

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/16/0625/FUL</u>	New dwelling – plot rear of Freshwater Inn, Freshwater East
Type	Written Representations
Current Position	The appeal has been dismissed and a copy of the Inspectors decision is attached for your information.
<u>NP/17/0395/FUL</u>	Erection of replacement two storey dwelling – Roberts Chalet, Swanswell, Broad Haven
Type	Written Representations
Current Position	The appeal has been dismissed and a copy of the Inspectors decision is attached for your information.
<u>NP/17/0551/S73</u>	Variation of conditions 2, 3 & 9 and removal of condition 10 of NP/14/0713
Type	Hearing
Current Proposal	The initial paperwork has been submitted to the Planning Inspectorate.
<u>NP/17/0595/FUL</u>	Conversion of outbuilding with rear extension to create self-catering holiday unit – The Mill, Sandy Haven, St Ishmaels
Type	Written Representations
Current Position	The initial paperwork has been submitted to the Planning Inspectorate.
<u>NP/17/0596/CLE</u>	Use of the south field known locally as Caldey Acres at Buttyland Caravan & Camping Park as a touring & camping field for up to 140 touring caravans and tents at any one time on a seasonal basis for holiday purposes only from 1st March up to 28th September in any one year – Buttyland Caravan & Camping Park, Manorbier
Type	Inquiry
Current Position	The initial paperwork has been submitted to the Planning Inspectorate.
<u>EC/15/0112</u>	Material Change of use of the Building to use for Residential Purposes – Anti U Boat Listening Station, Garn Fawr, Nr Strumble Head, Pembrokeshire SA64 0JJ
Type	Hearing (changed from an Inquiry to and Appeal Hearing)
Current Position	The initial paperwork has been submitted to the Planning Inspectorate



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 15/06/18

gan Richard Jenkins BA (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 25/06/18

Appeal Decision

Site visit made on 15/06/18

by Richard Jenkins BA (Hons) MSc
MRTPI

an Inspector appointed by the Welsh Ministers
Date: 25/06/18

Appeal Ref: APP/L9503/A/18/3196720

Site address: Plot at Freshwater Inn, Jason Road, Freshwater East, SA71 5LE

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 Phillip Davies against the decision of Pembrokeshire Coast National Park Authority.
- The application Ref: NP/16/0625/FUL, dated 22 November 2016, was refused by notice dated 18 September 2017.
- The development proposed is a new dwelling.

Decision

1. The appeal is dismissed.

Main Issue

2. This is whether the development is acceptable in principle, having particular regard to the development plan framework and other material considerations.

Reasons

3. The appeal proposal seeks planning permission for a detached residential dwelling on land located to the rear of the Freshwater Inn in Freshwater East, Pembrokeshire. The proposed dwelling would comprise a contemporary split level property that would be located in the north eastern part of the plot. A new access would be created along the western boundary of the plot, although an existing agricultural access would be closed off as part of the works. The National Park Authority (NPA) objects to the proposed development on the basis that it would fail to comprise infill development or the rounding off of the village and that it would, therefore, be contrary to the policy framework set by the adopted Pembrokeshire Coast National Park (PCNP) Local Development Plan (LDP) (September 2010). Despite a number of other matters being raised by interested parties opposed to the scheme, I shall confine my reasoning to such a matter.
4. The site lies outside of the defined settlement boundaries of the adopted LDP and is therefore located in countryside for the purposes of planning. Consistent with the general thrust of national policy, the adopted LDP advocates a restrictive approach to development within such locations, although Policy 7(a) does state that, outside of identified centres, development will be permitted where it constitutes the sensitive infilling of small gaps or a minor extension (i.e. rounding off) to isolated groups of

dwelling. That policy exemption also goes on to state that the release of land will however depend upon the character of the surroundings, the pattern of development within the area and the accessibility to the centres identified within the settlement hierarchy. Policy 8 of the adopted LDP, which seeks to protect and enhance the special qualities of the national park, is also of relevance.

