Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Appeal Decision

---

by Zoe Baxter

an Inspector appointed by the Welsh Ministers

Decision date: 20/06/2025

Appeal reference: CAS-03996-G3X8X5

Site address: Pencoed, Pentre'r Bryn, Llandysul, SA44 6NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Ben Vaughan against the decision of Ceredigion County Council.
- The application Ref A240641, dated 27 August 2024, was refused by notice dated 6 December 2024.
- The development permitted is extension and conversion of outbuildings for residential use.
- The condition in dispute is No. 16 which states that: "*The occupation of the dwelling hereby granted full planning permission shall be limited to a person or persons solely or mainly employed in the locality (i.e. within a radius of 30 miles of the dwelling) in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990), or in forestry. The dwelling may also be occupied by persons in the following categories:*
  - *i) any persons who are totally or substantially dependant upon the persons(s) referred to above,*
  - *ii) the person(s) referred to above, following his or her subsequent retirement, together with any persons who are his or her total or substantial dependants.*
  - *iii) the widow or widower of the persons(s) referred to above, together with any persons who are his or her total or substantial dependants."*
- There is no specific reason given for condition 16, the most relevant reason provided for the list of conditions is: "*To ensure that the development is in character with its surroundings."*
- A site visit was made on 20 May 2025.

Decision

1. The appeal is allowed and planning permission is granted for an extension and conversion of outbuildings for residential use at Pencoed, Pentre'r Bryn, Llandysul, SA44 6NN, in accordance with the application, Ref A240641, dated 27 August 2024, without compliance with condition No.16 previously imposed on planning permission Ref D1/570/94 dated September 1996 but subject to the conditions set out in the schedule to this decision letter.

Procedural Matter

2. The site address is taken from the Decision Notice as this most concisely identifies the site's location.

Main Issue

3. Is whether condition 16 of the Planning Permission remains necessary, enforceable and reasonable, having regard to the development plan, the need for rural worker dwellings in the local area and other material considerations.

Reasons

4. The appeal site comprises the residential dwelling and detached agricultural style building along with a garden area and driveway situated on the corner of the A486 and Penrhiwgaled Lane. To the northeast a number of detached dwellings front Penrhiwgaled Lane, with two dwellings opposite on the A486, resulting in a small cluster of residential development. The wider area surrounding the site comprises open fields.

5. There is no dispute between the parties that the site is situated within the countryside in an 'Other Location' beyond any settlement boundaries identified in the adopted Ceredigion Local Development Plan 2007-2022 (LDP).

6. Planning permission was granted in September 1996 for extension and conversion of the outbuilding for residential use and was subject to the disputed condition which sought to ensure that occupation of the dwelling was only by qualifying agricultural or forestry workers (or retired workers) in the locality and their dependants. The site location plan submitted with the appeal scheme suggests that Pencoed presently has no wider land under the same ownership beyond the driveway and garden area.

7. Policy S04 of the LDP states that 'Other Locations' are inappropriate for housing development unless justified on the basis that it meets either a demonstrated unmet affordable housing need in the locality and accords with Policy S05; or a need for a rural enterprise dwelling in line with Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities. Planning Policy Wales (PPW) Edition 12 notes rural enterprise dwellings represent one of the few circumstances in which isolated new residential development in the open countryside may be justified. The proposal would result in the appeal dwelling being unencumbered by any occupancy condition and available as an open market dwelling, contrary to the above LDP policies and PPW guidance.

8. TAN 6 refers to occupancy conditions and states where the need to provide accommodation to enable rural enterprise workers to live at or near their place of work has been accepted as justifying isolated residential development in the open countryside, it will be necessary to ensure that the dwellings are kept available for meeting this need. As the Council highlight, TAN 6 continues that where applications are received to remove agricultural occupancy conditions local authorities should consider imposing the rural enterprise condition to ensure that the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing.

9. Circular 16/2014 'The Use of Planning Conditions for Development Management' advises where a rural enterprise occupancy condition has been imposed it will not be appropriate to remove it on a subsequent application unless it is shown that the existing need for such dwellings for rural enterprise workers in the locality no longer warrants reserving the house for that purpose.

