

REPORT OF THE DEVELOPMENT MANAGEMENT TEAM LEADER ON APPEALS

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

<u>NP/15/0649/CLE</u>	Certificate of lawfulness for seasonal use as camping with car park - Slate Mill Lodge, Dale
Type	Hearing
Current Position	The appeal has been dismissed and a copy of the Inspectors decision is attached for your information.
<u>NP/16/0440/FUL</u>	Retrospective application for yurt, platform and washroom, and interpretation panel – Felin Isaf, Feidr Treginnis, St Davids
Type	Hearing
Current Position	The appeal has been dismissed and a copy of the Inspectors decision is attached for your information.
<u>NP/16/0314/FUL</u>	Change of use of land for siting of timber lodge, cesspit & concrete slab – land adjacent to Villa St Helens, Wisemans Bridge
Type	Hearing
Current Position	A Hearing has been arranged and will take place on the 22 nd June 2017.
<u>NP/16/0323/OUT</u>	Single 2 storey dwelling – Keepingstone, Feiddr Ganol, Newport
Type	Hearing
Current Position	A Hearing has been arranged and will take place on the 6 th July 2017.
<u>NP/16/0603/CLE</u>	Slurry lagoon & silage clamps – Trewern, Felindre Farchog.
Type	Inquiry
Current Position	The initial paperwork has been submitted to the Planning Inspectorate.
<u>EC15/0111</u>	Large container on land & depositioning of building materials – land next to Maes-yr-Helyg, Mynachlogddu
Type	Written Reps
Current Position	The initial paperwork has been submitted to the Planning Inspectorate.



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 22/11/16
Ymweliad â safle a wnaed ar 22/11/16

gan Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 24.05.2017

Appeal Decision

Hearing held on 22/11/16
Site visit made on 22/11/16

by Declan Beggan BSc (Hons) MSc DipTP
DipMan MRTPI

an Inspector appointed by the Welsh Ministers

Date: 24.05.2017

Appeal Ref: APP/L9503/X/16/3153984

Site address: Land at Slate Mill Lodge, Dale, Haverfordwest, Pembrokeshire, SA62 3QR

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

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ('the Act') against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr David Warren-Davis against the decision of Pembrokeshire Coast National Park Authority.
 - The application Ref NP/15/0649/CLE, dated 26 November 2015, was refused by notice dated 9 February 2016.
 - The application was made under section 192(1) (a) of the Act.
 - The development for which a LDC is sought is for 'seasonal use as camping with car park'.
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Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. For the avoidance of doubt, the planning merits of the existing use are not relevant, and they are not therefore an issue for me to consider in the context of an appeal under section 195 of the Act, which relates to an application for a LDC. My decision rests on the facts of the case, and on relevant planning law and judicial authority.
 3. The site lies within part of a field adjacent to Slate Mill Lodge, off a minor road between Dale and Talbenny. The rest of the field not forming part of the application site appeared to be in rough pasture. On the day of my visit I observed within the site a hard standing area which has been indicated on the submitted details to be used for parking purposes, whilst there were also a number of informally laid out camping 'pitches' at various locations.
 4. The appellant inherited the appeal site in 1997 upto which time it had been managed by a Mrs Joyce Davies who lived in Slate Mill Lodge, and who according to the appellant, used the site for camping and caravan purposes, in addition to running a small holding of some 40 acres. The land to the north of the appeal site in close proximity to Slate Mill Lodge has in the past been used as a registered Caravan and Camping Club Site during the time when Mrs Davies occupied Slate Mill Lodge, however, the registration ceased in 2007. The appellant argues the site has been
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used well in excess of 10 years from the date the application was made for camping purposes and associated parking. The appellant confirmed at the Hearing that the nature of camping over the years had been primarily in the form of tents and camper vans with the odd caravan. In support of his case the appellant has submitted a number of sworn statements from local people who have knowledge of camping at Slate Mill Lodge over the years.

5. The onus of proof in an LDC application is with the appellant and the Courts have held that the relevant test is on 'the balance of probability', as set out in Annex 8 of Circular 24/97 Enforcing Planning Control: Legislative Provisions and Procedural Requirements.
6. Bearing the above in mind, the main issue in this appeal is whether there is evidence to show, on the balance of probability, that the land in question had, at the date of the application, acquired a lawful use for 'seasonal use as camping with car park' for a continuous period of ten years or more.

