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

Other Matters

Bettws Newydd, Newport

Purpose of Report

To advise members of a deviation from the agreed landscaping scheme in relation to Bettws Newydd, Newport, required to be implemented in accordance with the agreed scheme under condition 2 of planning permission NP/10/033 and to seek members endorsement to taking no further action with regard to this deviation. This matter has been brought to members at the discretion of the Head of Development Management in view of the complex history of the site.

Introduction/Background

Planning permission was granted on appeal for the retention and completion of a dwelling at Bettws Newydd, Newport and to quash the enforcement notice in respect of the same on the 10th December 2010. In allowing the appeal, conditions were imposed on the permission, with condition 2 requiring the implementation of the approved landscaping scheme to be carried out in the first planting and seeding season following the occupation of the building or completion of the dwelling, whichever was the sooner. Condition 3 required a Landscape Management Plan for the approved landscaping scheme to be submitted to and approved by the Authority within 3 months of the permission and for the Management Plan to be implemented thereafter in accordance with the approved schedule.

The Landscape Management Plan was submitted to the Authority on the 2nd March 2011 and was approved on the 9th March 2011. Works to implement the approved landscaping were subsequently carried out and the site was inspected on the 7th August 2012 when spot checks of the earth banking/bunding were carried out with regard to their respective heights and compliance with the approved plans.

It was evident from that visit that there were some deviations within the heights of the bunding on the eastern side of the site. The applicant’s landscape architect was subsequently informed and following his own survey being carried out it was agreed that there were some deviations in the height of the eastern bund with the height being lower than approved within a range along the bund of 225mm to 750mm. Planting has been carried out on and around the bunding in accordance with the approved scheme with a significant amount of woodland mix planting, hedgerow planting and standard trees including maple, birch, and wild cherry. With the exception of the height of the bunding, the scheme has been carried out in accordance with the approved landscaping scheme. Your
landscape advisor is of the view that the planting has been carried out to a professional level.

In view of the discrepancy the applicant’s landscape architect has carried out an appraisal of the “as built” bunds and assessed the impact of these on the overall development and its wider impact in the landscape. He has also sought to address the discrepancy in the height through the addition of mulch each year which is anticipated will take the height up by some further 300mm to further reduce the discrepancy between the as built and approved dimensions.

The above appraisal was sent to Pembrokeshire County Council’s (PCC) Landscape Officer, (who also provided evidence on this case at the appeal Inquiry on behalf the Authority) for an independent view of the deviations from the approved landscaping plan. The report by the applicant’s landscape architect is attached to this report at Appendix A with an attached plan identifying the locations of the levels taken, and the response from PCC’s landscape officer is attached at Appendix B.

**Relevant Guidance and Policy**

Where breaches of planning control are identified it is open to the Authority to invite an application to regularise the matter or to take formal enforcement action; in this case in the form of either a Breach of Condition Notice or an Enforcement Notice. However, regard should be had to the relevant guidance and policy on taking formal action and which also encourages negotiation to a solution prior to taking a more formal route of action.

Government advice with regard to the enforcement of planning control can be found in Planning Policy Wales (Edition 5) Chapter 3, and Technical Advice Note (Wales) 9 – Enforcement of Planning Control. This states that “enforcement action should be commensurate with the breach of planning control to which it relates; it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to public amenity.”

In addition to this Government Guidance, consideration needs to be given to the adopted planning policies contained within the Pembrokeshire Coast National Park Local Development Plan 2010-2021. The most relevant policies to whether enforcement action should be taken in this case are:

1 – National Park Purposes and Duty
8 – Special Qualities
15 – Conservation of the Pembrokeshire Coast National Park
29 – Sustainable Design
30 – Amenity

**Officers Appraisal**

The main issue to be considered in this case is whether the deviation in the height of the eastern bund results in a significant loss of screening to this development, resulting in an unacceptable visual impact in the National Park landscape sufficient to warrant the taking of formal enforcement action.
In considering the landscaping scheme at the appeal, the Inspector stated,

"It [the dwelling] is on an elevated site but when completed the earthworks and landscaping would achieve the original concept of a two storey building sitting above a largely hidden lower ground floor level. The mounding and planting proposed along the eastern boundary would link the hedgebanks and existing woodland to soften its appearance and is intended to reduce the scale of the house in distant views across the estuary from the north and east.....Clearly the fall back position cannot be ignored [the implementation of the 2006 permission for a house] and I consider that the visual impact of the proposed completed development could be mitigated by the proposed landscaping scheme which would have the effect of reducing the existing scale and bulk of the building, particularly in views from the east and north”.

