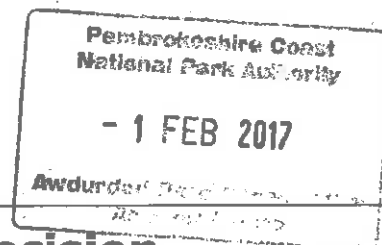


REPORT OF THE DEVELOPMENT MANAGEMENT TEAM LEADER ON APPEALS

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

<u>NP/15/0310/FUL</u>	Eco-smallholding, including one dwelling - One Planet Development Land Adjacent to Castle Hill, Newport, Pembrokeshire, SA420QE
Type	Hearing
Current Position	The appeal has been dismissed and the costs application refused and a copy of the Inspectors decisions are attached for your information.
<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 Hearing took place on 22 nd November 2016. We await the Inspectors Decision.
<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	A Hearing has been arranged and will take place on 25 th April 2017.



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 01/11/16
Ymweliad â safle a wnaed ar 01/11/16

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 01.02.2017

Appeal Decision

Hearing held on 01/11/16
Site visit made on 01/11/16

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

an Inspector appointed by the Welsh Ministers

Date: 01.02.2017

Appeal Ref: APP/L9503/A/16/3150135

Site address: Land adjacent to Castle Hill, Newport, Pembrokeshire SA42 0QE

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 Ms. Susan Gillooley against the decision of Pembrokeshire Coast National Park Authority.
- The application Ref NP/15/0310/FUL, dated 3 June 2015, was refused by notice dated 17 March 2016.
- The development proposed is described as '*Eco-smallholding, including one dwelling - One Planet Development*'.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by the appellant against Pembrokeshire Coast National Park Authority. This application is the subject of a separate Decision.

Procedural and Preliminary Matters

3. Although the officer recommendation was one of approval subject to conditions, the application was deferred at the Development Management Committee meeting of 27 January 2016 and, following a site visit on 2 March 2016, planning permission was refused at the subsequent meeting of 9 March 2016. The minutes of the meeting record that Members expressed concern, in particular, regarding the size of the dwelling and its location at the top of the site necessitating a long access track, the economic viability of the Management Plan and the appellant's ability to meet the 65% self-sufficiency requirement. Members also took issue with its impact on the location and setting in a highly sensitive landscape in the National Park (NP) and the introduction of a residential element and associated travel to and from the site which would intensify the use of the site.
4. However, from my reading of the Authority's reference to the Management Plan in its reason for refusal, it is merely concerned with whether it is sufficiently robust to ensure that the application site would be managed in a way that would retain and

enhance the special qualities of the National Park (NP). It does not specify the aspects of the Management Plan with which it takes issue.

5. Put another way, the reason for refusal focuses primarily on landscape harm and the need to maintain and enhance the special qualities of the NP. It is in its Statement of Case that the Authority identifies two main issues. Paragraph 4.2 of the Statement of Case reads:

'The two main issues which underpin the NPA decision are whether or not the proposed development satisfies the very demanding requirements of LID [Low Impact Development] and OPD [One Planet Development] policies and guidance to justify making exception to the general policy of strict control of development in the countryside and whether or not the impacts of the development on this locality and community in the National Park are acceptable'.

6. In the context of the above, and as elaborated upon at the Hearing, the Authority is concerned about whether the proposal satisfies national and local planning policy requirements in respect of One Planet Development in addition to the impact of the development on the special qualities of the NP. From my understanding of the Authority's evidence, the specific aspects of the Management Plan with which it is concerned relate primarily to the Land Based Activities.
7. I note the appellant's concern that new matters were introduced during the appeal process and at the Hearing. I do not dispute that the main issues identified in the Authority's Statement of Case are wider than that identified in the reason for refusal. Nevertheless, I am satisfied that the appellant had sufficient time to respond to the additional matters raised by the Authority prior to, and during the course of, the Hearing. Thus I do not consider that any party has been prejudiced.

Main Issue

8. The main issue is whether the proposal satisfies national and local planning policy requirements in respect of One Planet Development and its impact on the special qualities of the Pembrokeshire Coast NP¹.

