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## **Penderfyniad ar yr Apêl**

Gwrandawriad a gynhaliwyd ar 04/04/17

Ymweliad â safle a wnaed ar 04/04/17

**gan Alwyn B Nixon BSc MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 18.07.2017**

## **Appeal Decision**

Hearing held on 04/04/17

Site visit made on 04/04/17

**by Alwyn B Nixon BSc MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 18.07.2017**

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**Appeal Ref: APP/N6845/C/16/3161991**

**Site address: Land at Model Farm, Manorbier, Tenby, Pembrokeshire, SA70 8LQ**

**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 Edward Jonathan Walker against an enforcement notice issued by Pembrokeshire County Council.
  - The enforcement notice, numbered INV/0343/11(a), was issued on 28 September 2016.
  - The breach of planning control as alleged in the notice is, without planning permission, (i) the change of use of the land for the stationing of a static caravan, (ii) the construction of timber decking around the caravan.
  - The requirements of the notice are: permanently remove the static caravan and decking from the land.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
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## **Decision**

1. The enforcement notice is corrected by the deletion of the words "for the stationing of a static caravan" in part (i) of the breach of planning control as alleged in the notice and the substitution of the words "to a mixed use for agriculture and for the stationing of a static caravan for residential purposes in the approximate position outlined in black and marked "caravan" on the plan attached to the notice". Subject to this correction the appeal is allowed and the enforcement notice is quashed.
  2. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the use of land for the stationing of a static caravan for residential purposes and the construction of timber decking around the caravan, subject to the following conditions:
    - 1) The location of the residential caravan and timber decking shall be in accordance with the plan attached to enforcement notice numbered INV/0343/11(a), issued on 28 September 2016.
    - 2) The use shall be discontinued and the static caravan and decking shall be removed from the land and the land restored to its former condition on or before the expiration of three years from the date of this decision.
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### **Matters concerning the notice**

3. The enforcement notice and plan identify the land to which the notice relates as comprising the whole of the land unit of 17.4ha or so known as Model Farm. The unit comprises a mixture of pasture and woodland and a substantial framed agricultural building with associated surfaced area. There is no dispute that the historical use of the land has been for agriculture, and that this use has continued (albeit at a fairly low level) during the process of issuing the notice and subsequently. It is also agreed that the caravan was brought onto the land for the purposes of residential occupation and indeed was initially occupied for that purpose, and although such occupancy has ceased pending the outcome of the appeal this remains the purpose of the caravan's presence on the land.
4. Irrespective of whether the enforcement notice is upheld, or quashed and planning permission granted, it is important that the development is correctly described – not least so that the deemed application for planning permission is considered on the right basis. There is agreement that the purpose of the caravan's placement on the land is for residential use.
5. I have a duty to get the notice in order if I can, and have wide powers of correction provided that the interests of neither party would be prejudiced. At the hearing both sides agreed that there would be no prejudice if I were to correct the notice to refer to a mixed use for agriculture and for the stationing of a static caravan for residential purposes. I have therefore corrected the notice accordingly.

### **Reasons**

#### ***The appeal on ground (a) and the deemed planning application***

6. The main issue is whether there is a sufficient need and justification for a residential caravan in this location, having regard to prevailing policies and guidance.
7. The development plan for the area is the Local Development Plan (LDP) for Pembrokeshire, adopted in 2013. LDP policy SP1 sets out broad sustainable development principles and GN1 sets out a range of general development criteria, with which all development proposals are expected to comply. Policy SP16 seeks to meet the essential requirements of those who live and work in the countryside, whilst protecting its landscape and natural and built environment. Subject to minimising visual impact on the landscape, the policy promotes enterprises for which a countryside location is essential and opportunities for rural enterprise workers to be housed in suitable accommodation that supports their employment. Policy GN26 specifically relates to housing proposals. Of relevance to this appeal, it permits residential development where this comprises a rural enterprise worker's dwelling. The accompanying text in the LDP states that proposals to provide such accommodation will be determined against the principles of Technical Advice Note (TAN) 6 *Planning for Sustainable Rural Communities*.
8. National planning policy guidance, in Planning Policy Wales (PPW), TAN6 and the accompanying Practice Guide (2011) concerning Rural Enterprise Dwellings, sets out the Welsh Government's policy approach to the delivery of sustainable rural housing and, within this, its approach to meeting particular housing needs arising from farms and other rural enterprises located in the countryside, notwithstanding the longstanding and continuing policy of general restraint on sporadic development in the countryside. The policies of the LDP reflect and are consistent with this approach.

