

**ADRODDIAD PENNAETH
CYNLLUNIO,
CYFARWYDDIAETH YR
AMGYLCHEDD**

**REPORT OF THE
HEAD OF PLANNING,
DIRECTORATE OF ENVIRONMENT**

**AR GYFER PWYLLGOR CYNLLUNIO
CYNGOR SIR CAERFYRDDIN**

**TO CARMARTHENSHIRE COUNTY
COUNCIL'S PLANNING COMMITTEE**

**AR 04 EBRILL 2019
ON 04 APRIL 2019**

**I'W BENDERFYNU/
FOR DECISION**

*Ardal Del/
Area South*



**Cyngor Sir Gâr
Carmarthenshire**
County Council



Mewn perthynas â cheisiadau y mae gan y Cyngor ddiddordeb ynddynt un ai fel ymgeisydd/asiant neu fel perchennog tir neu eiddo, atgoffir yr Aelodau fod yna rhaid iddynt anwybyddu'r agwedd hon, gan ystyried ceisiadau o'r fath a phenderfynu yn eu cylch ar sail rhinweddau'r ceisiadau cynllunio yn unig. Ni ddylid ystyried swyddogaeth y Cyngor fel perchennog tir, na materion cysylltiedig, wrth benderfynu ynghylch ceisiadau cynllunio o'r fath.

In relation to those applications which are identified as one in which the Council has an interest either as applicant/agent or in terms of land or property ownership, Members are reminded that they must set aside this aspect, and confine their consideration and determination of such applications exclusively to the merits of the planning issues arising. The Council's land owning function, or other interests in the matter, must not be taken into account when determining such planning applications.

COMMITTEE:	PLANNING COMMITTEE
DATE:	04 APRIL 2019
REPORT OF:	HEAD OF PLANNING

INDEX - AREA SOUTH

REF.	APPLICATIONS RECOMMENDED FOR APPROVAL
S/34180	New cubicle housing for young stock (retrospective) at Cwmlberem Farm, Pontyberem, Llanelli, SA15 5BP

APPLICATIONS RECOMMENDED FOR APPROVAL

Application No	S/34180
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Application Type	Full Planning
Proposal & Location	NEW CUBICLE HOUSING FOR YOUNG STOCK (RETROSPECTIVE) AT CWMBEREM FARM, PONTYBEREM, LLANELLI, SA15 5BP

Applicant(s)	NOEL RICHARDS, COEDMOELON FARM, PONTYBEREM, LLANELLI, SA15 5AN
Case Officer	Gary Glenister
Ward	Pontyberem
Date of validation	26/07/2016

CONSULTATION

Head of Public Protection – Noise complaints have been received under other legislation, however the applicant has been working with Public Protection to ensure that the issues are resolved. There are no adverse comments on the proposal as there is no increase in stocking numbers proposed.

Pontyberem Community Council – Raises the following matters:-

- The application is retrospective.
- The proposal does not comply with the approved plans.
- The proposal is not in keeping with the village.
- Impact on neighbours due to size.
- Impact on environment due to increase in animals.
- Precedent for unauthorised works.
- Access is unsuitable for heavy vehicles.

Local Member – Former County Councillor J S Williams was a member of Planning Committee at the time of last reporting and did not comment. The current Local Member has been briefed on the application and has not commented to date.

Dwr Cymru/Welsh Water – Has no adverse comments.

Neighbours/Public – the application has been advertised by the posting of one site notice with responses from 8No parties received to date raising the following matters:-

- Application is retrospective.
- Proximity to third party property.
- Scale of development is over powering.
- Highway safety.
 - increase in vehicles;
 - mud on road;
 - damage to verges;
 - speed/weight of vehicles.
- Loss of amenity.
 - statutory nuisance;
 - odour/air quality;
 - light pollution;
 - insect infestation/flies;
 - slurry storage;
 - starlings;
 - noise/hours of operation.
- Lack of enforcement.
- Farm office (above garage).

RELEVANT PLANNING HISTORY

The following planning applications have been received on the application site:-

S/32710	Proposed cubicle housing. Full planning permission	3 December 2015
S/31889	Retrospective application for extension to existing cubicle/feed building. Full planning permission	23 June 2015
S/31827	Discharge of Condition 4 of planning permission S/30670 (Provide Method Statement). Discharge of Condition granted	27 April 2015
S/30670	Replacement of existing dwelling. Full planning permission	26 September 2014
S/08474	Construction of loose housing cattle building Approved	14 February 2005
S/00922	New kitchen/dining/bedroom extension Approved	27 November 1997

APPRAISAL

This application was reported to planning committee on the 19th April 2017 and there was a resolution to approve subject to further discussion so that objections by a third party could be overcome. Delegated powers were granted to seek a resolution to the objections. The third party however still has objections despite a prolonged period of discussion and further information being submitted, so the application is being reported back for determination.

