

Public Document Pack



**CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL**

Dr Gwynne Jones
Prif Weithredwr – Chief Executive
CYNGOR SIR YNYS MÔN
ISLE OF ANGLESEY COUNTY COUNCIL
Swyddfeydd y Cyngor - Council Offices
LLANGFNI
Ynys Môn - Anglesey
LL77 7TW

Ffôn / tel (01248) 752500
Ffacs / fax (01248) 750839

RHYBUDD O GYFARFOD	NOTICE OF MEETING
PWYLLGOR CYNLLUNIO A GORCHMYNION	PLANNING AND ORDERS COMMITTEE
DYDD MERCHER, 1 MAWRTH, 2017 am 1:00 y.p.	WEDNESDAY, 1 MARCH 2017 at 1.00 pm
SIAMBR Y CYNGOR, SWYDDFEYDD Y CYNGOR, LLANGFNI	COUNCIL CHAMBER, COUNCIL OFFICES, LLANGFNI
Swyddog Pwyllgor	Ann Holmes 01248 752518 Committee Officer

AELODAU / MEMBERS

Cynghorwyr / Councillors:

Lewis Davies
Jeffrey M. Evans
Ann Griffith (Cadeirydd/Chair)
John Griffith
K P Hughes
Vaughan Hughes
Victor Hughes
W T Hughes
Raymond Jones
Richard Owain Jones (Is-Gadeirydd/Vice-Chair)
Nicola Roberts

Please note that meetings of the Committee are filmed for live and subsequent broadcast on the Council's website. The Authority is a Data Controller under the Data Protection Act and data collected during this webcast will be retained in accordance with the Authority's published policy

A g e n d a

Members are reminded that background papers referred to within committee reports are available for inspection in electronic format on the day of the meeting at the Council Chamber from 12.30 p.m. onwards; alternatively these may be inspected at the Development Management during normal office hours. Documents referred to in reports may also be viewed in full on the electronic application files.

Any additional information to hand following publication of reports will be verbally reported upon to the meeting.

Before a decision notice is released conditions of approval or reasons for refusal given in written reports may be subject to minor amendments to account for typographical errors.

Index

1 APOLOGIES

2 DECLARATION OF INTEREST

To receive any declaration of interest by any Member or Officer regarding any item of business.

3 MINUTES OF THE 1ST FEBRUARY, 2017 MEETING_(Pages 1 - 14)

To present the minutes of the previous meeting of the Planning and Orders Committee held on 1st February, 2017.

4 SITE VISITS 15TH FEBRUARY, 2017_(Pages 15 - 16)

To present the minutes of the planning site visits held on 15th February, 2017.

5 PUBLIC SPEAKING

6 APPLICATIONS THAT WILL BE DEFERRED_(Pages 17 - 20)

6.1 25C242 – Tyn Cae, Coedana, Llanerchymedd

6.2 34C304K/1/EIA/ECON – Coleg Menai, College Road, Llangefni

7 APPLICATIONS ARISING_(Pages 21 - 78)

7.1 15C30H/FR – Pen y Bont Farm, Malltraeth

7.2 17C226H – Gernant, Lôn Ganol, Llandegfan

7.3 20C310B/EIA/RE – Rhyd y Groes, Rhosgoch

Please note that meetings of the Committee are filmed for live and subsequent broadcast on the Council's website. The Authority is a Data Controller under the Data Protection Act and data collected during this webcast will be retained in accordance with the Authority's published policy

7.4 20C313A – Ffordd y Felin, Cemaes

7.5 21C58H – Parc Eurach, Llanddaniel Fab

7.6 23C280F – Plas Llanfihangel, Capel Coch

7.7 47C149 – Ysgol Gynradd Llanddeusant, Llanddeusant

8 ECONOMIC APPLICATIONS_(Pages 79 - 88)

8.1 45C84R/ECON – The Marram Grass Café, White Lodge, Newborough

9 AFFORDABLE HOUSING APPLICATIONS

None to be considered by this meeting.

10 DEPARTURE APPLICATIONS

None to be considered by this meeting.

11 DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS

None to be considered by this meeting.

12 REMAINDER OF APPLICATIONS_(Pages 89 - 126)

12.1 18C225B – Bron Castell, Llanfairynghornwy

12.2 19C1198 – Holyhead Park Pavilion, Holyhead

12.3 29LPA1008F/CC/VAR – Ysgol Rhyd y Llan, Llanfaethlu

12.4 38C324 – Alma Hall, Carreglefn

12.5 46C582/AD – The Range Car Park, Penrhosfeilw, Holyhead

12.6 46C583/AD – Fisherman's Car Park, Penrhosfeilw, Holyhead

12.7 47C153 – Plas Newydd, Llanddeusant

12.8 47C154 – Plas Newydd, Llanddeusant

12.9 48C202 – Penrallt Bach, Gwalchmai

13 OTHER MATTERS_(Pages 127 - 202)

13.1 GTP/TVG01/2014 - Newry Beach and Greens, Holyhead

This page is intentionally left blank

Planning and Orders Committee

Minutes of the meeting held on 1 February 2017

- PRESENT:** Councillor Ann Griffith (Chair)
Councillor Richard Owain Jones (Vice-Chair)
- Councillors Lewis Davies, John Griffith, K P Hughes, W T Hughes, Vaughan Hughes and Victor Hughes
- IN ATTENDANCE:** Chief Planning Officer,
Planning Officer (MD),
Planning Assistants,
Highways Officer (JAR),
Legal Services Manager (RJ),
Committee Officer.
- APOLOGIES:** Councillor Jeffrey M. Evans, Raymond Jones, Nicola Roberts
- ALSO PRESENT:** Local Members : Councillors Carwyn Jones (application 12.1); H. Eifion Jones (application 12.5); Bob Parry OBE FRAGS (application 7.1); Dylan Rees (application 7.4); T.LI. Hughes MBE (application 12.5).
- Councillors Llinos M. Huws, Ieuan Williams

1 APOLOGIES

Apologies for absence noted above.

2 DECLARATION OF INTEREST

Declarations of interest were made as follows :-

Councillor W.T. Hughes declared a prejudicial interest in relation to application 6.1.

Councillor R.O. Jones declared a prejudicial interest in relation to applications 6.1 and 7.4.

Councillor John Griffith declared a prejudicial interest in relation to application 12.1.

The Highways Officer declared a prejudicial interest in relation to application 12.9.

3 MINUTES

The minutes of the previous meeting of the Planning and Orders Committee held on 4 January, 2017 were presented and confirmed as correct.

4 SITE VISITS

The minutes of the planning site visits held on 18 January, 2017 were presented and confirmed as correct.

5 PUBLIC SPEAKING

There were public speakers with regard to applications 12.1 and 12.5.

6 APPLICATIONS THAT WILL BE DEFERRED

6.1 20C313A – Full application for the erection of 14 affordable dwellings, construction of a new access and internal road together with the installation of a sewerage pumping station on land off Ffordd y Felin, Cemaes

It was RESOLVED that due to the nature and scale of the proposal, the site be visited in accordance with the Officer's recommendation.

6.2 20C310B/EIA/RE – Full application for the construction of a 49.99MW solar array farm together with associated equipment, infrastructure and ancillary works on land adjacent to Rhyd y Groes, Rhosgoch

Having declared a prejudicial interest in this application, Councillors W.T. Hughes and R.O. Jones withdrew from the meeting during the consideration and determination thereof.

It was RESOLVED to defer consideration of the application in accordance with the Officer's recommendation for the reason given in the written report.

6.3 25C242 – Retention of pond together with drainage works at Tyn Cae, Coedana, Llannerchymedd

It was RESOLVED to defer consideration of the application in accordance with the Officer's recommendation for the reason given in the written report.

6.4 34C304K/1/EIA/ECON - Hybrid application applying for full planning permission for the creation of a new engineering centre, car parking, children's play area and associated works and applying for outline planning permission with some matters reserved for a residential development of 157 dwellings, a hotel and food and beverage facility along with associated car parking and works on land at Coleg Menai, College Road, Llangefni

It was RESOLVED to defer consideration of the application in accordance with the Officer's recommendation for the reason given in the written report.

7 APPLICATIONS ARISING

7.1 14C171J/ENF – Retrospective application for the retention and completion of a new build holiday accommodation together with change of use of land to associated equestrianism at Stryttwn Farm, Tynlon

The application was presented to the Planning and Orders Committee at the request of a local member. At the meeting held on 4th January, 2017 it was resolved that a site visit be undertaken and this took place on 18th January, 2017.

Councillor Bob Parry OBE FRAGs speaking as a Local Member reminded the Committee of the background of the application and the applicant's intention to utilise the converted outbuilding to be let to visitors for specific equestrian purposes which is essentially a rural pursuit and a tourist facility. He expressed that this application is difficult as the applicant received information from Building Inspectors that most of the supporting walls of the outbuilding were below standard, the applicant continued to demolish some of the walls. The Chief Planning Officer responded that the applicant was advised that he should contact the Planning Department before he started on demolishing the walls of the outbuildings by the Building Inspectors.

Councillor Bob Parry OBE FRAGs reiterated that the applicant has spent a great deal of money on improving the subject building. Councillor Parry considered that there is a need for such a facility on the Island and one deserving of approval.

The Chief Planning Officer reported that the previous application for retrospective holiday accommodation was refused in 2016 as the site is in open countryside in an isolated rural area. This application is for a tourism equestrian facility and there are planning policies to support such a venture. However, the application site is an open countryside location and the Planning Officers are not convinced that such a facility is appropriate in this location and the recommendation remains one of refusal.

Councillor Lewis Davies proposed that the application be refused and Councillor K.P. Hughes seconded the proposal.

It was RESOLVED to refuse the application in accordance with the Officer's recommendation as set out in the written report.

7.2 15C30H/FR – Full application for change of use of agricultural land to extend the existing caravan park to site a further 14 touring caravans together with the installation of a septic tank on land at Pen y Bont Farm Touring & Camping, Malltraeth

The application was presented to the Planning and Orders Committee at the request of a Local Member. At its meeting on 2nd November, 2016 the Committee resolved that a site visit be undertaken and this took place on 16th November, 2016. At its meeting on 7th December, 2016 the Committee resolved to approve the application contrary to the Officer's recommendation, the reasons being that the Committee considered that the flood risk is not of a level that the proposal cannot be supported and that the proposal will not have a detrimental impact on the ecology of Malltraeth Marsh. At its meeting held on the 4th January, 2017 Members were advised that the Welsh Government had issued a holding direction on the application. Members of the Committee resolved to defer the application.

Councillor Ann Griffith stood down as Chair of the Committee for the consideration and determination of the application in order to speak as a Local Member. The Vice-Chair, Councillor R.O. Jones chaired the item.

The Chief Planning Officer reported that a call-in request has been made to the Welsh Government for the application to be determined by Welsh Ministers. Consequently, the Local Planning Authority is prohibited from approving the development pending a decision by Welsh Ministers on whether or not the application should be called in. He noted that following discussions with the Welsh Government it has been confirmed that the relevant Minister has started investigating the application but no definite timeframe was afforded to the Local Authority. The Officer recommended that the Committee should consider deferring the matter once again. The Local Member, Councillor Ann Griffith stated that she appreciated that the Welsh Government needs time to investigate the matter but was of the opinion that a timescale needed be afforded as previous applications have taken a considerable amount of time to be decided upon. She said that the applicant needs to run a business from the application site. Councillor Griffith questioned if pressure can be placed on the Welsh Government with regard to this matter. The Chief Planning Officer responded that the Local Planning Authority will forward the concerns of the Local Member in this respect.

Councillor K.P. Hughes proposed that the application be deferred to see whether or not the Welsh Minister decides to call in the application. Councillor Vaughan Hughes seconded the proposal.

Councillor Lewis Davies proposed that the application be refused in accordance with the recommendation of the Officer's as he considered that Natural Resources Wales have raised concerns that the development is within a floodplain and the area is of scientific importance. There was not seconder to the proposal.

It was RESOLVED to defer the application for the reasons given.

7.3 23C280F – Retrospective application for an agricultural shed and milking parlour together with the construction of a slurry pit and associated development at Plas Llanfihangel, Capel Coch

The application was presented to the Planning and Orders Committee at the request of a local member. At the meeting held on 2nd November, 2016 it was resolved that a site visit be undertaken and this took place on 16th November, 2016. Due to additional information being received and the need to re-consult and re-notify neighbouring properties the application was deferred until this meeting.

The Chief Planning Officer reported that due to the receipt of amended drawings received late on the 31 January, 2017 for two Silos on the site, this is an addition to the agricultural shed on the site. The recommendation is now that the application be deferred as the drawings will need to be the subject of public consultation.

Councillor Lewis Davies said that he considered that a site visit needed to be made to the application site to view the exact location of these two Silos and the effect on the landscape and environment. The Chair responded that there has previously been a site visit to this application in November 2016. Councillor Davies responded that he considered that unlawful development had taken place on the site and recently he has seen bright lights from the site which is harming the landscape. He expressed that it is important for the Committee to view the site as it is at present. The Legal Services Manager opinion was sought by the Chair if it was appropriate to revisit the application site. The Legal Services Manager responded that the Committee has visited the site and considered that it was not appropriate to revisit the site if the Planning Officer's considered that there was no significant material change to the planning application. The Chief Planning Officer responded that he considered that the amended drawing to include two Silos on the site did not constitute to a significant change to the application but he did agree that there has been development on the application site following the site visit by the Committee.

Councillor John Griffith seconded the proposal to visit the site.

Councillor K.P. Hughes proposed that the application be deferred and Councillor W.T. Hughes seconded the proposal.

Following the subsequent vote :-

It was RESOLVED to defer the application due to the receipt of amended drawings late on the 31 January, 2017 for Silos on the site. The drawings will need to be the subject of public consultation.

7.4 34C681 – Outline application for the erection of 8 dwellings and 2 affordable dwellings with all matters reserved together with the construction of a new vehicular access and associated works on land to the rear of Tyn Coed Estate, Llangefni

Having declared a prejudicial interest in this application, Councillor R.O. Jones withdrew from the meeting during the consideration and determination thereof.

The application was presented to the Planning and Orders Committee as it is a departure application for which the recommendation is one of approval. At its meeting held on 4th January, 2017 the Committee resolved to refuse the application contrary to the Officer's recommendation for the reasons being that the Committee considered that the access was dangerous, the high level of local objection, the location of the site is outside the development boundary and the site has been rejected within the Joint Local Development Plan.

The Chair said that she had received an email from Councillor Jeff M. Evans, a Member of the Planning and Orders Committee, regarding this application. Councillor Evans had submitted his apologies that he was unable to attend today's meeting as he was away on a Charity event. However, Councillor Evans wished his views be conveyed to the Committee that he considered that the application be refused due to the Town Councils and residents' objections, access, drainage, surface water, highways, potential road safety issues.

The Chief Planning Officer reported that at the last meeting five reasons for refusal were given; there is a possibility of appeal with regard to this application. He noted that the Committee must be confident that the five reasons are justified and that there is enough evidence to support those reasons. The Officer suggested that the Committee should evaluate the reasons carefully.

Councillor Dylan Rees, a Local Member said that the residents of Tyn Coed Estate are confident that they can provide further evidence to substantiate the reasons for refusal if the application went to appeal. It is accepted that the strength of local objection in itself does not substantiate refusal of the application but obviously when you have the Town Council, the 3 Local Elected Members and residents all expressing factual concerns then obviously it raises issues with regard to the application. The second reason given for refusal was that the site was outside the settlement boundary and not included in the draft Joint Local Development Plan (JLDP) and the Officer stated that due to the land availability and 2014 Joint Housing Land Availability Study that other sites could be considered acceptable for housing. The Land Availability Study is not up to date and weight should be given that this site is not within the boundary of the draft Joint LDP; a schedule of changes was published only a week ago for further consultation and this site is not under consideration within the schedule; there is a justification to refuse the application. Councillor Rees referred to the other three reasons for refusal of the application i.e. highways and access safety and surface water and drainage issues.

Councillor Bob Parry OBE FRAGS as a Local Member also reiterated his strong opposition to the application.

Councillor Lewis Davies said that he still was of the opinion that the proposed development is overdevelopment of the site and that the site has been rejected within the Joint Local Development Plan. He proposed to reaffirm the decision of the last meeting to refuse the application. Councillor Vaughan Hughes seconded the proposal of refusal.

The Legal Services Manager advised that members needed to carefully consider whether there was evidence to justify the 5 stated reasons for refusal. The first was not, in his view, a planning reason and reasons 2 and 5 were variations of the same reason, and for reasons 3 and 4 he was not aware that there was technical evidence before the Committee to justify those reasons.

Following the subsequent vote it was agreed that the reasons for refusal be noted as :-

- The application site is outside the settlement boundary of Llangefni and is not included in the draft Joint LDP;
- Access safety issues;
- Surface water drainage issues.

It was RESOLVED to reaffirm the Committee's previous decision of refusal of the application.

7.5 45C468 – Full application for conversion of outbuilding into a dwelling, the construction of a vehicular access, the installation of a package treatment plant together with the erection of an ecology mitigation structure at Bodrida Bach, Brynsiencyn

The application is presented to the Planning and Orders Committee as the applicant is related to a Local Member. The application has been scrutinised by the Monitoring Officer as required under paragraph 4.6.10.4 of the Constitution. The Planning and Orders Committee at its meetings held on 2nd November and 7th December, 2016 and 4th January, 2017 deferred the determination of the application until receipt of amended drawings and additional information. Amended drawings have now been received together with confirmation from the Highway Authority of where the new passing place is required.

Councillor W.T. Hughes proposed that the application be approved and Councillor Vaughan Hughes seconded the proposal.

It was RESOLVED to approve the application in accordance with the Officer's recommendation subject to conditions set out in the written report.

8 ECONOMIC APPLICATIONS

None were considered by this meeting of the Planning and Orders Committee.

9 AFFORDABLE HOUSING APPLICATIONS

None were considered by this meeting of the Planning and Orders Committee.

10 DEPARTURE APPLICATIONS

None were considered by this meeting of the Planning and Orders Committee.

11 DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS

None were considered by this meeting of the Planning and Orders Committee.

12 REMAINDER OF APPLICATIONS

12.1 17C226H – Full application for alterations and extensions to Gernant, Lôn Ganol, Llandedgan

Having declared a prejudicial interest in the application Councillor John Griffith withdrew from the meeting during determination and voting thereon.

The application is presented to the Planning and Orders Committee at the request of two local members.

Mr. Arwyn Williams, the applicant spoke in favour of his application. He said that in October 2016 his application for alterations and extensions to Gernant was refused as the main concern was to increase the size of the original outbuilding. He has addressed the concerns of the Committee and therefore has reduced the size of the extension which is considered acceptable for a family of five. Mr. Williams referred to the Officer's report which states that 'it is not considered that the proposal would have a negative impact upon the amenities of adjacent residential properties' and 'whilst accepting that it can be argued that the current proposals do enhance the appearance of the building' this is important with regard to Planning Policy 55. He said that three of the Local Members supports the application together with the local Community Council; the Assembly Member is also in support of the application.

Mr. Williams said that his property Gernant is located between two large dwellings and his proposal would not have a detrimental effect on neighbouring properties; there is adequate land between Gernant and the nearby highway. He noted that the proposal is only to fill a gap between the house and the garage.

Councillor Carwyn Jones, a Local Member spoke in support of the application. He said that local people need to be supported as the applicant has compromised with regard to the size of the alterations and extension to his property. He noted that this application is for a young family of 5. The Community Council is in support of the application. Councillor Jones said that this application is worthy of support for a local young family to have an adequate home.

Councillor Lewis Davies, a Local Member and a Member of the Planning and Orders Committee agreed with his fellow elected Member that this application does not harm the amenities of neighbouring properties and not within an AONB area. He fully supported the application which he considered could be approved within Planning Policy 55. Councillor Lewis Davies proposed that

the application be approved and Councillor Vaughan Hughes seconded the proposal.

The Chief Planning Officer stated that the reason for refusal is the increase in the floor area which is beyond the criteria of the planning policies and is located in open countryside. The recommendation is of refusal.

The voting was as follows :-

To approve the application contrary to the Officer's recommendation :-

Councillors Lewis Davies and Vaughan Hughes. Total 2

Abstained from voting :-

Councillors K.P. Hughes, T. Victor Hughes, W.T. Hughes,
R.O. Jones Total 4

It was RESOLVED to approve the application contrary to the Officer's recommendation as it was considered that the application will improve the visual context of the dwelling which can be approved under Policy 55.

(In accordance with the requirements of the Council's Constitution, the application was automatically deferred to the next meeting to allow Officers the opportunity to prepare a report in respect of the reasons given for approving the application).

12.2 17C511 – Full application for the demolition of the existing school, the erection of five dwellings together with improvements to the existing vehicular access at Former School, Bro Llewelyn, Llandegfan

The application is presented to the Planning and Orders Committee as the application is on Council owned land.

The Chief Planning Officer updated the report to the Committee and noted that 7 letters of objection had now been received. He stated that no additional matters had been raised in the additional letters of objection which had been addressed within the Officer's report. The recommendation is of approval of the application as the site lies within the defined settlement development boundary of village of Llandegfan. It is understood that the application will provide all 5 dwellings as affordable homes for local people; a Section 106 agreement will need to be signed prior to the permission being released.

Councillor Lewis Davies welcomed the proposal for affordable dwellings for local people and proposed that the application be approved. Councillor K.P. Hughes seconded the proposal.

It was RESOLVED to approve the application in accordance with the Officer's recommendation subject to conditions set out in the written report.

12.3 17C512 – Full application for demolition of the community centre, the erection of four dwellings together with the construction of a vehicular access at Llansadwrn Hall, Llansadwrn

The application is presented to the Planning and Orders Committee as the application is on Council owned land.

The Chief Planning Officer reported that Llansadwrn is identified as a listed settlement under Policy 50 of the Ynys Môn Local Plan which allows for single dwellings to be built within or on the edge of the settlement. There is ample room to accommodate 4 dwellings within the plot and it is not considered that material harm will arise in approving the development of 4 dwellings as an infill in this location.

Councillor Lewis Davies welcomed the proposal for affordable dwellings for local people and proposed that the application be approved. Councillor W.T. Hughes seconded the proposal.

It was RESOLVED to approve the application in accordance with the Officer's recommendation subject to conditions set out in the written report.

12.4 19C845K – Full application for the erection of a 65m covered spectator standing area at Holyhead Hotspur Football club, Holyhead Leisure Centre, Holyhead

The application is presented to the Planning and Orders Committee as the application is submitted by the Local Authority.

Councillor T.LI. Hughes as a Local Member said that he supported the application

Councillor W.T. Hughes proposed that the application be approved and Councillor K.P. Hughes seconded the proposal.

It was RESOLVED to approve the application in accordance with the Officer's recommendation subject to conditions set out in the written report.

12.5 21C58H – Full application for the erection of 10 additional holiday units at Parc Eurach, Llanddaniel Fab

The application is presented to the Planning and Orders Committee at the request of a Local Member.