9. Under the prevailing development plan and national policy framework, new rural enterprise dwellings remain exceptions to general development policy in such areas and require particular justification. The testing of essential functional needs and economic sustainability forms the basis of the exception. In this case the activity in question is a new agricultural enterprise and there is no existing dwelling on the holding. Paragraph 4.6.1 of TAN6 makes clear that a new dwelling to support a new rural enterprise should satisfy a number of criteria. Where the case is not completely proven for a dwelling, permission should not be granted for it; however, it may be appropriate to test the evidence by granting permission for temporary accommodation for a limited period (normally up to three years) and ensure that the circumstances are fully assessed. Permission for a permanent dwelling should not subsequently be given unless the criteria in TAN6 are met. It is on this basis that the case is made for the residential caravan to remain on the land for a three year period, so that the development of a long-term sustainable and economically viable rural enterprise on the land, in respect of which permission for a permanent dwelling would be justified, can be demonstrated.
10. The proposed business is a combined pig-breeding and free-range egg production enterprise, making use of the mixture of pasture and woodland comprised within in the unit. The appellant has operated at a low key level on the land since 2015, seeking to establish the business. At present there are 6 breeding sows (up from 3 in December 2016) and one boar on the land, together with 16 young pigs aged about 7 and 9 weeks old, the product of the first two litters produced so far. There is currently a flock of 20 laying chickens; the number of chickens kept has temporarily reduced from the 50 or so present last December due to recent restrictions connected with avian flu.
11. The enterprise is clearly at an early stage. However, a 5 year business plan has been submitted, showing how the business would be developed should permission be granted for residential accommodation at the site. At year 3 there would be 30 breeding sows, each farrowing twice a year. Finished pigs would be processed to produce premium locally-produced sausages and other pork products for retail to tourism market-related outlets within the locality. The egg-laying flock would be expanded to 300 birds at year 3, with a similar marketing plan together with sales at the gate.
12. Having regard to the relevant tests contained in TAN6, there is clear evidence of a firm intention and ability to develop the rural enterprise concerned. There has already been significant investment, in the form of acquiring and developing the site so far, investment in machinery and creating pens and enclosures and livestock shelters. The appellant has previous agricultural experience and has invested significant time, effort and commitment towards establishing the enterprise over the period from 2015, despite living some distance away from the site and the difficulties entailed by this as regards good husbandry and effective oversight. The Council confirmed at the hearing that it accepts that this particular test is met.
13. The appellant has provided cogent and convincing reasons why the enterprise is proposed at this location and why the location is well suited to the particular agricultural activity and business model concerned. There is no indication of any other suitable site where a dwelling is likely to be available. The Council again does not take issue with this aspect of the evidence.
14. Detailed figures, prepared by the appellant's agricultural consultant, provide an overall financial budget for years 1-3 for the Model Farm enterprise and separate expenditure

and income budget calculations for the pork and egg production elements over the initial 5 year period. Costs are taken from the John Nix Farm Management Pocket Book. In summary, the budgetary information projects a net profit of £5,360 in Year 1, increasing to £19,598 in Year 2 and £25,359 in Year 3. The Council does not contest the basis of the calculations. Although little detailed evidence of potential sales outlets was submitted prior to the hearing, further evidence adduced at the hearing tends to support the appellant's contention that the numerous tourist accommodation facilities in the area provide a good potential market for quality locally produced meat and egg products. Given the present early stage of development of the enterprise it is unsurprising that supporting evidence should take the form of expressions of interest rather than formal contractual commitments. The appellant and his family clearly have knowledge and understanding of the target market and how a sustainable sales strategy would be pursued and developed.

