

Iles, Nicholas (ESNR-Planning)

From:
Sent: 25 September 2019 14:07
To: Correspondence mail - JJ
Cc:

Subject:
Attachments: TO-JJ-05320-19 - Development in Ancient Woodland - Welsh Government Policy -

Importance: High

For the Urgent Attention of Julie James AM, Minister for Housing and Local Government

Dear Minister,

Reference A: TO/JJ/05320/19 dated 20 February 2019.

We formally request that a representative of your Planning department should attend the Powys Council (PCC) Planning and Taxi Licencing Committee, scheduled for 3 October 2019, to witness the determination of planning application 19/0050/FUL.

This planning application is for development of a "*private, sporadic commercial*" holiday cabin facility, described in the application as a '*Flagship Project*', **within a formally designated Ancient Woodland.**

The PCC Planning department have ignored or abused interpretation of PPW Section 10 (4), in that this proposal (for private, sporadic commercial development in Ancient Woodland) **does not "*clearly define*" any "*significant public benefits*";** a mandatory requirement, which you kindly clarified for us, at Reference A.

As such, according to PPW Section 10, the application should not even be being "***considered***" by Powys County Council, yet the Planning Officer has recommended the application for approval and referred it to the Planning Committee.

In addition, the application in question has been submitted and processed in error, with respect to **several serious mandatory legal requirements.**

PCC Planning department appear not to be following the Welsh Government PPW, or Planning Law under the Planning Act and appear not to have acted with due diligence in this matter.

If this application were to be approved on 3 October, it would set an unacceptable precedent for further development in Ancient Woodland in Wales and we would be most grateful if you would ensure that the Welsh Government is represented on 3 October to oversee the actions of Powys County Council, 1st hand.

Thank you,

Kind Regards,

Thank you for your email.

In light of the comments now received I can confirm that the above application will be taken to the Planning, Taxi Licensing and Rights of Way Committee on the 3rd October. The meeting will commence at 10am at The Chamber, County Hall, Llandrindod Wells, LD1 5LG.

I attach notes for your information regarding Committee Procedure and steps which need to be followed should you wish to speak at the Committee and time-frames for notifying myself.

Should you have any further queries/questions regarding the Committee meeting please do not hesitate to contact me directly.

Kind regards,

Principal Planning Officer/ Prif Swyddog Cynllunio
Development Management/ Rheolaeth Datblygu
Powys County Council/ Cyngor Sir Powys

County Hall, Spa Road East, Llandrindod Wells, Powys, LD1 5LG
Tel/ Ffon: 01597 827 505

TO/JJ/05320/19



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref TO/JJ/05320/19

20/02/19

Dear

Thank you for your email of 02 February to Julie James AM, Minister for Housing and Local Government, regarding planning policy and ancient woodland protection. I have been asked to reply.

You have queried the "*significant and clearly defined public benefits*" test for the protection of ancient woodland and trees as set out in paragraphs 6.4.25 and 6.4.26 of Planning Policy Wales (PPW) 10.

The tests of significant and clearly defined public benefits are established planning principles (for example, within the Habitat Regulations¹ which protect the network of European protected sites and species we have the 'IROPI' test; a test that seeks to identify imperative reasons of overriding public interest). It is a strong and positively framed test whereby public benefits need to be clearly articulated and defined so that their significance can be assessed. The planning system (as a whole) provides the legislative and policy framework to manage the use and development of land in the public interest and it will be for the decision maker to interpret.

Legislation states that decision making within the planning system is made with a presumption in favour of sustainable development in accordance with the development plan unless material considerations indicate otherwise to ensure that social, economic, cultural and environmental issues are balanced and integrated.

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Welsh Government Offices
Cathays Park
Cardiff
CF10 3NQ

Canolfan Cyswllt Cyntaf / First Point of Contact Centre
0300 0604400

PPW10 supports this system and the tests set out for the protection of ancient woodland articulate that public benefits are an exemption and are not the norm. Small scale sporadic and often private commercial developments are unlikely to pass this test. Major national infrastructure projects on the other hand may meet, under specific circumstances, the public benefit tests.