Reasons

9. Planning Policy Wales (PPW) defines One Planet Development (OPD) as development that through its low impact either enhances or does not significantly diminish environmental quality². It advises that *'Land based OPD located in the open countryside should provide for the minimum needs of the inhabitants in terms of income, food, energy and waste assimilation over a period of no more than 5 years from the commencement of work on site'*³.
10. Technical Advice Note 6 *'Planning for Sustainable Rural Communities'* (TAN 6) requires planning applications for land based OPD in the open countryside to be evidenced by a Management Plan setting out the objectives and operational basis of the proposal, which includes a business and improvement plan, ecological footprint and carbon

¹ Having regard to the statutory purpose of National Parks to conserve and enhance their natural beauty, wildlife and cultural heritage and to promote opportunities for public understanding and enjoyment of their special qualities.

² Paragraph 9.3.11

³ Paragraph 9.3.12

analysis, biodiversity and landscape assessment, community impact assessment, transport assessment and travel plan⁴.

11. The OPD elements of TAN 6 are supported by the '*One Planet Development Practice Guidance*', which sets out all the requirements for an OPD application. Para 3.18-3.21 of the Practice Guide states that food and income have to be derived from the land based resources of the site; this is the basis of the need to live on site and the reason why the site should be the sole residence of the occupants.
12. LDP Policy 47 deals specifically with low impact development. It states that low impact development in the countryside that makes a positive contribution will be permitted where it meets the specified criteria. The Authority's adopted Supplementary Planning Guidance '*Low Impact Development*' makes reference to OPD insofar as it is the term used in national planning guidance when referring to low impact development.
13. The LDP is largely consistent with national planning guidance in respect of OPD notwithstanding that it was adopted prior to the OPD Practice Guidance. However, the Authority contends that the LDP sets out more detailed policy and criteria relevant to the local context for this type of development reflecting the 'special status' of the Pembrokeshire Coast National Park (NP) and deals with standard planning matters which are not considered or applied to local circumstances in the national planning policy guidance.

Business Plan

14. TAN 6 requires that how the inhabitants' requirements in terms of income, food, energy and waste assimilation can be obtained directly from the site be quantified. The land use activities proposed must be capable of supporting the needs of the occupants, even on a low income or subsistence basis, within a reasonable time and no more than 5 years.
15. The Practice Guide requires a site to produce at least 65% of basic food needs of the occupants or that a minimum of 30% should be grown and/or reared on the site whilst the remainder can be purchased or bartered using the income or surplus produce from other produce grown and/or reared on the site. The Guide explains that the strong emphasis on growing / rearing produce underlines the essential land based and subsistence nature of the OPD.
16. The appellant's evidence includes the Carningli Sylvan Management Plan dated April 2015 together with an independent appraisal of the Management Plan by Geo & Co dated September 2016. It identifies that the appellant intends to be mostly self-sufficient in terms of fruit and vegetables, and totally self-sufficient in respect of meat and eggs, by Year 5. The appellant also intends to produce honey, jams and preserves, fruit cordial and hedgerow wine.
17. I am told that the site is classified as Grade 4 agricultural land and that soil conditions are poor. At the Hearing, Members representing the Authority drew on their knowledge of the local conditions and personal experience of traditional horticultural practices; it was explained that site's uplands position is exposed and subject to the salt laden prevailing winds hence, for example, fruit trees would only grow to a

⁴ Sections 4.15-4.23 of TAN 6.

restricted height (if at all) and it is likely that poly-tunnels would be required to shelter plants from the windy conditions that have been described.

