The Planning Inspectorate
Yr Arolygiaeth Gynllunio

# Penderfyniad ar yr Apêl

Ymchwiliad a gynhaliwyd ar 20/10/10-22/10/10 & 26/10/10-28/10/10

Ymweliad â safle a wnaed ar 27/10/10

**gan Clive I Cochrane DipArch MSc MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 10/12/10**

# Appeal Decision

Inquiry held on 20/10/10-22/10/10 & 26/10/10-28/10/10

Site visit made on 27/10/10

**by Clive I Cochrane DipArch MSc MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 10/12/10**

**The Welsh Ministers have transferred the authority to decide these appeals to me as the appointed Inspector.**

**Site address: Bettws Newydd, Parrog, Newport, Pembrokeshire**

## Appeal A – Ref: APP/L9503/C/10/2131835

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr R N Nicholas against an enforcement notice issued by the Pembrokeshire Coast National Park Authority.
- The Council's reference is ENF/08/10.
- The notice was issued on 03/06/10.
- The breach of planning control as alleged in the notice is the construction of a partially completed dwelling house including 3-storey elements together with garaging and associated driveway and hardstanding and related groundworks, earthworks and landscaping.
- The requirements of the notice are: -
  - (i) Remove the building, hardstanding and driveway and the groundworks and earthworks forming part thereof;
  - (ii) Remove from the land all building materials and rubble arising from compliance with requirement (i) above and restore the land to its condition before the breach took place by levelling and resurfacing the ground.
- The periods for compliance with the requirements are: -
  - (i) 6 months;
  - (ii) 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

## Appeal B – Ref: APP/L9503/A/10/2128919

- 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 R N Nicholas against the decision of Pembrokeshire Coast National Park Authority.
- The application Ref. NP/10/033, dated 12/01/10, was refused by notice dated 21/04/10.
- The development proposed is the retention of the building and completion of a dwelling and landscape proposals in accordance with plans submitted (application made pursuant of section 73A(1) and 62 of the Town and Country Planning Act 1990).

## Decisions

Appeal A – Ref: APP/L9503/C/10/2131835

1. I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a partially completed dwelling house including 3-storey elements together with garaging and associated driveway and hardstanding and related groundworks, earthworks and landscaping on land at Bettws Newydd, Parrog, Newport, Pembrokeshire, referred to in the notice, subject to the conditions set out in the Schedule below.

Appeal B – Ref: APP/L9503/A/10/2128919

2. I allow the appeal, and grant planning permission for the retention of the building and completion of a dwelling and landscape proposals in accordance with plans submitted at Bettws Newydd, Parrog, Newport, Pembrokeshire, in accordance with the terms of the application, Ref. NP/10/033, dated 12/01/10, and the plans submitted with it, subject to the conditions set out in the Schedule below.

## Preliminary Matters

3. The decisions to be taken in respect of the ground (a) appeal and the appeal against refusal of planning permission shall be considered in accordance with sections 73A(2)(a) and 70(2) of the Planning Act, which requires me to have regard to the provisions of the development plan, so far as material to the application, and to any other material consideration. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA), further requires that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policy

4. Although the planning decisions of the Authority that led to these appeals were made having regard to the Policies 56, 67, 76 and 78 of the Joint Unitary Development Plan for Pembrokeshire 2000-2016, the planning policy framework for the appeals has recently changed with the adoption of the Pembrokeshire Coast National Park Local Development Plan (LDP) on 29th September 2010. As section 38 of the PCPA provides, the LDP now supersedes the former Unitary Development Plan for the area.

5. From the evidence to the inquiry, it appears that the relevant policies of the LDP are Policy 8 (Special Qualities of the Pembrokeshire Coast National Park (PCNP)), Policy 15 (Conservation of the PCNP), Policy 29 (Sustainable Design) and Policy 30 (Amenity). The 2009 joint publication by the Brecon Beacons National Park Authority, Snowdonia National Park Authority and the Pembrokeshire Coast National Park Authority: *Guidance for Sustainable Design in the National Parks of Wales* has been adopted as Supplementary Planning Guidance and forwarded as part of the LDP. Its advice is therefore material in the consideration of these appeals. In addition, the National Park Authority has adopted the Landscape Character Study (June 2009) as Supplementary Planning Guidance in the LDP.

The "Fall-Back Position"

6. It is a material consideration in both appeals that planning permission NP/06/076 was granted on 17th October 2006 for the erection of a new dwelling on the appeal site, subject to 15 conditions. That permission is extant and capable of implementation within the five year period for commencement, as set out at condition no. 1.

