



Adroddiad

Ymweliad â safle a wnaed ar 14/10/08

Report

Site visit made on 14/10/08

gan/by Geraint Rees BA(Hons) Dip TP MRTPI

**Arolygydd a benodwyd gan y Gweinidog
dros yr Amgylchedd, Gynaliadwyedd a
Thai, un o Weinidogion Cymru**

**an Inspector appointed by the Minister for
Environment, Sustainability and Housing,
one of the Welsh Ministers**

Dyddiad/Date 25/11/2008

Town and Country Planning Act – Section 77
Application by Mr Rhys Gwyn Roberts to Gwynedd Council
for planning permission
To erect a single storey dwelling for local affordable need
at Werglodd Myfyr, Llaniestyn, Pwllheli, Gwynedd

Accompanied site inspection

File Ref: APP/Q6810/V/08/2077128

Site address: Werglodd Myfyr, Llaniestyn, Pwllheli, Gwynedd

- The application was called in for decision by the Minister for Environment, Sustainability and Housing, one of the Welsh Ministers, by a direction, made under section 77 of the Town and Country Planning Act 1990, on 22 May 2008.
- The outline application is made by Mr Rhys Gwyn Roberts to Gwynedd Council.
- The application Ref [CO7D/0714/46/AM] is dated 19/12/07.
- The development proposed is to erect a two storey dwelling for affordable local need.
- The reason given for making the direction was because the Minister considered that the proposed development raises planning issues of more than local importance; in particular the Minister has concluded that it raises issues, which may conflict with national policy on housing development in the countryside. She has also indicated that other relevant matters for consideration are the visual and environmental implications of the proposed development on the site and surrounding areas.

Summary of Recommendation: That planning permission is refused

The Site and Surroundings

1. The site occupies the north eastern corner of a field in a backland situation to the west of the secluded rural village of Llaniestyn. The northern boundary and most of the southern boundary of the site is flanked by mature trees and hedgerow. To the east, the boundary of the site is formed by the stone wall of a churchyard on slightly raised ground attached to the church of St Iestyn, a listed building. Immediately to the north of the site is a grassy enclosure to the rear of Ty'n Llan and Ty'n Llan Bach, (a listed pair of cottages) which front onto a main road running through the village. To the south east of the site is a field to the rear of Tan y Fynwent, a cottage at the edge of the village. The eastern section of the site lies within the Llaniestyn Conservation Area. The village and surrounding area lie within the Llyn Area of Outstanding Natural Beauty (AONB). Access is currently gained to the site by a minor highway and farm tracks to the south western end of the field.

Planning Policy

2. The development plan consists of the *Gwynedd Structure Plan 1993 (GSP)* and the *Dwyfor Local Plan 1998 (DLP)*. The relevant GSP policy on rural housing is A6 which states that new dwellings in the countryside will be permitted only in exceptional circumstances, in particular where a dwelling is essential to house a farm or forestry worker who must live on the spot rather than in a nearby settlement. In essence Policy B6 of the DLP repeats the GSP policy in presuming against new dwellings in the open countryside outside development boundaries.
3. Policy B5 of the DLP states that in exceptional circumstances proposals for single dwellings may be approved in rural villages provided all the following criteria are met: i. That the development reflects the need for additional dwellings in the community and it will not adversely alter the community's social pattern or its linguistic character ii. That the need cannot be met through the existing provision of suitable housing for sale, or sites with planning permission; iii. That the site is closely associated to existing buildings and is located on an infill site within the settlement; iv. That the proposal would not constitute an undesirable intrusion into the landscape nor adversely affect the physical character of the

settlement; v. that the scale, materials, and design of the proposal conforms to or closely reflects the traditional character of surrounding buildings; vi. That vehicular access, the road leading to the site and parking provision are adequate.

