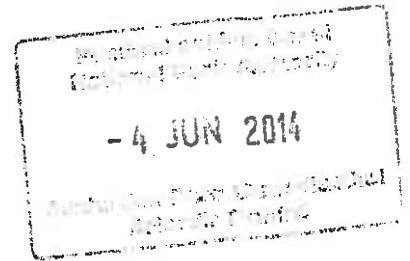


REPORT OF THE HEAD OF DEVELOPMENT MANAGEMENT ON APPEALS

The following appeals have been lodged with the Authority and the current position of each is as follows:-

- NP/13/0071** Change of use of Fort to Visitor Centre – St Catherines Island, Tenby
Type Hearing
Current Position A hearing has taken place and the Inspectors decision is awaited.
- NP/13/0264** Section 73 Application: Variation of Condition 1 of NP/08/060 to extend the period for further five years - Burgage Green Close, St Ishmaels.
Type Written Representation
Current Position The appeal has been dismissed and a copy of the Inspectors decision is attached for your information.
- NP/13/0325** Installation of domestic 100kw wind turbine measuring 30m to hub and 39m to blade tip – Broomhill, Angle
Type Informal Hearing
Current Position A hearing has taken place and the Inspectors decision is awaited.
- NP/13/0471** Erection of a single 10kw wind turbine measuring 20m to hub & 23.5m to blade tip, Parsonage Farm Caravan Park, Amroth.
Type: Hearing.
Current Position: A hearing has taken place and the Inspectors decision is awaited.
- NP/13/0460** Dwelling, Plot 1 Blockett Lane, Little Haven
Type: Hearing.
Current Position: A hearing has been arranged for 24th September 2014.
- NP/13/0461** Dormer Cottage, Plot 2 Blockett Lane, Little Haven
Type: Hearing.
Current Position: A hearing has been arranged for 24th September 2014.
- NP/13/0462** Dwelling and Detached Garage, Plot 3 Blockett Lane, Little Haven
Type: Hearing.
Current Position: A hearing has been arranged for 24th September 2014.

NP/13/0463 Dwelling, Plot 4 Blockett Lane, Little Haven
Type: Hearing.
Current Position: A hearing has been arranged for 24th September 2014.



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 01/04/14

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 4 Mehefin 2014

Appeal Decision

Site visit made on 01/04/14

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

an Inspector appointed by the Welsh Ministers

Date: 4 June 2014

Appeal Ref: APP/L9503/A/14/2213409

Site address: Land at Burgage Green Road, St Ishmaels, Pembrokeshire SA62 3SU

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 under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Richard Jenkins against the decision of Pembrokeshire Coast National Park Authority.
- The application Ref NP/13/0264, dated 13 June 2013, was refused by notice dated 9 August 2013.
- The application sought planning permission for 2no detached dwellings without complying with a condition attached to planning permission Ref NP/08/060, dated 21 July 2008.
- The condition in dispute is No 1 which states that: *The development hereby permitted shall be begun not later than the expiration of five years beginning the date of this permission.*
- The reason given for the condition is: *Required to be imposed pursuant to Section 91 (1) of the Town and Country Planning Act 1990.*

Decision

1. The appeal is dismissed.

Procedural Matters

2. I understand that there is an error in the drawings approved under the 2008 planning permission insofar as the red line boundary shown on the site location plan outlined a smaller area of land than that of the block plan. However, it is on this basis that the Authority considered both the 2008 planning application and the subsequent S73 application, and upon which I therefore determine the appeal.

Background

3. Planning permission was granted on 21 July 2008 for the construction of 2no detached dwellings. Condition 1, the subject of this appeal, requires that the development shall be begun not later than the expiration of five years from the date of this permission, i.e. by 21 July 2013. The appellant seeks to vary Condition 1 to extend the time for

the commencement of development by a further five years. At the date of the application (13 June 2013) the planning permission was still extant.

4. The provisions of S73 allow me to consider only the conditions subject to which permission may be granted. Whilst in England, section 73(5) of the 1990 Act effectively prevents the renewal of planning permission, that provision remains in Wales. Thus, it is appropriate to have regard to the advice in Welsh Office Circular 35/95 '*The Use of Conditions in Planning Permissions*'. Its paragraph 60 advises that as a general rule, applications to renew planning permissions should be refused only where: (a) there has been a material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area).

Main Issue

5. Against this background, I consider the main issue to be whether it would be reasonable to vary Condition 1, having regard to whether or not there has been a material change in planning circumstances since the original planning permission was granted.