18. Nevertheless, at the Hearing, Mr Wimbush described in detail how the depth and quality of the soil can be increased, concentrated and maintained in the growing areas, thus creating a micro-climate in which potential growth can be maximised. I also observed that a limited range of fruits and vegetables are being grown in raised planting beds on the adjacent land at Beeview Farm. I do not dispute, therefore, that it may be possible to grow certain fruits and vegetables on the site in specific conditions.
19. Be that as it may, the Geo & Co appraisal states that the appellant has owned the site since 2011 which has enabled her to observe local conditions and to start to plant various trees and fruits. However, apart from several rows of lavender plants on the site (which have been grown with varying degrees of success), I saw no evidence that any other trial cultivation has taken place. The appellant told me that she has had little experience of other production on the site⁵. Consequently, there is much uncertainty as to what can be grown and on what scale and whether the yields will increase annually.
20. Given the conditions that have been described, I am of the view that the success of the produce grown on the site will rely heavily on the creation of the raised planting beds by the appellant, which has the potential to be relatively time consuming and labour intensive. Together with the appellant's lack of previous attempts of growing the range of fruit and vegetables anticipated in the Management Plan, and the likelihood of trial and error to determine what will grow, I have serious misgivings as to whether the yield from that which can be produced within the 5 year period will be sufficient to support the appellant's basic food needs.
21. The appellant also states an intention to keep bees. I am told that there is one bee hive currently on the land, which has been in situ approximately 2.5 years and has survived the cold and inclement weather (albeit has not produced any honey). I heard that a second hive is needed in order to increase the thriving colony of bees.
22. Be that as it may, I saw that adjacent OPD development, Beeview Farm, currently has in the order of 17 hives on the land. The occupants told me that they have in the order of 30 hives in total, but that 17 is potentially the maximum that can be located on the site due to the availability of foraging within a range of some 3-5 miles.
23. It is therefore my understanding that the appeal site is unlikely to be able to support a significant increase in the local bee population given the size of the existing population and the availability of foraging. I also heard concern from the Authority regarding the endemic mite that affects the bee population of which the appellant has little experience. Hence, there is sufficient doubt in my mind as to whether the keeping of bees to produce honey to meet the appellant's food and income requirements, in part, is realistic.
24. I am also aware that the appellant intends to expand the existing head of sheep from 9 to 13 and to produce meat. The Authority considers the consumption of only 2 organic lamb per year to be underestimated. On the basis of the evidence before me, I also could not say with certainty whether this modest consumption is accurate.

⁵ Contrary to the view held by Bill Knight at paragraph 5.5 in the appellant's Response to the LPA's Statement of Case.

25. Turning to the appellant's proposals to keep Araucana chickens for eggs and poultry. Whilst the Authority's agricultural advisor considered the anticipated egg production to be realistic, he questions the suitability of the bird for consumption. I cannot therefore rely on the contribution that the poultry would make to meeting the appellant's food needs.
26. In light of the shortcomings I have identified, I consider it optimistic to expect that 65% of the appellant's food could be grown or reared on this site within a period of 5 years.
27. The OPD Practice Guidance states that the Management Plan should provide a simple balance sheet demonstrating how sufficient income will be generated to meet the basic income needs of occupants. This will be based on projections of the anticipated income from sales of produce from the site⁶.
28. 'Income needs' means that the site needs to generate enough income to pay for the basic requirements of the site's resident(s) which the site is unable to provide directly⁷.
29. The appellant has stated in the Management Plan her intention to start a range of land based micro businesses, which would provide the minimum income requirements. This includes keeping chickens for selling eggs, rearing Balwen sheep with an intention to produce 20 lambs per annum for market and using the fleece for wool crafts, the keeping of bees to produce honey and the growing of lavender plants for sale, crafts / food and for the production of lavender honey.
30. Although the Authority's agricultural advisor considers that the increase in the head of sheep is realistic, he contends that the anticipated sale price of the lambs given by the appellant is excessive; he states that £120 per lamb is a rather high figure as heavyweight lowland breeds are averaging £80 per head. The appellant has provided evidence from the Balwen Society for the price at auction of Balwen sheep from 2015, which shows that the price per lamb put forward by the appellant appears plausible.
31. In respect of lavender growing, the appellant expects to take cuttings to sell and explore lavender based crafts, which would generate an annual income in the region of £1,000 respectively. However, given the varying degrees of success of the existing lavender that has been growing on the site over the last couple of years, I am not convinced that the site could sustain anticipated production levels in the long term and that the related enterprises will be as successful as the appellant would like.
32. In terms of the honey that the appellant intends to sell, given the likely difficulty in supporting an additional bee population which would produce the amount of honey necessary to achieve the anticipated returns, I do not find this to be a realistic source of income.
33. The appellant intends to undertake wool crafts using the fleece from the Balwen sheep which would be processed off-site. It is the intention to knit 10 pairs of socks / legwarmers, 10 pairs of gloves and 10 hats, which would sell for between £20 and £30 each. In my opinion, the estimated time taken to produce these goods seems underestimated particularly as the appellant states that the items would be knitted in the winter months (rather than year-round). Furthermore, the cost of the knitted goods

⁶ Para 3.29

⁷ Para 1.12 (2) of the OPD Practice Guidance provides examples of such requirements, including clothes, travel, IT/communications, Council tax and the food needs not covered by the produce grown or reared on the site.

seems excessive. There is no evidence from local shops or online market-places that the anticipated income is realistic.

