

DEVELOPMENT MANAGEMENT COMMITTEE

19th February 2014

Present: Mrs G Hayward (Chair)

Mr A Archer, Mr D Ellis, Councillor P Harries, Councillor S Hudson, Councillor M James, Councillor L Jenkins, Councillor R Kilmister, Councillor A Lee, Councillor RM Lewis, Councillor PJ Morgan, Councillor R Owens, Councillor D Rees, Mr AE Sangster and Councillor M Williams.

[Ms C Gwyther arrived during consideration of item 5, the report of the Solicitor]

[Llanion Park, Pembroke Dock 10.00am – 12.45pm and 1.10pm – 2.10pm]

1. The Chairman began by congratulating the Development Management Team as the Authority had been placed fourth in this month's table of planning applications determined within 8 weeks.
2. **Apologies**
Apologies for absence were received from Councillor O James and Mrs M Thomas.
3. **Disclosures of interest**
The following Member(s)/Officer(s) disclosed an interest in the application(s) and/or matter(s) referred to below:

Application and Reference	Member(s)/Officer(s)	Action taken
<i>Minute 8(c)below</i> NP/13/0519 The Old School, The Ridgeway, Saundersfoot	Councillor R Kilmister	Remained in the meeting and took a full part in discussions and voting on the application.



<i>Minute 8(e)below</i> NP/14/0029 Chapel Farm Castlemartin	Councillor P Harries Councillor S Hudson Councillor M James Councillor L Jenkins Councillor R Kilmister Councillor A Lee Councillor RM Lewis Councillor P Morgan Councillor R Owens Councillor D Rees Councillor M Williams	Remained in the meeting and took a full part in discussions and voting on the application.
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4. Minutes

It was reported that due to printing problems, the minutes of the meeting held on 22nd January would be presented to the next meeting of the Committee for confirmation.

NOTED.

5. Right to speak at Committee

The Chairman informed Members that due notification (prior to the stipulated deadline) had been received from interested parties who wished to exercise their right to speak at the meeting that day. In accordance with the decision of the National Park Authority of 7th December 2011, speakers would have 5 minutes to speak (*the interested parties are listed below against their respective application(s), and in the order in which they addressed the Committee*):

Reference number	Proposal	Speaker
NP/13/0480 <i>Minute 8(b) refers</i>	Discharge a Section 106 Agreement requiring access/parking of vehicles – Fig Tree Cottage, Wogan Lane, Saundersfoot	Mrs P Mortimer, Objector Mr Nick Willis, Agent
NP/13/0519 <i>Minute 8(c) refers</i>	Change of use of disused school building to micro-brewery/visitor centre including provision of stainless steel flue on north elevation, new door opening on west elevation and associated car staff and visitor parking - The Old School, The Ridgeway, Saundersfoot	Mrs M Bird, Objector Cllr Phil Baker, Supporter



NP/13/0576 <i>Minute 8(d)</i> <i>refers</i>	Demolish existing single storey double garage, removal of three existing caravans together with horse shelter. Extend residential curtilage to provide replacement one and a half storey double garage, workshop and office building. The provision of a new stable block, machine store and concrete pad together with associated landscaping - Pegity Cot, St Davids	Mr Clive Hays, applicant
NP/13/0590 <i>Minute 10</i> <i>Refers</i>	Modification of Planning Obligation – Waters Edge, South Beach, Tenby	Mr Mike Southall, applicant

6. Planning Applications received since the last meeting

The Head of Development Management reminded Members of the protocol that had been introduced whereby “new” applications would now be reported to Committee for information. These “new” applications were ones that had been received since preparation of the previous agenda and were either to be dealt with under Officers’ delegated powers or at a subsequent meeting of the Development Management Committee. The details of these 53 applications were, therefore, reported for information and Members were informed that 10 were deemed to be invalid and 1 had been cancelled.