The conclusions drawn by the Inspector therefore clearly identified the importance of the screening to the development and to integrating it into the wider landscape, in particular with regard to views from the north and east. The eastern bund, which provides the primary screening for views from the north and east, as built is lower than approved within the range of 225mm – 750mm with the greatest discrepancy being at the most northern point of the eastern bund.

The assessment done by the applicant’s landscape architect and endorsed by your own Landscape advisor highlights that the earth banks should not be considered in isolation but in combination with the planting on them. In that respect, it is concluded that the relatively minor differences in the earth bank levels will have no bearing on the overall mitigation effect of screening of the building through a combination of earthworks and foliage at maturity as it is the climatic conditions that influence the eventual canopy height of vegetation rather than the original ground level. Furthermore the measures needing to be taken to achieve the higher banking would also be subject to settlement over time and would be counterproductive to the longevity of the planting scheme and also in terms of time delays in achieving the establishment of the screening measures which have progressed well since their planting out.

The applicant’s landscape architect has also offered to provide mulching to raise the levels of the bunding. Your landscape advisor considers that this offers only limited benefits due to the short term nature of mulch, the fact that material blows away and the variances in depth that occur from mulch over time. In addition, it will not provide much additional screening following a further season’s growth. As such it is not considered that the mulching is essential in this instance, and would have limited benefits to the overall screening and landscaping.

In view of the above, it is not considered that the reduced bund heights as built cause any significant loss of screening to this development and as such does not result in any adverse impact in the wider landscape sufficient to require the scheme to be altered to accord with the approved landscaping plan. As such, it is not considered expedient to take enforcement action in this instance.
**Recommendation**

That no further action be taken in respect of the deviation in the heights of the eastern bunding.
Vicki Hirst

From: Staden, Richard [Richard.Staden@pembrokeshire.gov.uk]
Sent: 18 December 2012 16:40
To: Vicki Hirst
Subject: Bettws Newydd Landscape Scheme

Vicki

Further to your letter of 13th November 2012 asking for my inputs:

I would be grateful for your independent assessment of whether you consider the deviation on site from the plans to be significant in terms of the visual impact and screening of this development and whether you concur or not with the findings of the appraisal by Soltys Brewster Consulting. Your views on the offer to increase the heights through adding mulch are also sought with regard to the above considerations.

With concern for your need for a rapid response I studied the report submitted by Soltys Brewster 'Appraisal of 'As-Built' banks on site' dated Sept 2012 (the report) and provided a response by email dated 26th November 2012. You felt however that a site visit was required to authenticate the observations and conclusions.

I visited the site today and also went to each of the four viewpoints discussed in the report. Having looked at the views from the 'human eye' perspective, and then the 300mm zoomed perspective provided in the report I found the conclusions and recommendations that Solty Brewster have drawn in paragraph 4 to be reasonable and sensible and that a return to mound enhancement and replanting would be counter productive. I do not consider the deviation from the originally specified height to lower as-built levels to make a significant difference to the impact of the scheme.

Via some operatives on site I obtained consent from Mr Nicholas to look at the planting and mounding beside the house. Although I did not have the detail landscape drawings to hand it appears that the appeal scheme seems to have been implemented fully and to a professional level. I did not look at the planting in detail but noted that most of it seems to be establishing with varied initial growth rates; some appears to have struggled in the first growing season however. It is fairly normal for plants to struggle in their first growing season and for significant growth to come in subsequent years.

