

PLANNING COMMITTEE	DATE: 13/03/2017
REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER	DOLGELLAU

Number: 3

Application Number: C16/1430/44/LL

Date Registered: 03/01/2017

Application Type: Full - Planning

Community: Porthmadog

Ward: Porthmadog West

Proposal: Erection of a two-storey four bedroom residential dwelling in open countryside with the installation of a septic tank and creation of a new vehicular access and access road

Location: Land of the former Moelwyn Dairy, Penamser Road, Porthmadog, Gwynedd, LL49 9NY

Summary of the Recommendation: TO REFUSE

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1. Description:

- 1.1 This is a full application to erect a new two-storey four bedroom residential dwelling in open countryside with the installation of a septic tank and creation of a new vehicular access and access road.
- 1.2 The existing site is open agricultural land with the remains of a stone building on a part of the site. The land rises from the direction of the A497 highway nearby. The existing unclassified road leads from the A497 towards the Penamser public cemetery which is located to the south of the application site.
- 1.3 The submitted plans show a proposal to include the following:
- Ground floor - living room, kitchen/dining room, utility room, toilet, hall, study and garage
 - First floor - four bedrooms (two en-suite bedrooms), bathroom, office and gym
- Outside, a hard standing is formed to the front of the building and an access road leads from the site to where it would join the road leading to the nearby cemetery. It is proposed to install private treatment works near the access road. Externally, the building would be finished with natural stone and a slate roof.
- 1.4 According to the information submitted, the building's internal floor surface area would be 225m² and 6.3m high at its highest point.

2. Relevant Policies:

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that planning decisions should be made in accordance with the Development Plan, unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Unitary Development Plan.
- 2.2 The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet the 7 well-being goals within the Act. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 2.3 **Gwynedd Unitary Development Plan 2009:**

POLICY B22 – BUILDING DESIGN - Promote good building design by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features and character of the local landscape and environment.

POLICY B23 – AMENITIES - Safeguard the amenities of the local neighbourhood by ensuring that proposals conform to a series of criteria aimed at safeguarding the recognised features and amenities of the local area.

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POLICY B25 – BUILDING MATERIALS - Safeguard the visual character by ensuring that building materials are of a high standard and are in keeping with the character and appearance of the local area.

POLICY B27 – LANDSCAPING PLANS - Ensuring that permitted proposals incorporate soft/hard landscaping of high standard which is appropriate for the site and which takes into consideration a series of factors aimed at avoiding damage to recognised features.

POLICY C1 – LOCATING NEW DEVELOPMENT - Land within town and village development boundaries and the developed form of rural villages will be the main focus for new developments. New buildings, structures and ancillary facilities in the countryside will be refused with the exception of a development that is permitted by another policy of the Plan.

POLICY CH3 – NEW HOUSES ON UNALLOCATED SITES WITHIN THE DEVELOPMENT BOUNDARIES OF THE SUB-REGIONAL CENTRE AND URBAN CENTRES – Approve the construction of houses on appropriate unallocated sites within the development boundaries of the Sub-regional Centre and the Urban Centres.

POLICY CH9 – NEW DWELLINGS IN OPEN COUNTRYSIDE – Refuse proposals for new dwellings in rural areas unless they are for individuals who must live on the site due to their work and a series of other criteria relating to the location and type of the dwelling, and restrictions on ownership of the dwelling.

POLICY CH33 – SAFETY ON ROADS AND STREETS - Development proposals will be approved provided they conform to specific criteria relating to the vehicular access, the standard of the existing roads network and traffic calming measures.

POLICY CH36 – PRIVATE CAR PARKING FACILITIES - Proposals for new developments, extension of existing developments or change of use will be refused unless off-street parking is provided in accordance with the Council’s current parking guidelines and having given due consideration to the accessibility of public transport, the possibility of walking or cycling from the site and the proximity of the site to a public car park.

