

## REPORT OF THE 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/11/433** Timber Log Cabin Permanent Agricultural Dwelling (Retrospective)  
- Ffynnonddofn Farm, Newport, Pembrokeshire  
**Type** Hearing  
**Current Position** The appeal has been allowed and a copy of the Inspector's decision is attached for your information.

**NP/12/0342** Installation of one 15kw wind turbine(15m mast height to hub, 20.979m to blade tip) plus associated foundation pad and underground cable – Philbeach Farm, Dale, Haverfordwest  
**Type** Written Representations  
**Current Position** The appeal has been allowed and a copy of the Inspector's decision is attached for your information.

**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 appeal has been dismissed and a copy of the Inspectors decision is attached for your information.

**NP/12/0412** Renovation of existing former farm workers (dwelling) cottage to create a rural enterprise workers dwelling – Penpant, Nine Wells, Solva  
**Type** Hearing  
**Current Position** The appeal has been allowed and a copy of the Inspector's decision is attached for your information.

**NP/12/0536** New two storey, two bedroom dwelling – Garden of 64, Port Lion, Llangwm, Haverfordwest  
**Type** Written Representations  
**Current Position** The initial paperwork has been forwarded to the Inspector.

**NP/12/0542** Conversion and single storey extension to vacant agricultural building to create a one bedroomed dwelling – Dan y Garn, St Davids  
**Type** Hearing

**Current Position** The appeal has been dismissed and a copy of the Inspectors decision is attached for your information.

**NP/12/0560** Extension of time for retention of caravan – Barry Island Farm, Llanrhian, Haverfordwest

**Type** Hearing

**Current Position** A Hearing took place on 11<sup>th</sup> June 2013 and the Inspectors decision is awaited.

**NP/13/0059** Variation of Conditions 2 & 14 of NP/11/068 & NP/11/069 to allow for use for A1 (retail), A2 (financial) and A3 (food & drink) – Royal Playhouse Cinema, White Lion Street, Tenby

**Type** Written Representations

**Current Position** The initial paperwork has been forwarded to the Inspector.



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## Penderfyniad ar Apêl

Gwrandawriad a gynhaliwyd ar 23/04/13 & 02/05/13

Ymweliad safle a wnaed ar 23/04/13

gan Emyr Jones BSc(Hons) CEng  
MICE MCMI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 05/06/13

## Appeal Decision

Hearing held on 23/04/13 & 02/05/13

Site visit made on 23/04/13

by Emyr Jones BSc(Hons) CEng MICE  
MCMI

an Inspector appointed by the Welsh Ministers

Date: 05/06/13

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**Appeal Ref: APP/L9503/A/12/2189828**

**Site address: Fferm Ffynnonddofn, Nanyfer SA42 0NT**

**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 John Sollis against the decision of Pembrokeshire Coast National Park Authority.
  - The application Ref NP/11/433, dated 25 October 2011, was refused by notice dated 20 June 2012.
  - The development proposed is a timber log cabin chalet (permanent) agricultural dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for a timber log cabin chalet (permanent) agricultural dwelling at Fferm Ffynnonddofn, Nanyfer in accordance with the terms of the application, Ref NP/11/433, dated 25 October 2011, and the plans submitted with it, subject to the following conditions:
  - 1) The occupation of the timber log cabin chalet hereby permitted and the two existing dwellings at Fferm Ffynnonddofn shall be restricted to:
    - i) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or, if it can be demonstrated that there are no such eligible occupiers,
    - ii) A person or persons who would be eligible for consideration for affordable housing under the local housing authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.
  - 2) The parking and turning areas as shown on the approved 1:500 scale Block Plan shall be retained for no purpose other than parking and turning to serve the occupants of the rural workers dwelling hereby permitted at all times.
  - 3) A scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, shall be submitted to and approved in writing by the local planning authority within 3 months of the date of this decision.

- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the local planning authority's approval thereof unless previously implemented. Any trees or plants which within a period of 5 years from the end of that planting season die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation. Any hedge banks forming part of the approved scheme shall thereafter be retained.
- 5) Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995, no development falling within Classes A, B, C and E of Part 1 and Class C of Part 2 of Schedule 2 to that Order (or any Order revoking or re-enacting that Order) shall be carried out without specific planning permission being obtained.
- 6) Within 3 months of this decision, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the local planning authority certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for the dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide Version 3.

### **Procedural matters**

2. The Hearing opened on the 23 April 2013 but was adjourned to 2 May 2013 to enable translation facilities to be provided.
3. As the timber log cabin chalet is already in place and occupied by a person solely or mainly working at Fferm Ffynnonddofn, I will consider the appeal as having been made under Section 73A of the *Town and Country Planning Act 1990*, as amended, which relates to planning permission for development already carried out.

### **Application for cost**

4. At the Hearing an application for costs were made by Mr John Sollis against the Pembrokeshire Coast National Park Authority. This application is the subject of a separate Decision.

### **Main Issues**

5. I consider the main issues in this case to be:
  - (a) Whether the functional need could be met by an existing building that is suitable and available for conversion; and,
  - (b) The effect of the proposal's location and design on the character and appearance of the National Park.

### **Reasons**

6. The National Park Authority accepts that there is a functional need for an additional third rural enterprise worker's dwelling at Ffynnonddofn, that sufficient income exists to provide for three workers and the holding can sustain the cost of accommodating the third worker, and there is no realistic prospect of the need being met by an existing dwelling on the enterprise or in the locality. I have no reason to come to a different view and, as a result, the functional, time and financial as well as part of the other dwelling tests of *Technical Advice Note 6: Planning for Sustainable Rural Communities* (TAN 6) are satisfied. Additionally, as the proposal would provide housing for essential farming needs there is no conflict with *Local Development Plan* (LDP) Policy 7.

Existing building

7. TAN 6 requires that evidence must be provided to demonstrate that there are no other buildings suitable for conversion, which are available to meet the need. There is an existing traditional outbuilding on the farm which is partly two-storey and partly single storey, the two-storey part being listed as of architectural or historic importance.
8. The building is currently in use, partly to stable ponies and partly as general storage. Although there may be some scope for rationalization of the storage use, most of the building is not, therefore, available to meet the need. The TAN 6 *Practice Guidance: Rural Enterprise Dwellings* refers to demonstrating an on-going functional requirement within the operation of the enterprise. Whilst I am not convinced that the existing uses satisfy this stricter test, that does not necessarily mean that the building is available to meet the need which is what the TAN requires.
9. The listed part contains a limited amount of openings as compared to many traditional farm buildings which have been converted to residential use. Nevertheless, its status does not necessarily preclude its incorporation into a sensitive conversion and the appellant has produced plans of a possible scheme. I also note that the National Park Authority's building conservation officer raises no in principle objections.
10. Nonetheless, this building has a modern agricultural building immediately to its rear and it fronts directly onto the drive serving the main farmhouse. As a result, it would not be possible to provide an enclosed outside amenity area directly accessible from the building, which would be of particular importance to occupiers with young children, without a significant realignment of the drive.
11. It is not unusual to have to undertake some structural work when converting agricultural buildings to residential use. However, in this case there would be the additional cost of lining and tanking the building owing to the historical use of part of it to house animals rather than as a barn. Further costs could arise due to possible foundation damage resulting from the construction of the building immediately to the rear. The appellant's architect estimates the overall costs at £180,000 to £200,000, and this appears to exclude any realignment of the drive and rectification of any foundation damage. In my view, the costs involved would be excessive in relation to the accommodation that would be provided. TAN 6 states that dwellings which are unusually expensive to construct in relation to the income it can support in the long-term should not be permitted and I see no reason to treat conversions differently.
12. On balance, I am satisfied that conversion of the existing outbuilding is not a practicable proposition, particularly so in the current economical climate which shows little signs of improvement for the foreseeable future. There is, therefore, no other building suitable for conversion, which is available to meet the identified functional need.

Character and appearance

13. Part of the main farmhouse at Ffynnonddofn dates back to 1781 and the farmstead developed around it. Nonetheless, in more recent times a separate and larger cluster of more modern buildings has developed a field's width to the east in response to changing agricultural practices and the expansion of the farm. All the activities relating to the dairy herd including milking, calving, winter housing and feeding take place in this cluster with the agricultural buildings at the original farmstead being predominantly used for general storage, to keep tractors and as a workshop etc. The area immediately to the south east of the more recent cluster has been used to park various items of farm machinery and equipment for over 15 years.