Dr. Neil Trevor Jones spoke as an objector to the application. Dr. Jones said that due to the fact that the initial units on the Parc Eurach Holiday Village have been empty for a number of years it is evident that there is no market for this type of facility. Within the Planning Officer's report to the Committee it

refers that the proposed additional units will not be totally reliant on the private car. The bus stop is half a mile away from Parc Eurach and as a local resident he has not seen any person using public transport from Parc Eurach. Since the application for additional units at Parc Eurach was submitted a planning permission has been granted at Tyddyn Llywarch for the conversion of a barn into 4 units over the road. The tenancy of the land surrounding Parc Eurach has recently changed and the tenant has 600 dairy cattle on the land. Heavy machinery travelling near Parc Eurach, Bryn Celli Ddu and Tyddyn Llywarch has increased significantly since the tenancy of the land has changed hands. Having a further increase in traffic in connection with the proposed planning application for 10 further holiday units would be irrational and dangerous. Dr Jones further said that the Officer's report to the Committee refers that the site at Parc Eurach as located immediately adjacent to the existing Holiday Village and will be viewed in conjunction with that and the settlement of Llanddaniel and notwithstanding this, extensive planting is to take place with a lake provided and wooded area. These are exactly the pledges that did not materialise when the original Holiday Village was granted permission. The site is on an elevated position and screening options is not possible from the south direction when entering the village. Having 10 additional non-Welsh speakers to the village can change the linguistic balance of a current Welsh speaking village like Llanddaniel. 2 large English-only advertising signs have recently been erected with the message of No Access near the entrance to Parc Eurach. Dr Jones expressed that there is no evidence that this facility will enhance the economy of the Island. There are a number of conditions relating to drainage and sewerage in respect of this application which have been highlighted within the report.

The Committee questioned Dr. Jones as to whether the original lodges at Parc Eurach were for holiday use only. Dr. Jones responded that since most of the 20 lodges granted planning approval had not been sold planning conditions were discharged to allow the site to become a Holiday Village. The original conditions stipulate that residents were not allowed to live permanently on the site. The Committee questioned whether people are living in these lodges permanently at present. Dr. Jones responded that people are living permanently on the site and going to work from the site. Children have also been attending the local school from the site.

Mr. Geoff Green, the applicant spoke in favour of his application. Mr. Green said that he purchased the Parc Eurach site when there were 3 houses occupied on a permanent basis. He said that he did not sell those houses as he had inherited them when he purchased the site. During and after he had developed the site he received and declined 11 offers from people wanting to live on the site permanently, this would have been contrary to the planning conditions on the site. He noted that during the recession he lost part of that site. Mr. Green further said that he also purchased another site at Llŷn Jane, Llandegfan which is a successful log cabin development for only holiday use and has won the Best Holiday Lodges in Wales for the last 5 years. This has been achieved due to commitment to carry out the planning permission and legal lease attached to the development at Llŷn Jane, Llandegfan. He said that he would be happy to sign any legal documentation with regard to Parc

Eurach if he was successful in attaining planning permission for additional units on the site. Mr. Green further said that his intention is to invest in the provision of a high quality tourist accommodation which is needed both now and especially in the future to support Anglesey as a tourist destination of choice. Mr. Green wished it to be recorded that he had not erected any signs near the site.

The Committee questioned Mr. Green as to the statement by the objector to the application that people are living permanently on the site. Mr. Green responded that he does not own that part of the site anymore as he lost the site during the period of recession and those people living permanently in the 3 houses were there before he purchased the site originally. As far as he was concerned he refused to sell properties on the site against planning conditions. The properties he owns were on sale for holiday use only as per planning conditions.

Councillor H. Eifion Jones a Local Member gave background details of the site at Parc Eurach. Parc Eurach is located on a narrow country lane towards Ffingar, Llanedwen. The original planning approval was given for 20 holiday units on the site in 2002. He noted that there were mixed feelings within the community with regard to the holiday units at Parc Eurach with concerns regarding road safety and problems were encountered by the owner with regard to water, sewerage issues and electricity to the site. It emerged that some of the units were sold to live on the site permanently. Councillor Jones said that if the developer would have submitted an application for 20 dwellings on the site at the time it would have been more than likely refused as the site is located in the countryside and would be contrary to planning policies. Due to the recession the site was repossessed and the site was sold to another owner. In 2008 an application was presented for 20 units on the site but the application did not materialise. The application presented to the Planning and Orders Committee at today's meeting is an application for 10 holiday units; this application was presented to the Planning Department in 2014. Councillor Jones considered it appropriate to ask the Officer's why it has taken so long to come before the Committee.

Councillor Jones further said that over 20 letters of objection have been received from the residents of Llanddaniel with regard to this application and their concerns are listed within the Officer's report to the Committee. The local Community Council is also objecting strongly to this application. Concerns have been expressed within the community regarding traffic problems and danger to pedestrians walking near this site. Passing bays have been requested on another application before this Committee when there is only one unit. He considered that the use of local transport is not relevant to this application as there is only a bus every two hours to Bangor. Councillor Jones ascertained if a Traffic Management Plan had been commissioned as it has not been mentioned in the Officer's report.

The Chief Planning Officer said that there are planning policies to support these creation of holiday accommodation and the enhancement of tourism facilities. Given the distances from nearby residential properties, it is not

considered that the proposal will have any negative interaction with the amenities of the local residents. An extensive planting of trees is to take place to enhance the landscape. It is considered that the site can be adequately drained to prevent any drainage problems. The application submitted in 2008 for 20 units has been discussed extensively to reduce the units to 10 and to ensure the best possible outcome for the locality.

The Highways Officer said that he was not aware that a Traffic Management Survey had been undertaken with regard to this application. He noted that a Traffic Survey had been undertaken with regard to the application opposite this site recently and the speed of traffic was adequate on the highway with regard to visibility. He noted that the access to this site is acceptable and the addition of 10 units would not have a detrimental effect on the highway network. The Local Member, Councillor H. Eifion Jones said that he considered that a Traffic Management Survey should have taken place with regard to this application a number of years ago. Since this application has been submitted a holiday conversion/unit had been approved in the vicinity and Traffic Management Surveys had been requested with regard to that development.

Councillor T.V. Hughes said that he agreed that a Traffic Management Survey needed to be commissioned as a number of pedestrians and walkers use this small lane that passes the site.

Councillor John Griffith proposed that the application site be visited due to the effect on the locality and the landscape. Councillor Lewis Davies seconded the proposal.

It was RESOLVED that the site be visited for the reasons given.

12.6 39LPA1014B/CC – Outline application for the erection of two dwellings with all matters reserved on land at the former Nursery School, Menai Bridge

The application is presented to the Planning and Orders Committee as the application is on Council owned land.

Councillor Lewis Davies ascertained the response of the Town Council to this application as heavy traffic is continuous in this area. The Highways Officer said that they did have concerns regarding the current access to this site. A new access is being created to serve the proposal and it is considered accepted as there will be less traffic using the site with two dwellings rather than a nursery. The Chief Planning Officer responded with regard to the response of the Town Council and he noted that as the application is an outline application they will await further details when a full application is submitted.

Councillor K.P. Hughes proposed that the application be approved and Councillor Vaughan Hughes seconded the proposal.

It was RESOLVED to approve the application in accordance with the Officer's recommendation subject to conditions set out in the written report.

12.7 39C295B/LB – Listed Building Consent for repairs to the Pier Booking Office, St. Georges Road, Menai Bridge

The application is presented to the Planning and Orders Committee as the building is owned by the Council.

Councillor Lewis Davies proposed that the application be approved and Councillor John Griffith seconded the proposal.

It was RESOLVED to approve the application in accordance with the Officer's recommendation subject to conditions set out in the written report.

12.8 46C570 – Full application for the demolition of existing mast and erection of new 25m mast on land at South Stack, Holyhead

The application is presented to the Planning and Orders Committee as the application is made on Council owned land.

Councillor W.T. Hughes proposed that the application be approved and Councillor Lewis Davies seconded the proposal.

It was RESOLVED to approve the application in accordance with the Officer's recommendation subject to conditions set out in the written report.

12.9 47C149 – Full application for part demolition of the existing school, change of use of school into an office (Class B1), the erection of 10 dwellings together with the creation of a new vehicular access at Llanddeusant Primary School, Llanddeusant

The application is presented to the Planning and Orders Committee as the application is made on land partly owned by the Council.

Councillor K.P. Hughes as a Local Member proposed that the application be deferred as the local Community Council has not had the opportunity to meet and there are local concerns with regard to the application to build 10 dwelling in the area. The local community have also expressed that they would like to be afforded with a local need assessment of the proposal. Councillor Lewis Davies seconded the proposal.

It was RESOLVED to defer consideration of the application for the reasons given.

13 OTHER MATTERS

None were considered by this meeting of the Planning and Orders Committee.

**COUNCILLOR ANN GRIFFITH
CHAIR**

This page is intentionally left blank

PLANNING SITE VISITS

Minutes of the meeting held on 15 February, 2017

- PRESENT:** Councillor Ann Griffith – Chair
- Councillors Lewis Davies, John Griffith, K.P. Hughes,
T. Victor Hughes,
- IN ATTENDANCE:** Planning Officer (MD),
Development Control Engineer (Highways) (JAR).
- APOLOGIES:** None
- ALSO PRESENT:** Councillor H. Eifion Jones (application 1).
-

1 20C313A – FULL APPLICATION FOR THE ERECTION OF 14 AFFORDABLE DWELLINGS, CONSTRUCTION OF A NEW ACCESS AND INTERNAL ROAD TOGETHER WITH THE INSTALLATION OF A SEWERAGE PUMPING STATION ON LAND OFF FFORDD Y FELIN, CEMAES

The members visited the site and the Planning Officer explained the proposals. Upon entering the site the position of the proposed dwellings was shown together with the access point.

2 21C58H – FULL APPLICATION FOR THE ERECTION OF 10 ADDITIONAL HOLIDAY UNITS AT PARC EURACH, LLANDDANIEL FAB

The Planning Officer explained the proposals and referred to the existing site. The existing site was visited and the nearby highway. The position of the public footpath was also examined.

**COUNCILLOR ANN GRIFFITH
CHAIR**

This page is intentionally left blank

6.1

Gweddill y Ceisiadau

Remainder Applications

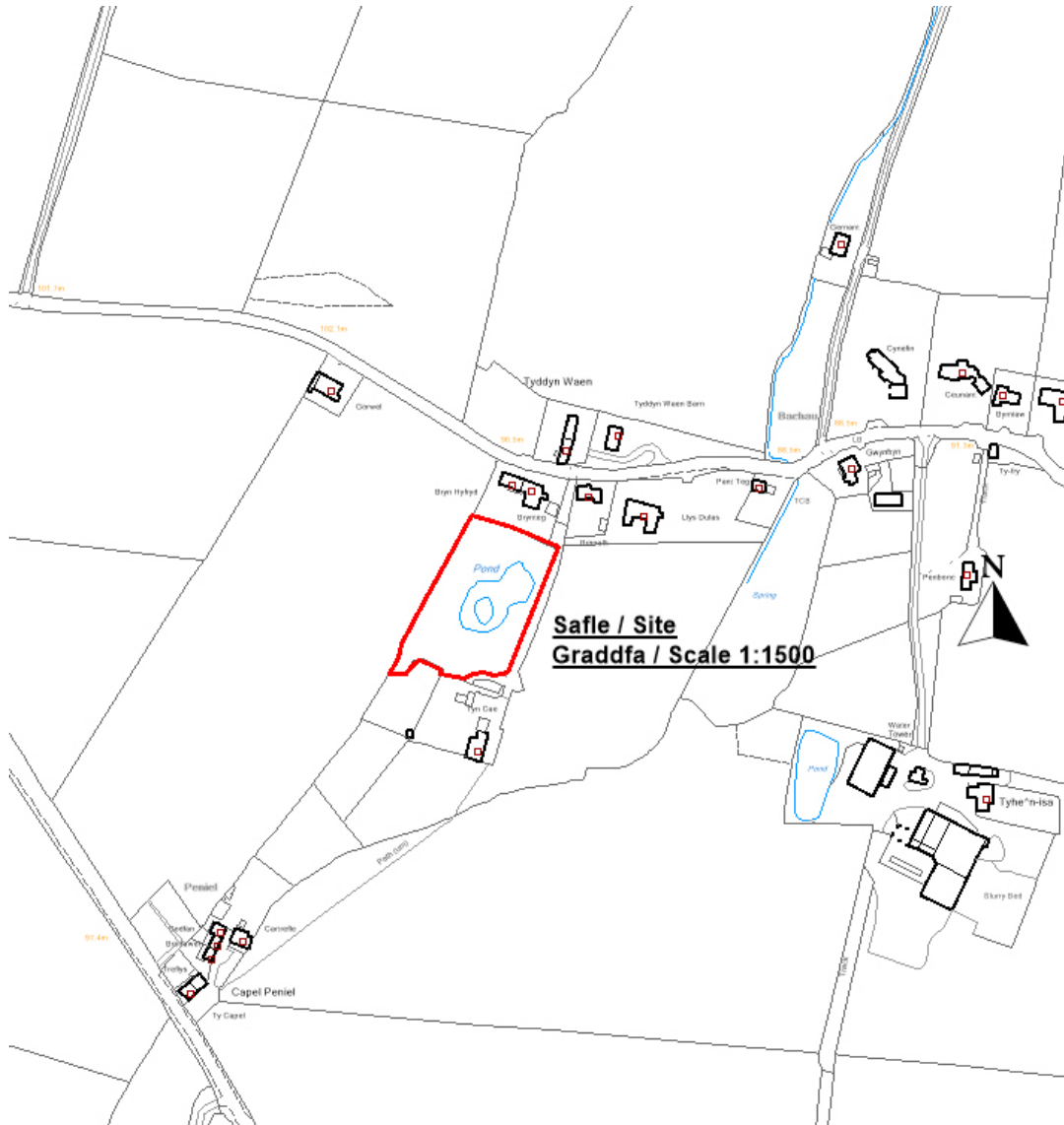
Rhif y Cais: **25C242** Application Number

Ymgeisydd Applicant

Mr Gordon Sutherland

Cadw pwll ynghyd a gwaith draenio yn / Retention of pond together with drainage works at

Tyn Cae, Coedana, Llanerchymedd



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (IWJ)

Recommendation:

Defer.

Reason for Reporting to Committee:

As Members are aware the application was deferred at the Planning and Orders Committee meeting that was held on the 7th December, 2016 to await further supporting details.

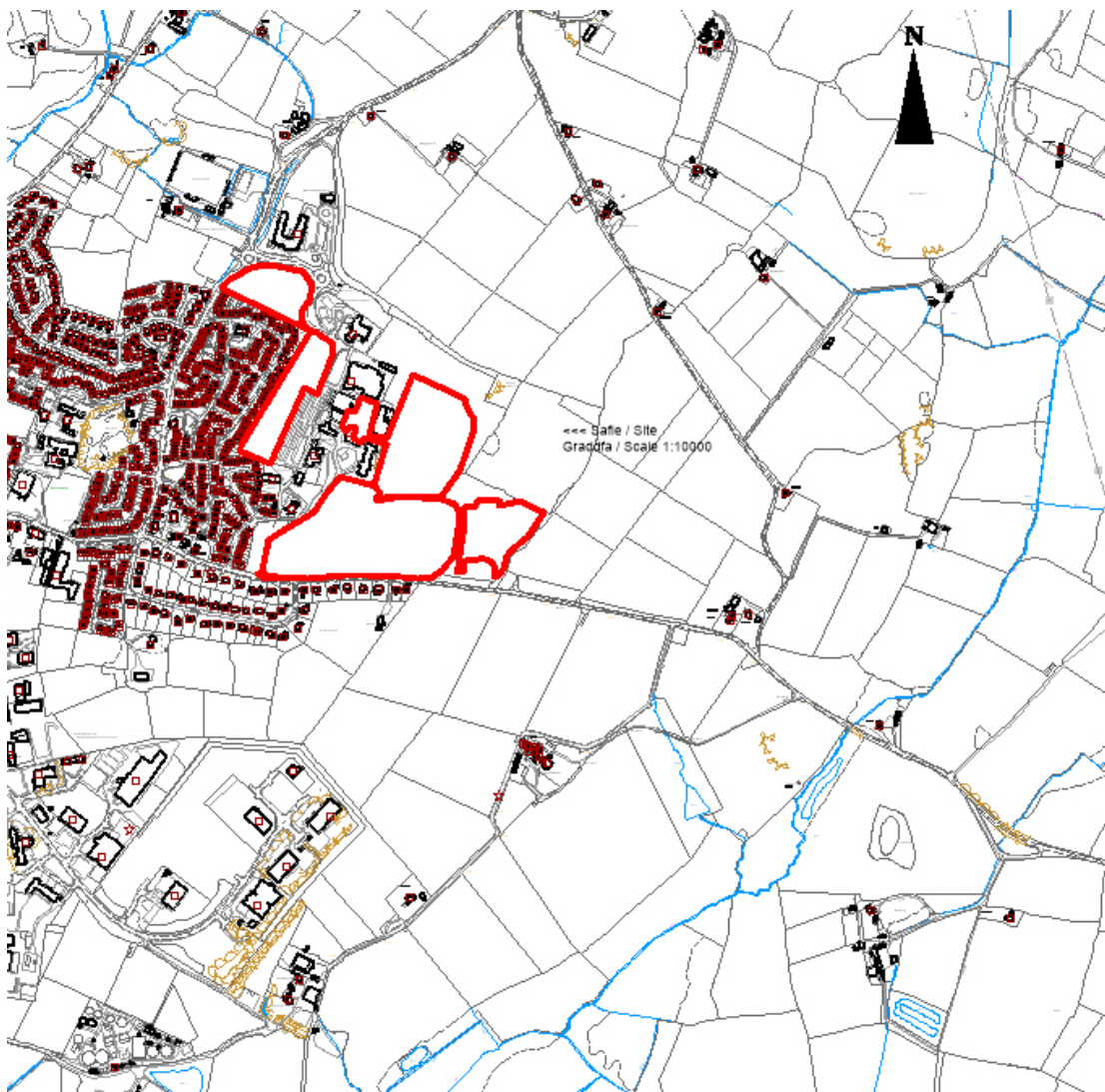
To date the information has not been submitted, as such the recommendation remains one of deferral at present.

Rhif y Cais: **34C304K/1/EIA/ECON** Application Number

Ymgeisydd Applicant

Director of Strategic Projects & Funding

Cais hybrid am ganiatâd cynllunio llawn i greu canolfan beirianeg newydd, maes parcio, lle chwarae i blant a gwaith cysylltiedig a chais am ganiatâd cynllunio amlinellol gyda rhai materion wedi eu cadw'n ôl ar gyfer datblygiad preswyl o 153 o anheddau, gwesty a chyfleuster bwyd a diod ynghyd a lle parcio cysylltiedig a gwaith ar dir yn / Hybrid application applying for full planning permission for the creation of a new engineering centre, car parking, children's play area and associated works and applying for outline planning permission with some matters reserved for a residential development of 153 dwellings, a hotel and food and beverage facility along with associated car parking and works on land at

Coleg Menai, Ffordd y Coleg, Llangefni

Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (MTD)

Recommendation:

Site Visit.

Due to the nature and scale of the application it is considered that in order to fully assess the impact of the proposed development a site visit would be beneficial prior to consideration of the application.

7.1

Gweddill y Ceisiadau

Remainder Applications

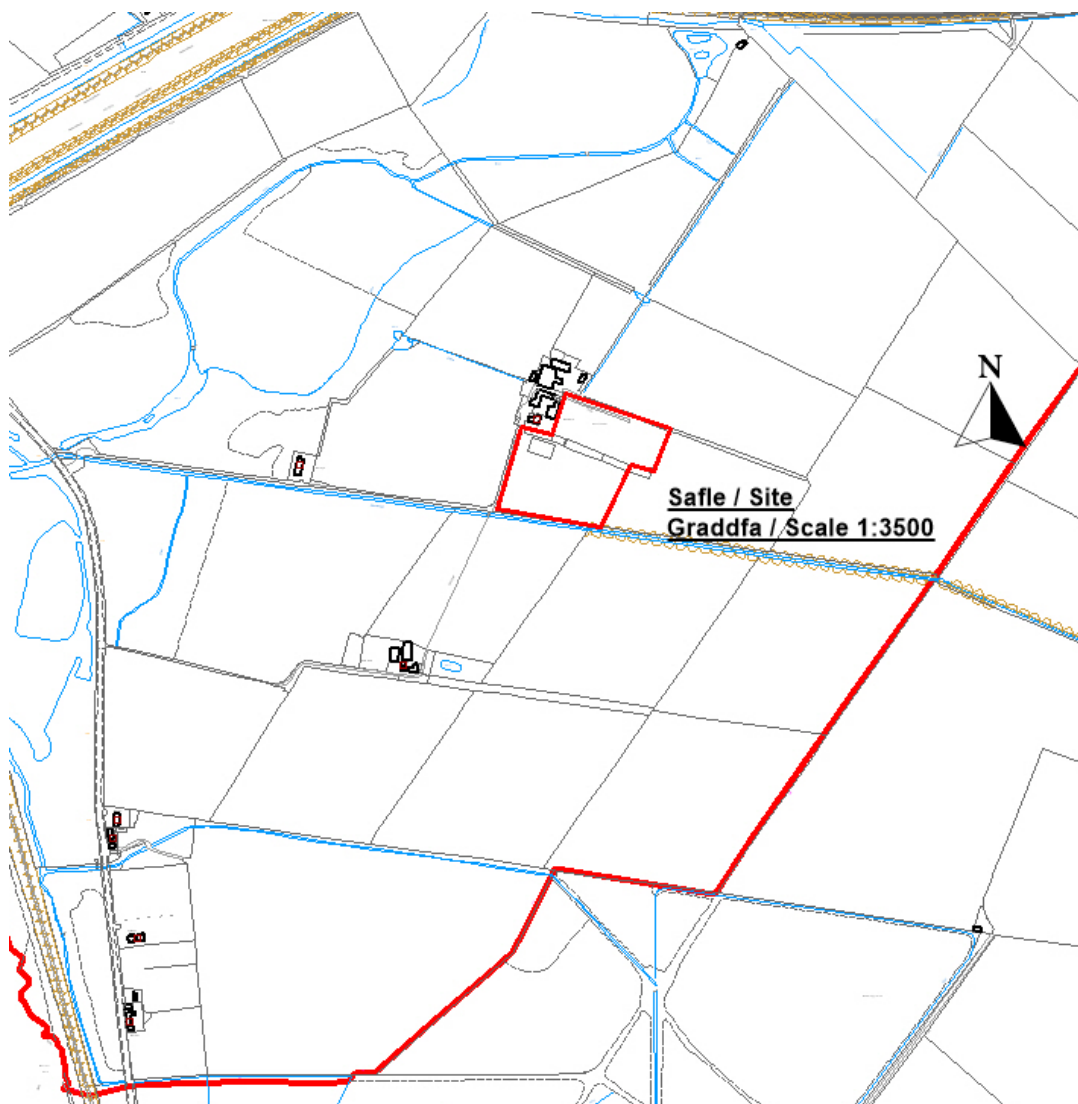
Rhif y Cais: **15C30H/FR** Application Number

Ymgeisydd Applicant

Mr Jeff Hughes

Cais llawn i newid defnydd tir amaethyddol er mwyn ymestyn y maes carafannau presennol i lleoli 14 o garafannau symudol ychwanegol ynghyd a gosod tanc septig ar dir yn / Full application for change of use of agricultural land to extend the existing caravan park to site a further 14 touring caravans together with the installation of a septic tank on land at

Pen y Bont Farm Touring & Camping, Malltraeth



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (SCR)

Recommendation:

Refuse.

