

Rhif y Cais A200047

Derbyniwyd 20-01-2020

Y Bwriad Newid defnydd tir i ardd breswyl a chodi wal gynnal, ardal ddecin ac ystafell ardd yn ôl-weithredol.

Lleoliad Safle Ty Fosi, Pantycrug, Capel Seion, SY23 4EF

Math o Gais Cais Llawn

Ymgeisydd David Clarke, Ty Fosi, Pantycrug, Capel Seion, Aberystwyth, Ceredigion, SY23 4EF

Asiant Mr Mathew Tench (Mathew Tench Architects and Associates), Llety Bach, Pïsgah, Aberystwyth, Ceredigion, SY23 4EF

Y SAFLE A HANES PERTHNASOL

Mae hwn yn gais cynllunio llawn ôl-weithredol ar gyfer datblygu ystafell ardd allanol gyda decin, wal gynnal i ganiatáu i'r ardal gael ei lleoli ar lefel is a newid defnydd y tir i ardd breswyl. Mae ceisiadau cynllunio blaenorol yn cynnwys:

910823 Cais Cynllunio Amlinellol - Codi annedd ar dir ger Haulfryn – Gwrthodwyd 20/08/1991

930018 Cais Cynllunio Llawn - Codi annedd a garej, tir ger Haulfryn – Cymeradwywyd gydag amodau – 05/03/1993

980023 Cais Cynllunio Llawn - Codi byngalo, tir ger Haulfryn – Cymeradwywyd gydag amodau – 11/03/1998

A021344 Cais Cynllunio Llawn - Codi byngalo (Adnewyddu 980023) – Cymeradwywyd gydag amodau – 17/01/2002

A050143 Cais Cynllunio Llawn – Codi Tŷ – Cymeradwywyd gydag amodau - 19/08/2005

A051103 Cais Cynllunio Llawn - Codi annedd gyda garej integredig a chodi 2il garej at ddefnydd personol (lluniadau diwygiedig) – Cymeradwywyd gydag amodau – 21/11/2005

A070253 Cais Cynllunio Llawn - cadw un tŷ annedd wedi'i adeiladu'n rhannol a'i gwblhau a chodi garej ar wahân cysylltiedig – Cymeradwywyd gydag amodau - 10/10/2007.

A080387 Cais Cynllunio Llawn – Adeiladu estyniad un llawr – Cymeradwywyd gydag amodau – 05/06/2008

MANYLION Y DATBLYGIAD

Newid defnydd y tir i ardd breswyl ac adeiladu wal gynnal, ardal ddecin ac ystafell ardd yn ôl-weithredol.

POLISIÂU A CHANLLAWIAU CYNLLUNIO PERTHNASOL

Mae'r polisiau canlynol o'r Cynllun Datblygu Lleol yn berthnasol wrth benderfynu ar y cais hwn:

S01 Twf Cynaliadwy

S04 Datblygiadau mewn Aneddiadau Cyswllt a Lleoliadau Eraill

DM06 Dylunio a Chreu Lle o Safon Uchel

YSTYRIAETHAU PERTHNASOL ERAILL

Mae Adran 17(1) Deddf Trosedd ac Anhrefn 1998 yn gosod dyletswydd ar yr Awdurdod Lleol i arfer ei swyddogaethau amrywiol gan roi sylw priodol i effaith debygol arfer y swyddogaethau hynny, a'r angen i wneud popeth o fewn ei allu i atal trosedd ac anhrefn yn ei ardal. Ystyriwyd y ddyletswydd hon wrth werthuso'r cais hwn. Ystyrir na fyddai unrhyw gynnydd sylweddol neu annerbyniol mewn trosedd ac anhrefn o ganlyniad i'r penderfyniad arfaethedig.

DEDDF CYDRADDOLDEB 2010

Mae Deddf Cydraddoldeb 2010 yn nodi nifer o 'nodweddion gwarchoddedig', sef oedran; anabled; ailbennu rhywedd; beichiogrwydd a mamolaeth; hil; crefydd neu gred; rhyw; cyfeiriadedd rhywiol; priodas neu bartneriaeth sifil. Mae rhoi sylw priodol i hyrwyddo cydraddoldeb yn golygu:

- Gwaredu neu leihau'r anfanteision y mae pobl yn eu dioddef yn sgil eu nodweddion gwarchoddedig;

- Cymryd camau i ddiwallu anghenion pobl o grwpiau gwarchoddedig lle bo'r anghenion yn wahanol i rai pobl eraill; ac
- Annog pobl o grwpiau gwarchoddedig i gymryd rhan mewn bywyd cyhoeddus neu mewn gweithgareddau eraill lle bo'u cyfranogiad yn anghymesur o isel.