7. However, a number of changes were made to the approved plans during the application for Building Regulations approval. The building on site today was constructed in accordance with the Building Regulations plans dated 27/11/06. The main differences are that the later set of drawings included additional rooms in the lower ground floor, reduced the width of the north elevation by 1.3m, increased the depth of the building at ground and first floor levels by 700mm and changed some of the roof levels. As the differences between the two sets of plans were considered to be more than minor, and the amended plans have not received planning permission, the building on site is unauthorised.

8. In submissions to the inquiry, the parties agree that none of the works which have taken place can be considered to comprise the commencement of the development for which planning permission was granted in 2006, because all the works were carried out for the express purpose of developing the site for the dwelling shown in the Building Regulations plans. The appellant concedes that even if some of the work could be said to relate to the 2006 permission, it cannot amount to the commencement of the development if it was in contravention of conditions requiring prior approval, as such works would have been unlawful.

**Ground (a), Deemed Application & Section 78 Appeal**

Main Issues

9. In determining whether planning permission should be granted for the appeal proposals, the main issues to be considered are whether the retention and completion of the proposed dwelling and the associated landscape works would preserve the rural landscape and natural beauty of the Pembroke Coast National Park and whether it would adversely affect the setting of the Parrog Conservation Area.

10. The enforcement notice appeal raises issues about whether the requirements of the notice are excessive to the extent that lesser requirements would overcome the harm to local amenity, and whether the period for compliance is reasonable.

**Reasons**

11. The proposals involve the retention of the 2 and 3-storey building and its completion together with a comprehensive landscaping scheme for the whole site. The appeal site is situated on the western edge of Newport, close to open countryside, lying between the Parrog on the estuary to the north and the A487 Fishguard to Cardigan road to the south. The locality is characterised by a loose-knit group of houses in large plots stretching inland from the estuary, partly within the Parrog Conservation Area, with access to the coast via narrow lanes such as Feidr Brenin, which borders the site. As the area is residential in character and the appeal site formerly accommodated a dwelling, the proposed development for a new dwelling would be a lawful use of the site, which also has the benefit of an extant planning permission for a new dwelling. Therefore, the principle of redevelopment of the site for a dwellinghouse has been established.

12. The Local Development Plan sets out policies for protection and enhancement of the special qualities of the Pembrokeshire Coast National Park through securing its sense of remoteness and tranqullity (Policy 8), for the conservation of the Pembrokeshire Coast National Park (Policy 15) and for the protection of the amenity enjoyed by residents in the locality (Policy 30).

13. Policy 15 would rule out development that would adversely affect the qualities and special character of the National Park by:

    (a) causing significant visual intrusion; and/or

    (b) being insensitively and unsympathetically sited within the landscape; and/or

    (c) n/a

    (d) failing to harmonise with, or enhance the landform and landscape character of the National Park; and/or

    (e) n/a.

    LDP Policy 30 does not allow development that would have an unacceptable impact upon amenity, where the development is of a scale incompatible with its surroundings and where the development would be visually intrusive.

14. The newly constructed building is highly visible from close up and in distant viewpoints around the site, but not easily seen in middle distances from points within the Parrog Conservation Area. It is prominent in views from the estuary sands, beaches, from craft on the water and in more distant views from the coastal footpath around the estuary to the north of Newport. I consider that the completed building would be visually intrusive and insensitively sited within the protected landscape of the National Park due to its scale, design and location on rising ground above the coastal scene. It also impinges upon the level of amenity currently enjoyed by local people, particularly on the appearance of this part of the town and adjoining countryside.

15. In those views of the northern elevation from near and far, the building has a 3-storey appearance, with much reflective glazing in the main living room gable. Being set back on higher ground, it is tall and dominant in its surroundings, notwithstanding the existence of 3-storey houses along the Parrog seafront, which it towers above in distant views. Therefore I take the view that, when completed, the building would fail to harmonise with, or enhance the landform and landscape character of the National Park as required by Policy 15 of the LDP.

16. The design of the dwelling is uncompromisingly contemporary, with little concession made to the vernacular architecture of the area or the large historic buildings that form the core of the Parrog Conservation Area. It makes a bold design statement that is a clear departure from the varied quality of domestic architecture in the surrounding area. As such, the building relates poorly to the place and its local distinctiveness. Due to the prominence and scale of the 2- and 3-storey elevations, the building is incompatible with its surroundings and due to the visually intrusive nature of the building I conclude that the retention and completion of the development would have an unacceptable impact on local amenity contrary to LDP Policy 30.