Reason for Reporting to Committee:

The application is presented to the Planning and Orders Committee at the request of the Local Member.

At its meeting held on the 2nd November, 2016 the committee members recommended that a site visit should take place. The site visit took place on the 16th November, 2016 and the members are now aware of the site and its settings.

At its meeting held on the 7th December, 2016 the Committee resolved to approve the application contrary to officer recommendation. The recorded reasons being as follows:

- i) Do not consider that there is a flood risk of a level that the proposal cannot be supported, and
- ii) The proposal will not have a detrimental impact on the ecology of Malltraeth Marsh.

In such circumstances paragraph 4.6.12.1 of the Council's Constitution requires that:
"Where the Committee are mindful to either approve or refuse a proposed development contrary to an Officer recommendation, the item shall be deferred until the following meeting so as to allow the officers to report further on the matter. The Committee must set out the reasons for wishing to decide against the officer recommendation. Committee members should adhere to these Rules when making planning decisions and take policy guidance from planning officers into due regard and only vote against their recommendations where genuine and material planning reasons can be identified. A detailed minute of the Committee's reason(s) shall be made and a copy placed on the application file. Where deciding the matter contrary to the recommendation may risk costs on appeal the Committee will take a recorded vote when deciding the application irrespective of the requirements of paragraph 4.1.18.5 of the Constitution."

Paragraph 4.6.12.2 requires that;

"The officer's further report shall detail the reasons put forward by the members, indicate whether such reasons are, in their view, genuine and material planning reasons and discuss the land use planning issues raised."

This report will therefore give consideration to these matters;

- j) Do not consider that there is a flood risk of a level that the proposal cannot be supported

The site is situated within a C1 Flood Zone as defined by the Development Advice Map (DAM). The details received from Natural Resource Wales, during the consultation process, that the flood maps are updated on a quarterly basis and confirms that the site lies within the extreme flood outline.

Technical Advice Note 15: Development and Flood Risk states that development should be directed away from the areas which are within zone C and towards land in zone A. Figure 2, Section 5 of TAN 15 states that touring caravans are categorised as a highly vulnerable development.

Paragraph 6.2 of TAN 15 states that new development should be directed away from areas which are within zone C and towards land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue...Development, including transport infrastructure, will only be justified if it can be demonstrated that:-

- i) its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
- ii) its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;

and

- iii) it concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2); and
- iv) the potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

The proposal meets criteria (ii) of the tests listed in paragraph 6.2 as it will contribute to employment and tourism facilities in the locality by way of additional visitors to the area. However, the proposal does not meet criteria (iii) or (iv) of the test as the application site is agricultural land which has not previously been developed and the agent has confirmed that they are not willing to spend the monies on submitting a Flood Consequence Assessment.

Where developments are proposed in zone C, and comply with the tests outlined in Section 6 of TAN 15 a planning application should be supported by a Flood Consequence Assessment. Paragraph 7.2 of TAN 15 states that whether a development should proceed or not will depend upon whether the consequences of flooding of that development can be managed down to a level which is acceptable for the nature/type of development being proposed, including its effects on existing development. It would certainly not be sensible for people to live in areas subject to flooding (even in two storey buildings) where timely flood warnings cannot be provided and where safe access/egress cannot be achieved

Therefore, before deciding whether a development can take place a flood consequence assessment, which examines the likely mechanisms that cause the flooding, and the consequences on the development of those floods, must be undertaken, which is appropriate to the size and scale of the proposed development.

During the course of determining the application the applicant was requested to submit a Flood Consequence Assessment however refused to carry out an assessment due to the costs.

Due to the above the proposal cannot be supported as the site lies within a C1 flood zone and does not comply with the requirements of TAN 15.

- ii) The proposal will not have a detrimental impact on the ecology of Malltraeth Marsh.

Policy 33 of the Local Plan states that the Council "will refuse to permit any development that will unacceptably affect either directly or indirectly, any notified SSSI..."

Policy EN6 of the stopped Unitary Development Plan states that development that is likely to result in danger or have a detrimental effect on a Site of Special Scientific Interest will be subject to special scrutiny and will not be permitted unless the reasons for the development clearly outweigh the value of the site itself.

Fields close to the proposed development are suitable for breeding birds of lowland damp grassland, which require an open landscape without disturbance. Any development into the SSSI including any screening/planting more than 1.5 m tall will impact on the suitability of the area for breeding birds with a potential loss of biodiversity. The caravan site will be open during the spring and summer bird breeding season which coincides with the breeding season for the species notified as features of the site. The proposed development would not only reduce the land area off the SSSI but potentially increase disturbance effects in neighbouring fields within the SSSI and therefore jeopardise site integrity.

The proposal therefore conflicts with Policy 12 and Policy 33 of the Ynys Mon Local Plan and Policy TO6 and EN6 of the stopped Unitary Development Plan.

At its meeting that was held on the 4th January, 2017, Members were advised that the Welsh Government had issued a holding direction on the application whilst the Welsh Government considered the application and whether they would 'Call-in' the application to determine. The Members were therefore informed that the Planning and Orders Committee had two options, these were;

- i) Defer the application, or,
- ii) Refuse the application

Members resolved to defer the application until the Welsh Government determined whether they would 'Call-in' the application.

1. Recommendation

Refuse

(01) The application site is located within zone C1, as defined by the Development Advice Maps referred to under Technical Advice Note 15 'Development and Flood Risk' (July 2004). The proposal is therefore contrary to Policies 1 and 28 of the Ynys Môn Local Plan and Policies GP1 and SG2 of the stopped Unitary Development Plan and the advice contained within Planning Policy Wales (9th Edition) and Technical Advice Note 15 – Development and Flood Risk (July 2004).

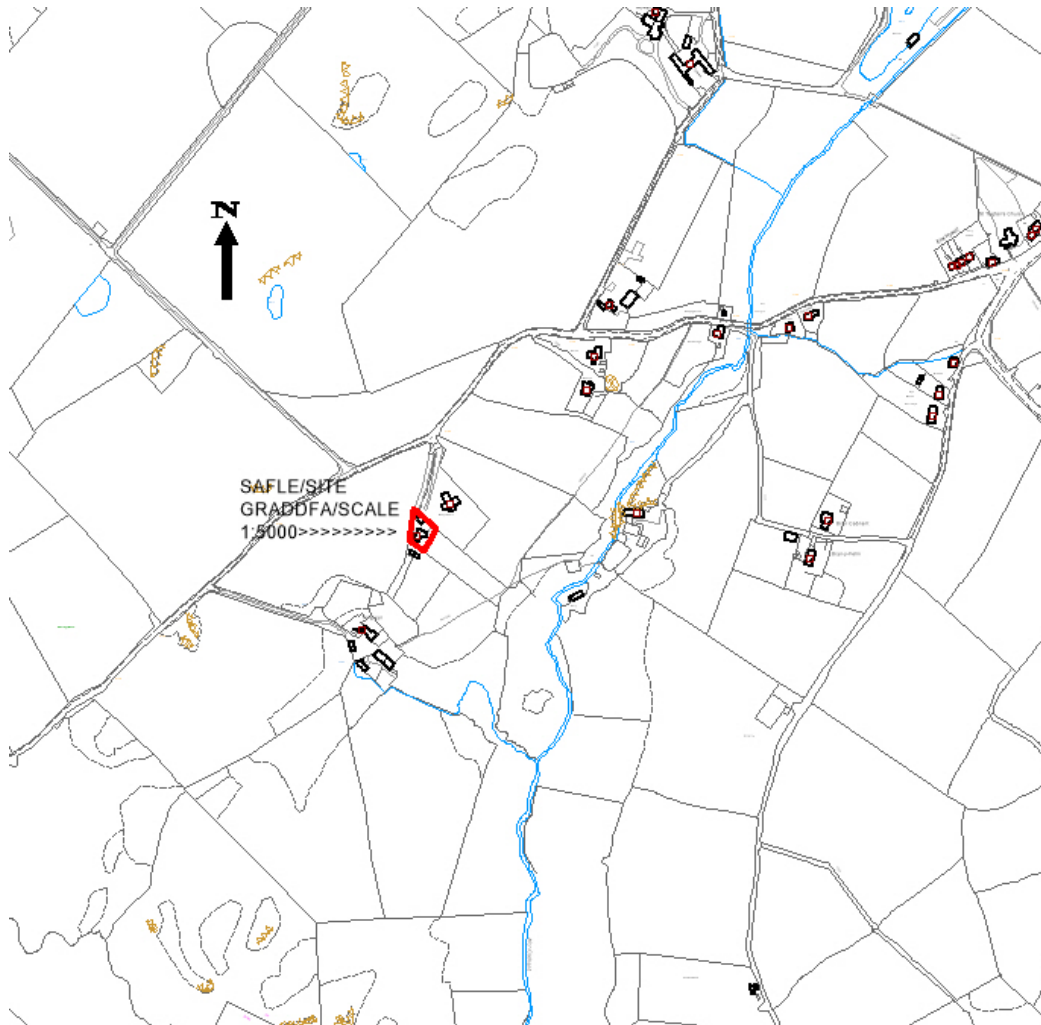
(02) The proposal will impact upon the openness of the area, which is designated as a Site of Special Scientific Interest potentially affecting its ornithological interest. The proposal is therefore contrary to Policy 12 and 33 of the Ynys Mon Local Plan and Policy TO6 and EN6 of the sopped Unitary Development Plan and the advice contained within Planning Policy Wales (9th Edition).

Rhif y Cais: **17C226H** Application Number

Ymgeisydd Applicant

Mr & Mrs Williams

**Cais llawn i addasu ac ehangu yn / Full application for alterations and extensions to
Gernant, Lôn Ganol, Llandegfan**



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (GJ)

Recommendation:

Refuse

The application is presented to the Planning and Orders Committee at the request of the Local Member.

At its meeting held on the 1st February, 2017 the Committee resolved to approve the application contrary to officer recommendation. The recorded reasons being as follows:

- The proposal would significantly improve the appearance of the existing dwelling.
- Policy 55 of the Ynys Mon Local Plan supports such proposals.

In such circumstances paragraph 4.6.12.1 of the Council's Constitution requires that:
"Where the Committee are mindful to either approve or refuse a proposed development contrary to an Officer recommendation, the item shall be deferred until the following meeting so as to allow the officers to report further on the matter. The Committee must set out the reasons for wishing to decide against the officer recommendation. Committee members should adhere to these Rules when making planning decisions and take policy guidance from planning officers into due regard and only vote against their recommendations where genuine and material planning reasons can be identified. A detailed minute of the Committee's reason(s) shall be made and a copy placed on the application file. Where deciding the matter contrary to the recommendation may risk costs on appeal the Committee will take a recorded vote when deciding the application irrespective of the requirements of paragraph 4.1.18.5 of the Constitution."

Paragraph 4.6.12.2 requires that;

"The officer's further report shall detail the reasons put forward by the members, indicate whether such reasons are, in their view, genuine and material planning reasons and discuss the land use planning issues raised."

This report will therefore give consideration to these matters;

- The proposal would significantly improve the appearance of the existing dwelling.

In response to the above reason, whilst accepting that it can be argued that the current proposals do enhance the appearance of the building. It is not considered that this application complies with the spirit of Policy 55 of the Ynys Mon Local Plan and Policy HP8 of the Stopped Unitary Development Plan

- Policy 55 of the Ynys Mon Local Plan supports such proposals.

In response to the above reason, It is not considered that this application complies with the spirit of Policy 55 of the Ynys Mon Local Plan and Policy HP8 of the Stopped Unitary Development Plan, which seeks to respect the character, scale and setting of the existing building. The policy goes on to state that the building should be capable of conversion without extensive re-building or extension which would be equivalent to the erection of a new dwelling.

An extension to the original building has already been granted increasing the footprint up to 30%. The proposed extension amounts to 92.02 square metres. This would amount to a 111% increase on the original outbuilding, taking the overall extensions to 142%, way beyond what is considered as minor external alterations.

8. Recommendation

Refused

(01) The amount of extension go well beyond what could reasonably be described as minor external alterations. The proposal is therefore contrary to Policy A6 of the Gwynedd Structure Plan, Policy 55 of the Ynys Môn Local Plan, Policy and HP8 of the stopped Unitary Development Plan and advice contained within Planning Policy Wales (9th Edition), Technical Advice Note 6: Planning for Sustainable Rural Communities and Supplementary Planning Guidance – Design Guide for the Urban and Rural Environment.

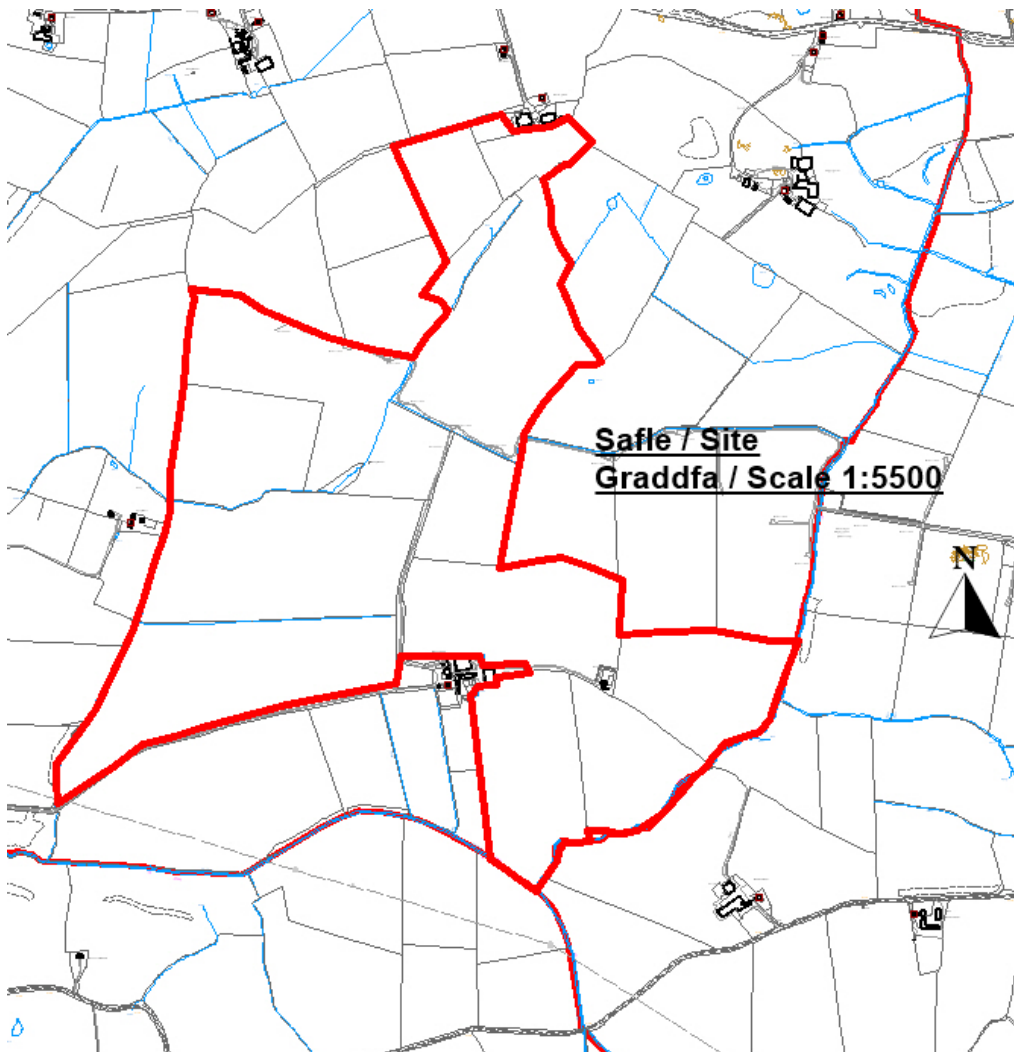
Rhif y Cais: **20C310B/EIA/RE** Application Number

Ymgeisydd Applicant

Countryside Renewables (North Anglesey) Ltd

Cais llawn ar gyfer adeiladu fferm arae solar 49.99MW ynghyd ag offer a isadeiledd cysylltiedig a gwaith ategol ar dir ger / Full application for the construction of a 49.99MW solar array farm together with associated equipment, infrastructure and ancillary works on land adjacent to

Rhyd y Groes, Rhosgoch



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (MTD)

Recommendation:

Permit.

Reason for Reporting to Committee:

The application is accompanied by an Environmental Impact Assessment (EIA)

Members will recall visiting the site on the 17th August 2016.

1. Proposal and Site

The site is located at Rhyd-y-Groes farm, near Llanbadrig, Cemaes Bay in the open countryside on land roughly halfway between the settlements of Cemaes and Amlwch, approximately 1.5 km south-east of Cemaes Bay on the coast of North Anglesey. The land is included within a Special landscape Area, the AONB lies 245m to the north (Nearest point) on the opposite side of the A5025.

The land surrounding the site predominantly comprises agricultural holdings and a few rural dwellings: Tyn-y-Gors adjoins the western site boundary (and Nant- y-Frân lies 450m northwest of this); Rhyd-y-Groes adjoins the south of the site; Hafodllin Bach and Hafodllin Fawr are close to the south-east of the site; while Buarth-y-Foel and Tregynrig Fawr are close to the most northern part of the site..

The site is currently in use as agricultural grazing land. However, part of the existing Rhyd-y-Groes Wind Farm is within the application site boundary. The wind farm originally comprised 24 turbines installed in 1993 (now 22 operating turbines), each with a tip height of 46m. The Rhyd-y-Groes wind farm is a dominant feature of the landscape surrounding the site.

The application proposes the installation of solar PV arrays measuring 1m x 1.65 at an angle of 15-30 degrees and maximum 3m in height which will connect to the national grid. The application site area is 89.4 hectares, with the solar panels and associated infrastructure occupying approximately 40% of the site area. The footprint of the supporting posts will be less than 1% of the total development area.

It should be noted that since the application was submitted, the applicant has reduced the development area by 11.2ha after taking into account the comments of GAPS on archaeology and Officer concerns in respect of landscape impact. .

This is explained in the relevant sections in this report.

The proposed installation will incorporate arrays of free standing, ground-mounted solar PV panels, which will have an estimated maximum installed generating capacity of 49.99MW. The installation will be quiet during operation and will have no moving parts. It will connect to the local electricity distribution network and produce enough electricity to power 15,500 homes on an annual basis, which is the equivalent of half of Anglesey's homes. CO2 savings over the lifetime of the project will be 612,000 tonnes, the equivalent of taking 14,000 cars off the road.

Operational access for maintenance will be achieved via the new access point near Rhyd-y-Groes Farm (this will be the primary access point during operation) and the access point at Buarth-y-foel will also be retained for use as required.

Sheep will be allowed to graze in between and beneath the solar panel arrays.

The installation will also include the following associated infrastructure:

Gravel access roads.

Landscaping, bunding and planting.

Post and wire security fencing along the hedgerows.

CCTV cameras.

Solar PV Inverter Substations

A Substation Compound (for grid connection) which comprises:

32 containerised battery stores and 8 inverter units;

Grid connection equipment including transformers and switchgear and ancillary equipment.

Switchgear and ancillary equipment.

Cabling works reaching from the panels/inverters (this will be routed to the substation via a network of shallow trenches which will be back filled)

Electricity will be cabled from the site by statutory undertakers under their permitted development rights.

2. Key Issue(s)

The application is accompanied by an Environmental impact Assessment (EIA) which informs the proposals. Following a scoping procedure and the issuing of a scoping opinion (July 2015) by the LPA the submitted Environmental statement included the following matters, landscape and visual impact, ecology and Nature Conservation, Cultural Heritage and Archaeology, floodrisk, hydrology and ground conditions. Other matters were included and are dealt with elsewhere in this report.

The aim of Environmental Impact Assessment is to protect the environment by ensuring that a local planning authority when deciding whether to grant planning permission for a project, which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision making process.

3. Main Policies

The Gwynedd Structure Plan (1993)

The Gwynedd Structure Plan (Structure Plan) was adopted in 1993 and provides strategic planning policy and guidance for development in Gwynedd and Anglesey for the period 1991 to 2006. The Structure Plan sets out the key general policies as a framework for the more detailed policies in the Ynys Môn Local Plan. The Structure Plan forms one part of the Development Plan for Anglesey and is therefore a material planning consideration in the determination of this application.

Policy C7 states that there will be a presumption in favour of renewable energy proposals, provided that the impacts upon the locality are acceptable to the local planning authority. Proposals should be supported by an Environment Assessment where applicable.

Policy D4 states that careful location, siting and design will be a material consideration in the determination of all applications for development in order to minimise any adverse impact on the environment. Where appropriate, planning applications should be accompanied by a comprehensive environmental statement in accordance with the relevant legislation.

Policy D10 seeks to ensure that the County's heritage of wild flora and fauna and geological and physiographic features are safeguarded, particularly NNRs, SSSIs, RSPB Reserves, wetlands, Ramsar sites, Special Protection Areas (under EC Bird Directive 74/409), Local Nature Reserves and other areas of high nature conservation interest.

Policy D15 seeks to preserve Scheduled Ancient Monuments, areas of archaeological importance and unscheduled archaeological sites and highlights the need to investigate archaeological sites of unknown importance and areas of high archaeological potential. Provision should be made for an appropriate archaeological response for archaeological sites not meriting preservation.

Policy D22 states that any development in close proximity to a listed building and having a bearing on its setting or character will be carefully controlled.

The Ynys Môn Local Plan (1996)

The Ynys Môn Local Plan (Local Plan) was adopted in 1996 and provides an interpretation of the policies in the Structure Plan in more detail, along with a series of supplementary Proposals Maps. Although the Local Plan remains part of the Development Plan for Anglesey, the plan period has now expired and therefore the provisions of PPW take precedent over the content of the Local Plan where there is considered to be a conflict.

Chapter 2 of the Local Plan outlines the 'General Strategy' for Isle of Anglesey, which is supported by the more detailed policies on jobs, physical infrastructure and the environment, set out in Chapters 3-5 of the Local Plan. The General Strategy identifies renewable energy as a key planning issue to be addressed by the strategy, and paragraph 2.1 states that:

"With Government emphasis now being placed on the generation of energy from safe, alternative sources, pressure for developments exploiting renewable, natural sources (e.g. wind power) are likely to increase."