4. The justification of the policy indicates that rural villages do not possess the appropriate services or facilities to allow significant levels of development. It is important that developments use land within villages in the most effective means possible, and that new houses to meet a genuine need should be limited to infill sites through building one or two houses to avoid development or change beyond the social and physical capacity of these villages. Llaniestyn is listed as a rural village, where there are no definitive settlement boundaries.
5. Policies D1 of the GSP and E1 of the DLP are protective policies designed to protect and enhance the areas of highest landscape value including the Llyn AONB. Policy D26 of the GSP indicates that all development close to a conservation area having a bearing on its setting will be carefully controlled in order to protect its character and appearance which is reinforced by policy E21 of the DLP which also refers to the enhancement of such areas.
6. Paragraph 9.2.21 of *Ministerial Interim Planning Policy Guidance 01/2006 Housing* (MIPPS) states that in planning for housing in rural areas it is important to recognise that development in the countryside should embody sustainability principles, benefiting the rural economy and local communities while maintaining and enhancing the environment. The policy statement also advises that in order to safeguard the latter objective, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside must be strictly controlled.
7. Both the appellant and the Council have referred to policy CH4 of the *Proposed Changes* version of September 2005 of the *draft Gwynedd Unitary Development Plan* (UDP) for residential development in rural villages. The Inspector in his report on objections to the plan has recommended that the policy should be removed. Although the Council intends to amend policy CH4 in its Proposed Modifications, I consider that the policy can be given limited weight at this stage of the plan which is some way from adoption. Some weight however should be accorded to policies which are broadly in line with national guidance, including B4 on conservation areas, B8 on landscapes of national importance and CH7 on new dwellings in the countryside.

The Proposal

8. The proposal is in outline form for the erection of a two storey dwelling with all matters reserved except for its siting which would be on the western half of the plot. According to the site plan, the dwelling would be about 14m by 6m. A sketch plan indicates that the upper floor would be contained in the roof space. Access from the nearest section of farm track would be across the adjoining field. Surface water would be dealt with by way of a soakway and foul drainage to a septic tank.

The Case for the Applicant

Background

9. Mr Roberts is a native of the neighbouring rural community of Garnfadryn where he lives with his parents, and is employed by the Council. He has been seeking to purchase a home in the locality for a number of years but to no avail, as house prices in the neighbourhood are beyond his reach. There are no houses for sale in the village and no plot of land with planning permission in the area.
10. An application to build a one storey dwelling in Garnfadryn about a mile from the appeal site was refused by the Council in April 2007. He then purchased the larger enclosure including the site as it is a suitable location, close to the housing clusters in the village. He is disappointed that the application has been called in following the Council's resolution to grant permission unanimously. This action is based on a complaint received from Bywyd Cymru on behalf of another applicant for a dwelling in the Meirionnydd area arising from the refusal of the Council to grant planning permission.

Effect of the proposal

11. Building the house on the proposed site would have no effect on the visual amenities of the village, the surrounding areas and on the AONB due to the site's hidden character. Even though the site is located in the middle of the village, it is concealed from public view by the church and surrounding mature trees and hedgerows. He would ensure that the building would fit in with nearby buildings, particularly the church by cladding the facing gable with local stone of a similar colour and texture, which he has brought onto the site.
12. The site has a close relationship to other developments including the adjoining church and two cottages, the gardens of which are a short distance from the site. Other residential ownerships extend westwards including Tan y Fynwent. The proposal would be on an infill site within the settlement. Backland development in the form of a permitted caravan storage area to the rear of a commercial building to the north west of Tan Llan cottages is clearly seen from the site. The plot borders the garden area of Tan y Fynwent to the south east. Unlike the appeal proposal, two properties have been permitted away from the centre of the village and constructed at the north western end of the village together with another dwelling at the southern extremity permitted as recently as 2007.
13. Having graduated in Planning and Environmental Management with an MA in Countryside Management, he is well qualified in conservation matters to ensure that the proposal would not have a negative effect on the environment. He has already planted over 150 native trees, and allowed two corners of the field to remain wild and fenced off from the mown area, which together with the cleaning of a small pond within the site would create further wildlife refuges.

