

## **REPORT OF HEAD OF DEVELOPMENT MANAGEMENT ON ENFORCEMENT AND OTHER PLANNING MATTERS**

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### **Enforcement**

#### **EC11/0079 – So What, Trewent Hill, Freshwater East, Pembroke**

In May 2011 a complaint was received by this Authority that works involving the construction of a first floor balcony had been carried out at the above property. Following a site visit by your enforcement officer it was established that a lean-to roof section of a conservatory had been removed and a first floor balcony area constructed above without the benefit of planning permission.

Following the service of a Planning Contravention Notice the owner of the property has been advised that planning permission is required for the works.

With regard to adopted development plan policies it is considered that the development raises issues with regard to design as the balcony appears at odds with the character of the host dwelling and is intrusive in the surrounding area. It is therefore considered that action should be taken to secure the removal of the unauthorised development.

The owner has been advised that these matters are being reported to the Development Management Committee and any representations received will be reported verbally at the meeting.

At the time of investigating the above complaint, it was also noted by your enforcement officer that a timber garden shed measuring approximately 3.56metres by 3.05metres had been erected within the curtilage of the above property and that planning permission was required but had not been sought. The timber garden shed is used for domestic purposes in conjunction with the main dwellinghouse. The owner has been invited to submit an application with a view to regularising the erection of the shed. However, in the absence of such an application being submitted it is not considered expedient to take any formal enforcement action at this time as the shed is a modest structure used for purposes ancillary to the dwelling and would comply with adopted planning policy.

### **Recommendation**

That authority be given to proceed with the service of an Enforcement Notice to secure the removal of the unauthorised works relating to the construction of the first floor balcony.

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### **EC06/137 – Land at Blaenafon, Mill Lane, Newport**

It was brought to the attention of this Authority that an old railway carriage had been replaced with a metal storage container unit (of the sort used for the commercial transfer of goods) on land adjacent to the above property.

Following an investigation by your enforcement officer it was established that the Container Unit had been sited in a field outside the curtilage of the dwellinghouse and was being used for domestic storage and as such required the benefit of planning permission. No planning permission has been approved for this development.

An additional Container Unit has also been sited alongside the earlier Container Unit.

In December 2010 an application was received by this Authority that included the retention of the two storage container units, however, the application was unable to be validated as the information submitted was inadequate. This Authority wrote to the applicant's Agent on 9<sup>th</sup> December 2010 requesting further information in order to validate the application.

As no further information was received by this Authority, the invalidated application was returned to the agent on 2<sup>nd</sup> February 2011.

The Container Units are sited outside the residential curtilage of the dwellinghouse. In policy terms the land concerned would be classified as open countryside outside any settlement limits. The area is also designated by CADW as a Landscape of Historic Interest. It is considered that the siting of the container units in this location are contrary to adopted planning policies and causes an unacceptable visual intrusion into the historic landscape.

A Planning Contravention Notice has been issued and served on the owner of the land.

This Authority has also written to the owner of the land asking if there are any representations that she wishes to put before members. Any response received will be reported to the committee.

### **Recommendation**

That authority be given to proceed with the service of an enforcement notice to secure the removal of the unauthorised Container Units from the land.

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### **TPO 48 (W1) - Unauthorised Tree Work at West Lodge, Picton Castle**

#### **Site history/Background**

A Tree Preservation Order was made on a woodland area at West Lodge, Picton Castle on 28th January 2004 as the trees make a significant contribution to the character of the area.

A planning application and application for listed building consent for the re-instatement of the lodge into a dwelling at this site was received on 14 April 2011 and as part of the consideration of that application a tree survey was carried out on 1<sup>st</sup> June 2011 to consider the implications of the proposed development (NP/11/158) on nearby trees.

During that site visit it was evident that several trees had been removed without consent through the application for works to trees subject to the PCNPA Tree Preservation Order 48 (W1).

#### **Legislation**

Section 210(1) of the Town and Country Planning Act states that anyone in contravention of a Tree Preservation Order is guilty of an offence.

Section 206(1) of the Town and Country Planning Act 1990 states that the landowner is under a duty to replace woodlands when trees are uprooted or destroyed in contravention of the Tree Preservation Order.

The duty on the landowner is to plant the same number of trees, on or near the land on which the trees stood, or on such other land as may be agreed between the local planning authority and the landowner, and in such places as may be designated by the local planning authority.

#### **Officer Considerations**

In this instance the loss of these mature trees is highly regrettable and clearly constitutes an offence under the above legislation. With regard to the above legislation the Authority has two courses of action that can be taken. The first is to seek to prosecute the landowner for the willful destruction of the trees. The second is to firstly request the landowner to comply with the duty under Section 206(1) to replant the trees voluntarily and under the advisement of the NPA. In the absence of the landowner failing to comply with this duty this can be enforced through the serving of a Replacement Tree Notice requiring re-planting to be carried out under Section 207 of the Town and Country Planning Act. (This is to

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be served within 4 years from the landowner's failure to plant trees as soon as is reasonably practicable).

In respect of the first course of action, whilst this may result in a fine being imposed, this will not result in the replacement of the trees which are considered to be an important element of the landscape character of this area and the setting of the listed lodge.

