

Application Ref: NP/23/0134/S73

Case Officer	Sara Morris		
Applicant	Mr W & D Marshall & Warren-Davies		
Agent	Mr A Vaughan-Harries, Hayston Development & Planning Ltd		
Proposal	Amendment to Condition no. 1 of NP/18/0396/OUT to extend time limit for submitting reserved matters until 8 th August 2024		
Site Location	Land off Trewarren Road, St Ishmaels, Haverfordwest, Pembrokeshire, SA62 3SZ		
Grid Ref	SM83500718		
Date Valid	13-Mar-2023	Target Date	07-May-2023

This item is being considered by the Development Management Committee as it is a major application to which objections have been received.

Consultee Response

PCNPA Ecologist – Further information required.

Natural Resources Wales – No adverse comments

PCC Civils Department – No adverse comments

Highways Authority – No objection.

Dŵr Cymru/Welsh Water – No adverse comments but request any drainage related conditions are maintained on any new consent granted for the development.

Public Response

A site notice, public advertisement and neighbour notification letters were placed in accordance with requirements of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

One letter of objection has been received from a local resident raising concerns regarding recent floods causing overflowing sewage and disruption to wildlife and the peace of the village. These considerations, where material, are addressed in the report below.

Policies considered

Please note that these policies can be viewed on the Policies page Pembrokeshire Coast National Park website –

[Local Development Plan 2 - Pembrokeshire Coast National Park](#)

LDP2 Policy 01 - National Park Purposes and Duty

LDP2 Policy 07 - Countryside

LDP2 Policy 08 - Special Qualities

LDP2 Policy 10 - Sites and Species of European Importance

LDP2 Policy 14 - Conservation of the Pembrokeshire Coast National Park

LDP2 Policy 16 - Green Wedges

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LDP2 Policy 29 - Sustainable Design

LDP2 Policy 30 - Amenity

LDP2 Policy 32 - Surface Water Drainage

LDP2 Policy 50 - Housing Development Proposals

LDP2 Policy 60 - Impacts of Traffic

PPW11

SPG03 - Loss of Hotels

SPG12 - Place Plan - Community Land Trust & Affordable Housing

SPG16 - Sustainable Design & Development

TAN 05 - Nature Conservation and Planning

TAN 06 - Planning for Sustainable Rural Communities

TAN 12 - Design

Constraints

Special Area of Conservation - within 500m

LDP Allocation

LDP Mineral Safeguard

LDP Open Space

Biodiversity Issue

Historic Landscape

Ancient Monument - within 500m

Potential for surface water flooding

LDP Centre:50pc aff housing;30 units/ha

Recreation Character Areas

Landscape Character Assessment

Seascape Character Assessment

Affordable Housing Submarkets

Seascape Character Areas

Landscape Character Area

Officer's Appraisal

Site and context

The site is located to the South of St Ishmaels village which is a settlement identified as a Rural Centre within the PCNPA Local Development Plan 2 (LDP 2). The site is outside the current Centre Boundary and is therefore in the countryside.

The site is largely covered in scrub and dense gorse, with strong hedge boundaries consisting of a mix of different species including hawthorn. It slopes downhill in a northerly direction and a stream crosses the land to the northwest. To the east of the site, separated by a strong hedge boundary, is the playing field of Coastlands School, with residential properties lying to the north and west and a public highway running to the west. No current access exists for the site from the road, however previous layout plans provided for NP/18/0396/OUT indicated an intention to create an access from the northwest of the site with a new tarmac surfaced road.

Relevant Planning History

NP/18/0396/OUT – Residential development 14 dwellings approved 9th August 2019
NP/15/0031/OUT – Outline application for 27 dwellings – Refused and dismissed at appeal 4th January 2017

Description of Proposal

The application is made under Section 73 of The Town and Country Planning Act 1990 (as amended) and seeks to modify condition No. 1 attached to outline planning permission (ref NP/18/0396/OUT) relating to the construction of 14 residential properties.