Policy implications

14. The proposal would comply with the requirements of policy B5 of the DLP. There is a clear need for the house which would have a positive effect from having a new Welsh-speaking family in the area. Building a house on this infill plot would

have no effect on the landscape and the physical character of the area. Developments have been permitted in smaller settlements of a more rural character than Llaniestyn, including 7 dwellings in Dinas just over a 1 mile to the north and 5 in Garnfadryn to the north east in accord with policy B5 of the DLP. A precedent for allowing the dwelling has therefore been already set. He is willing to sign a section 106 agreement for local need.

15. The local highway authority foresees no problems with the entrance of the track onto a minor rural highway. Although the planning officer referred to the road being narrow and unsuitable, he provides no basis for assuming this. The entrance to the farm lane is already used by cars, a tractor and trailer and motorbike on a daily basis which will continue whether planning permission is granted or not. One of the three dwellings permitted on the edge of the village is located on the southern side of the track.

The Case for Gwynedd Council

16. In the report to the area planning committee, the officers took the view that the proposal would be contrary to policy B5 of the DLP since the house is not on an infill plot in a rural village. Moreover the policy limits residential development to one or two houses in some villages during the lifetime of the plan. Currently three houses have been approved in the village. Should the application be granted planning permission, four new houses would have been approved in the village contrary to the policy and its objectives.
17. Accordingly, the proposal is tantamount to the construction of a house in the open countryside outside the development boundaries of a rural village and contrary to policies B5 of the DLP, A6 of the GSP and CH7 of the UDP, which presume against the construction of houses in the countryside without agricultural justification. This is reinforced in paragraph 9.3.6 of *Planning Policy Wales* (PPW) new house building in the open countryside away from established settlements. There is some concern regarding the additional use of a substandard junction of a narrow rural highway and a farm track due to the lack of visibility at this point, near to which a new dwelling has recently been approved.
18. Policies E1 of the DLP and D1 of the GSP presume against a development which is likely to have a significant harmful effect on the landscape. The proposal is not considered to be a significant departure from these policies due to the low position of the dwelling in the corner of the field surrounded by hedges. Neither is it considered contrary to policy C9 on the need to assess the effect on the amenities of neighbouring residents due to its distance from the nearest private property. Part of the site, which ends at the cemetery wall of the church, lies within the village's Conservation Area. The proposed house would not have a significant effect on the character of the nearby Conservation Area due to its low position to the rear of the village houses. A house of a suitable design and finish would not have a significant harmful effect on the character and layout of the ancient church, bearing in mind that the proposed plot faces the church's western gable which is out of public sight.
19. Accordingly the report recommended that the proposal should be refused on the basis that the proposal is contrary to policy B5 of the DLP in that it is not infill

development in a village where 3 dwellings have already been allowed. The proposal would be contrary to A6 of the GSP, B6 of the DLP and CH7 of the UDP on new dwellings in the countryside.

20. The area planning committee did not accept the recommendation but elected to delegate the right to approve the application subject to a section 106 (affordable local need), as the application conformed to the relevant policies of the DLP and GSP. The application was transferred to the central committee for further consideration, where officers reiterated their views made in support of their recommendation. They added that the proposal would be contrary to the guidance in the Act that it is not in accordance with the relevant policies of the development plan. The personal matters advanced in this instance are not material planning consideration to justify the granting of planning permission.
21. Officers consider that the need for housing should be met by amending the UDP. Approval of the application would create a dangerous precedent especially where it is considered there are many applicants who could argue similar circumstances in the area. Nevertheless the central committee resolved to approve the application on visiting the site.