The General Strategy has a presumption in favour of sustainable development, and paragraph 2.5 recognises the need for development to be "sustainable" in order to achieve economic development.

Policy 1 (General Policy) states that, in considering planning applications, the Council will take into account the needs and interests of the Welsh language; energy conservation; the effect on any site or area of ecological, landscape, scientific, archaeological or architectural interest; the extent to which siting, scale, density, layout and appearance fit in with the character of the area; the effect on residential amenities; and protection of the best and most versatile agricultural land. This policy further states that there is a need to ensure that vehicular access, the roads leading to the site, and parking provisions are safe and adequate.

Policy 31 (Landscape) designates the entire Island as a Special Landscape Area, excluding the AONB and land which falls within the settlement boundaries as defined in the Local Plan, and requires proposals to have particular regard to the special character of their surroundings.

Policy 32 (Landscape) seeks to protect trees, hedgerows, stone walls, 'cloddiau' and other traditional landscape features from inappropriate development.

Policy 39 (Archaeological Sites) states that the Council will use its planning powers to ensure that Scheduled Ancient Monuments and their settings are retained intact. Unscheduled archaeological sites and their settings of sufficient importance to merit preservation will also be protected. Where proposals affect other unscheduled archaeological remains which do not merit preservation, provision will be made for an appropriate archaeological response.

Policy 41 (Conservation of Buildings) states that Buildings of special architectural and historic interest and their settings will be protected from unsympathetic development, alterations or demolition.

Policy 42 (Design) seeks to promote high quality design for development proposals. Development proposals should have particular regard to the surroundings of the site; the quality of layout, design and external finishes; and the provision made for pedestrian access and circulation.

Policy 45 (Renewable Energy) provides a framework for the identification of potential development impacts for renewable energy projects. For a development proposal to be acceptable it should be clearly demonstrated that there will not be any unacceptable impact on:

Landscape character;

Sites of international, national or local importance for nature conservation;

Species which are of nature conservation importance;

The standard of amenity enjoyed by the resident and tourist population; and Essential public services and communications.

It goes further at paragraph 4.49, which states that projects such as solar schemes can make a valuable contribution to safe energy provision in the future, as well as diversifying the economic base of rural areas. Paragraph 4.49 emphasises that renewable energy developments have a role to play in overall Government energy policy by:

Assisting in the diversification of the sources of electricity supply;

Displacing harmful fossil fuel emission, reducing overall Carbon Dioxide and Sulphur Dioxide emissions to the atmosphere, and thus assisting the Government in meeting its international and European environment obligations; and

Reducing transmission losses in the national grid.

The Stopped Ynys Môn Unitary Development Plan (2005)

The Ynys Môn Unitary Development Plan (Stopped 2005) sets out the IACC's strategic priorities for the development and other use of land on Anglesey as well as the detailed policies and proposals for development. It was intended that the UDP would cover the period from 2001 to 2016.

On 1st December 2005, the IACC resolved to stop work on the Ynys Môn Unitary Development Plan (UDP) and proceed to commence preparation of the Anglesey and Gwynedd Joint Local Development Plan (JLDP). As a result, the UDP was not adopted. Nevertheless, the UDP may be a material planning consideration, given the advanced stage it reached in its preparation; however it does not have the status of a fully adopted plan.

Chapter 5 of the UDP outlines the 'General Strategy' for Anglesey, which is supported by the 'Policies' set out in Chapter 7 of the UDP. The General Strategy and vision has a presumption in favour of sustainable development, and one of the key objectives of the UDP is to:

"Promote and encourage the development and use of renewable and non-renewable sources of energy (where appropriate) and promote energy efficient development and design." (UDP, Chapter 6, Objective 12).

Part 1, Policy 8b (Energy Developments) states:

"Applications for the development of renewable and non-renewable energy resources will be permitted where it can be demonstrated that there will be no unacceptable adverse impact upon the environment. Preference will be given to the development of clean renewable energy sources, but proposals for non-renewable energy projects will be permitted if they encourage the maximum use of energy efficiency within their design."

General Policy GP1 (Development Control Guidance) provides a framework for the control of new development proposals. Development will be permitted where it:

Does not cause significant harm to people, general amenity, residential amenity and the environment;

Protects the best and most versatile agricultural land; and

Safeguards and enhances the integrity and/or continuity of the environment, including archaeological sites, landscape features and corridors such as stone walls, cloddiau, hedgerows, trees, ponds and rivers.

Policy EN1 (Landscape Character) requires development to fit into its surroundings without significantly harming the Landscape Character Areas.

Policy EN4 (Biodiversity) seeks to ensure that development does not cause unacceptable harm to biodiversity on the Isle of Anglesey. Development must be designed to maintain, and where appropriate enhance the biodiversity of the natural environment.

Policy EN14 (Tree Preservation Orders and Hedgerows) requires measures for the protection and retention of existing trees, hedgerows and woodlands to be submitted as part of development proposals. Where trees or hedgerows are removed as part of a development, replacements using the original and indigenous species will normally be required. Hedgerows will be protected from inappropriate development.

Policy ENV16 (Landscape Features of Major Importance for Flora and Fauna) permits development that would adversely affect the integrity or continuity of specific landscape feature (including hedgerows, ditches and bank or habitat mosaics or networks of other locally important habitats) where it can be demonstrated that the need for the development clearly outweighs the need to retain the features. Mitigating measures which would reinstate the integrity or continuity of the features will be required.

Emerging Local Planning Policy

Joint Local Development Plan Anglesey & Gwynedd (2011-2026) Deposit Plan (2015)
Gwynedd Council and IACC have decided to prepare a Joint Local Development Plan (JLDP) for Anglesey and the Gwynedd Local Planning Authority Area. The plan sets out the land use planning policy framework over a 15 year period (2011-2026) and comprises the general strategy and strategic priorities as well as more detailed policies. Once adopted, the JLDP will form the Development Plan for the Anglesey and Gwynedd Local Planning Authority Area.

Chapters 5 and 6 of the Joint Local Development Plan (LDP) outline the 'Vision and Strategic Objectives' and 'The Strategy' for Anglesey and Gwynedd, which are supported by the policies in Chapter 7 of the LDP. The Strategy has a presumption in favour of sustainable development, which is emphasised by the Strategic Objectives and subsequent policies, as set out below.

Strategic Objective 5 seeks to ensure that development supports the principles of sustainable development and creates sustainable communities.

Strategic Objective 6 seeks to minimise, adapt and mitigate the impacts of climate changes. This will be achieved through the promotion of renewable and low carbon energy production within the area.

Strategic Policy PS5 (Sustainable Development) states that proposals will only be permitted where it is demonstrated that they are consistent with the principles of sustainable development. This policy provides a list of criteria which must be adhered to by development proposals.

Strategic Policy SP6 (Alleviating and Adapting to the Effects of Climate Change) states that in order to alleviate the effects of climate change proposals will only be permitted where it is demonstrated that development proposals adhere to the criteria as listed in this policy.

Strategic Policy SP7 (Renewable Energy Technology) states that The Councils will seek to ensure that the Plan area wherever feasible and viable realises its potential as a leading area for initiatives based on renewable or low carbon energy technologies by promoting renewable energy technologies within development proposals which support energy generation from a variety of

sources which include solar generation and free-standing renewable energy technology development.

Strategic Policy SP16 (Conserving and Enhancing the Natural Environment) states that the Councils will manage development so as to conserve and enhance the Plan area's distinctive natural environment, countryside and coastline, and proposals that have an adverse effect on them will be refused. Proposals must have regard to the environmental considerations listed in this policy.

Policy PCYFF1 (Development Criteria) sets out a list of criteria which must be adhered to be development proposals. Furthermore, development should not have an unacceptable adverse impact on prominent public views of open countryside, the highway network and vehicular access, the health and safety and amenity of the local residences or other land and property uses, the quality of ground or surface water and the best and most versatile agricultural land.

Policy PCYFF2 (Design and Place Shaping) states that all proposals will be expected to demonstrate high quality design, which fully takes into account the natural, historic and built environmental context and contributes to the creation of attractive, sustainable places. Innovative and energy efficient design will be particularly encouraged. Proposals will only be permitted where they confirm to the relevant criteria as listed in this policy.

Policy PCYFF3 (Design and Landscaping) states that all proposals should integrate into their surroundings. This policy provides a list of criteria which should be met by landscaping schemes.

Policy ADN2 (Other Renewable Energy Technologies) states that large scale proposals located outside development boundaries will be permitted in exceptional circumstances where there is an overriding need for the scheme which can be satisfactorily justified or there are specific locational circumstances for the siting of the development. In all cases proposals should not cause an unacceptable harm to the landscape, biodiversity, archaeology and areas of historic value or their settings. In addition, the potential effect of cumulative impact of renewable energy technologies should be considered.

Policy AMG2 (Protecting and Enhancing Features and Qualities That Are Unique to the Local Landscape Character) states a proposal will be granted provided that it doesn't have an adverse impact upon features and qualities which are unique to the local landscape in terms of visual, historic, geological, ecological or cultural aspects. Measures should be taken to ensure that the development doesn't cause significant adverse impact to the character of the built or natural landscape; fails to harmonise with, or enhance the landform and landscape; and lose or fails to incorporate traditional features, patterns, structures and layout of settlements and landscape of both the built and natural environment.

Policy AMG4 (Local Biodiversity Conservation) states that proposals should protect and enhance biodiversity that has been identified as being important to the local area. Proposals should adhere to the criteria listed in this policy. Where necessary, an Ecological Assessment which highlights the relevant biodiversity issues should be included with the planning application.

Planning Policy Wales V9

Chapter 4 of PPW sets out the Welsh Government's (WG) policy for planning for sustainability across Wales. One of the key aims of this national policy is to:

"Support the need to tackle the causes of climate change by moving towards a low carbon economy. This includes facilitating development that reduces emissions of greenhouse gases in a sustainable manner, provides for renewable and low carbon energy sources at all scales and facilitates low and zero carbon developments." (PPW, paragraph 4.4.3)

Paragraph 4.6.4 highlights that the countryside is a dynamic and multi-purpose resource. PPW recognises that whilst it should be conserved and enhanced, the countryside also plays a role as a sustainable energy source.

Chapter 12 of PPW sets out the Welsh Government's (WG) policy for delivering infrastructure and services across Wales. One of the key aims of this national policy is to:

"Promote the generation and use of energy from renewable and low carbon energy sources at all scales and promote energy efficiency, especially as a means to secure zero or low carbon developments and to tackle the causes of climate change." (PPW, paragraph 12.1.4)

This guidance also confirms the WG's commitment to achieving the UK target of 15% of energy from renewables by 2020 by specifically stating that:

"The Welsh Government is committed to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of our approach to tackling climate change whilst enhancing the economic, social and environmental wellbeing of the people and communities of Wales in order to achieve a better quality of life for our own and future generations. This is outlined in the Welsh Government's Energy Policy Statement Energy Wales: A Low Carbon Transition (2012)." (PPW, paragraph 12.8.1)

The support for renewable energy is further emphasised in Paragraph 12.8.2 of PPW which confirms that:

"Planning policy at all levels should facilitate delivery of both the ambition set out in Energy Wales: A Low Carbon Transition and UK and European targets on renewable energy."

In addition, the guidance states that Local Planning Authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy and help to tackle the causes of climate change. Specifically, the guidance (paragraph 12.8.9) requires LPAs to make positive provision by (amongst other matters):

Considering the contribution that their area can make towards developing and facilitating renewable and low carbon energy, and ensuring that development plan policies enable this contribution to be delivered;

Ensuring that development management decisions are consistent with national and international climate change obligations, including contributions to renewable energy targets and aspirations; and

Recognising the environmental, economic and social opportunities that the use of renewable energy resources can make to planning for sustainability.

Paragraph 12.8.10 states that there is a need to ensure that "international and national statutory obligations to protect designated areas, species and habitats and the historic environment are observed".

Paragraph 12.8.15 states the impacts from renewable energy developments will also vary depending on their location and scale and require different policy and development management considerations.

PPW also contains guidance specifically related to development management decisions for renewable and low carbon energy development. The guidance advises that developers for renewable and low carbon energy developments should seek to avoid, or where possible minimise, adverse impacts through careful consideration of location, scale, design and other measures.

Paragraph 12.10.1 highlights matters that should be taken into account in dealing with renewable and low carbon energy development and associated infrastructure by the local planning authority. This covers the positive aspects such as contribution to meeting national, UK and European targets and wider environmental, social and economic benefits. It also highlights the need to consider impact on the natural heritage, the coast and the historic environment and the need to minimise impacts on local communities. Other matters such as mitigation and infrastructure matters, e.g. grid connection and transportation network are also highlighted within 12.10.1.

The paragraph goes on to state that in determining applications for renewable and low carbon energy development and associated infrastructure, local planning authorities should take into account –

The contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy, including the contribution to cutting greenhouse gas emissions;

Technical Advice Notes (TANS)

TAN 6 – Planning for Sustainable Rural Communities (July 2010)

The purpose of this TAN is to provide practical guidance on the role of the planning system in supporting the delivery of sustainable rural communities. This TAN provides guidance on how the planning system can contribute to sustainable rural economies, sustainable rural services and sustainable agriculture.

It emphasises the need to support working and living in rural communities by helping to ensure that a higher proportion of energy can be obtained from renewable sources. At paragraph 2.1 it states that;

“Simultaneously, the planning system must respond to the challenges posed by climate change, for example by accommodating the need for renewable energy generation.”

It goes further at paragraph 3.7.2 stating that;

“Many economic activities can be sustainably located on farms. Small on-farm operations such as food and timber processing and food packing, together with services (e.g. offices, workshop facilities, equipment hire and maintenance), sports and recreation services, and the production of non-food crops and renewable energy, are likely to be appropriate uses.”

TAN 8 – Planning for Renewable Energy (2005)

The purpose of this TAN is to provide practical guidance on the land use planning considerations for renewable energy, including onshore renewable energy technologies. This TAN supplements the policy set out in Sections 12.8-12.10 of PPW. The Assembly Government has published additional practice guidance to support of PPW and TAN 8, which comprises Practice Guidance: Planning for Renewable and Low Carbon Energy – A Toolkit for Planners (February 2011) and Practice Guidance: Planning Implications of Renewable and Low Carbon Energy Developments (September 2015).

At paragraph 1.6, TAN 8 states that:

“As well as developing new sources of renewable energy which are essential to meeting the targets set by energy policy, the Assembly Government is fully committed to promoting energy efficiency and energy conservation. The land use planning system is one of a number of mechanisms which can help deliver improved energy efficiency and local planning authorities are expected to consider matters of energy efficiency when considering planning policy and applications.

While TAN 8 does not extend much in the way of prescriptive technical advice regarding solar PV installations, it does add emphasis and favour towards their development. Specifically, it states that:

“Other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area vista, proposals for appropriately designed solar thermals and PV systems should be supported.” (TAN 8, paragraph 3.15)

Further than this, no explicit instruction is given regarding the suitable location of solar PV systems. The site itself does not contain any scheduled ancient monuments, and though there is a historic building to the south of the site, it is considered that the combination of its distance away and the screening of the site will ensure that there will be no significant detrimental impact from a landscape

and visual perspective on this building or the wider environment. The application proposals are therefore considered to be entirely in accordance with TAN 8.

Practice Guidance

Practice Guidance: Planning Implications of Renewable and Low Carbon Energy Developments (February 2011)

This practice guidance was published in February 2011 and provides local authorities with information to consider when determining planning applications for renewable and low carbon developments. The guidance should be read in support of PPW (in particular, Sections 12.8-12.10) and TAN 8.

For each renewable and low carbon energy technology, this guidance provides an overview of the main considerations including technological and financial constraints; environmental, social and economic impacts and benefits; design, mitigation and enhancement measures; the effects of climate change on these technologies; relevant financial drivers and barriers; and the opportunities for community engagement and planning obligations.

The guidance was updated in 2011 to include guidance on the planning implications of solar arrays. Paragraph 8.4 of this guidance states that the design, mitigation and enhancement measures of solar arrays should be considered in terms of the following key impacts: Landscape and Visual; Glint and Glare Ecology; Historic Environment; Agriculture Hydrology and Flood Risk, Cumulative Impacts.

Appendix 3 of the Practice Guidance identifies that, where there is likely to be a potential impact on identified features of cultural historical interest, including below ground archaeology, suggested mitigation measures include designing plant layout to avoid impact on archaeological remains, such as the use of surface ducting for cables and concrete shoes for ground anchoring. The Guidance further recommends that trial trenching to confirm the presence / absence of any buried archaeological resource should be undertaken prior to construction with a programme of archaeological monitoring in place during construction.

Practice Guidance: Planning for Renewable and Low Carbon Energy – A Toolkit for Planners (September 2015)

This toolkit was published in September 2015 and provides local authorities with a methodology for developing a robust evidence base to assist in the preparation of renewable energy and low carbon energy assessments in their area. The information collected by such assessments can provide an evidence base to underpin renewable energy and low carbon energy policies in local developments plans. Accordingly, the toolkit provides advice on how to translate renewable energy assessment outcomes into local development plan policies and targets. The guidance should be read in support of PPW (in particular, Sections 12.8-12.10) and TAN 8.

The toolkit includes a section on how to assess the potential for solar farm developments. The toolkit advises that the assessment of the potential capacity and electricity generation potential for solar arrays in the local authority area should consider constraints including woodland, lakes and rivers, flood zones, Special Protection Areas (SPA), Special Area of Conservations (SAC), Candidate Special Area of Conservation (cSAC), RAMSAR sites, National Nature Reserves (NNR), Local Nature Reserves (LNR), Sites of Special Scientific Interest (SSSI), Marine Nature Reserves (MNR), Scheduled Ancient Monuments (SAM) and Areas of Outstanding Natural Beauty (AONB).

The toolkit further advises that more detailed site level issues and constraints may be best assessed at the planning application stage for individual sites. At this stage, assessment could include a landscape sensitivity analysis, identification of the distance to the nearest appropriate electricity grid connection and proximity to public rights of way and bridleways. Furthermore, local authorities are advised to commission work to establish landscape and cumulative impacts to support their assessments if necessary.

4. Response to Consultation and Publicity

Local Members: No comments

Llanbadrig Community Council: Object as too large and will be visible from A5025 and AONB.

Amlwch Town Council: Object consider an overdevelopment on agricultural land and would have a visual impact

Mechell Community Council: Consider too large, will harm tourism and house prices

97 letters have been received of which over 70 are proforma, points raised include;

- Too large
- Will harm landscape
- Will be visible from residential properties
- Could damage archaeological sites
- Will be visible for miles
- Will distract drivers
- Will be seen by walkers
- Concerns regarding radio interference
- Grazing land lost
- Flora and fauna affected
- Will produce limited energy
- There is no need
- Little employment
- No provision for decommissioning
- Safety issues
- Disruption during construction
- Harm geology
- There will be glare
- Not in JLDP
- Harm residential amenity

Ysgol Sir Thomas Jones Amlwch and Ysgol Gynradd Cemaes have written commenting;

Do not support or oppose but will benefit from £300,000 between them over the life of the array, stating that it is expected that this will improve academic performance and welcomes contribution

In addition, there have been 7 letters of support, including local residents, the Farmer's Union of Wales, the IACC Energy Island Programme, and Friends of the Earth. Points raised include

- Supports the Energy Island
- Excellent sunshine
- Environmentally friendly
- Low aesthetic impact
- Benefit local businesses
- Substantial merits outweigh other considerations
- Natural and valuable part of the Energy Island
- Much less visible than a row of pylons

Consultees

Highways recommend conditions

Welsh Water conditions

Natural Resources Wales no objection

Ecological Advisor no objection

MOD no objection

WAG no objection in respect of loss of agricultural land

GAPS have objected to the scheme as they consider further investigation (trenching) should be carried out prior to the determination of the application. However, following the removal of the field to the SE whist still raising concerns suggest a condition to ensure a scheme of archaeological investigation works.

North Wales Police raise concerns regarding traffic at pinch points such as bridges the applicant is however to instigate discussions to ensure traffic problems are kept to a minimum. This could include timing of vehicles when they approach pinch points and discussing the type and size of vehicles which will be used. This requirement is to be included within the terms of the Traffic Management Plan.

5. Relevant Planning History

The Rhyd-y-Groes windfarm

20c102c approved 20/11/92

Repowering 20c102L/EIA/RE approved 21/10/2016

6. Main Planning Considerations

The below are considered the main planning considerations in respect of this case.

Principle of Development

The quoted policies in section 3 of this report show that there is a wealth of policy support for green energy at both local and national level. These policies establish the principle of renewable energy proposals and actively encourage such proposals.

In an oral statement on energy on 6th December 2016, Cabinet Secretary for Environment and Rural Affairs, Lesley Griffiths, commented on the Welsh Government's commitment to support renewable energy projects, as set out in 'Taking Wales Forward' which includes *support for the development of more renewable energy projects*. In her oral statement, Mrs Griffiths commented:

"To deliver secure and affordable low-carbon energy, we need a mix of different technologies and sizes, from community scale to major projects," and "we will maximise the role of renewable generation."

In supporting the UK Government's proposals to phase out unabated coal-fired generation by 2025, Mrs Griffiths stated that *"this includes supporting renewable generation, including least-cost technologies such as solar and wind."*

Later in the statement, Mrs Griffiths confirmed that she intends to bring in targets for renewable energy in Wales. It is expected that these targets will be in place within the next 12 months and the proposed development will be a major component of Anglesey's contribution to meeting these targets.

Landscape and Visual

The application was accompanied by a Landscape and Visual Impact Assessment which demonstrated that, despite its scale, the development is well screened by the existing landform and existing vegetation, and that this would be enhanced through the provision of further landscaping and planting proposed as part of the application.

The assessment work undertaken also demonstrated that the proposal will be difficult to see from the A5025 and will not have a detrimental impact on the AONB. These conclusions are supported by the consultation responses from Natural Resources Wales (NRW) and the Council's Landscape Officers who have not raised any objection to the proposal in relation to the impact on the A5025 or the AONB.

NRW stated:

“...the proposal would appear as a small element of the panoramic inland views, within the middle to far distance. The pattern and tonal colour of the solar farm would assimilate reasonably well with the irregular mosaic pattern of gorse and pasture fields..... We consider the effect upon AONB views and perceptions of the area’s natural beauty would therefore not be significant.”

Initially there were concerns regarding the impact the scheme would have on the locality furthermore it was considered that the reports submitted with the application did not give a true reflection of the impact of the proposals. However following an extensive analysis of the site and the array proposed along with discussions with the developers agent it was agreed to remove 2 fields from the proposal site.

The consequence of this was to reduce the impact of the scheme from vantage points of concern namely the Copper Trail

The scheme’s impact will now be localized to areas immediately surrounding the site and not farther afield. A proposal of this scale will inevitably generate some detrimental effects and harm. However, these effects are localised and do not extend beyond the immediate area and harm generated would not be across the wider Landscape Character Area of North West Anglesey.