14. The TAN 6 Practice Guidance indicates that the siting of the dwelling should have regard to the particular functional need which its occupation is expected to meet. A dwelling should be sufficiently close to operational areas where adequate monitoring of animals or sensitive equipment/processes is required, and to enable the effective response of a worker to any identified difficulty.
15. In this case, the particular functional need relates to the more recent cluster rather than the original farmstead. The timber log cabin chalet is located at the eastern corner of the area used to park machinery and equipment, adjoining an existing access. This relates closely to operational areas at the more recent cluster where adequate monitoring of animals is required, and would enable the effective response of a worker to any identified difficulty, without unduly prejudicing its potential future use as a unit of generally available affordable housing. Furthermore, its corner siting next to existing hedge-banks ensures that it is well screened and not prominent in the landscape. As a result, the proposal complies with *Planning Policy Wales (PPW)*, TAN 6, and Practice Guidance requirements on siting.
16. The single storey nature of the timber log cabin chalet also contributes to its lack of prominence. The walls are clad in timber which has weathered and the roof is of dark grey box profile sheeting laid to a fairly shallow pitch. In my view, the use of timber cladding, which gives a rustic characteristic, is not inappropriate in a rural setting and a number of examples were given of developments with such cladding within the National Park. Whilst the fairly shallow pitched roof is not characteristic of the local vernacular, it does reflect those on the adjacent agricultural buildings and a steeper pitch, which would be necessary for a slate roof, would make the building protrude above the hedge-bank forming the highway boundary.
17. The above leads me to conclude that the proposal would not result in material harm to the character and appearance of the National Park and it does not conflict with LDP Policies 1, 8, 15 and 30.

#### Conditions

18. The occupation of the timber log cabin chalet should be restricted in accordance with the requirements of PPW using the condition set out in the TAN 6 Practice Guidance. Having regard to the advice of TAN 6, it would also be appropriate to impose similar restrictions on the two existing dwellings at Fferm Ffynnonddofn.
19. I accept the need for the parking condition suggested by the highway authority to ensure that vehicles associated with the development can park off the highway and enter and leave the site in forward gear. However, given that the access already existed to serve the agricultural buildings and machinery storage areas and would remain in the event of the timber log cabin chalet being removed, I do not consider that the conditions on surfacing, drainage and gates are relevant to the development to be permitted and I will not impose them.
20. Notwithstanding the fact that additional hedge-banks have been built and planted, there are no details on the plans submitted. Landscaping conditions are, therefore, required although those suggested by the National Park Authority should be amended to reflect the retrospective nature of the application. The National Park Authority originally sought to have a wide range of permitted development rights removed to protect the character and appearance of the area. However, it accepted that this should be limited to Classes A, B, C and E of Part 1 and Class C of Part 2 of Schedule 2 to *The Town and Country Planning (General Permitted Development) Order 1995* and I agree that this is necessary.

21. The National Park Authority's list of suggested conditions omitted any conditions relating to the PPW requirement in respect of moving towards more sustainable and zero carbon buildings. Whilst this was not discussed at the Hearing, the fact that the application was accompanied by a Code for Sustainable Homes Pre-Assessment shows that the applicant is aware of the requirement and an appropriate condition, tailored to reflect the retrospective nature of the application, should be imposed.

Overall conclusion

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

*E Jones*

Inspector

## APPEARANCES

### FOR THE APPELLANT:

Mr Michael L N Jones	Retired solicitor
Mr J Rh Evans RIBA FCI Arb	Agent
Mr A Davies	Local resident
Mr W Lewis MRCVS	Priory Veterinary Ltd.

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Liam D Jones BSc(Hons) MSc MRTPI	Pembrokeshire Coast National Park Authority
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### INTERESTED PERSONS:

Cllr M James	Ward member, Pembrokeshire County Council
Mr T Williams	Local resident
Cllr P Marks	NeVERN Community Council
Mr H Reynolds	Local resident

## DOCUMENTS

- 1 Letter from Mrs J Weston dated 11<sup>th</sup> March 2013
- 2 Mr Williams' letter dated 23<sup>rd</sup> February 2013
- 3 Mr Evans' Statement dated 22<sup>nd</sup> February 2013
- 4 Letter from Priory Veterinary Ltd. dated 22<sup>nd</sup> April 2013
- 5 Cadw listing details
- 6 Bundle of plans showing existing outbuilding and possible conversion scheme
- 7 Bundle of 23 photographs
- 8 Aerial photograph

Documents 3-8 were submitted by the appellant





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## Penderfyniad Costau

Gwrandawriad a gynhaliwyd ar 23/04/13 & 02/05/13

Ymweliad safle a wnaed ar 23/04/13

gan Emyr Jones BSc(Hons) CEng  
MICE MCI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 05/06/13

## Costs Decision

Hearing held on 23/04/13 & 02/05/13

Site visit made on 23/04/13

by Emyr Jones BSc(Hons) CEng MICE  
MCI

an Inspector appointed by the Welsh Ministers

Date: 05/06/13

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**Costs application in relation to Appeal Ref: APP/L9503/A/12/2189828**  
**Site address: Fferm Ffynnonddofn, Nanyfer SA42 0NT**

**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 Mr John Sollis 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 planning permission for a timber log cabin chalet (permanent) agricultural dwelling.

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### Decision

1. The application for an award of costs is allowed in the terms set out below.

#### The submissions for Mr John Sollis

2. The costs application was made orally at the Hearing.
3. The reference in the first reason for refusal to the existing outbuildings being vacant, and in the second reason for refusal to the timber chalet being in an isolated location, are not true. As it is associated with existing agricultural buildings, contrary to the second reason for refusal, the proposal cannot be described as a sporadic form of development. The area has not had an established traditional architectural character since 1914-18 with all sorts of styles to be found locally. Whilst it is alleged that the proposal fails to integrate successfully with its surroundings, the examples given in respect of the sailing club and Cilrhedyn show a lack of consistency by the authority when determining planning applications.
4. The authority's behaviour has been totally unreasonable including that the committee did not visit the site before coming to a decision. Some committee members spoke strongly in support of the proposal, but it is evident that officers pressurised them into accepting the recommendation.

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

5. The response was made orally at the Hearing.
6. There were good reasons for refusing the application as it failed key tests in TAN 6. Whilst an enforcement notice was served in 2009 it is now 2013 and the authority has

not followed it up with a prosecution. Although members did not visit the site, the application was decided on the basis of documents, photographs were provided, and the decision was in line with the officer recommendation. The authority has been more than reasonable in this case.

## Reasons

7. 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 or wasted expense in the appeal process. Paragraph 8 of Annex 3 to the Circular notes that in any appeal proceedings, the authority will be expected to produce evidence to substantiate each reason for refusal, by reference to the development plan and all other material considerations. In considering whether it was able to produce relevant evidence to support its case the evidence does not have to be persuasive. The test to apply is whether it had substance in the sense of providing a respectable or sufficient evidential basis for the stance taken. I will consider each reason for refusal in turn.
8. The authority acknowledges that the existing outbuildings are not vacant and the committee report states that these have been described as currently in use for the storage of farm items with horses being housed in the stables. However, the appellant initially approached the authority regarding the conversion of the two-storey element, indicating that it, at least, could have been made available to meet the need.
9. Furthermore, the evidence as to the unsuitability of the outbuildings for conversion, provided in the chartered surveyor's letter of 4 October 2012 and the architect's note of 22 April 2013 was not available to the authority when it determined the application in June 2012 and TAN 6 requires such evidence to be produced. The authority did not, therefore, behave unreasonably in deciding on the basis of the evidence available at the time that the other dwelling test of TAN 6 had not been satisfied. As a result, a full award of costs is not justified, but I will consider whether a partial award is justified in respect of either or both of the other two reasons for refusal.
10. Insofar as the second reason is concerned, at the Hearing the authority accepted that the site is close to the more recent cluster of agricultural dwellings where the functional need for monitoring of animals arises. I conclude that its evidence did not provide a respectable or sufficient evidential basis for the stance taken and it was unreasonable to refuse the application on the basis that the site does not satisfy planning policy requirements on the siting of rural enterprise dwellings. Furthermore, this unreasonable behaviour has resulted in the appellant incurring unnecessary or wasted expense in adducing evidence to refute the second reason for refusal.
11. Turning to the third reason. Whilst post-war developments in the area may have a fairly diverse character that does not mean that there is no local vernacular. Some of the examples given demonstrate that timber cladding is not inappropriate in a rural setting, but it is an accepted planning principle that applications and appeals are determined on their individual merits. I have commented on the roof not being characteristic of the local vernacular, but in the particular circumstances of this case do not find that sufficient reason to dismiss the appeal.
12. Determining whether a development would result in material harm to character and appearance requires the exercise of planning judgement which involves a degree of subjectivity. In the particular circumstances of this case, notwithstanding that it came to a different conclusion to the one that I reached, I do not consider that the authority behaved unreasonably when exercising such judgement and its evidence provided a respectable or sufficient evidential basis for the stance taken.