NOTED

7. Members’ Duties in Determining Applications

The Solicitor’s report summarised the role of the Committee within the planning system and stated that planning decisions had to be made in accordance with statutory provisions and the Local Development Plan unless material considerations indicated otherwise. It stressed that non-material considerations had to be disregarded when taking planning decisions and stated that personal circumstances were only very rarely material to planning decisions. Provided members applied the Planning Acts lawfully and in a fair and impartial manner they would also comply with the Authority’s duties under the Human Rights Act 1998 insofar as it applies to planning decisions. It was also important that Members applied the guidance contained in the Authority’s Planning Code of Good Practice while carrying out their statutory duties.



NOTED

8. Report of Planning Applications

The Committee considered the detailed reports of the Head of Development Management, together with any updates reported verbally on the day and recorded below. The Committee determined the applications as follows (*the decision reached on each follows the details of the relevant application*):

- (a) REFERENCE: NP/13/0434
APPLICANT: St Ishmaels Garden Centre
PROPOSAL: Demolition of existing redundant glass house & associated buildings, replacement of existing garden centre buildings, plus development of 18 timber clad built lodges for holiday purposes in a landscaped setting.
LOCATION: St Ishmaels Nursery. St Ishmaels

The Chairman received confirmation from Members that they had received and read an e-mail from St Ishmaels Community Council prior to the meeting. The draft minutes of the previous meeting relating to this application were circulated, and Members were given a few minutes to read them.

Members were reminded that at the meeting of the Committee in January 2014 this application had been considered and Members had resolved to grant permission. As the decision had been contrary to the officer's recommendation and was a significant departure from the Authority's adopted policy, the decision was subject to a 'cooling off period' and was accordingly brought before the Committee again for confirmation of that decision.

The application proposed the demolition of existing redundant glass houses and associated buildings, replacement of existing garden centre buildings, plus development of 18 timber clad built lodges for holiday purposes in a landscaped setting. Officers advised that while there was no objection to the replacement of the garden centre buildings, the development of holiday lodges was contrary to the Authority's policy on the erection of new holiday accommodation in the National Park, and the proposed chalets by virtue of their siting, location and design, would unacceptably change the character and appearance of the land within the National Park which would be harmful to its special qualities.

The applicant had put forward material considerations to suggest that this was a unique site adjacent to an existing centre which would not set a precedent, would bring employment benefits and would result in better



quality tourist accommodation in this particular area of Pembrokeshire. In addition the Authority was in receipt of a petition from residents of St Ishmaels and further afield with support for the development. However officers did not consider that the material considerations put forward were sufficient to outweigh the harm or policy position and the development was recommended for refusal.

The Head of Development Management reiterated at the meeting that the granting of this application represented a risk to the Authority that the principles of the development plan in respect of the location of new self-catering accommodation in the countryside would be compromised and might set an undesirable precedent for similar applications in the future, the combined effect of which could undermine the strategy of the development plan and cause an adverse effect on the special qualities of the National Park. Members were therefore requested to provide very clear, evidence based reasons for any approval of this application.

In the event of permission being granted, officers had provided a list of suggested conditions to be imposed. A draft list had been provided to the applicant who had requested a number of amendments: Draft condition 13 be amended to allow opening hours of the garden centre between 8.30am and 6.00pm. The details of the proposed sewage treatment works be delineated within the red line of the application site. The informative could then be deleted, and a further condition imposed to require details of the plant and its operation to be approved prior to occupation of the lodges. A scaled plan would also be required. Finally draft condition 20 be amended to allow for 12 (rather than 5) of the lodges to be occupied before the garden centre buildings were completed. Officers had no objection to these amendments, however it was reiterated that they remained of the view that the application should be refused.

A number of Members reiterated views that they had expressed at the previous meeting, and approval of the application was moved and seconded. The reasons given were that the material conditions put forward by the applicant were of sufficient weight to outweigh any harm. In particular the proposal would secure and increase employment in a rural area, improve the tourism product in the Dale Peninsula and would also result in the removal of decaying buildings. Members also considered that each application was considered on its merits and therefore no precedent would be set.

