

Application No.
P/15/0264

Date
13th November 2015

Determining Authority
MTCBC

Proposed Development

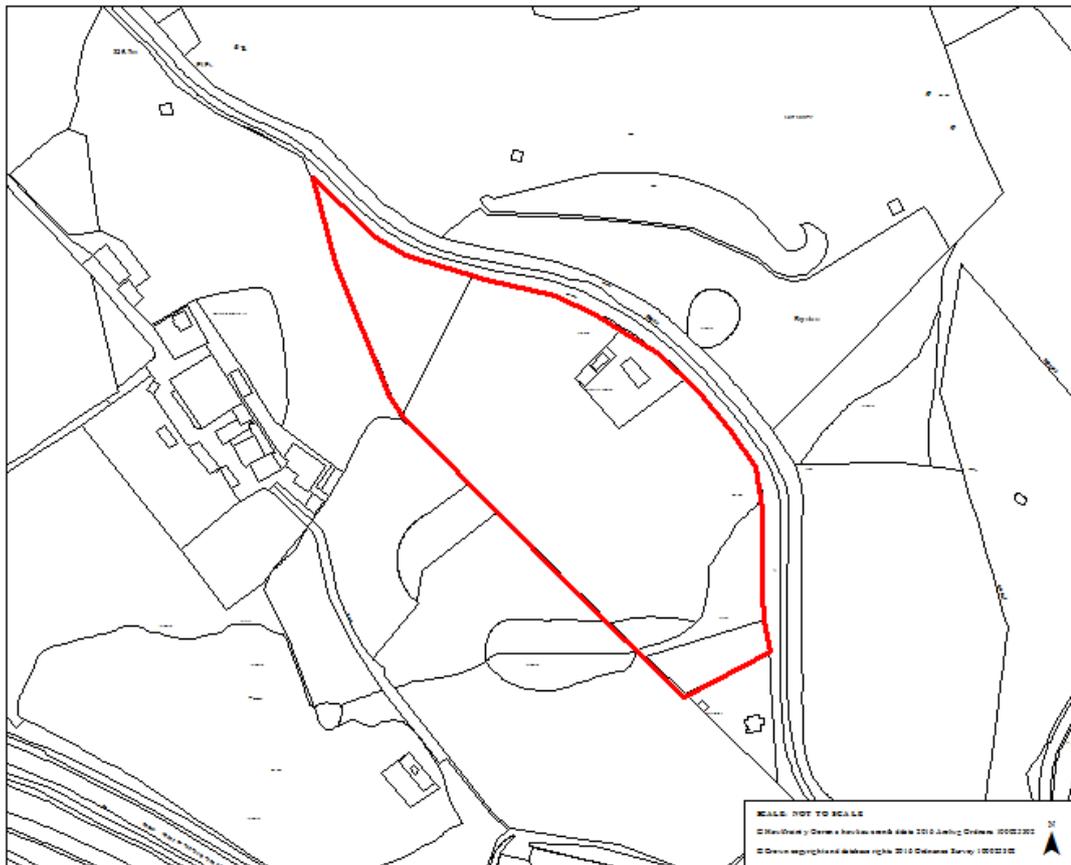
Location

Name & Address of Applicant/Agent

Change of use of land for the keeping of horses, erection of stable and barn buildings, reinstate existing pond and engineering work (land profiling) (Retrospective)

Fernhill Bungalow
Pontsarn Road
Pontsarn
Merthyr Tydfil
CF48 2TN

Mr K Davies
c/o Mr Paul Thomas
Utopia Design
5 Amberton Place
Penydarren
Merthyr Tydfil



APPLICATION SITE

The application site relates to a detached bungalow and surrounding land which is accessed off Pontsarn Road, located to the north of the Heads of the Valleys Road. Part of the dwelling (the former garage) has been recently converted into a dog grooming parlour (approved under application P/14/0138). The yard to the front of the property provides on-site parking for numerous vehicles. The application site extends to approximately 3.6 hectares (8.9 acres), which includes the bungalow, the existing stables, and the unauthorised stables, hay barn, yard area, pond and a vehicle track. Approximately 25% to 30% of the area beyond the bungalow is under tree cover, with the remainder being primarily grassland with scattered scrub and bracken. The applicant has removed large

boulders overtime, having placed them on the western boundary, to make it accessible for grassland machinery. During the site visit, it was noted that in addition to horses, two cattle were also kept on the land.

