

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/11/114	Removal of condition 2 of NP/10/275 (obscure glazing to conservatory) – Brynmor, Feidr Brenin, Parrog, Newport
Type	Written Representation
Current Position	The appeal has been dismissed and a copy of the Inspectors decision is attached for your information.
NP/11/196	Change of use and conversion of former hotel to 4 flats – Mayville, 21 The Norton, Tenby
Type	Written Representation
Current Position	The Authority's statement has been forwarded to the Inspector and his decision is awaited.
NP/11/246	Temporary toilet and show accommodation (retrospective) – Porthclais, Ffordd Porth Clais, St Davids
Type	Written Representation
Current Position	The Authority's Statement has been forwarded to the Inspector and his decision is awaited.
NP/11/261	Dwelling – The Welcome Inn, Castlemartin
Type	Written Representation
Current Position	The Authority's Statement has been forwarded to the Inspector and his decision is awaited.
NP/11/275	Demolish existing & rebuild dwelling – Green Shutters, Freshwater East
Type	Hearing
Current Position	The initial paperwork has been forwarded to the Inspector
NP/11/204	Alterations & extensions – 67 Croft Road, Broad Haven
Type	Householder
Current Position	The paperwork has been forwarded to the Inspector and his decision is awaited.
NP/11/185	Conversion of outbuilding to dwelling – The Old Cottage, Llanvirn, Berea
Type	Written Representation
Current Position	The initial paperwork has been forwarded to the Inspector
EC11/0071	Unauthorised toilet and shower facilities on site – Caravan Site at Porthclais, Ffordd Porthclais, St Davids
Type	Written Representation
Current Position	The initial paperwork has been forwarded to the Inspector.



Penderfyniad ar Apêl

Ymweliad safle a wnaed ar 16/11/11

gan Emyr Jones BSc(Hons) CEng
MICE MCMi

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 07/12/11

Appeal Decision

Site visit made on 16/11/11

by Emyr Jones BSc(Hons) CEng MICE
MCMi

an Inspector appointed by the Welsh Ministers

Date: 07/12/11

Appeal Ref: APP/L9503/A/11/2160299

Site address: Bryn Mor, Feidr Brenin, Newport SA42 0RZ

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 under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr A M Wells against the decision of the Pembrokeshire Coast National Park Authority.
- The application Ref NP/11/114, dated 1 January 2011, was refused by notice dated 27 May 2011.
- The application sought planning permission for a conservatory and garden shed (retrospective) without complying with a condition attached to planning permission Ref NP/10/275, dated 18 August 2010.
- The condition in dispute is No 2 which states that: 'Within two months of the date of this permission details of the obscure glazing to the eastern elevation of the conservatory hereby permitted shall be submitted to and approved in writing by the National Park Authority. The obscure glazing shall be to a minimum of 1.3m high above the level of the window sill, and once approved, shall be installed within 2 months of the approved date and permanently maintained at all times thereafter.'
- The reasons given for the condition is: 'In the interests of residential amenity and privacy.'

Decision

1. The appeal is dismissed.

Procedural matter

2. The National Park Authority considered application Ref NP/11/114 as having been made under section 73 of the *Town and Country Planning Act 1990* for the development of land without complying with conditions subject to which a previous planning permission was granted. Nevertheless, condition 2 had been breached before the application was made, as no details of obscure glazing had been submitted within the prescribed timescale, and it effectively sought to retain the clear glazing on the conservatory's eastern elevation. In such circumstances, it would have been more appropriate to consider the application as having been made under section 73A of the 1990 Act for the development of land carried out without complying with conditions subject to which a previous planning permission was granted. Determining the appeal on this basis would not result in any prejudice and I will do so.

Main Issue

3. I consider the main issue in this case to be the effect of removing condition 2 on the living conditions of the occupiers of Cluaran with particular regard to privacy and overlooking.

Reasons

4. The conservatory which benefits from planning permission Ref: NP/10/275 is located on the rear elevation of Bryn Mor in close proximity to the side boundary with Cluaran, which is set slightly further back from the road than Bryn Mor. A tall evergreen hedge is located on Cluaran's side of the common boundary. Notwithstanding the difference in set back and the presence of the hedge, the present glazing on the conservatory's north eastern elevation enables users thereof to have clear views over most of Cluaran's rear garden which is around 1.8m lower. This overlooking results in a significant loss of privacy to the occupiers of Cluaran. At the time of my visit, the evergreen hedge had been recently trimmed and it would previously have provided a greater degree of privacy. However, even if it were allowed to grow to a height that would afford an acceptable degree of privacy, its retention cannot be guaranteed in the long term.
5. Removing condition 2 to facilitate the retention of the clear glazing on the conservatory's eastern elevation would, therefore, be unacceptably harmful to the living conditions of the occupiers of Cluaran and conflict with *Local Development Plan* policy 30. As a result, condition 2 satisfies the test of need and it is also clearly relevant to the development permitted and precise.
6. I note that the current occupiers of Cluaran support the retention of the clear glazing, but am mindful of the need to protect the living conditions of future, as well as existing, occupants. The appellant suggests that the matter is of no public interest and is not relevant to planning. Nonetheless, avoiding situations which result in unacceptable harm to residential living conditions, including those of future occupiers, is in the public interest and amounts to a legitimate planning aim such that condition 2 is relevant to planning.
7. The appellant is of the view that the condition is very difficult if not impossible to enforce. The location of the conservatory would make it difficult to detect a contravention of the condition, but it would not be impossible to do so. In that respect, I note that application Ref NP/10/275 resulted from enforcement investigations. The appellant also considers that the condition is unreasonable in other aspects in that complying with it would result in the loss of views over the sea and Parrog Beach to the north east. Nevertheless, this loss is not sufficient reason to outweigh the identified harm and conflict with the statutory development plan, and attractive views to the north west would remain, such that the condition is not unreasonable in other respects.
8. Planning permission (Ref: NP/05/517) has previously been given for a proposal which included a larger conservatory, but it does not represent a fallback as it is now time expired. In any event, it included a condition requiring a 1.3m high privacy wall on the boundary line.
9. For the reasons given above I conclude that the appeal should be dismissed.

E Jones

Inspector