13. It would not be practical or cost effective for planning committees to view each and every application site. In this case, given the lack of evidence as to the outbuildings suitability for conversion at the time, I have no reason to believe that the decision would have been different had the committee visited the site.
14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93, has been demonstrated and that a partial award of costs is justified.

#### **Costs Order**

15. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that The Pembrokeshire Coast National Park Authority shall pay to Mr John Sollis, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in adducing evidence in relation to the second reason for refusal.
16. The applicant is now invited to submit to The Pembrokeshire Coast National Park Authority, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*E Jones*

Inspector





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## Penderfyniad Costau

Gwrandawriad a gynhaliwyd ar 23/04/13 & 02/05/13

Ymweliad safle a wnaed ar 23/04/13

gan Emyr Jones BSc(Hons) CEng  
MICE MCMI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 05/06/13

## Costs Decision

Hearing held on 23/04/13 & 02/05/13

Site visit made on 23/04/13

by Emyr Jones BSc(Hons) CEng MICE  
MCMI

an Inspector appointed by the Welsh Ministers

Date: 05/06/13

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**Costs application in relation to Appeal Ref: APP/L9503/A/12/2189828**  
**Site address: Fferm Ffynnonddofn, Nanyfer SA42 0NT**

**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 Mr John Sollis 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 planning permission for a timber log cabin chalet (permanent) agricultural dwelling.

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### Decision

1. The application for an award of costs is allowed in the terms set out below.

#### The submissions for Mr John Sollis

2. The costs application was made orally at the Hearing.
3. The reference in the first reason for refusal to the existing outbuildings being vacant, and in the second reason for refusal to the timber chalet being in an isolated location, are not true. As it is associated with existing agricultural buildings, contrary to the second reason for refusal, the proposal cannot be described as a sporadic form of development. The area has not had an established traditional architectural character since 1914-18 with all sorts of styles to be found locally. Whilst it is alleged that the proposal fails to integrate successfully with its surroundings, the examples given in respect of the sailing club and Cilrhedyn show a lack of consistency by the authority when determining planning applications.
4. The authority's behaviour has been totally unreasonable including that the committee did not visit the site before coming to a decision. Some committee members spoke strongly in support of the proposal, but it is evident that officers pressurised them into accepting the recommendation.

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

5. The response was made orally at the Hearing.
6. There were good reasons for refusing the application as it failed key tests in TAN 6. Whilst an enforcement notice was served in 2009 it is now 2013 and the authority has

not followed it up with a prosecution. Although members did not visit the site, the application was decided on the basis of documents, photographs were provided, and the decision was in line with the officer recommendation. The authority has been more than reasonable in this case.

## Reasons

7. 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 or wasted expense in the appeal process. Paragraph 8 of Annex 3 to the Circular notes that in any appeal proceedings, the authority will be expected to produce evidence to substantiate each reason for refusal, by reference to the development plan and all other material considerations. In considering whether it was able to produce relevant evidence to support its case the evidence does not have to be persuasive. The test to apply is whether it had substance in the sense of providing a respectable or sufficient evidential basis for the stance taken. I will consider each reason for refusal in turn.
8. The authority acknowledges that the existing outbuildings are not vacant and the committee report states that these have been described as currently in use for the storage of farm items with horses being housed in the stables. However, the appellant initially approached the authority regarding the conversion of the two-storey element, indicating that it, at least, could have been made available to meet the need.
9. Furthermore, the evidence as to the unsuitability of the outbuildings for conversion, provided in the chartered surveyor's letter of 4 October 2012 and the architect's note of 22 April 2013 was not available to the authority when it determined the application in June 2012 and TAN 6 requires such evidence to be produced. The authority did not, therefore, behave unreasonably in deciding on the basis of the evidence available at the time that the other dwelling test of TAN 6 had not been satisfied. As a result, a full award of costs is not justified, but I will consider whether a partial award is justified in respect of either or both of the other two reasons for refusal.
10. Insofar as the second reason is concerned, at the Hearing the authority accepted that the site is close to the more recent cluster of agricultural dwellings where the functional need for monitoring of animals arises. I conclude that its evidence did not provide a respectable or sufficient evidential basis for the stance taken and it was unreasonable to refuse the application on the basis that the site does not satisfy planning policy requirements on the siting of rural enterprise dwellings. Furthermore, this unreasonable behaviour has resulted in the appellant incurring unnecessary or wasted expense in adducing evidence to refute the second reason for refusal.
11. Turning to the third reason. Whilst post-war developments in the area may have a fairly diverse character that does not mean that there is no local vernacular. Some of the examples given demonstrate that timber cladding is not inappropriate in a rural setting, but it is an accepted planning principle that applications and appeals are determined on their individual merits. I have commented on the roof not being characteristic of the local vernacular, but in the particular circumstances of this case do not find that sufficient reason to dismiss the appeal.
12. Determining whether a development would result in material harm to character and appearance requires the exercise of planning judgement which involves a degree of subjectivity. In the particular circumstances of this case, notwithstanding that it came to a different conclusion to the one that I reached, I do not consider that the authority behaved unreasonably when exercising such judgement and its evidence provided a respectable or sufficient evidential basis for the stance taken.

13. It would not be practical or cost effective for planning committees to view each and every application site. In this case, given the lack of evidence as to the outbuildings suitability for conversion at the time, I have no reason to believe that the decision would have been different had the committee visited the site.
14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93, has been demonstrated and that a partial award of costs is justified.

**Costs Order**

15. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that The Pembrokeshire Coast National Park Authority shall pay to Mr John Sollis, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in adducing evidence in relation to the second reason for refusal.
16. The applicant is now invited to submit to The Pembrokeshire Coast National Park Authority, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*E Jones*

Inspector







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## Penderfyniad ar yr Apêl

## Appeal Decision

Ymweliad â safle a wnaed ar 10/06/13

Site visit made on 10/06/13

gan Gareth A. Rennie BSc(Hons) DipTP

by Gareth A. Rennie BSc(Hons) DipTP

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 20/06/13

Date: 20/06/13

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**Appeal Ref: APP/L9503/A/12/2188987**

**Site address: Philbeach Farm, Dale, Haverfordwest, Pembrokeshire, SA62 3QU**

**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 Peter Smithies against the decision of Pembrokeshire Coast National Park Authority.
  - The application Ref NP/12/0342, dated 14 June 2012, was refused by notice dated 26 September 2012.
  - The development proposed is the installation of one 15kw wind turbine (15m mast height to hub, 20.979m to blade tip) plus associated foundation pad and underground cable.
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### Decision

1. The appeal is allowed and planning permission is granted for the installation of one 15kw wind turbine (15m mast height to hub, 20.979m to blade tip) plus associated foundation pad and underground cable at Philbeach Farm, Dale, Haverfordwest, Pembrokeshire, SA62 3QU in accordance with the terms of the application, Ref NP/12/0342, dated 14 June 2012, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than five years from the date of this decision.
  - 2) Within 12 months of the wind turbine hereby permitted ceasing to be used for the generation of electricity, it, and all associated foundations and plant, shall be permanently removed from the land and the site restored in accordance with details to be submitted to and approved in writing by the local planning authority prior to these works being carried out.
  - 3) Prior to the commencement of development, details of the construction date (start and finish), height of construction equipment and the latitude/longitude of the permitted turbine shall be submitted to the local planning authority and the Ministry of Defence and construction shall be carried out in accordance with these details unless otherwise agreed in writing.
  - 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for details of

pollution prevention measures as noted in the response by the Environment Agency dated 24 July 2012, (Ref: SH/2012/113404/01-L01).