Reasons

Planning policy changes

6. I understand from the Authority's evidence that the appeal site was part of a wider site allocated for housing development in the former Local Plan 1998 and the Pembrokeshire Joint Unitary Development Plan 2006 (JUDP). The wider site was divided into 4no plots and, at the time the JUDP was in force, planning permission was granted for dwellings on Plots 1 & 3. Plot 2 remains undeveloped. In terms of the appeal site, formerly Plot 4, planning permission was subsequently granted for 2no dwellings under ref. NP/08/060.
7. However, there has been a change to the Development Plan since planning permission was granted under NP/08/060 in 2008; the JUDP was superseded by the Pembrokeshire Coast National Park Local Development Plan in 2010 (LDP). This amounts to the type of material change referred to in paragraph 60(a) of the Circular. Therefore, the appropriateness of renewing the planning permission is an option that is now before me.
8. The planning application form states that the development approved under NP/08/060 has not commenced. The reasons given by the appellant for failure to commence development on site within the timescales set out by Condition 1 relate to market conditions and financial constraints. Nevertheless, I must have regard to the relevant policies of the now adopted LDP in the determination of this appeal.
9. At issue in this case is the LDP Policy 45 requirement to deliver affordable housing on developments of 2 or more dwellings. This Policy states that a 50% affordable housing contribution will be sought to meet identified local need in all Centres identified in the Plan area. However, there are exceptions to this policy where it can be proven that a proposal is unviable to deliver. Whilst the Council also cites conflict with the adopted Supplementary Planning Guidance '*Affordable Housing*', I have not been provided with a copy.
10. Although LDP Policy 45 clarifies that the need for affordable housing in Pembrokeshire Coast National Park is acute, neither have I been provided with evidence of the

Council's Local Housing Needs Assessment. I am therefore unable to satisfy myself that there is a clear need within the local area. Nevertheless, a community's need for affordable housing is a national planning policy issue.

11. The appellant's evidence includes details of the anticipated build costs and expected sale price in relation to each of the proposed dwellings, albeit the cost of varying the access agreement with PCNPA has not been confirmed and could not therefore be included in the calculation. Even so, it concludes that the scheme would not be viable if an affordable unit was to be provided in accordance with the requirements of LDP Policy 45 and the SPG.
12. I note that the Authority makes reference in its committee report to an assessment under 'The Three Dragons Development Appraisal Toolkit' which it alleges does not support the appellant's conclusion that the provision of affordable housing would render the scheme unviable.
13. However, the appellant provides a copy of a subsequent letter from the Authority dated 7 April 2014 confirming that the scheme presented would be unviable with the inclusion of an affordable unit due to the fact that the build costs presented exceeded revenue, albeit these figures were not backed up with evidence such as quotations for such costs. The scheme was also found to be marginal or unviable using the default build costs in the Toolkit undertaken by the Authority.
14. In these circumstances, further assessments were undertaken by the Authority which found that a scheme consisting of one three bed and one two bed unit, where the two bed unit was affordable, could be viable. However, the appellant contends that full details of the basis of the assessment were not provided; the build costs appeared to underestimate the development costs, assumptions were made regarding the revenue from the affordable unit based on the availability of grant funding and that is not clear how the Authority has concluded that a residual value of £45,000 is acceptable.
15. I accept that the scheme was planned and costed at a time when the market was more buoyant and affordable housing provision was not required on a site of this size. However, whilst the appellant has provided details of the anticipated costs and likely revenue from the scheme, these are largely unsubstantiated. For example, no compelling evidence has been provided to explain the sale value of the dwellings or why the build costs are high. Neither have I been provided with evidence to corroborate the cost of the land, infrastructure costs, or any abnormal costs. The submissions are therefore insufficiently detailed to enable an accurate assessment of the actual costs and revenue of the development.
16. Whilst I acknowledge the appellant's contention that Policy 45 allows for flexibility where *inter alia* the affordable housing requirement would make a scheme unviable, it also requires it to be proven that a proposal is unviable to deliver in terms of the policy requirements of the LDP. On this basis, and for the reasons outlined above, I am not persuaded that the site is unviable for the provision of affordable housing which is a clear priority in terms of both the Development Plan and Planning Policy Wales.
17. In this context, the proposal would fail to make its contribution towards satisfying the need for affordable housing and would conflict with LDP Policy 45 in this regard.

Other material planning changes

18. My attention has been drawn to the Joint Housing Land Availability Study 2012 and the contribution the proposed development would make to housing supply. I also note that there was a shortfall in the Council's 5 year housing land supply as of 2012, and that Technical Advice Note 1: '*Joint Housing Land Availability Study*' 2006 advises that the need to increase supply should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with national planning policies. Whilst I recognise the need to increase land supply and that the proposal would contribute to meeting this need, it does not outweigh the clear development plan policy presumption in favour of providing affordable housing.
19. I also note the concerns of the appellant regarding the time taken for the Authority to respond to a pre-application enquiry regarding the possibility of increasing the number of units from two to four. However, this is not a matter before me in the determination of this appeal.
20. I accept that the Authority has not taken issue with the effect of the development on the character and appearance of the area, including the special qualities of the National Park, community infrastructure, highway safety, flooding and drainage, sustainability or the living conditions of neighbours. I have no reason to disagree. **Be** that as it may, these matters do not outweigh the concern in respect of the deliverability of affordable housing in the balance of acceptability.

Conclusion

21. It is therefore evident that there has been a material change in the planning circumstances since the original grant of planning permission. I find no compelling reasons that would outweigh the provisions of the current Development Plan provisions that would justify renewing the planning permission as sought. For the reasons outlined above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Melissa Hall

INSPECTOR