The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 04/02/20

gan Alwyn B Nixon BSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 03.08.2020

Appeal Decision

Site visit made on 04/02/20

by Alwyn B Nixon BSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 03.08.2020

Appeal Ref: APP/B6855/C/19/3242559

Site address: Pwllyfroga Farm, Marsh Road, Llanmorlais, Swansea SA4 3TP

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

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Richard Beynon against an enforcement notice issued by City and County of Swansea Council.
- The enforcement notice, numbered ENF2017/0344, was issued on 8 November 2019.
- The breach of planning control as alleged in the notice is "without planning permission, the material change of use of the land from agricultural use to residential garden use".
- The requirements of the notice are: (i) cease the use of the land as a residential garden; (ii) remove from the land all domestic paraphernalia associated with the unauthorised residential garden use; (iii) plant a hedge between points A-B as specified on Appendix A, in accordance with the planting schedule as specified in Appendix B.
- The period for compliance with the requirements is 4 weeks in respect of requirements (i) and (ii): for requirement (iii) the period is "in the first planting season (November-February) after the notice takes effect".
- The appeal is proceeding on the grounds set out in section 174(2)(b) and (f) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is dismissed.

Reasons

Ground (b) – that the breach of control alleged in the notice has not occurred as a matter of fact

2. The appeal concerns an area of land located to the south east of the farmhouse at Pwllyfroga. It is a roughly rectangular area, mainly grassed and partly enclosed by hedgerows and also containing a sizeable pond. The land abuts the long-established garden area to the rear of the farmhouse and an additional area behind this which was recently granted a certificate of lawfulness in respect of residential garden use.

3. The appellant says that drainage improvement works have been undertaken on the land and that the pond was created at this time, but that the land has not been used as residential curtilage. However, the 2009 aerial photograph submitted by the Council shows that at that time the enforcement notice land was a small field, separated from the residential curtilage behind Pwllyfroga by a hedge. The 2018 aerial photograph

shows the disappearance of the separating hedgerow, a clear change in the character of the land to a more domesticated appearance and the appearance of children's play equipment towards the south-eastern corner of the land. Although the play equipment had been moved by the time of my visit the aerial photograph confirms its earlier presence. Moreover, notwithstanding the appellant's assertion now that no use as residential curtilage has taken place, the Council points to previous discussions with the appellant in 2018 when the land's incorporation as part of the residential curtilage was acknowledged and was claimed to have been occurring for a period of time in excess of four years. The appellant does not challenge the Council's evidence on this matter.

4. I am satisfied, on the balance of probability and as a matter of fact and degree, that a material change in the use of the land as alleged in the notice has taken place. The appeal on ground (b) therefore fails.

Ground f – the steps required to comply with the notice are excessive, and lesser steps would overcome the objections

5. The thrust of the arguments on ground (f) is that requiring a native hedgerow to be planted is excessive in terms of cost; that the hedgerow would make maintaining the land more difficult; and that it is unreasonable to require a hedgerow to separate the residential curtilage from the adjacent farm land.

6. The appellant has not produced any costings to support his claim that re-instating the length of hedgerow would be excessively costly. Moreover, this requirement of the notice merely seeks to return the land to the position before the breach occurred. Assessed on this basis, the requirement plainly is not excessive, and is fully justified. Although there may be historical examples where little physical separation exists between the curtilage of a farmhouse and adjacent farmland, I note that in this case the house at Pwllyfroga is a recent replacement of an earlier dwelling. The planning permission for the house contains a condition concerning the completion of the means of enclosure of the boundaries of the site. In the circumstances I conclude that it is reasonable and proportionate to require the reinstatement of the hedgerow that was removed as part of the unauthorised expansion of the residential area associated with the dwelling house, in order to remedy the breach that has occurred.

7. I find little merit in the argument that reinstating the hedgerow will create difficulties of access and maintenance, given that the land appears to have its own access point and trackway on its eastern side. Nor do I consider that upholding this requirement of the notice sets any wider precedent; my decision turns on the individual circumstances of the case.

8. For these reasons the appeal on ground (f) does not succeed.

Overall conclusion

9. For the reasons given, and having taken account of all matters raised, I dismiss the appeal.

Alwyn B Nixon

Inspector