### **Procedural matter**

2. A screening direction has been issued on behalf of the Minister for Environmental and Sustainable Development which directs that the development which is the subject of this appeal is not EIA development within the meaning of the 1999 Regulations<sup>1</sup>. On the evidence before me, I have no reason to reach a different conclusion with regards to this matter.

### **Main Issue**

3. The main issue in this case is the effect of the proposal on the character and appearance of the area and the special qualities of the National Park.

### **Reasons**

4. The appeal site sits to the south-east of the village of Marloes, in undulating farmland. The 15kw, approximately 21m high turbine (to the blade tip) would provide electricity for the associated farm and holiday lets. The application also includes for a cable run and an area of foundation. In that context, my decision turns on the balance between the impact on the character and appearance of the surrounding landscape, particularly the special qualities of the National Park (NP); and the benefits, both nationally and to the business on the site, of using renewable energy.
5. National Guidance contained within Technical Advice Note 8 – *Planning for Renewable Energy* (TAN8) says that renewable energy projects should generally be supported by local planning authorities provided environmental impacts are avoided or minimised. This is generally reiterated within the Council's adopted Supplementary Planning Guidance – *Wind Energy Development* (SPG). Policy 33 of the Pembrokeshire Coast Local Development Plan (LDP) says that small scale renewable energy schemes will be considered favourably subject to there being no over-riding environmental and amenity considerations.
6. The proposed turbine would be sited within an area of open countryside. This is a patchwork landscape containing discrete areas of woodland, trees, hedgerows, scattered buildings and small settlements. Despite the elevated nature of the site the presence of so many hedgerows and coppices mean that the landscape is broken up into discrete pockets which lend an intimate feel to the immediate countryside.
7. The photomontages submitted by the Council show that the turbine would be visible from the coastal area to the south-east. I acknowledge that the designated landscape of the NP is a very sensitive one and would be particularly affected by unsympathetic development. I have given significant weight to this. The intimate and enclosed landscape in the area would effectively screen the turbine from the immediate area though it would be visible at a greater distance. Even so, it does not follow that a structure is harmful just because it can be seen. The turbine would be sited towards the lower corner of the field away from the immediate skyline and would be well related to the existing buildings at Philbeach Farm. The focus of the National Park

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<sup>1</sup> Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended)

Authority at this point are key views from the coast and the impact on the special qualities of the Marloes Peninsula.

8. During my visit I viewed the appeal site from various viewpoints around and in the area. In particular I viewed the site from the vantage points noted by the Authority, particularly the Gann estuary and Musselwick Point to the south-east. I conclude from this that the turbine would be visible and its blades would punctuate the skyline from certain viewpoints. Nevertheless, the proposed turbine would be a significant distance to the west, away from the coast and, despite its elevation, would not be a prominent feature.
9. It would be seen in the context of the other development including particularly the Dale airfield buildings, dwellings and other structures that frame the landscape at this point. For the most part, longer distance views to the south-east and east may include the turbine and it may be visible but I consider that it would be subsumed within the general landscape and on occasion the clutter of existing structures. It would be seen as associated with the complex of buildings that makes up Philbeach Farm and not as an isolated or overly prominent structure. The movement of the blades would provide emphasis but I consider that it would not give the turbine significant additional prominence.
10. For these reasons I conclude that it would not directly intrude on the special qualities of the Marloes Peninsula and the National Park, or their landscape value. The tranquillity of the area at this point is a function of its relative remoteness, the active nature of the coastline and the separation from the bulk of development to the east. I consider that this essential relationship would remain unchanged despite the proposed development. The Welsh Government is committed to delivering renewable energy as part of its objective of combating climate change and wind energy has a key role to play. The turbine would occupy a reasonably prominent position and would inevitably have an impact on its surroundings. However, when seen in context within the discrete nature of the surrounding landscape, it would be screened by trees and woodland.
11. For these reasons I consider that the proposal would not have an unacceptable impact on the character and appearance of the area or the special qualities of the NP and conclude that it therefore complies with national guidance contained within TAN 8, with Policy 33 of the LDP, and would not undermine the special qualities of the NP.
12. I have considered conditions in light of the advice in Circular 35/95. In the light of this I consider it necessary, in the interests of the visual amenity of the area, to require the removal of the turbine should it cease to be operational. I have also included a condition relating to the submission of pollution control measures. The Ministry of Defence (MOD) has requested that it be made aware of certain details of the development in order to safeguard aircraft. The MOD comments appear to be based on the assessment of a 76m high wind turbine. Nevertheless, I have included a condition requiring such information to be made available as I am not in a position to assess the relative impact on their procedure of the turbine in this case.
13. Consequently, for the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

*Gareth A. Rennie*

Inspector



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## Penderfyniad ar yr Apêl

Ymchwiliad a gynhaliwyd ar 12/03/13  
Ymweliad â safle a wnaed ar 12/03/13

**gan James Ellis LLB (Hons) Cyfreithiwr**  
**Arolygydd a benodir gan Weinidogion Cymru**  
**Dyddiad: 14/06/13**

## Appeal Decision

Inquiry held on 12/03/13  
Site visit made on 12/03/13

**by James Ellis LLB (Hons) Solicitor**  
**an Inspector appointed by the Welsh Ministers**  
**Date: 14/06/13**

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**Appeal Ref: APP/L9503/X/12/2187529**

**Site address: Erw Lon, Lydstep, Tenby, Pembrokeshire SA70 7SG**

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

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act") against a refusal to grant a certificate of lawful use or development.
  - The appeal is made by Mr Martyn Morris against the decision of Pembrokeshire Coast National Park Authority ("the Authority").
  - The application Ref NP/12/0386, dated 16 July 2012, was refused by notice dated 11 October 2012.
  - The application was made under section 191(1) (a) of the Act.
  - The use for which a certificate of lawful use or development is sought is the siting of static caravan, siting of metal clad container and all uses in excess of 20 years up to the present day, taking place on the holding.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application originally requested a certificate in respect of the 'siting of static caravan, siting of metal container'. However, following discussions with the Authority, the appellant revised the description to 'siting of static caravan, siting of metal container and all uses in excess of 20 years up to the present day, taking place on the holding'. To my mind, the revised description is somewhat vague. However, it is clear from the evidence that the appellant is seeking to demonstrate that the static caravan and metal container ("the container") the subjects of the appeal are immune from enforcement action because of the length of time a static caravan and the container have been located on a parcel of land ("the site") which adjoins 'Erw Lon'. I shall therefore concentrate my deliberations on the static caravan, the container, and (if relevant) the uses to which they have been put.
3. Evidence was given on oath by Norman Parry, the appellant's agent, and Liam Jones, a Principal Planner with the Authority.

### Background

4. The static caravan and metal container are located on the site which adjoins 'Erw Lon', a residential property in Lydstep. At the time of my site visit, there was a sign outside 'Erw Lon' advertising bed and breakfast accommodation there. The site and 'Erw Lon'

are both owned by the appellant, with the site having an independent access point set back from the highway. I am advised that the static caravan which is currently on the site was brought there by the appellant following his acquisition of 'Erw Lon' in 2007 to replace one which had been removed by the previous owner. As I saw on my site visit, the container has been fitted out with toilets, a sink and shower facilities. Part of the container was also being used for agricultural purposes at that time.

## Main Issues

5. Section 191(2) of the Act states that for the purposes of the Act uses are lawful at any time if – (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute the contravention of any of the requirements of any enforcement notice then in force. Section 171(B) of the Act refers to time limits for taking enforcement action. This section indicates that for changes of use, other than a change of use of a building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach.
6. It is the appellant's case that a certificate of lawful use should be granted because the time periods for taking enforcement action against the siting of the static caravan and the siting of the container on the site have expired. Here, the appellant contends that the site has been used for the siting of a static caravan and the siting of the container for periods in excess of 20 years. On the other hand, whilst the Authority accepts that a static caravan and the container have been on the site for a period in excess of 10 years, it believes that the siting of the static caravan and the siting of the container are not, in themselves, uses of land.
7. In addition, the Authority contends that the appellant has not been able to demonstrate that a static caravan on the appeal site and the container have been put to single, continuous and uninterrupted uses during periods of 10 years or more. Consequently, it considers that the static caravan and container are not immune from enforcement action. The main issues are, therefore, whether the siting of a static caravan and the siting of the container on the site are, in themselves, uses of land and, if this is not the case, whether a static caravan on the site and the container have been put to single, continuous and uninterrupted uses during periods of 10 years or more. However, after considering evidence concerning the container, I shall also touch upon whether the use to which it is currently being put constitutes development for the purposes of section 55 of the Act and whether the siting of the container is permitted development under the Town and Country Planning (General Permitted Development) Order 1995 ("the GPDO").