Condition No.1 of permission ref NP/18/0396/OUT states:

Any application for the approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
Reason: Required to be imposed pursuant to Section 92 (2) of the Town and Country Planning Act 1990

This application seeks an extension of time for submission of reserved matters in relation to residential development. The applicant proposes the following modified planning condition:

“Application for the approval of the reserved matters shall be made to the Local Planning Authority on or before 8th August 2024”.

Key Issues

The main issue raised with this application is whether the proposed modification of the planning condition is acceptable having regard to the expiry of the time for submission of reserved matters before the application was made, the relevant policies of Future Wales and the Local Development Plan 2 and in the interests of retaining appropriate planning control. A further issue is whether or not any material planning considerations could outweigh any conflict with the Development Plan.

Policy and Principle of Development

An application under Section 73 of the Town and Country Planning Act 1990 (as amended) is an application for planning permission. The Local Planning Authority's duty is to determine the application in accordance with the development plan unless material considerations indicate otherwise.

Of relevance in this case is whether there has been any change in the planning policy position, or any other material circumstances since the granting of the previous outline permission. The application proposes an extension of time for the submission of reserved matters in relation to permitted residential development at St Ishmaels.

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Since the practical effect of a Section 73 Consent is that of granting a fresh planning permission, the guidance of Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management is relevant. The guidance states that, as a general rule, an application that would extend the life of consent should be considered against the following criteria:

- a) Whether there has been some material change in planning circumstances since the original permission was granted;
- b) Whether continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area; or
- c) Whether the application is premature because the permission still has a reasonable time to run.

With regards to ground c – the application is not premature as the period for the submission of reserved matters controlled by Condition no. 1 of NP/18/0396/OUT lapsed on 10th August 2022 and the outline permission itself will expire in August 2024.

With regard to ground a – there have been a number of material changes in planning circumstances since the original permission was granted. When NP/18/0396/OUT was granted planning permission, the site at that point formed part of a housing allocation and was within the Centre Boundary for St Ishmaels in the PCNPA Local Development Plan 1.

Since that previous permission was granted in September 2020, PCNPA has adopted a Replacement Local Development Plan - LDP2. The site of this application was not included as a residential allocation and excluded from the Centre Boundary in LDP2. This represents a significant change in the status of this piece of land since the original outline permission was granted.

Policy 50 Housing Development Proposals supports housing developments in specific circumstances: sites within a Centre boundary; for exceptional land releases within and adjoining Centres for affordable housing to meet identified local need; and in Countryside locations for development meeting national policy (such as a rural enterprise dwelling or One Planet development) or where the development relates to the conversion for a rural building.

Policy 7 Countryside is a Strategy Policy for LDP2. It states that outside the identified Centres is countryside where development must be strictly controlled. A number of forms of development which are acceptable in principle are identified - however this does not include proposals for market led housing development.

Future Wales was adopted as the National Plan for Wales in February 2021. Policy 4 Supporting Rural Communities states that Strategic and Local Development Plans must identify their rural communities, assess their needs and set out policies to support them. On page 104, Future Wales states that: “National Park Authorities are unique planning entities with a specific remit to reflect the distinctive characteristics of their areas...” and that “Future Wales policies respect the functions of National Parks in terms of their statutory purposes...”

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Planning Policy Wales Edition 11 was updated in February 2021. Paragraph 3.58 – 3.59 notes that:

“Agricultural land of grades 1, 2 and 3a of the Agricultural Land Classification system (ALC)16 is the best and most versatile, and should be conserved as a finite resource for the future.

When considering the search sequence and in development plan policies and development management decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations.

If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.”

The Welsh Government predictive agricultural land classification map layer demonstrates that over 50% of the application site is covered by land assessed as Grade 2. Whilst when part of a housing allocation for LDP 1 the land would have been assessed as contributing towards an established housing requirement for the Plan and therefore meeting the ‘overriding need for the development’, this is no longer the case since LDP 2 was adopted as the site is now located within the countryside in planning terms.