A recorded vote was then taken on the motion that the application be approved with conditions as amended, with the result as follows:
For – Councillor P Harries, Councillor ST Hudson, Councillor M James, Councillor L Jenkins, Councillor A Lee, Councillor P Morgan, Councillor R Owens, Councillor D Rees, Mr T Sangster



Against – Mr A Archer, Mr D Ellis, Ms C Gwyther, Mrs G Hayward,
Councillor M Williams
Abstention – Councillor RM Lewis

DECISION: That the application be approved subject to conditions relating to standard time, development in accordance with plans, landscaping, tree protection, demolition of the glasshouses prior to development, external finishes and colour to be approved, external lighting scheme to be submitted, undergrounding of cables, advertisement restriction, no sale of hot take-away food, restriction on goods to be sold, accommodation to be used for holiday purposes only, defined opening times, parking and turning, contamination, storage of fuel/oil to be agreed, permeable surfaces, details of sewage treatment works and its operation to be agreed prior to occupation of the lodges, and no more than 12 lodges to be brought into use prior to completion of the garden centre.

- (b) REFERENCE: NP/13/0480
APPLICANT: Mr AJ Collins
PROPOSAL: Discharge a Section 106 Agreement requiring access/parking of vehicles
LOCATION: Fig Tree Cottage, Wogan Lane, Saundersfoot

It was reported that the application site was subject of a Section 106 agreement, which had originally been made in 1995 following the grant of outline planning permission for a single dwelling on the site. The Agreement required the access and parking for the dwelling to be provided on land to the north east flank of Wogan Lane and accessed via Frances Lane to the north of the site. The application was seeking to discharge the section 106 Agreement currently in place for the vehicular access arrangement for Fig Tree Cottage.

The officer apologised for the reference in the report to a related planning application NP/13/0448 which would be reported to a future meeting of the Committee.

Having considered the planning history for the site, the development was in accordance with the requirements of the Section 106 Agreement until 2003 when planning permission was granted for a double garage at Abingdon House on the site of the two parking spaces for Fig Tree Cottage required by the Section 106 Agreement. A condition was attached to that planning permission requiring the two parking spaces to be provided for Fig Tree Cottage to be sited opposite the garage, however the original Section 106 Agreement was not modified to show the change in the position of the parking. The garage had now been built on the site



of the parking provision required by the Section 106 Agreement and the site of the two alternative parking spaces was still available for use, albeit it was not currently being used. It was considered, therefore, that the Section 106 Agreement as originally enacted no longer served a useful purpose, as that purpose was provided for by the later condition. It was therefore recommended that the application be delegated to the Head of Development Management to discharge the Section 106 Agreement on receipt of an amended plan which clarified the extent of the land the subject of the Section 106 Agreement dated 16th May 1995.

Mrs Mortimer, an objector, was the first of two speakers. She explained that an application for outline permission on the site was first refused in 1988 and that had been upheld at appeal, the main reason was said to be the inadequate width of Wogan Lane and inadequate visibility at the junction. Turning to the 1995 agreement between Dyfed County Council and the previous owner, this referred to any dwelling house and was a legally binding covenant. When the annexe had been given permission in 1997, it was on condition that the two dwellings – Abingdon House and Fig Tree Cottage – were inextricably linked, planning approval had not been granted for a separate dwelling. In 2009 an application for a vehicular access was refused. Mrs Mortimer stated that Mr Collins continued to ignore the covenant, and the Authority had not enforced this, despite many requests. She referred to a letter from Ifor Jones in 2007 which stated that the Authority was now in a position to enforce the Agreement, however no further action was taken. Mrs Mortimer pointed out that the lane was a public footpath, and allowing this vehicular access put pedestrians at risk. Modern ambulances were too wide for the lane, which had an average width of 2.5m (not 3.5m as stated in the Section 106 Agreement). She therefore asked that the application be refused.