The excavated pond lies to the southeast of the dwelling and two stable buildings are sited to the west of the property. The unauthorised buildings (one being a stable building and the other a hay barn) are located to the southwest of the dwelling. Cumulatively, the stable buildings provide stabling for 18-20 horses. The barn is used for the storage of hay and straw. A surfaced yard, outside the unauthorised barn, is used to store wrapped bales of haylage. The haylage is used for food for the two cattle. In addition, an unauthorised hardstanding area constructed from crushed and compacted bricks, concrete blocks and tiles is located to the southwest of the unauthorised stable. This area is used for the parking of vehicles and agricultural machinery, such as an agricultural trailer and a flat-bed car trailer. Beyond the raised hardstanding area is a vehicular earth track, which runs from the yard/access adjacent to the existing stables, alongside the unauthorised stables and to the eastern side of the unauthorised hardstanding providing access to the land beyond, located at lower level.

The application site lies outside the settlement boundary and as such, is designated open countryside. It also forms part of the Bryniau Site of Importance for Nature Conservation (SINC) as highlighted in the Merthyr Tydfil Local Development Plan (LDP) 2006-2021.

PROPOSED DEVELOPMENT

This application seeks retrospective planning permission to change the use of the land from agricultural to land used for the keeping of horses. It also seeks planning permission to replace the vehicular earth track with a hard material surface and to retain a barn, a stable building, a pond and the engineering works which have resulted in the provision of the hardstanding area. As referred to above, there are two cattle kept on the land. However, there was no evidence noted from either the site visit or details submitted by the applicant which suggests that an existing agricultural enterprise is operating from this site.

The stable building provides six stables with a covered access area. It measures 21.5 metres wide, 6.7 metres deep with a 3 metre ridge height. It is enclosed by a low stone wall with timber cladding above to its front elevation, corrugated metal to its side and rear elevations, with a corrugated metal roof. The barn measures 8.65 metres wide, 17.96 metres deep, with a 5.4 metre ridge height.

The applicant has confirmed that 18 to 20 horses are kept on-site in the stables. The applicant states that the horses are owned by himself, family and friends, for leisure purposes such as hunting and hacking. He has also confirmed that a livery business is not operating from the site. It is also understood from the applicant that the horse owners purchase hay and straw collectively during the summer period and store this in the unauthorised barn. During the site visit it was noted that a trailer was advertising the selling of hay and straw from the site, which included the applicants contact details. The applicant affirms that this business is no longer operational.

The raised hardstanding, as referred to above, has been created using tipped rubble and builders waste. The applicant confirmed that this material was waste from a construction company with whom he is currently employed. This area provides a hardstanding area

raised approximately 4 metres higher than the existing ground level (at its highest point). It measures approximately 1360m² (45m x 30m). The applicant intends to use this area for the parking of personal vehicles, equipment and tractors and as a clean hard surface for feeding cattle.

The earth vehicular track has been created overtime by the use of machinery and other vehicles which are used to maintain the land beyond the unauthorised hardstanding area. The provision of a hard surface to this access would prevent further erosion of the land.

The pond, as asserted by the applicant, was a pre-existing feature on the land which has been enlarged to 43m² and collects water from a spring to the north.

PLANNING HISTORY

P/14/0138 – Change of use from domestic garage to dog grooming parlour (retrospective) – Approved: Approved 2nd July 2014

P/07/0526 – Erection of detached dormer bungalow – Approved: 22nd December 2007.

P/06/0531 – Erection of detached bungalow – Approved: 29th November 2006

CONSULTATION

Engineering and Traffic Group Leader

No objection

Town Planning Division's Policy
and Implementation Group Leader

No objection.

Town Planning Division's
Countryside Officer

Objection. The proposal would result in a medium to long term significant negative impact and loss of SINC land.

Town Planning Division's
Landscape Officer

No objection.

Environmental Health Officer

No objection.