The proposal for market led housing development in this location is contrary to the provisions of the current adopted Local Development Plan (PCNPA LDP2). The proposal does not comply with LDP 2 Policy 7 Countryside, nor Policy 50 Housing Development Proposals. In addition, the proposal does not comply with Planning Policy Wales Edition 11’s requirement that best and most versatile agricultural land be conserved as a finite resource for the future.

The very significant material change in planning circumstances since the previous approval suggest that when considering the planning policy position, permission for an extension to the time for extending the period to submit reserved matters should not be granted.

In coming to this view, Officers have considered whether the existing outline permission constitutes a legal fall-back position - however as the time period for the submission of Reserved Matters lapsed in August 2022, the current outline permission cannot be implemented. This means that whilst the outline permission has technically not expired it (it runs until August 2024), it is not possible currently for the site to be delivered. That is an important material consideration that cannot be ignored. Therefore, Officers have given no weight to the existing outline permission.

Officers have also considered whether the exceptional circumstances caused by the Covid-19 pandemic (which resulted in understandable delays to the development

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industry over the last 3 years) constitutes a material consideration sufficient to outweigh the provisions of the Local Development Plan 2 and Planning Policy Wales Edition 11. Officers consider that delays due to Covid-19 can be considered a material consideration to which some weight could be given. However, in this case, the extent of the conflict with multiple LDP 2 policies and the best and most versatile land classification are considered to outweigh this material consideration. Furthermore, no compelling reasons have been given for allowing the time limit to expire without a s73 application being made.

With regard to criterion b of the Welsh Government Circular “*Whether continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area*” PCNPA’s Strategic Policy team have assessed housing delivery within LDP 2 and have indicated to the evidence within the 2021/22 Annual Monitoring Report for LDP2 reports that housing targets in the Plan are being met and currently raise no cause for concern. Refusal of this application would therefore not contribute unacceptably to uncertainty about the future pattern of development in the area.

In conclusion, there is an in-principle objection to the development of this site for market led residential use. The adoption of Local Development Plan 2 in September 2020 represents a significant change from the previous planning position in place when the original outline permission was granted. Current planning policy does not support residential development in this location and the countryside status and Best and Most Versatile Agricultural Land classification are both important considerations that support the retention of this site as open countryside. Other material considerations, including the status of the existing outline permission and the impact of the Covid-19 pandemic have been assessed in coming to this view, but are not considered of sufficient weight to justify a departure to the Local Development Plan 2.

Planning Obligations including Affordable Housing

Whilst the Planning Statement accompanying the application indicates that the applicant may seek to vary the S.106 agreement accompanying the application, no further information or evidence has been provided to the LPA on the type of amendment that might be sought.

An updated S.106 would need to be issued to tie the s.106 agreement to any S.73 permission if Committee were minded to grant approval for the application, contrary to Officer recommendation.

The existing outline permission is supported by a S.106 agreement with the following contributions:

1. 4 Affordable units to be provided on site, including the timing of their completion.
2. Planning obligations (provision of cycle facilities)
3. Wildlife Conservation Area Management Scheme

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No evidence of a change in viability circumstances has been provided to the LPA. As set out in Annex A (the original committee report for NP/18/0396/OUT) at the time the previous application was considered the proposal for 4 of the 14 homes to be affordable homes complied with the Supplementary Planning Guidance target (30%) for St Ishmaels at that time.

The current affordable housing LDP target for St Ishmaels house market area in the LDP 2 is 20%, therefore the provision of 4 affordable homes is slightly higher than the existing requirements of the LDP. However as set out above, there is an in-principle objection to the sites development for market led housing and therefore whilst the previous S.106 demonstrates that the site can provide appropriate planning obligations and a degree of gain in a higher delivery of affordable housing than the current LDP target, this is not sufficient to outweigh this wider policy conflict, particularly given that no confirmation of intentions for an updated S.106 agreement has been received from the applicant.