The second speaker was Mr Willis who was representing Mr and Mrs Collins. He pointed out that there were no objections from other neighbours and that only one person had a problem with the application. He contended that when the original application was refused due to traffic safety, the lane was being used as a short cut to the school. Due to road improvements and the provision of parking outside the school, the amount of traffic on the lane had reduced significantly. Access was being sought for one property, the residents of which were both suffering poor health, with 8 carers coming in each day. Mr Willis had spoken to his clients' solicitors who were of the opinion that prescriptive rights applied under the 1882 Act. There was no highway objection, the lane already being used by traffic. Refusing the application would impede the occupiers' quality of life.



The Monitoring Officer clarified that the Act referred to by the applicant's agent should in fact be the 1832 Prescription Act which dealt with easements and property rights.

Officers pointed out that both the Section 106 Agreement and the condition required access to the property from Frances Lane, not Wogan Lane, and therefore the application was not seeking to increase traffic on Wogan Lane. One Member stated that he did not believe that the existence of the planning condition would prevent someone driving down Wogan Lane; he was very concerned about greater use of the lane and was very surprised that the Highway Authority had not raised an objection on safety grounds. Other Members noted that this was a complex situation and suggested that it might be useful to have a site visit.

The Monitoring Officer pointed out that the 'sister' application NP/13/0448 could not be considered at the site visit, but that it would be appropriate for it to be brought before the Committee for their consideration at a future date.

DECISION: That the application be deferred for a site visit to be carried out.

[Councillor R Kilmister disclosed a personal but not prejudicial interest in the following application NP/13/0519 and therefore remained in the meeting and played a full part in the discussion and voting]

- (c) REFERENCE: NP/13/0519
APPLICANT: Mrs D Flannery, Pembrokeshire Brewing Company Ltd
PROPOSAL: Change of use of disused school building to micro-brewery/visitor centre including provision of stainless steel flue on north elevation, new door opening on west elevation and associated car staff and visitor parking
LOCATION: The Old School, The Ridgeway, Saundersfoot

The Chairman explained that a letter had been received from an objector outlining their concerns, a copy was provided for Members who were given a few minutes to read this before the application was considered.

It was reported that the application site comprised a building formerly used by Pembrokeshire County Council as a school and more latterly as a community education centre, a use which ceased in 2010. The building had been vacant since that time. The application proposed a change of use to a micro-brewery/visitor centre with a brewery and bottling plant room visible through a glazed viewing screen from a visitor centre within the building. Also proposed was a store room served by a new external door, office and staff kitchen and staff and visitor toilets all on one floor.



The proposed visitor centre, which would include a bar area, would occupy 39.6m² of the available 156m² floorspace.

In considering the application, the principle of the change of use of the building to a micro-brewery/visitor centre was acceptable and there was considered to be no harm upon the visual amenity, character or appearance of the existing building or wider amenities.

Turning to issues of neighbouring amenity and privacy, a number of objections had been received from local residents in connection with the proposal, as well as concerns raised by Saundersfoot Community Council. There were concerns that the use would harm neighbouring amenity by virtue of smell, noise and disturbance to what had been described by some objectors as a quiet and peaceful area, and these were summarised in the report. While the concerns raised were relevant, consideration also had to be given to the fall back position of the use of the building for community or school purposes. Uses which came under the D1 Use Class, which included clinic, health centre, crèche, day centre, school, art gallery, museum, library, etc could therefore take place without requiring a planning application.

The Environmental Health section of Pembrokeshire County Council had been formally consulted in view of the potential impacts on amenity and had advised that it had no objection to the development proposed, subject to conditions relating to opening hours, delivery times and agreement of a waste storage and disposal scheme prior to commencement of the development. Saundersfoot Community Council had also suggested conditions which would make the development acceptable, however its suggestion of opening hours were considered by officers to be overly restrictive and that those put forward by Environmental Health struck a more reasonable balance between allowing a business use to take place and controlling amenity in the area.

Concerns had also been raised by third parties in relation to the potential traffic generation of the use. The Highway Authority had advised that this traffic should not be a problem given that the use was equivalent or less than what could be expected if the existing permitted uses of the Old School building were to continue.

