

## 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:-

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|-------------------------|---|
| <b>NP/12/0426</b>       | Erection of wind turbine – Brawdy Farm, Brawdy, Haverfordwest   |
| <b>Type</b>             | Written Representations   |
| <b>Current Position</b> | The initial paperwork has been forwarded to the Inspector.  |
| <b>NP/13/0219</b>       | Erection of detached two bedroom dwelling house, infill plot adjacent to Greenhill, Portclew Road, Freshwater East  |
| <b>Type</b>             | Hearing   |
| <b>Current Position</b> | The initial paperwork has been forwarded to the Inspector and a hearing is arranged for 11 <sup>th</sup> December 2013.   |
| <b>NP/13/0233</b>       | Agricultural building – land at The Belts, The Rhos   |
| <b>Type</b>             | Written Representations   |
| <b>Current Position</b> | The appeal has been allowed and a copy of the Inspectors decision is attached.  |
| <b>NP/13/0236</b>       | Conservatory at the rear – 9 Portland Square, Solva   |
| <b>Type</b>             | Written Representations   |
| <b>Current Position</b> | The appeal has been allowed and a copy of the Inspectors decision is attached.  |
| <b>NP/13/0260</b>       | Certificate of Lawfulness for touring and camping field for up to 35 touring caravans or tents at any one time on a seasonal basis for holiday purposes only from 1st March up to 28th September in any one year- Buttyland Caravan Park, Station Road, Manorbier |
| <b>Type</b>             | Public Inquiry  |
| <b>Current Position</b> | The initial paperwork has been forwarded to the Inspector.  |
| <b>NP/13/0267</b>       | Demolition of existing dwelling and erection of two-storey dwelling with integral garages and associated landscaping, parking and boat storage areas- The Elms, Llanrhian   |
| <b>Type</b>             | Hearing   |
| <b>Current Position</b> | The initial paperwork has been forwarded to the Inspector.  |

**NP/13/0406** Sub-division to create two separate dwellings- Sunnydene, Valley Road, Saundersfoot

**Type** Hearing

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

**EC09/100** Change of use of land by siting of caravan and metal container – Happy Acres, Lydstep

**Type** Written Representations

**Current Position** The appeal has been dismissed and the Inspectors decision is attached.

**EC12/0144** Change of use of land to mixed agricultural and residential – Good Acre, Broad Haven

**Type** Hearing

**Current Position** The initial paperwork has been forwarded to the Inspector and a hearing has been arranged for 8<sup>th</sup> January 2014.



# The Planning Inspectorate Yr Arolygiaeth Gynllunio

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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 01/10/13

gan **Melissa Hall BA(Hons) BTP MSc  
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 15 Tachwedd 2013

## Appeal Decision

Site visit made on 01/10/13

by **Melissa Hall BA(Hons) BTP MSc  
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 15 November 2013

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**Appeal Ref: APP/L9503/A/13/2203336**

**Site address: Land at The Belts, The Rhos, Haverfordwest, Pembrokeshire SA62 4AN**

**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 approval required under a development order.
  - The appeal is made by Ms Linda Screen against the decision of Pembrokeshire Coast National Park Authority.
  - The application Ref NP/13/0233, dated 28 May 2013, was refused by notice dated 22 July 2013.
  - The development proposed is an agricultural building.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Class A of Part 6 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the siting, design and external appearance of an agricultural building at land at The Belts, The Rhos, Haverfordwest, Pembrokeshire SA62 4AN in accordance with the terms of the application Ref NP/13/0233, dated 28 May 2013, and the plans submitted with it.

### Preliminary Matters

2. I have used the Local Planning Authority's description of the development which I consider to be more concise.
3. Having regard to the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO), it is only matters of siting, design and external appearance that fall to be considered in this appeal. Providing all the GPDO requirements are met, the principle of whether the development should be permitted is not for consideration. The GPDO requires that an application for prior approval shall be accompanied by a written description of the proposed development and of the materials to be used and a plan indicating the site. I am satisfied that I have sufficient information before me in this regard to consider the appeal.
4. A number of national and local planning policies have been drawn to my attention, but I have had regard to these only insofar as they bear on the question of impact on visual amenity.

