

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **6TH FEBRUARY 2019**

REPORT BY: **CHIEF OFFICER (PLANNING, ENVIRONMENT AND ECONOMY)**

SUBJECT: **ERECTION OF A TIMBER BUILDING AT ERWAU COTTAGE, PANT-Y-FFORDD, TREUDDYN**

1.00 **APPLICATION NUMBER**

1.01 **180294**

2.00 **SITE**

2.01 **ERWAU COTTAGE, PANT-Y-FFORDD, TREUDDYN**

3.00 **APPLICATION VALID DATE**

3.01 **N/A**

4.00 **PURPOSE OF REPORT**

4.01 To inform members of the outcome of an appeal against the service of an Enforcement notice on land at Erwau Cottage, Treuddyn with regard to the erection of a log cabin and its use for holiday purposes.

5.00 **REPORT**

5.01 The site lies outside of the settlement boundary of Treuddyn as defined in the Flintshire Unitary Development plan. The site lies adjacent to a loose grouping of dwellings between the A5104 and a minor road in a roughly triangular shape. It appeared to the local planning authority that a building had been erected on land outside of the residential curtilage and was being used for a holiday use. As the unauthorised development did not meet the relevant criteria in the development plan an enforcement notice was served on the 19th April 2018 for the cessation of the use and removal of the building and associated development.

The owner appealed against the enforcement notice on ground a) that planning permission should be granted for the development, and on ground g) that the time given to comply with the notice is too short.

Ground A

The ground (a) appeal and the deemed application derives its terms directly from the allegation as corrected. The appellant contended that the deemed application should be granted as either a market dwelling or as a holiday let. The main issue was considered to be whether there are other material considerations sufficient to outweigh any conflict with local and national planning policies.

The Council's case was that Policy HSG5, which may allow infill development provided it is for a proven local need. There is no case which fulfils the particular criteria of the policy in relation to local need. The policy refers to infill as comprising a small gap within a clearly identifiable small group of houses within a continuously developed frontage. In order to meet the requirements of the policy a group of houses must form a continuous built-up frontage and or a focus of dwellings on a cross roads and should comprise six or more dwellings. Further, the policy justification indicates that a group of houses must not be interspersed by individual field parcels, and an infill housing plot is defined as a small gap capable of accommodating a single housing unit or two semi-detached units where this is the prevailing house type in the group or frontage.

There are eight properties in the broad spread of houses in the area. Rare Brook, Tegfan and Pant Glas adjoining but are on the opposite sides of the roads forming the triangle area that contains the appeal site and other properties. Within the triangle area there are five properties but these are loosely grouped near the appeal site and tightly grouped by the junction of the A5104 and Ffordd-y-Rhos. In the Inspectors view, the collection of houses within the triangle area does not comprise a clearly identifiable group given the spatial arrangement of properties. The spatial arrangement varies greatly between Erwau Cottage and Oakwood compared to the tighter knit layout of houses by the junction of the A5104 and Ffordd-y-Rhos. The properties on the periphery of these roads Rare Brook, Tegfan and Pant Glas do not combine with the properties within the triangle area to comprise a clearly identifiable group of houses

Erwau Cottage, Oakwood and others within the triangle are orientated differently such that there is no definable and continuous developed frontage. The Inspector therefore did not consider that the development complies with UDP Policy HSG5, in relation to the local need criterion, and the physical criteria of a continuous developed frontage and a clearly identifiable small group of houses. Planning Policy Wales Edition 9 (PPW) in paragraphs 4.7.8, 9.2.22 and 9.3.2 (since superseded by PPW Edition 10) indicates that sensitive infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable. It was considered that Policy HSG5 is therefore consistent with PPW.

