

REPORT OF HEAD OF DEVELOPMENT MANAGEMENT ON APPEALS

The following appeals have been lodged with the Authority and the current position of each is as follows:-

NP/08/434 Enlargement of existing hay barn, erection of cattle shed, yard and pigsties and formation of hedgebanks and provision of slurry tanks - Llethyr, Cwm Gwaun
Type Hearing
Current Position The initial paperwork has been forwarded to the Inspector and a Hearing has been arranged for 8th November, 2012

NP/11/497 Outline application for erection of 3-bedroomed house with approval sought for access and layout - Land Adjacent to 7 Walton Hill, Little Haven, Haverfordwest.
Type Hearing
Current Position The initial paperwork has been forwarded to the Inspector .and a Hearing has been arranged for the 13th November, 2012.

NP/11/531 Demolition of building, ground and first floor flats, & replacing with two houses - Ground and First Floor Flats, 6, Panteg Road, Solva,
Type Written Representation
Current Position The appeal has been allowed and the Inspectors decision is attached for information.

NP/12/0209 Agricultural workshop/store associated with the Long Barn units & smallholding(retrospective) – Garden/Paddock area of The Long Barns, Lochvane
Type Written Representations
Current Position The initial paperwork has been forwarded to the Inspector.

NP/12/0230 Low Impact Development on 6 hectares to include dwelling, an agricultural barn, an education room, a polytunnel and volunteer sleeping space
Type Hearing
Current Position A Hearing has been arranged and will take place on 13th February 2013.

NP/12/0409 Change of use from shop to residential flat – Webb Computers, 17 Warren Street, Tenby
Type Written Representations
Current Position The initial paperwork has been forwarded to the Inspector.

NP/12/0386 Certificate of Lawfulness for siting of static caravan & metal container and all uses in excess of 20 years up to the present day, taking place on the holding – Erw-Lon, Lydstep
Type Inquiry
Current Position The initial paperwork has been forwarded to the Inspector.

EC06/137 Siting of two shipping containers - Blaenafon, Mill Lane, Newport
Type Written Representation
Current Position The appeal has been dismissed and a copy of the Inspectors decision is attached for your information.



Penderfyniad ar yr Apêl

Appeal Decision

Ymweliad â safle a wnaed ar 27/11/12

Site visit made on 27/11/12

**gan Siân Worden BA DipTP MCD
MRTPI**

by Siân Worden BA DipTP MCD MRTPI

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 04/12/12

Date: 04/12/12

Appeal Ref: APP/L9503/A/12/2181022

**Ground and first floor flats, 6 Panteg Road, Solva, Haverfordwest, Pembrokeshire
SA62 6TN**

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Frazer Nicol and Mrs Dolores Davey against the decision of Pembrokeshire Coast National Park Authority.
 - The application Ref NP/11/531, dated 6 December 2011, was refused by notice dated 15 June 2012.
 - The development proposed is the demolition of the building containing ground and first floor flats and replacing with two houses.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the building containing ground and first floor flats and replacing with two houses at Ground and first floor flats, 6 Panteg Road, Solva, Haverfordwest, Pembrokeshire SA62 6TN in accordance with the terms of the application, Ref NP/11/531, dated 6 December 2011, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this document.

Main Issues

2. I consider that the main issues in this case are;
 - the effect of the proposal on the character and appearance of the surrounding area,
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to privacy and noise, and
 - whether the proposed development should contribute towards the provision of affordable housing.

Reasons

Character and appearance

3. The appeal site lies behind the dwellings in Anchor Down; its widest part is to the east and it tapers westwards to the access point on Panteg Road. Much of the northern part slopes steeply upwards away from the platform of flatter land on which the existing buildings stand. Surrounding buildings are mainly residential.