In terms of the impact on the A5025, the applicant has stated that:

“The proposal will not have any significant detrimental impact on motorists. Whilst the development may be fleetingly visible to some motorists, depending on their speed of travel, the development would only be in their field of view momentarily and would be competing with more dominant and readily discernible development in terms of the Rhyd-y-Groes wind farm. Consequently, the glimpses of the solar farm will not be sufficient to detract from the overall character of the area and the experience of travelling through the landscape.”

There is agreement that the effects of the array are local and do not extend in the wider landscape proposed SLA’s or AONB.

Glint and Glare

The PV cells are designed to absorb light and are therefore dark in colour and do not reflect much light. To minimise nuisance from glint effects further additional treatment is commonly added to the surface of PV cells to scatter reflected light in a nonspecular manner.

Applicant has provided a glint and glare study which demonstrates that there will be no unacceptable impacts on residential amenity.

Ecology

The application is supported by an Extended Phase1 Habitat Survey, providing an assessment of habitats and their amounts, species ,impact assessment, mitigation and cumulative impacts (with windfarm)

The assessment showed that whilst there were no significant impacts, as part of the scheme additional planting and ecology corridors are proposed. These improvements will enhance biodiversity at the site.

The details have been assessed by NRW and the Councils Ecological Officer and no objections have been raised.

Historic Environment

CADW have identified 2 scheduled monuments which have the potential for being affected by the proposals;

Pen-y-Morwyd Round Barrow 1 km north east
Werthyr Standing stone 1.1km north east

The impact on these they identify as being moderate and slight. Additionally CADW do not consider the impact on Parys Mountain objectionable.

Extensive research has taken place over the site and areas of high potential for the discovery of archaeological assets identified, these are contained in the Southeast area of the site and could include a large enclosure associated with smaller sub enclosures, likely pits and field enclosures these may represent a late prehistoric or Roman settlement.

GAPS have objected to the scheme as they consider further investigation (trenching) should be carried out prior to the determination of the application. Of particular concern is the area of land to the South East of the site.

Mitigation

The applicants propose the following;

Southeast area of the site – in light of the possible archaeological resource (identified by a series of curvilinear anomalies by geophysical survey and which also features as cropmarks on aerial photographs), and the probable date and coherence of the remains, the heritage value of this site is predicted to be high. To mitigate any potential major adverse impact, the southeast area will **be excluded** from the proposed development. Given the likely sensitivity of the remains in the southeast area, trenching should be avoided because the adverse effects of trenching, even if limited, is likely to alter any buried deposits far more significantly than the use of concrete shoe mountings

Northwest area of the site - characterised by possible field systems and enclosures which cannot be dated with any precision, but appear to be agricultural in origin and so represent an archaeological resource of possible medium value. To mitigate any potential minor adverse impact, the area should be subject to an appropriately worded condition on any grant of planning permission to investigate and record any matters of archaeological interest over the areas of highest impact (in line with the approved WSI). This would reduce any residual archaeological effects to negligible.

The applicants state;

“It is not disputed by the Applicant that further archaeological investigation is required prior to the commencement of development on site.

The question is when this investigation is to take place.

It is however considered that the extensive appraisal work undertaken both pre- and post-submission of the application, provides a sufficiently detailed understanding of the archaeological resource at the site to allow the application to be positively determined subject to a condition requiring the completion of investigation – an entirely appropriate and well-established approach in planning decisions”

A “Written scheme of investigation” (WSI) has been prepared and agreed with GAPS (As a post decision document).

The WSI provides an archaeological management plan designed to ensure the appropriate protection and investigation of archaeological remains in advance of construction works in respect of the installation of the PV-solar array.

The WSI proposes a programme of archaeological works that would consist of a staged approached. In summary, this would consist of:

- i. **Evaluation Phase** – this would be carried out post-determination, but pre-construction, in order to identify, characterise and record the potential archaeological features identified by the geophysical survey, if present. The evaluation phase would also test other areas in order to establish the archaeological potential of these areas. All necessary recording and

survey control would be carried out during this phase to provide a record of any archaeological finds and features recovered during this phase

- ii. **Mitigation and Monitoring Phase** – subject to the results of the evaluation phase, areas of archaeological sensitivity could be identified that may be harmed by groundworks associated with the construction of the development. The works associated with this would take place during the preconstruction and construction phase of the development. All necessary recording and survey control would be carried out during this phase to provide a record of any archaeological finds and features identified during this phase and will comply with the standards set out in the WSI.
- iii. **Post-Excavation Phase** – A typescript report would be prepared immediately pre-construction and construction phase works are complete. This would include a full written description and interpretation of the results, including specialist reports and the arrangements for the publication and dissemination of results. The site archive would be lodged with Oriel Ynys Môn.

In respect of conditioning the required works the below planning context is of relevance;

GAPS are commissioned by the Council to provide development management advice. However, it is the LPA who must make the decision on the application in line with Section 38(6) of the 2004 Act. It is not uncommon for planning applications to be approved by an LPA without the full support of all internal Council consultees and departments, and this situation.

In this instance it must be acknowledged that it will be the LPA which would need to justify why the planning permission could not be issued with an appropriately worded condition. The refusal on the application on this ground could leave the Council in a position where it had acted unreasonably and there would be a case for substantial costs to be paid in respect of this at appeal.

Furthermore, the conditioning approach is justified and supported by Welsh Government Practice Guidance entitled *Planning Implications of Renewable and Low Carbon Energy* (February 2011). This is designed to support LPAs in dealing with applications for renewable and low carbon energy development in Wales. It is a main source of detailed planning guidance on solar farms provided by the Welsh Government.

The Appendix to the Practice Guidance clearly identifies that trial trenching may be required before construction (as opposed to before determination)

Planning Policy Wales V9 states in 3.5.4 that;

3.5.4 Planning permission cannot be granted subject to conditions which specifically require works on land outside the application site and outside the control of the applicant. However, it is possible for local planning authorities to grant permission subject to a condition that development should not be commenced or occupied until some obstacle to the development has been overcome.

Mention has been made of whether a precedent could be set in respect to the approach taken.

However, the notion that each planning application must be considered on its own merits is well-enshrined in case law, for example in *Dunster Properties Ltd v First Secretary of State [2007]*. This is because Section 38 of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. The balancing of material considerations is a delicate exercise, which will be entirely bespoke to each planning application. Equally, no provision is made in planning legislation for decisions to set precedents, which would not be appropriate given the individual characteristics of each site and individual merits of each development proposal.

It is acknowledged that consistency is required as a broad principle of good administration, which can also apply to decision-making in planning, as supported by decisions of the court. The guidance of *Mann LJ in North Wiltshire DC v Secretary of State for the Environment (1993)* acknowledged that consistency was important for developers and planning authorities, but also that

an inspector “must always exercise his own judgment”. Decision-makers are therefore free upon consideration to disagree with the judgment of another but before doing so, there ought to be reasons given. This supports the notion that each planning application must be considered on its own merits.

Additionally Counsels legal opinion has been sought by the applicants and this clearly outlines that conditioning is the appropriate approach and that a refusal would put the LPA in a position where it had acted unreasonably.

Agriculture

PPW seeks to promote diversification in the rural economy by accommodating both traditional rural industries and new enterprises. National policy requires that the best and most versatile (BMV) agricultural land (i.e. Grades 1, 2 and 3A of the Defra Agricultural Land Classification System) should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable.

As the application site is classed as Grade 3b of the Agricultural Land Classification (ALC) of England and Wales, it is not BMV land and therefore the application site is not of such a quality that any particular weight should be given to preserving the site for arable agricultural use – the site will continue to be used for the grazing of sheep in any event. Furthermore, these proposals would not have any adverse impact upon agricultural activity surrounding the site whilst it is operational. Lastly, it should be remembered that these proposals also do not constitute a permanent loss of agricultural land, since the ground will not be surfaced and nor will any permanent structures be erected upon the site. It will therefore be possible to remediate the land for agricultural purposes after the solar farm is no longer in use.

No objection has been raised by WG in respect of the uptake of agricultural land.

Hydrology and Flood Risk

A site investigation by the applicants consultants revealed that the majority of the site lies within Zone A as per the Welsh Government development advice maps, with a small proportion adjacent the river Wygyr in zone C2. It was suggested by the consultants that no panels be placed within the C2 zone or a limited Flood Consequence Assessment (FCA) produced to demonstrate flood risks can be managed and that the proposals do not increase flood risk to third party landowners.

Accordingly, a Flood Consequence Assessment has been prepared to outline the sources of flood risk to the site, measures to manage flood risk and justification for developing the site.

The FCA anticipates that the construction phase is likely to be the main source of potential effects to the current hydrological regime/water quality/flood risk. Construction best practice measures/mitigation will be operation during the period of construction. All details of best practice will be based on current guidance produced by CIRIA and the E.A. /NRW which cover good construction techniques and pollution prevent and control measures. The proposed measures will be detailed within the Construction Environmental Management Plan (CEMP), the detail of which can be attached as a condition to planning permission.

The completed development as designed should present minimal risk of impacts to the hydrological environment. The current proposal is to maintain the status quo in terms of site drainage, it is not proposed to install additional drainage infrastructure, so there would be no on-going maintenance requirements. It is understood that currently the landowners/farm managers undertake little if any works in relation to maintaining subterranean field drains and boundary field drains and therefore no active management of the drains is proposed

Welsh Language

The applicant has commented

“The development of a solar farm at the proposed site is not anticipated to have a significant impact on the Welsh Language. However, the IACC’s SPG on *Planning and the Welsh Language* (2007) requires all major applications to be accompanied by a Language Statement. Guidance on the content of Language Statements is included at Appendix 3 of the SPG. However, energy developments do not sit well within any of these categories. Category 4 relates to ‘Infrastructure’, but appears to be concerned with transport infrastructure, given that it seeks to establish whether the proposal would enhance accessibility to the language sensitive area.

Four questions are provided under the general considerations heading (5.1-5.4) of Appendix 3 of the SPG, which are each addressed below:

5.1 Are there appropriate local services such as shops, residential/community facilities to serve the development?

- Once operational, the site will be monitored remotely through the use of CCTV and only visited for occasional maintenance. Therefore, there will not be any employees requiring local services. Construction will last approximately 6-9 months; during this time workers will make use of facilities in the nearby settlements of Cemaes Bay and Amlwch.

5.2 Will the proposal create new opportunities to promote the language and local initiatives in the community?

- The lack of residents or significant numbers of employees resulting from the development means there is no tangible opportunity to meet this objective. Local employment will be sought during construction wherever possible.

5.3 How will the development promote the use of the language in the community?

- The nature of the development means that there is no opportunity to promote the use of the Welsh language. It is considered that the proposal would have a neutral impact on the use of the language.

5.4 What are the proposed mitigation measures?

- Given that the development would have no impact on the use of the Welsh language, no mitigation measures are required.

Notwithstanding this, the applicant has confirmed that all construction and operational signage associated with the proposed development will be bilingual.

Residential Amenity

A residential impact assessment has been submitted with the application.

It is accepted that there are dwellings near the solar array. However an assessment has been made and those properties visited. Landscaping is proposed to screen some of the impact and whilst the array will be viewed from parts of the properties effected, it is not considered that the proposals will cause such undue harm to residential amenity so as to warrant refusing the application.

Highways

Construction is anticipated to be completed in a single construction phase lasting approximately 6 months. A Construction Traffic Management Plan (CTMP) will be provided for the duration of the construction phase detailing routes, signage and controls of traffic etc. Following construction of the proposed development, the site will be monitored remotely. As such, the site will not be tended to on a regular basis, unless repairs/maintenance is required. Consequently, any traffic movements associated with the site will be minimal. Upon completion of the development, the only access to the site will be from maintenance vehicles, which is anticipated to occur twice year. The proposed life of the development is 30 years, after which all apparatus will

be removed and the land reinstated and reverted to agriculture, as a single decommissioning operation over a period of 6 months. The proposed development will not result in a significant impact on existing traffic conditions. As such, it is considered that the proposed development is acceptable on highway safety grounds.

Effect on tourism

It is accepted that the scheme covers a large area of land.

However, the impact of this on the appearance and character of the locality can be directly related to the impact on tourism ie if the scheme can be seen from many vantage points, public rights of way etc and have a negative impact on that character, then it could be argued that this impact would have a negative impact on tourists enjoyment of their visit to Anglesey.

It should be noted that as identified in the "Landscape and visual " section of this report views of the array will be limited and localized and not considered to have an unacceptably negative impact on the appearance and character of this part of the Anglesey landscape.

The applicant has provided a copy of a report entitled 'The Impact of Renewable Energy Farms on Visitors to Cornwall', prepared for 'Good Energy' by 'South West Research Company Ltd' in November 2013.

The report documents the results of a research exercise undertaken between the 1st and 30th August 2013. Face to face surveys were conducted with over 1000 people at 6 different holiday locations in Cornwall – these included Padstow, Perranporth, Tintagel/Trebarwith, Widemouth Bay, Newquay and Penzance.

The research found that the vast majority (80%) of visitors to Cornwall had a positive attitude towards renewable energy with just 6% having a negative attitude towards it. In terms of solar farms specifically, the following key findings emerged:

- 75% of respondents were in favour of solar farms as a means of generating power, and only 9% had a negative attitude towards them;
- 71% of those visitors who were aware of the presence solar farms in Cornwall said that their presence had no impact on their visit to the County, 22% said that they had a positive impact, and only 7% said they had a negative impact.

Significantly, 94% of visitors said that the presence of renewable energy generators would make no difference to future visits to the County, and a further 4% said that their presence would make them more likely to visit again in the future.

The report supports the view that the proposal will not have any significant impact on tourism or the economy derived from it.

With this in mind it is not considered that the proposals would reduce the numbers of tourists visiting Anglesey.

7. Conclusion

Planning policies in Wales and the UK as a whole encourage the provision of green energy sources. It is accepted that the PV installation will make a substantial contribution towards sustainable energy resources for the whole country.

Whilst acknowledging the general encouragement for renewable energy developments, planning applications must be determined taking into account the potential for harm. In summary;

- **Landscape and visual**

Following the removal of the 2 fields to the south east the impact of the scheme has been reduced and whilst acknowledging that there will be detrimental impacts these will be localized and not widespread

- **Glint and glare**

Technical solutions ensure that this is not problematic

- **Ecology**

The Extended Phase 1 survey did not identify any significant impact and neither NRW or the Councils Ecological Officer object to the scheme. The scheme is anticipated to enhance biodiversity at the site.

- **Historic Environment**

It is considered that with the contentious field removed from the scheme and the inclusion of a condition requiring investigation prior to the commencement of works (in line with a management plan that GAPS has confirmed as being appropriate), archaeological assets can be protected/ recorded in an appropriate manner.

- **Agriculture**

The site comprises grade 3b land and its use for the solar array has not been objected to by the WG Sheep will continue to graze on the site.

- **Hydrology and Flood Risk**

A flood consequence assessment has been submitted with the application as a small portion of the site is within a C2 zone it should however be noted that this is not high risk development. As such NRW do not object to the scheme.

- **Residential amenity**

A residential impact assessment has been submitted with the application which does not identify undue harm to residential amenities.

Notwithstanding this, properties have been visited and the impact judged, taking into account proposed landscaping/screening, orientation of the dwellings and intervening topography.

Whilst dwellings will be able to see some solar panels, and in one instance in close proximity (on boundary) which will change the views and outlook from those properties. It is not considered that this would amount to such harm as to warrant refusing the application.

- **Effect on tourism**

With the impact on the landscape being considered acceptable and impacts localized and not widespread it is considered that the scheme would not harm public viewpoints to such an extent as to render the Island unattractive to tourists

Planning policies in Wales and the UK as a whole encourage the provision of green energy sources. It is accepted that the PV installation will make a substantial contribution towards sustainable energy resources for the whole country

The Welsh Government's Climate Change Strategy for Wales (2010) has set a target for Wales to reduce its emissions of greenhouse gases by 40% by 2020 compared to 1990 data. The latest available figures (Welsh Government Sustainable Development and Climate Change Annual Report 2015) show that only a 11.9% reduction from 1990 levels has been achieved.

It is with the policy support along with the assessment of the interests listed above in mind that it is considered that the application should be approved.

8. Recommendation

Permit

(01) The development hereby permitted shall be carried out in accordance with the following approved plans: 'North Anglesey Solar Project – RL2 (090217)'; 'Indicative Layout Plan (14 Feb 17)'; 'Landscape & Mitigation Strategy' (Ref: 15035.101 Rev.G); 'Ref: FRAMES 01' (17.11.15); 'Ref: TRACK 1' (17.11.15) unless otherwise permitted by the terms of this permission.

(02) Notwithstanding the requirements of condition 1, prior to the commencement of the development final details of the layout of the site, including panel details, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

(03) No development shall take place until details of the materials to be used in the construction of the external surfaces of the structures comprising the primary substation, inverter stations and battery storage units hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

(04) Prior to the commencement of the development details of the CCTV cameras and supporting structures and security fencing, including their siting, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

(05) Prior to the commencement of any works a site-wide Construction Environmental Management Plan (including a Construction Travel Plan) shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following matters,

- Signage for the construction traffic, pedestrians and other users of the site,
- Controls on the arrival and departure times for the construction vehicles;
- Piling methods (if employed)
- Earthworks;
- Hoardings to the site,
- - Hours of working,

details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated

- Waste management and disposal and material re use,
 - Prevention of mud / debris being deposited on public highway;
 - Protection of the amenities of nearby residential occupiers
 - Materials storage; and hazardous material storage and removal.
- A system for the management of complaints from local residents**
- Emergency Containment Procedures

The approved Construction Environmental Management Plan shall be implemented Accordingly.

(06) Two additional passing bays shall be provided as marked on the attached plan full details of the bays location and design shall be submitted and agreed in writing by the LPA before any other works commence on the remainder of the development, the passing bays shall be completed before the development hereby approved commences.

(07) A full traffic management scheme which shall be adhered to for the duration of the scheme shall be submitted to the LPA for its written approval before works commence, the scheme shall include;

- 1 The parking of vehicles for site operative and visitors**
- 2 Loading and unloading of plant and materials**
- 3 Agreed traffic route**
- 4 Wheel washing facilities**
- 5 Hours and days of operation and the management and operation of construction and delivery vehicles**
- 6 A full signage schedule**

(08) Prior to the commencement of works A traffic Management plan shall be submitted to the LPA for its written approval to show the only route to be used for the construction of the site along with works necessary to this route for the safe and easy flow of traffic.

7 Full details of all fencing shall be submitted to the LPA for its written approval

(09) Full details of all lighting and CCTV shall be submitted to the LPA for its written approval.

(10) The battery storage units and associated structures shall be finished in colour to be agreed in writing with the LPA

(11) The solar panels hereby approved shall at no time exceed 3m in height.

(12A) No development shall commence until the programme of archaeological work set out in the Written Scheme of Investigation dated 4th October 2016 (Document Ref: NAS16 v.1.5) has been implemented and completed.

(12B) A detailed report on the archaeological work set out in the Written Scheme of Investigation shall be submitted to and approved in writing by the Local Planning Authority within twelve months of the completion of the archaeological fieldwork or the completion of the development, whichever is the sooner.

(13) No structures shall be included on fields A and B as identified on the attached plans. Field A and B shall be landscaped in accordance with a scheme to be agreed in writing with the Local Planning Authority and planted within the first planting season following the implementation of this permission

Reasons:

1) To ensure the implementation of an appropriate programme of archaeological investigation in accordance with the requirements of Planning Policy Wales 2016 and Welsh Office Circular 60/96 Planning and the Historic Environment: Archaeology.

2) To ensure that the work will comply with Management of Archaeological Projects (MAP2) and the Standards and Guidance of the Chartered Institute for Archaeologists (CIfA).

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

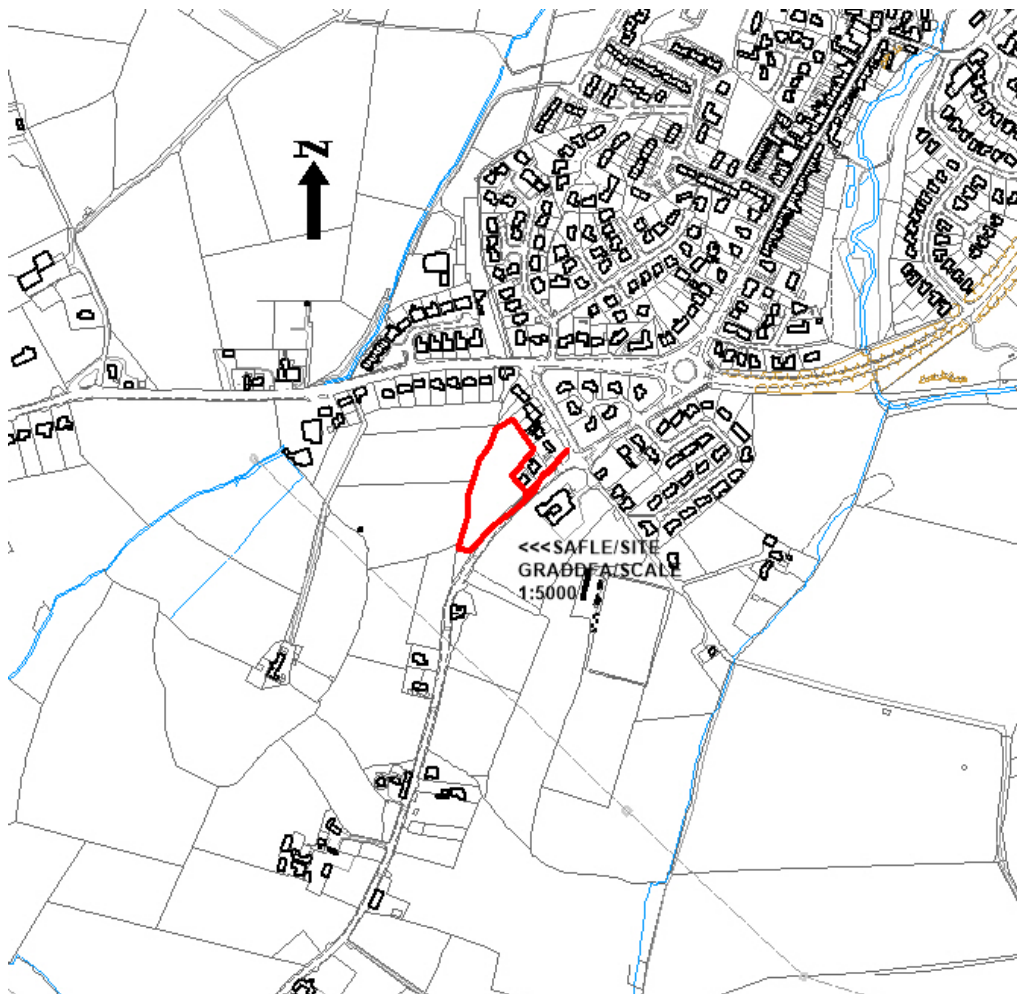
Rhif y Cais: **20C313A** Application Number

Ymgeisydd Applicant

DU Construction Ltd

Cais llawn ar gyfer codi 14 o dai fforddiadwy, creu mynedfa newydd a ffordd mewnol ynghyd a gosod gorsaf bwmpio carthffosiaeth ar dir oddiar / Full application for the erection of 14 affordable dwellings, construction of a new access and internal road together with the installation of a sewerage pumping station on land off

Ffordd y Felin, Cemaes



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (MTD)

Recommendation:

Permit.