17. Whilst it can be argued that the as-built dwelling fails to meet the sustainable development objectives of LDP Policy 29 and the Supplementary Planning Guidance on sustainable design in the National Park, it has to be borne in mind that these appeals both deal with the retention of an existing dwelling (albeit part-built), which makes it rather to difficult to apply these guidelines retrospectively. Nevertheless, I conclude

that in my opinion the large modern dwelling that has been built on the site fails to meet many of the criteria of the approved LDP policies.

Effect of the 2006 Planning Permission (the fall-back)

18. However, the above conclusions are related to an assessment of the proposed building in isolation from the recent planning history of the site. In determining these issues, I am bound to take account of the 2006 planning permission and the latest landscape proposals for the site as material considerations in both appeals.

19. I recognise the strength of the National Park Authority's case that the existence of the 2006 permission and the favourable officer reports to the Development Management Committee (DMC) do not undermine the development plan policy position relating to the particular development in this location. In my view there is a clear policy steer against this development, but at the same time I am forced to recognise that a large house of similar design and location has been approved for the site. It is also material to my decisions that good quality landscape design could help to assimilate the building into the local area.

20. I have examined in detail the differences between the proposed completion of the "as built" scheme and the 2006 approved building, and it seems to me that the reductions and additions to the elevations, side roof and lower ground floor accommodation have no significant effect on the appearance of the dwelling as a whole. However, the two outstanding issues between the parties concern the siting of the building and the finished floor levels of the comparative schemes.

Siting

21. It is claimed by the National Park Authority and the local Opposition Group that the dwelling has been constructed in the wrong location, i.e. not as shown on the approved 2006 plans. They estimate that by comparing measurements taken off the site layout plan with those on site, the building lies about 5m closer to both the western and southern boundaries than that shown on the approved Site Plan NP 001. The local planning authority and other objectors claim that, when scaled off the 1:200 Site Plan NP 001, the south-west corner of the building should have been located 19-20m distance from the site entrance on the west side of the site. However, I do not find this argument convincing, because such measurements would have positioned the building in such close proximity to the eastern boundary, as to create a cramped and unsatisfactory layout. Such a location would have the eastern side of the dwelling constructed partly across the existing hedgebank boundary that separates the open plot from the woodland.

22. In my view, the approved Site Plan is clearly inaccurate. It shows only a diagrammatic, polygonal, central portion of the appeal site, from which it is not possible to identify the boundaries of the appeal site with sufficient accuracy for the purposes of setting out the building on the site. It is clear that what it does show is misleading, because it indicates a site width greater than 60m on the east-west axis, whereas the 2010 site survey shows a width of about 40m. Looked at as a diagrammatic layout, it is apparent from the plan that the intention was to site the building near to the centre of this open corner of the whole plot, which has been achieved on site.

23. Clearly the new dwelling was approved in 2006 with a rather vague notion of where it would be built on the site, and consequently, planning permission NP/06/076 was granted without an accurate site layout plan or any condition aimed at controlling the

final siting of the dwelling. My inspection of the site indicates that the dwelling has been positioned closer to the eastern woodland edge than the western entrance, in a reasonable relationship to both aspects of the site. On the north-south axis, the as-built dwelling may have been sited slightly closer to the southern boundary of the site, but not by 5m as claimed by the objectors, and any difference is not significant bearing in mind the gross inaccuracies of the approved plan. Notwithstanding the dimensional inconsistency between the plan and the site, I conclude that the building is sited more or less in accordance with the approved plan, or if not, it is located in the optimal position on the plot so as to respect the integrity of both side boundaries.

Levels

24. With regard to the floor, eaves and roof heights of the building, it is accepted by the parties that these are dependant upon establishing a finished floor level for the upper ground floor of the dwelling. Once this is established, by reference to an AOD or temporary bench mark datum, the related levels of the floors, eaves and roof will automatically fall into place, in accordance with the approved plans and elevations.

25. Whilst the unauthorised "as-built" house cannot have been constructed to any agreed levels, the National Park Authority appears to have agreed levels in writing in 2007 for the approved scheme NP/06/076. The planning officer's "Site Progress Monitoring Notes" state firstly that on 14/02/07 the finished levels needed to be agreed as per condition 3, and on 27/02/07 it is confirmed that the levels on site were agreed and that details as requested by conditions 5, 6 and 7 were to be submitted. Site photographs taken at the meeting clearly show that foundation excavations, site concrete and profiles were in place at the time of this survey in 2007. It was during this process that the Building Regulation plans were submitted on 18/01/07 and approved on 16/03/07. A site meeting took place on 20/07/07 to check that the development was being carried out in accordance with the approved drawings.

