

## 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:-

<b>NP/08/434</b>	Enlargement of existing hay barn, erection of cattle shed, yard and pigsties and formation of hedgebanks and provision of slurry tanks - Llethyr, Cwm Gwaun
<b>Type</b>	Hearing
<b>Current Position</b>	The initial paperwork has been forwarded to the Inspector and a Hearing has been arranged for 17 <sup>th</sup> October, 2012.
<b>NP/11/276</b>	11 replacement dwellings – Llwyngwair Manor, Newport
<b>Type</b>	Hearing
<b>Current Position</b>	The appeal on the planning decision and the award of costs have been dismissed and copies of the decision notices are attached for your information.

Members will recall that this application was reported to the Development Management committee in August 2011 where officers recommended approval (NP/11/276). Members resolved to refuse the application on the grounds that the proposal would not enhance the natural beauty, cultural heritage or wider National Park landscape. Members considered that the proposal would be alien to the surroundings and the quality of the natural and built environment and would adversely affect the setting of the listed building.

The Inspector concluded that the proposal would not have a detrimental effect on the setting of the listed building as the layout would be much the same to that existing, the proposed buildings would be of better appearance and the proposal includes some improvements to the landscaping.

However, in considering the proposal in the context of national policy on design, he drew attention to the need for all development to meet the objectives of good design and to relate well to its context, and in particular in areas recognized for their landscape, townscape or historic value such as National Parks. He stated that national policy goes beyond the requirement to just preserve, (ie do no harm) but to seek *good* design. In this case he found the development to relate poorly to its context and surroundings and with regard to the particular importance of the impact of the proposals on the National Park and the setting of the listed building he found the scheme to fail to meet the good design requirements of national and local planning policy.

**This is an extremely important decision in emphasizing the need for all development proposals within the National Park to achieve high, quality standards of design and that those which merely *do no harm* are not necessarily sufficient to gain approval. Development must demonstrate *good* design with regard to context and surroundings.**

The application for costs was also dismissed on the grounds that members are not bound to follow Officer's recommendations and they demonstrated *sound planning reasons* to refuse the application, contrary to the officer's recommendation. It was found to be

reasonable that the Authority sought greater positive improvements than the appeal scheme would provide.

**This case demonstrates that it is reasonable for members to make decisions contrary to officer's recommendations providing they provide sound planning reasons to do so. It also again emphasised that it is not unreasonable for a National Park Authority to seek greater positive improvements where deemed necessary to meet planning policies that seek to conserve and enhance such areas.**

- 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 13<sup>th</sup> November, 2012.
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- NP/11/531** Demolition of building, ground and first floor flats, & replacing with two houses - Ground and First Floor Flats, 6, Panteg Road, Solva, Written Representation
- Type** Written Representation
- Current Position** The initial papers have been forwarded to the Inspector.
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- NP/12/0075** Removal of occupancy condition on TB1707- Zion Gardens, St Johns Hill, Tenby
- Type** Written Representation
- Current Position** Awaiting Inspectors decision.
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- NP/12/0134** Change of use to residential - Natural Healthcare Centre, 17 Long Street, Newport
- Type** Written Representations
- Current Position** Awaiting Inspectors decision.
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- EC06/137** Siting of two shipping containers - Blaenafon, Mill Lane, Newport
- Type** Written Representation
- Current Position** Awaiting Inspectors Decision.



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## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 24/07/12

Ymweliad â safle a wnaed ar 24/07/12

gan **A D Poulter BA BArch RIBA**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: **22/08/12**

## Appeal Decision

Hearing held on 24/07/12

Site visit made on 24/07/12

by **A D Poulter BA BArch RIBA**

an Inspector appointed by the Welsh Ministers

Date: **22/08/12**

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**Appeal Ref: APP/L9503/A/12/2173033**

**Site address: Site at Llwyngwair Manor, Newport, SA42 0LX.**

**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 P F Lowe, of Evelyn Crescent Limited, against the decision of the Pembrokeshire Coast National Park Authority.
  - The application Ref NP/11/276, dated 29 June 2011, was refused by notice dated 23 September 2011.
  - The development proposed is: *Take down and rebuild 11 new replacement dwellings with air source heat pumps, photovoltaic panels and rainwater harvesting. Landscaping works.*
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### Application for costs

1. At the Hearing an application for costs was made by Evelyn Crescent Limited against the Pembrokeshire Coast National Park Authority. This application is the subject of a separate Decision.

### Decision

2. I dismiss the appeal.

### Main Issues

3. These are: whether the development proposed would preserve the setting of Llwyngwair Manor, which is a Grade II listed building; and whether the proposed development would achieve the standard of design sought by national and local planning policy.

