

PLANNING ENFORCEMENT REPORT

- REFERENCE:** ENF/2012/00033
- LOCATION:** Bryntirion Farm Rhualt St. Asaph
- INFRINGEMENT:** (1) Unauthorised change of use of agricultural field to a mixed use of agricultural and residential
(2) Unauthorised development consisting of siting of residential static caravan, erection of tree house structure and ancillary ladder, zip wire structure with landing platform

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 – Development Control Requirements
Policy GEN 3 – Development outside Development Boundaries
Policy ENV 2 – Development Affecting the Area of Outstanding Natural Beauty/Area of Beauty

GOVERNMENT GUIDANCE

Planning Policy Wales Edition 4 (2011)
Technical Advice Note (Wales) 9 – Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development, unauthorised use and other related matters.

In this particular instance, matters relate to the rights of an owner to erect a Tree House and Zip Wire and to store a caravan for residential use, on agricultural land in an Area of Outstanding Natural Beauty, without planning permission.

The rights of an owner in this situation do not outweigh the rights of the Local Planning Authority to ensure that breaches of planning control are addressed.

No human rights issues have been raised in this particular case.

1. BACKGROUND INFORMATION

- 1.1 The property is located in an area of open countryside designated as an Area of Outstanding Natural Beauty.
- 1.2 The infringements referred to above were reported to a Compliance officer on 25 August 2011 and were identified as breaches of planning control. Arrangements were made to meet with the owner's Planning Agent to discuss regularising the breaches. Officers were subsequently told that the owner would be submitting planning applications in respect of the breaches of planning control.
- 1.3 Members may remember that an application was refused by Planning Committee on 30 May 2012 to continue the use of the agricultural land as ancillary play area to the main dwelling and to retain the Tree House thereon (47/2012/0333/PC).
- 1.4 Following this refusal, an offer to meet with the owner and his agent on site to discuss options available to the owner, was declined. On 11 October 2012 a retrospective application was submitted (47/2012/1325/PC) for the continuation of use of land for

recreational purposes and retention of tree house above existing alpaca shelter. It is the opinion of Officers that this is the same application as had been refused by Planning Committee on 30 May 2012.

- 1.5 No applications have been submitted in respect of retention of the Zip Wire, nor for the storage of the static caravan for residential use.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The Tree House and Zip Wire have been erected within the last 4 years. The change of use of an agricultural field for the purpose of creating an ancillary play/recreational area and the continuous storage of a static caravan has occurred within the last 10 years.

- 2.2 No valid planning applications have been submitted with respect to the Zip Wire nor static caravan and the breaches of planning control referred to above continue.

- 2.3 The unauthorised development and use of the land is contrary to policies and advice contained within the adopted Denbighshire Unitary Development Plan and also to advice contained within the aforementioned government guidance in respect of:-

Policy GEN 6 which aim to achieve minimum impact by ensuring that developments respect the site and surroundings in terms of scale, form, design, materials and intensity of land use and that there is no adverse impact neither on the amenity of adjacent occupiers nor on the form and character of the landscape.

Policy GEN 3 which only allows development and use of land outside development boundaries in exceptional circumstances. In this case, the land is designated as agricultural land and is outside the owner's residential cartilage and outside any defined development boundary.

Policy ENV 2 seeks to ensure that there is no harm to the character and appearance of the landscape in an Area of Outstanding Natural Beauty. Development should therefore be designed to a high standard and contribute to the conservation and enhancement of the natural beauty of the area.

Policy HGG 16 which allows for limited extensions of domestic gardens outside development boundaries where the development would not have an unacceptable impact on the character and appearance of the open countryside. In the AONB location, it is considered the unauthorised change of use and development fails to comply with this adopted Policy.

3. RECOMMENDATION

- 3.1 That the Planning Committee authorise the service of an Enforcement Notice with a 2 month compliance period, requiring:

- (i) Removal of the unauthorised Tree House and Zip Wire from the agricultural land.
- (ii) Cessation of use of the agricultural land as a play / recreational area and restoration of the land to its previous state as an agricultural field.
- (iii) Removal of the unauthorised static caravan from the land.

- 3.2 To instigate prosecution proceedings where any person on whom an Enforcement Notice has been served, fails or refuses to comply with the requirements thereof.