4. The proposal is to demolish most of the existing buildings and replace them with two detached houses; part of the outbuilding would remain and be incorporated as the conservatory of one of the houses. Unlike the existing buildings those proposed would be of a similar size to one another. Although there would be a larger area of two-storey development the total footprint would not be significantly greater than at present. Furthermore, although the sloping part of the site much reduces its useable area, in remaining undeveloped and open it would ensure that the scheme did not appear cramped, overdeveloped or of a scale incompatible with its surrounding area. The proposed development would thus comply with Policy 30 (b) of the Pembrokeshire Coast National Park Local Development Plan (LDP) which was adopted in 2010.

Living conditions

5. The southern elevation of the proposed house B would be set further back from the boundary with Anchor Down than at present with the dwelling as a whole shifted along towards the eastern boundary. As such it would not result in increased detriment to neighbouring dwellings; in particular it would not have a harmful effect on privacy or an overbearing impact.
6. Proposed house A would also be no closer to the boundary than the existing outbuilding but in both having a second storey and being inhabited there would be the potential for overlooking. The windows of the proposed living room, kitchen, two bedrooms and the bathroom would all face towards the southern boundary although the latter would be obscure glazed. The plans show that the living room would be on the ground floor with the bedrooms upstairs.
7. The dwelling immediately in front of proposed house A has a single storey and is at a lower level. The back garden is not long but it is well-screened. Its neighbour has two storeys with what are likely to be bedroom windows at first floor level in the rear elevation. This house, however, would not be directly in front of proposed house A. On balance, therefore, my view is that, variously, the distances between the dwellings, the screening and the angle of view would prevent the proposed development from causing a harmful loss of privacy at neighbouring properties. Despite the second storey proposed at house A neither do I consider that it would have an overbearing impact.
8. Although the useable area of the site is restricted, as well as parking and turning space, separate areas of lawn and paving would be provided for each house. These would provide sufficient room for outdoor activities such as sitting and play as well as functional space for drying washing, keeping bins and storing cycles. Whilst the sloping area would not be easily accessible when planted as indicated on the drawings it would provide an attractive setting for the proposed dwellings.
9. The proposed dwellings would each have four bedrooms and thus could accommodate larger households than the existing three-bedroomed flats. Nevertheless I consider that the size, layout and location of the proposed dwellings would make them most likely to be occupied by a single family each. The plans are illustrated with four double beds but, in my view, there would be insufficient downstairs space to comfortably accommodate as many as eight adults. Four parking spaces would be provided on site. To my mind, therefore, the proposed development would not result in a considerable or harmful increase in traffic movements to and from the properties.
10. It does not appear that the current intention is for either of the proposed dwellings to be let for holidays. If they were to be in the future, however, that use would be

unlikely to result in significantly greater levels of either traffic or noise and disturbance. Overall on this matter the proposed development would not have an unacceptable impact on amenity and would thus comply with LDP Policy 30.

Affordable housing

11. The existing buildings have an interesting history and have been used in various ways since their construction, not all necessarily authorised. The written evidence, particularly regarding Council Tax and from existing residents, and on the site, where I saw that the building has clearly been laid out as two, self-contained flats, convinces me that it has most recently been occupied as such and not as a single dwelling. Moreover, as the existing building appears to have been used as flats for many years I have given little weight as to whether this was recognised as a lawful use. As the proposed development would not result in a net gain in the number of dwellings on the site there is no requirement for a contribution to be made towards affordable housing. It would not, therefore, be contrary to LDP Policy 45.

Conditions

12. In the light of Circular 35/95 *The Use of Conditions in Planning Permissions* I am imposing those suggested by the Authority which will ensure that the dwellings are of sustainable design and will protect the appearance of the surrounding area, the amenity of neighbouring occupiers, highway safety and the surrounding area from pollution. The condition regarding plans is necessary for clarity.

Conclusion

13. I have found that the proposed development would not be harmful to the character and appearance of the surrounding area or to the living conditions of neighbouring occupiers. There is no requirement for a contribution to be made towards affordable housing. I have taken all matters raised into consideration but not found any which are compelling reasons to dismiss the appeal.