Following consideration of the policies contained within the Local Development Plan and National Planning Policy, and having regard to all material considerations, officers considered that the development proposed, subject to suitable conditions, was acceptable. Members were advised that in addition to those set out, a condition relating to the siting of waste storage facilities was also recommended. Although it was understood that the use related to the relocation of an existing business, it



would nevertheless result in the positive re-use of a vacant building within Saundersfoot and would provide employment and visitor benefits to the area. The application was therefore recommended for approval.

There were two speakers on this application, the first of whom was Mrs Bird, an objector on behalf of the Methodist Church. She stated that the application was in breach of the Authority's planning policies, particularly Policy 4, as it did not contribute to the enhancement of the village's special qualities. She stated that a micro-brewery was an industrial process and would result in noxious smells in what was a residential area adjacent to the Conservation Area. This, together with vehicular traffic issues, would have a serious adverse effect on the area and its residents. The site was felt to be an inappropriate location for an industrial process business. Mrs Bird also believed that there was insufficient parking and the access was inappropriate and would have an unacceptable impact on road safety. She pointed out that several groups used the adjacent Chapel and its car park. Between 9am and 12.30pm on a Sunday particularly it was heavily occupied and therefore there was an increased level of traffic in the area. She also stated that when residential use of the building was being discussed, the Chapel were facilitating an easement, however this did not apply to the current application, and they would not make their car park available to the proposed business. She concluded by saying that the proposed development would have an impact on the quiet enjoyment of local residents and could damage the local economy, both by affecting the value of property as well as the fumes from the flue having a deleterious effect on tourism.

The second speaker was Councillor Phil Baker who spoke that day both as a County Councillor and on behalf of the Community Council. He was pleased that the application was recommended for approval as the building had been empty for four years and had been a focus for anti-social behaviour. He believed that the proposals were sensitive but he had met with all parties to gain an understanding of the concerns and how these could be addressed. He highlighted the concerns of the Community Council with regard to opening hours and brewing times and noted that most complaints about businesses occurred when activities took place outside of normal office hours, when residents were at home. He advised that the applicant had offered to include a condenser on the outgoing flue and he asked that this be included as a condition. He concluded by saying that he welcomed the development as a tourist attraction for the village.

Members were sympathetic to a number of the concerns raised by objectors – in respect of lorry movements and that the building could be used as a pub. They also felt that requiring a condenser to be fitted was a sensible approach and would be more cost effective for the applicant than



being asked to retrofit one if complaints were received. They also asked officers to comment on the suggestions for mitigation put forward by the objector in the letter that had been circulated.

Officers advised that limited information had been provided with regard to deliveries into and out of the proposed micro-brewery, however conditions, including those recommended by Environmental Health and the Highway Authority should be adequate to control all the issues raised, particularly given the fallback position of the building being used for other D1 uses. The County Council's Licencing Committee would control the building's use as a public house. Officers advised against requiring a condenser to be fitted as this had not been requested by Environmental Health and imposition of such a condition could leave the Authority open to challenge, however Members considered that they could take account of the positive suggestion by the applicant to the Community Council and moved that this be included, together with revised opening hours of 10am until 8pm Monday to Saturday and 12pm – 6pm on Sunday, with deliveries restricted to between 10am and 6pm Mon-Sat.

DECISION: That the application be approved subject to conditions relating to the nature and extent of the use of the building and outdoor spaces to be a brewery and visitor centre only; opening hours of 10am until 8pm Monday to Saturday and 12pm – 6pm on Sunday; delivery hours to be between 10am and 6pm Monday to Saturday only and not on Sundays, Bank or Public Holidays; waste storage and disposal scheme; Deliveries to be made off Westfield Road; revised parking and turning scheme; siting of storage facilities; and condenser unit to be fitted to flue.

- (d) REFERENCE: NP/13/0576
APPLICANT: Mr & Mrs C Hays
PROPOSAL: Demolish existing single storey double garage, removal of three existing caravans together with horse shelter. Extend residential curtilage to provide replacement one and a half storey double garage, workshop and office building. The provision of a new stable block, machine store and concrete pad together with associated landscaping
LOCATION: Pegity Cot, St Davids

It was reported that Pegity Cot was a small holding of 10 acres located a short distance north west of St Davids which lay within the open countryside as defined within the Local Development Plan. The openness of the landscape, gentle coastal slopes and lack of tree cover combined to allow for extensive views.