As well as the above, it is believed that the Council's adopted Supplementary Planning Guidance are material planning considerations in this case, specifically:

- Affordable Housing
- Building New Houses in the Countryside

2.4 Gwynedd and Anglesey Joint Local Development Plan. (Composite Version including Matters Arising Changes, January 2017)

POLICY PCYFF 1: Development criteria

POLICY PCYFF 2: Design and place shaping

POLICY PCYFF 3: Design and landscaping

STRATEGIC POLICY PS 15: Settlement strategy

POLICY AMG 1: Special landscape areas

POLICY TRA 2: Parking standards

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2.5 National Policies:

Planning Policy Wales, edition 9 2016

Technical Advice Note (TAN) 12: Design

TAN 6: Planning for Sustainable Rural Communities

3. Relevant Planning History:

- 3.1 The application site has no relevant planning history. However, a pre-application enquiry was submitted for the proposal.

Y16/000248 - erection of new dwelling - it was confirmed in a formal letter dated 10.02.16 that the site was outside the development boundary and, as a result, it was contrary to the basic requirements of adopted local and national policies. Consequently, it would not be possible to support the proposal. Reference was made to exceptions to this but proof would be required by submitting evidence that there was a need for an agricultural/rural enterprise worker.

4. Consultations:

Community/Town Council:	No objection
Transportation Unit:	No objection, recommend including standard conditions and advice if permitted.
Natural Resources Wales:	No observations
Welsh Water:	Standard advice
Public Protection Unit:	Not received
Rights of Way Unit:	Not received
Biodiversity Unit:	The land is improved grazing land and is of low Biodiversity value, it is suggested that a condition be included for drainage clearing work to be undertaken outside the nesting season. A bat roost is provided nearby. It is essential that no lighting affect bats; and, if permitted, it is suggested to include a condition to agree on a lighting scheme.
Housing Strategic Unit:	General observations regarding a local need for housing, namely, that 49 applicants are on the register; nobody has noted their preference for a four bedroom house; it appears that houses are for sale in the area which would be deemed affordable; there is no confirmation that the applicant has been assessed by Tai Teg to be eligible for an affordable house.

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Public Consultation:

A notice was posted on the site and nearby residents were notified. The advertisement period has expired and correspondence was received supporting the application on the following grounds:

- A shortage of suitable and affordable housing in the local area/high number of second homes
- Applicant is originally from the area and has returned to start a business
- Need to live on the land to supervise farm activities and be close to elderly parents
- Applicant developing an ambitious business plan which would lead to changing the use of the land
- No suitable land available to build in Porthmadog due to a flood zone designation
- Consideration must be given to additional construction sites such as this application site which is outside a flood zone
- Site of a former farmhouse, walls still stand although it has no roof
- Suitable design which would be concealed within the landscape
- The nearby Penamser industrial estate has been developed and extends beyond the boundary of the town
- The Aberglaslyn mountain rescue team centre has been constructed nearby on land outside the boundary, the applicant is a member and the team supports the application
- The current road is accessible from the main road
- Electricity and water are already nearby

5. Assessment of the material planning considerations:

The principle of the development

5.1 This site is located outside the defined development boundary for the Porthmadog area and, as such, it is considered to be a site located in the countryside. Due to the site's location in the countryside, the proposal cannot be considered under usual housing policies for Porthmadog, namely policy CH3, as this policy relates to housing developments within the development boundaries. As a result of the need to maintain and protect the countryside, special justification is needed to approve the construction of new houses in the countryside. Therefore, the construction of new houses in the countryside will only be approved in exceptional circumstances. For the purposes of the Gwynedd Unitary Development Plan, the exceptional circumstances under which new houses in the countryside could be allowed are included in policy CH9. In addition to this, consideration must also be given to the contents of Technical Advice Note 6: Planning for Sustainable Rural Communities - July 2010 (TAN6) prepared by the Welsh Assembly Government.