14. For the reasons given above I conclude that the appeal should be allowed.

Siân Worden

Inspector

Schedule of conditions

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PA/11/01, PA/11/02, PA/10/03, PA/10/04, PA10/05, PA11/06, PA11/09, PA/11/11, PA/11/14, PA/11/16, PA/10/17, and PA/10/18 (all received 9th December 2011), and PA11/07, PA11/08, PA/11/10, PA/11/12, PA/11/13, PA/11/15, (all received 15th December 2011).
- 3) Construction of the dwellings hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the National Park Authority, certifying that a maximum Code for Sustainable Homes Level 3, and a minimum of 1 Credit under 'Ene 1 - Dwelling Emission Rate', has been achieved for the dwellings in accordance with the requirements of the Code for Sustainable Homes: Technical Guide Version 3 (November 2010).
- 4) Prior to the occupation of the dwellings hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to and approved in writing by the National Park Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 Credit under 'Ene 1 - Dwelling Emission Rate', has been achieved for the dwellings in accordance with the requirements of the Code for Sustainable Homes: Technical Guide Version 3 (November 2010).
- 5) Notwithstanding the provisions of Article 3 and Parts 1 and 2 of the Second Schedule to the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions to, extensions, enlargements, or any external alterations (including new windows, doors, and roof lights), to any building forming part of the development hereby permitted.
- 6) No development shall commence until a sample panel of the render, not less than one metre square, indicating materials, colour and texture, has been constructed on site, and inspected and approved in writing by the National Park Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.
- 7) The roofs of the development hereby permitted shall be covered with natural blue / black or purple slates, with butt jointed ridge tiles in a colour to match the slates (ie blue / black or purple).
- 8) The existing access shall be left open, unimpeded by gates or any other barrier.
- 9) Before any construction work is commenced, adequate and suitable areas shall be provided within the site for the parking, turning, loading and unloading of all vehicles attending the site and for the storage of building materials clear of the public highway.
- 10) The parking and turning area, as shown on the submitted drawing PA/11/06, dated 9th December 2011, shall be completed before the development is brought into use and thereafter shall be retained for no purpose other than parking and turning.
- 11) The existing entrance bellmouth/access lane shall be surfaced with either porous asphalt, porous block paving or any other bound surfacing (ie concrete) for a

minimum distance of 5 metres behind the edge of the carriageway before the development is brought into use.

- 12) Foul and surface water discharges from the site shall be drained separately. No surface water or land drainage run-off shall be allowed to connect, either directly or indirectly, to the public sewerage system.



Penderfyniad ar yr Apêl

Appeal Decision

Ymweliad â safle a wnaed ar 10/09/12

Site visit made on 10/09/12

gan A D Poulter BArch RIBA

by A D Poulter BArch RIBA

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 13/11/12

Date: 13/11/12

Appeal Ref: APP/L9503/C/12/2175466

Site address: Blaenafon, Mill Lane, Newport, SA42 0QT.

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 Mrs Lorna Tresllder against an enforcement notice issued by Pembrokeshire Coast National Park Authority.
- The Authority's reference is EC06/137.
- The notice was issued on 3 April 2012.
- The breach of planning control as alleged in the notice is: *without the benefit of planning permission, the material change of use of the land from agricultural to a mixed use consisting of agricultural and the siting of two shipping containers (marked A and B on the Plan) used for the storage of beekeeping equipment, plan chests, desk, artwork, garden tools, furniture sculpture and other items to be used in an artists studio.*
- The requirements of the notice are
 - (a) Cease the use of the land for the unauthorised siting of two shipping containers, and,
 - (b) Permanently remove the two shipping containers from the land.
- The period for compliance with the requirements is: *Two months beginning with the day on which this notice takes effect.*
- The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

2. Representations have been made to the effect that at the time the notice was issued it was too late to take enforcement action, as the land had been used for the stationing of a railway wagon used for storage purposes for over 10 years. This is a contention properly dealt with under ground (d), and I shall consider it on that basis. A 'stay of execution' has also been requested in the event that this appeal fails, but a different planning appeal relating to the refusal of planning permission for the erection of a small artists printing studio adjacent to the existing dwelling and the retention of the

existing storage containers in a new position succeeds¹. I shall consider this request under ground (g).