5. I was able to confirm at the time of my site visit that the development along the southern flank of Jason Road is characterised by a more disparate pattern of development than the largely uniform building line prevalent along the northern flank. Nevertheless, the proposed development would be located a significant distance from the frontage of Jason Road and, by virtue of the proposed access arrangements, would relate poorly to the existing built form along that road. I note the presence of residential properties to both the north-west and the south of the plot. However, by virtue of the significant distance between those properties, I consider that the proposed development would go beyond the aforementioned provisions of Policy 7(a). Indeed, by reason of the scale and siting of the appeal site, I consider that it would represent an unacceptable incursion into the countryside, away from the predominant built form which lies off Jason Road.
6. I note the presence of a number of isolated developments within the wider area that contribute towards a more dispersed pattern of development, particularly to the south of Jason Road. However, I have not seen anything to indicate that such developments were granted planning permission under the current planning policy framework and therefore consider such developments to do little to justify the development proposed in this case. I note the appellant's contention that the site may degenerate into wasteland should planning permission be withheld. I also note the submissions that the development would be accessible to facilities and services, including public transport. However, whilst I acknowledge that such matters weigh in favour of the appeal, I do not consider that the extent of such matters weighs so heavily to justify a departure from the adopted development plan policy in this instance. Indeed, much of the sustainability arguments advanced in favour of the appeal, including the use of an electric/hybrid car, home working, online shopping and car sharing, would be unenforceable through the imposition of planning conditions and would therefore fail to satisfy the requirements of Welsh Government Circular 16/2014: *The Use of Planning Conditions for Development Management* (October 2014).
7. Based on the foregoing, I find that the proposed development would represent an unjustified form of development in a countryside location. The principle of the development would therefore run counter to the development strategy of the adopted LDP and, in particular, Policy 7(a). As an unjustified form of development within the countryside, it would also run counter to the general thrust of Policy 8 of the adopted LDP and the planning policy framework set at a national level, including Planning Policy Wales (Edition 9, 2016) (PPW) and Technical Advice Note 6: *Planning for Sustainable Rural Communities* (2010) (TAN6). Therefore, having considered all matters raised, I conclude that the appeal should be dismissed.
8. In coming to this conclusion, 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 (WCFG Act). I have taken into account the ways of working set out at section 5 of the WCFG Act and 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, as required by section 8 of the WCFG Act.

Richard E. Jenkins

INSPECTOR



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 14/05/18

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad : 23 Mai 2018

Appeal Decision

Site visit made on 14/05/18

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

an Inspector appointed by the Welsh Ministers

Date : 23 May 2018

Appeal Ref: APP/L9503/A/18/3195064

Site address: Roberts Chalet, Swanswell Farm, Trafalgar Terrace, Broad Haven, Haverfordwest, Pembrokeshire SA62 3JU

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 grant of planning permission subject to conditions.
 - The appeal is made by Mr Martyn Roberts against the decision of Pembrokeshire Coast National Park Authority.
 - The application Ref NP/17/0395/FUL, dated 4 July 2017, was approved on 5 September 2017 and planning permission was granted subject to conditions.
 - The development permitted is the demolition of the existing structure and erection of a 2 storey replacement dwelling, detached garage and retaining walls.
 - The condition in dispute is No 9 which states that: *'Prior to the commencement of the development the applicant shall submit to the local planning authority a scheme of intrusive site investigations for approval in writing. The scheme of intrusive site investigations shall then be carried out and a report submitted on its findings arising from the intrusive site investigations, together with a scheme of remedial works for approval in writing by the local planning authority and then the implementation of those remedial works'*.
 - The reason given for the condition is: *'In the interests of preserving public health and local amenity'*.
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Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. The site address shown on the planning application form differs from that shown on the Authority's decision notice insofar as the former refers to *'Bunks Lane, Broad Haven, Haverfordwest SA62 3LW'* whilst the latter refers to *'Swanswell Farm, Trafalgar Terrace, Broad Haven, Haverfordwest SA62 3JU'*. The appellant's subsequent appeal form shows the site address as *'Swanswell, Broad Haven, Haverfordwest'*. I am satisfied that all relate to the appeal site, albeit I have used that shown on the Authority's decision notice for the purposes of my Decision.
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3. Planning permission was granted for the demolition of the existing chalet and its replacement with a 2 storey dwelling and detached garage and retaining walls in September 2017. In its consideration of the application, the Authority acknowledged that the site lies in a High Coal Risk Area. As a result, the application was supported by a Mining Risk Assessment Desk Study Report, based on which, the Coal Authority requested that a condition be imposed on the planning permission relating to the need for a scheme of intrusive site investigations. The Authority did so in the form of Condition 9.
4. The appeal before me seeks the removal of Condition 9 of Planning Permission Ref NP/17/0395/FUL. The appellant contends that the additional survey / site investigations undertaken by Quantum Geotechnical in December 2017, indicates that there is no instability in the ground.