## **Main Issue**

5. This is the effect of the siting, design and external appearance of the proposed development on the character and appearance of the surrounding area.

## **Reasons**

6. The appeal site is a field which bounds a highway between Millin and The Rhos, heavily screened from the road by a dense woodland belt of mixed native and spruce trees together with ground cover vegetation. It is one of three connecting fields owned by the appellant which, together with an area of woodland, comprise some 13.71ha. There is an existing field gate at its eastern end which provides direct access from the road into the appeal site with the two connecting fields on either side accessed from within. I observed that there are no other buildings on the site or in the adjacent fields, and none of the dwellings in the vicinity were visible from within the site at the time of my visit.
7. In terms of the design and appearance of the proposed building, the submissions include a floorplan and side elevation and the application form together with other written material provides details of the dimensions and external finishes. Given its limited single storey scale and massing, restricted number of openings comprising only of full height double swing timber doors to one elevation, polycarbonate roof lights covering less than 10% of the roof space and its external finishes consisting mainly of weather board timber cladding and zinc, I consider that the development will have the appearance of an agricultural building. Furthermore, its regular rectangular footprint and single pitched roof with an overhang to accommodate a timber drying area would represent a simple design which reflects its function, typical of an agricultural building.
8. With regard to its siting, the building would be located towards the centre of the northern field boundary behind the dense belt of trees fronting the highway. In the absence of any buildings or particular features within the site with which to group the building, its proposed position has been determined by factors such as the proximity to wet / boggy areas, root zones of existing trees, vegetation along the field perimeter, drainage ditches and internal bunds. Additionally, the appellant argues in favour of the agricultural / forestry functionality across the holding, which includes taking into consideration the proximity of the building to future horticultural cropping areas. Having regard to these matters, I find that the development would be appropriately sited and assimilated into the landscape.
9. In visual impact terms, the proposed development would not be highly visible from the highway given the significant screening afforded by the dense tree belt. Whilst there would be glimpses of the appeal site from the highway through the field gate, the siting of the building further along from the access would ensure that views are restricted primarily to that of the access track and existing vegetation when seen from this position. With regard to other vantage points, the appeal site is surrounded on all other sides by agricultural land and existing vegetation, such that it is not visibly prominent in the surrounding area and the building would therefore be adequately screened.
10. In this context, I consider that the building is appropriately designed for the purposes of the agricultural activities which might reasonably be conducted on the unit, and that its siting, design and external appearance would not have an unacceptable effect on the character and appearance of the surrounding area.

11. It is not necessary to impose time limited or plan compliance conditions as these are already set out in the Order. The Local Planning Authority has suggested a condition relating to the removal of the building once it ceases to be used for the purposes of agriculture and the restoration of the land to its condition before the development took place. However such a condition would place a permanent restriction on the development after it has commenced and since this appeal does not relate to an application for a temporary building nor has the appellant indicated that intention, I consider such a condition to be onerous and unreasonable. It therefore fails to meet the tests of *Welsh Office Circular 35/95 'The Use of Conditions in Planning Permissions'*.

#### **Other Matters**

12. My attention has been drawn to other examples of agricultural buildings and the level of detail required in each case. I am not aware of the full facts of the cases being referred to and, for this reason, attach little weight to them. Each appeal must be determined on its individual planning merits, which is what I have done in this case.
13. I also note the concern raised by other parties regarding a future residential use at the site. However, the appeal before me relates to the siting, design and external appearance of an agricultural building and, in the event of a future application for an alternative form of development, it would be for the Local Planning authority to decide the merits of the proposal in the first instance.