Natural Resources Wales (NRW)

No objection.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, the development was advertised in the Merthyr Express, site notices were displayed within the vicinity of the site, and letters were sent to adjoining properties. No letters of representation have been received as a result of this exercise.

POLICY CONTEXT

National Planning Policy

Planning Policy Wales (PPW) (Edition 8, January 2016)

The following paragraphs of PPW are relevant to the consideration of this application:

4.3.1 *'...The Well-being of Future Generations (Wales) Act establishes a 'sustainable development principle' In order to achieve this principle we expect all those involved in the planning system to adhere to:*

- *Putting people and their quality of life now and in the future, at the centre of decision-making...*
- *taking a long term perspective to safeguard the interests of future generations, whilst at the same time meeting needs of people today;*
- *respect for environmental limits, so that resources are not irrecoverably depleted or the environment irreversibly damaged. This means, for example, mitigating climate change, protecting and enhancing biodiversity, minimising harmful emissions, and promoting sustainable use of natural resources...*

4.6.4 *'...The countryside is a dynamic and multi-purpose resource. In line with sustainability principles, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological and agricultural value and for its landscape and natural resources, balancing the need to conserve these attributes against the economic, social and recreational needs of local communities and visitors...'*

5.2.9 *'...Trees, woodlands and hedgerows are of great importance, both as wildlife habitats and in terms of their contribution to landscape character and beauty. They also play a role in tackling climate change by trapping carbon and can provide a sustainable energy source. Local planning authorities should seek to protect trees, groups of trees and areas of woodland where they have natural heritage value or contribute to the character or amenity of a particular locality. Ancient and semi-natural woodlands are irreplaceable habitats of high biodiversity value which should be protected from development that would result in significant damage...'*

5.5.1 *'...Biodiversity and landscape considerations must be taken into account in determining individual applications and contributing to the implementation of specific projects. The effect of a development proposal on the wildlife or landscape of any area can be a material consideration. In such instances and in the interests of achieving sustainable development it is important to balance conservation objectives with the wider economic needs of local businesses and communities. Where development does occur it is important to ensure that all reasonable steps are taken to safeguard or enhance the environmental quality of land...'*

7.6.5 *'...Local planning authorities should adopt a constructive approach towards agricultural development proposals, especially those which are designed to meet the needs*

of changing farming practices or are necessary to achieve compliance with new environmental, hygiene or welfare legislation...'

12.7.3 *'...Adequate facilities and space for the collection, composting and recycling of waste materials should be incorporated into the design of any development and waste prevention efforts at the design, construction and demolition stage should be made by developers. All opportunities should be explored to incorporate re-used or recyclable materials or products into a new building or structure...'*

13.12.1 *'...The potential for pollution affecting the use of land will be a material consideration in deciding whether to grant planning permission. Material considerations in determining applications for potentially polluting development are likely to include:*

- *location, taking into account such considerations as the reasons for selecting the chosen site itself;*
- *impact on health and amenity;*
- *the risk and impact of potential pollution from the development, insofar as this might have an effect on the use of other land and the surrounding environment...'*

- Technical Advice Notes (TAN'S)

TAN 6: Planning for Sustainable Rural Communities is broadly supportive of a strong rural and agricultural economy. It states at paragraph 6.1.1:

'...The Welsh Assembly Government's objective is a sustainable and profitable future for farming families and businesses through the production and processing of farm products while safeguarding the environment, animal health and welfare, adapting to climate change and mitigating its impacts, while contributing to the vitality and prosperity of our rural communities. The planning system can play an important part in supporting the future sustainability of agriculture...'

TAN 12: 'Design' states in paragraph 5.8.5 that when considering new rural enterprise buildings *'...the scale, form and siting of new agricultural buildings or buildings for on-farm diversification, is usually influenced by the operational needs of the enterprise...'*

Local Planning Policies

The following policies of the Merthyr Tydfil LDP 2006-2021 are relevant to this proposal:

BW4 - Settlement boundaries / locational constraints

BW5 - Natural heritage

BW7 - Sustainable design and place making

BW8 - Development and the water environment

AS6 – Local Nature Conservation Designations

Supplementary Planning Guidance (SPG):

Supplementary Planning Guidance

SPG Note 5 - Nature and Development

PLANNING CONSIDERATIONS

The issues to consider in the assessment of this application relate to whether the proposal is acceptable in principle and justified in this location and whether it is compatible with the character and appearance of the countryside and respects nearby residential amenity.

