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## Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 01/05/19

gan Hywel Wyn Jones BA(Hons) BTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12.06.19

## Appeal Decision

Site visit made on 01/05/19

by Hywel Wyn Jones BA(Hons) BTP  
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 12.06.19

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**Appeal Ref: APP/B6855/C/19/3223260**

**Site address: Sancta Maria Hospital, Ffynone Road, Swansea, SA1 6DF**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Rob Douthwaite, The Hospital Management Trust against an enforcement notice issued by the City and County of Swansea Council.
  - The enforcement notice, numbered ENF2018/0058, was issued on 23 January 2019.
  - The breach of planning control as alleged in the notice is: *Without planning permission, the construction of a concrete pad.*
  - The requirements of the notice are:
    - (i) *Break up and remove the concrete pad;*
    - (ii) *Remove all the materials resulting from the actions of part 5 (i) from the Land.*
  - The period for compliance with the requirements is 2 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (e) and (g) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. I direct that the enforcement notice be corrected in paragraph 2 by the deletion of "the plan appended hereto" and substitution with "the plan appended to this decision". Subject to this correction I dismiss the appeal and uphold the enforcement notice.

### The Notice

2. The plan accompanying the notice includes land that lies outside the grounds of the hospital. The appellant points out this inaccuracy, which is the basis of the ground (e) appeal. The Council has acknowledged this error and has produced a revised plan which encompasses only the hospital premises. In the interests of precision, I shall correct the notice to refer to the revised site plan, satisfied that doing so causes no injustice to any party.

### Ground (g) appeal

3. The planning merits of the concrete pad were considered in a recent appeal decision<sup>1</sup>. The Inspector commented that she had been presented with insufficient information to provide confidence that the presence of the pad would not continue to cause damage

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<sup>1</sup> APP/B6855/A/18/3210593, dated 26 November 2018

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to an adjacent yew tree by way of further compaction and run-off contamination. Specific reference was made to the absence of specialist arboricultural and construction design advice to support that appeal.

4. The appellant seeks a period of compliance of 18 months to coincide with the anticipated availability of a replacement site for the MRI scanner that uses the concrete base. This would ensure continuity of service. It is further explained that the appellant would, at the end of that period, not only remove the slab but would make good around the tree and, if necessary, plant a new tree.
5. The mobile MRI scanner is stationed on the slab every week. Its location is no doubt a convenient arrangement to patients. However, there is no compelling evidence that the valuable healthcare service that it provides could not be continued by alternative means, such as on another site, until a permanent site becomes available on completion of the new hospital, presently under construction. Despite the previous Inspector reaching a similar finding in the earlier appeal, no substantive additional evidence on this point has been forthcoming.
6. Whilst the appellant suggests that the evidence of the Council's arboricultural officer should be tested, no specialist or other evidence has been provided to demonstrate that the presence of an extensive area of concrete in such proximity to the yew tree is not causing on-going damage to its health. Again, the absence of such evidence was identified in the previous appeal decision.
7. Given the limited work required in breaking up and removing the concrete the 2-month period of compliance stipulated in the notice is reasonable and proportionate, particularly in light of the potential additional harm to the health of the tree that could arise in the event that the period was extended. Accordingly, the appeal on ground (g) fails.

### **Conclusions**

8. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed but that the notice should be corrected to refer to a smaller site area.

*Hywel Wyn Jones*

INSPECTOR



# Plan

This is the plan referred to in my decision dated: 12.06.19

by Hywel Wyn Jones BA(Hons) BTP MRTPI

Land at: Sancta Maria Hospital, Ffynone Road, Swansea, SA1 6DF

Reference: APP/B6855/C/19/3223260