Reasons

7. Whilst the appellant maintains the appeal site has been used for seasonal use as camping well in excess of the required period, nonetheless he could provide no substantive record of the level and intensity of such use of the land or provide documentary evidence in regards to the extent of the season referred to; had the land been used in the way stated I would have expected to see evidence in the form of bills, receipts from customers indicating payments or a register of bookings.
8. Four sworn statements are submitted in support of the appellant's claims. I have no reason to doubt the integrity of those witness statements that some form of camping activity took place in the vicinity of Slate Mill Lodge over the years. However whilst three of the statements refer to camping and caravan use at Slate Mill Lodge, those statements lacked definitive dates or actual specific reference to the site as edged in red; based on the level of detail submitted I am not convinced they are referring to the appeal site especially when adjacent land was used for a time as a registered Camping and Caravan Club site. As regards the fourth statement from Mrs Brenda Roberts, daughter of the Mrs Davies, whilst it refers to camping on the site as identified on a site plan provided by Pembrokeshire Coast National Park Authority, I am not convinced this is the actual site as identified in the application submission; however even if the appeal site has been correctly identified, no definitive dates in regards to when camping activity took place during the year have been referred to, or to the level and intensity of use.
9. During the Hearing the appellant alluded to the use of site for a period in excess of the 28 days allowed under permitted development rights which over the passage of time would have conveyed a lawfulness to the activity, however he was unable to provide any documentary evidence to substantiate this claim.
10. In support of his case the appellant submitted a series of photographs which appear to show the site being occupied by tents, it is difficult to ascertain if these photographs actually relate to the site, however even if they do, the appellant confirmed at the Hearing that they were taken in summer of 2016 after the time when the Authority were made aware of potential unauthorised activity on the site.
11. Turning to the issue of what existed on the site prior to the application being submitted, the Authority's submitted aerial photographs dated between 1999-2009, indicate, contrary to the appellant's view, the absence of any camping related

development, with the site having the appearance of agricultural land. It is worth noting the only caravan like structures that appear on any of the images are those on the 1999 image, however they are sited on the former certificated site adjacent to Slate Mill Lodge. The photographs would appear to support Marloes & St. Brides Community Council view that upto 2008 the appeal site was used for the grazing of animals and for no other purpose.

12. However the aerial photograph of 2013 indicates a significant change in the appearance of the land, with what appears to be distinct mown areas and informal camping spaces which gives the site a distinctly managed look to it, and which in broad terms reflect how the site appears at present.
13. To my mind the photographic evidence provides compelling evidence that the site, prior to at least 2009, was not used for the purposes for which the LDC is sought.
14. Pulling the threads of the above together, there may well have been use of the appeal site over the years for seasonal camping with car parking however there is nothing to suggest in the submitted evidence this was any more than that allowed under permitted development rights. Based on the evidence presented to me, I find, as a matter of fact and degree, on the balance of probability, that at the date of the application in November 2015, the appeal site had not acquired a lawful use for seasonal camping with car park for a continuous period of ten years or more.

Conclusions

15. After taking account of all the evidence before me, and for the reasons given above, I conclude that the Authority's refusal to grant a LDC was well founded, and the appeal should fail. I will exercise the powers transferred to me under the Act and dismiss the appeal.

Declan Beggan

INSPECTOR

APPEARANCES

FOR THE APPELLANT

John Farr

Appellant's Agent

David Warren-Davis

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Kate Attrill

Senior Planning Officer

THIRD PARTIES

Yvonne Evans

Clerk to Marloes & St. Brides Community
Council

Christopher Jessop

Community Councillor

DOCUMENTS SUBMITTED AT THE HEARING

1. Council's notification letter and list of those notified
2. Aerial photograph of site from 1999-2001
3. Additional copies of aerial photographs previously submitted from 2006, 2009 & 2013

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 25/04/17
Ymweliad â safle a wnaed ar 25/04/17

gan Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 24.05.2017

Appeal Decision

Hearing held on 25/04/17
Site visit made on 25/04/17

by Declan Beggan BSc (Hons) MSc DipTP
DipMan MRTPI

an Inspector appointed by the Welsh Ministers

Date: 24.05.2017

Appeal Ref: APP/L9503/A/16/3164581

**Site address: Felin Isaf, Feidr Treginnis, St. Davids, Haverfordwest,
Pembrokeshire, SA62 6QB**

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs D Lloyd against the decision of Pembrokeshire Coast National Park Authority.
- The application Ref NP/16/0440/FUL, dated 9 August 2016, was refused by notice dated 20 October 2016.
- The development proposed is 'Retrospective application for yurt, platform and washroom, and interpretation panel'.