Whilst Planning Policy Wales (Edition 11) notes that a community's need for affordable housing is a material planning consideration, evidence from LDP Monitoring is that the Plan as a whole is delivering in line with its targets for affordable housing. Given this wider position, whilst provision of 4 affordable homes is a material consideration to be awarded weight, it is not considered sufficient to outweigh the in-principle conflict identified above.

Siting, Sustainable Design and Impact on Special Qualities of the National Park

Policy 29 Sustainable Design of the LDP2 requires all development proposals to demonstrate an integrated approach to design and construction and be required to be well designed in terms of place and local distinctiveness (criterion 'a').

If granted permission, this S.73 would in effect re-issue the outline permission. The previous outline application reserved matters of appearance, landscaping and scale of the development for future consideration. It did however seek approval for the access and layout of the development.

As set out in Annex A (Officers report for outline NP/18/0396/OUT) the proposed highway access and layout were both considered to comply with the requirements of LDP policies in relation to siting, design and the special qualities of the National Park at the time of determination.

Officers consider that this assessment remains the case in terms of design and that the highway access and layout are acceptable when considered against the current LDP policy relating to sustainable design.

Amenity and Privacy

The previous officers report identifies that the proposed layout of the scheme will cause no adverse impact upon the amenities of neighbouring occupiers, given the distances between proposed dwellings, another approved scheme and existing dwellings. Officers consider this assessment to apply in this case and therefore consider the application to comply with Policy 30 Amenity of the LDP2.

Highway Safety, Access and Parking

The original advice from the Highway Authority is set out in Annex A Officers Report. The Highway Authority was reconsulted for the section 73 application and has no objection to an extension of the time limit for the application.

A number of conditions were suggested on the original permission including the provision of the further details of the junction, full details of the estate road, provision and completion of the parking areas and details of the access arrangements as part of the construction phase.

The Highway Authority also requested a contribution towards safe access for cyclist and pedestrians to the school from the site and the provision of cycle facilities at the school – this was included in the S.106 agreement.

Subject to the imposition of conditions and the provision of a planning obligation, the proposal would meet the requirements of LDP2 Policies 59 Sustainable Transport and 60 Impacts of Traffic.

Water, Drainage and Flooding

Natural Resources Wales, Dwr Cymru/Welsh Water and PCC Civils were all consulted on the S.73 application and had no adverse comments. These organisations had previously recommended conditions for any permission.

There have been no policy changes that would alter the conclusion from the previous outline officers report that the development can be adequately accommodated within the site. The proposal complies with the aims and requirements of LDP 2 Policy 32 Surface Water Drainage.

Biodiversity and Environment

PPW, TAN5 and LDP2 Policies 8, 10 and 11 requires biodiversity and landscape considerations to be taken into account in determining individual applications.

The outline permission was accompanied by an Ecological Appraisal and further ecological assessments were submitted during the processing of the application.

As set out in Annex A Officers report the survey for the original outline application demonstrated limited evidence of protected species. The site was assessed as being unsuitable for foraging and commuting bats and no features for roosting bats were recorded onsite. No badger setts were recorded, however there was activity recorded on site and the Ecological Appraisal considered there is the potential for setts to be present. The survey recorded no evidence of otters but considered there may be visit areas outside the site. Local Records indicated multiple records of otters upstream of the site. An otter survey was submitted in 2018 and no evidence of otter presence was found within or in the vicinity of the site. The report considered that the stream to the northwest of the site offers a possible otter travel line, although no signs of recent use were found.

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As part of the outline permission and secured via the S.106 agreement a Wildlife Conservation Area was identified as a protected natural area within the site, in order to compensate for any adverse effects.

The PCNPA Planning Ecologist was consulted on the S73 application and has commented that as it has been over two years since the surveys were undertaken and the site was already well vegetated, a professional ecologist will need to undertake a site visit and may also need to undertake updated surveys. The ecologist should then provide information on the validity of the report, which if any of the surveys need to be updated and the appropriate scope, timing and methods for the update surveys.