A mulch layer of approximately 25 to 50mm is in place. This is difficult to measure accurately owing to the coarse nature of the material, and it's thickness easily varies on sites exposed to wind and other factors. The mounding has very steep sides and a relatively narrow crest. In their accompanying email of 29th October Soltys Brewster propose to supplement the ridge height by 300mm by use of a coarse bark mulch material. I consider this a positive gesture by the developer which will go some way towards appeasing local concerns of initial visual impact. This is likely only to be effective during the winter period when the plants are devoid of foliage; from spring to autumn there is unlikely to be any gain after next season's growth. It might therefore be difficult to achieve the effects desired if dry weather conditions are awaited prior to installation, as suggested by Soltys Brewster. I should also like to point out that over the course of a year the mulch levels are likely to drop off as material is blown away and/or settles. If you opt to accept the proposal of additional mulch I think you should be aware of the potential variances that may arise in depth over time and thus the proposal to annually top-up to restore depths would need to accompany this option, for a year at least. Personally I consider the addition of a 300mm mulch layer will add a
only a small element of visual mitigation to the scheme, and for the current winter season only. In subseque nt years I do not consider it justified.

I noted that the adjoining hedges to the north east have recently been trimmed as part of their routine maintenance. If the local landowner could be persuaded to decist from this for a number of years this would help with the visaul screening and provide some shelter to the planting.

I hope the above observations will assist you in coming to your conclusions about the landscaping.

Richard Staden
Landscape Officer
Conservation Team
Pembrokeshire County Council
01437 764551

This document should only be read by those persons to whom it is addressed, and be used by them for its intended purpose; and must not otherwise be reproduced, copied, disseminated, disclosed, modified, distributed, published or actioned. If you have received this email in error, please notify us immediately by telephone on 01437 764551 and delete it from your computer immediately. This email address must not be passed on to any third party nor be used for any other purpose.

Pembrokeshire County Council Website - http://www.pembrokeshire.gov.uk

Please Note: Incoming and outgoing e-mail messages are routinely monitored for compliance with our IT Security, and Email/Internet Policy.

This signature also confirms that this email message has been swept for the presence of computer viruses and malicious code.

Gwefan Cyngor Sir Penfro - http://www.pembrokeshire.gov.uk

Sylwer: Mae negeseuon e-bost sy’n cael eu hanfon a’u derbyn yn cael eu monitro’n rheolaidd ar gyfer cydymffurfio â’n Dlogelwch TG, a’n Polisi E-bost/Rhyngwyr.

Mae’r llonod hwn hefyd yn cadarnhau bod y neges e-bost hon wedi cael ei harchwilio am fodaeth flysau cyfrifiadurol o chod maleisus.
BETTWS NEWYDD, NEWPORT
PEMBROKE SHIRE

APPRAISAL OF ‘AS BUILT’ EARTH BANKS ON SITE

September 2012
MR N. NICHOLAS

BETTWS NEWYDD, NEWPORT PEMBROKESHIRE

APPRAISAL OF ‘AS BUILT’ EARTH BANKS ON SITE

Document Ref: 0937604 – R01
1. Introduction

The earthworks and garden landscape have been designed and implemented to enable direct access from the split lower and upper ground floor levels of the house into adjoining garden areas and give the new house and its external spaces a degree of enclosure, shelter and protection.

Views of Bettws Newydd from the north and northeast from Newport Sands, Newport Golf course and the Pembrokeshire Coast Path have been raised during the planning process as locations from where visual impact needs to be addressed. With these views in mind, the raised planted earth bank that extends northwest of the north facing elevation has been designed to reduce the scale of the eastern rendered elevation of the house from three storey to two storey and to provide a degree of enclosure to the northern elevation. The designed benefits of the planted earth bank are anticipated to be fully realised 10 years following completion of earthworks and planting.

In the Appeal Decision, the Inspector concluded that ‘the proposed landscaping scheme...would have the effect of reducing the existing scale and bulk of the building, particularly in views from the east and north’. (paragraph 42, page 10).

The approved plans of relevance to earthworks and landscape are Soltys Brewster Consulting drawings: 0937601/PL/GA/004 Rev C - Earthworks Plan, and 0937601/PL/GA/005 Rev B Landscape Plan. These works commenced in November 2011 and were completed in July 2012. Levels were taken at stages during the construction of earthworks to ensure compliance with the approved levels.

