

REPORT OF THE DEVELOPMENT MANAGEMENT MANAGER ON ENFORCEMENT MATTERS

Case Reference No: EC19/0007

Site Address: The Pool House, Hasguard Cross, Haverfordwest, Pembrokeshire
SA62 3SJ

Breach of Planning Control:

Non-compliance of condition 4 of Planning Permission NP/12/0614 (dated 21st June 2013)

Condition 4:

The mobile home (Rural Enterprise Dwelling) shown in the position annotated on the approved Drawing 02b is hereby approved for only a period of three years from the date of this decision. The mobile home and all supports shall be fully removed from the site on or before the 19 June 2016 and the site restored to its former condition.

Reason: *The mobile home is only acceptable as temporary accommodation to serve the needs of the business in order to test the evidence of justification for a new dwelling in accordance with Technical Advice Note 6 – Planning for Sustainable Rural Communities (July 2010). Policy: Local Development Plan Policy 7 – Countryside.*

Background

1. Planning permission NP/12/0614 was approved, subject to conditions, on 21st June 2013 for the conversion of the former West Wales Diving Centre pool building at Hasguard Cross to a shellfish holding tank (vivier storage facility), storage of fishing gear and ancillary tender boats and also the retention of a live/work rural enterprise residential caravan for a three-year period.
2. The three-year period for the retention of the mobile home expired on 19th June 2016 by which time the mobile home (Rural Enterprise Dwelling) and all its supports were to be removed from the site in accordance with condition 4 of the planning permission NP/12/0614.
3. The mobile home was not removed in accordance with condition 4 of the planning permission NP/12/0614.
4. A subsequent planning application NP/18/0382/FUL seeking to make the mobile home permanent was submitted in 2018. However, on visiting the site at that time, the case officer found that the storage tank approved under NP/12/0614 had not yet been used in association with the rural enterprise. As such, there was deemed to be no functional need for the retention of the mobile home and the application was refused under delegated powers.
5. A further planning application (NP/19/0543/FUL) was submitted in 2019 seeking the retention of the mobile home together with the addition of a raised

deck area, new cladding, a new roof and a small extension for a porch as a permanent dwelling. This application was reported to the Development Management committee of this authority on 4th December 2019 whereupon members resolved to refuse the application as the application was considered to contain insufficient information to justify a permanent rural enterprise dwelling in this countryside location.

6. As the mobile home remained on site contrary to condition 4 of the planning permission NP/12/0614 enforcement action was instigated by officers to secure its removal.
7. In October 2022 an application for a Certificate of Lawfulness (NP/22/0590/CLE) was submitted claiming that building works had been carried out to the mobile home making it a fixed and permanent dwelling and that it had therefore become immune from planning enforcement action as it had been on the land for more than four years. Following advice from the Authority's solicitor, this application was refused on the 9th March 2023 as the development was not considered lawful under relevant case law and that the works were liable to enforcement action under the ten-year rule for non-compliance of condition 4 of planning permission NP/12/0614 and not the four-year rule. No appeal was made to PEDW (Planning and Environment Decisions Wales) against the refusal of the Certificate of Lawfulness by the applicants.
8. A Breach of Condition Notice EC19/0007 under Section 187A of the Town and Country Planning Act 1990 (as amended) was issued on the 28th March 2023 and served on the occupants of the mobile home requiring the permanent removal of the mobile home and all its supports from the land by the 1st November 2023. There is no right of appeal against the S187A Breach of Condition Notice and it is an offence to contravene the requirements of the Notice after the end of the compliance period. Whilst officers have been informed by their agent that the recipients are seeking legal advice on the refusal of the Certificate of Lawfulness (NP/22/0590/CLE), no legal challenge has been received by this Authority in respect of the issuing of the Breach of Condition Notice.
9. Following a site inspection by officers on 21st November 2023 it was evident that the mobile home remained on the land contrary to the requirements of the Breach of Condition Notice.
10. This authority has written to the owner/occupants asking if there are any representations that they wish to put before members and officers will report any response received to committee.

Planning History

- NP/12/0614 – The conversion of former West Wales Diving Centre pool building to shellfish holding tank (vivier storage facility), storage of fishing gear and ancillary tender boats & retention of a live/work rural enterprise residential caravan for a 3-year period – Conditional Approval 21st June 2013

- NP/17/0246/DOC – Discharge of conditions 7, 9, 10, & 11 of NP/12/0614 – Approved 16th June 2017
- NP/18/0382/FUL – Proposed Rural Enterprise Dwelling – Refused 6th November 2018
- NP/19/0543/FUL – Provision of rural enterprise dwelling (created from existing mobile home) in association with existing established fishing business (approved under application NP/12/0614) – Refused 4th December 2019
- NP/22/0590/CLE - Application for a Certificate of Lawful Development to demonstrate that Driftwood Lodge is constructed as a fixed dwelling and permanent dwelling (4-year rule) – Refused 9th March 2023

RECOMMENDATION

That authorisation be given to instruct solicitors to commence prosecution proceedings in the Magistrates Court against the persons responsible pursuant to section s187A(9) of the Town and Country Planning Act 1990 (as amended), on the basis that, without reasonable excuse, they have failed to comply with a notice served on them under s187A and are accordingly guilty of an offence and liable on summary conviction to a fine.