15. On the evidence I am satisfied that adequate evidence of potential economic performance has been provided, sufficient to show that the business has been planned on a sound financial basis and that it has a realistic prospect of achieving financial viability within 3 years which can be sustained in the long term.
16. Turning to the question of functional need, the appellant currently lives a few miles away in Tenby. The professional agricultural appraisal undertaken for the appellant provides clear and robust evidence of a functional need for a residential presence at the site, particularly in relation to farrowing. I heard detailed evidence of the level of presence needed at the site and the monitoring and care required round the clock in the days immediately before, during and after farrowing, for reasons of animal welfare and to minimise mortality at birth or soon after. Whilst two litters have been delivered in recent weeks without the benefit of a dwelling on the site, I am in no doubt that, in order to develop the pig-rearing enterprise to the proposed level of 30 breeding sows, each farrowing twice a year, the appellant would need to be present on site at most times in order to be readily available to deal with whatever might arise, during night-time hours as well as the normal working day.
17. Having regard to the advice in TAN 6 that the functional requirement must relate to a full-time worker, the agricultural appraisal indicates a labour requirement for the enterprise equivalent to 1.2 full-time workers, based on an assessment of Standard Man Days. I consider that this assessment is robust.
18. There is no dwelling on the holding, and no dwelling in the vicinity that is available to meet the identified need.
19. The Council has confirmed that the proposal satisfies other normal planning requirements, such as siting and access. Although close to the boundary of the Pembrokeshire Coast National Park, the proposal would not have any adverse effect on the Park or its setting, and would not run counter to the purposes of the Park's designation. Whilst the enforcement notice also requires the removal of the area of decking erected in association with the caravan, the Council considers that, should justification be found for the stationing of a caravan for residential purposes in this location, the retention of the decking as a structure ancillary to the caravan would likewise be acceptable. I share this view.
20. I conclude that a sufficient need and justification has been demonstrated for the residential caravan in question, in order to support the development of the appellant's new agricultural enterprise at Model Farm. In line with national planning policy guidance in PPW and TAN6 concerning situations where a new dwelling would be

essential to support a new rural enterprise but the case for a permanent dwelling is not completely proven, a grant of planning permission for a residential caravan for a temporary period of 3 years, at the end of which the case for a permanent dwelling can be assessed, is appropriate in this case. I conclude that the development proposed by way of the ground (a) appeal in this instance thus accords with the development plan.

21. I have considered the conditions suggested by the Council should the appeal on ground (a) be successful. In line with prevailing policy guidance, a condition is needed restricting the duration of the permission to a period of 3 years, to ensure that the progress made in establishing the rural enterprise can be reviewed at the end of the period and the justification for a permanent dwelling at Model Farm assessed. Given the temporary nature of the permission so granted, additional occupancy restrictions are unnecessary. In line with current Welsh Government guidance I shall also impose a condition relating the permission granted to the relevant siting plan.
22. Subject to these limitations, the appeal on ground (a) therefore succeeds.

### **The ground (g) appeal**

23. Since I have decided that the ground (a) appeal is successful, there is no need for me to consider the matters put forward in relation to ground (g).

### **Conclusion**

24. For the reasons given, and having taken into account all matters raised, I allow the appeal on ground (a). The enforcement notice as corrected is quashed, and permission granted on the deemed application in the terms set out at the head of this decision.

*Alwyn B Nixon*

**Inspector**

## **APPEARANCES**

### FOR THE APPELLANT:

Joe Ayoubkhani MSc, MRTPI	Geraint John Planning
Ieuan Williams BSc MA PIEMA MBIAC	Reading Agricultural Consultants
Edward Jonathan Walker	Appellant
Edward Ralph Walker	Appellant's father

### FOR THE LOCAL PLANNING AUTHORITY:

Rachel Elliott BSc MSc MRTPI	Planning Officer, Pembrokeshire County Council
Peter Horton	Enforcement Officer, Pembrokeshire County Council

## DOCUMENTS

- 1 Letter from Hideaway Farm Meats Ltd
- 2 Email from Castle Inn, Manorbier
- 3 Tenby Woodland Pork (Model Farm) marketing leaflet