Rhodddwyd ystyriaeth briodol i'r ddyletswydd uchod wrth benderfynu ar y cais hwn. Ystyrir nad oes gan y datblygiad arfaethedig oblygiadau sylweddol ar gyfer, neu unrhyw effaith ar, bersonau sy'n rhannu nodwedd warchoddedig, yn fwy nag unrhyw berson arall.

DEDDF LLESIANT CENEDLAETHAU'R DYFODOL (CYMRU) 2015

Mae Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 yn gosod dyletswydd ar y Cyngor i gymryd camau rhesymol wrth arfer ei swyddogaethau er mwyn bodloni'r saith nod llesiant a geir yn y Ddeddf. Paratowyd yr adroddiad hwn gan ystyried dyletswydd y Cyngor a'r 'egwyddor datblygiad cynaliadwy', fel y'i nodir yn Deddf 2015. Wrth bennu'r argymhelliad, mae'r Cyngor wedi ceisio sicrhau bod anghenion y presennol yn cael eu bodloni heb amharu ar allu cenedlaethau'r dyfodol i fodloni eu hanghenion eu hunain.

YMATEBION I'R YMGYNGHORIAD

Cyngor Cymunedol Melindwr – Dim ymateb

Priffyrdd – Dim ymateb

Draenio Tir – Dim Gwrthwynebiad, bydd angen cymeradwyaeth gan y Corff Cymeradwyo Systemau Draenio Cynaliadwy

Gwrthwynebiadau gan Drydydd Partion

Gwrthwynebydd 1 - Nid oes unrhyw Hawliau Datblygu a Ganiateir ar yr eiddo hwn o ganlyniad i'r caniatâd cynllunio a roddwyd yn 2007. Cafodd y safleoedd eu cyfyngu o ran maint er mwyn gwarchod y golygfeydd ar gyfer pob eiddo.

Gwrthwynebydd 2 - Yn gwrthwynebu cynyddu'r cwrtil a fyddai'n gosod cynsail i'r cymdogion ac a fyddai'n effeithio'r golygfeydd. Nid yw'r datblygiad arfaethedig yn cyd-fynd â dyluniad adeiladau sy'n bodoli eisoes. Colli tir amaethyddol, manau agored a llystyfiant.

CASGLIAD

Dywed Adran 38(6) Deddf Cynllunio a Phrynu Gorfodol 2004: "Os rhoddir ystyriaeth i'r cynllun datblygu er mwyn gwneud penderfyniad o ran y Deddfau Cynllunio, bydd yn rhaid i'r penderfyniad hwnnw fod yn unol â'r cynllun oni bai fod ystyriaethau perthnasol yn awgrymu fel arall".

Mae'r cais presennol yn gofyn am ganiatâd cynllunio ôl-weithredol ar gyfer yr ystafell ardd a newid defnydd rhan o'r tir i ardd a fydd i bob pwrpas yn ymestyn cwrtil yr eiddo. Roedd y cynigion gwreiddiol ar gyfer newid defnydd y tir i ardd yn sylweddol fwy na'r cynllun presennol. Mae'r ymgeisydd wedi cytuno i leihau maint yr ardd fel ei bod yn cyd-fynd â chefn yr ystafell ardd allanol a'r decin ac mae e hefyd wedi dileu'r ardal y tu ôl i Haulfryn, felly bydd maint yr ardd bellach yn dilyn llinell y ffin rhwng Tŷ Fosi a Haulfryn. Mae'r ardal ddecin a'r ystafell ardd ar lefel is na Thŷ Fosi a Gweldir. Mae ffens bren byrddau clos rhwng Gweldir a Thŷ Fosi yr ymddengys ei bod oddeutu 2m o uchder. Ni fydd yr ystafell ardd a'r decin yn arwain at gollu golau, ac ni fydd modd gweld y rhan fwyaf o'r ystafell o Gweldir oherwydd bydd y ffens a'u sied eu hunain yn ei chuddio. Mae'r cynigion yn cydymffurfio â'r gofynion datblygu o fewn cwrtil annedd, fodd bynnag yn yr achos hwn, mae unrhyw hawliau datblygu a ganiateir wedi cael eu dileu o dan gais cynllunio A070253. Cafodd yr amod hwn ei gynnwys ar yr hysbysiad o benderfyniad er mwyn atal yr ymgeisydd rhag ymgymryd ag unrhyw ddatblygiadau ychwanegol mewn lleoliad agored yng nghefn gwlad heb gael caniatâd yn gyntaf.