34. I have been provided with details of the current (2014) household income needs and the Year 5 projected needs; the need projections in year 5 are significantly less than the baseline year of 2014. Given my reservations regarding the potential for growing / rearing produce on the site, I have serious doubts regarding the anticipated reduction in purchased foodstuff due to increased on-site food production. Neither am I persuaded that the projected land based income is supported by a robust analysis to demonstrate the likelihood of achieving the yields and/or sales values of the various components, such that it would be sufficient to meet the identified income needs of the occupant.
35. I am also mindful that the appellant will be the sole occupant and she has stated that she will concentrate on constructing the dwelling, the barn and the track in the first few years before building the income streams thereafter. The assessment produced by Geo & Co identifies that it appears very likely that there will be in excess of one person's full time input⁸. The period in which the appellant has the opportunity to grow and rear produce to meet her food needs and identified income needs, would therefore be much reduced and beyond Year 3 and potentially subject to additional input if the labour requirement is to be met.
36. I recognise that there will inevitably be a degree of uncertainty in OPD developments not least as occupants are trialling new ways of working, and that it is quite different from traditional agricultural practices. Whilst I do not dispute the good intentions of the appellant, and although some elements of the business plan may be viable, I am not convinced that the necessary output can be realised. Taking these factors into account, I treat the appellant's claim that a minimum of 65% of the basic household needs from the resources and activities on the site would be met by 2018 with considerable caution. Consequently, I am not satisfied on the balance of probability that the occupier's requirements in terms of income and food can be obtained directly from the site.
37. It therefore follows that the proposal is not compliant with the Practice Guide, insofar as OPD in the open countryside which fails to support the minimum income and food needs of the occupant cannot justify, in planning terms, a need to live on the site. Such development represents an exception to the restriction on new residential development in the open countryside outside settlement limits. They should not therefore be permitted unless these requirements are met.
38. For the reasons I have given, I find that the proposal does not satisfy the requirements in terms of the need to provide for the minimum needs of the inhabitants in terms of income and food. I thus have reservations about the site's suitability for an OPD. In this regard, it conflicts with national planning policy, LDP Policy 47 and the Authority's SPG.
39. At the Hearing the Authority introduced new verbal evidence regarding the lack of allowance in the Management Plan for adverse circumstances and a concern that not all expenditure had been accounted for. However, there was no compelling evidence before me to substantiate the Authority's concerns in this regard.

Impact on the character and appearance of the NP

⁸ Para 2.5.30 of the Geo appraisal.

40. The Authority states that the proposed development would not make a positive contribution to the site. Rather, it would introduce a residential use and associated requirement for travel, which would impact negatively on its location and on its setting within a highly sensitive landscape within the NP.
41. The site is located outside the Identified Centres described in Policy 7 of the LDP. As a consequence of not meeting the OPD requirements (criterion g of Policy 7), it therefore represents an unjustified form of residential development in the open countryside and does not constitute one of the other exceptions listed. It is not required for essential farming or forestry purposes nor does it constitute a rural enterprise dwelling in line with TAN 6. Neither is there any evidence before me that it would meet an unmet affordable housing need. Thus, I am not persuaded that allowing a more widespread distribution of unjustified residential development in the countryside outside existing settlements would safeguard its character.
42. The Authority states that the landscape is 'highly sensitive'. I note that it lies within the Registered Historic Landscape of Newport and Carningli as contained in the Register of Landscapes of Special Historic Interest in Wales. Its characteristics are described in the Landscape Character Assessment as an upland agricultural landscape with scattered farmsteads throughout, with the scenic value of the landscape classified as high. Thus, I do not dispute its qualities and the positive contribution that it makes to the natural beauty of the NP.
43. The Authority is concerned with public views into the site. From coastal views towards the uplands area, the site is seen in the distance and is, in part, screened by existing landscape features. At my visit, I observed the position of the public footpath network linking Carn Ingli with Newport⁹ which, at its closest point, runs out to the common beyond the western boundary of the appeal site. It therefore runs closest to the part of the site on which the new dwelling would be sited such that it would be seen by walkers using the route across the common.
44. Nevertheless, in landscape terms, the use of the site for a dwelling and smallholding type arrangement would be compatible with the immediate landscape which is characterised predominantly by enclosed land, other similar agricultural practices and a recently approved OPD development in the adjacent fields. In this regard, I do not disagree with Cadw's views regarding the lack of harm arising from the development in relation to matters within their remit.
45. At the Hearing, the Authority asserted that the design and appearance of the dwelling would not be in keeping with the local vernacular and would have an adverse impact on the landscape. It is a two storey dwelling which would be subterranean in part. Its contemporary design would incorporate a green roof with photovoltaic panels to the south facing plane and its external walls would be clad in Douglas Fir. The combination of scale, design and materials, and that it would be heavily screened by existing tree cover and topography in certain elevations, would result in the dwelling being largely inconspicuous from most public vantage points. I also note that the dwelling approved at Beeview Farm is of a contemporary design and that the surrounding area is a mix of dwelling types, styles and design. Consequently, and whilst I accept that the proposed dwelling would be partly visible from the common, the appearance of the dwelling would not, in itself, be objectionable or conflict with the overarching aims of LDP Policies 29 or 30 in this regard.