2. The ‘As Built’ Earth Banks

On Tuesday 7th August 2012 the National Park Authority enforcement officer undertook a level survey of the as built planted earth banks. Whilst the smaller bank on the western side was considered to be satisfactory, the larger earth bank to the northeast of the house was generally considered to be at a lower level than that shown on the approved drawings. The difference in the levels was considered to range from minus 750mm to minus 235mm based on a total of 5 survey points.

These levels were subsequently checked by the applicant (using the same agreed temporary benchmark and same 5 survey points) and found to be within + or - 100mm of the NPAs survey, accepting a degree of error in the precise position of the survey staff.

Surveyed level differences recorded were:

<table>
<thead>
<tr>
<th>Survey Point¹</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approx. distance from dwelling:</td>
<td>16.0m</td>
<td>12.0m</td>
<td>3.5m</td>
<td>5.5m</td>
<td>5.0m</td>
</tr>
<tr>
<td>NPA</td>
<td>-750mm</td>
<td>-510mm</td>
<td>-235mm</td>
<td>-258mm</td>
<td>-349mm</td>
</tr>
<tr>
<td>Applicant</td>
<td>-665mm</td>
<td>-470mm</td>
<td>-225mm</td>
<td>-262mm</td>
<td>-322mm</td>
</tr>
</tbody>
</table>

¹ Survey Points B to F are as marked (in red) on PCNPA sketch marked up plan received 9th August [email communication Dai Griffiths – Jeff Davies].

Mr N. Nicholas
Bettws Newydd, Newport Pembrokeshire

0937604 R01 20.09.12
The discrepancy in levels between approved and as built earth banks appears to have arisen due to a number of compounding factors:

Abnormally heavy rain during the spring and summer period of 2012 appears to have led to excessive settlement of the earth banks causing a drop in crest level. The heavy rain also delayed the planting contract and required the use of the northeast earth bank as a main and relatively dry access route into the garden. Consequently, further compaction and settlement of topsoil took place along the mound crest leading to an additional drop in levels.

In discussions with the landscape contractor, it is also clear that in planting the larger container grown stock, topsoil excavated from planting pits may have been spread down the sides of the earth banks further reducing ridge levels of the earth banks. This would correspond with the largest discrepancy in levels since survey point B (where levels appear to be at some 665 – 750mm lower than shown on the approved drawing) is located within the main group of container grown pines (*Pinus nigra*), requiring substantial planting pit excavation.

3. **Visual Significance of the Reduced Levels**

In assessing whether the ‘as built’ reduced levels of the northeast earth bank constitute a significant material change to the approved earthworks, several factors need to be considered, and tested, namely:

i. Is the design intent of the earthworks achieved by the ‘as built’ scheme?

ii. Does the ‘as built’ earthworks scheme achieve the desired mitigation effect of reducing the existing scale and bulk of the building, particularly in views from the east and the north?

iii. Is there any significant difference in visual amenity experienced from the accepted sensitive viewpoint locations to the north and northeast from Newport Sands and environs?

i. *Is the design intent of the earthworks achieved by the ‘as built’ scheme?*

The original design intent was to enable direct access from the split lower and upper ground floor levels of the house into adjoining garden areas and give the new house and its external spaces a degree of enclosure, shelter and protection. In achieving this intent, the earthworks would also reduce the scale of the eastern rendered elevation of the house from three-storey to two-storey and to provide a degree of enclosure to the northern elevation.

From within the garden area, the ‘as built’ scheme successfully provides the linkage in levels between the split floor levels of the dwelling. The upper garage and ground floor house levels relate to the entrance gate at the upper level, with the installed earthworks to either side of the house grading down to the lower ground floor house and lower garden levels. When viewed from lower garden, the house appears set down into the landscape (see photo 01).