Yours sincerely,



Siobhan Wiltshire

Welsh Government/*Llywodraeth Cymru*

Department for Environment and Rural Affairs/*Yr Adran Amgylchedd a Materion Gwledig*

Planning Directorate/*Y Gyfarwyddiaeth Gynllunio*

ⁱ <http://www.legislation.gov.uk/ukxi/2017/1012/contents/made>

The objective of the Habitats Directive is to protect biodiversity through the conservation of natural habitats and species of wild fauna and flora. The Directive lays down rules for the protection, management and exploitation of such habitats and species. The Habitats Regulations 2017 transpose the Habitats Directive and elements of the Birds Directive in England, Wales and, to a limited extent, Scotland and Northern Ireland.

Iles, Nicholas (ESNR-Planning)

From:
Sent: 26 September 2019 10:32
To: Planning Directorate Mailbox
Cc: Iles, Nicholas (ESNR-Planning); Hawkins, Kris (ESNR-Planning); Correspondence mail - JJ
Subject: URGENT - Request for 'Holding Notice' 'Call in Request' - Powys County Council Application - 19/0050/FUL
Importance: High

Dear Sir or Madam,

Reference A: TO/JJ/05320/19 dated 20 February 2019.

We formally request that as a matter of urgency, the Welsh Government issues a '**Holding Direction**' and a '**Call in Notice**' for planning application 19/0050/FUL, currently being processed by Powys County Council (PCC).

We request urgent action is taken as this application has suddenly been recommended for approval and referred to the PCC Planning Committee for the meeting, scheduled for **3 Oct 2019**.

Planning application 19/0050/FUL is for a "*sporadic, private commercial development*" for a holiday cabin facility **in formally designated Ancient Woodland**.

In direct contravention of PPW Section 10 (4), the Planning officer has recommended approval despite the fact that this application does not '**clearly define**' any '**significant public benefits**' and as such, should not even be being considered by Powys County Council.

The Minister kindly clarified the restrictions which should be applied to any proposal for development in ancient woodland in her response to us at Reference A.

We would be most grateful if you would confirm receipt of this request for a 'Holding Direction' and 'Call in' request.

Thank you.

Kind Regards,

Iles, Nicholas (ESNR-Planning)

From:
Sent: 26 September 2019 10:58
To: Planning Directorate Mailbox
Cc: Iles, Nicholas (ESNR-Planning); Hawkins, Kris (ESNR-Planning); Correspondence mail - JJ
Subject: RE: URGENT - Request for 'Holding Notice' 'Call in Request' - Powys County Council Application - 19/0050/FUL
Importance: High

Dear Sir or Madam,

Further to our requests below, we would like to add the following important information.

Determination of application 19/0050/FUL is in the National interest, because if this application were to be approved by Powys County Council (as recommended by the Planning Officer), in direct contravention of PPW Section 10, this would set an unacceptable precedent for approval of small, scale sporadic, private commercial developments in Ancient Woodland, where no *“Significant Public benefits”* would result.

Any such precedent could affect all Ancient Woodlands in Wales.

Please do not hesitate to contact us if you require any further information or clarification.

Thank You,

Kind Regards,

From:
Sent: 26 September 2019 10:32
To: Planning.Director@gov.wales
Cc: Nicholas.iles@gov.wales; Kris.Hawkins@gov.wales; Correspondence.Julie.James@gov.wales
Subject: URGENT - Request for 'Holding Notice' 'Call in Request' - Powys County Council Application - 19/0050/FUL
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The Minister kindly clarified the restrictions which should be applied to any proposal for development in ancient woodland in her response to us at Reference A.

We would be most grateful if you would confirm receipt of this request for a 'Holding Direction' and 'Call in' request.

Thank you.