⁹ As illustrated in the Pembrokeshire Coast National Park 'Newport / Carningli Half Day + Walk' leaflet submitted as evidence by the Authority.

46. In this context, I do not find that the development would conflict with LDP Policy 1 which requires development to be compatible with the conservation or enhancement of the natural beauty, wildlife and cultural heritage of the NP and the public understanding and enjoyment of these qualities. I do not consider that the development would adversely affect the special qualities of the NP, but would meet with the Policy 8 objectives of protecting the historic pattern and diversity of the landscape. Neither do I find that the development would cause significant visual intrusion or that it would be insensitively sited in the landscape in line with LDP Policy 15.
47. The Authority also alleges conflict with LDP Policy 9 which deals with light pollution. The proposed scheme proposes no external lighting. At the Hearing, the Authority clarified that its concerns related to the light that would emit from inside the dwelling and its effect on the night sky. To this end, it has provided me with a copy of its '*Sky Quality Survey in the Pembrokeshire Coast National Park*', dated March 2015. However, taking all matters into account, I do not consider that the level of light from the dwelling would result in significant light pollution particularly as it is likely that the appellant will use some form of window dressing in the evenings (not least due to their insulating qualities) and that any light emitted would be screened to some extent by the existing vegetation.

Traffic Impact

48. Although the Authority cites conflict with LDP Policy 53 in its reason for refusal, it makes no substantive submissions regarding the specific concerns it has regarding the proposed access arrangements.
49. It seems to me that this concern was recorded in the Planning Committee Minutes and arises from the location of the dwelling at the top of a long access track and the anticipated difficulty of moving building materials. It was feared that such a track would require maintenance and, potentially, to be concreted over. There was also concern raised regarding the narrow width of the track from the junction with the road and its accessibility for emergency vehicles.
50. Interested parties who attended the Hearing also voiced their concern regarding the extension to the parking area to the west of the site, and the alterations to the ground levels that would be needed to accommodate such a change. The Authority confirmed that it has not taken into account this potential impact in coming to its decision.
51. At my visit, I saw that the site is accessed via a steep, single width road known as Castle Hill. There is an existing entrance into the site beyond which lies a parking area and gated access into the small irregularly-shaped fields. Both the position of the access through the fields and the size of the parking area would be altered as part of the development.
52. I observed that the part of the site over which the access would be laid is steeply sloping and I question whether it would remain accessible during periods of inclement weather. Whilst the appellant stated that an alternative material could be laid¹⁰, I am not persuaded that such a solution has been adequately tried and tested or is suitable for the circumstances at the appeal site.

¹⁰ This is also intended to be used at Beeview Farm and, whilst I had sight of it at my visit, it has not yet been laid so I cannot say with certainty the degree of success it will have.