Photo 01 also shows how the earth banks also provide shelter and protection to the terrace and lawn area of the lower garden. Currently immature planting will enhance and soften this enclosure as it establishes and matures.
In conclusion, the original design intent has been fully realised.

ii. Does the 'as built' earthworks scheme achieve the desired mitigation effect of reducing the existing scale and bulk of the building, particularly in views from the east and the north?

and

iii. Is there any significant difference in visual amenity experienced from the accepted sensitive viewpoint locations to the north and northeast from Newport Sands and environs?

To determine whether the 'as built' earth banks are fulfilling their purpose in helping to assimilate the dwelling into the existing landscape and reduce the scale of the house in distant views across the estuary from the north and east, a visual appraisal of the 'as built' planted earthworks has been undertaken. This involved viewing Bettws Newydd 'as built' from selected viewpoint locations to the north and northeast, across the estuary from Newport Sands, Newport Golf Course and the Coastal Path.

Viewpoints used were as agreed and used within previous planning submissions. For ease of comparison and consistency, the viewpoint numbering corresponds to the viewpoint numbering used in the Proof of Evidence figures provided by Gary Soltys in his evidence to Inquiry (NP/10/033 & ENF/08/10) dated September 2010.

<table>
<thead>
<tr>
<th>Viewpoint number</th>
<th>Location</th>
<th>Grid Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Newport Sands</td>
<td>204975, 240071</td>
</tr>
<tr>
<td>5</td>
<td>The Bennet Dunes</td>
<td>205390, 240419</td>
</tr>
<tr>
<td>7</td>
<td>Pembrokeshire Coast Path above beach car park</td>
<td>205439, 240830</td>
</tr>
<tr>
<td>10</td>
<td>Track outside Swn-y-Wylan</td>
<td>205788, 240160</td>
</tr>
</tbody>
</table>

The attached photographs illustrate each of the above viewpoints using a 50mm equivalent focal length lens in each case (considered to be equivalent to human eye vision). For assessment and analytical purposes only, telephoto zoom lens photography to 300mm equivalent focal length has also been used to determine in close up, the 'as built' appearance, as well as the 'as approved' appearance for viewpoints 5 and 10. A further illustrative photomontage shows the predicted appearance of established planting after 10 – 15 years of growth (for both the 'as built' and the 'as approved' schemes).

In assessing the differences between 'as built' and 'as approved' schemes, it is also important to bare in mind that the landscape design is a combination of earthworks and planting elements, and neither should be considered in isolation from the other. The height of screening achieved is a combination of both earthworks and established planted vegetation. The relatively exposed conditions at the Parrog means that irrespective of slight differences in the finished levels of earth banks, the ultimate canopy heights of planting will be limited to a given envelope by exposure and salt laden winds. Therefore, the only potential benefit of taller
earth banks would be in the short term to provide a greater degree of physical screening while planting establishes.

A short appraisal of each viewpoint follows:

Viewpoint 4 – from Newport Sands
The house appears as 2-storey within the view. Scrub vegetation in the foreground but outside the garden provides effective screening of the earth banks and garden itself, although new planting on the eastern earth bank is just discernable and once established will successfully contribute to the screening effect of reducing the existing scale and bulk of the building in the view. Construction of the eastern earth bank ‘as approved’ would make no difference to the current view.

In conclusion, there is currently no significant difference in visual amenity experienced in views from Newport Sands between the ‘as built’ and ‘as approved’ eastern earth bank.

Viewpoint 5 – from The Bennet Dunes
The upper two storeys and part of the lower ground storey are currently visible. The recently planted crest of the eastern earth bank is just discernable beyond the eastern boundary garden hedge (Figure 03). This is more apparent in the zoomed in photograph (Figure 04). Figure 05 shows the difference in crest height between ‘as built’ (red line), and ‘as approved’ (yellow line), as a zoomed in image. These lines have been scaled from known heights of planted trees on site and are therefore a good indication of the differences between ‘as built’ and ‘as approved’ earth banks. Figure 06 is an illustrative photomontage to show the ‘as approved’ scheme. In the ‘as approved’ scheme view, the upper two storeys and part of the lower ground storey would again be currently visible. Consequently, construction of the eastern earth bank ‘as approved’ would make no difference to the current view.

