



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 22/02/12
Ymweliad â safle a wnaed ar 22/02/12

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 19/04/12

Appeal Decision

Hearing held on 22/02/12
Site visit made on 22/02/12

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 19/04/12

Appeal Ref: APP/N6845/A/11/2165023

Site address: Cawdor House, Wiston, Haverfordwest, Pembrokeshire SA62 4PN

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Anthony Rees against the decision of Pembrokeshire County Council.
- The application Ref 11/0645/PA, dated 26 September 2011, was refused by notice dated 11 November 2011.
- The application sought planning permission for the erection of an agricultural dwelling without complying with a condition attached to planning permission Ref 09/0422/PA, dated 22 December 2010.
- The condition in dispute is No. 3 which states that: "The occupation of the existing farmhouse known as Cawdor House Farm shall be restricted to those;
 - a) Solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined local need; or it can be demonstrated that there are no such eligible occupiers, to those;
 - b) Who would be eligible for consideration for affordable housing under the local authorities housing policies; or it can be demonstrated that there are no persons eligible for occupation under either (a) and (b);
 - c) Widows, widowers or civil partners of the above and any resident dependants."
- The reason given for the condition is: "The site is not in an area intended for development and the development has been permitted solely because it is required to accommodate a person working in agriculture or forestry, to accord with Policy 48 of the Joint Unitary Development Plan for Pembrokeshire (adopted 13 July 2006)."

Decision

1. The appeal is allowed and planning permission is granted for the erection of an agricultural dwelling at Cawdor House, Wiston, Haverfordwest, Pembrokeshire SA62 4PN in accordance with the application Ref 11/0645/PA dated 26 September 2011, without compliance with condition number 3 previously imposed on planning permission Ref 09/0422/PA dated 22 December 2010 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Background

2. Planning permission has been granted for the erection of an agricultural dwelling in 2010. This planning permission has not been implemented. The planning permission was conditional restricting the occupation of the new dwelling to the rural enterprise

or otherwise as an eligible occupant of affordable housing. The same occupancy restriction was imposed on the existing farmhouse, Cawdor House. This appeal relates to the planning condition restricting occupancy of Cawdor House to the rural enterprise and the Appellant seeks its deletion. An application was made to this effect to the Council which was refused in 2011.

3. Planning application Ref 09/0422/PA was initially assessed on the basis of a 48ha holding of land at West Diary Farm for the Appellant's son, Mr N Rees. The agricultural appraisal indicated that Mr N Rees would be granted a 20 year farm business tenancy from the Appellant to establish his own farming business. The Council did not consider that the assessment based on rented land would justify a farm workers dwelling at West Diary Farm which is situated some 1.4km from Cawdor House. Accordingly, the application was assessed on the basis of the whole holding comprising 263ha at Cawdor House Farm and West Diary Farm, and the application was treated as a second dwelling on the holding. No second appraisal relating to the functional and financial tests were submitted or sought, although it was accepted that the functional test had been met, and the initial financial information was based on a projected budget for the 48ha holding relating to West Diary Farm.
4. Cawdor House was built some 16 years ago without a planning condition restricting its occupancy to the farming enterprise. The dwelling is situated within the settlement of Wiston whereby the principle of new residential development is permitted subject to relevant criteria on scale and siting as set out in Policy 46 of the Joint Unitary Development Plan for Pembrokeshire (JUDP). Cawdor House is a substantial 4 bedroom property some 325-371m² in floor area.

Main Issue

5. This is whether the condition in dispute is reasonable and necessary in the interests of protecting the countryside from the risk of pressure for new houses.

Reasons

6. The first matter to consider is whether there was a need for the condition to tie Cawdor House to the rural enterprise. Following on from that assessment, whether there is a continuing need for the condition to reserve the house for the enterprise or as an affordable housing unit in the locality.
7. One element of a financial test is to establish whether the enterprise can afford to build and maintain the size of the dwelling. Dwellings which are unusually large in relation to the needs of the enterprise cannot be sustained by the income it receives in the long-term, and should be resisted. The situation in this case is considered in reverse, whereby the unencumbered dwelling was already in place and was built as a large detached property in the settlement boundary of Wiston. There was no financial test to establish whether the property size was commensurate to the income of the enterprise. All the available evidence relates to the financial projections of the 48ha holding and not the enterprise as a whole.
8. Based on the information supplied the budget projections at its most profitable year taking into account the financial capital and interest drawn to pay for the new dwelling for Mr N Rees would amount to £42K, which could not cover the undisputed present valuation for Cawdor House at £500K. This would be the case when taking into account a lesser valuation figure for the occupancy restriction. The monthly drawings by Mr N Rees detailed in the partnership agreement or the average standard agricultural wage for 2011 would not provide sufficient income to obtain a mortgage to

buy Cawdor House with or without the restriction in place. There is no compelling evidence to indicate that the condition imposed on Cawdor House was reasonable based on the absence of a financial test on the enterprise as whole and having regard to the financial information submitted.

9. Had a planning application been submitted for Cawdor House, given its location in the settlement planning permission would in all probability be granted without an agricultural occupancy condition. This is a weighty material consideration in favour of removing the condition. As a result, the reason given for the condition that 'the site is not in an area intended for development' is inaccurate and unreasonable. Based also on the available evidence on affordable house prices, a 3 bedroom property averages £145K, the majority are built for rent and in either instance the alternative arrangement for a condition to provide for an affordable housing unit is also unreasonable in this instance. The restrictive condition on Cawdor House was in my view inappropriately imposed.
10. In my view these factors outweigh the Council's justification that the restriction should be imposed in these circumstances even if Cawdor House was located within or outside the settlement boundary. Although the Appellant has not tested the market place for sale or rent to establish there is continuing need for a farm dwelling/affordable housing unit in the locality, the evidence at the hearing indicates that the size and valuation of the property is beyond the reach of either category of person. There is no compelling evidence of agricultural workers/persons in need of affordable housing on any Council waiting list in the locality who could afford the dwelling in question. There is no evidence presented on surplus agricultural dwellings in the area or a number of proposals for new agricultural dwellings.
11. I note the Council's concern that should Cawdor House be released from the present tie then it could be sold and this could give rise for another farm enterprise dwelling to be considered and granted. However, it is appropriate for the Council to investigate the history of the enterprise in forming a view on the acceptability of such a proposal. I also note the references to two other cases, one at the Square and Compass and the other at Abercych. I consider these cases can be differentiated from this appeal, since one had previously been granted a lawful development certificate and the other related to a case with 3 existing dwellings on that holding.
12. I therefore conclude that the condition in dispute is unreasonable and unnecessary in the interests of protecting the countryside from the risk of pressure for new houses. The proposal to delete the condition would not conflict with JUDP Policies 48 and 49. These relate to housing in the countryside and removal of occupancy conditions.
13. I therefore consider it necessary to grant a new planning permission without the disputed condition, but subject to the other conditions imposed on the planning permission, so far as the same are still subsisting and capable of taking effect. No new conditions are needed in this case. I have considered all other matters raised but none outweigh my conclusion on the main issue that this appeal should be allowed.

Iwan Lloyd

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr C Kimpton BA MRTPI Appellant's Agent

Mr A Rees Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms C John BSc MSc Planning Officer

DOCUMENTS SUBMITTED AT THE HEARING

- 1 JUDP Policies and settlement map
- 2 Partnership agreement and map of holding
- 3 Officer report on the application at the Square and Compass