26. Following that site meeting, the local planning authority confirmed in a letter of 26/07/07 to the appellant regarding planning permission NP/06/076 that "*the development is being carried out in accordance with the approved drawings and that Condition 3 of the planning permission NP/06/076 (dated 17 October 2006) may now be discharged*". The letter also pointed out that Conditions 5, 6 and 7 had yet to be fully complied with. A further letter of 17/01/08 from the authority to the appellant about planning permission NP/06/076 also notes that conditions 5, 6 and 7 have yet to be fully complied with. Survey notes made on a copy of Site Plan NP 001 at a site meeting on 20/02/08 established the upper ground floor of the steel-framed structure should be some 67mm below a datum agreed as 20.20m AOD, that being the level of the stone top step of the stile leading into the adjoining field. Allowing for a screed finish, it was agreed that the top step datum should be set for the finished upper ground floor level, and that the framework of the building had been constructed to the correct levels.

27. I note in particular that in correspondence, the authority appears to accept, by admission or omission, that conditions 2, 3 and 4 had been met by early 2008. That is to say that the development had been carried out in accordance with the amended plans received by the National Park Authority on 24th July 2006 (Condition 2); that site profiles of the external ground and internal floor levels were approved (Condition 3); and that the existing dwelling had been demolished and removed from the site prior to the development (Condition 4), as none of those matters were specifically referred to in correspondence about the conditions.

28. Later in May and June 2008 site notes and letters from the local planning authority stated that the small differences between the approved and as-built buildings were cumulatively of such significance that a new planning application was requested for the as-built dwelling. However, none of these matters related to the agreed levels of the building. The main changes to the approved building listed in the officers' report to the DMC on 19/11/08 are: -

    - a decrease in the length of the north elevation from 11.2m to 9.9m;
    - a decrease in height of the glazed section of the sun terrace by 500mm;
    - an increase in the height of the hall, garage and utility area by 400mm when measured from the approved internal ground floor level to the ridge;
    - an increase in the length of the garage/hall section from 9.2m to 9.9m;
    - an increase in depth of the garage/utility section from 10.7m to 10.9m;
    - an increase in the width of the kitchen/dining area from 6.6m to 6.7m;
    - the erection of a retaining wall to the east side of the building;
    - a reduction in the height of the lean-to roof section over the utility room by 1.25m;
    - alterations to the position and style of fenestration;
    - alterations to the internal layout including the provision of additional storage rooms under the garage; and
    - changes to external ground levels.

    Even though at that time the National Park Authority was requesting a new planning application for the changes, the third point noted above recognises that the level of the main ground floor had already been approved as satisfying condition 3 of the 2006 permission.

29. In a report to the DMC of 15/04/09, regarding planning application NP/08/361 for the variation of Condition No.2 of the 2006 permission, the planning officer stated that the skyline position of the roof ridge was only 400mm higher than that originally approved, because "*the ground floor slab level has been approved by officers, and is accurately constructed, and therefore the references to the building being constructed off a higher level than approved are inaccurate as the slab level has been agreed as required by Condition 3 of NP/06/076*". The officer's report to the DMC on 21/04/10 regarding the planning application (NP/10/033) subject of this appeal, also explains that the ground floor levels of the proposed 2006 dwelling were approved in 2007 as being 20.20m AOD.

30. For those reasons therefore, I find that the appellant had already met the requirements of condition 3 of the 2006 planning permission NP/06/076 in 2007, as confirmed in site meetings of February and July, and as clearly stated in the letter of 27 July 2007 from the local planning authority. I conclude that the position of the building on the site is as approved in October 2006, and the finished floor levels of the approved dwelling are as agreed in February and July 2007 as meeting the requirements of condition 3 of that planning permission.

31. It is clear that from October 2006 to May/June 2008, the local planning authority had approved the erection of a new dwelling of the very similar size, floor height and

location to the as-built scheme. It seems to me that the authority had agreed that the progress of the building met conditions 2 and 3 of planning permission NP/06/076. As the correspondence and the February 2008 annotated site layout plan show, the appellant was entitled to assume that everything was correct up to that point in time. Although the appellant had increased the accommodation in the lower ground floor significantly, this has no effect on the external appearance of the dwelling, and the other minor elevational changes could have been regarded as *de minimus* in view of the similar scale and appearance of the approved building. I believe that, had it not been for the shock effect of the actual erection of such a large new structure in this locality, the slight differences in the elevations and roof could have been treated as minor changes, particularly bearing in mind that the siting and levels of the building had effectively been approved.