Members should note that Reading Agricultural Consultants were employed by the Council to assess the proposed development.

Principle of Development and Assessment of Need

This application was submitted as a result of a complaint received by the Planning Enforcement Section regarding the erection of new buildings and re-profiling works. Following a visit to the site by the Enforcement Officer, it was noted that building materials were being brought onto the site and two large buildings had been constructed and were in use.

Owners of animals, including horses, have a Duty of Care under the Animal Welfare Act to provide a suitable environment for the animals under their control whilst also protecting them from pain, suffering, injury and disease. The agricultural consultant, following his site visit advised that the application site is exposed to the elements, particularly during winter months when the land is saturated. As such, he concludes that it is reasonable to expect that some form of housing would be available for the horses which are kept on the site and that stabling in this case would be particularly important as the stocking rate is high and horses are therefore liable to damage the pasture through poaching.

The agricultural consultant goes on to state that appropriate stocking rates would generally be considered to be a maximum of 0.4 horses/ha (1.0 horse/acre) on average quality land. In this instance, as the application site relates to poor quality land with inadequate drainage, the agricultural consultant advises that the stocking rate should be reduced, which could be achieved by extended stabling periods and the purchase of feed. Specifically, the agricultural consultant confirms that the fact that there are 18-20 horses (plus two cattle) on 3.6ha (8.9 acres) indicates that the stocking rate is well over double the appropriate maximum. Therefore, prolonged periods of stabling would be required, and as a result, a large amount of hay and bedding material would also be required to be purchased and stored on-site.

- Stable Block

There are a total of 20 stables within the application site. The agricultural consultant has confirmed that at the time of his site visit, all of the stables on-site were occupied. As referred to above, due to the on-site ground conditions, it is anticipated that the stables would be occupied for prolonged periods. The unauthorised block of six stables, although a large scale building providing 144m² of floor space, amounts to evenly divided stables which are of an adequate size and are not deemed excessively large, for the accommodation of horses. The agricultural consultant also noted that there are no alternative on-site locations (in addition to the unauthorised stable building), where the six additional horses could be accommodated. The stable building is therefore required to serve the horse related leisure/recreational activities operating from the site. Indeed, the

stable building in terms of its scale, appearance and siting (in close proximity to the cluster of other buildings and located at a significant distance, and largely screened from the front highway) represents a justified and acceptable form of development. It is therefore concluded that this is clearly a rural development that is mostly found in the open countryside. As such, the proposed development in terms of its siting, scale, design and use, would not detract from the character or appearance of the countryside and therefore complies with LDP Policies BW4 and BW7.

- Hay Barn

The hay barn provides a storage volume of some 700m³. It is considered that given its scale, appearance and siting (in close proximity to other built development) it is not uncharacteristic of such a rural setting. The barn is used to store hay for fodder and straw for bedding. However, in order to demonstrate that the size of this building is reasonably necessary for the purposes of the site, the storage space should be proportionate to the hay and straw requirements of the horses.

It is anticipated that the horses would require stabling for up to six months, during the winter time. The agricultural consultant explains that each horse would require on average 2.5 small bales of hay (60kg) and 2.5 small bales of straw (50kg) per week and over a six-month period an average of 18 horses would require some 28 tonnes of hay and 25 tonnes of straw. The agricultural consultant goes on to explain that small bale hay has a storage requirement of 6m³/t and straw 13m³/t. Therefore, given allowance for spoilage, 30 tonnes of hay would require 180m³ of storage space and 25 tonnes of straw would require 325m³ of storage space. This would result in a total storage volume requirement of some 500m³. It should be noted however that an allowance of approximately 10%-15% of space is normally expected to allow for manoeuvrability around the stack and as such this would amount to 575m³ of total storage volume.