The second option should however achieve this aim. It is the view of the Tree and Landscape Officer that the area in question should be retained as a woodland habitat, preferably in the form of a Woodland edge eco-zone to ensure the longevity of the woodland character as well as minimizing the future risk to both the replacement trees and the listed building. This approach would be advocated by the Authority and the landowner be advised of these requirements. In the absence of a voluntary agreement to carry out the work a more formal Tree Replacement Notice should be served on the landowner. It should be noted however that failure to comply with a Tree Replacement Notice is not an offence, however, the Authority may enter the land, plant the trees and recover from the landowner any reasonable expenses occurred.

It should also be noted that there is a right of appeal to the Secretary of State against the issuing of a Tree Replacement Notice.

It is therefore considered that whilst the loss of these mature trees is not condoned, the second option would result in the replacement of trees which would over time re-instate this important woodland area in the interests of both the character of the area and the woodland habitat.

### **Recommendation**

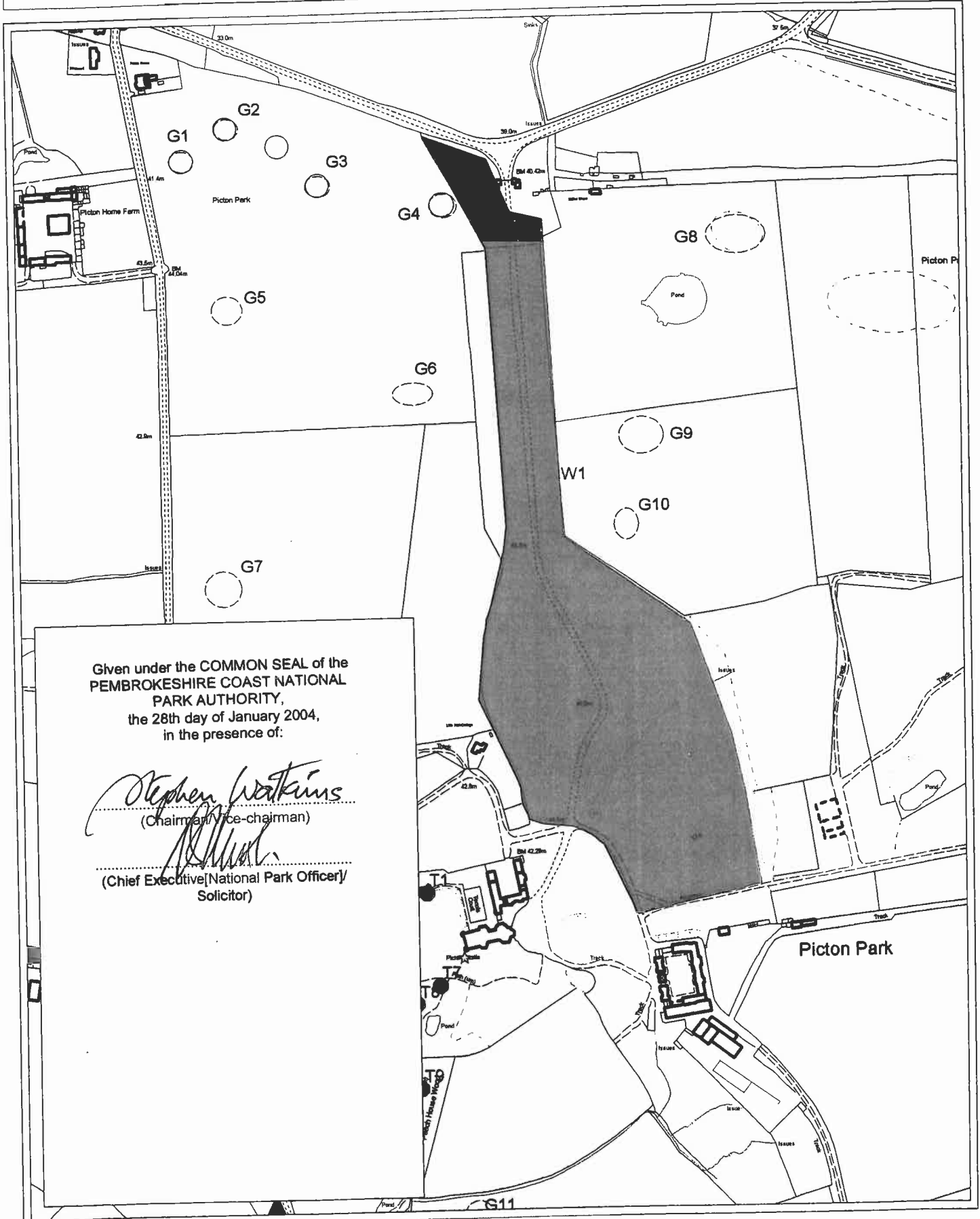
It is recommended that the landowner be required to replant the trees by voluntary agreement. In the absence of such an agreement authority is sought to serve a Replacement Tree Notice on the landowner requiring the replacement of the trees as woodland edge planting.

# TPO 48

## Picton Castle - Map One of Four



Scale 1:5000



Given under the COMMON SEAL of the  
PEMBROKESHIRE COAST NATIONAL  
PARK AUTHORITY,  
the 28th day of January 2004,  
in the presence of:

*Stephen Watkins*  
.....  
(Chairman/Vice-chairman)

*[Signature]*  
.....  
(Chief Executive/National Park Officer/  
Solicitor)