32. If the current appeals fail, the appellant has provided a clear and reasoned determination to carry on to build the approved dwelling, once he has met the conditions requiring prior approval. Therefore, it is probable that the approved building, from which the as-built scheme departs only to a minor extent, would be erected on the site in the same position and with the same approved floor levels. It is a matter of fact that the approved main elevation facing north across the bay has been reduced in length by about 1.3m, so that it would have less fenestration and general visibility in those distant views. Like the building now on the site, the dwelling approved in 2006 is of a modern design, with accommodation on 3 levels in the northern section of the building, and on 2 levels in the southern part, with the first floor accommodation to be provided in the roof space. In addition, the building was to be extensively glazed to take advantage of the panoramic views to the north.

33. The minor changes from the approved design do not alter the original concept of this modern dwelling. Although some dimensions of the as-built building have been increased or reduced to a greater or lesser degree during construction, including some 400mm additional height to the main gabled roof, I do not consider these to be significant or visually intrusive. The scale and footprint of the as-built dwelling is more or less equal to the approved scheme. The original scheme was approved as meeting the policies in the development plan, and I do not consider that the retention and completion of the appeal building would have a greater visual impact on the landscape of the Pembrokeshire Coast National Park or the setting of the Parrog Conservation Area.

34. In addition to those former UDP policies that are now reflected in LDP Policies 8, 15 and 30, the 2006 proposed development was judged to have met UDP Policy 56 regarding replacement dwellings, particularly the criteria that the proposed dwellings should be no more visually intrusive than the original dwelling on the site. This is despite the fact that the new dwelling would be significantly taller and of a much larger footprint than the original bungalow, making it much more visible from public vantage points in the surrounding landscape. In this instance, the authority welcomed a contemporary approach to the design of the replacement dwelling, and took the view that it would not be intrusive in any harmful way. Notwithstanding the policy framework, the site now benefits from the 2006 planning permission for a large modern dwelling. I consider that the permitted scheme has also received approval with regard to setting out of levels for the lower and upper ground floors, through the local planning authority's discharge of condition 3.

35. As the approved house would be constructed of similar size and profile, in the same location on the site, the planning fall-back position carries significant weight in the

determination of both appeals. If the appeals are turned down and the appellant is forced to demolish and remove the unauthorised development from the site, it is quite clear that he would then proceed to erect the very similar, approved modern dwelling in the same location.

36. Although the as-built dwelling is unauthorised and, as I have concluded, it would not normally be granted planning permission, the purpose of the enforcement regime is not to punish the developer but to remedy the harm that the unauthorised development has inflicted on the environment and other interests of public importance. Where, as in this instance, it is concluded that there would be no such harm in allowing what has been built to remain on the site, because it is not significantly different from the building that already has planning permission and would be likely to be built, it seems to me that the enforcement notice would not serve the purpose for which it is intended.

37. Accordingly, I have reached the conclusion that the appeal against the enforcement notice should succeed on ground (a), and the notice be quashed. In view of this, grounds (f) and (g) of the appeal do not fall to be considered. Therefore, planning permission will be granted on the deemed application in the same terms as the section 78 appeal against the refusal of planning permission.

Landscape Scheme

38. As part of the planning application subject to the section 78 appeal (Appeal B), the appellant has submitted a detailed landscaping scheme for the site. The proposals are intended to accommodate the building partly below a new ground level through mounding on the east and west sides, and to assimilate the dwelling into the existing landscape by means of perimeter planting on hedgebanks and mounds. In views from the south, west and east the lower ground floor of the building would not be visible from outside the plot due to the earth banking around the lower ground floor and retaining walls.

39. Currently, the scale of the house is exaggerated by the rather bare, unfinished landscaping around its base. As built, the elevations of the dwelling can be measured as being up to 21% larger than the approved building, mainly in the east elevational view, but I consider that this is largely as a result of the exposure of the retaining wall and the unfinished state of the ground levels and landscaping. It is on an elevated site, but when completed, the earthworks and landscaping would achieve the original concept of 2-storey building sitting above a largely hidden lower ground level. The mounding and planting proposed along the eastern boundary would link with the hedgebanks and existing woodland to soften its appearance and is intended to reduce the scale of the house in distant views across the estuary from the north and east.

40. The former wetland area below the dwelling appears to have been damaged by the extensive earthworks that have already taken place, but the loss of habitat and vegetation would be restored through the proposed landscape works so that the wetland area would be regenerated over subsequent years.

41. The National Park Authority's reasons for refusal of planning permission for the as-built dwelling (NP/10/033) are not that the design of the dwelling itself is unacceptable but rather that "*the dwelling as constructed does not achieve an acceptable level of integration with the landform and setting of the site. As a result it is significantly more prominent and visually intrusive than both the original dwelling and the replacement dwelling approved under permission NP/06/076, it does not*

*reflect the proportions of other buildings on The Parrog*". Reason 2 states that "*Notwithstanding the fall back position encompassing permission NP/06/076, to the extent that it is relevant, the proposed landscaping scheme will not reduce the visual intrusion such that the conflicts identified in reason 1 will be satisfactorily mitigated*".