Reason for Reporting to Committee:

This application has been referred to committee by Councillor Aled Morris Roberts

Members will recall visiting the site on the 15th February.

1. Proposal and Site

This vacant agricultural site is located along Ffordd y Felin adjoining the settlement boundary of Cemaes. Immediately on it boundary are several residential properties.

It is proposed to construct 14 residential dwellings these will be of an affordable type. A foot path will be provided within the existing highway verge

2. Key Issue(s)

Can the principle of housing be supported in policy terms?

Will there be harm to residential amenity?

Highways considerations

Drainage

Welsh Language

3. Main Policies

Gwynedd Structure Plan

Strategic Policy 1

Policy A1 - Housing Supply

Policy A2 - Location of Housing Land

Policy A3 - Scale and phasing of housing

Policy D4 - Siting and Design

Ynys Mon Local Plan

Policy 1 - General Policy

Policy 31 - Landscape

Policy 42 - Design

Policy 47 - Housing Requirements

Policy 48 - Housing Development Criteria

Policy 49 - Defined Settlements

Policy 52 - Exception Sites

Policy 53 - Housing in the Countryside

Ynys Mon Unitary Development Plan (Stopped)

Part One Policy PO2 Settlement Strategy and Hierarchy

Policy GP1 - Development Control Guidance

Policy GP2 - Design

Policy EN1 - Landscape Character

Policy HP1 - Five Years Supply

Policy HP2 - Housing Density

Policy HP7 - Affordable Housing

Joint Local Development Plan

Policy TAI 10 Exception sites

The site forms part of housing allocation T35 in the JLDP under policy TAI 15

SPG: Design Guide for The Urban and Rural Environment

TAN 1 - Joint Housing and Land Availability Studies

TAN 2 - Affordable Housing

TAN 12 - Design

TAN 18 - Transport

Planning Policy Wales 9th Edition

4. Response to Consultation and Publicity

Local Member Aled Morris Jones has referred the application to committee stating traffic, sewage and drainage issues.

Community Council Members strongly object the application. Concerns included:

- The new access to the main road is directly opposite the primary school on a busy stretch of road with no pavement for pedestrian use;
- The main road is already deemed dangerous and there are already traffic calming measures including 20mph and speed bumps in an attempt to safeguard children; in addition, the school times have had to be changed in an attempt to alleviate parking issues.
- Members were very concerned what effect an increase in cars (both residents and visitors) would have on the area (as well as where resident themselves would park their vehicles)
- Questions were raised regarding the affordability of the housing - for purchase or rent, and the need for housing by local people.
- The site is a green field site outside the development boundary
- There were concerns that development in the one field would lead to further development in adjoining fields.
- There is no mention of affordable housing for the elderly or disabled
- Although it was recognised that there may be a need for such housing, the proposed site location is unsuitable.

Highways – Conditions

Drainage – conditions

NRW - No objection

Housing - Supportive

Councils Ecological Officer - no objection but comments.

9 letters have been received points raised include;

Over 140 pages have been received from one objector and these are included within the planning file for members attention as the below is an outline of the information/comments contained therein.

Will devalue property
This is a narrow lane
Concerns over safety of children
Could doctors cope
This is speculation
Other affordable homes have been sold as holiday homes
Village will end up like Rhosneigr
Cause problems for shops if second homes
If holiday homes Welsh language will be harmed
The Council should release land

Hedges will be removed
Soakaways will not cope
Questions over Welsh language will this be harmed with more people
There is no demand
Will there be more development
There will be more cars and highway hazards
Will there be enough school places
There will be a loss of privacy
Other sites more suitable
The wrong OS map has been used
No surveys of flora or fauna or EIA
Red squirrel spotted nearby
Concerns over properties being too close together too dense and congested
Where are the LPG tanks to be
No lighting indicated
Plot 12 will cause overshadowing and overlooking

Welsh Water have not insisted on the pumping station
Representations were made at the early stages of the JLDP
This is contrary to original County Council planning zones
There are problems with foul sewerage in Cemaes
No need for road to end where it does as this would be in anticipation of site T35 in the JLDP.
Questions have been answered incorrectly on the application forms
There is regular flooding here
The developer is aware of flooding at this reaches 2 feet in depth
This would open up the remainder of T35 for development
Concerns over accuracy of porosity tests and calculations for foul
House names have changed
There is a planning overage charge on the land and this will result in too much being paid for the land for the units to be affordable
Loss of grazing land
T35 is not sustainable there are not enough services nearby
Pumping station not required
Limited capacity for sewerage.

5. Relevant Planning History

20C313: Full application for the erection of 12 affordable dwellings. Returned to applicant.

6. Main Planning Considerations

1. Can the proposals be supported in policy terms?

Policies 52 of the Ynys Mon Local Plan and HP7 of the Unitary Development plan allow for such developments stating;

Policy 52

“As an addition to land available to meet the general housing demand the Council will consider granting planning permission for affordable housing for local people unable to compete in the open market, on appropriate sites within or immediately adjoining existing settlements”

The site is located outside but immediately adjacent to the settlement boundary for Cemaes. As such it could be accepted as an “exception site” if all the housing proposed were to be of an affordable type.

The T35 housing allocation (in emerging JLDP) at Cemaes for an estimated 60 units in policy TAI15 did receive a number of objections some of which were discussed at Hearing Session 14 North Anglesey sites.

The Inspector did not instruct the Council's to amend the Plan's overall housing figure or site T35 in relation to a matters arising changes (MACs). This means that for the public consultation period on the MACs no change to site T35 is proposed.

With this being the case the application can be supported in policy terms.

2. Will there be harm to residential amenity?

The site has been arranged to allow for adequate distances to be achieved between the proposed and existing dwellings. Bungalows are proposed for plots 10 and 11 and also 13 and 14, this will ensure that there is no overlooking of the existing dwellings adjacent. Unit 10 and 11 bungalows will be located between 9m and 10m from the boundary and as single storey this is considered acceptable. Units 13 and 14 will be 10/11 metres from the boundary again this is considered acceptable. Unit 12 which is a house will be 11m from the boundary and the nearest existing dwelling will be 28m distant, this again is acceptable.

With these matters in mind it is considered that the proposals will not create a set of circumstances harmful to the amenities of existing occupiers.

3. Highways Considerations

Following comments from the Highways Authority the scheme has been amended and the below comments relate to the amended plans.

The proposed access and visibility splays has been designed in accordance with guidance in TAN18. The site is adjacent to the existing development boundary and Ffordd y Felin where the proposed access joins the highway, is within a 30mph speed limit area where there are existing traffic calming features to reduce vehicle speeds. The proposed parking spaces at the plots nearest the junction have now been amended to avoid the previous clash with the proposed dropped kerb pedestrian crossing points. The proposed fence at the side of Plot 13 has been reduced in height to provide inter-visibility between vehicles using the parking spaces and pedestrians using the adjacent crossing point.

This arrangement is considered acceptable

The proposed off-site footway, to be constructed within the existing highway verge, will provide pedestrian access to the village centre and the school. It is therefore acceptable in principle, subject to an Agreement under Section 278 of the Highways Act 1980 to facilitate the works, at the developer's expense.

Whilst there is existing lighting on this section of Ffordd y Felin, it is to a lesser standard that would normally be expected in a built up area. Consequently, as part of the off-site Section 278 works, it will be necessary to review and upgrade the level of lighting, to provide adequate lighting levels at the proposed junction and new footway.

With the above in mind it is considered that the access arrangements and impact on the road network is acceptable.

4. Drainage considerations

The drainage strategy includes collection of rain water run-off from all hard standing areas, including access roads, drives, roofs, paths and patio's and dispersal of the collected run off volume via infiltration systems; soakaways. The soakaways have been designed to accommodate the required 1 in 100 year rainfall event including an allowance of 30% in accordance with DEFRA guidance. The use of infiltration systems accords with the first requirement of the SUDS hierarchy as specified within the SUDS Manual and CIRIA C753 being an effective attempt at mimicking the current hydrological arrangement.

Assessment of the extreme event, which is an event over and above the design requirements of TAN 15, demonstrates that above ground flood routing will continue and leave the proposal site in the same manor as the un developed site.

A Sewerage Pumping station, which will be adopted under the mandatory adoption requirements of the Water Industries Act and Sewers For Adoption 7th Edition, is required due to the topography of the existing site. Levels as illustrated on the topographic survey ensure that a gravity feed from the development site to the public sewer network located in the Highway fronting the site is not possible.

The submitted details have been assessed by statutory undertakers and the Councils drainage engineers. No objection has been raised by these consultees in respect of the proposals and the scheme is considered acceptable in principle.

5. Welsh Language

The application is accompanied by a language Impact Assessment which concludes that the proposals will have a positive impact on the Welsh Language by providing affordable housing to people with local connections for instance those who cannot afford open market housing in the local community.

7. Conclusion

The proposals can be supported in policy terms and it is considered that access and drainage arrangements are acceptable. The layout as shown will not cause undue harm to the amenities of nearby residential occupiers and as such it is considered that the application should be conditionally approved.

8. Recommendation

Permit subject to the signing of a S106 Agreement securing the proposed units to be of an affordable type.

(01) The development to which this permission relates shall be begun not later than the expiration of five years beginning with the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning Act 1990.

(02) Units 10,11,13 and 14 shall be a single storey bungalow type dwellings.

Reason: In the interest of amenity

(03) The access shall be laid out and constructed strictly in accordance with the submitted plan before the residential use hereby permitted is commenced and thereafter shall be retained and kept free from permanent obstruction and used only for access purposes.

Reason: To comply with the requirements of the Highway Authority, in the interests of highway safety.

(04) The estate road shall be paved to a completed binder course finish and the pedestrian footways shall be finally surfaced, before any of the dwellings hereby approved are occupied.

Reason: In the interests of safety and amenity to ensure there is safe and convenient access to occupied properties.

(05) No development shall commence until full design details for the lighting of the estate road have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved scheme has been implemented in full and to the written satisfaction of the Local Planning Authority.

Reason: In the interests of safety and security to ensure there is safe and convenient access to occupied properties.

(06) The car parking accommodation shall be completed to the satisfaction of the Local Planning Authority before the residential use hereby permitted is commenced and thereafter retained solely for those purposes.

Reason: To comply with the requirements of the Highway Authority in the interests of safety.

(07) No surface water from within the curtilage of the site shall discharge onto the county highway. No development shall commence until full design details for the drainage of the site have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved scheme has been implemented in full and to the written satisfaction of the Local Planning Authority.

Reason: To ensure the site is adequately drained.

(08) The commencement of the Development shall not take place until there has been submitted to and approved in writing by the Council, a Construction Traffic Management Plan. The Plan shall include as a minimum, but not limited to:

- i. The parking of vehicles for site operatives and visitors**
- ii. Loading and unloading of plant and materials**
- iii. Storage of plant and materials**
- iv. Wheel washing facilities (where appropriate)**

The works shall be carried out strictly in accordance with the approved details.

Reason: To comply with the requirements of the Highway Authority to ensure reasonable and proper control is exercised over construction activities in the interests of road safety.

(09) No development shall commence until measures are in place to secure the future maintenance of the estate road in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason: To comply with the requirements of the Highway Authority, in the interests of safety and amenity to ensure there is safe and convenient access to occupied properties.

(10) No dwelling shall be occupied until the off-site Section 278 Works have been implemented in full and to the written satisfaction of the Local Planning Authority.

Reason: To comply with the requirements of the Highway Authority, in the interests of highway safety to ensure there is safe and convenient access to the development.

(11) No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

7.5

Gweddill y Ceisiadau

Remainder Applications

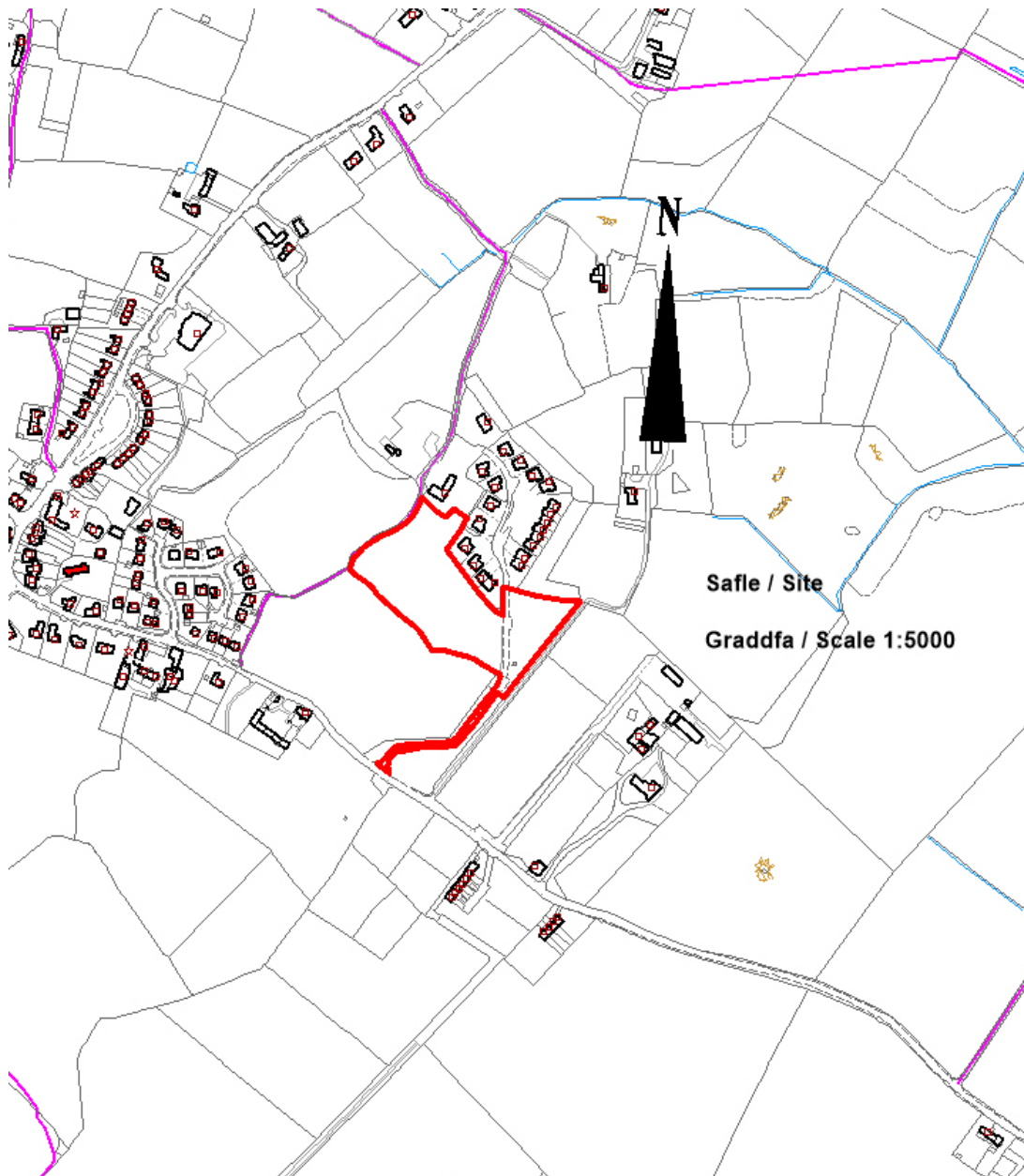
Rhif y Cais: **21C58H** Application Number

Ymgeisydd Applicant

Mr. Geoff Green

Cais llawn ar gyfer codi 10 unedau gwyliau ychwanegol yn / Full application for the erection of 10 additional holiday units at

Parc Eurach, Llanddaniel Fab



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (MTD)

Recommendation:

Permit.

Reason for Reporting to Committee:

Originally on request of Local Member H Jones.

Following the meeting of the 1st February, members resolved to defer the application to allow a site visit to take place and a traffic count/survey to take place.

Members visited the site on the 15th February.

1. Proposal and Site

It is proposed to construct 10 high quality holiday units plus a lake and associated planting.

The scheme was originally submitted for 20 units this has been reduced to 10.

The units will be one and a half storey (Dormer) of a timber and render construction under a slate roof cover.

There will be extensive landscaping and a wildlife path linking to a public footpath which leads to Llandaniel.

The site is located on the outskirts of Llandaniel alongside the existing Parc Eurach holiday park.

2. Key Issue(s)

Principle of development and sustainability credentials

Landscape

Highways

Residential amenities

Technical issues

3. Main Policies

Gwynedd Structure Plan

Policy B1: Employment Generating Development

Policy CH1 Recreation and Tourism Development

Policy CH2 High Quality Holiday Accommodation

Policy D3 Landscape

Policy D4 Siting and Design

Policy D29 Design

Policy D32 Landscaping

Policy FF12 Parking

Ynys Mon Local Plan

Policy 1 General Policy

Policy 2 New Jobs

Policy 8 Holiday Accommodation

Policy 26 Parking Standards

Policy 31 Landscape

Policy 42 Design

Ynys Mon Unitary Development Plan (Stopped)

Policy GP1 Development Control Guidance

Policy GP2 Design

Policy TR10 Parking Standards

Policy TO2 Holiday Accommodation

Policy EN1 Landscape Character

Policy EN4 Biodiversity

Policy SG4 Foul Sewage Disposal

Policy SG6 Surface Water Run Off

Planning Policy Wales (Edition 9)

TAN 12 Design

TAN 13 Tourism

TAN 18 Transport

SPG Holiday Accommodation

SPG Design Guide for the Urban and Rural Environment.

4. Response to Consultation and Publicity

Local Member H. Jones: Referred the application to Committee

Community Council: Object, do not consider that the existing park has kept to its original conditions

Highways: Conditions

Natural Resources Wales: Comment requiring clarification

Welsh Water: Conditions

The application has been publicised three times.

Following re-consultation when the scheme was amended to 10 units 27 letters have been received, it should be noted that some parties wrote more than once. Points raised include:

- i. Our property is 40m away there will be loss of privacy and also flooding
- ii. The site is outside the village
- iii. The original park seems to be general housing

- iv. Would cause traffic problems
- v. Lake is further worry for flooding
- vi. The existing complex is poorly managed
- vii. What assurances are there that these will not be general housing
- viii. The site will not be screened
- ix. Who will repair damage (private matter)
- x. Questions about electrics and pumping station (private matter)
- xi. Concerns regarding proximity of footpath
- xii. Pedestrian crossing and nature walk should be moved
- xiii. Walkers will reduce privacy
- xiv. May be damage to services from roots of trees to be planted
- xv. No children's play area
- xvi. Little demand in Llanddaniel
- xvii. Units not in keeping
- xviii. Sewage pump at full capacity
- xix. Will be overlooking
- xx. No pavement to schools etc.
- xxi. Will not create jobs
- xxii. Will be more immigrants

- xxiii. Will change village
- xxiv. Loss of agricultural land
- xxv. More people will use the footpath
- xxvi. Problems with electricity to existing units
- xxvii. 20 units too much and overdevelopment

Previously in 2008 25 letters were received and points raised are included above (it should be noted that the proposals at that time were 20 units).

5. Relevant Planning History

The adjacent holiday park was granted consent in 2002.

Most recent application was approved in October 2010 this allowed for the occupation of the units to be year round but still only for holiday purposes and not to be a primary residence.

6. Main Planning Considerations

Principle of Development and sustainability credentials

Development Plan policies allow the creation of holiday accommodation and the enhancement of tourism facilities. Development Plan policies also seek to protect the landscape and local amenities. The proposal must be weighed against all relevant planning policies in order to consider whether it is acceptable and a balanced view must be struck in determining the application.

The site is located in the countryside immediately adjoining the existing Eurach Park Holiday Village complex which comprises 20 units. It is located approximately 80m from the settlement of Llanddaniel and there is a public footpath providing direct off road access.

Llanddaniel itself is well connected to the public transport networks with buses available to other locations such as Bangor, Llangefni and further afield. Furthermore, it is a short journey by bus to Llanfair PG where trains can be accessed on the North Wales train network and beyond.

The site is also in close proximity to an official cycle route.

Clearly the users of the holiday units will not be totally reliant on the private car. Public transport is easily accessed by foot and given the level of public transport on offer the site is considered to be sustainable in transport terms.

Landscape

The site is located immediately adjacent to the existing Holiday Village and will be viewed in conjunction with that and the settlement of Llanddaniel.

Notwithstanding the above, extensive planting is to take place a lake provided and wooded area with nature walk through. It is considered that this will enhance the setting of not only the proposals but will serve to improve the appearance of the existing development and location.

Furthermore, the quality of the build incorporating slate timber and render is considered appropriate in this setting.

Highways

The Highways Authority do not object to the scheme and suggest conditions.

Residential Amenity

Given the distances from nearby residential properties, it is not considered that the proposals will have any negative interaction with the amenities of the occupiers of those properties.

Technical issues

Whilst comments have been originally received regarding flooding and drainage, it is considered that the site can be adequately drained. The applicant has over the years improved the infrastructure to prevent any drainage problems, stating;

“Surface water. When we purchased the site there was no effective surface water solution to deal with storm surges. (There was a lagoon in the middle of phase one but it wasn’t connected and didn’t have a restrictor or a swale) We had a system built that restricts the flow and when necessary diverts the excess into the new swale (designed by EWP Colwyn Bay) thus protecting the land downhill from saturation. The cost of the scheme including the reconfiguration of the drainage system was circa £41,000.

Foul: This was and is a pumped system from a tank. When we purchased the original site it did work but not consistently well. To remedy the issues we had it cleaned and replaced the pumps with ones that had a capacity to pump a more than adequate amount of sewage.

Going forward: The advice we have had is that the critical factor with the foul sewage system is the capability of the pumps rather than the capacity of the chamber. The other important factor to take account of is that the pumps should be maintained regularly in a preventive regime rather than waiting for them to break down. It is of critical importance that the adjacent watercourse isn’t polluted. It would be our intention to put this in place regardless of whether any existing arrangement is in place.”

Welsh Water have suggested standard conditions in respect of the development and NRW comment that there is adequate capacity in the sewage infrastructure on site to accommodate the additional loading and as the site is within a publicly sewered area the connection should be to the main sewerage system

As the principle is accepted it is considered appropriate that a condition be attached to any decision in respect of this as recommended by consultees.

7. Conclusion

It is considered that the development will be located in a sustainable location not totally reliant of the use of private motor vehicles. It will be attached to an existing holiday village and the associated planting will serve to improve the appearance of the location.

The policies of the Development Plan allow for high quality holiday accommodation provided there is no conflict with other policies or advice. The balanced opinion here is that the development can be approved without causing harm to any interests of acknowledged importance and indeed the positive contribution to the islands economy is to be welcomed.