Mae'r lluniadau diwygiedig a gyflwynwyd, sy'n lleihau'r arwynebedd sydd ei angen ar gyfer yr ardd, yn dangos nad yw ffin y cwrtil bellach yn cyd-fynd â chwrtil estynedig Gweldir, ac nid yw'n cynnwys y tir y tu ôl i Haulfryn. Bydd unrhyw ganiatâd a roddir yn cynnwys amod sy'n dileu unrhyw hawliau datblygu a ganiateir yn yr un modd â'r amodau blaenorol. Mae Gwrthwynebydd 2 yn poeni y byddai cynyddu'r cwrtil yn gosod cynsail a fyddai'n golygu y bydd pob cymydog yn awyddus i gynyddu eu cwrtil ac felly byddai perygl o gollu'r olygfa. Bu i Gweldir gynyddu cwrtil eu heiddo yn 2016 er mwyn caniatáu i adeiladu garej. Nid yw'r cwrtil yma yn mynd yn bellach yn ôl na chwrtil Gweldir, a gan ei fod wedi cael ei leihau ymhellach fel nad yw'n rhedeg y tu ôl i Haulfryn, ymddengys fod yr ardd estynedig yn dderbyniol.

Mae un o'r gwrthwynebwyr yn nodi mai'r rheswm dros ddileu hawliau datblygu a ganiateir oedd er mwyn gwarchod y golygfeydd. Ar ôl siarad a'r swyddog achos ar gyfer y cais A070253, nid dyma oedd y bwriad. Nid yw gwarchod golygfeydd yn ystyriaeth gynllunio berthnasol.

Ystyrir bod y cynigion fel y'u diwygiwyd yn dderbyniol heb unrhyw niwed i amwynderau'r cymdogion. Er ni ddylai'r ymgeisydd

fod wedi ymgymryd â'r gwaith heb ganiatâd cynllunio gan fod hawliau datblygu a ganiateir wedi'u dileu ar y safle hwn nid ydym o'r farn bod hyn yn rheswm dros wrthod. Gan ystyried yr uchod i gyd, argymhellwn fod y cais hwn yn cael ei gymeradwyo gydag amodau. Bydd un o'r amodau hyn yn cynnwys dileu hawliau datblygu a ganiateir.

Hoffai'r Cynghorydd Lleol i hwn gael ei gyflwyno gerbron y Pwyllgor Cynllunio oherwydd nifer y gwrthwynebiadau lleol i'r cynnig.

ARGYMHELLIAD:

Cymeradwyo gydag Amodau

Application Reference	A200047
Received	20-01-2020
Proposal	Change of use of land to residential garden area and retrospective erection of retaining wall, decking area and garden room.
Site Location	Ty Fosi, Pantycrug, Capel Seion, SY23 4EF
Application Type	Full Planning
Applicant	David Clarke, Ty Fosi, Pantycrug, Capel Seion, Aberystwyth, Ceredigion, SY23 4EF
Agent	Mr Mathew Tench (Mathew Tench Architects and Associates), Llety Bach, Pysgah, Aberystwyth, Ceredigion, SY23 4EF

THE SITE AND RELEVANT PLANNING HISTORY

This is a retrospective full planning application for the development of an external garden room with decking, a retaining wall to allow the area to be located at a reduced level and the change of use of land to residential garden. Previous planning applications involve:

910823 Outline Planning Application - Erection of a dwelling on land adjacent to Haulfryn - Refused 20/08/1991

930018 Full Planning Application - Erection of a dwelling and garage, Land adjacent to Haulfryn - Approved Subject to Conditions - 05/03/1993