## Reasons

*Whether the siting of a static caravan and the siting of the container on the site are, in themselves, uses of land*

8. The appellant suggests that the static caravan is a 'caravan' as defined in the Caravan Sites and Control of Development Act<sup>1</sup> or a 'twin unit caravan' as defined in the

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<sup>1</sup> Section 29(1) of the 1960 Act defines a 'caravan' as 'any structure designed or adopted for human habitation which is capable of being moved from one place to another (whether by being towed or transported on a motor vehicle or trailer)'.

Caravan Sites Act 1968<sup>2</sup> and that, accordingly, the siting of a static caravan on the appeal site constitutes a use of land. From what I saw on my site visit, the static caravan does fall within the definition of a 'caravan' for the purposes of the 1960 Act, as amended by the 1968 Act. However, in my view, this is of little help to the appellant. The siting of the static caravan and any predecessors on the site for a period of 10 years or more does not, in itself, establish any continuous and uninterrupted use of the land for the required 10 year period. Whilst the static caravan has clearly been designed for human habitation, it does not necessarily follow that it has been used for such a purpose over a 10 year period. Caravans can be put to a variety of uses and can also be stored on land which constitutes a use in its own right.

9. The same principle applies to the container which is a portable structure capable of being put to a variety of uses. In this context, there is no argument before me from the appellant that the siting of the container constitutes building, engineering, mining or other operations for the purposes of section 55 of the Act. Indeed, this is borne out by what I saw on my site visit.
10. I do not therefore accept the appellant's argument that the siting of a caravan on the site and the siting of the container are uses of land in their own right. In order to establish whether or not the static caravan and the container are immune from enforcement action by virtue of the time limit for taking enforcement action expiring, I need to examine the use or uses to which static caravans on the site and the container have been put prior to the application being made.

*Whether a static caravan on the appeal site and the container have been put to single continuous and uninterrupted uses for periods of 10 years or more*

11. The burden of proof in establishing the lawfulness of the use of land rests with the appellant and the relevant test here is the balance of probability. In support of his case, the appellant submitted a number of unsworn statements made by persons who know the appeal site and an affidavit sworn by the appellant's agent. The affidavit makes reference to the agent's knowledge of the appeal site and the statements being genuine and truthful in their content.
12. A number of statements indicate that a static caravan has been on the appeal site for more than 10 years but contain no references to use. However, in his statement, Mr P Kidney refers to a boiler being serviced in a residential caravan and the caravan being occupied on a permanent basis, but no further information as to use is given. A statement from Mr R Muskett refers to full residential occupation for more than 10 years but, again, no further information is given. G Apsley states that the caravan was used by friends and family. A statement from Mr T John is more detailed and

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<sup>2</sup> Section 13(1) of the 1968 Act which refers to 'twin unit caravans' states that 'a structure designed or adopted for human habitation which – (a) is composed of not more than two sections separately constructed and designed to be assembled on site by means of bolts, clamps or other devices; and (b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or not having been) a caravan within the meaning of Part I of the 1960 Act by reason only that it cannot lawfully be so moved on a highway when assembled. Section 13 of the 1968 Act also makes provision for limits of the dimensions of structures which can fall within the definition of 'caravan' for the purposes of the 1960 Act.

refers to a caravan being occupied on a semi-permanent basis until 'Erw Lon' was sold to a Mr Teggs or Teggars. The statement goes on to say that a caravan was occupied by Mr Teggs/Teggars whilst works to the house were being done and that the caravan was then used over the years by various people from contractors to holiday lets etc.

13. There is evidence before me that since acquiring 'Erw Lon' in 2007 the appellant has rented the caravan to various persons including contractors and a local person. At the Inquiry, Mr and Mrs Morris confirmed that they themselves had also occupied the caravan at times in the summer months when 'Erw Lon' was full with visitors. In cross-examination, the appellant's agent accepted that caravans on the appeal site had been put to a variety of uses. As regards documentary evidence, there is evidence that a caravan was included in the rating list when Council Tax was introduced in 1993 but that it was removed in 1995. A caravan was re-instated into the rating list with effect from October 2007, following acquisition of 'Erw Lon' by Mr Morris.
14. Much of the evidence submitted on behalf of the appellant consisted of unsworn statements made by persons who were not present at the Inquiry. This diminishes the weight that I can give to that evidence, notwithstanding the affidavit sworn by the appellant's agent. Also, the evidence submitted on behalf of the appellant is singularly lacking in detail about the nature of the occupation of caravans on the site over the last 20 or so years. There is sparse information about who occupied the caravans, over what periods of time they did so, and whether or not the caravans were left vacant for any periods of time.
15. The evidence is also suggestive that as and when caravans were occupied, this may not always have been as independent units of residential accommodation. It may have been the case, though I do not consider that the evidence before me is determinative, that at some times caravans were used as ancillary accommodation to 'Erw Lon'. There is also the possibility that use of caravans as holiday lets constituted a different use to a residential use. Each case concerning holiday lets must be looked at on its individual circumstances as a matter of fact and degree<sup>3</sup>. However, in this particular case, there is limited evidence to point one way or the other.
16. It is also arguable, as contended by the Authority, that there may have been a change in planning unit for a static caravan some time between 2003 and 2006, prior to the purchase of 'Erw Lon' by the appellant, and that this would have had the effect of bringing any continuous uninterrupted use that may have existed prior to that time to an end. However, putting this argument to one side, I am not, in any event, satisfied from the limited evidence before me that the appellant has been able to show, on the balance of probabilities, that the static caravan and/or any predecessor on the site have been put to a single, continuous and uninterrupted use for the required period of 10 years so as to render the static caravan which is currently on the appeal site immune from enforcement action by reason of expiry of time. The appeal, insofar as it relates to the static caravan, must therefore fail.
17. I will now turn to the container. The use of land for the purposes of agriculture does not constitute development for the purposes of section 55 of the Act<sup>4</sup>. However,

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<sup>3</sup> *Sheila Moore v Secretary of State for Communities and Local Government and Suffolk Coastal District Council* [2012] EWCA Civ 1202.

<sup>4</sup> Section 55(2) (e) refers.



whilst part of the container was being used for agricultural purposes at the time of my site visit, there is clear evidence that at least since 2008 it has also been used as a toilet/shower facility in connection with the use of the site as a camp site. Moreover, the extent of toilet/shower facilities within the container far exceed any which might be required for any person engaged in agricultural activities on the site. From the evidence, it seems to me that the container is currently has a mixed use namely for the purpose of a toilet/shower facility in connection with the use of the site as a camp site and for the purposes of agriculture. As the container is not being used solely for agricultural purposes, its use therefore constitutes development.

18. The use of the site as a camp site for 28 days in total in any calendar year is permitted development under Article 3 and Class B of Part 4 of Schedule 2 to the GPDO. Class B of Part 4 goes on to provide that the provision on the land of any moveable structure for the purposes of the permitted use is also permitted development. However, in this case, the evidence before me is that the container has remained on the site at all times since 2008 and was not moved off it during those times when the permitted use of the site as a caravan site has not taken place. The siting of the container cannot, therefore, be permitted development within Article 3 and Class B of Part 4 of Schedule 2 to the GPDO.
19. Whilst the container has been used for the purposes of a toilet/shower facility and for agriculture since 2008, I need to examine the history of its use before that time. A statement from Mr D Thompson confirms that a storage container was on the appeal site in 2002 but no information is given about the use of the container. A statement from Mr R Rutwell refers to a building (presumably the container) to the west of the caravan being on the site for more than 20 years but, again, no information is given about its use. Mr J Rossiter refers to the container as a storage block which has been there for more than 10 years, and Mr H Probert refers to a storage container being on the site for more than 14 years. More detailed information comes from G Apley who says that the container was brought onto the site in 1989 and used by Mr Tegg to store hides for his sheepskin business and that a few years later the container was painted green and moved to another position on the site.
20. I reiterate that the weight I can give to the statements is diminished for the reasons given in paragraph 14 above. At the Inquiry, the appellant's agent suggested that the container had been converted to a toilet and shower facility prior to the appellant's purchase of 'Erw Lon', but his evidence was not clear as to when the conversion took place. He acknowledged that he seldom entered the container when he had visited the site on occasions.
21. From the limited nature of the evidence before me concerning the use of the container before 2008, I am not satisfied that the appellant has been able to show, on the balance of probabilities, that the container has been put to a single, continuous and uninterrupted use for the required period of 10 years so as to render it immune from enforcement action by reason of expiry of time. The appeal, insofar as it relates to the container, must therefore also fail.