8. Recommendation

To **permit** the development subject to conditions.

(01) The development to which this permission relates shall be begun not later than the expiration of five years beginning with the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning Act 1990.

(02) The units hereby approved shall be occupied for holiday purposes only; the holiday units shall not be occupied as a persons sole, or main residence; the owners/operators shall maintain an up to date register of the names of all occupiers of individual units on the site and of their main addresses and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: To define the scope of this permission and ensure the units are occupied as holiday accommodation.

(03) A landscape plan shall be agreed in writing with the Local Planning Authority prior to the commencement of development on the site. The plan shall include a 15 year maintenance programme for the planting, including plant replacement, stake and guard removal, weed control, formative pruning and thinning for a period of 15 years. The scheme shall be implemented in full prior to occupation of any of the units and the Local Planning Authority notified in writing of its completion and thereby commencement of the maintenance programme.

Reason: In the interests of amenity.

(04) Foul water and surface water discharges must be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

(05) No surface water shall be allowed to connect either directly or indirectly to the public sewerage system unless otherwise approved in writing by the local planning authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

(06) Land drainage run-off shall not be permitted to discharge either directly or indirectly into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

(07) No structure is to be sited within a minimum distance of 3 meters from the centre line of the water main pipe. The pipeline must therefore be located and marked up accurately at an early stage so that the developer or others understand clearly the limits to which they are confined with respect to the Company's apparatus. Arrangements can be made for Company staff to trace and peg out such water mains on request of the developer.

Reason:

(08) No development shall commence until the written approval of the local planning authority has been obtained in relation to a full comprehensive traffic management scheme including:

- i. The parking of vehicles for site operatives and visitors**
- ii. Loading and unloading of plant and materials**
- iii. Storage of plant and materials used in constructing the development**
- iv. Wheel washing facilities (if appropriate)**
- v. Hours and days of operation and the management and operation of construction and delivery vehicles.**

The works shall be carried out strictly in accordance with the approved details.

It is a requirement under law to serve an abnormal loads notice to police and to Highway and Bridges Authorities under "The Motor Vehicle (Authorisation of Special Types) General Order 2003".

The Highways Authority will be utilising Section 59 of the Highways Act 1980 "Recovery of expenses due to extraordinary traffic" to recover compensation for any damage done to the public highway as a result of this development.

Reason: To comply with the requirements of the Highway Authority in the interests of road safety.

(09) The access shall be constructed with 2.4 metre by 90 metre splays on either side. Within the vision splay lines nothing exceeding 1 metre in height above the level of the adjoining carriageway shall be permitted at any time.

Reason: To comply with the requirements of the Highway Authority in the interests of road safety.

(10) The car parking accommodation shall be completed in full accordance with the details as submitted before the use hereby permitted is commenced and thereafter retained solely for those purposes.

Reason: To comply with the requirements of the Highway Authority in the interests of road safety.

(11) Full details of the method of foul and surface water drainage shall be approved in writing with the Local Planning Authority prior to the commencement of any works.

Reason: To ensure the site is adequately drained.

(12) Details of a suitable management and maintenance plan which secures the operation of the foul and surface water drainage systems for the lifetime of the development shall be agreed in writing with the Local Planning Authority prior to the commencement of works.

Reason: To ensure the site is adequately drained.

(13) The development hereby approved shall be carried out in accordance with plans:

**D117/04/c site plan
D117/07 Elevations**

Reason: For the avoidance of doubt.

In addition, the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

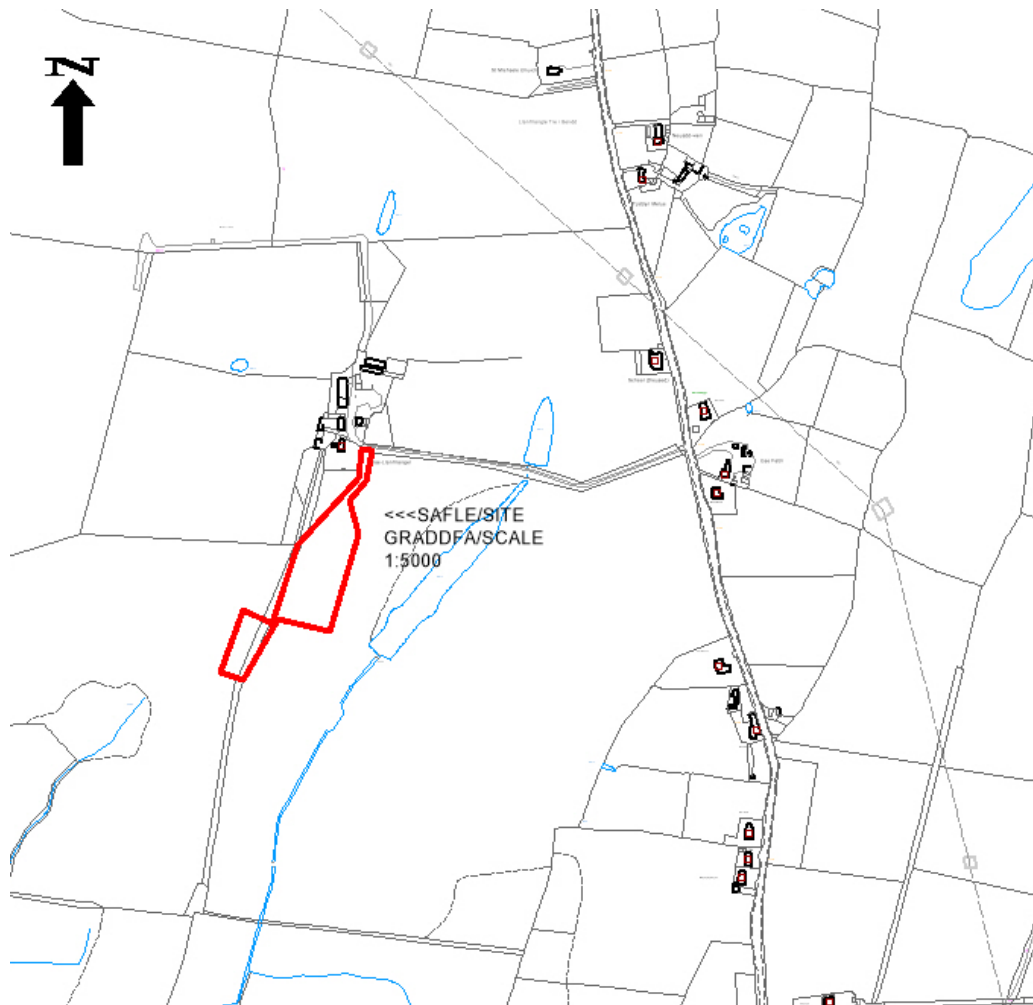
Rhif y Cais: **23C280F** Application Number

Ymgeisydd Applicant

Mr Eurig Jones & Mr Owen Rowlands

Cais ol weithredol ar gyfer sied amaethyddol a parlwr godro ynghyd a chreu pwll slyri, dau silo a gwaith cysylltiedig yn / Retrospective application for an agricultural shed and milking parlour together with the construction of a slurry pit, two silos and associated development at

Plas Llanfihangel, Capel Coch



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (GJ)

Recommendation:

Permit.

Reason for Reporting to Committee:

The application is presented to the Committee on the request of the Local Member.

At the committee meeting held on the 2nd November, 2016, it was resolved that a site visit was required. This took place on the 16th November.

Due to additional information being received and the need to re-consult and re-notify neighbouring properties. The application was deferred at the committee meeting of the 4th January.

1. Proposal and Site

This is a retrospective application for an agricultural shed and milking parlour together with the construction of a slurry pit and associated development at Plas Llanfihangel, Capel Coch

The proposed building is a typical modern agricultural propped portal frame building consisting of blockwork and green profile sheets, walls and green box sheet roof. The shed is designed to provide the cows with adequate space, comfort, and ventilation to meet with international standards of welfare.

The site lies outside the listed settlement of Capel Coch and is therefore considered to be an open countryside location.

2. Key Issue(s)

The key issues can be identified as the following:-

Can the principle of the development be supported.

Is the scheme acceptable in landscape terms.

Would there be harm/pollution of the water environment.

Would residential amenity be affected.

3. Main Policies

Gwynedd Structure Plan

Policy D1 - Environment

Policy D4 – Location, Siting and Design

Policy D29 – Design

Policy D32 - Landscaping

Ynys Mon Local Plan

Policy 1 – General Policy

Policy 31 - Landscaping

Policy 42 – Design

Stopped Unitary Development Plan

Policy GP1 – Development Control Guidance

Policy GP2 – Design

Policy EN1 – Special Landscape Area

TAN 5 – Nature Conservation and Planning

4. Response to Consultation and Publicity

Consultations

Community Council – Concerns that the development will give rise to smell. It will be seen from the highway. It should be re-located in the existing farm yard.

Local Member (Cllr Ieuan Williams) – Requested that the application be presented to the Planning Committee for consideration.

Local Member (Vaughan Hughes) - No response at the time of writing the report.

Local Member (Derlwyn Hughes) – Refusal. Impact on local people and the landscape.

Highways – No recommendation to make

Drainage – Standard comments

Gwynedd Archaeological Planning Service – Conditional Approval. A response received from GAPS states that a watching brief would be required for the initial soil strip of the slurry pit area.

Welsh Water – Standard comments

Environmental Health – Standard comments

Natural Resources Wales – No objection to the proposed development.

In their latest response they state 'Further to our earlier response to this application dated 29th November 2016 we have now received additional details regarding the proposed method of slurry storage (information received 30th November and 7th December 2016). The information received includes details of the location of the proposed pit included on plan reference (02 BP 991514 A3L REV E) and slurry pit calculations. We are satisfied that the information provided has addressed the concerns previously raised in our letter dated 29th November 2016 and has confirmed that the proposed development will meet the requirements set out within the silage, slurry and agricultural fuel oil storage Regulations.

Footpath – The development will not affect the public footpath nearby.

Cadw – Confirm that the development will be visible from the scheduled monuments but this does not constitute objectionable/negative impact on the setting of the monuments.

Publicity

The proposal was advertised through the posting of a notice on site together with the distribution of personal letters of notification to the occupiers of neighbouring properties. The latest date for the receipt of representations was the 27th January, 2017. At the time of writing the report 21 letters had been received objecting to the proposal, 2 petitions one containing 8 names and one containing 79 names objecting to the proposal and 1 letter of support was received.

The main reasons for objecting as follows:-

The existing outbuildings should be demolished to make way for the new agricultural shed
Impact on traffic
Smell
Not enough people notified of the application
Against policy
Not enough has been submitted to assess the impact on the landscape
Noise

Visual impact from neighbouring properties and highway
Screened bunding will not solve the problem

Unacceptable scale
Potential impact on biodiversity
Shed should be re-located behind backdrop of trees
Overdevelopment of the site
Further development of slurry pits etc.

One support letter was received the main comments as follows:-

The farm has not been maintained for a number of years and the proposal would benefit both owners and the staff.
The proposal will create jobs for local people
Without this development the farm will be left to go to ruins
The impact will only be for a short time

In response to the main reasons for objecting:

We must deal with the application as submitted. There was a separate application for the conversion of outbuildings that has now been withdrawn.
The highways department have confirmed that they have no observations to make on the application.
The Environmental Health section have confirmed that they are satisfied with the development provided they comply with CIRIA Document - C650 – Environmental Good Practice On Site (2nd Edition).
Policy considerations will be dealt with under the main considerations
The information submitted with the application enables us to make a recommendation.
Visual impact will be dealt with below.
NRW have made comments on biodiversity issues and the applicant will be required to comply with their standard requirements.
Re-location behind the trees has been investigated, however this is not an option due to a binding contract between the land owner and the Wind Turbine company stating that no building shall be erected within 300 metres of the wind turbines on the site.
It is not considered that the shed will cause overdevelopment of the site
A slurry pit is now part of the proposal. Natural Resources Wales have confirmed they are satisfied with the details.

5. Relevant Planning History

23C280/SCO -Scoping Opinion for a windfarm development on land at Capel Coch – Screening Opinion 01/06/09

23C280A - Erection of two 25 metre high wind turbines on land at Plas Llanfihangel Capel Coch - Approved 14/12/2010

23C280B/SCR - Screening opinion for the erection of two 25 metre high wind turbines on land at Plas Llanfihangel Capel Coch - EIA Not Required 10/11/2010

23C280C/DIS - Application to discharge conditions (04) (details of wind turbines), (05) (colour), (07) (Construction Method Statement) and (08) (Vehicular Access detail) from planning permission 23C280A at Plas Llanfihangel Capel Coch Conditions Discharged 09/03/2015

23C280D- Application to determine whether prior approval is required for the erection of a milking parlour on land at Plas Llanfihangel Capel Coch - Withdrawn 17/05/2016

23C280E -Application to determine whether prior approval is required for an agricultural track on land at Plas Llanfihangel Capel Coch Planning not required 03/06/2016

23C280G - Full application for conversion of the outbuildings into 10 dwellings, installation of a

package treatment plant together with improvements to the existing access at Plas Llanfihangel, Capel Coch – Withdrawn 02/11/16

6. Main Planning Considerations

Main planning considerations/Key Issues

1. Principle of Development

The principle of development for agricultural purposes is generally supported within local and national planning policy context.

Technical Advice Note 6 states.

The Local Planning Authority should ... promote the expansion of established businesses by setting out in the development plan the criteria against which planning applications for employment uses will be assessed. This should include supporting the expansion of businesses that are currently located in the open countryside provided there are no unacceptable impacts on local amenity.

6.1.1 The Welsh Assembly Government's objective is a sustainable and profitable future for farming families and businesses through the production and processing of farm products while safeguarding the environment, animal health and welfare, adapting to climate change and mitigating its impacts, while contributing to the vitality and prosperity of our rural communities. The planning system can play an important part in supporting the future sustainability of agriculture

Planning Policy Wales (Edition 9) states Local planning authorities should adopt a constructive approach towards agricultural development proposals, especially those which are designed to meet the needs of changing farming practices or are necessary to achieve compliance with new environmental, hygiene or welfare legislation

Plas Llanfihangel is a farm holding with approx. 275 acres of land. The proposals consist of shed number 1 which will measure 21m x 9m and will house 40 milking cows, shed number 2 will house 200 cows over the winter months. A slurry pit measuring 60.0m Long x 15.0m Wide x 4m Deep located to the South West of the agricultural shed with a traditional style fence will be erected around the slurry pit. The applicant has confirmed that 'there are currently 240 heifers that have been running with a group of bulls since early May. Most are in calf due to start calving late January 2017. The plan is to have 200 milking next year (some of the 240 won't be in calf, or may have complications at or post calving). They are always kept at Plas Llanfihangel, they are grazed rotationally, which means they are all kept in one big group in the same field for a few days, and then moved on to the next field when they have finished grazing the field they are in.'

The proposals will allow for the practice of modern farming techniques and compliance with welfare requirements.

With the above in mind it is clear that there is a need for the proposals. This along with the general support for agricultural development in policy terms establishes the acceptance of the principle of this development.

2. Landscape

The proposed milking parlour, agricultural shed and slurry pit will be located to the South of the existing backdrop of trees.

The proposed building is located away from the existing farm building in an unenclosed location. It would not benefit from the existing tree backdrop, except from views to the South - relevant only to private views from the south of Capel Coch.

The building would be most visible on a 200m stretch of road to the South East from a distance between 350 and 450metres, where there is currently no intermittent screening. Views from the northeast would be interrupted primarily by the trees on the approach to Plas Llanfihangel. More

distant views would feature the pylons and turbines and it is not considered that there is any cumulative visual effect with these.

Mitigation from existing tree cover as a backdrop or screening is limited to views from directly south. A low bund and planting is proposed along the eastern, southern and western boundaries and would in the long-term substantially enclose the area. With the faster growing native species proposed, the screen would begin to take some effect from 7-10 years. Screening effects would be limited in the winter months until the evergreen species and the overall mass of planting take fuller effect.

It is considered that the nature of the change resultant from the construction of a large farm building would be moderate adverse at construction. Associated landscaping to help fit the building into its surroundings would reduce effects to moderate/minor at 7-10 years with minor effects from 15-20 years.

Gwynedd Archaeological Planning Service (GAPS) has provided comments as follows: The screening barrier will naturally take some time to become established, resulting in the temporary visibility of the new buildings, and will create a new backdrop to views from Llech Golman standing stone. However, as an extension of the adjacent copse (i.e. an existing natural landscape feature), this 'softer' change to the monument's setting is considered to be more sympathetic than the conspicuously modern utilitarian sheds. I am therefore able to confirm that the proposed screening planting would be adequate and appropriate mitigation of the potential visual impact on the setting of Llech Golman.

With the above matters in mind it is not considered that a refusal on the grounds of harm to the visual appearance of the locality could be substantiated at appeal.

3. Harm / Pollution of the environment

Natural Resources Wales has confirmed that they do not object to the proposed development as the amended slurry pit proposals meet the requirements set out within the Silage, Slurry and Agricultural Fuel Oil Storage Regulations. They are satisfied that the slurry pit details provided has addressed the concerns previously raised. The applicant originally only had capacity for 2 days slurry production but this has now been changed to the required 4 months as dictated in the aforementioned regulations.

4. Amenity

There are no residential properties in the immediate vicinity of the site. The nearest is 420m away and there are intervening trees and other planting obscuring the site from that property. It is considered that this distance is adequate to ensure the development does not unduly harm the amenities of those residential occupiers enjoy.

7. Conclusion

The principle of development for agricultural purposes is accepted within local and national planning policies. The proposal under consideration along with the mitigation provided will not create unacceptable changes to the landscape additionally they would not have an unacceptable effect on the residential amenities of the neighbouring properties. With the above in mind the proposed development is considered acceptable to the Local Planning Authority.

8. Recommendation

To **permit** the application subject to conditions.

(01) The building hereby approved shall be used solely for the purposes of Agriculture, as defined by Section 336(1) of the Town and Country Planning Act 1990 and for no other commercial or business use whatsoever.

Reason: To ensure that the development will always be in the best interests of the agricultural industry

(02) (a) No development (including groundworks or site clearance) shall take place until a specification for a programme of archaeological work has been submitted to and approved in writing by the Local Planning Authority on the area of the slurry pit.

(b) The development shall be carried out and all archaeological work completed in strict accordance with the details submitted and approved under part (a). This shall include the production of a detailed report on the archaeological work, which shall be submitted to and approved in writing by the Local Planning Authority within six months of completion of the development.

Reasons: To ensure the implementation of an appropriate programme of archaeological mitigation in accordance with the requirements of Planning Policy Wales 2016 and Welsh Office Circular 60/96 Planning and the Historic Environment: Archaeology.

(03) The site shall be landscaped and trees and shrubs shall be planted in accordance with drawing numbers 991514/02 Rev I, 991514/04 Rev H and 991514/01 Rev I received on the 31/1/17. The said trees and shrubs shall be maintained for a period of ten years from planting and any trees or shrubs that die, or become severely damaged or seriously diseased during this period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted, unless the local planning authority gives written consent to any variation.

Reason: In the interests of visual amenity.

(04) The development permitted by this consent shall be carried out strictly in accordance with the plan(s) submitted under planning application reference 23C280F.

Location Plan	991514/01 Rev I	31/1/17
Elevations	991514/04 Rev H	31/1/17
Floor Plan	991514/03 Rev F	31/1/17
Block Plan	991514/02 Rev I	31/1/17
Section B-B Slurry Pit	991514/05 Rev A	31/1/17

Reason: For the avoidance of doubt.

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

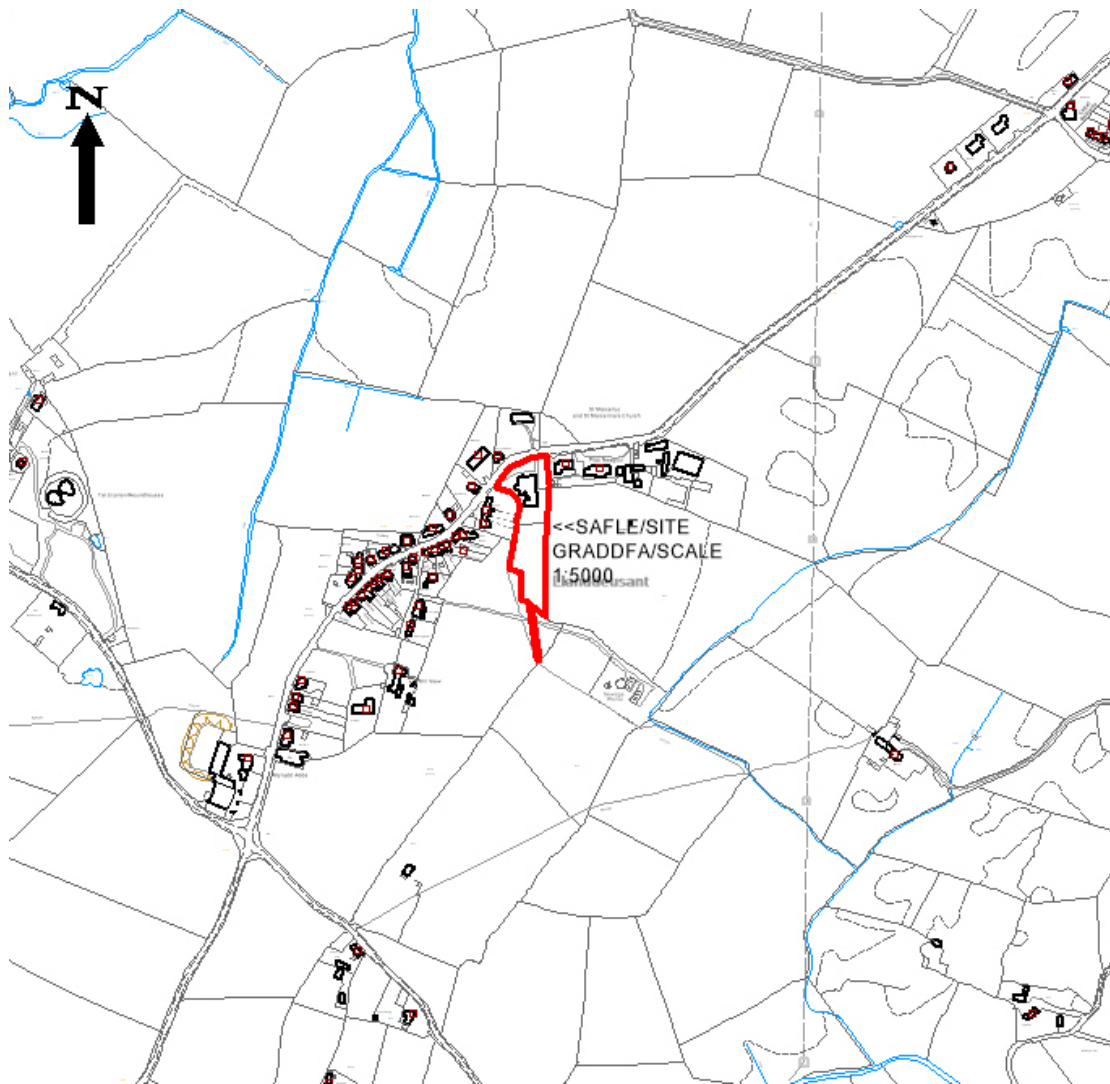
Rhif y Cais: **47C149** Application Number

Ymgeisydd Applicant

DU Construction Ltd

Cais llawn i ddymchwel rhan o'r ysgol presennol, newid defnydd yr ysgol i swyddfa (Dosbarth B1), codi 10 annedd ynghyd a chreu mynedfa newydd i gerbydau yn / Full application for part demolition of the existing school, change of use of school into an office (Class B1), the erection of 10 dwellings together with the creation of a new vehicular access at

Ysgol Gynradd Llanddeusant Primary School, Llanddeusant



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (NJ)

Recommendation:

Permit

Reason for Reporting to Committee:

The application is made on land partly owned by the Council.