Figure 07 is an illustrative photomontage of the zoomed in view with planting established after 10 – 15 years of growth. This shows how the designed concept of a 2-storey building sitting above a largely hidden lower ground floor level would be achieved. This view would be the same for both the ‘as built’ and ‘as approved’ schemes.

In conclusion, there is currently no significant difference in visual amenity experienced in views from The Bennet Dunes between the ‘as built’ and ‘as approved’ eastern earth bank.

Viewpoint 7 – from Pembrokeshire Coast Path above beach car park
The upper two storeys and part of the lower ground storey are currently visible. The recently planted crest of the eastern earth bank is barely discernable. Once established, new planting on the eastern earth bank will successfully contribute to the screening effect of reducing the existing scale and bulk of the building in the view. Construction of the eastern earth bank ‘as approved’ would make no difference to the current view.

In conclusion, there is currently no significant difference in visual amenity experienced in views across Newport Bay from the Pembrokeshire Coast Path between the ‘as built’ and ‘as approved’ eastern earth bank.
Viewpoint 10 — from the track outside Swn-y-Wylan

The upper two storeys of the house are visible, but vegetation outside the garden largely screens the lower ground storey and the eastern earth bank from view. In the zoomed in photograph (Figure 10), the recently planted crest of the eastern earth bank is just discernable beyond the eastern boundary garden hedge.

Figure 11 shows the difference in crest height between ‘as built’ (red line), and ‘as approved’ (yellow line), as a zoomed in image. These lines have been scaled from known heights of planted trees on site and are therefore a good indication of the differences between ‘as built’ and ‘as approved’ earth banks. Figure 12 is an illustrative photomontage to show the ‘as approved’ scheme. In the ‘as approved’ scheme view, the upper two storeys and a small part of the lower ground storey would again be visible in the current view. Consequently, construction of the eastern earth bank ‘as approved’ would make no difference to the current view.

Figure 13 is an illustrative photomontage of the zoomed in view with planting established after 10 – 15 years of growth. This shows how the designed concept of a 2-storey building sitting above a largely hidden lower ground floor level would be achieved. This view would be the same for both the ‘as built’ and ‘as approved’ schemes.

In conclusion, there is currently no significant difference in visual amenity experienced in views from the track outside Swn-y-Wylan between the ‘as built’ and ‘as approved’ eastern earth bank.

4. Conclusions and Recommendation

On coastal sites such as Bettws Newydd, salt laden winds and exposure place defined microclimatic limits on vegetation growth, according to the degree of local shelter and protection. Irrespective of the underlying landform and levels, the upper extent of tree canopy growth will be determined by local climatic factors. The relatively minor differences in earth bank level between the ‘as built’ and ‘as approved’ schemes will have no bearing on the overall mitigation effect of partial screening of the building through a combination of earthworks and foliage at maturity.

The acceptability of the ‘as built’ scheme in terms of its effects on visual amenity will be informed by whether it causes measurable harm to the environment or to the public interest. The appraisal undertaken above provides the evidence to show that there would be no significant difference in visual amenity experienced in what are considered to be the potentially sensitive view locations to the north and northeast, between the ‘as built’ and ‘as approved’ schemes. This is the case for both the current view (year 1 of planting), and after 10 – 15 years of plant growth.

Consequently, the differences between the ‘as built’ scheme and the ‘as approved’ scheme could be considered to be of no material significance since the ‘as built’ scheme successfully achieves the original design intent and achieves the desired mitigation effect of reducing the existing scale and bulk of the building, particularly in views from the east and the north. Furthermore, there is no significant difference in visual amenity experienced from the accepted sensitive viewpoint locations to the north and northeast from Newport Sands and environs.

To raise the levels of the constructed earth banks to those of the ‘as approved’ levels would require the removal of plant stock along the crest of the eastern earth bank ridge which would be
counterproductive given its successful establishment and growth this summer (largely due to the mild wet weather). This disturbance of trees and shrubs is likely to slow down the progress of establishing vegetation on the earth bank, leading to a delay in achieving the screening effect of tree and shrub foliage. There would also be practical problems in achieving this work within the extent of the garden area (practical need to store plant material in good health while earthworks are undertaken). We would strongly advise against this approach.