the siting of a mobile cabin as ancillary accommodation within the residential planning unit of Pentre Bach Farm would not be lawful and would require planning permission.
- 7.02 For the reasons given above He concluded, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the mobile log cabin was well-founded and that the appeal should be dismissed.

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