Both the Planning Committee and Local Member have changed since the scheme was last reported so the report has been re-drafted and updated for Members to consider. The new Local Member has been informed that the application is being reported.

This application has been submitted following an investigation/action undertaken by the Authority's planning enforcement officers.

THE SITE

The application site is a well-established farm holding in open countryside to the North of Pontyberem. The site is in the same ownership as Coedmoelon which is a major milk producer in the area and functions as part of a network of holdings in the area owned by the applicant.

The site has existing buildings approved in 2005 and extended in 2014 and an existing slurry pit. The site of the building was formerly unused land immediately adjacent to the existing shed, forming part of the farm complex. The farm complex has the steep gorge formed by the Afon Berem to the West so the shed has been developed to the East of the existing buildings.

The site has one residential dwelling to the North which has a replacement dwelling which is currently under construction at an advanced stage. Planning permission has also been granted for the relocation of the farm office from Coedmoelon to Cwamberem. The farm office is being developed above the applicant's replacement garage which has been built immediately adjacent to the replacement farm dwelling.

There is a third party dwelling which has recently been extended approximately 56m to the north east of the nearest part of the shed. The dwelling forms part of a small holding which itself has stables and an equestrian building, however it is noted that the residential garden lies between the dwelling and the proposal.

The farm complex is crossed by a public right of way, however this is not affected by the proposal. Unauthorised engineering works have taken place elsewhere on the holding however these are subject to separate enforcement proceedings and do not affect the consideration of this application.

Planning permission was granted in December 2015 for a similar proposal however it has not been built in accordance with the approved plans so the current proposal is retrospective and seeks retention of the building.

THE PROPOSAL

The application seeks full retrospective planning permission for the erection of a 50m by 29.15m cubicle shed on the holding. Given the sloping nature of the site, the shed is 4.285m to eaves and 8.8m to the ridge when viewed from the nearest neighbouring property to the North and 5.685m to eaves and 10.2m to ridge when viewed from the South. The original scheme measured 4.852 to eaves and 8.151m to ridge assuming a flat site and measured from the same finished floor level as the original shed adjacent.

The eave height is proposed to be 0.833m higher and ridge height is proposed to be 2.049m higher than the approved scheme when viewed from the South. It is noted however that the original heights are annotated from the same level as the adjacent building, which is 0.56m lower than the floor level shown for the new building, therefore the difference is 0.56m greater than indicated. The land is higher from the north so the difference is not as significant, being some 0.649m higher to ridge, but as adjusted for ground levels, would be 1.209m higher when viewed from the neighbouring property.

The building is narrower than approved by 0.45m, however the original had a feeding passage to serve the new and existing shed and as built it incorporates a separate feeding passage for the new shed only and there is a 4.1m gap between the buildings to allow a feeding passage for the original building to run in parallel. The new building is sited 1.1m further forward than the original building and was originally approved set back 4.5m. The result of the re-siting of the building forward and sideways with the formation of a double feeding passage is that the nearest corner of the building is some 10m closer to the nearest property than approved.

The applicant states that the holding has been re-organised since the new building has become operational in that the cubicles have replaced the older cubicle building which is now used partly for loose housing of young stock and to the greater extent for storage. The proposal has not therefore increased the stocking level on the holding, and has merely improved conditions for the stocking level which was there previously.

PLANNING POLICY

In the context of the current development control policy framework the site is outside the settlement development limits of Pontyberem as defined in the Carmarthenshire Local Development Plan (LDP) Adopted December 2014.

Policy SP1 Sustainable Places and Spaces states that proposals for development will be supported where they reflect sustainable development and design principles.

Policy GP1 Sustainability and High Quality Design provides a list of criteria which demonstrates principles of good design to ensure that development is appropriate to the character of the area and would not have a significant impact on third parties. In particular,

Policy EQ4 sets out the general policy on biodiversity and nature conservation along with the legislative framework. The policy aims to ensure that any environmental impacts are mitigated and that biodiversity interests are protected.

Policy TR2 states that development which generates significant trip generation will be permitted where they are accessible sustainably to non car modes of transport and incorporate travel plans where appropriate.

Policy TR3 Highways in Developments - Design Considerations, sets out the requirements for development to be situated in a suitable location and incorporate appropriate parking, access and sustainable transport features.

Good design is encouraged at all levels and national policy contained in Planning Policy Wales Edition 10 – December 2018 which emphasises well-being, place making & sustainability and TAN12 provides design guidance.