#### *Other matters*

22. I appreciate that the appellant purchased 'Erw Lon' in good faith and that he understood that the planning situation with regard to the static caravan and container was not contentious at that time. I am also aware that Mr and Mrs Morris have had concerns over the way in which the Authority has dealt with their planning situation.

However, these are not matters which are relevant to consideration of whether the uses at issue have actually occurred on a continuous basis for the requisite period.

### **Conclusion**

23. For the reasons given above, I conclude that the Authority's refusal to grant a certificate of lawful use or development in respect of 'siting of static caravan, siting of metal container and all uses in excess of 20 years up to the present day, taking place on the holding' at Erw Lon, Lydstep, Tenby, Pembrokeshire SA70 7SG was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act and dismiss the appeal.

*James Ellis*

**Inspector**

## APPEARANCES

### FOR THE APPELLANT:

Norman Parry	Agent for the appellant
He called	
Norman Parry	Agent for the appellant
Martyn Morris	Appellant
Caryl Morris	Appellant's wife

### FOR THE LOCAL PLANNING AUTHORITY:

Charles Felgate	Solicitor, Geldards LLP
He called	
Liam Jones BSc (Hons) MSc MRTPI	Principal Planner, Pembrokeshire Coast National Park Authority

## DOCUMENTS

- 1 Closing submissions on behalf of the Authority





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## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 30/04/13  
Ymweliad â safle a wnaed ar 30/04/13

gan **A D Poulter BA BArch RIBA**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: **20/06/13**

## Appeal Decision

Hearing held on 30/04/13  
Site visit made on 30/04/13

by **A D Poulter BA BArch RIBA**

an Inspector appointed by the Welsh Ministers

Date: **20/06/13**

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**Appeal Ref: APP/L9503/A/13/2190756**

**Site address: Pen Pant Farm, Pen Pant, Solva, Pembrokeshire, SA62 6UH.**

**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 & Mrs Andrew Malein against the decision of the Pembrokeshire Coast National Park Authority.
  - The application Ref NP/12/0412, dated 27 July 2012, was refused by notice dated 19 December 2012.
  - The development proposed is: *renovation of an existing former farm worker's (dwelling) cottage to create a rural enterprise worker's dwelling.*
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### Procedural Matters

1. It was noted at the hearing that a partnership agreement submitted with the application did not clearly transfer the full management of the farm business to the applicants' daughter, and that no S106 undertaking had been entered into that would tie the proposed cottage to the farm. There was, however, no objection to my allowing time for an amended agreement and a completed S106 Unilateral Undertaking (UU) to be submitted. These documents were submitted in the time allowed, and the Authority has commented upon them. There is no dispute that the amended agreement transfers the full management of the farm to the appellants' daughter. The UU provides for the ownership of the proposed cottage to at all times remain in the same ownership as the remainder of the property, and for its occupancy to be restricted. There is no dispute that the UU is enforceable. It meets the other requirements of the Community Infrastructure Levy Regulations and Circular guidance. It is therefore a consideration to which I have given weight.

### Decision

2. The appeal is allowed and planning permission is granted for renovation of an existing former farm worker's (dwelling) cottage to create a rural enterprise worker's dwelling at Pen Pant Farm, Pen Pant, Solva, Pembrokeshire, SA62 6UH in accordance with the terms of the application, Ref NP/12/0412, dated 27 July 2012, and the plans submitted with it (Drawing Numbers S01, S02, S03, S04, P01, P02, P03, P04 & 340212, received 8 August 2012), subject to the schedule of conditions attached at Annex A to this Decision.

## Main Issue

3. This is whether an exception to the normal strict control over new residential development in the countryside has been justified, having regard to local and national planning policy.

## Reasons

4. The appeal relates to an established farm holding of about 50 acres. Approximately 12 acres are cultivated for growing vegetables. The remainder is currently let to other farmers on short-term agreements. In the past a wide range of vegetables were grown, but in recent years production has centred on leeks as the main commercial crop. The unit includes a small farm shop.
5. The most relevant of the local planning policies that I have been referred to is Policy 7 of the adopted *Pembrokeshire Coast National Park Local Development Plan* (LDP, September 2010). This is a countryside policy which restricts development outside the identified Centres of the LDP area to a limited number of forms of development, including housing for essential farming or forestry needs.
6. The justification put forward for the proposed development is that a second dwelling is required on the unit to facilitate the transfer of its management to a younger person. There is no dispute that the application therefore falls to be considered in the light of national planning policy set out at paragraph 9.3.7 of *Planning Policy Wales* (PPW, Edition 5 November 2012). To encourage younger people to manage farm businesses, this supports the favourable consideration of a rural enterprise dwelling on established farms that are financially sustainable in situations where there are secure and legally binding arrangements in place relating to transfer of management, and the criteria set out in paragraph 4.4.1 (c) - (e) of *Technical Advice Note 6: Planning for Sustainable Rural Communities* (TAN 6, July 2010) are met. The Welsh Government's *Practice Guidance: Rural Enterprise Dwellings* (December 2011) is also relevant to this appeal.
7. Pen Pant Farm has been operated by the applicants for 42 years. Both applicants are now beyond normal retirement age. The proposed dwelling is intended to allow their younger daughter (now 33) to return to live independently on the farm whilst assuming responsibility for its management. It is proposed to renovate and convert an existing structure, which was once a farm worker's cottage, into a two-bedroom dwelling for this purpose. The appellants would continue to live in the existing farmhouse, to be on hand to provide assistance and the benefit of their experience and knowledge.
8. There is no dispute that Pen Pant is a long and well established farm. The application was supported by financial statements, including accountant's reports, balance sheets, trading profit and loss accounts and notes setting out tangible fixed assets from 2002 - 2012. From 2002 until about 2007 these clearly show a pattern of consistent profitability on a regular basis, at a worthwhile level that would provide a reasonable return on the resources employed. About 2007 - 2008 profits began to decline. In 2011 there was little profit and in 2012 there was a small loss.
9. I do not consider the recent decline in the profitability of the holding to be surprising, given the appellants' ages and recent bouts of ill-health. Notwithstanding the recent decline in profits the financial statement for 2012 shows that the unit still has substantial tangible fixed assets and low levels of debt. There is no dispute that it benefits from good soils and a mild climate, and is well equipped and irrigated. Additional land could be brought back into cultivation as part of the operation of the

unit if needs be. It has performed well in the past and I have no reason to doubt that it could do so again, given an injection of youth and enthusiasm into its management, together with the appellants' experience and knowledge. The financial statements show that the enterprise would have sufficient funds to support on-going trading operations and that revitalised operations would therefore be feasible.

10. Paragraph 4.10.1 of TAN 6 requires the rural enterprise and the activity concerned to be financially sound and to have good prospects of remaining sustainable for a reasonable period of time. The Practice Guidance explains the function of this financial test and the concept of financial soundness and sound financial planning. As explained in the Practice Guide, the concept of financial soundness is not based solely on current profitability. Rather, it is based on long-term viability and financial sustainability. The track record of the unit, together with evidence of sufficient funds to support on-going trading leads me to conclude that the unit is financially sustainable, and has good prospects of remaining so for a reasonable period of time. I consider that the evidence of recent lack of profitability points to a need for an injection of youth into the management of the unit, rather than a fundamental lack of viability. It also demonstrates that a management successor is critical to the continued success of the farm business. The financial statements also demonstrate to my satisfaction that the size and cost of the proposed dwelling would be commensurate with the ability of the enterprise to sustain it without prejudice to the continued viability of the enterprise.
11. I conclude for these reasons that Pen Pant is an established farm that is financially sustainable. There are secure and legally binding arrangements in place relating to transfer of management.
12. Turning then to the criteria set out in paragraph 4.4.1 (c) - (e) of TAN 6, criterion (c) relates to the financial test, amplified at paragraphs 4.10.1 - 4.10.3, which for the reasons given above I consider to have been met.
13. Criterion (d) refers to functional need. However, paragraph 9.3.7 of PPW does not require criterion (a) (the functional need test) to be met in the circumstances relevant to this appeal. Paragraph 4.1 of the Practice Guide also advises that a case where the management of a farm business would be transferred would be an exception to the requirement to demonstrate that there is an essential functional need for a worker to live on site or very close to their place of work. In this instance, I therefore take the reference to functional need in criterion (d) to be to the need to facilitate the transfer of management to a younger person.
14. Criterion (d) supports a new permanent dwelling only where the functional need could not be fulfilled by another dwelling or by converting an existing building already on the land comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned. Paragraph 6.10 of the Practice Guide also advises that the general requirement to address alternative housing options still applies, as does the need to explore alternative management approaches which might avoid the need for an additional dwelling. However, in this instance there is no dwelling already on the unit concerned other than the main farmhouse, which is the appellants' home. The nearest other available accommodation is in Solva or St Davids, but I do not consider that this would be close enough to be suitable for the close supervision that would be necessary to properly discharge the responsibility for the management of the unit. The accommodation available is also open-market housing, and the cost of servicing a mortgage or rental payments would place a much greater strain on the business than the cost of