53. In light of the above, I am concerned regarding the adequacy of the new access arrangements particularly as the highway it joins is a very steep and narrow single lane track with no footways or lighting along part of its length, thereby increasing the potential for vehicular and/or pedestrian conflict. Thus, I cannot conclude that an appropriate access can be achieved in line with Policy 53. Whilst my decision does not turn on this matter, and it may be possible to resolve this issue¹¹, it currently adds to my concern regarding the unacceptability of the proposal.

Other Matters

54. At the Hearing the Authority also introduced new verbal evidence in relation to the capacity of the PV energy system, whether the willow coppice would meet the energy needs of the dwelling and the adequacy of monitoring arrangements for the OPD. However, as the appeal has been dismissed for other reasons relating to fundamental planning policy principles, I have taken these matters no further.
55. My attention has been drawn to other appeal decisions in respect of OPD, the considerable experience of Mr Wimbush at Lammas and to the recently approved OPD at Beeview Farm. I have also been provided with a copy of the Management Plan in respect of the latter. Whilst some similarities and comparisons can be drawn, each OPD proposal involves matters which are finely balanced and must be assessed on their individual merits. They do not therefore alter the conclusions in respect of the proposal before me.
56. Interested parties raised concern regarding the impact of the development on flooding at lower ground beyond Castle Hill. As I understand it, residents have endured several incidences of flooding in recent years. Whilst I sympathise with the existing situation, there is no compelling evidence that the development would make matters worse and the Authority has not taken issue with the proposal in this regard. I see no reason to conclude otherwise.

Conclusion

57. 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"). 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.
58. For the reasons I have given, and having regard to all matters raised, the appeal is dismissed.

Melissa Hall

Inspector

¹¹ The Authority has suggested a condition which it considers would allow a preferable solution to be achieved in the event of planning permission being granted.

APPEARANCES

FOR THE APPELLANT:

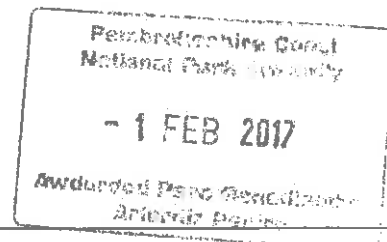
Ms Susan Gillooley	Appellant
Mr James Shorten	Geo & Co
Mr Tao Wimbush	Lammas project

FOR THE NATIONAL PARK AUTHORITY:

Mr Alan Archer	Member
Mr David Ellis	Member
Mr Bob Kilmister	Member
Ms Nicola Gandy	Team Leader, Development Management

INTERESTED PARTIES:

Ms Anne Hughes	Resident
Ms Vivienne Ward	Resident
Mr Ian Ward	Resident
Ms Sarah Simms Williams	Resident
Ms Amie Strange	Resident
Mr Terry Strange	Resident
Ms Ann White	Appellant's sister
Mr Rob Lewis	Member & Chair of Planning Committee, PCNPA
Mr & Mrs Watkinson	Beehive Farm OPD



Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 01/11/16
Ymweliad â safle a wnaed ar 01/11/16

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 01.02.2017

Costs Decision

Hearing held on 01/11/16
Site visit made on 01/11/16

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

an Inspector appointed by the Welsh Ministers

Date: 01.02.2017

Costs application in relation to Appeal Ref: APP/L9503/A/16/3150135

Site address: Land adjacent to Castle Hill, Newport, Pembrokeshire SA42 0QE

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Ms. Susan Gillooley for a full award of costs against Pembrokeshire Coast National Park Authority.
- The hearing was in connection with an appeal against the refusal of planning permission for an eco-smallholding, including one dwelling – One Planet Development.

Decision

1. The application for an award of costs is refused.

Procedural Matters

2. The application for a full or partial award of costs was made in writing prior to the Hearing. However, at the Hearing the appellant requested additional time to make further submissions in light of the matters raised.
3. Consequently the appellant was given a further 7 days from the date of the Hearing to supplement the written submissions. The Authority was given 7 days following the receipt of the written submissions to respond in writing, with the appellant being given a further period of time to make any final comments.