The UDP is the adopted plan in force for the purposes of making sustainable planning decisions under Section 38(6) of the Planning and Compulsory Purchase Act 2004. Whilst in relation to housing land supply the UDP is outside

its plan period and the local planning authority has been unable to undertake a current study of its housing supply, Policy HSG5 is consistent with PPW in that it strictly controls housing development to ensure some opportunities for small-scale development to meet local needs housing in rural areas can take place. The Inspector did not consider that the importance of meeting local housing targets and the need to address the current deficit meant that Policy HSG5, which is consistent with PPW, should be set aside.

Development in the countryside is strictly controlled for sustainability reasons and to protect the countryside for its intrinsic sake. The Inspector regarded the location as sufficiently remote from the settlement of Treuddyn that it cannot be regarded as a development adjoining the village. The development would conflict with policies designed to protect the countryside from unjustified development as set out in UDP Policies GEN3, HSG4, HSG5 and PPW paragraphs 4.7.8, 9.2.22, 9.3.2 and 9.3.6.

The Inspector concluded that a residential dwelling use for the building would fail to accord with the development plan and national planning policies.

The second element of the ground a) appeal was that the appellant contended that the building should be granted as a holiday let. UDP Policy T3 permits self-catering tourist accommodation outside settlement boundaries where it relates to an extension to an existing tourist facility or the conversion of an existing building whereby additional criteria apply.

The appellant argued that the building has been let out as holiday accommodation, which they considered an acceptable use without adverse planning consequences on the area, or impact on neighbouring occupiers' living conditions. The appellant referred to the suitability of the development's location from a tourist perspective and the considerable benefits a tourist development brings to the local economy.

However, the Inspector did not consider the proposal was in accordance with UDP Policy T 3 because the development did not relate to an existing tourist facility and is not an existing building. As such he did not consider that Policy requirements were met.

Ground G

The appellant sought to appeal against the length of compliance the Council had proposed in the notice. The appellant considered that they should have a 6 months compliance period for the removal of the building, and 9 months to clear the land of materials and to return it to its condition before the breach took place. The appellant submitted that given the nature of the internal fixtures more time was needed.

However, the Inspector agreed with the compliance period as set out by the Council and that the removal of fixtures from the building and the removal of the building should not warrant more time than that set out in the notice. Similarly

the compliance period of 6 months for clearing the site of materials and restoring it would not be onerous.

The Inspector considered that the compliance periods in the notice were proportionate having regard to the competing issues of the private interests of the appellant against the public interest of enforcing against the development. The ground g appeal therefore failed.

The Inspector concluded the matters weighing against the residential dwelling use are, there is no justification for the development outside settlement limits which is aligned with the need to protect the countryside for its intrinsic sake. The development fails to accord with the development plan and national planning policies for sustainable development in the countryside because the development would not provide local needs housing as required by UDP Policy HSG5. The UDP provides the hierarchy for the spatial distribution of housing in sustainable locations and provides the framework for the preferred locations for most new development in rural areas in particular clusters of smaller settlements where services and facilities are provided. The presumption in favour of sustainable development does not apply having regard to the key principles and key policy objectives of sustainable development. The Inspector considered the matters weighing against the development were of considerable importance and outweighed the issue of the lack of housing land supply. In relation to the holiday let use the Inspector attributed moderate weight to the economic benefits of the development but this factor and others mentioned do not outweigh the conflict with the development plan. The presumption in favour of sustainable development does not therefore apply to the holiday let use.

6.00 CONCLUSION

6.01 The Inspector concluded that the appeal failed on all grounds.

The Inspector directed that the enforcement notice be corrected by the deletion of the contents of paragraph 3 and the insertion of the following: "Without planning permission, the erection of a timber building for residential purposes in the approximate position edged blue and marked "A" on the attached plan". Subject to these corrections the appeal was dismissed and the enforcement notice was upheld, and planning permission was refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The decision date of the Inspector's report is the effective date of the notice. The Enforcement Notice therefore came into force on the 29th November 2018. If the requirements of the Notice are not met then further action to secure compliance with the notice will have to be considered and appropriate further action taken accordingly.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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