5.2 Paragraph 4.3.1 of TAN 6 notes that one of the few circumstances in which a new isolated residential development in the open countryside can be justified is when accommodation is required to enable agricultural or rural enterprise workers to live

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at, or close to, their workplace. Whether this is essential in any particular case will depend on the needs of the rural enterprise concerned and not on the personal preference or circumstances of any of the individuals involved. TAN 6 also notes that Local Planning Authorities should carefully assess applications for planning permission for new agricultural or rural enterprise dwellings to ensure that a departure from the usual policy of restricting development in the open countryside can be fully justified by reference to robust supporting evidence.

- 5.3 There is reference in the application, specifically within the Design and Access Statement, together with letters of support, to the current agricultural use of the land along with a proposed business plan to change the use of this land for a new sustainable business as well as a local mountain rescue service using a part of the land. No information was submitted confirming the exact type of business being proposed, the use and density of the current agricultural use, or the relevance to this application of the Mountain Rescue Service using a part of the land.
- 5.4 Nevertheless, it appears that the land has an established agricultural use and, therefore, in accordance with the requirements of TAN 6, should the application be for a house for a full-time agricultural or rural enterprise worker, information would have to be submitted that relates to functional, time, financial, and other dwelling tests, to prove the need and justification for the construction of a dwelling in open countryside:
- The Functional Test (Section 4.8 of Technical Advice Note 6) - The functional test makes it mandatory to indicate that it is essential for a worker to be readily available at most times, on the site or close to it, for the proper functioning of the appropriate rural enterprise.
 - The Time Test (Section 4.9 of Technical Advice Note 6) - The time test and the functional test are separate tests, but there must be a full-time requirement for the worker for whom there is a functional need.
 - The Financial Test (Section 4.10 of Technical Advice Note 6) - Dwellings will only be approved where it can be proven that a rural enterprise is sustainable, and a financial test is used to consider the enterprise's financial robustness, its projections over a reasonable period of time, and the ability of the business to fund the proposal.
 - The Other Dwelling Test (Section 4.11 of Technical Advice Note 6) - The needs of an enterprise are considered in the context of the availability of existing options for alternative dwellings to meet the noted functional need, and/or the scope to reorganise the work of managing the enterprise so that no new dwelling is needed.
- 5.5 These tests are applicable in all circumstances, and each must be dealt with in a manner which is appropriate to the specific type of application submitted.
- 5.6 No evidence has been submitted with the application to be able to consider or satisfy the above and, therefore, the proposal cannot be assessed in terms of these matters.
- 5.7 It is noted that the applicant already lives in Porthmadog, no information has been submitted in relation to the tenure of his current property (mortgage/tenancy with no mortgage/rent) or any evidence why this property cannot meet the need for a house. The proposed house would be located approximately 100m away from the nearest part of the development boundary of Porthmadog, and no evidence has been submitted that there is no other house available on the holding or within the town to meet the need.