The submissions for Ms. Susan Gillooley

4. The appellant considers that the Authority acted unreasonably in refusing planning permission, contrary to the advice in Paragraph 7 to Annex 3 of Circular 23/93 'Awards of Costs Incurred in Planning and Other (including Compulsory Purchase Order) Proceedings' (The Circular). The appellant considers that the proposal is compliant with relevant national policy in respect of One Planet Development (OPD).
5. The appellant contends that the reason for refusal lacks precision and specificity, contrary to the advice in paragraph 8 of Annex 3 of the Circular, as it focusses on the landscape of the National Park before including policies that are not directly relevant to the matter of landscape harm. Furthermore, the Authority has failed to

substantiate its reason for refusal and it provides no substantive analysis of why the Management Plan is not sufficiently robust to mitigate any landscape harm.

6. The Circular is clear at paragraph 3 of Annex 2 that it is unreasonable for the Authority to introduce an additional reason for refusal at a late stage. In citing two main reasons in its statement of case¹, the Authority's concern as to whether or not the development satisfies the OPD policies and guidance is far wider than the reason for refusal. Thus the Authority has effectively introduced a new reason for refusal.
7. At the Hearing, it further went on to introduce new verbal evidence in relation to *inter alia* the content of the Management Plan which had not been made in previous submissions, the capacity of the PV energy system, whether the development was in keeping with the surrounding vernacular and the monitoring arrangements. These matters required additional responses from the appellant at the Hearing.
8. Members did not accept the recommendations of its officers or other professional advisors in coming to a decision. Instead they appear to be uninformed personal opinions, unsupported by any evidence. As a consequence the Authority has failed to support its decision contrary to Paragraph 9 of Annex 3 of the Circular.
9. The failure of the Authority in respect of the matters outlined above has resulted in the appeal coming into being and a need to seek professional advice and representation, and particularly in relation to matters raised at a late stage, which has led to unnecessary expense.

The response by Pembrokeshire Coast National Park Authority

10. Members are entitled to consider what weight to attach to development plan policies and other material considerations. In doing so, they may take into account relevant and material local knowledge and experience. They may also exercise their judgement on matters where it is appropriate to do so, such as the impact on the character and appearance of the area. Parties may have different views about matters of relevance, materiality, weight and judgement and may therefore reach different conclusions. However, the Planning Committee took its decision in a proper manner in accordance with its statutory duties. The decision cannot therefore be considered unreasonable or perverse, and it is not so unreasonable that no reasonable decision maker could ever have come to it.
11. The reason for refusal clearly considers the conformance or otherwise of the development with local and national policies. It indicates the national and local plan policies with which conflict is alleged. The Authority considers that the policies cited are clearly linked to the matters referred to in the refusal. The reason for refusal does not therefore result in lack of precision and specificity.
12. Additionally, the appellant was present at the Committee meeting and will therefore have gained first hand insight into the issues in dispute. The minutes produced supplemented the understanding of the decision taken if the appellant was in any doubt. The appellant's grounds of appeal show a clear understanding of the matters at issue.

¹ Paragraph 4.2 states that the issues are whether or not the proposed development satisfies the very demanding requirements of Low Impact Development and One Planet Development policies and guidance to justify making exception to the general policy of strict control of development in the countryside and whether or not the impact of the development on this locality and community of the National Park is acceptable.

13. The Authority's Statement of case sets out the reasons which it considers that landscape harm would arise from the proposal and why the Management Plan is not sufficiently robust. The Authority has therefore substantiated its reason for refusal.
14. The concern about the robustness of the Management Plan was cited in the reason for refusal. The Statement of Case contains greater detail than the reason for refusal and the Authority therefore submits that the LPA have simply provided more detailed evidence in its subsequent submissions. It has not introduced a new reason for refusal or expanded the reason for refusal.
15. In reference to Paragraph 9 of the Circular, Authority states that Members are not duty bound to accept the advice of its officers. The Authority produced relevant evidence to support its conclusions and had reasonable planning grounds for taking its decision.
16. The matters for discussion were outlined in an agenda produced by the Inspector. They are broad headings and the matters discussed at the Hearing did not stray from those identified in the agenda. In terms of the discussion on monitoring arrangements, this arose as a result of the suggested conditions put forward by the Authority and the appellant's indication that she was not satisfied with the proposed wording. As a consequence, the Authority was asked to explain its reasons for the suggested conditions.
17. The appellant has not incurred unnecessary expense beyond those which it would reasonably expect to incur in order to support an appeal. It is quite normal for an appellant to engage specialist advice in areas where they are not themselves competent.