Decision

1. The appeal is dismissed.

Procedural Matters

2. On the day of the hearing the appellants' submitted a draft Section 106 Unilateral Undertaking (UU) regarding a 'Sustainable Management Plan' (SMP) that would provide for the restoration and maintenance of a leat. The appellants' were given a limited period of time after the date of the Hearing to submit a revised UU as the copy submitted on the day of the Hearing was undated, unsigned and required amendment to its wording; a revised UU was submitted within the set deadline. The Authority were allowed a set period to respond to the revised UU. The Authority question the enforceability of the UU as the freeholder of the property is not party to it, which they argue renders it inadequate. The Authority also raise a number of other concerns with the UU including that it contains no mechanism to assess or monitor that the profits generated from the business will be used to fund the management/repair of the leat. I shall address the revised UU in my consideration of the appeal.
3. The Authority have confirmed that reference to policy 11 of the adopted Pembrokeshire Coast National Park Local Development Plan (LDP) in their refusal notice was made in error; consequently I have not considered this policy any further during the determination of the appeal.

Main Issues

4. The main issues in this case are:

- Whether the proposed development is justified in its rural location with regard to planning policies designed to strictly control development in the countryside;
- The effect of the proposal on the character and appearance of the area with particular regard to the special qualities of the Pembrokeshire Coast National Park (NP);
- The effect of the proposed development on the setting of historic assets with particular reference to scheduled ancient monuments and listed structures; and,
- Whether there are material considerations to indicate the proposal is otherwise acceptable in principle.

Reasons

5. The appeal is located within a field in a narrow valley next to St. David's Cathedral Mill Leat that is both a grade II listed structure by virtue of its association with the adjacent Mill and house which it historically served, and also a scheduled ancient monument (SAM). Vehicular access to the site is via an unmade track that is also a bridleway; the bridleway runs in a north-easterly direction past the proposed yurt towards the nearby City of St. Davids. A public footpath meets the bridleway before running in a southerly direction towards higher ground.

Justified development in a rural location

6. In planning policy terms the site is located within the countryside where development is strictly controlled in the interests of sustainable development. The proposed development is considered against policy 35 & 38 of the LDP. Policy 35 of the LDP relates to the 'visitor economy' and allows development which will attract visitors outside of the peak season while ensuring the NP environment is conserved and enhanced, however criteria a) of the policy refers to not allowing any additional camping, caravanning or chalet pitches. Policy 38 of the LDP does not permit the provision of new camping, caravanning and static caravan or chalet pitches.
7. The proposed development, as accepted by appellants', is in conflict with policies 35 & 38 of the LDP, however they argue there are material considerations of sufficient weight to set these objectives aside; I address these other material considerations later in the decision.
8. Planning Policy Wales Edition 9 (PPW) states the countryside, in line with sustainability principles, should be conserved and where possible enhanced for its own sake. The proposed development would neither conserve nor enhance the countryside and consequently it is in conflict with national planning policy.
9. Concluding on this first main issue, the proposed development is unjustified in its countryside location, and would run contrary to local and national planning policies that collectively seek to control development in the countryside.

Character and Appearance

10. The appeal site is located within a nationally valued landscape that has been designated a NP. The Authority's first refusal reason cites policies 1, 8, 15 & 30 of the

LDP in support of its argument that the proposed development is harmful to the special qualities of the NP. Policy 1 is strategic in nature and states that development within the NP must be compatible with the conservation or enhancement of the natural beauty, wildlife and cultural heritage of the 'Park'. Policy 8 which relates to the special qualities of the NP states that the priorities include, amongst others, to ensure that the sense of remoteness and tranquillity is not lost and is wherever possible enhanced and that the historic environment is protected and where possible enhanced. Policy 15 refers to conservation of the NP and states that development will not be permitted where this would adversely affect the qualities and special character of the NP by causing significant visual intrusion, being insensitively and unsympathetically sited within the landscape, by introducing a use which is incompatible with its location, and by failing to harmonise with, or enhance, the landform and the landscape character of the NP. PPW refers to great weight being given to conserving and enhancing the natural beauty of National Parks.