The Planning Agent for the application has commented that they consider that the existing conditions on the outline application address the Planning Ecologists concerns. Condition 7 of the outline permission requires a Landscape and Ecological Management Plan to be submitted and approved in writing prior to the occupation of the development. Condition 8 of the outline permission requires an other walkover survey to be completed and submitted to the local planning authority prior to the commencement of works.

Reiteration of the existing conditions in any S73 permission and an update of the S106 agreement to tie it to any S73 permission are considered to sufficiently address the biodiversity policy requirements of national and local planning policy.

Conclusion

Following consideration of the policies contained within the statutory Development Plan (Future Wales and Local Development Plan 2) and National Planning Policy in the form of Planning Policy Wales (Edition 11) and having regard to all material considerations it is considered that the development is not in compliance with the strategy and policies of the LDP2 and that material considerations do not outweigh that conflict, such that the development is not acceptable.

In reaching a recommendation, regard has been given to the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. It is considered that this recommendation is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

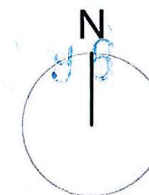
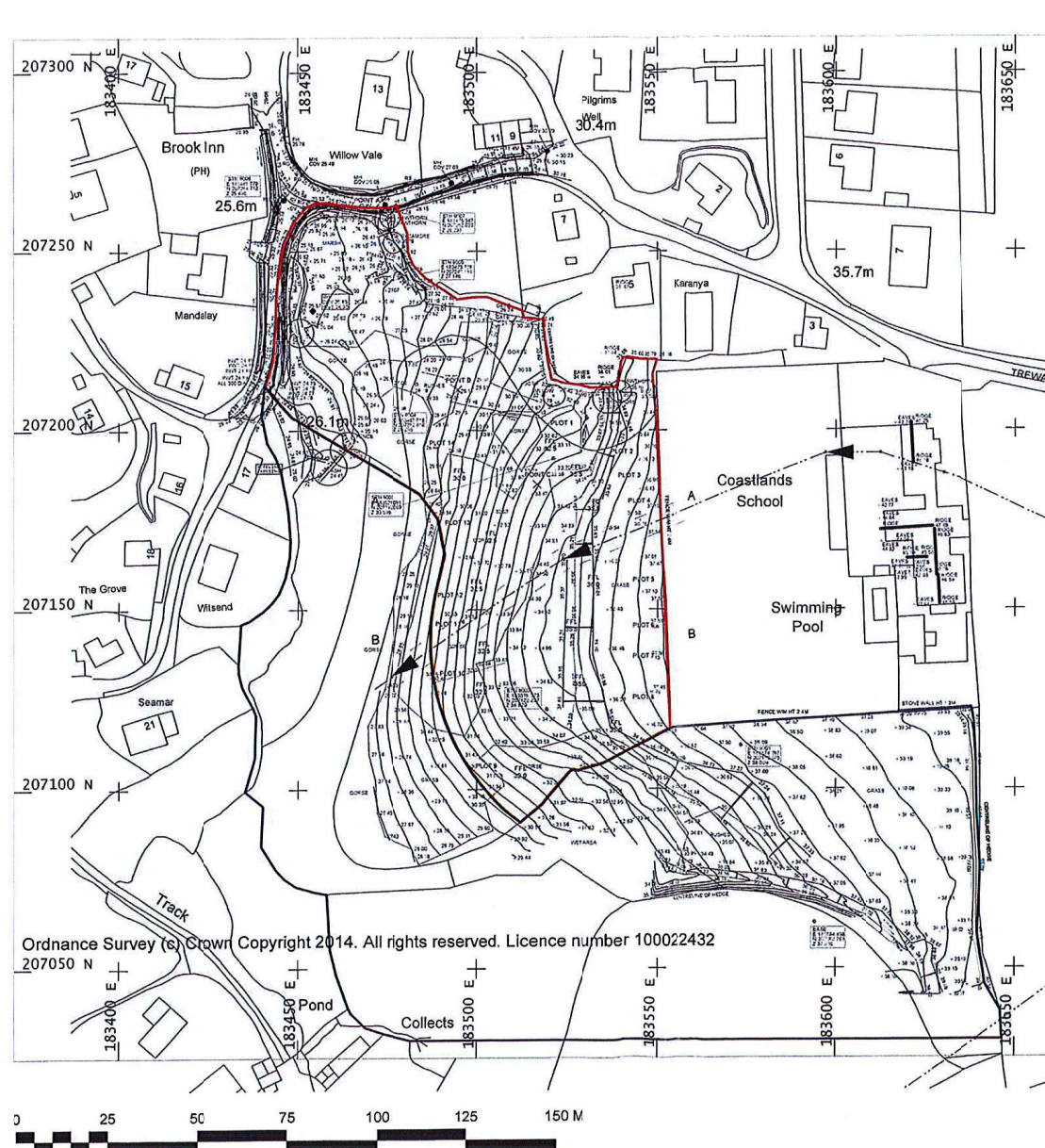
Recommendation