42. It appears that these reasons are more related to the need for the building to be assimilated into the existing landscape of the area. As already stated, I do not accept the claim in reason 1 that the as-built dwelling is significantly more prominent and visually intrusive than the 2006 approved dwelling. Nor is this view borne out by the officer's report of 21/04/10 to the DMC, which points out that the approved 2006 scheme with the agreed levels means the as-built dwelling is very little different from that approved and recommends that the fall-back position is a material consideration which must be attributed considerable weight and that the differences between the fall-back position and as-built proposal are not significant. Clearly, the fall-back position cannot be ignored, because it is likely to be carried out, and I consider that the visual impact of the proposed completed development could be mitigated by the proposed landscaping scheme which would have the effect of reducing the existing scale and bulk of the building, particularly in views from the east and north.

43. I conclude that the fall-back development is a realistic possibility in the event of the enforcement action taking effect and planning permission being refused for the as-built dwelling. Bearing in mind the limited options for a reasonable interpretation of the approved location of the dwelling on the site and the agreed levels of the building, I conclude that there would be little difference between the scheme approved and that which has been built. Accordingly, despite the policy position in the LDP, I conclude that planning permission should be granted for the retention and completion of the dwelling as submitted in planning application NP/10/033.

**Conditions**

44. The National Park Authority produced a list of 11 possible conditions in the event that the appeal is successful and planning permission is granted. However, several of these are disputed by the appellant.

45. The authority's suggested condition 1, which requires that "the development hereby permitted shall be completed within 2 years of the date of this permission", is not appropriate or necessary. Such a condition would be difficult to enforce and should not normally be imposed. There are other ways of securing the completion of a development under section 94 of the Town and Country Planning Act or by acquisition of the land by the authority.

46. Condition 2 simply lists the plans that are approved for implementation as part of the development, and is acceptable, but Condition 3 seeks further approval of details of external finishes and colours of walls, windows, doors, fascias and rainwater goods within 3 months of the date of permission. This is considered to be unnecessary by the appellant because the finishes and colours of the building have already been approved and installed in the half-built dwelling. I accept that the external finishes are in place and that the appellant has already sought local planning authority approval for the finishes and colours of the walls and windows/doors, and chosen these from an approved range. Therefore, I consider this condition to be unnecessary with regard to the retention of the existing building that has been executed in accordance with the agreed colours and materials.

47. Conditions 4 and 5 require the implementation of the approved Landscape and Groundwork Plans and the further submission of a Landscape Management Plan, which are generally acceptable. However, the appellant objects to the requirement in 5 that the detailed methodology of the Management Plan shall be "implemented in perpetuity thereafter". I can see no sound reason for not implementing the management plan in perpetuity, because any reasonable request for changes to the management regime in future could be dealt with by the local planning authority.

48. The authority seeks the removal of permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995 in Condition 6, but the appellant considers this to be far more restrictive than the 2006 planning permission NP/06/076, where permitted development rights were not withdrawn. It is the policy of the local planning authority to control minor householder additions to new development in the coastal zone for the protection of the landscape of the National Park and, bearing in mind the design and prominent location of the dwelling, I consider that such extra controls are warranted in this instance.

49. Although the appellant points out that the electricity supply cable is already laid underground to the development, I consider it necessary for Condition 7 to be used to control other services such as telephone cables. I also find Condition 8 to be essential for the control of external lighting on the site because this area of the Pembrokeshire Coast National Park is susceptible to light pollution from any insensitive form of light source.

50. As the building has already been erected to a high standard in accordance with policies on sustainability prevailing in 2006, it is not appropriate for the local planning authority to seek to impose renewable or low-carbon technologies through Condition 9 at this late stage in the development.

51. Similarly, it is not appropriate or necessary to require details of the access, turning and parking arrangements for the site through Condition 10, because these are already in situ and relate to the integral garage. It is implicit in the enforcement and planning appeals regarding the retention of the as-built dwelling that vehicular access and parking exists on the site, built in accordance with the 2006 permission. The final layout of the drive and access are shown in detail on the Saltys Brewster landscape works plan, which is dealt with under Condition 4, however it remains necessary to control the materials to be used and colours through a condition requiring the submission of samples for local planning authority approval.