Other written Representations

Members of the Welsh Assembly and Parliament

22. **Mr Elfyn Llwyd MP** - expressed concern that the application has been called in. The application should be permitted as Mr Robert's proposal meets all the criteria of policy B5 of the Dwyfor Local Plan.
23. **Lord Dafydd Elis-Thomas AM**– The application was approved by the area and central committees of the Council and the applicant was willing to sign a section 106 agreement, which was supported by **the Tudweiliog Community Council**. The person requesting that the application should be called in did not make representations to the Council as part of the planning process. He is of the view that this application reflects a genuine local need.
24. **Mr Alun Ffred Jones AM** – Although he is not the AM for Mr Roberts, he has taken an interest in planning cases as a former member and chairman of the planning committee. He has always adhered to the policies of the development plan and UDP as this was the only way to retain confidence in the planning system. In this instance the applicant has followed the correct administrative procedures, and attempted to adapt his plans to conform to the requirements of current policies as recognised by the planning committee. It appears to him that the objections to the application have been based on unreasonable grounds encouraging others to pursue less honourable means to achieve their aims. Detailed and careful consideration should be given to the case in the interests of fairness and the sustainability of rural communities.

Local residents

25. Eleven letters have been submitted strongly in support of Mr Robert's case including 6 representations from Llaniestyn and a further 5 from the wider community. Their representations are summarised below.

26. There are no local objections to the proposal. It would have no effect on visual amenities. The applicant has had to go to great lengths to submit his case through all the committees and presentation of documents but to no avail. Instead of being discouraged, he went ahead in purchasing the parcel of land in 2007. Several television reports in July 2008 refer to the situation regarding affordable housing in Cornwall and how house prices are beyond the reach of local people, which also applies in the Lake District and Wales. The restrictions on young local Welsh people should be relaxed to ensure that local communities such as Llaniestyn, do not die and become dormant for a greater part of the year. The village has become quieter over the years with the closure of two shops, school and post office. The proposal is by a young local person who will contribute to the vitality of a village which is losing its younger generation.
27. It is likely that the person from Dyffryn Ardudwy (Meirionnydd) who requested that the application should be called in, has little idea of where Llaniestyn is, or the details of the application. In response to the fear of precedent, the question is raised as to why so many developments have been permitted under policy B5 at locations which are far less suitable than the one proposed.
28. **The Society for the Protection of Ancient Buildings** is of the view that a new building could not be said to complement the setting of the church, with its untraditional finish, and predominantly bordered by a field.

Appraisal

29. In my view the proposal does not accord with the definition of an infill site in planning terms, which is a small gap of land for development between existing groups of buildings. The plot is a backland site with no road frontage, flanked on three sides by open parcels of grassy land which cannot in my opinion be considered to be part of the built up area of the village. Although the site lies to the rear of the church, the focal point of the linear settlement, it is more closely related both physically and visually, to the open countryside than the existing settlement pattern.
30. The proposed backland location of the plot reinforces my view that a new dwelling here would not be well integrated with the settlement. I observed that it would be necessary to access the site via a long tortuous route through part of the countryside terminating in a long driveway along a section of the adjacent field. Accordingly the proposal fails to comply with criterion iii. of policy B5 of the DLP on infill development.
31. In planning terms therefore I consider that the site is located in the open countryside where both national and local planning policies, including A6 of the GSP and B6 of the DLP impose a strict control on the erection of new dwellings. There are no exceptional circumstances advanced in support of a new dwelling based on essential agricultural or other rural employment need. A new dwelling at this location would not accordingly be justified for the proposed use, and would be contrary to established local and national countryside protection policies.
32. Both parties are of the opinion that the proposal would have a very limited visual effect on the surrounding area in view of its secluded location and mature vegetation cover. However Paragraph 9.3.6 of MIPPS 01/2006 Housing states

that the fact that a single house on a particular site would be unobtrusive is not by itself a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area.

