



## Appeal Decision

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by Marloes Holtkamp MSc

a person appointed by the Welsh Ministers

Decision date: 15/10/2024

Reference: CAS-03709-V0P8D5

Site address: Land North of Rock Cottage, Arcade Road, Penhow, Newport

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- The appeal is made under section 62ZB of the Town and Country Planning Act 1990.
- The appeal is made by Mrs Pitman against a notice of invalidity issued by Newport City Council.
- The Local Planning Authority's reference is 24/0524.
- The notice was issued on 17 September 2024.
- The application is for “conversion of building into residential use to include a small side extension, construction of detached domestic stable block, standalone bat house and associated works including landscaping, formation of a small domestic garden, improvements to access and provision of two parking spaces”.
- The requirements of the notice as issued are:

No fee has been paid on this application as it was indicated by the agent to be a re-submission following a previous refusal. It has subsequently come to light that the application does not qualify for a fee exemption as the site plan (Drawing No. TG2203-23 Revision C) for the resubmission is different and larger than the earlier application reference 23/0242 contained in Appendix A for ease of reference (and not included solely for the purpose of providing a different means of access). The site has been extended to the north beyond the driveway and south with the drainage field and orchard included.

Article 8 of The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 prescribes that there will be no fee due for a resubmission following refusal of a planning application of an application made by, or on behalf of the same applicant, on the same site as that to which the earlier application related, **or to part of that site, and to no other land except land included solely for the purpose of providing a different means of access to the site**; and relates to development of the same character or description as the development to which the earlier application related (and to no other development).

The exemption specified in Article 8 has therefore not been met as the site is larger than the original submission.

The fee required is **£920**, this being the higher fee applicable to the floorspace proposed by new buildings on site. To clarify, the change of use fee is £460 but the

fee applicable to the new buildings is higher at £920. This has been based on a 5m x 5m bat house and a 15m by 5.2m stable building. This equates to 103sqm with the fee being £460 per 75sqm or part thereof.

- The appeal is made on the ground set out in section 62ZB (2)(d) of the Town and Country Planning Act 1990 (as amended) ('the 1990 Act').

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## Decision

1. The appeal under the ground set out in section 62ZB(2)(d) succeeds in part and the Notice of Invalidity is varied by inserting the following at the start of Requirement 1:
  - Submit an amended plan which identifies the land to which the application relates, showing a Red Line Boundary that does not extend beyond the Red Line Boundary submitted as part of the refused application reference 23/0242; OR
  - Pay the correct fee in accordance with the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits (Wales) Regulations 2015 (as amended).

The text which is currently identified as requirement 1) in the Notice as originally issued is retitled 'Reasons'. Subject to these variations the Notice of Invalidity is upheld.

## Procedural Matter

2. I note the applicant within their Grounds of Appeal has highlighted concerns relating to the Local Planning Authority's (LPA) handling of the application. These concerns are not a matter for the non-validation appeals process and as such it would not be appropriate for me to comment on them. The applicant may wish to pursue these concerns through the LPA's complaints procedure or via the Public Services Ombudsman for Wales.

## Reasons

3. Article 8 of The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 (as amended) ['the Fees Regulations'] states that there is an exemption to the payment of fees for an application for planning permission made following the refusal of planning permission by or on behalf of the same applicant, on the condition that the application relates to the same site as that to which the earlier application related, or to part of that site, and to no other land except land included solely for the purpose of providing a different means of access to the site.
4. The Red Line Boundary submitted by the applicant as part of the resubmission extends beyond the Red Line Boundary submitted as part of the refused application reference 23/0242. This extension is not solely for the purpose of access.
5. The Fees Regulations are clear that the exemption to the payment of fees for an application for planning permission made following the refusal of planning permission must relate to no other land except land included solely for the purpose of providing a different means of access to the site. As the extension of the Red Line Boundary is not solely for the purpose of access, the fees exemption does not apply and it is reasonable to request the fee.

6. I will however amend the Notice so that either an amended plan is submitted showing a Red Line Boundary not extending beyond that submitted as part of the refused application, in which case the fees exemption will apply, or that the required fee is paid in order to continue with the revised Red Line Boundary.

**Conclusion**

7. For the foregoing reasons and having regard to all other matters raised, I find that the appeal succeeds in part on ground (2)(d) and I shall vary the Notice of Invalidity as specified in my formal decision.
8. Subject to this variation I find that the notice should be upheld.

*Marloes Holtkamp*

Marloes Holtkamp MSc

APPOINTED PERSON