Reasons

3. The land to which the notice relates is a field adjacent to a cottage known as Blaenavon, which has a strong boundary with adjacent open farmland. The land lies outside the garden area and is largely laid to grass, with some recent tree planting. Two shipping containers have been sited close to Blaenavon's boundary. In accordance with details provided in response to a Planning Contravention Notice² (PCN) they were placed there in September 2008 and September 2009. The land is used for grazing sheep and horses and keeping bees. The containers are used for general storage, including beekeeping equipment, items intended for a studio, garden tools, furniture and sculpture.

Ground (c) – that there has not been a breach of planning control

4. It is not disputed that the base of a structure has existed on a part of the land for some time, but it has not been shown that it benefits from planning permission or that it was ever completed and used as a garage. I have not been provided with details of a septic tank said to be present, but the existence of such an installation would not of itself establish lawful residential use of the land. The land is agricultural in character, and I find no evidence that its lawful use includes residential purposes. As a matter of fact and degree, I do not consider the land to be intimately associated with or part of the area attached to and containing the dwellinghouse and its outbuildings. I therefore do not consider it to be a part of Blaenavon's residential curtilage.
5. At some point in time there has been a change in the use of the land in question, from agricultural use, to a use which now includes the stationing of two shipping containers, within which a range of items not intended for the purposes of agriculture are stored. As a matter of fact and degree, a material change of use amounting to development requiring planning permission has therefore occurred. The change of use has not been authorised by the grant of planning permission. As the land is not within the curtilage of a dwelling house the provisions of Schedule 2, Part 1 of the *Town and Country Planning (General Permitted Development) Order 1995* (GPDO) do not apply. The change of use that has taken place does not fall within the provisions of Part 3 (Changes of Use), Part 6 (Agricultural Buildings and Operations), or any other part of the GPDO of which I have been made aware.
6. I conclude for these reasons that, on the balance of probability, and as a matter of fact and degree, a breach of planning control has taken place.

Ground (d) – that at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice

7. There is no dispute that a railway carriage or wagon was stationed in roughly the same position as one of the containers, from some time in the mid 1970's until it became rotten and was removed. However, there is no evidence to show that it was used for the storage of items unrelated to agriculture. Nor is there any evidence to show when it was removed, or whether there was significant gap between it becoming

¹ Appeal ref APP/L9503/A/12/2170848, 25 May 2012.

² Ref EC06/137, Dated 8 December 2011

rotten and disused, and being replaced by the containers. It has therefore not been shown that the land has been used for the stationing of any form of container in which non-agricultural goods have been stored for a continuous period in excess of 10 years. I further conclude that it has not been demonstrated that it is too late to take enforcement action.

Ground (g) – that the time given to comply with the notice is too short

8. Since the grounds of appeal were drafted appeal ref APP/L9503/A/12/2170848 has been dismissed. There is therefore no longer any justification for the retention of the containers in their current position for an extended period whilst that scheme is constructed.

Other Considerations

9. Representations have been made relating to the merits of the proposal to move the containers as part of the scheme for the new studio. However, these are not matters for my consideration. As the prescribed fee has not been paid the merits of the retention of the containers in their current position do not fall to be considered.
10. Reference has been made to Article 8 of the European Convention on Human Rights. I recognise that dismissal of the appeal would interfere with Mrs Tressider's home and family life. However, this must be weighed against the wider public interest. I am satisfied that the legitimate aim of proper development control can only be safeguarded by upholding the notice. On balance, I consider that dismissal of the appeal would not have a disproportionate effect.

Conclusion

11. I conclude for the above reasons that the appeal should be dismissed and that the enforcement notice should be upheld.

A D Poulter

INSPECTOR