#### **Conclusion**

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

*Melissa Hall*

INSPECTOR

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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 23/10/13

gan **G P Thomas BA(Hons) DMS MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 14 Tachwedd 2013

## Appeal Decision

Site visit made on 23/10/13

by **G P Thomas BA(Hons) DMS MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 14 November 2013

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**Appeal Ref: APP/L9503/A/13/2205023**

**Site address: 9 Portland Square, Solva, Haverfordwest, Pembrokeshire SA62 6TJ**

**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 Chase against the decision of the Pembrokeshire Coast National Park Authority.
- The application Ref NP/13/0236, dated 23 May 2013, was refused by notice dated 24 July 2013.
- The development proposed is: *Conservatory to rear elevation.*

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### Decision

1. The appeal is allowed and planning permission is granted for the conservatory to rear elevation at the above address in accordance with the terms of the application, Ref NP/13/0236, dated 23 May 2013, and the Location Plan; Block Plan; Existing Elevations and Floor Plan: and, Proposed Elevations and Floor Plan received by the National Park Authority on 30 May 2013, subject to the development being carried out and thereafter retained in accordance with those submitted plans.

### Main Issues

2. The effect of the development on its surroundings having particular regard to its location within the National Park and the Solva Conservation Area.

### Reasons

3. The appeal site is within the rural centre of Solva and I agree with the National Park Authority [the authority] that the construction of a conservatory in this location is acceptable in principle.
4. The Upvc conservatory was already in place when I visited the site. The small single storey structure is largely hidden from public viewpoints by the high stone wall along the boundary of the property. Only its upper portions are visible from the adjacent public footpath. I agree with the authority's conservation officer, who recommended that planning permission should be granted, that the conservatory is a modest structure that is not prominently visible. I do not consider the conservatory has a material effect on this conservation area and I conclude that the character and appearance of the Solva Conservation Area is preserved.

5. Bearing in mind the small scale of the development I do not consider its overall height and double hipped roof are so injurious to either the host building or the appearance of the surrounding area that refusal of planning permission is justified. The development is not visually intrusive and does not harm the identity, character or local distinctiveness of Solva. On this basis I conclude that the conservatory does not cause significant visual intrusion in the surrounding area or harm the special qualities of the Pembrokeshire Coast National Park. I further conclude it satisfies the Pembrokeshire Coast National Park Local Development Plan policies to which I have been referred.
6. The authority has included a copy of "Guidance for Sustainable Design in the National Parks of Wales" and the "Solva Conservation Area Proposals" in its submissions. I find nothing in those documents to outweigh my conclusions.

### **Conditions**

7. I agree with the authority that a condition is necessary to ensure an appropriate form of development. I have amended the suggested wording for reasons of clarity and precision. The condition forms part of my formal decision in paragraph 1.

*Gwynedd P Thomas*

Inspector



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## Penderfyniad ar yr Apêl

## Appeal Decision

Ymweliad â safle a wnaed ar 08/11/13

Site visit made on 08/11/13

gan Ian Osborne JP BA DipTP MRTPI

by Ian Osborne YH BA DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 28 Tachwedd 2013

Date: 28 November 2013

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**Appeal Ref: APP/L9503/C/13/2204441**

**Site address: Land at Happy Acres, Lydstep, 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 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Martyn Rhys Morris against an enforcement notice issued by the Pembrokeshire Coast National Park Authority [NPA].
- The Authority's reference is EC09/100.
- The notice was issued on 23/07/13.
- The breach of planning control as alleged in the notice is:
  - (i) Without planning permission, the making of a material change in use of the land from use for agriculture to a mixed use for agriculture and for residential purposes through the siting of a static caravan (marked A on the notice plan) used for residential occupation.
  - (ii) Without planning permission, the making of a material change in use of the land from use for agriculture to a mixed use for agriculture and a toilet/shower facility in connection with the use of the land as a camp site through the siting of a metal container (marked B on the notice plan).
- The requirements of the notice are:
  - (i) Permanently cease the use of the land for residential purposes.
  - (ii) Permanently cease the use of the land for camp site purposes (in brief, except as permitted development).
  - (iii) Permanently remove the static caravan from the land.
  - (iv) Permanently remove the metal container from the land.
  - (v) Restore the land to its former condition as agricultural land.
- The period for compliance with the requirements is 6 months beginning with the day on which the notice takes effect.
- The appeal is proceeding only on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

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**Summary of Decision: The appeal is dismissed and the enforcement notice, as corrected and varied, is upheld as set out in the Formal Decision below.**