11. The appellants' argue that given the scale and nature of the development it is not considered that it would cause significant harm to the special qualities of the NP; in any event it is maintained the proposed yurt could, if deemed to be required, be coloured green, to reduce any perceived visual impact.
12. Despite the site's location in close proximity to St. David's City, nonetheless it is physically and visually separate from the settlement, and set within a rural area. Due to the nature of the narrow valley in which it sits, the area in which the site is located appears somewhat isolated from existing development which gives it a character that has a sense of remoteness and tranquillity despite its proximity to the settlement.
13. The nearest public vantage points to the site are a bridleway that runs in a north-easterly direction past the proposed yurt towards the nearby City of St. Davids and a public footpath that meets the bridleway before running in a southerly direction towards higher ground. The bridleway is defined as a 'city walk' and therefore due to the popularity of the historic cathedral city of St. David's is likely to be a visitor attraction. The appellants' argue that views from these vantage points are limited and can be mitigated with additional landscaping if required; I disagree.
14. At certain points along either route, the proposed yurt, the elevated platform on which it will stand and the wash-house, would be clearly seen by observers who are likely to be travelling at a relatively slow pace, and whose attention is likely to be drawn down the incised valley where the development lies. The proposed development would draw the eye of an observer on those public rights of way to built development that otherwise would not be apparent in a landscape whose appearance is dominated by natural features; the sense of remoteness and tranquillity would be eroded. The proposed development would, in my opinion, be visually intrusive and detract from, and unacceptably harm, the character and appearance of the area, and hence the special qualities of the NP as manifested in its natural beauty and landscape.
15. The Authority's Landscape Character Assessment Supplementary Planning Guidance (SPG) indicates that the area in which the site is located is Landscape Character Area 17 – St. David's. It identifies the sensitivity of the landscape to further development generally as high, and even for small and for seasonal sites the sensitivity is high/medium, with the area summarised as having no capacity for further camping or caravanning developments; this reinforces my view that to allow the proposed development in such a sensitive landscape would be detrimental to NP's natural beauty and landscape.

16. In addition to the identified public rights of way, I also observed that the proposed development could be seen from an elevated position on the road to the north of the site which runs into St. Davids. I appreciate that from this vantage point views of the site are more limited, nonetheless it adds to my concerns in regards to the detrimental visual impact of the proposed development. The Authority also raise concerns that clearance works proposed as part of SMP contained within the UU may actually result in the proposed development becoming more visible within the landscape, thereby exacerbating the adverse visual impact; I too share these concerns without more specific details in regards to the exact nature of the clearance works.
17. Whilst additional landscaping may to a certain extent mitigate the visual impacts of the proposed development, nonetheless this landscaping is unlikely to provide significant screening in the early or latter parts of the year, when the permanent structures will still be evident on the site, and in any event is likely to take a number of years before having any effect. I accept that the changing of the colour of the canvas of the proposed yurt from its current white to green would assist in mitigating any harmful impacts on the visual amenities of the NP, however such a mitigating effect would be limited as the development would still be highly likely to be visible from local vantage points.
18. The appellants' argue that any grant of permission could be time limited by a planning condition to a period of approximately 9 years to tie in with their lease on the land. However 9 years is a substantial period of time to allow development to remain on the site and which has a significant detrimental impact on the NP; consequently I do consider it appropriate to impose such a condition.
19. Concluding on this main issue, the proposed development would have a detrimental impact on the character and appearance of the area, and the special qualities of the NP, contrary to identified local and national planning policies that collectively seek to protect natural heritage.

Heritage Assets

20. The proposed development is directly adjacent to the leat which is a SAM and which is also a Grade II listed structure. To the immediate west of the proposed yurt is another SAM¹, whilst to the south is the Grade II listed Mill and house which the leat historically served. The Authority refer to detriment to the setting of the leat and the Mill with its outbuildings, although it accepts this in itself is not a reason for refusal although still a material consideration.
21. The Act² requires that I have special regard to the desirability of preserving the setting of the listed structure; PPW reiterates this stance. PPW also states that it will only be in exceptional circumstances that planning permission will be granted if development would have a significantly damaging effect upon a SAM's setting; such advice is replicated in Welsh Office Circular 60/96, Planning and the Historic Environment: Archaeology.
22. It is not the Authority's case that the proposed development would have a detrimental impact on the SAM to the west, and this is reinforced by the opinion of Cadw; I have no reason to take a contrary view. Bearing in mind the proposed development is set

¹ The Parc y Castell Mound and Bailey Castle

² The Planning (Listed Buildings and Conservation Areas) Act 1990

within a field at some distance from the listed Mill and outbuildings, and where changes in levels and existing vegetation either completely block views of the proposed development or heavily filter any views in either direction, I am satisfied there would not be an adverse impact on the setting or significance of this heritage asset.