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- 5.8 Also, the location of the dwelling should give consideration to the specific functional need that it is expected to meet. The dwelling should be sufficiently close to the operational areas where it is necessary, for example, to sufficiently monitor animals, and to enable workers to respond effectively to any difficulties noted if justification for the construction of the house in this location is due to its association with agricultural use.
- 5.9 It is considered that the location of the dwelling is unsuitable. There is no formal agricultural building or site nearby. Reference is included in observations received that the land forms part of the Penamser Farm holding which is located approximately 800m away from the application site when travelling along the unclassified road which leads to a nearby cemetery, and then by travelling along the A497 highway and then into the farmyard towards the buildings. It is not considered that the application site is sufficiently close to justify an agricultural dwelling in the proposed location and associated with this specific farm.
- 5.10 An agricultural dwelling is expected to be located on the farmyard (namely, the location of Penamser Farm according to submitted information in this case - on the grounds that no information has been submitted about any other lands or buildings), or that a 'farmyard'/farm buildings/equipment are provided close to/surrounding the property to enable the business to operate in the most effective manner. In this case, the proposed dwelling is not located on any existing farmyard.
- 5.11 The size of any proposed dwelling is considered in relation to the ability of the enterprise to fund and maintain the dwelling, and should reflect the needs of the enterprise, but also, as the possible occupancy of the dwelling would be extended to those who qualify for affordable housing, the size of the dwelling should comply with relevant Affordable Housing requirements.
- 5.12 In this case, the proposed dwelling proposes four bedrooms with an internal floor surface area of 225m². Guidance on Affordable Housing sizes within Supplementary Planning Guidance: Affordable Housing, restricts the floor surface area for four-bedroom affordable houses to 120m². The proposed dwelling is substantially larger than this, and therefore, does not conform to the requirements as the property would not meet affordable housing needs if its use as an agricultural house/rural enterprise came to an end. No information has been submitted about the applicant's needs for a larger property than what is noted in the SPG.
- 5.13 Therefore, it is considered that neither the location nor the size of the property comply with the requirements of Technical Advice Note 6, Policy CH9 of the GUDP or Supplementary Planning Guidance: Affordable Housing.
- 5.14 Based on the above assessment, it is considered that the proposal is also contrary to the requirements of policy C1 of the GUDP which encourages new developments to be located within development boundaries unless the development fully conforms to another specific policy within the UDP.
- 5.15 It is a requirement that planning applications be determined in accordance with the adopted development plan, unless material considerations state otherwise. The current 'Development Plan' is the Gwynedd Unitary Development Plan (2001 - 2016) and the Joint Local Development Plan for Gwynedd and Anglesey (Joint LDP) will replace the Unitary Plan as the 'development plan' once it is formally adopted. It is likely that the Joint LDP will be adopted during July 2017.

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5.16 When dealing with any planning application, the first consideration at all times should be the statutory test, i.e. it is necessary to determine planning applications in accordance with the development plan, unless other material considerations state otherwise. The Joint LDP is now a material planning consideration for the purposes of development control. Paragraph 3.1.3 of Planning Policy Wales states:

"Material considerations could include current circumstances, policies in an emerging development plan and planning policies of the Welsh Government. All applications should be considered in relation to up-to-date policies ..."

5.17 Although many policies have been discussed in detail during the Gwynedd and Anglesey Joint Local Development Plan Hearings, we will not know for certain what the contents of the Plan will be until the Inspector submits his binding report.

5.18 Paragraph 2.14.1 of Planning Policy Wales states:

"...thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances."

5.19 In this case, the Joint LDP policies, as noted in 2.4 above, are material and as these policies are consistent with the policies of the Unitary Development Plan and the relevant National Advice included in PPW and TAN 6, it is considered that the above assessment and the recommendation of this report are consistent with the emerging policy.

Visual, general and residential amenities

5.20 Policies B22, B23 and B25 of the Unitary Development Plan relate to assessing the design of the proposal and its impact on the area's amenities and those of any adjacent property as well as the use of external materials.

5.21 Notwithstanding the above assessment that considers that neither the location nor the size of the property are suitable for an agricultural or a rural enterprise worker property, and despite the fact that the site is not suitable for any other property due to its location outside the village's development boundary, it is considered that the overall design and materials of the property are suitable, and that the property itself would not have a detrimental impact on the visual and general amenities of the area.

5.22 It is therefore considered that the proposal complies with the requirements of policies B22, B23 and B2, but it is noted that this does not override the fact that the principle of the proposal is unsuitable, as is noted above.

5.23 No specific landscaping scheme has been submitted as part of the application, but it is noted that if the proposal were suitable in principle, that a standard planning condition could be imposed on any planning permission to agree on a suitable landscaping scheme and, therefore, it cannot be stated that the proposal is contrary to the requirements of policy B27 in relation to landscaping schemes.

Transport and access matters

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- 5.24 Policy CH33 relates to ensuring safety on roads and streets, and states that development proposals will be approved provided they conform to specific criteria relating to transport and access matters.
- 5.25 Policy CH36 relates to assessing private car parking facilities, and it states that proposals for new developments, extensions to existing developments or change of use will be refused unless off-street parking is provided in accordance with the Council's current parking guidelines.
- 5.26 The transportation unit confirms that the proposal is unlikely to have a detrimental impact on matters relating to transport and access. It is therefore considered that the proposal complies with the requirements of policies CH33 and CH36 in relation to these matters only.