converting the existing building. The proposed conversion of an existing building avoids the need for a new dwelling, which would be more intrusive.

15. No alternative management approach has been suggested by any party that would facilitate the transfer of management to a younger person without the need for an additional dwelling. Indeed, it appears to me that it is a critical part of the transfer of responsibility that the appellants should work closely with the younger person for a period, in order to effectively transfer their knowledge and experience.
16. On balance, and in the particular circumstances of this proposal, I consider that the proposed development would be the most appropriate solution to the need for accommodation to facilitate the transfer of management to a younger person. I conclude that the general requirement to address alternative housing options and the particular requirements of criterion (d) have been met.
17. There is no dispute that the 'other planning requirements' test set in criterion (e) and amplified in paragraphs 4.12.1 and 4.12.2 of TAN 6 would be met. I have no reason to disagree.
18. As advised in paragraph 9.3.8 of PPW it is important to establish that stated intentions to engage in the rural enterprise are genuine. In this instance the applicants and their family are well known in the locality and their intentions and the proposal and have considerable support from local residents and neighbours. I find nothing in the evidence before me that gives me any doubt that the stated intentions are genuine.
19. The Authority has suggested that a temporary planning permission option could be explored to allow the business to expand and meet the financial test. However, for the reasons given above I consider the case for the proposed development to have been proven. I therefore do not consider that a temporary permission requiring the necessary dwelling to be some form of temporary accommodation would be necessary or appropriate.
20. As advised at paragraph 4.13 of TAN 6 a planning permission justified on the basis of a need to provide accommodation to enable rural enterprise workers to live at or near their place of work should be made subject to an occupancy condition. I have imposed a condition along the lines suggested by the Authority and in TAN 6 accordingly.
21. The existing dwelling on the farm does not have occupancy conditions. To help protect the countryside against the risk of pressure for new houses in the long term, and in accordance with paragraph 4.13.3 of TAN 6, I therefore consider that it would be appropriate to impose an occupancy restriction similar to that imposed on the proposed dwelling.
22. I have considered the other conditions suggested by the Authority in the light of Welsh Office Circular 35/96: *The Use of Conditions in Planning Permissions*.
23. The terms of the permission I have granted make a condition requiring development to be carried out in accordance with the deposited plans unnecessary. However, those plans do not include full details of external materials. I have therefore imposed the suggested condition relating to the submission of samples.
24. Taking into account that the existing access would also serve two other dwellings, farm vehicles and the farm shop, I do not consider that the proposed development would add significantly to the amount of traffic using the existing access from the



highway. There would be ample parking in the farm yard to cater for cars associated with the proposed dwelling, should the indicated space not be provided or available. I therefore do not consider that suggested conditions relating to visibility at the junction and parking are necessary.

25. The plans indicate a garden area attached to the proposed dwelling. A condition relating to boundary treatments is therefore necessary, in the interests of protecting the character of the countryside. However, as this would be a small private garden and would not affect any significant trees I do not consider that the suggested landscape condition would be necessary or appropriate.
26. A Protected Species Survey undertaken for the appellants found signs of bats using the building, and recommended a number of mitigating measures which have been incorporated into the application drawings. Subject to this mitigation and compliance with licensing requirements, the Authority's Planning Ecologist has advised that the proposal would not be detrimental to the population of the species concerned. The Authority has not objected to the proposal for reasons relating to ecology, and I have no reason to disagree. However, a condition requiring the implementation of the proposed mitigation measures is necessary in the interests of the protected species.
27. Extensions falling within permitted development rights could result in the proposed dwelling exceeding what could be justified. As advised in paragraph 4.10.3 of TAN 6, a condition withdrawing permitted development rights for extensions is therefore necessary and appropriate.
28. I consider for the above reasons that an exception to the normal strict control over new residential development in the countryside has been justified on the basis of an essential farming need. The proposed development would therefore be permitted under LDP Policy 7(b). It would also be consistent with national planning policy set out at paragraph 9.3.7 of PPW, TAN 6, and the related practice guidance.
29. I have taken into account all other material considerations that have been raised, but find nothing to turn me from the conclusion that the appeal should be allowed.

**A D Poulter**

**INSPECTOR**



## Annex A – Schedule of Conditions

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The occupation of the dwelling hereby permitted shall be limited to:
  - (a) a person solely or mainly working, or last working, on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or if it can be demonstrated that there are no such eligible occupiers, to
  - (b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants
- 3) The occupation of the existing farm house on the unit shall be limited to:
  - (a) a person solely or mainly working, or last working, on a rural enterprise in the locality, or a widow or widower or surviving civil partner of such a person, and to any resident dependants; or if it can be demonstrated that there are no such eligible occupiers, to
  - (b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants
- 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details and shall be retained as such thereafter.
- 6) The dwelling hereby approved shall not be occupied until bat mitigation works have been completed in accordance with the recommendations set out at pages 10, 11 and 12 of the Bat and Owl Survey report by BW Batwork, dated June 2012, as illustrated in Appendix 1 of that Report, and as shown on drawing No P03.
- 7) Notwithstanding the provisions of Schedule 2, Part 1, Classes A and B of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no enlargement shall take place to the dwelling hereby approved without specific planning permission being obtained.

(conditions end)





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## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 12/06/13  
Ymweliad â safle a wnaed ar 11/06/13

gan **Tim Belcher FCII, LLB (Hons),  
Cyfreithiwr (Nad yw'n Ymarfer)**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: **02/07/13**

## Appeal Decision

Hearing held on 12/06/13  
Site visit made on 11/06/13

by **Tim Belcher FCII, LLB (Hons),  
Solicitor (Non-Practising)**

an Inspector appointed by the Welsh Ministers

Date: **02/07/13**

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**Appeal Ref: APP/L9503/A/13/2192095**

**Site address: Dan-y-Garn, Treleider, Rhodiad, St. David's, SA62 6PL**

**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 Robert Cumine against the decision of Pembrokeshire Coast National Park Authority (the NPA).
  - The application Ref NP/12/0542, dated 29 October 2012, was refused by notice dated 28 January 2013.
  - The development proposed is the conversion and single-storey extension to a vacant agricultural building to create a one bedroom dwelling.
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### Procedural Matters

1. I viewed the dwelling-house at Ffynnon Faiddog, Whitesands, St. David's along with the representatives of the appellant and the NPA. Ffynnon Faiddog falls within the same Landscape Character Assessment area as the appeal site.

### Relevant Background Information

2. Dan-y-Garn is an unencumbered dwelling-house which is currently used as holiday accommodation mainly during the summer months.
3. There is an unoccupied mobile home sited between Dan-y-Garn and the former agricultural outbuilding that is proposed for conversion (the historic outbuilding). The mobile home does not have the benefit of planning permission or a Certificate of Lawful Use. I was advised that it had been on site for about 20 years and had been used as overflow residential accommodation in connection with the residential use of Dan-y-Garn.
4. There is no objection by the NPA to the proposed conversion and resulting alterations to the historic outbuilding.