33. Furthermore the site is particularly sensitive as it lies partly within a conservation area and forms part of the setting of the listed church. I consider that the application should therefore be examined in the light of the conservation policies of the development plan and the requirements of sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In my view a new dwelling at this sensitive rural edge would impinge unacceptably on the village character particularly the church and churchyard. The churchyard would be open to the public for funerals and on other occasions. Visitors to the graveyard would have a clear view of a new dwelling, however sympathetically designed. I consider that the unspoilt view out of the conservation area into the open countryside at this point is sufficiently important to be retained as also is the setting of the listed building. A dwelling on the appeal site would intrude on those views and detract from the rural setting of the church. The proposal would therefore fail to preserve the character and appearance of the conservation area, and the setting of the church, contrary to local and national policies.
34. In my opinion, the fact that the applicant would be able to build on land in his ownership is not of sufficient weight to overcome national policy guidance. The proposal would not conform to the definition of an affordable housing need in paragraph 5.1 of *Technical Advice Note 2 Planning and Affordable Housing of June 2006* (TAN 2). This defines affordable housing as housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing both on first occupation and for subsequent occupiers. It seems to me that there are no means of ensuring that the dwelling would remain affordable at all times, both on first occupation and into the future.
35. While I note the applicant's intention to make an active contribution to community life, I consider that this is outweighed by a number of other considerations in terms of sustainability. I observed that Llaniestyn is a small isolated rural village with poor highway links to larger service centres. Community facilities have been reduced to a church and former school used as a nursery and meeting place, while there are only a limited number of bus services in the week to Pwllheli, and the neighbouring rural settlement of Dinas. There is no indication that the dwelling is required to meet an employment need in the locality of Llaniestyn. The applicant would therefore be likely to travel further afield by car to and from his place of employment with the Council. Accordingly I consider that the proposal would not be acceptable in terms of sustainability and contrary to national policy on reducing car-borne travel.
36. With regard to the highway concern of planning officers regarding the junction of the farm lane and rural highway, I note that no evidence has been provided by the highway authority to substantiate this comment. I observed that the highway leading from the south west into the village is a very minor road in the rural network, which is narrow and of some gradient. In my view, the highway would be lightly trafficked with vehicles moving at slow speeds approaching the village. While I recognise that visibility onto the road is somewhat limited, I do not consider that the risk to highway safety is so serious as to warrant refusal on this ground.

Conditions and Obligations

37. There are no planning conditions put forward by the local planning authority in their representations. If planning permission were granted, the standard conditions on an outline application should be attached except for the siting of the dwelling, which is not a reserved matter. A condition requiring a minimum of 2 parking spaces on the site should also be attached. As the Environment Agency indicates that the proposal is on a low flood risk site, there is no requirement for further details.
38. In recommending that the proposal should be granted planning permission the Council stipulated that the development should be subject to a section 106 (affordable local need). As the test of affordable need has not been met, I consider that it would be inappropriate to place a restriction on the occupation of the dwelling for this purpose. There would be no guarantee that this restriction could be maintained in the longer term, and such an arrangement would not comply with the mechanisms to secure affordable housing provision as set out in TAN 2.

Conclusions

39. For the reasons given above, I conclude that the proposed dwelling would adversely affect the character and appearance of the area, and would be unsustainable. It would be contrary to development plan policies on the countryside, rural villages and on conservation areas, and in conflict with national advice on the need for developments to be sustainable. In my view the material considerations advanced in support of the application do not outweigh this harm. I consider that allowing this dwelling, bearing in mind its conflict with local and national policies and the lack of justification to depart from those policies, would make it difficult for the Council to refuse similar unjustified new dwellings outside existing settlements, leading to significant cumulative damage to the countryside.
40. I have taken into account all other matters raised, but I find nothing of sufficient substance to override my conclusion and recommendation that the application should be refused.

Geraint Rees

INSPECTOR

LIST OF PERSONS ATTENDING SITE INSPECTION

Mr Rhys Gwyn Roberts Appellant

Mr William Elfyn Williams Senior Planning Officer Gwynedd Council