During the site visit however, the agricultural consultant noted that the applicant is currently purchasing round bales (8m³/t) and most of the straw is purchased in large square bales (7m³/t). If these were the only bale types used, there would be a respective storage requirement of 240m³ for hay and 175m³ for straw which would amount to a total space requirement of 415m³. Similarly, having considered the allowance for manoeuvrability, as noted above, the total storage volume requirement would amount to 477m³.

Having noted the comments of the agricultural consultant, as referred to above, it is considered that the applicant could potentially require a maximum of 575m³ of total storage for the keeping of hay and straw during the winter months to accommodate the feed/bedding requirements of 18-20 horses. The hay barn provides a storage volume of approximately 700m³. As such, based on these calculations, the building would be 125m³ larger than is necessary for the stabling of horses at the holding.

The agricultural consultant also referred to the requirements of feed for the two store cattle. These would consume a maximum of 20kg of round bale silage/head/day. Each round bale would weigh approximately 500kgs. Therefore, over 180 days the two cattle would require 7,200kgs of silage or 14.4 bales. At the time of the site visit, the agricultural consultant confirmed that there were a total of 25 bales in stacks stored on the outside yard adjacent to the unauthorised barn. The applicant asserts that the alleged hay and fodder sales business is no longer operating from this site. As such, it is therefore considered that there

were more bales stored on-site than those required for the keeping of two store cattle. It should be noted however that the storage of hay bales externally would not require planning permission. Furthermore, this appears to be largely used as feed for the two cattle, which would amount to a low key agricultural activity and as such would not require planning permission.

- Hardstanding Area and Laying of Vehicular Track

The hardstanding area has been created using tipped rubble and builders' waste. The hard surfaced vehicular track would also be laid with the same materials. The applicant has confirmed that he seeks to use this area as a clean and dry area to feed cattle as well as for the parking of personal vehicles, tractors and equipment used in association with the activities operating from the site, i.e. flat-bed car trailer. The applicant has also indicated that an adequate hard surfaced access would be required to access and maintain the land. The agricultural consultant has pointed out that there were only two cattle on-site and a single ring feeder, which would require a feed area of 10m². In addition, there is a significant area of hard-surfaced parking to the front of the dwelling which is currently used for parking of personal vehicles and could accommodate further vehicles if required. The agricultural consultant has stated that parking vehicles on a hardstanding area consisting of broken tiles with sharp edging does not appear logical if tyre life is to be prolonged. Furthermore, he explains that the equipment used for the maintenance of the land is minimal and therefore does not require an extensive parking area. This equipment (and approximate sizes) relates to one tractor and front-end loader (2.5m x 5m), two flat-bed trailers (each 2.5m x 5m), one bale trailer (2.5m x 8m), and one bale wrapper (2.5m x 2.5m). This equipment equates to a combined size of approximately 65m² and approximately 130m² when allowing for manoeuvrability. Combined with 10m² for feeding cattle, this would amount to a required hardstanding area of approximately 140m². As such, it is evident that the hardstanding area constructed using builders waste is approximately 10 times larger than what is required for this site.

There appears to be little justification for the creation of an extensive hardstanding area. Similarly the hard surfaced vehicular access could be made significantly shorter and could still provide an adequate access to the land beyond. The hardstanding and access track appears to have been clearly created at the expense of grazing land which is severely lacking at the site. It is also considered that some of the additional storage requirements for machinery, which is approximately 140m², could be accommodated in the hay barn which has been calculated, as being 125m³ larger than necessary for the needs of the holding. As such, whilst a hardstanding area of this size and a hard surfaced access of this length is not justified, it is considered that the 700m³ hay barn could be fully justified for its use in support of horse related development.

With regards to the impact of the hardstanding and hard surfaced vehicular access it has been suggested by the applicant that these areas could overtime 'tone down' very quickly as they will become covered in leaf mould/humus and other debris and would therefore appear more sympathetic to the character and appearance of the surrounding rural environment. However, whilst it is appreciated that there may be a need for a hard surfaced access and a certain area of hardstanding, the vast and unauthorised tipping of builders waste materials has resulted in an unwarranted and harmful intrusion into the open countryside, which fails to accord with Policy BW4 of the LDP.