52. It is noted that there already exists a main sewer connection on site for foul drainage for the original and proposed dwellings. Therefore, Condition 11 is only necessary in respect of the provision of separate surface water discharge from the site. In my view, these matters were deal with more adequately by Conditions 12, 13 and 14 of planning permission NP/06/076, and I shall use these as appropriate for this permission.

**Final Conclusions**

53. In determining both appeals, I am bound to attach considerable weight to the fact that there is an extant planning permission for a new dwelling on the site; a dwelling that would be only slightly different from the building subject of these appeals. Following my careful examination of the site surveys, site plans and correspondence from the National Park Authority, I conclude that the as-built dwelling has been located in the approved or optimum location on the site and it has been built to the levels approved

for the 2006 scheme. I would also add that the external materials, finishes and colours of the part-built dwelling are also the same as those approved by the authority for the 2006 scheme.

54. I conclude therefore that Appeal A should succeed on ground (a), the enforcement notice will be quashed and planning permission granted for the deemed application under section 177(5) of the Act. With regard to Appeal B against the refusal of planning permission, I shall allow the appeal and grant a new planning permission for the retention and completion of the dwelling and the associated landscaping. Both permissions will be subject to the conditions referred to above.

*Clive I Cochrane*

Inspector

## SCHEDULE OF CONDITIONS

1) The development hereby permitted shall be carried out in accordance with the following approved plans:

325 FP01 Rev A – Lower Ground Floor Plan
325 FP02 Rev A – Ground Floor Plan
325 FP03 Rev A – First Floor Plan
325 FP04 Rev A – North & South Elevations
325 FP05 Rev A – East & West Elevations
282 DET01 Rev A – Entrance Gate Details
0937601/PL/GA/004 Rev C – Earthworks Plan
0937601/PL/GA/005 Rev B – Landscape Plan

2) All planting, seeding or turfing comprised in the approved details of landscaping (as shown on 0937601/PL/GA/005 Rev B – Landscape Plan) shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the dwelling, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

3) Within 3 months of the date of this permission, a Landscape Management Plan (detailing management responsibilities and maintenance schedules) for the landscaping details in the Earthworks and Landscape Plan shall be submitted to and approved in writing by the local planning authority. The Landscape Management Plan shall be implemented thereafter in accordance with the approved schedule.

4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), none of the classes of development normally allowed within the curtilage of a dwellinghouse shall be permitted unless expressly authorised by this permission or the local planning authority.

5) Foul and surface water discharges must be drained separately from the site, and no land drainage run-off shall be permitted to discharge to the public sewerage system. The surface water and land drainage proposals shall be submitted in writing to the National Park Authority within 3 months of the date of this permission and shall not be implemented until they have been approved in writing by the National Park Authority.

6) The dwelling shall not be occupied until the approved drainage system has been implemented, and the drainage arrangements shall be maintained thereafter in good working order.

**APPEARANCES**

FOR THE APPELLANT:

| | |
|---|---|
| Mr A Trevelyan Thomas | - of Counsel, instructed by Asbri Planning Ltd |
| He called: | |
| Mr R Williams BTP MRTPI RICS | - Managing Director, Asbri Planning Ltd |
| Mr N Nicholas | - Appellant |
| Mr R Casey BSc(Hons) MICE | - Roger Casey Associates, Consulting Civil & Structural Engineers |
| Mr J Davies BA(Hons) DipArch | - Arwain Architects |
| Mr G Soltys BSc(Hons) DipLA MIHort CMLI | - Soltys Brewster Consulting |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|---|---|
| Mr G Walters | - of Counsel, instructed by Pembrokeshire Coast National Park Authority |
| He called: | |
| Mr R Staden BA DipLA CMLI | - Landscape Officer, Pembrokeshire County Council |
| Mr L Powell BSc(Hons) DipTP MRTPI FRSA | - Director of RPS Group, Planning Consultants |

BETTWS NEWYDD OPPOSITION GROUP:

| | |
|---|---|
| Mr R Manson LLB | - Spokesman for Bettws Newydd Opposition Group |
| He called: | |
| Mr R Atkinson | - Chairman of BNOG |
| Mrs R McGarry | - Local resident |
| Dr H Williams | - Local resident |
| Mrs S Potts | - Local resident |
| Mrs S Bayes BArch | - Local resident |

OTHER INTERESTED PARTIES

| | |
|---|---|
| Dr B Blake | - Local resident |
| Mrs T Grafton | - Local resident |