980023 Full Planning Application - Erection of a Bungalow, Land adjacent to Haulfryn. - Approved Subject to Conditions - 11/03/1998

A021344 Full Planning Application - Erection of a Bungalow (Renewal of 980023) - Approved Subject to Conditions - 17/01/2002

A050143 Full Planning Application - Erection of a House - Approved Subject to Conditions - 19/08/2005

A051103 Full Planning Application - Erection of dwelling with integral garage & erection of 2nd garage for personal use (revised drawings) - Approved Subject to Conditions - 21/11/2005

A070253 Full Planning Application - Retention of a partly constructed single dwellinghouse and completion and erection of an associated detached garage - Approved Subject to Conditions - 10/10/2007.

A080387 Full Planning Application - Erection of a single storey extension - Approved Subject to Conditions - 05/06/2008

DETAILS OF DEVELOPMENT

Change of use of land to residential garden area and retrospective erection of retaining wall, decking area and garden room.

RELEVANT PLANNING POLICIES AND GUIDANCE

These Local Development Plan policies are applicable in the determination of this application:

S01 Sustainable Growth

S04 Development in Linked Settlements and Other Locations

DM06 High Quality Design & Placemaking.

OTHER MATERIAL CONSIDERATIONS

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

EQUALITY ACT 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

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 seven 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, 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.

CONSULTATION RESPONSES

Melindwr Community Council - No Response

Highways - No Response

Land Drainage - No Objection SAB Approval will be required.

Third Party Objections

Objector 1 - There are no Permitted Development Rights on this property as a result of the 2007 planning permission. Sites were restricted in size to sustain the views for all properties.

Objector 2 - Objects to the increase in curtilage which would set a precedent for the neighbours and would affect the views. Proposed development not compatible with design of existing buildings. Loss of agricultural land, open spaces and vegetation.

CONCLUSION

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that: "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise".

The current application requests retrospective planning permission for the garden room and a change of use for part of the land to a garden area which in effect will extend the curtilage of the property. The original proposals for the change of use of land into garden area was significantly larger than the current scheme. The applicant has agreed to reduce the extent of the garden so that it lines up with the rear of the external garden room and decking and he has also removed the area to the rear of Haulfryn, so the extent of the garden will now follow the line of the boundary between Ty Fosi and Haulfryn. The decked area and garden room are at a lower level than both Ty Fosi and Gweldir. There is a close boarded timber fence between Gweldir and Ty Fosi which appears to be approximately 2m high. The proposed garden room and decking does not result in the loss of light, and the majority of the room is concealed from Gweldir's view by the fence and their own shed. The proposals comply with the requirements of development within the curtilage of a dwelling, however in this case any permitted development rights have been removed under planning application A070253. This condition was included on the decision notice to prevent the applicant from undertaking any additional development in an open countryside location without firstly obtaining consent.

The revised drawing submitted, reducing the area required as garden area, shows that the boundary of the curtilage no longer lines through with the extended curtilage of Gweldir, and no longer includes the area of land to the rear of Haulfryn. Any permission granted will include a condition which removes any permitted development rights as previous conditions have done. Objector 2 is concerned that the increase in curtilage would set a precedent that all neighbours would want to increase their curtilage and therefore there would be a risk of losing the views. Gweldir increased the curtilage of their

property in 2016 to accommodate the construction of a garage. The curtilage here does not project further back than the Gweldir curtilage and with it further reduced so that it does not run behind Haulfryn would seem to make the increased garden area acceptable.

One of the objectors notes that the reason for removing permitted development rights was to preserve the views. Having spoken to the case officer on the A070253 application this was not the intention. The preservation of the views is not a material planning consideration.

The proposals as revised are considered to be acceptable with no harm to the amenities of the neighbours. Although the applicant should not have undertaken the works without planning permission as Permitted Development rights had been removed on this site we do not see this as a reason for refusal. Taking into account all the above we recommend this application for approval subject to conditions. One of these conditions will involve the removal of permitted development rights.

The Local Councillor wishes this to be presented to the Planning Committee because of the level of local opposition to the proposals.

RECOMMENDATION:

Approve Subject to Conditions