As stated previously, the land forms part of the Bryniau SINC which mainly includes broadleaved woodland, wet woodland, semi-improved natural grassland and dense bracken. It provides a range of habitats which support a rich diversity of plants and animals. The creation of the flat hardstanding alone amounts to an area measuring approximately 1360m². In this instance it is considered that the development carried out has had no regard to the preservation or enhancement of the SINC. Indeed, this part of the development has resulted in significant and permanent harm to this part of the SINC. As referred to above, although it is noted that a much smaller hardstanding and hard surfaced vehicular access track could be justified in this location, this part of the proposal due to its size has caused significant harm to the SINC contrary to LDP Policies BW5 and AS6.

- Pond

The excavated pond extends to 43m² and collects water from a natural spring to the north. The applicant has insisted that the pond was a pre-existing feature on the site which has been enlarged. However, previous google photographs dating back over ten years ago do not show a pond. Whilst the applicant has not submitted any justification to support the excavation of the pond, it should be noted that the pond is a low key and discrete form of development which would appear compatible with the rural character and appearance of the area. Furthermore, the pond is considered to provide a habitat feature in context with the character and appearance of the countryside and SINC and therefore complies with LDP Policies BW5 and BW7.

Disposal of Manure

As part of keeping horses, the manure from the stable building has to be removed periodically and dealt with responsibly. Whilst the applicant confirmed to the agricultural consultant, at the time of his site visit, that the manure is spread on land and farmland surrounding Fernhill Bungalow and worked into the ground for improvement, the agricultural consultant noted that much of the manure is pushed into heaps and depressions in the ground, mainly in areas where there are large boulders or at the base of trees. The agricultural consultant concluded that from these locations the manure would be very difficult to spread and it would take many years for it to rot down into a soil-type base which could support grazing pasture. Furthermore, the trees affected are now likely to die. The agricultural consultant advised that such practices are an offence under the Environmental Permitting (England and Wales) Regulations 2007 and Environmental Permitting (England and Wales) (Amendment) Regulation 2009. Whilst it appears that no attempt has been made to contain the manure in a manner which could prevent pollution or use it in a way which it would be beneficial, the Council's Environmental Health Officer, Engineering and Traffic Group Leader and NRW were consulted on this application and have not raised an objection to the application or these practices specifically. Furthermore, should these activities raise concerns in the future, these matters could be dealt with by the Council's Environmental Health Officer, Engineering and Traffic Group Leader and NRW. As such, the above concerns regarding manure disposal and pollution risk would not warrant the refusal of the application in this instance.

Residential Amenity

The unauthorised development is located some distance from neighbouring dwellings. As such, the buildings and associated works would not detract from the amenities of nearby occupiers and accords with LDP Policy BW7.

Conclusion

Both national and local policies resist development in the countryside unless it is fully justified. In this case, the development, which seeks to retain buildings of an acceptable scale, siting and design, is fully justified in support of horse related development. As such, the proposed stable building and hay barn are required in support of leisure/recreational uses justified in a countryside location and therefore accords with the criteria set out under LDP Policy BW4.

Similarly, local and national policies also seek to protect the character and appearance of the countryside. The pond feature has not been justified, but it is considered that this is a low key form of development which would not have an adverse impact upon the character and appearance of the countryside or the designated SINC. However, it is concluded that the extensive hardstanding area and hard surfaced vehicular access would result in the irreversible and harmful loss of this part of the SINC. The hardstanding area and hard surfaced vehicular access is therefore an unacceptable form of development which would not accord with LDP Policies BW4, BW5, BW7 and AS6.

As a result, whilst the stable building and hay barn are considered acceptable and justified forms of development in this location, this would not outweigh the concerns raised in regards to the detrimental impact the extensive and unjustified hardstanding and hard surfaced vehicular access would have on the countryside and SINC. Accordingly, it is considered that the proposed development should be refused.

RECOMMENDATION: BE REFUSED

1. The deposit of waste material to create a significant hardstanding area and hard surfaced vehicular access has resulted in an unwarranted and unacceptable intrusion into the open countryside. It has also caused irreversible harm by failing to maintain or enhance the Bryniau SINC. The proposal is therefore contrary to Policy BW4, BW5 and AS6 of the Merthyr Tydfil Local Development Plan.
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