23. I note that Cadw are of the opinion that the key issue in regards to the setting of the SAM is the relationship between it, the nearby river Alun, the weir that diverted water into it and the mill, and that the proposed yurt will block only a small part of any vista, with the relationship between the leat and the river still being understood. Consequently Cadw argue the impact of the proposed development on the setting of the SAM is at most very slight; I agree. Whilst the proposed development would be sited between the SAM and the river, nonetheless the relationship of the SAM to the river would still be understood and not compromised to any significant degree. Similarly the location of the proposed development relative to the listed leat is not considered to materially impact upon the structure's setting when that heritage asset is viewed in its entirety.

Other Considerations

24. The appellants' argue that whilst the proposed development may conflict with policies 35 & 38 of the LDP, that nonetheless any harm is not significant, and that in any event other material considerations outweigh any harm; these other material considerations include benefits to tourism, conservation, biodiversity, natural heritage and social inclusion. In addition, the appellants' argue they could avail of a 'fall-back position' whereby permitted development rights would allow the land to be used for a period of up to 28 days a year for camping, or that they could use the land for camping purposes as an 'exempted site' that could potentially allow for even greater use of the site for caravans and/or tents.
25. I accept the proposal would benefit the tourist economy of the area, however, within the NP there is an overriding statutory duty to conserve and enhance the natural beauty of the area. I also accept that the scheme may improve biodiversity interests/natural heritage, such as restoring grassland habitat, including the removal of invasive species such as Japanese Knotweed. Nevertheless, these benefits the scheme may offer do not outweigh the identified harm.
26. The appellants' argue that monies derived from the development would be invested into the restoration of the leat via the SMP, secured through the submitted UU, however, there has been no formal calculation of the cost of those repairs that I have been made aware of, nor has there been any formally submitted financial information in regards to the monies the proposed development would generate thereby enabling such works, although a figure of £6,000 per season was verbally referred to at the Hearing. Without this detailed information, there is no way to properly conclude that the proposed development would provide the necessary funds to allow restoration to take place, or for that matter would relate to the minimum necessary to secure the conservation of the heritage asset, with or without the assistance of volunteers. However, more fundamentally any benefits obtained via the UU would not overcome the harm identified; therefore I afford it very little weight in my determination. The Authority's concerns in regards to the UU are noted, however as I am dismissing the appeal I shall make no further comment on this matter.
27. The appellants' may be able to avail of a fall-back position under permitted development rights for the siting of tents in the field adjacent to the appeal site for up

to 28 days. In addition they may be able to apply for an 'Exemption Certificate' as indicated above. I do not consider the impact of the fall-back position is directly comparable, as in both instances the visual impacts are transitory, unlike the proposed yurt that would be sited for long periods of the year on an elevated platform (which itself is an all year round feature along with the adjacent washroom structure).

28. The proposed development would provide for the erection of an interpretation sign next to the bridleway that runs close to the leat. The purpose of the sign would be educational in nature, extolling the history of the leat and its relationship to the wider area. I appreciate this is a benefit to the locality but this on its own or in combination with the other benefits associated with the scheme would not outweigh the harm identified to the NP or justify a departure from local and national planning policies.
29. In addition it is argued the proposal would safeguard an historic structure that is at risk of rapid deterioration without intervention as proposed in the SMP. I appreciate the structure is showing signs of deterioration due to tree route damage, however, the appellants' have provided no substantive evidence outlining the nature of the risk to the historic asset. Based on my observations on site, the structure does not appear to be in imminent danger of rapid deterioration to the point that would result in its loss as a heritage asset.

Conclusion

30. The proposed development is unjustified in its rural location, and would run contrary to local and national planning policies that collectively seek to control development in the countryside. It would also have a detrimental impact on the character and appearance of the area, and the special qualities of the NP, contrary to identified local and national planning policies that collectively seek to protect natural heritage.
31. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WCFG Act"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WCFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WCFG Act.
32. After taking account of all the evidence before me, and for the reasons given above, I conclude that the appeal should be dismissed.

Declan Beggan

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Andrew Vaughan- Harries	Hayston Developments & Planning Ltd
David Lloyd	Appellant
Gail Lloyd	Appellant
Ben Lloyd	Appellants' son

FOR THE LOCAL PLANNING AUTHORITY:

Kate Atrill	Planning Officer
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DOCUMENTS SUBMITTED AT THE HEARING

1. Authority's notification letter and list of those notified of Hearing
2. Draft copy of an undated and unsigned UU
3. Copy of listing description for Felin Isaf
4. Copy of letter of letter from CADW dated 2 February 2017 responding to appeal proposal

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Signed and dated UU
2. Pembrokeshire Coast National Park Authority's response to signed and dated UU