### Matters relating to the notice

1. In essence the notices alleges 2 different material changes of use of this field: first, from agriculture to a mixed use for agriculture and the siting of a residential caravan; and second, from agriculture to a mixed use for agriculture and for a toilet/shower facility in a metal container in connection with the use of the land as a camp site. In



both cases the land is the same, with the caravan and the metal container being marked on the notice plan in the south-east corner of the land as A and B respectively. In my view, however, it is not acceptable for the notice to allege 2 different changes of use and I have therefore consulted the NPA and the Appellant in writing about the possible combination of the 2 alleged changes of use into one notice. It is not necessary though to state that the change is from agriculture.

2. The second part of the allegation should, therefore, refer specifically and unequivocally to the camp site element of the mixed use, since as a matter of fact and degree it was the provision of the toilet/shower facility in the container which resulted in the camp site element of the mixed use becoming a breach of planning control. I appreciate that most of this toilet/shower facility has now been removed but, at the date of the notice, I consider that, on the balance of probability, there was a permanent camp site use element of the mixed use of this land. Further, even were the container a moveable structure and even if camping had not occurred for more than 28 days a year, paragraph 3B-2060 of the *Encyclopaedia of Planning Law* points out that, in the light of the judgement in *Garland v MHLG (1968) 20 P&CR 93*, where there is a material excess over development time limitations, that is, the shower/toilet facility was there for more than 28 days a year, the whole development (in this case the mixed use) becomes unauthorised.
3. I have, therefore, corrected the notice to allege simply a mixed agricultural, residential and camping use. I consider that my powers of correction extend to making this amendment and that this would not cause injustice to either the Appellant or the Authority. I also consider that the requirements of the notice require variation in the interests of both clarity and brevity, and that I am also able to do this without injustice to either party.
4. The power to correct or vary the notice on appeal under section 176 of the 1990 Act rests wholly with the Welsh Ministers, but in this case they have transferred that power to me and not to the Planning Inspectorate as such. Further, neither the NPA on their own, nor in conjunction with the Appellant, are able to correct or vary the notice. Consequently, whilst I have had regard to the Authority's suggested amendment of the notice, nevertheless the notice with which I am dealing is the one issued by them on 23/07/13. If they wished themselves to alter the notice it would have been necessary for them to withdraw the present notice and to issue an amended version.

#### **The notice land and surrounding area**

5. The notice land is a level, grassed field with an access from the public highway in its south-east corner. The caravan is on the right of this access and the metal container on the left. I saw that the caravan, which is fitted with furniture throughout, contains a living area, a kitchen/dining area with cooking facilities, 2 bedrooms, together with a shower, hand basin and toilet. It is connected to electricity, water and foul drainage.
6. The metal container is divided internally into 2 parts. At the time of my visit the eastern part was being used partly as a workshop and partly for the rearing of young birds under a heat lamp. The western part was also being used largely for the rearing of larger chickens, though there also the remains of former showers and a toilet. It has a sloping solar heating device on its flat roof.

## Main Issue

7. The appeal has been made only on **ground (f)**, namely, that the steps required by the notice are excessive and lesser steps would overcome the NPA's objections. The Appellant's main concern is that compliance with the notice should not prohibit the use of the land as a camp site under Class B, Part 4, Schedule 2 of *The Town and Country Planning (General Permitted Development) Order 1995*. Class B permits the use of any land for any purpose for not more than 28 days in total in any calendar year, and also allows the provision on the land of any moveable structure for the purposes of the permitted use. Class A of Part 5 refers specifically to caravan sites but as the Appellant does not rely on this Class, I have confined my consideration to the Class B, Part 4 permitted temporary use as a camp site.
8. He also seems concerned that the Secretary of State should vary the notice to ensure that the siting of the caravan and container in conjunction with the use of the land for agriculture – which in his view would not constitute development - is not prohibited. Leaving aside that it is Welsh Ministers rather than the Secretary of State for Wales, or any other Secretary of State, who have appointed me to determine this appeal, I have therefore determined this appeal wholly on the basis of the provisions of section 174(2)(f) of the 1990 Act as amended.
9. **The main issue** in this case therefore is whether the requirements of the notice are excessive and whether any lesser steps would remedy the breach of planning control which the Appellant concedes has occurred in relation to the residential use of the caravan and also the existence of the toilet/shower facility in the metal container.