### Reasons

4. The appeal relates to a group of 11 existing 'chalets', which are situated within the former walled garden at the rear of Llwyngwair Manor. They are set in a regular 'staggered' arrangement, with individual units at about 45 degrees to the central route through the site and the historic garden walls. It is proposed to replace them with 11 new dwellings, in much the same arrangement. The new dwellings would be built to current standards of energy efficiency using materials including oak boarding and standing-seam metal roofing. The site slopes down towards a river and is set amongst attractive parkland and trees. It is situated in the countryside, outside designated settlement boundaries.

5. Outline planning permission was granted in 1972<sup>1</sup> 'for the purposes of the use of the land for the stationing of 11 chalets'. Details of the siting, design and external appearance of the buildings, and the means of access thereto were reserved for later consideration. The only conditions attached to the permission are standard conditions relating to the timing of the submission of applications for approval of the reserved matters and the commencement of development. A subsequent permission was granted on 6 July 1973<sup>2</sup>, 'for the purposes of erection of eleven chalets'. Other than the standard condition relating to commencement within 5 years, the only condition requires the chalets to be erected strictly in accordance with a particular design<sup>3</sup>.
6. It is not clear whether the subsequent permission followed an application for approval of reserved matters or is a separate planning permission. There is also disagreement about the 'default' position. The appellant considers that the chalets are mobile units that could be replaced on a like-for-like basis. The Authority disagrees, as in its view the chalets approved were clearly shown as being constructed on foundations, and thus not mobile. Its Officers are of the view that the planning permission was for operational development of a specific design. If this is the case the chalets may benefit from permitted development rights. They could in any event be repaired and maintained.
7. To resolve this disagreement an application could be made for a Certificate of Lawful Use or Development (CLUD) under section 191 or 192 of the Act. A Certificate, if issued, would be conclusive with regard to the lawfulness of the matters certified. As an application for a CLUD should be made to the local authority in the first instance I make no determination as to whether chalets are mobile units or comprise operational development. However, I inspected the underside of one of the chalets on site and note that from what I saw of its metal chassis and the means of support, it appeared to be a mobile unit. In any event, there is no dispute that the units can be retained on site indefinitely, whether or not they are mobile units, and have no occupancy restriction.
8. There is also no dispute that the existing chalets do not make a positive contribution to the setting of the listed building. It was confirmed at the hearing that the Authority does not object in principle to their replacement with an equivalent number of dwellings – indeed, it was confirmed at the hearing that since the appeal was lodged, planning permission has been granted for an alternative scheme for the demolition of the 11 existing chalets and the erection of 11 replacement dwelling units with attendant landscaping and access works.
9. The existing chalets are typical of many mobile homes. They have near flat roofs, pale-coloured walls, and a mix of window types and patterns. It is likely that their thermal performance would be poor. They are not in keeping with the period character of Llwyngwair Manor, and there is no dispute that they detract significantly from its setting.
10. The proposed chalets would be clad in materials that would weather to a recessive grey colour. Although they would be larger than the existing chalets, they would

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<sup>1</sup> Ref CR/2583/2138/A

<sup>2</sup> Ref CR/2583/2138/1B

<sup>3</sup> Shown on a plan no CR/2583/A

therefore stand out less from distant viewpoints. Their appearance would be contemporary, but coherent, modern, and attractive to many. Their greater energy efficiency would also be of benefit to matters of public interest.

11. Cadw has considered the proposal and has commented to the effect that as the current chalets are unsightly and in poor condition, the upgrading of the site as a whole would appear sympathetic, and has concluded that the proposed development would not have a detrimental effect on the setting of the listed building. As the layout would be much the same, the proposed buildings would be of better appearance, and the proposal includes some improvements to landscaping I agree with that view. I conclude that the proposed development would preserve the setting of the listed building. It would thus satisfy the requirements of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
12. However, Paragraph 4.10.2 of Planning Policy Wales (PPW, Edition 4) advises that meeting the objectives of good design should be the aim of all those involved in the development process and applied to all development proposals. Design is taken to mean the relationship between all elements of the natural and built environment<sup>4</sup>. Good design therefore must relate well to its context. Paragraph 4.10.10 of PPW advises that in areas recognised for their landscape, townscape or historic value, such as National Parks, the impact of development on existing character, the scale and siting of new development, and the use of appropriate building materials will be particularly important. It also advises that the impact of development on listed buildings should be given particular attention. National planning policy therefore goes beyond the requirement to 'preserve' (i.e, to do no harm) and seeks good design. Paragraphs 4.10.2 and 4.10.10 are national development control policies which do not need to be repeated in Local Development Plans (LDPs)<sup>5</sup>. Planning Authorities also have a statutory duty to have regard to the purposes of National Parks, which are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for public understanding and enjoyment of their special qualities<sup>6</sup>. This is reflected in Policy 1 of the Pembrokeshire Coast National Park LDP. Policy 8 of the LDP also seeks to protect and enhance the special qualities of the National Park, including the historic environment.
13. The remaining walls indicate that the walled garden was essentially rectilinear, and for practical reasons it is likely that it was terraced. However, the proposed units would sit on existing individual earth platforms formed to facilitate the layout of the existing development. The proposed layout would therefore not reflect or reinforce the lines of the garden walls, the sense of enclosure that would have existed within them, or the likely historic levels of the garden. I consider for these reasons that the proposed layout would relate poorly to its context and surroundings. I acknowledge that the proposed buildings would be well designed and a significant improvement on the existing chalets and that there would be landscaping improvements. Nevertheless, in view of the particular importance of the impact of the proposals on the national park and the setting of the listed building, and as the proposed layout would not relate well to its historic context, I consider that the proposed scheme as a whole would not