REFUSE, for the following reasons:

1. The application site is outside the Centre Boundary for St Ishmaels and is in a countryside location. Residential development in this location is contrary to Pembrokeshire Coast National Park's adopted Local Development Plan 2 Policies: 7 Countryside, ,50 Housing Development Proposals and Planning Policy Wales Edition 11 paragraph 3.71 and 3.73.

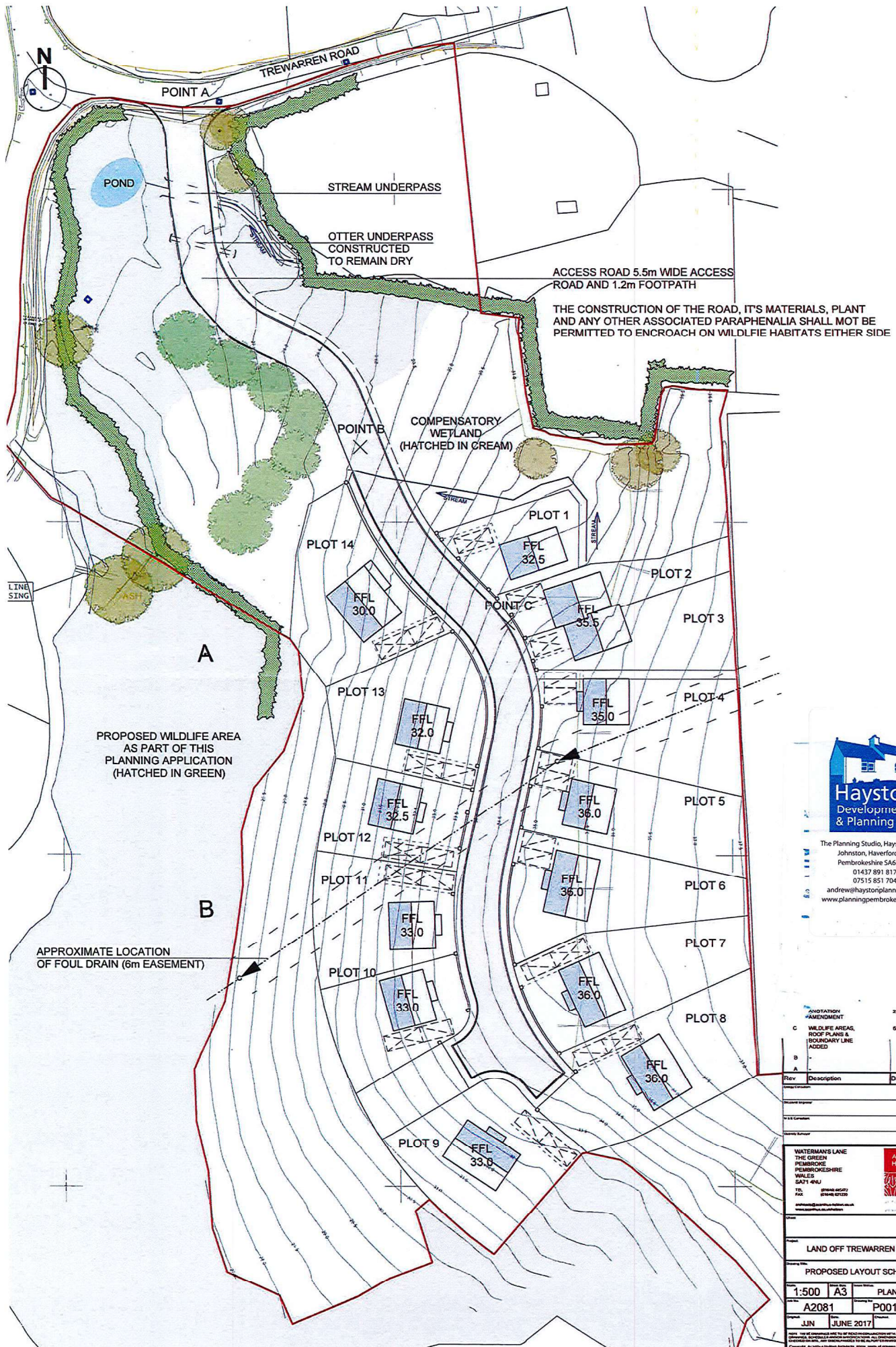
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2. The application site includes a large area (approximately 50% of the site) which is agricultural land of Grade 2 of the Agricultural Land Classification system and is classed as best and most versatile land which should be conserved as a finite resource for the future. Development of this land would be contrary to the provisions of Planning Policy Wales (Edition 11, February 2021) paragraphs 3.58-3.59.