Officers considered the proposed scheme to be unacceptable in terms of the impact on the character and amenity of the host dwelling and also the adverse visual impact on the immediate and wider landscape including the Historic Landscape of the St Davids Peninsula and the special qualities of the National Park. The proposed structures were considered to have a scale, form, mass and design which were not acceptable in this instance and would cause significant encroachment into the countryside. As such the proposal was not considered to comply with the policy of the Local Development Plan and was recommended for refusal.

The application was reported to the Committee as the views of St Davids City Council were contrary to the recommendation of officers. It was reported at the meeting that the Dyfed Archaeological Trust had now responded to the consultation and had not raised any objection to the application.

Mr Hays, the applicant, then addressed the Committee. Commenting on some of the points raised in the Officer's Report, he noted that the existing garage was only 8m x 5.5m, which was too small to accommodate modern cars, and provision of a larger garage would allow space for his disabled daughter to get in and out of the car within the building. The provision of the flat concrete area would also make it easier for her to get to the horses and to go riding. With regard to the request for extension of the curtilage to accommodate the garage, he stated that he was prepared to site the footprint of the building within the curtilage. Finally with regard to the effect of the development on the existing hedgebank and trees, these would not be affected. He concluded by saying that the existing buildings were well past their best and were in need of replacement, and the replacement of old caravans with a shed would be a gain. The buildings had been designed to fit into the landscape, with additional landscaping. Mr Hays explained that he lived and worked within the National Park, respected it and wanted to preserve it. The principle of the application was acceptable with the outstanding issues being ones of opinion only and he pointed out that St Davids City Council, and neighbouring properties supported the development as it would improve the site.

Some Members were sympathetic to the application, particularly the need for facilities to accommodate a wheelchair user. They did not think that the size and scale of the buildings were excessive and the proposals were an improvement on the current situation; approval of the application was proposed and seconded. Other Members, however disagreed, welcoming efforts to tidy up the site but agreeing that the buildings needed to be of a more modest scale, and that landscape improvements would be slow coming forward in such a windswept and sparse



landscape. Officers clarified that they would be happy to talk to the applicant about a revised application on a more modest scale, and that as long as the same 'red line' outlining the extent of the application was the same, there was unlikely to be a planning fee for a further application.

A vote was taken on a motion to approve the application subject to conditions on design, use, landscaping, etc and this was lost . A vote was then taken on the substantive motion to refuse the application, and this was won.

DECISION: That the application be refused for the following reasons: The proposed development by virtue of its scale, siting, form and design would have an unacceptable impact on the character and amenity of the immediate and wider landscape including a detrimental impact on the character of the dwelling. It would also have a detrimental impact on the character and appearance of the Historic Landscape of St Davids Peninsula. As such, the proposal is considered contrary to Policies 1 – National Park Purpose and Duty, (criteria c & d) Policy 8 – Special Qualities, (criteria a, b & d) Policy 15 – Conservation of the Pembrokeshire Coast National Park, (criterion a) Policy 29 – sustainable Design and (criteria b & d) of Policy 30 – Amenity.

[All Members of Pembrokeshire County Council disclosed a personal but not prejudicial interest in the following application NP/14/0029 as the farm was owned by Pembrokeshire County Council. However they remained in the meeting and played a full part in the discussions and voting.]

- (e) REFERENCE: NP/14/0029
APPLICANT: Mr T Bullock, Pembrokeshire County Council – Property
PROPOSAL: Replacement of existing dilapidated agricultural animal housing shed with a new cubicle shed & loose housing shed
LOCATION: Chapel Farm, Castlemartin

It was reported that Chapel Farm was a working 131 Acre dairy holding on the outskirts of the village of Castlemartin. The holding was a mix of traditional brick, concrete block and portal steel framed buildings which were described as dated, with the main cubicle building structure in a very poor condition and in need of urgent replacement to ensure compliance with Health and Safety welfare regulations. This application was reported to the Development Management Committee as it was a major application due to the total new floor space created.