10. Local and national planning policy and guidance is clear that agricultural occupancy conditions should be retained unless demonstrated that there is no longer a need for the dwelling to be retained for such persons.

11. However, Pencoed has been unlawfully occupied for a period in excess of 10 years and a Certificate of Lawful Existing Use or Development (CLEUD) was issued by the Council (ref. A240369) in July 2024 stating that the occupation of the dwelling in breach of condition 16 of planning permission 940570 (D1/570/94) is lawful. As such, the

appellant's case is based on condition 16 of the original planning permission no longer complying with the relevant tests for planning conditions, notably that it is no longer enforceable.

12. The Council refer to the site's location in a rural and agricultural area ensures that there remains a high demand for occupationally tied dwellings and contend that the condition has capability of retaking effect in the future, should an eligible agricultural or forestry worker occupy the property once more. Whilst this could be the case, I consider that agricultural workers are far more likely to purchase a property which is restricted and would therefore be around 30% cheaper than market value (which is the typical reduction for a dwelling subject to an occupancy condition). The appeal property, as a result of the CLEUD is not subject to any reduction from market value at present and I see no valid reason why the present owner would wish to sell the property at a reduced price. The appeal statement advises that the dwelling was sold for £575,000 last year, giving an indication of its current value. On this basis, a 30% reduction is over £170,000. As such, any future sale of the property is likely to be on the open market to a non-agricultural/forestry worker.

13. The appellant refers to 8 dwellings on the market for less than £500,000 within 1 mile of the site and a further 72 dwellings for sale within 3 miles. Whilst I note that detailed information of the properties has not been provided in order to compare size and facilities available or identify any restricted by occupancy conditions, it does indicate that the appeal property would be priced somewhat above that scale and even if the reduction associated with the occupancy condition were applied it would still be toward the higher end of that price range. As such, this suggests a prospective purchaser would have numerous options available in the locality regardless of any occupancy condition. Furthermore, as already highlighted, the appeal property is not tied to any particular rural enterprise and so it has not been demonstrated that the site meets a specific need for such dwellings within the locality.

14. Notwithstanding this, in light of the increase in house prices in Ceredigion over recent years, I agree with the Council that occupancy conditions are an important mechanism to retaining rural dwellings for those who qualify under the relevant criteria. However, as set out above, in this particular case I see no likely scenario where the seller or a buyer would accept a significant financial loss in order for the appeal dwelling to be occupied in accordance with condition 16 of the original permission. As such, I am not satisfied that retention of the condition would achieve the purpose of providing an agricultural worker's dwelling or meeting an affordable local need. Therefore, the condition no longer serves a useful purpose, and the necessity test is not met.

15. The Council refer to replacing the condition with the rural enterprise condition set out in TAN 6. Whilst this would broaden the potential future occupiers, the submitted information indicates that the existing occupiers would not comply resulting in an immediate breach. Furthermore, it would not overcome the significant financial loss which would incur to the seller and/or a buyer as set out above resulting in it being unlikely to take effect. As such, I am not persuaded that imposition of this condition would serve a useful purpose or meet the relevant tests.

16. In support of the case, the appellant includes reference to a number of appeal decisions where Inspectors have removed occupancy conditions on the basis of the conditions no longer serving a useful purpose in light of the CLEUDs at the properties. Although involving sites in England, many of the cases cited relate to similar circumstances as the appeal scheme. Notwithstanding that appeals are determined on their individual merits, those examples lend support to allowing the appeal before me.

17. Condition 16 of the original permission is currently immune from enforcement action and such benefits could be transferable to any future occupiers in perpetuity. As such and based on the information presented, the condition no longer meets the necessity or enforceable tests and is unlikely to do so for the foreseeable future.

18. I afford significant weight to the CLEUD and consider that the ability to occupy Pencoed in breach of the disputed condition is a significant material consideration which clearly outweighs the conflict with the development plan in the specific circumstances of the case before me. Accordingly, the condition does not meet the tests set out in national guidance, and it is no longer necessary or reasonable to continue to require the property to be occupied by qualifying persons.