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ACANTHUS HOLDEN

LAND OFF TREWARREN ROAD

PROPOSED LAYOUT SCHEME 1

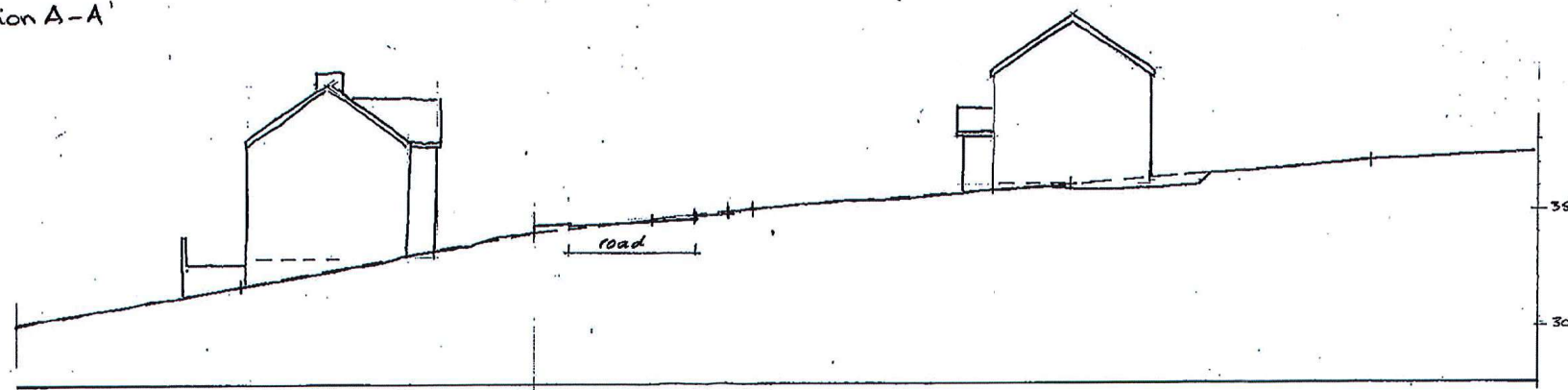
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Section A-A'



Section B-B'

Land off Trewarren Road
St Ishmaels
Proposed sections

A2081/P003