Officers considered that the proposed scheme had a scale, mass, form and detailed design which was considered to be acceptable in this instance. The design, appearance and location of the building would ensure that the special qualities of the national Park were maintained when viewed from the immediate and wider landscape. The proposal would also ensure that the existing farming enterprises were retained and structures within the site complied with Health and Safety regulations. As such the proposal was considered to be acceptable in principle.

It was reported at the meeting that responses had been received from some of the statutory consultees. The Community Council had raised no objection; the PCC Ecologist had recommended conditional consent subject to agreement of a lighting scheme; and Natural Resources Wales had requested a condition to cover surface water disposal. No responses had been received from the National Trust or Dyfed Archaeological Trust at that time. It was therefore recommended that the application be delegated to the Head of Development Management to issue consent on receipt of satisfactory consultation responses.

Members sought clarification on the proposed stocking levels at the farm, and were advised that there would be no increase in stock and therefore the existing provision for slurry disposal was considered to be sufficient. Officers also advised that while the proposed building would be bigger than the existing, it would be better sited in relation to other farm buildings, and lower in the landscape. There was also some discussion with regard to the best colour for the proposed building.

DECISION: That the application be delegated to the Head of Development Management to issue consent on receipt of satisfactory consultation responses, and subject to conditions relating to surface water disposal, submission of a scheme for internal and external lighting, colour of cladding, standard time for completion, built in accordance with approved plans, a demolition plan and appropriate disposal of material.

9. Appeals

The Head of Development Management reported on 8 appeals (against planning decisions made by the Authority) that were currently lodged with the Welsh Government, and detailed which stage of the appeal process had been reached to date in every case.

The Head of Development Management invited Members to attend the Appeal Hearing relating to St Catherines Island, Tenby which had been arranged for 26th February 2014 and she advised that she would endeavour to let Members know when the site visit would take place to avoid them having a wasted journey. Members were concerned to learn



that the Inspector would be able to gain access to the Island when Members had not been able to, however they were advised that temporary works had now been undertaken on site meaning that the Island was now partially open to the public. The Chairman added that Members had acted on the best advice available at the time.

NOTED.

10. Other Planning Matters - NP/13/0590 - Amendment of Section 106 Agreement, Water's Edge, South Beach, Tenby

It was reported that an informal request had been received which sought the modification of the Section 106 obligation imposed on planning permission NP/09/0640 in relation to the provision of affordable housing. As the section 106 was less than 5 years old, there could not be a formal application to remove or amend the legal agreement. There was therefore no right of appeal, but any decision was still subject to challenge on the usual public law grounds of reasonableness and rationality.

The report set out the legislative and policy framework as well as the main issues to be considered. Appended to the report was a letter from the Agent, GVA setting out the background and request to modify. It was reported that the current obligation met the tests set out in Circular 13/97 'Planning Obligations', however a financial contribution would not. Moreover the £150,000 offered would not allow for the provision of 5 housing units, 2 units being more realistic.

Officers had concluded that the request for a modification had not been justified and the original obligation should remain. It was therefore recommended that the request be refused and that the applicant be advised that further financial details be provided for full viability testing to occur and an agreed marketing exercise be carried out to demonstrate that there were no interested purchasers for the development. Both these matters would need to be addressed to the satisfaction of the Authority prior to acceptance that the Section 106 agreement required alteration.