THIRD PARTY REPRESENTATIONS

The retrospective nature of the application should be noted in that the shed as submitted has already been constructed. Members will recall an application for a smaller scheme being reported to Committee in December 2015 which was approved. The applicant however has not built in accordance with the approved plans as a feeding corridor was required between the old and new buildings, so the overall scale was increased and the ground levels have resulted in a change in how the shed sits in relation to the access. As noted above, the width and height have increased, and the siting of the shed has been amended so the Committee is being asked to make a decision on the shed as built and whether the amendments would have an unacceptable impact compared with the approved shed.

There is concern over the proximity of the proposal to third party properties. It is acknowledged that there is a residential dwelling approximately 66m from the original siting of the shed, however this gap has reduced by approximately 10m due to the amended siting. It is noted that the roof of the shed can be seen from the neighbouring property, however the reduced distance and increased height do not unacceptably affect the residential amenity of the dwelling or the garden area. It is further noted that intervening vegetation obscures the view and lessens the impact.

As previously reported, the site is in a rural area and the shed as built is immediately adjacent to existing buildings and the nearest property is itself a small holding with stables and an equestrian building present. The amended siting and proximity of the proposal to a residential dwelling needs careful consideration, however it is not considered to be unacceptable within the wider context of the agricultural farm complex.

The scale and height of the proposal is said to be over powering, however in the context of the approved scheme, the additional height is not considered likely to have an unacceptable additional impact. In the context of an existing farm complex, the additional footprint is also considered unlikely to have an over bearing impact on the character and amenity of the countryside. Given the retrospective nature of the application, the precise impact has been assessed in coming to this conclusion. In terms of scale, the applicant provided the number of cows prior to the erection of the shed and those proposed post construction. The applicant has been asked to confirm what the maximum number of cows has been since the working practices have changed with the use of the shed and this confirms that the numbers are within the level of the original sheds. However it would not be reasonable to impose a condition as the nature of the unit is such that there could be occasional spikes in numbers depending on fertility rates at any given year, and the rest of the buildings have no restrictions on numbers so the overall numbers will fluctuate and it is not practical to count stock on a continuous basis.

There is concern over highway safety, however it should be noted that the proposal is on an existing farm complex and is for animal welfare purposes with no increase in stock proposed. The additional width is for feeding purposes and height is due to ground levels, therefore the amendments to the proposal are not likely to lead to an increase in traffic generation.

The presence of mud on the road and damage to verges are not a material planning considerations and isn't affected by the amendments being considered retrospectively. It is however noted that the Head of Transport has no observations as the herd size is not increased and there are no complaints from a highway maintenance perspective.

There is no increase in stock, so the number of vehicles need not increase, it is also noted that the applicant will be moving to the replacement agricultural dwelling and therefore cut down on traffic between Coedmoelon and Cwmlberem. The speed of the vehicles using the road is outside the control of the local planning authority. Any road traffic violations are matter for the police, however it should be noted that the road has a 60mph speed limit so it is unlikely that agricultural vehicles are exceeding this. The weight of agricultural vehicles is reflective of modern agricultural practices and therefore is appropriate for an agricultural business.

There is concern over the shed causing a statutory noise nuisance. It should however be noted that statutory nuisance is covered by other legislation and that any grant of planning permission does not prejudice other statutory functions of the Council so if a statutory nuisance occurs, action can be taken outside the planning process. It should be noted that the Council has received a noise complaint which relates to the operational practices of the holding and this is currently under investigation. The Public Protection service has been consulted and acknowledges that complaints have been received. However given the fact that the shed is effectively a maternity unit and has no increase in stock compared with the holding before the shed was built, has no objection to the shed as amended. It is noted that a degree of noise is attributable to the young cows which are kept in an older building which is not affected by this building. It is also noted that to the greater extent, the as approved and as built buildings overlap. There is no evidence to suggest that the amended siting has generated the occasional bellowing of the cows, or that the closer proximity would have a materially greater impact on the third party.

There is a concern over the number of flies which are present on the site. The Public Protection teams has acknowledged that complaints have been received but the source and reason for the flies remains unknown. The shed as amended is not however likely to affect fly infestations.

It should be noted that as a result of complaints, the applicant has taken measures to reduce the noise and impact of the operational routine on third parties. This includes a later start time in the morning and the use of a different type of machine to push the feed closer to the cattle feeding bar to ensure the animals can reach it. The use of alternative reversing beepers has also been employed to ensure noise is minimised. The third party acknowledges that the changes have been beneficial, however maintains that there is an audible noise nuisance from cows bellowing in the night.

There is concern regarding slurry storage and it is noted that there have been issues outside planning regarding the slurry arising from the unit which have now been resolved. There is an existing slurry store to the South of the building which is considered acceptable to cater for the needs of the cubicles. It is further noted that the loose housing has dry straw bedding

which is collected and does not add to the wet slurry. As no additional waste is arising, there is no requirement to increase capacity.