**DOCUMENTS**

1 Letter of notification of the Inquiry and list of addresses

2 Attendance lists for Inquiry

3 Statement of Common Ground Sept 17th 2010

4 Proof of Evidence of Mr Robin Williams

5 Mr Williams' bundle of Appendices 1-25

6 Mr Williams' bundle of Appendices 26-49

7 Proof of evidence of Mr Nolan Nicholas, Appellant

8 Mr Nicholas's bundle of Appendices 1-3

9 Planner's Notes of 21/09/07 regarding colours to be used in NP/06/076

10 Letters about importation of spoil 20/03/08, 10/04/08 & 26/10/10

11 Proof of Evidence of Mr R Casey

12 Proof of Evidence of Mr Jeff Davies

13 Mr Davies's bundle of Appendices 1-7

14 Comparative Table of Site Levels 2005-2010

15 Mr Davies's Survey of OS datum, ground floor and roof levels undertaken 05/03/10

16 Proof of Evidence of Mr Gary Soltys

17 Mr Soltys's Appendix 01 – Viewpoint Assessment

18 Mr Soltys's Appendix 02 – Landscape & Earthworks Plans

19 Mr Soltys's Revised Schedule of Trees, Hedgerow, Wetland and Woodland Mix Planting for Appeal Site

20 Mr Soltys's Photographic Figures and Montages

21 Pembrokeshire Coast National Park Landscape Character Assessment Study June 2009

22 Landscape Character Area 23 – Newport; LANDMAP Evaluation

23 Proof of Evidence of Mr Richard Staden

24 Proof of Evidence of Mr Lyn Powell

25 Mr Powell's Appendices 1-10

26 Amended Summary of Mr Powell's Evidence

27 PCNP Local Development Plan 2021 Adopted Plan – Policy Extract

28 Pembrokeshire Coast National Park Authority Agenda 29/09/10

29 Comparison of Location of 2006 Approved Dwelling Location Plan NP 001 with Dimensions of As-Built Location (2008 Richards Survey)

30 Suggested Conditions and Welsh Water Consultation on Application

31 High Court Judgement in Sparkes v SSETR QBD 03/02/00

32 Local Petition in favour of retention of the development

33 Local Petition opposing the retention of the dwelling

34 Written Statements of Evidence from the Bettws Newydd Opposition Group:

Mr R Manson, Mrs R McGarry, Mr R Atkinson, Mrs S Potts, Dr H Williams and Mrs S Bayes

35 Mrs S A Potts' photographs of the appeal building

36 Site Visit 27/10/10 - Itinerary

**PLANS**

A Application Plans (December 2009):

| | |
|---|---|
| Lower Ground Floor Plan | - 325 FP01 |
| Ground Floor Plan | - 325 FP02 |
| First Floor Plan | - 325 FP03 |
| North & South Elevations | - 325 FP04 |
| East & West Elevations | - 325 FP05 |
| Entrance Gate Details | - 282 DET01 Rev A |

B Amended Application Plans (10/03/10):

| | |
|---|---|
| Proposed Block Plan | - 325 P01 |
| Lower Ground Floor Plan | - 325 FP01 Rev A |
| Ground Floor Plan | - 325 FP02 Rev A |
| First Floor Plan | - 325 FP03 Rev A |
| North & South Elevations | - 325 FP04 Rev A |
| East & West Elevations | - 325 FP05 Rev A |

C Site Survey Drawing – 113/200A1/1.1 October 2009

Site Survey Drawing - 113AOD/200A1/1.1 March 2010

D Landscape Drawings: November 2009:

| | |
|---|---|
| Sectional Elevations 1 of 2 | - 0937601/PL/GA/002 Rev D |
| Sectional Elevations 2 of 2 | - 0937601/PL/GA/003 Rev D |
| Earthworks Plan | - 0937601/PL/GA/004 Rev B |
| Landscape Plan | - 0937601/PL/GA/005 Rev A |

E Revised Landscape Drawings: 2010:

| | |
|---|---|
| Sectional Elevations 1 of 2 | - 0937601/PL/GA/002 Rev E |

Sectional Elevations 2 of 2 - 0937601/PL/GA/003 Rev E
Earthworks Plan - 0937601/PL/GA/004 Rev C
Landscape Plan - 0937601/PL/GA/005 Rev B

F Comparative Plans of 2006 Approved Building & As-Built Scheme:
Lower Ground Floor Plan - 325 FP11 RevA
Ground Floor Plan - 325 FP12 Rev A
First Floor Plan - 325 FP13 Rev A
North & South Elevations - 325 FP14 Rev A
East & West Elevations - 325 FP15 Rev A

G Plans to Show Roof Height Reduction of 400mm:
First Floor Plan - 325 RD05
North & South Elevations - 325 RD04
East & West Elevations - 325 RD06

H Enforcement Notice Plan ENF/08/10

I Design and Access Statement – January 2010

J Landscape and Visual Appraisal Report – January 2010