Conditions

19. As I am granting a new planning permission, I have had regard to the other conditions originally imposed. The Development Management Manual clearly states that decision notices for the grant of planning permission under section 73 should repeat the relevant conditions (which are considered necessary) from the original decision notice. The Council have not provided any information in regard to the other conditions and in the event that some have been discharged, that is a matter which can be addressed by the parties. In the light of advice in Circular 016/2014, I have adjusted the wording of some of the conditions in the interests of clarity and precision and given the development has commenced I have not included all conditions, including the standard time limit condition. I have also included reasons for each of the conditions as the original decision notice did not contain a specific reason for each condition.

Conclusion

20. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed. I will grant a new planning permission without the disputed condition but restating the other uncontested conditions as set out above.

21. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

Zoe Baxter

INSPECTOR

SCHEDULE OF CONDITIONS

1) Provision shall be made for parking and turning vehicles in accordance with plans approved by the Local Planning Authority and retained thereafter.

   Reason: In the interests of highway safety in accordance with Policy DM03 of the Ceredigion Local Development Plan.

2) Surface water shall be trapped and disposed of so as not to flow on to the adjoining highway.

   Reason: In the interests of highway safety in accordance with Policy DM03 of the Ceredigion Local Development Plan.

3) The existing gated access along the frontage to the principal road A486 shall be closed up in permanent materials and retained as such thereafter.

   Reason: In the interests of highway safety in accordance with Policy DM03 of the Ceredigion Local Development Plan.

4) The wall/hedgebank along the A486 frontage of the application site, north of the existing access gate, and along the side road as far as the new access shall be reduced to and maintained at a height not exceeding 900mm above road level within 2.1m of the nearside carriageway edge.

   Reason: In the interests of highway safety in accordance with Policy DM03 of the Ceredigion Local Development Plan.

5) No new soakaway shall be situated within 6m of the nearside highway boundary.

   Reason: In the interests of highway safety in accordance with Policy DM03 of the Ceredigion Local Development Plan.

6) There shall be no discharge of surface water from the site hereby granted full planning permission to the public sewer.

   Reason: In the interest of ensuring the development does not overload the existing drainage system in accordance with Policy DM12 of the Ceredigion Local Development Plan.

7) No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

   Reason: In the interest of a satisfactory landscape treatment of the site to enhance the character and appearance of the area, in accordance with Policies DM06 and DM10 of the Ceredigion Local Development Plan.

8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years (5) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval of any variation.

   Reason: In the interest of a satisfactory landscape treatment of the site to enhance the character and appearance of the area, in accordance with Policies DM06 and DM10 of the Ceredigion Local Development Plan.

9) No hedgebank along the boundary of the site hereby granted planning permission shall be wilfully damaged, destroyed, removed or uprooted except at the authorised point of access without the prior approval, in writing, of the Local Planning Authority.

   Reason: In the interest of retaining the existing hedgebank at the site for visual and ecological purposes in accordance with Policies DM06 and DM15 of the Ceredigion Local Development Plan.

10) The roof shall be covered in natural slate or an approved synthetic slate, a sample of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interest of the visual impact of the development on the character and appearance of the area, in accordance with Policy DM06 of the Ceredigion Local Development Plan.

11) The windows hereby granted permission shall not have an integral, but shall have a separate sill and shall be set in the opening as to have a minimum external reveal of 10cm (4 inches).

Reason: In the interest of the visual impact of the development on the character and appearance of the area, in accordance with Policy DM06 of the Ceredigion Local Development Plan.

12) Details of the surface treatment of the private access drive shall be submitted to and approved by the Local Planning Authority prior to development commencing. Development shall be carried out in accordance with the approved details prior to occupation of the dwelling and retained thereafter.

Reason: In the interest of securing appropriate drainage and the visual impact of the development on the character and appearance of the area, in accordance with Policy DM06 of the Ceredigion Local Development Plan.

13) The method indicated for foul drainage must be in accordance with the details specified on the application form. Any material change in the details must be submitted to and approved by the Local Planning Authority prior to the commencement of any site works.

Reason: In the interests of securing an adequate means of foul drainage disposal, in accordance with Policy DM12 of the Ceredigion Local Development Plan.

14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), the building shall not be enlarged, or altered externally in anyway unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To allow the Local Planning Authority to retain control over the development in the interests of visual and residential amenity in accordance with Policy DM06 of the Ceredigion Local Development Plan.