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<sup>4</sup> PPW, paragraph 4.10.1

<sup>5</sup> See PPW, paragraph 2.7 and Annex 2

<sup>6</sup> PPW. Paragraph 5.3.4

achieve the standard of good design sought by national and local planning policies. In accordance with PPW, poor contextual designs should be rejected<sup>7</sup>.

14. I conclude for these reasons that the proposed development would conflict with national development control policies and with policies 1 and 8 of the Pembrokeshire Coast National Park LDP.
15. The proposal went before the PCNP Management Committee with a recommendation for conditional approval. The proposed scheme is also an element of many recent general improvements within the Manor and its grounds that are recognised and welcomed by the Authority. I also recognise that the Manor has been the subject of many unsympathetic alterations in the past and welcome the high quality of tourist facilities provided more recently by the appellant company, and their importance to the local economy. The proposed layout would enable the development to take place in a phased manner with minimal disruption. However, these and other material considerations that have been raised do not mean that the proposal is acceptable. The unsatisfactory nature of the proposed layout and the resultant conflict with national and local planning policies could not be overcome by the conditions that have been suggested. I find nothing that would indicate that the appeal should be determined other than in accordance with the development plan. I conclude that the appeal should be dismissed.

*A D Poulter*

**INSPECTOR**

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<sup>7</sup> PPW, paragraph 4.10.9

**APPEARANCES**

FOR THE APPELLANT:

Mr Irvine Johnston	Harries Design and Management
Mr Wyn Harries	Harries Design and Management
Mr Peter Lowe	Evelyn Crescent Limited
Mr Roger Ennis	Manager, Llwyngwair Manor

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ifor Jones BA(Hons) MSc      Consultant / retired officer

INTERESTED PERSONS:

County Councillor Mike James  
Mr Paul Harries  
Meleri Ennis







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## Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 24/07/12  
Ymweliad â safle a wnaed ar 24/07/12

gan **A D Poulter BA BArch RIBA**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: **23/08/12**

## Costs Decision

Hearing held on 24/07/12

Site visit made on 24/07/12

by **A D Poulter BA BArch RIBA**

an Inspector appointed by the Welsh Ministers

Date: **23/08/12**

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**Costs application in relation to Appeal Ref: APP/L9503/A/12/2173033**

**Site address: Site at Llwyngwair Manor, Newport, SA42 0LX.**

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

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Evelyn Crescent Limited for a full award of costs against the Pembrokeshire Coast National Park Authority.
  - The hearing was in connection with an appeal against the refusal of the Council to grant planning permission to: *Take down and rebuild 11 new replacement dwellings with air source heat pumps, photovoltaic panels and rainwater harvesting. Landscaping works.*
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### Decision

1. The application for an award of costs is refused.

### The submissions for Evelyn Crescent Limited

2. The submissions were made in writing. The gist of the submissions is that the decision to refuse the application was made contrary to Officers' advice following pre-application discussions, and that reasons for refusal Numbers 2 and 3 were unreasonable, particularly as the Conservation Officer had no objection and Cadw were not consulted. The committee were also unreasonable in 'putting the bar too high' when seeking positive improvements to the existing development.

### The response by the Pembrokeshire Coast National Park Authority

3. Members are not bound to accept Officers' recommendations. Their views were taken into account, but they had sound reasons to refuse the application which have been explained in evidence to the Hearing. Cadw is not a statutory consultee. It is not standard practice to consult Cadw in cases such as this, and they do not seek to be routinely consulted. In view of the statutory purposes of the National Park, it was reasonable for the Authority to seek a greater positive improvement than the appeal scheme would provide.

### Reasons

4. Welsh Office Circular 23/93 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

5. The applicant acknowledged when making the costs application that the Authority is not a 'rubber stamp' for Officers' recommendations. In my experience the Authority was not obliged to consult Cadw about the application. Even if it had, the Authority would also have been entitled to take planning policies that seek good design and to conserve and enhance the special qualities of the National Park into account. Cadw's advice would therefore not have been decisive. For reasons set out in my Appeal Decision, the Authority has shown that it had reasonable planning grounds for refusing the application. Furthermore, the degree of control exercised by the Authority did not in my view go beyond what is appropriate for the circumstances of the location concerned. Unreasonable behaviour, as described in paragraphs 9 and 14 of Annex 3 of the Circular, has therefore not been demonstrated. I conclude that the application for an award of costs should be refused.

*A D Poulter*

**INSPECTOR**