### Main Issues

5. I consider the main issues in this case are:
    - a) whether there is a policy objection in principle to the proposed extension, and
    - b) the effect of the proposed extension on the character and appearance of the historic outbuilding and its surroundings including the National Park.
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## Reasons

### Policy

6. The development plan for the area includes Policies 7, 8, 15 and 45 of the Pembrokeshire Coast National Park Local Development Plan (the LDP). I have also been referred, amongst other things, to the Supplementary Planning Guidance entitled "Landscape Character Assessment" (the SPG).
7. The appeal site is outside the centres identified in the LDP.

### The Landscape Area

8. The appeal site is within the area identified in the SPG as St. David's Headland. The SPG explains that this landscape area is:
  - a) Gently undulating farmland with an open character.
  - b) Appears to be in a constant state of mixed agricultural land use of both arable and livestock farming.
  - c) Some of the farm units have recent agricultural buildings which are incongruous within this landscape. There are also traditional vernacular farm buildings.
  - d) The special qualities of the area include its peaceful open rural environment. There is a wealth of historical features.

### Issue a) - Is there a policy objection in principle to the proposed extension

9. Policy 7 of the LDP explains that outside the centres identified in the LDP development will only be permitted if it complies with one of a limited number of exceptions specified in the Policy. The only relevant exception in this case is (d) which explains that development which constitutes the conversion of an appropriate building<sup>1</sup> to a range of uses with affordable housing being given priority in residential conversions.
10. There is no provision in this Policy to enable an extension to be built to facilitate the conversion of a building to another use. The appellant was of the view that despite the silence on this issue there was a recognition by the NPA which allowed extensions in connection with conversions. I specifically asked the appellant's agent where the policy justification was for that assertion – he was unable to help me with that. The NPA Officer attending the Hearing agreed that there was no LDP policy allowing extensions to facilitate conversions.
11. The appellant referred me to several examples<sup>2</sup> of conversions allowed by the NPA and I was also referred, amongst other things, to the development at Ffynnon Faiddog. The NPA Officer explained:
  - a) That the example of development at Roch Castle (a Grade 1 listed building) was not directly comparable with this appeal proposal and I agree with that.
  - b) That the other examples referred to by the appellant had probably been allowed pursuant to the former development plan which allowed for extensions when conversions were proposed.

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<sup>1</sup> The NPA confirmed that there is no definition of "appropriate building" in the LDP.

<sup>2</sup> See Photos 1-4.

12. I therefore conclude, for the reasons explained above, that the proposed extension which is required to facilitate the residential conversion of the historic outbuilding is contrary to the LDP. Therefore, there is an objection in principle to the proposal.
13. The appellant explained whilst I was at Ffynnon Faiddog the various extensions to that property which had been allowed since the adoption of the LDP. I was advised that the original building (a stone agricultural outbuilding) had been extended on three occasions and the floor space created by these extensions is about twice the original floor space. I was advised by the NPA Officer attending the Hearing that these may have been cases where Members had overturned Officers' recommendations. I was not provided with copies of the permissions or any other background information which may have explained why the permissions were granted despite the policy objection identified above.
14. One of the permissions was granted on appeal<sup>3</sup> on 1 June 2012. That appeal was dealt with by written representations and there is no reasoning set out within the Appeal Decision to explain whether the conflict with Policy 7 (as identified above) was a matter that was argued before that Inspector. On the basis of the information that is before me I am unwilling to accept that the development at Ffynnon Faiddog is a factor that outweighs my conclusion on this issue.

Issue b) – Character and appearance

15. The historic outbuilding proposed for conversion is a former agricultural outbuilding. The historic outbuilding and the remainder of the appeal site currently form part of the residential curtilage of Dan-y-Garn.
16. The proposed extension would provide a utility room and cycle store together with living accommodation. The extension would be joined to the historic outbuilding via a glazed link. Within the historic outbuilding there would be a bedroom and separate shower & WC.
17. There are public footpaths which pass close to the appeal site.
18. The only parts of the extension that would be seen from the public footpaths would be:
  - a) the rear of the glazed link,
  - b) the upper part of the front of the glazed link,
  - c) the upper part of the glazed frontage to the extension,
  - d) the vertical timber cladding on the rear of the extension,
  - e) part of the vertical timber cladding on the front elevation of the extension, and
  - f) parts of the sedum or grass roof.
19. The extension and glazed link would have a footprint slightly larger than the footprint of the historic outbuilding and the volume would be slightly less.
20. Policy 15 of the LDP explains that development will not be permitted where this would adversely affect the qualities and special character of the National Park by causing

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<sup>3</sup> APP/L9503/A/12/2170030

significant visual intrusion, or failing to harmonise with, or enhance the landform and landscape character of the National Park or losing or failing to incorporate important traditional features.

21. I am satisfied that the extension and glazed link have been designed in such a way that they would, in visual terms appear to be subservient to the historic outbuilding and the dwelling-house at Dan-y-Garn. This is achieved by:
- a) The appearance of the extension, due to the extensive use of glazing/timber cladding, would result in it having a lightweight construction especially when compared with the heavy weight construction of the stone historic outbuilding and the much larger two-storey dwelling-house at Dan-y-Garn.
  - b) The extension would be significantly lower than the ridge heights of the historic outbuilding and Dan-y-Garn.
  - c) I know that the other buildings at Treleider do not have grass roofs but due to the design I do not consider that the grass roof would be highly visible when viewed from the public rights of way.

Accordingly, I do not consider that the proposal would result in significant visual intrusion.

22. The character of the very small settlement at Treleider is of a few residential buildings with a scattering of traditional outbuildings (some now converted to residential uses) and some modern agricultural buildings. The timber cladding proposed to be used on the exterior of most of the extension would reflect the vertical timbers used on some of the nearby modern agricultural buildings. I am aware that the extensive use of glazing would result in the introduction of a material that is not used within the existing buildings at Treleider (other than windows). However, much of the glazing on the front of the extension would be screened from public view. When it was seen it would not, in my opinion, appear unacceptable as it would be seen in the context of an ancillary building within the curtilage of the large dwelling-house at Dan-y-Garn. Accordingly, whilst I consider that the glazed link and the glazing within the extension would not reflect the existing character of buildings at Treleider I do not consider it would result in any unacceptable harm. Overall the proposal would appear as an ancillary residential building that was subservient to, and within the curtilage of, the main dwelling at Dan-y-Garn.
23. The proposal would not result in the loss of any important traditional features. Further, I do not consider that the design of the extension or the glazed link or the materials proposed to be used would result in a failure to incorporate important traditional features.
24. The LDP explains that the special qualities of the National Park will be protected and enhanced. The priorities identified in this case by the NPA are the protection and enhancement of the pattern and diversity of the landscape and the historic environment.
25. I have no doubt that the detailed attention that has been paid to the design of the extension and for other reasons explained above that the proposed extension would not harm the landscape or historic environment of the National Park. Further, the proposal would ensure that the historic outbuilding regained a practical use and as a result it would be protected and enhanced.



26. I therefore conclude, for the reasons explained above, that the proposal would not materially harm the character or appearance of the historic outbuilding or its surroundings including the wider National Park. Accordingly, there would be no conflict with the relevant parts of the LDP.

### **Overall Conclusions**

27. I have explained above that I find no material harm arising from the proposal in respect of the impact of the proposal on the character or appearance of the immediate surroundings or the National Park generally. However, the determining issue is the conflict with the LDP relating to the principle of extensions in situations such as that proposed in this case.

28. For the reasons given above I conclude that the appeal should be dismissed.

### **Decision**

29. The appeal is dismissed.

*Tim Belcher*

**Inspector**

## **APPEARANCES**

### **FOR THE APPELLANT**

Chris Kimpton BA(Hons), MRTPI

Robyn Cumine BA(Hons) (Advanced Environmental Studies) (Architecture), Professional Diploma in Architecture

### **FOR PEMBROKESHIRE COAST NATIONAL PARK AUTHORITY**

Julia Evans BA(Hons), MA, MRTPI – Principal Planning Officer

### **INTERESTED PERSONS**

Glyn & Debra Murphy  
Elaine Price

Local Residents  
Local Resident

### **DOCUMENTS**

Document 1 – Letter dated 29 May 2013 from Douglas & Naomi Steele.

Document 2 – Environmental & low carbon design strategies.

Document 3 – Encouraging & providing for Appropriate Biodiversity on small sites.

Document 4 – Design Strategies.

### **PHOTOGRAPHS**

1 – 4 - Roch Castle, Trehysbys Cottage, Llwyngwair Lodge & Melin Trehilyn