Reasons

18. Circular 23/93 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process [my emphasis].
19. Paragraph 7 of Annex 3 of the Circular advises that '*A Planning Authority should not prevent, inhibit or delay development which could reasonably be permitted, in the light of the development plan, so far as it is material to the application, and of any other material considerations*'. The Authority assessed the application against local and national planning policies relating to OPD/ Low Impact Development, together with other development plan policies which it contends were relevant to its consideration of the impact of the proposal on the special qualities of the National Park. As I have dismissed the appeal insofar as I have found that the development would not meet the requirements of the former, I do not find that the Authority prevented, inhibited or delayed development which could reasonably be permitted.
20. I do not disagree with the appellant that the reason for refusal framed the concern regarding the 'robustness of the Management Plan' in terms of its effect on the special qualities of the National Park landscape. However, on reading the minutes of the Planning Committee Meeting, it is clear that Members were taking issue with the economic viability of the management plan (amongst other things, doubt was expressed regarding the price of sheep, viability of growing lavender and honey production), which cannot conceivably relate to landscape matters.
21. The Authorities Statement of Case re-iterates and expands upon reason for refusal stating two main issues; that of whether the proposed development satisfies the very

demanding requirements of OPD policies and guidance and the effect on the special qualities of the National Park [my emphasis]. It seems to me that the issues subsequently identified go beyond that in the reason for refusal. Consequently, I am of the view that the reason for refusal was not as complete, precise and specific as it might have been.

22. I also acknowledge that further discussions at the Hearing, for example in relation to whether the dwelling was in keeping with the local vernacular and the capacity of the PV energy system, expanded upon the Authority's case. This is tantamount to introducing new issues at a late stage, and amounts to unreasonable behaviour on the part of the Authority.
23. Nevertheless, and for the most part, the appellant's grounds of appeal indicate a clear understanding of the Authority's concerns regarding the aspects of the management plan with which it takes issue. The appellant's representation at the Hearing consisted of a professional planning advisor / specialist in the area of OPD, who had also provided a written appraisal of the Management Plan prior the Hearing. I had the benefit of the practical, first-hand experience of OPD from Mr Wimbush of Lammas, who was at the Hearing to give evidence in support of the appellant. It did not therefore come as a surprise to the appellant that these matters were for discussion.
24. Whilst issues were raised at a late stage, the appellant was given sufficient time both prior to, and during, the Hearing to respond to the matters raised. There was no need to adjourn the Hearing to allow the appellant to respond to the additional evidence.
25. The appeal did not succeed as the development does not satisfy the OPD requirements set out in national planning policy, so the appellant's evidence and that of her representatives was a necessary part of the appeal process. The Authority's Statement of case also sets out the reasons it considers that landscape harm would arise from the proposal and the effects it would have on the qualities of the NP. The consideration of issues such as the effect on the landscape involves matters of judgement which are, at times, finely balanced. In this particular case, the Authority's decision involved, in part, matters which were subjective and it does not mean that it acted unreasonably in deciding that factors did not warrant approval of the planning application.
26. Paragraph 9 of Annex 3 of the Circular states that planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers. The minutes of the planning committee meeting explained the reason for deferring the determination of the application for a site visit and the subsequent refusal of planning permission contrary to officer recommendation. In this particular case, Members were perfectly entitled to take into account their own relevant local knowledge and experience, and come to a view on the robustness of the Management Plan and its compliance with the national and local planning policy guidance. Reasons were given as to what matters prompted the Authority to reject the advice of its officers and I consider that this was adequately dealt with in the Authority's response to the appeal.
27. In this context, and whilst I have found that the Authority acted unreasonably in some respects, the question is whether such actions caused the appellant unnecessary expense in seeking professional advice and representation. In my opinion, the appeal would have come into being in any event and it is not uncommon for appellants to be professionally represented in relation to such development as that proposed. The appellant was aware of the matters to be discussed at the Hearing and those discussions were an essential part of the appeal process. Whilst additional matters

were introduced, this did not result in any delay in hearing the appeal as the responses were provided at the Hearing by the appellant and her representatives. Thus, I do not find that unnecessary expense has been incurred by the appellant.

28. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93, has not been demonstrated and that an award of costs is not warranted.

Melissa Hall

Inspector