Flooding matters

- 5.27 It is acknowledged that finding suitable land to construct new houses in Porthmadog is difficult as the vast majority of the town has been designated a flood zone. As is known, the erection of new residential houses within areas such as these is not permitted, as confirmed in recent advice from Welsh Government and in formal appeal decisions. It is true to say that this application site is not within a flood zone but this does not justify the erection of a new house outside a defined development boundary as it cannot be erected within the boundary for other reasons.

Response to the public consultation

- 5.28 As already noted above, letters of support for the proposal were received from local individuals and others, due consideration was given to all material planning matters noted in the observations received. For clarity, the responses to some specific matters that arose in observations received in support of this application are noted here:

Penamser Industrial Estate - reference was made to the location of this nearby estate and the fact that this estate extends beyond the town boundary. This site has been designated for industrial use in the Unitary Plan, it has been protected as an employment site and is located entirely within the development boundary. Historical planning permissions are in place for a number of existing activities seen on the site. It is usual for sites such as these to be located on the outskirts of towns and, although it is recognised that the site is large, its use is established and protected. It is not believed that the location of this site is justification for the erection of a residential house outside the development boundary.

Aberglaslyn Mountain Rescue Team Site - reference is made to the location of this centre on another part of the applicant's land which is also outside the development boundary but which was granted permission in 2009. It is noted from the application that the storage that existed was demolished and a new building erected in its place. Additionally, strict conditions have been imposed on the permission stating that only the rescue team is permitted to use the building and that the site would return to agricultural use if this use came to an end.

Land for affordable housing - the Design and Access Statement notes that the applicant has offered a substantial area of land for the Council to construct affordable houses, claiming that this would be a way of reaching the annual affordable housing provision target in Gwynedd. This offer has been made as part of the process to adopt the Local Development Plan, and therefore, the Policy Unit was asked to provide background about the situation. They confirmed: *"An objection was received regarding the fact that the land had been exempted from the Joint Local Development Plan. The objection was addressed and it was decided not*

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to change the Plan to include the land. The Inspector of the Public Examination of the Joint Local Development Plan has received a copy of all objections. As part of the Public Examination process regarding land in Porthmadog, a Public Hearing was held during September last year. The Public Hearings have led to a number of Action Points which in turn have led to Matters Arising Changes. There are no Matters Arising Changes to the development boundaries of Porthmadog - therefore, the land remains outside the development boundaries. The Inspector will submit his final binding recommendations to the Council in May/June 2017 - the final timetable depends on how many observations we will receive about the MAC and the nature of those observations". This offer is not material when considering this application.

Additional information

5.29 As already noted above, the applicant had submitted a formal pre-application enquiry for the proposal as indicated under reference Y16/000248. At the time, it was confirmed in a formal response that such a proposal would be contrary to the requirements of relevant policies and, as a result, the Authority would not be able to support the proposal.

6. Conclusions:

6.1 Having considered the above and all the material planning matters, including the local and national policies and guidance, as well as the observations received, this proposal to erect a new house in this specific location is not deemed acceptable for the reasons noted above.

7. Recommendation:

7.1 To refuse – reasons

1. This proposal for the erection of a new house in the countryside is not justified and is therefore considered to be unacceptable in principle and contrary to the requirements of Policies C1 and CH9 of the Gwynedd Unitary Development Plan along with guidance in Supplementary Planning Guidance: Building New Houses in the Countryside, Technical Advice Note 6: Planning for Sustainable Rural Communities along with Planning Policy Wales, Chapter 9 on Housing.

2. The applicant has not provided sufficient and appropriate evidence to prove the need for an agricultural/rural enterprise dwelling in this location outside the development boundary of Porthmadog. It is therefore considered that the proposal is contrary to the requirements of policy CH9 and the requirements as detailed within paragraph 4.3.1 of Technical Advice Note 6 and paragraph 9.3.6 of Planning Policy Wales (Edition 9, 2016).