

## ***Application by Mr D Watkins***

### ***Application to vary condition imposed on planning permission Ref 19/0875 for erection of detached dwelling***

***Red Barn, Wellfield Road, Marshfield, Cardiff CF3 2UB***

## ***Planning Statement***

---

### ***Introduction***

1. This statement accompanies an application made under s73 of the 1990 Act to vary what is described as the standard condition imposed on permission reference 19/0875 in respect of a permission for the erection of a detached dwelling. The condition provides:

*The development must begin not later than the expiration of FIVE YEARS from the date of this permission.*

Reason: *To conform with the requirements of Section 91 of the Town and Country Planning Act 1990*

2. The development has not commenced and the applicant in effect seeks to renew the permission. The applicant does not seek to vary the wording of the condition since, should the application succeed, it would refer to the new date specified on the newly issued decision notice.
3. Welsh Government circular WGC 016/2014 provides:

*'Planning permission can be renewed before the time-limit for the commencement of development has expired, under section 73 of the 1990 Act. As a general rule, such applications should only be refused where:*

*there has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant highway considerations, or the publication by the Government of new planning policy guidance, material to the renewal application)..'*

4. All the land subject of the application lies within the residential curtilage of the existing dwelling, Red Barn. The officer report on the previously approved application confirmed that the site lay within the designated settlement boundary, where the principle of development was considered acceptable. There has been no change in development plan policy since, and no changes in the physical appearance of the land or its surroundings.
  5. Detailed plans were submitted in respect of the dwelling's design, access and landscaping. These issues were considered under the terms of the relevant development plan policies, which remain unchanged. The Council found these aspects acceptable.
  6. However there have been changes to government policy in respect of flooding (a revised TAN 15) and biodiversity, (Planning Policy Wales Edition 12). These are the main issues to be addressed in this statement.
-

---

## ***Flooding and TAN 15***

7. Earlier this year an outline planning application<sup>1</sup> was submitted for residential development on land which included the current application site. It also involved the development of land to the west and to the south of the current site. The illustrative plan accompanying the application showed the proposal as comprising 3 plots. The current site approximates to the land shown as plot 1 on the illustrative plan, that is, on the site's frontage to the highway.
8. The application was subsequently withdrawn since officers clarified that they could not support the proposal since it involved development beyond the settlement boundary, in designated countryside, and it also involved an incursion into land designated as an SSSI.
9. A Flood Consequences Assessment (FCA) was produced to accompany the earlier outline application and is reproduced in support of this. In its response to consultation on the application NRW<sup>2</sup> acknowledged that plot 1 lay within what was then described as flood zone 1 & 2, due to it being sited on land at a higher level than the dwellings proposed on plots 2 & 3. Judging from the response to consultation it appeared that the main thrust of NRW's concern related to the proposals in respect of plots 2 & 3.
10. Based on the site's ground levels the site could conceivably flood to about 4m but the likelihood of this site experiencing these depths are considered low due to the presence of coastal defences.
11. The previous planning permission was granted subject to a condition that '*The finished floor levels of all dwellings (sic) are set no lower than 6.1 metres above Ordnance Datum (AOD) (Newlyn).*' That is, at a higher level than that of the existing site. It is suggested that such a condition be reimposed.

## ***Biodiversity***

12. The most recent edition of PPW contains a requirement for a Green Infrastructure Statement (GIS). A separate GIS accompanies the application. This also contains other proposals for biodiversity enhancement.
13. PPW also introduced new and stronger policy measures in respect of the protection of SSSI's from unnecessary development. The applicant does not suggest that the proposal is either necessary for the management of the SSSI or a minor development necessary to secure the SSSI's role as a living landscape.
14. However, the development is justifiable in the context of the wholly exceptional circumstances surrounding the site, which are set out below.
15. This part of the Gwent Levels (Rumney and Peterstone) was designated as an SSSI in 1993, and the reasons for its designation are cited in documents posted on NRW's website. The site is at the northern end of the designation, adjacent to residential development. It is not bordered by a watercourse but is comprised of a lawned area, with some small outbuildings, including a shed and green house. It is used as a domestic garden, and this has been the case since at least 1997, that is, 28 years ago, or about 4 years following the original designation.

---

<sup>1</sup> Ref 25/0023

<sup>2</sup> Ref CAS-272528-V4Q1

- 
16. The reason that this can be claimed with authority is that a Certificate of Lawfulness was granted in April 2007<sup>3</sup> to the effect that the use of the land as a residential curtilage was considered then by the Council to be the lawful use of the land. At that time the Council was satisfied that land had been in use as residential curtilage for at least 10 years. It was an extension to Red Barn's garden. It was a manicured lawn then, and that continues to be the case. It is an area of land that has been regularly mowed by the applicant every 7-14 days from at least 1997 onwards.
17. The wholly exceptional circumstances applying is that this small area of land no longer exhibits any of the ecological qualities for which the SSSI was first designated, and has not done so for the best part of 3 decades. Nor is there a likelihood that the land will revert to its former condition. This was recognised when the development was first granted permission in 2020. At that time the Council's ecologist said:
- The site is currently a well-maintained garden which is unlikely to support priority habitat, or have potential for protected species except some limited potential for nesting birds. Therefore, no ecology surveys are recommended in this case.*
18. There have been no changes in circumstances since.
19. It is open to NRW to review the boundaries of the SSSI, and to exclude land from it. There is a strong case for that exercise to be undertaken here. However, it is understood that that may be a cumbersome administrative exercise involving cost and the use of scarce staff resources, better utilised on other matters.
20. That being the case, the applicant trusts that NRW will look carefully at the facts of this case, and conclude that this small tract of land no longer justifies its designation, and to so advise the Council following consultation. NRW's officers are welcome to visit the site at any time.
21. NRW interests in respect of the remainder the SSI may be adequately protected by the imposition of a CEMP condition, similar to the one imposed on the current permission.

***G Powys Jones MSc FRTPI***

***Chartered Town Planning Consultant***

***September 2025***

---

<sup>3</sup> Ref 06/0041