Main Issue

5. Against the background that I have described, the main issue is whether the condition is both reasonable and necessary having regard to the matter of ground stability.

Reasons

6. Welsh Government Circular 016/2014 *'The Use of Planning Conditions for Development Management'* ("the Circular") sets out 6 tests for planning conditions; that conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
7. Planning Policy Wales (PPW) confirms that responsibility for determining the extent and effects of unstable ground, and the responsibility / liability for safe development and secure occupancy of the site, remains with the developer and/or landowner¹.
8. The site comprises a wooden chalet positioned on railway sleepers with a cutting around the southern and western edge of the property and dense vegetation in these areas. To the rear of the chalet is a single leaf stone wall, approximately 1.8 metres high, which the appellant believes was constructed in the 1940's.
9. The Mining Risk Assessment Desk Study Report prepared by Quantum Geotechnical and submitted with the planning application identifies thick coal outcrops within the vicinity of the site. Although the Coal Authority Mining Report which informs the Desk Study Report indicates that no past underground workings exist beneath the site, the Coal Authority indicates that unrecorded workings at or close to the surface may exist in the site area. Hence, the Desk Study Report concludes that the extent and effect of the disturbed ground cannot be quantified without physical investigation and that in order to quantify the risk from surface workings, a targeted ground investigation is required.

¹ Paragraphs 13.9.1 and 13.9.2 of PPW.

10. The subsequent correspondence from Quantum Geotechnical detailing the site investigations that have been carried out confirms that vegetation has been cut back at two locations to the rear of the chalet to expose the bank of each of the cuttings together with an excavation undertaken by Welsh Water to install a replacement water stop; it agrees the presence of some made / disturbed ground which may be an indication of surface mine workings. It identifies that the bulb of pressure created by any buildings constructed on or within the fill is likely to extend into any made ground which may underlie the fill, potentially causing significant amounts of settlement. It therefore concludes that the proposed development may need to be constructed on a reinforced raft foundation which should be sufficient to mitigate against the occurrence of significant magnitudes of total and/or differential settlements. It concludes that some form of ground improvement, or foundation measures beyond that of traditional footings, may be required.
11. Based on long-standing family ownership, historical knowledge and personal observations of the site, the appellant also confirms that the cuttings have remained stable throughout with no sign of slippage or settlement or subsidence issues associated with Roberts' Chalet.
12. However, the Coal Authority does not consider that the site investigations undertaken are sufficient to provide a comprehensive understanding of the coal mining legacy of the site and therefore identify any necessary remedial measures.
13. In my opinion, there remains to be uncertainty about the potential ground instability, and the effect of the construction activities on any made/disturbed ground based on the limited amount of site investigation that has been carried out to date. In circumstances where there is risk of instability to the proposed development in an area of previous known surface mining activity, I would expect the site investigations to provide a robust level of detail to reliably inform any remedial measures that may be necessary and to determine the exact engineering requirements for the development foundations.
14. Overall, whilst there is information about the general nature of the site, including the appellant's personal and historical knowledge, there is insufficient evidence relating to the particular land stability concern which would currently enable me to conclude that the site is safe and stable, or is capable of being made so, in line with the requirements of PPW.
15. The appellant contends that none of the replacement dwellings on elevated plots surrounding the appeal site have suffered settlement, or caused subsidence to the cuttings and slopes contained within Roberts' Chalet boundary, or elsewhere. Be that as it may, I cannot be certain of the extent of site investigation that was carried out on these sites prior to construction work nor is there any corroborating expert evidence before me that this is indeed the case.
16. Control by condition, requiring a scheme of intrusive site investigations, is therefore both reasonable and necessary, and meets the tests outlined in the Circular.

Conclusions

17. For the reasons outlined above, and having regard to all matters raised, I conclude that the appeal should be dismissed and the disputed condition should remain.

18. 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 WBFG Act"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG 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 WBFG Act.

Melissa Hall

INSPECTOR