The impact on the character of the village raised by the community council is not considered material as the shed is an agricultural building on an agricultural holding away from the village.

There are allegations that there has been a lack of enforcement. It should be noted however that as a result of enforcement action, an application was submitted to regularise the shed. The Planning Committee resolved to approve the shed subject to agreement with the third party so there has been no expediency to take further enforcement action. The delay post resolution has been a result of protracted discussion between the Planning Authority, applicant and third party and the request for additional information etc. In respect of other matters that have become apparent, enforcement action has stopped the works and this is subject to separate consideration.

There is concern about the applicant developing a farm office above the garage and concentrating functions at Cwmlerem. This was considered under a separate application and given the previous owner operating a farm and construction firm from an office above the original garage, the quiet nature of office use and the separation distance from the garage and third party property, it was considered acceptable.

CONCLUSION

After careful consideration of the site and its surrounding environs in the context of the representations received to date, it is considered that the cubicle shed has been built on an existing established farm complex immediately adjacent to existing buildings. The height, width and siting has been assessed in the context of the original scheme approved and whether or not the amendments have an unacceptable impact compared with the approved. Whilst there is concern locally, issues have been carefully examined and the amendments are not considered to materially alter the impact of the building and is not therefore considered unacceptable.

Given the fact that the proposal is for animal welfare purposes rather than an increase in numbers, the use and scale of the site has remained as previously operated, so levels and nature of traffic etc. are not considered unacceptable.

Concerns from the third party have not been resolved in that there are still cows bellowing occasionally in the night. The applicant has employed the services of an engineer who has provided the advice that there are no practical ways of preventing any sound from the building. It has been suggested that the building be enclosed. However to achieve external feeding, the lower section need to be left open and if the gable was subject to enclosure, a solid wall would result in ventilation concerns and echoing of any noise within the building which would amplify it, and any Yorkshire boarding in keeping with the rest of the building would be acoustically transparent and therefore be ineffective. It is noted that the applicant will shortly be living on site, monitoring equipment can be used to alert him of any significant noise issues so he can address the causes of the distress. Two additional factors should be noted, firstly there are other sheds on site which could generate noise from cows bellowing, and secondly, the shed significantly overlaps the footprint of the approved scheme, so for the greatest part, any bellowing within the shed would be no closer to the third party than would have been the case if the shed had been built as approved. Given

the fact that no practical solutions are available that can be conditioned, it is recommended that the scheme be approved as built.

It is noted that the applicant has amended the operational times for the feeding, however it is not reasonable to condition operating hours for an agricultural use as there are operational considerations and emergencies which will require work outside normal hours. Similarly, whilst the applicant states that there are no increases in stocking levels, given the nature of the site as a maternity unit, there could be instances when more than the expected number of cows are in calf, or they produce more calves than expected at the same time and additional cows would need to be accommodated. It is noted that there is a limit to the number of cows that can be accommodated due to animal welfare concerns, so to a certain extent, the unit would be self-regulating.

The building is visible from a residential dwelling to the North East which is itself a small holding with equestrian uses, however the impact of the amendments is not considered to be unacceptable.

On balance, whilst there are concerns from the nearest neighbour, the proposal is considered to be in accordance with the above policies.

RECOMMENDATION – APPROVAL

CONDITIONS

- 1 Notwithstanding the time limit given to implement planning permissions as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended) this permission, being a retrospective permission as prescribed by Section 73A of the Act, shall have been deemed to have been implemented on 26th July 2016.
- 2 The development hereby permitted shall be retained strictly in accordance with the following schedule of plans:-
 - 1:1250 & 1:500 scale Block Plan and Location Plan Drawing No. P/03 dated 21st June 2016;
 - 1:100 scale Proposed Cubicle Housing. Drawing No. P/02 Rev A dated 31st March 2017;
 - 1:100 scale Elevations and Existing Ground Levels. Drawing No. P/01 Rev A dated 31st March 2017.
- 3 The entire building hereby approved shall be used for agricultural purposes as defined under Section 336 of the Town and Country Planning Act 1990 and not for any other purposes.

REASONS

- 1 To comply with Section 73A of the Town and Country Planning Act (as amended).
- 2 In the interest of visual amenities.
- 3 The proposal is for agricultural purposes only.

NOTES

- 1 Please note that this permission is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions which the Council has imposed on this permission will be listed above and should be read carefully. It is your (or any subsequent developers') responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions which require the submission of details prior to commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

- 2 Planning permission does not give permission to stop up or divert any public rights of way on the site. If necessary, the footpath would need to be diverted through other legislation.
- 3 Comments and guidance received from consultees relating to this application, including any other permissions or consents required, is available on the Authority's website (www.carmarthenshire.gov.uk).