Kind Regards,

Isles, Nicholas (ESNR-Planning)

From:
Sent: 04 October 2019 14:20
To: Isles, Nicholas (ESNR-Planning)
Subject: 'Call in Request' - Powys County Council Application - 19/0050/FUL
Attachments: TO-JJ-05320-19 - Development in Ancient Woodland - Welsh Government Policy - final response.pdf

Importance: High

Dear Mr Isles,

Reference A: Minister's Clarification of PPW Section 10 (attached).

We hope that the following information will be useful to you in deciding whether to 'Call in' application 19/0050/FUL, for sporadic, private, commercial development in an Ancient Woodland.

1. The Welsh Government 'Holding directive' was not announced at the Committee Meeting on 3 Oct, there was merely a question asked by the Chairman as to whether Committee Members were aware of "*an amendment on the evening of 2 Oct*", it was not made clear whether they had seen the amendment or not. We, therefore, correctly notified the members of the 'Holding Directive' at the start of our 5 minute representation.
2. Several Planning Committee Councillors considering 19/0050/FUL at the Planning Committee Meeting on 3 Oct, have now also expressed serious concerns that any decision to approve this application would set an unacceptable precedent for small scale, sporadic, private, commercial development, (and 'ribbon development') in Ancient Woodland **across Powys and across the whole of Wales**, in direct contradiction of the Minister's clarification, in her response to us at Reference A (attached).
3. We believe that the Planning Officer re 19/0050/FUL has abused the interpretation of PPW Section 10, to facilitate this development (as detailed below).
4. We propose that it is critical that the Welsh Government intervenes to 'Call in' this application, in order to clarify the correct interpretation of PPW for **this and other** proposals for development in Ancient Woodland in Wales.

Planning Officer's Interpretation:

During the Planning Committee meeting of 3 Oct, the Planning Officer was asked several times, by Councillors to explain what "**Significant Public Benefits**" were "**Clearly Defined**" in the application, in accordance with PPW Section 10.

The Planning Officer's response was that there was **no need** for the developers to define any **Significant Public Benefits** because, in the opinion of the ecology reports*, there would be no impact on the Ancient Woodland, or on its many protected species, from the commercial development.

(* **Note:** The developers' ecology reports (which PCC and NRW simply accepted at face value) were not impartial, but inadequate and biased, as detailed in the formal objections raised by the Woodland Trust, Wildlife Trust, CPRW and the public).

Most Critically, however, several Planning Committee Councillors, members of the public (and another Planning Officer) have agreed with our view below, of the Minister's attached interpretation of PPW Section 10, (especially in view of the Minister's last paragraph).

Proposal for Development in Ancient Woodland - Correct Interpretation:

Step 1. Are "*Significant Public Benefits*", "*Clearly Defined*" in the application, **YES** or **NO**?

If **NO** - **DO NOT CONSIDER** the proposal. See written clarification from the Minister, at Reference A (attached).

If **YES** - Go to Step 2, below.

Step 2. Would there be significant impact/ damage to the Ancient Woodland if this development was approved, **YES** or **NO**?

If **YES** - The proposal is to be refused.

If **NO** - The proposal **may** be considered by the LPA.

The Planning Officer has ignored Step 1, and has abused her interpretation of PPW regarding this application which, if allowed to be approved, would set an unacceptable precedent for further private, sporadic commercial developments in Ancient Woodland across Powys and Wales Nationally.

There was so much else wrong with the manner in which this application has been processed, including (but not limited to):

- False land 'Ownership Certificate'
- Failure correctly to 'Serve Notice' to 3rd party Landowners
- Presence of an existing cabin structure on the site, which should be used instead of new development
- Abuse of interpretation of Highways regulations
- Misleading of Planning Committee Members by the Planning Officer

We are aware that you will be scrutinising the Planning Officer's report and we think that it is critical that you have access to all of the relevant information and objections regarding this proposal.

We will provide you with further relevant documentation.

Please do not hesitate to contact us if we can be of any assistance at this stage.

Thank you,

Kind Regards,

From: [redacted]
Sent: 26 September 2019 10:58
To: Planning.Directorate@gov.wales
Cc: Nicholas.iles@gov.wales; Kris.Hawkins@gov.wales; Correspondence.Julie.James@gov.wales
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