There was one speaker on this application, Mike Southall, the Agent. He explained that he worked for GVA who were acting on behalf of the joint receivers to review the current section 106 agreement and advise on the best way to sell the site. He stated that off-site provision created uncertainty and was unduly onerous as a future developer would have to buy a site and construct the housing before completing the development at South Beach. He considered this to be a major stumbling block to the sale of the site on behalf of the bank, due to the complexity of the arrangements. A desk top search had been carried out to find suitable affordable housing sites within the locality and this had demonstrated the lack of suitable sites within Tenby. He stated that officers had advised a



marketing exercise of the site would be required to demonstrate that there were no potential buyers and also that Officers would consider amending other variables currently part of the agreement. However, these options had not been explored, as GVA considered that they would waste time. He concluded that if the site remained derelict, it would harm tourism in Tenby both now and in the future and that amending the Section 106 was the only way forward for the development.

Members asked some questions regard the discussions that had taken place, seeking reassurance that officers were willing to negotiate to achieve the best solution. However they agreed that £150,000 was insufficient to provide for 5 units and one Member said he was surprised to hear the Authority's requirement in this case described as being 'onerous'. They were, however, keen that a solution be found in the longer term and asked that the situation be monitored. Officers replied that a number of meetings had taken place with the agents when the need for marketing and the issue of viability had been discussed; officers considered that the scheme remained viable and there was no reason to lessen the Authority's requirements without clear evidence that this was not the case. It was also pointed out that, following discussions with the local housing authority, social housing grant would be available for this site which would add to the attractiveness of the provision of the affordable houses.

DECISION: That the request for a modification of the planning obligation be refused for the following reasons:

- 1. The modification of the section 106 agreement would make the development contrary to the provisions of the LDP, and affordable housing SPG. It is not considered that there are any overriding material considerations that would justify the modification of the obligation.**
- 2. The viability assessments provided show that the residual values of the site remain positive with the section 106 agreement in its current form and do not justify the amendments proposed.**
- 3. Until such time as there has been a reasonable marketing exercise of the site (reasonable being described in terms of time on the market, full marketing documentation and promotion) it is premature to conclude that there is no prospect of a purchaser of the site as it stands.**
- 4. The provision of a financial £150,000 contribution is not comparable to the provision of 5 affordable housing units within**



Tenby, and falls short of what a comparable financial contribution should be as an in lieu contribution.

- 5. The trigger points for the payment have not been specifically identified and in any event the 5th and 9th occupation trigger may not provide sufficient equity remaining in the scheme to require the provision of the affordable housing financial contribution.**

11. Delegated applications/notifications

28 applications/notifications had been dealt with since the last meeting under the delegated powers scheme that had been adopted by the Committee, the details of which were reported for Members' information. Of the 28, it was reported that 3 applications had been withdrawn, the remainder having been approved.

NOTED.

[The Committee adjourned for lunch between 12.45pm and 1.10pm]

[Councillor RM Lewis tendered his apologies and did not re-join the Committee for consideration of the final item – Positive Planning. Ms C Gwyther and Councillor A Lee tendered their apologies and left the meeting during consideration of the item also.]

12. Positive Planning – Proposals to Reform the Planning System in Wales: A Welsh Government Consultation

The Director of Park Direction and Planning reminded the Committee that at its meeting on the 5th February, the National Park Authority had delegated authority to the Development Management Committee to consider the Authority's response to the above mentioned consultation, a copy of which had been provided for Members.

At the meeting the Director provided the Committee with a brief overview of what the Bill was trying to provide for through a series of slides. The Bill had four themes: Supporting Culture Change, Active Stewardship, Improved Collaboration and Improving Local Delivery, and she highlighted the main proposals under each of these headings. She concluded with the timeline for the Planning (Wales) Bill which showed the intention for it to be enacted in 2015.

Members then considered the proposed responses to each of the questions in turn and minor amendments to strengthen the Authority's position were suggested to a number of questions. Questions 23 and 24 of the questionnaire were of great significance to National Park Authorities and these were discussed in more detail. Other issues raised at the meeting such as a lack of resources for Authorities to implement



the proposals, the need for guidance allowing for a review of Local Development Plan and the perceived need for greater training of Planning Inspectors, would be sent in a letter to accompany the response.

It was **RESOLVED** that the response to the Positive Planning Consultation appended to the report be submitted to the Welsh Government subject to the amendments highlighted at the meeting.

