



PLANNING & DEVELOPMENT CONSULTANCY | YMGYNGHORIAETH CYNLLUNIO A DATBLYGU

Our ref. / Ein cyf.: 2167.a/CLJ/01

Date / Dyddiad: 18th December 2023

Head of Planning,
Neath Port Talbot County Borough Council,
The Quays,
Brunel Way,
Neath,
SA11 2GG.

F.a.o. Ms. D. Tomkins

Dear Sir/Madam,

Re: Proposed Replacement Storage Shed (B8) including Equine and Agriculture – Non-Commercial at land adjacent to Hawkers Cottage, King Edward Road, Tairgwaith, SA18 1YL (Application no. P2023/0900)

In response to the queries raised in your emails I would offer the following comments:-

Intended Use

The description of works as contained within the application form is:-

“PROPOSED REPLACEMENT STORAGE SHED (B8) INCLUDING EQUINE & AGRICULTURE – NON-COMMERCIAL”

This confirms a ‘mixed’ storage use relating to the ‘keeping’ of horses and agriculture. The building however will not be used as a stables or livestock shed but will simply retain the storage use that is currently made of the two existing sheds. Perhaps, the photographs of the existing sheds, embedded below, will provide a visual aid to the proposed use.



Fencing posts and hay (decayed) – confirming agricultural related use

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Tractor tyres on concrete floor – confirming agricultural related use



Storage shelves, equine harness, saddle, misc. tools - confirming related agricultural and equine use



Storage shelves, saddle, misc. tools, bric-a-brac – confirming related agricultural and equine use

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The proposed use will be private and for the benefit of the Applicant. He is intending to store a tractor in the shed, as well as hay, feed, tools, etc. A small number of livestock will be grazed in the adjoining field.

There will be no commercial use, i.e. it will not be used as a fee paying livery or riding school, nor will the building be used for the sale of agricultural produce in any shape or form.

Policy

In terms of Policy SC1 of the Neath Port Talbot Local Development Plan, the proposed shed will largely fall within criterion 10:-

10. It is associated with either agriculture, forestry, minerals or energy generation;

You will however be aware that in dealing with planning applications determinations must be made in accordance with the development plan unless material considerations indicate otherwise. Material considerations can be many and various and include national and local planning policies, economic benefits and planning benefits, previous appeal decisions, etc.

In this instance however an important material consideration is the 'fallback' position – which has been recognised by the Courts for many years.

The weight to be attached to a 'fallback' option is relatively well-defined by the following court cases, including, inter alia, *Zurich Assurance v North Lincolnshire Council*, *Spackman v SOS & Thamesdown BC*, *Snowden v SOS & City of Bradford MC*, *Gwinnell v SOS & LB Islington* and *Simpson v SOS and Medway Council*.

In short, these cases identify that the weight to be attached to a 'fallback' option increases commensurately with the likelihood of that scheme being implemented if an alternative option, requiring planning permission, is refused. These issues are encapsulated in the judgement of Mr. George Bartlett QC with regard to the Simpson case, where he stated:-

"The essence of any fallback position is that although the proposed development might have an adverse effect, if planning permission were withheld, other uses or operations with adverse effects but not requiring planning could also be carried out, so that in the final evaluation, the proposed development ought to be judged acceptable in view of what might occur if permission for it was refused (see Snowden v SoS). A fallback position has two elements that need to be established before it can be brought into the evaluation and used to justify the grant of permission. The first is the nature and content of the alternative use or operation. The second is the degree of likelihood of the alternative being carried out".

Thus, the proposed shed will allow the continuation of the agricultural/equine related uses that are currently being made of the two existing structures, albeit with considerably improved visual amenity, greater security, and more efficiency. Your Authority would also have greater control over the future use of the building by way of condition.

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The central question to be addressed therefore is whether or not there would be any insurmountable harm if the existing agricultural/equine use were to continue in a new building?

Arboriculture

It is confirmed that the existing hedgerow will be maintained by the Applicant. There is every intention to manage the hedgerow, not least to prevent animals straying and other obvious site security reasons. A condition to this effect would be acceptable.

Red Line

In this instance, the site location plan deliberately included both the proposed building and field within the same 'red line' boundary because the use of the field is directly related to the proposed agricultural/equine use of the shed – they effectively form part of the same planning unit.

It is however a matter of debate whether or not the inclusion of the surrounding field falls within the legal definition of including all land that is "considered necessary to carry out the proposed development".

In the circumstances therefore, I attach an alternative drawing with a 'red line' restricted to the shed and proposed access. Please feel free to choose whichever drawing is most appropriate?

I trust the foregoing is of some use but please do not hesitate to get in touch should you require any further information and/or clarification.

Many thanks for your assistance.

Yours faithfully,

[Redacted signature]

C.L. Jones
Director

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[Redacted contact information]