## Reasons

10. The notice is directed only against the use of the caravan for residential purposes. There is little or no evidence, and none which is persuasive, that the caravan has been used for agricultural purposes in recent times, for example, as a rest room for agricultural workers on this field, for the keeping of animals, or for the storage of fodder. On the other hand there is substantial evidence, including that by the Appellant in his LDC appeal earlier this year, that the caravan has been used for residential purposes from time to time over the last 10 years, though the Inspector in that appeal concluded that this was not for a continuous period sufficient to justify the grant of an LDC. There is also some evidence that this caravan has been used as ancillary living accommodation to that in the Appellant's nearby house at Erw Lon, and also as holiday accommodation.
11. Even disregarding the last 2 forms of occupation, it is clear to me on the balance of probabilities that, as a matter of fact and degree, the caravan has been much used for residential purposes and that this constitutes a breach of planning control. I conclude, therefore, that the cessation of the residential use of the land - requirement (i) - and the removal of the caravan from it – requirement (iii) - are in substance reasonable and justified requirements of the notice.
12. In relation to the metal container on the land, the notice also requires its removal – requirement (iv) - but at the same time requirement (ii) specifies that the use of the land as a camp site should cease, other than on the 28 days a calendar year permitted by Class B, Part 4, Schedule 2 of the *Town and Country Planning (General Permitted Development) Order 1995* [GDPO]. However, in my view it would be sufficient to require the removal of the toilet/shower facility from the container, thereby removing the permanent camp site use but leaving the container to be used wholly for

agricultural purposes. Because of the substantial weight and solid form of construction of this metal container, and the length of time that it has been on the land, I consider that, as a matter of fact and degree, it is operational development.

13. I consider, therefore, that since it is not a moveable structure, it was a breach of planning control to use it for any period in connection with the 28 days a year permitted development camp site. Accordingly, it follows that its future use in connection with such use would also be in breach of Class B of Part 4.
14. The onus of proof in this enforcement appeal rests with the Appellant in relation to any present agricultural use of the container, as distinct from any historic use which has now been lost, or any future lawful use which might be possible. However, on the balance of the evidence I am persuaded that it has a lawful agricultural use and that to require its removal would thus be excessive. The appeal therefore succeeds to this extent I have therefore varied the requirements of the notice accordingly but, even so, the notice as corrected and varied is still upheld. I have not though included a requirement that the solar heating device on the roof of the container should be removed as nowhere is this specifically suggested in the notice issued by the NPA.
15. In respect of the permitted development use of the site for a camp site for no more than 28 days a year, this is not prohibited by the continuing application notice to the land. However, only moveable structures may be brought onto the land for the purpose of that permitted use. In any case, it will be open to the NPA to issue a new notice alleging either non-compliance with the time limitation provisions of Class B, Part 4 of the GDPO if non-compliance emerged, or the bringing onto the land of any non-moveable structure for the purposes of the permitted camp site use.

### **Formal Decision**

16. I direct that the enforcement notice be corrected by the deletion of the 2 allegations and the substitution of the following:

*The material change of use of the land to a mixture of agriculture, the siting of a residential caravan, and the use of a metal container for camp site purposes, both structures marked A and B respectively on the plan attached to the notice.*

17. I also direct that the notice be varied by the deletion of the requirements and the substitution of the following:
  1. *Cease the use of the land for the siting of a residential caravan, and remove the caravan from the land.*
  2. *Cease the use of the metal container for the provision of shower and toilet facilities for camp site purposes, and remove those facilities from the land.*
  3. *Restore the site and surroundings of the caravan to a condition suitable for agriculture.*
18. Subject to the above correction and variation I hereby dismiss the appeal and uphold the enforcement notice.

*Ian Osborne*

Inspector