At its meeting held on 1st February 2017 the Committee resolved to defer determination of the application in order to obtain the further views of the Community Council in relation to the need for housing in the village. The view of the Community Council has been received and the letter is included in the bundle of letters for the members.

1. Proposal and Site

The application was originally submitted for demolition of part of the school building and its change of use into an office together with the erection of 12 dwellings on land to the rear and the creation of a new vehicular access.

Further to discussion, the scheme as now presented retains the change of use of the school into an office and new access proposals but has reduced the number of dwellings proposed to 10 and has realigned the dwellings within the site.

2. Key Issue(s)

Compliance with relevant development plan policies; highway safety and drainage.

3. Main Policies

Ynys Mon Local Plan

Policy 1: General Policy

Policy 2: New Jobs

Policy 35: Nature conservation

Policy 48: Housing development criteria

Policy 50: Listed settlements

Policy 51: Large sites

Gwynedd Structure Plan

Policy A2: Housing land

Policy A3: Scale and phasing

Policy A9: Affordable Housing

Policy D4: Location, siting and design

Policy D20: Sewage disposal

Stopped Unitary Development Plan

Policy GP1: Development control guidance

Policy GP2: Design

Policy EN4: Biodiversity

Policy HP2: Housing Density

Policy HP4: Villages

Policy HP7: Affordable housing

Planning Policy Wales Edition 9

TAN 5: Nature Conservation and Planning

TAN 12: Design

TAN 20: The Welsh Language – Unitary Development Plans and Planning Control

SPG : Affordable Housing

SPG : Design Guide

SPG: Planning and the Welsh Language

4. Response to Consultation and Publicity

Local Member – no reply to consultation

Community Council – no objection to the part demolition of the school and fully support its change of use to offices.

Originally, an objection to the proposed housing development in relation to the number and density of development was received.

Objection to the proposed housing development in relation to the number and density of development. Query regarding the size of the site and its ability to accommodate 12 dwellings (stated to be 5.5ha but closer to 0.5ha) and concerns expressed regarding the sustainability of the location. 30% increase in the size of the village. Although there is no objection in principle to the development of houses, the Community Council would recommend a development of no more than 6 – 8 houses on the site.

In response to the amended proposals for 10 dwellings, the Community Council raises concerns regarding highways safety and if highway safety is resolved, the timing of works; the landscaping of the site is also considered to be a requirement.

Environmental Health Officer – contaminated land condition suggested

Footpaths – the alignment of the public footpath on the definitive map has been incorrectly shown where it traverses the site – the footpath does not cross the site and a Definitive Map Modification Order will be instigated.

Ecological Advisor – comments; precautionary approach advised

Gwynedd Archaeological Planning Service: condition requiring archaeological works.

Built Environment and Landscape Section – the school, like the church opposite, is not a listed building but is nevertheless a building of local architectural / historic interest. Partial demolition of modern additions could be considered to retain the original building and provide some new units to the rear of the site.

No response received at the time of writing to amended scheme.

Drainage Section – further clarification of details requested. Details received are satisfactory in principle. Conditions required.

Highways Section – Meeting arranged with the applicant to discuss requirements. Conditional approval suggested.

Welsh Water – Standard condition suggested.

Joint Planning Policy Unit – no response to consultation.

Natural Resources Wales – no objection

Public response to notification: 7 letters of objection have been received as a result of the publicity undertaken. Objections are based on:

Highways safety at the proposed access and traffic generation;
Visibility splay crosses third party land and cannot be achieved;
No need for additional housing – already several houses for sale in the village;
There are no community facilities in the village to support the development; the site is not served by a good public transport system;
Proposed design does not reflect the character of the village;
Support for the change of use of the school to office use.

5. Relevant Planning History

47LPA966/CC: Outline application for residential development together with demolition of the former school on land at Ysgol Gynradd Llanddeusant – Approved 03/10/2013

6. Main Planning Considerations

Principle of the Development – The site is located within the village of Llanddeusant which is a listed settlement defined under policy 50 of the Ynys Mon Local Plan and which normally allows the development of single plots within or on the edge of the village.

The site (both school building and playing field to the rear of the site) is wholly within the development boundary of the village as defined under Policy HP4 of the stopped UDP. This policy allows the development of unlimited plot numbers.

Llanddeusant is noted as a cluster identified on inset map 137 in the Deposit Joint Local Development Plan and under Policy TAI18 which supports new affordable housing proposals on infill sites or sites immediately adjoining the cluster, subject to criteria.

The JLDP is a material consideration but can be afforded little weight in the determination process at present. The Council will shortly be publishing a Matters Arising Changes Notice which includes a change to Policy TAI18 and the removal of certain clusters, including Llanddeusant, from those identified under the Policy as well as removing a limit on numbers during the plan period (Action point S3 / PG6). This will be subject to further public consultation and examination before the Plan is adopted. Although material, given the changes proposed and further public consultation, little weight can be placed on Policy TAI18 at this juncture.

A further material consideration is the granting of outline planning permission in October 2013 for the demolition of the school and the residential development of the site (which amounted to 8 dwellings with three arranged in a terrace fronting the road and the remainder being 5 detached dwellings on the playing field served by an access road). No reserved matters application has been submitted.

The scheme as originally submitted under the current application was for 12 dwellings arranged as semi-detached pairs fronting an estate road. The scheme has been reduced to 5 pairs of semi-detached units with the furthest units turned to face north.

The 8 dwellings previously approved under the outline consent occupied the whole of the site area after demolition of the school building.

The site area as a whole extends to approximately 0.5ha and some 0.36ha of this whole will accommodate the proposed 10 housing units. The scheme has been reduced from the originally proposed 12 dwellings to a layout of 10 dwellings. Policy HP2 of the stopped UDP suggests an average density of 30 dwellings per hectare which the scheme of 10 dwelling meets. Concern has been expressed by local residents that the scheme will represent a 30% increase in the size of the village and the Community Council originally expressed similar concerns although it would support a scheme of between 6 and 8 dwellings in addition to the change of use of the school into offices.

The application is supported by a Welsh Language Statement which supports the scheme. In addition, it is understood that a social housing provider has confirmed an intention to develop the site to provide affordable housing. The Policy requirement is for 30% of the units to be set aside as affordable units. In relation to the need for housing, the site is located within the development

boundary of the village under the stopped unitary development plan and has permission in place for 8 dwellings. Only two dwellings in addition to those already approved are now proposed. As a site within a development boundary, there is no policy requirement to assess housing need.

The school was the subject of the Council's rationalisation programme and has been vacant since that date. The building, albeit extended with flat roof additions, presents an attractive frontage to the street in this part of the village, complementing the church opposite. The application entails demolition of more modern extension to the school building and its change of use into an office. Policy 2 of the Ynys Mon Local Plan states:

2. The Council will support job creating projects on the sites allocated on the Proposals Map and detailed in Proposals S1 to S35 where they accord with the criteria in Policy 1. Employment creating development on other sites within or on the edge of existing recognised settlements will be permitted where they are of a scale and type compatible with the surrounding area, and accord with other policies of this plan.

The site is located amongst existing residential development in a village setting and given its previous use as a school, the change of use to an office is acceptable in policy and amenity terms.

Highways and Drainage: Concerns have been expressed regarding the fact that vehicular access will be taken on a bend in the road where there is considered to be a lack of visibility. The site is fronted by existing pavements and was in use as a small primary school. The proposed offices will utilise the existing vehicular access whilst a new access is proposed to separately serve the housing development. The Highway Authority has no objection to the scheme subject to conditions.

In relation to drainage, porosity test results indicate that soakaways are inappropriate and the scheme will therefore discharge surface water into the highway drainage system at an attenuated rate with a discharge to a watercourse to the south of the site intended for any storm event exceeding the design capacity. Foul drainage will discharge into the public sewerage system. The Drainage Section requested clarification of the intended systems and the detail is considered acceptable in principle.

In relation to drainage, porosity test results indicate that soakaways are inappropriate and the scheme will therefore discharge surface water into the highway drainage system at an attenuated rate with a discharge to a watercourse to the south of the site intended for any storm event exceeding the design capacity. Foul drainage will discharge into the public sewerage system. The Drainage Section requested clarification of the intended systems and the detail is considered acceptable in principle.

Design and Privacy Issues: Concerns have been expressed regarding overdevelopment of the site and the design of housing in a small rural village. The scheme has been amended to reduce the number of dwellings and has been designed to reflect social housing space standards. The dwellings will incorporate the use of slate and local stone. The linear nature of the site restricts the ability to create anything other than a linear development but the scheme has been amended to re-orientate the dwellings at the end of the proposed estate road.

No concerns have been raised by neighbouring occupiers regarding overlooking or loss of privacy issues and given distances between properties and boundary treatment, it is not anticipated that the development of the site for residential use would unduly affect existing amenities. However the Community Council raises concerns regarding the landscaping of the site and for amenity reasons on an edge of village location a condition has been included to this effect.

7. Conclusion

The scheme is acceptable in policy terms. Consultees raise no issues of concern.

8. Recommendation

To **permit** the application subject to conditions and a S106 agreement on affordable housing

(01) The development to which this permission relates shall be begun not later than the expiration of five years beginning with the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning Act 1990.

(02) No development shall take place until samples of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the implementation of the development.

Reason: To ensure a satisfactory appearance of the development

(03) Full details of the landscaping of the site and all fencing, walling or other means of enclosure or demarcation shall be submitted to and approved in writing by the local planning authority, and shall be included in accordance with the details as may be approved, before the dwellings are occupied.

Reason: In the interests of amenity.

(04) No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been approved in writing by the local planning authority. The development shall proceed in accordance with the approved details unless the local planning authority gives its prior written consent to any variation. None of the dwellings hereby approved shall be occupied until the drainage systems for the site have been completed and are operational.

Reason: In the interests of residential amenity and to ensure that the site is adequately drained.

(05) No development shall commence until measures are in place to secure the future maintenance of the estate road and drainage in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason: To comply with the requirements of the Highway Authority, in the interests of safety and amenity to ensure there is safe and convenient access to the properties which it serves.

(06) No surface water from within the curtilage of the development site shall discharge onto the county highway.

Reason: To ensure the site is adequately drained without detriment to the adjoining highway.

(07) A visibility splay of 2.4m (X-distance) x 40m (Y-distance) to the left and right of the proposed estate road junction shall be provided and nothing exceeding 1 metre in height above the level of the adjoining carriageway shall be permitted within the vision splays at any time and they shall be available before any dwelling is occupied and thereafter be retained solely for that purpose.

Note: where necessary, the existing boundary wall shall be reduced in height to comply with this condition.

Reason: To comply with the requirements of the Highway Authority, to ensure there is adequate inter-visibility between traffic at the junction, in the interests of highway safety

(08) The estate road and car parking spaces shall be completed in accordance with the details approved and be available for use before any dwelling which they serve is occupied.

Reason: To comply with the requirements of the Highway Authority, in the interests of safety and amenity to ensure there is safe and convenient access and parking to the properties.

(09) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If during the course of development, any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Reason: In the interests of amenity.

(10) No development shall commence until a method statement for the development of the site including tree and hedge works and works for the conversion of the school, including a timetable for the works, has been submitted to and approved in writing by the local planning authority. The development shall thereafter proceed in accordance with the approved details.

Reason: To safeguard any protected species which may be present on the site.

(11) No development (including any groundworks or site clearance) shall take place until a specification for a programme of archaeological work has been submitted to and approved in writing by the local planning authority. The development shall subsequently be carried out and all archaeological work completed in strict accordance with the approved specification. A detailed report on the said archaeological work shall be submitted to and approved in writing by the local planning authority shall be submitted to and approved after the completion of the archaeological field work and before any use is made of the site for holiday purposes.

Reason: To ensure the implementation of an appropriate programme of archaeological mitigation.

(12) No development (including any groundworks or site clearance) shall take place until a specification for a programme of archaeological work has been submitted to and approved in writing by the local planning authority. The development shall subsequently be carried out and all archaeological work completed in strict accordance with the approved specification. A detailed report on the said archaeological work shall be submitted to and approved in writing by the local planning authority shall be submitted to and approved after the completion of the archaeological field work and before any use is made of the site for holiday purposes.

Reason: To ensure the implementation of an appropriate programme of archaeological mitigation.

(13) The development shall take place in accordance with the following documents and plans, together with, and as amended under, the conditions as imposed:

**Design and Access Statement December 2016;
Language Impact Assessment July 2016;
Cadarn Drainage Report Revision B July 2016;
SH1467 A.00.1 Site Location Plan
EL (2-) 01 School Proposed Floor Plan;
EL (2-) 02 School Proposed Elevation;
SH1467 A.00.3 Proposed Site Layout
SH1467 A.02.1 531 Houses
SH1467 A.03.1 421 Houses
2010 Code Shed (4 bike)**

Reason to define the scope of this permission.

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

This page is intentionally left blank

8.1

Ceisiadau'n Economaidd

Economic Applications

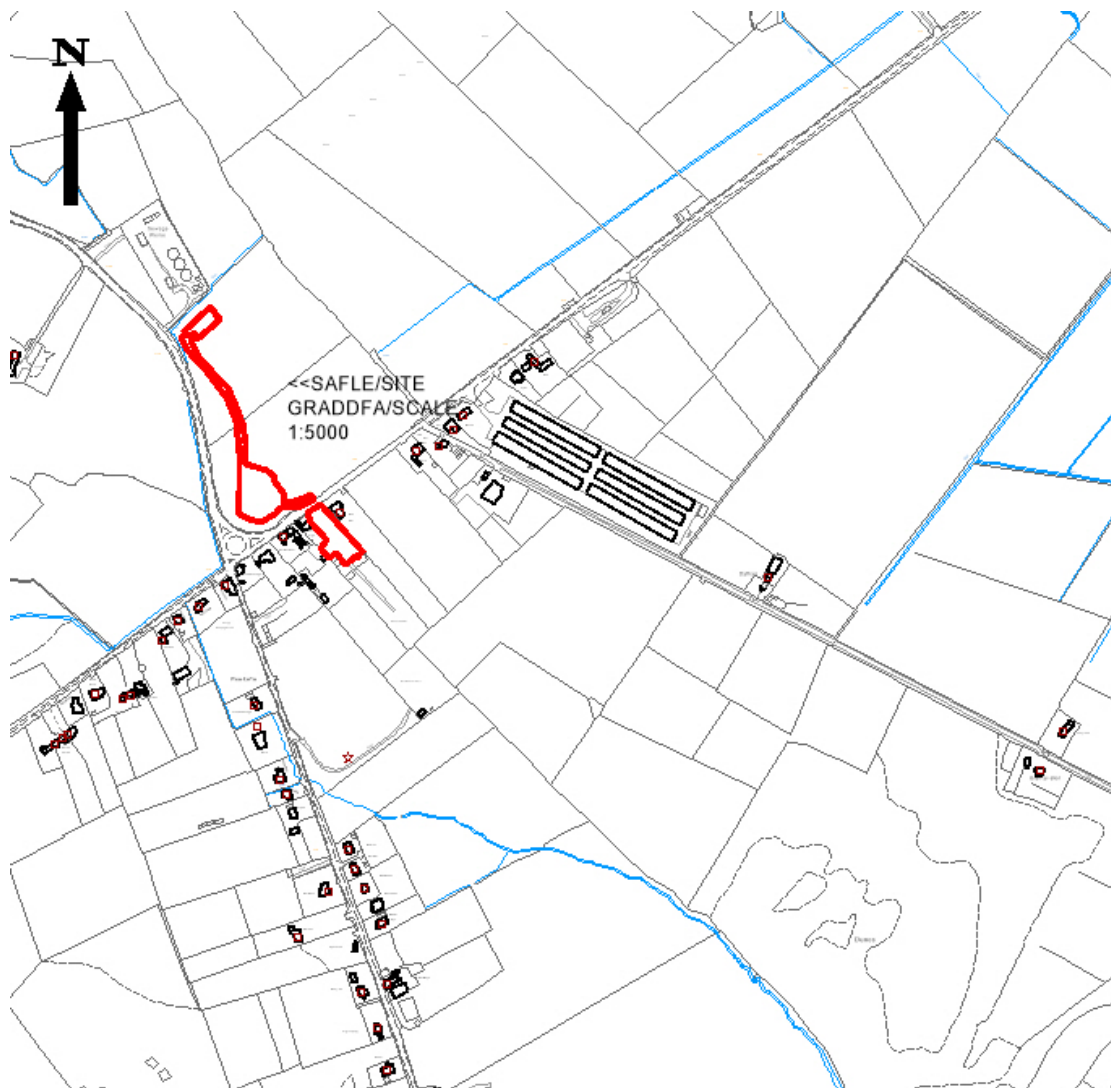
Rhif y Cais: **45C84R/ECON** Application Number

Ymgeisydd Applicant

Mr Liam Barrie

Cais llawn ar gyfer codi adeilad oergell, adeilad achlysur, ac adeilad seminar ynghyd a chreu mynedfa i gerbydau gyda maes parcio i gwsmeriaid, maes parcio cymunedol ac ardal hamdden a dymchwel adeilad allanol ar dir yn a gyferbyn a / Full application for the erection of a fridge building, function building and seminar building together with the construction of a vehicular access with customer parking, community parking, recreational space and demolition of outbuilding on land at and adjacent to

The Marram Grass Cafe, White Lodge, Niwbwrch/Newborough



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (SCR)

Recommendation:

Permit

Reason for Reporting to Committee:

At the request of the Local Member, Cllr A Griffith

1. Proposal and Site

The proposal involves the erection of three new buildings on the site comprising of a detached function building, seminar/demonstration building and external fridge store, re-configuration within the site to improve the parking facilities within the existing site together with the provision of a new car park on land opposite the Marram Grass which will be located close to the roundabout.

The site lies fronting the A4080, along the road known as Lon Filltir, in the settlement of Penlon. The existing café/restaurant building is of a single storey construction and clad in timber. The Marram Grass is located within the designated Area of Outstanding Natural Beauty and lies on land to the front of the White Lodge touring caravan site. The properties that lie immediately next to the application site are single storey residential units.

The land where the proposed new car park is located lies outside the Area of Outstanding Natural Beauty however lies within the Special Landscape Area. The vehicular access which was approved under the planning application reference 45C84M/ENF for the retention of the playing fields will serve the new car park. A new track will be laid to connect the car park in the playing field and the proposed new car park.

The parking that lies within the playing field will be available to the local community and tourists.

2. Key Issue(s)

The applications main issues are whether the proposal complies with current policies, whether the proposal will harm the amenities of the neighbouring properties or have a detrimental impact on the surrounding area which is designated as an Area of Outstanding Natural Beauty and whether the proposal will detrimentally affect highway safety.

3. Main Policies

Gwynedd Structure Plan

Policy B1 - Employment generating developments

Policy B7 - Locational requirements

Policy B9 - Expanding employment opportunities in the rural economy

Policy CH1 - Recreation and tourist development

Policy D1 - Landscape

Policy D4 : Location, siting and design

Policy D7 : Agricultural land

Policy D29 : Standard of design

Policy D32 : Site configuration and landscaping

Policy FF12 : Parking standards

Ynys Mon Local Plan

Policy 1 - General Policy

Policy 2 - New jobs

Policy 5 - Design

Policy 26 - Parking standards

Policy 30 – Landscape
Policy 31 - Landscape

Stopped Unitary Development Plan

Policy EP4 - Other employment opportunities and rural diversification
Policy EN1 – Special Landscape Character
Policy EN2 – Area Of Outstanding Natural Beauty
Policy SG7 Noise

Planning Policy Wales (9th Edition)

Technical Advice Note 6 – Planning for Sustainable Rural Communities
Technical Advice Note 11 – Noise
Technical Advice Note 12 – Design

Joint Local Development Plan

Policy PCYFF1 – Development Criteria
Policy PCYFF2- Design and Shaping
Policy CYFF3 – Design and Landscaping
Strategic Policy PS10 – Providing opportunity for a flourishing economy
Policy ISA2 – Community Facilities
Policy TRA2 – Parking Standards
Policy TRA4 – Management Transport Impacts

4. Response to Consultation and Publicity

Community Council – Object due to possible overdevelopment of the site, increase in traffic problems, site lies within the AONB and privacy problems to neighbours due to increase in activity and noise

Local Member, Cllr A Griffith – Call-in due to impact on the landscape, highways safety, effect on amenities of neighbouring properties, objection from Community Council and scale of concern from the residents of Penlon

Local Member, Cllr P Rogers – No response at the time of writing this report

Highway Authority – No response at the time of writing this report

Drainage Section – Requested further information

Natural Resource Wales – Local planning authority should screen the application to ascertain whether there is a reasonable likelihood of bats being present and the need for a bat survey. Our internal Ecological and Environmental Advisor has stated in his response that the potential for bats is deemed low and therefore an additional assessment is not required.

Environmental Health – Requested a noise assessment – at the time of writing this report the additional details have not been received

Response from members of the public

The proposal was advertised through the posting of a notice on site, publication of a notice in the local press together with the distribution of personal letters of notification to the occupiers of neighbouring properties. The latest date for the receipt of representations is the 3rd March, 2017 and at the time of writing this report 38 letters of objection had been received at the department. The main issues raised can be summarised as follows;

i) Out of character, large development for a small site and visual impact in surrounding area which is designated Area of Outstanding Natural Beauty. Previous application for the car park was

refused due to landscape impact. Proposal proposes parking facilities for 69 vehicles on agricultural land.

ii) Noise and light pollution – will lighting be required within the site

iii) Parking should be provided within the site

iv) Highway Safety - Is track which connects the playing field car park and proposed new car park safe, is it safe for pedestrians to walk between the car parking area and restaurant? . Is the proposed parking facilities adequate for the development

v) Flood risk – has a Flood assessment been carried out and has an Environmental Impact Assessment been submitted as part of the application.

vi) The applicant stated during the course of determining the application for the playing field that the proposal was not linked to the Marram Grass. Playing field has not been used since planning permission was granted.

vii) Planning has not been granted for the change of use of the land from agricultural to horticultural use.

viii) Proposal involves the change of use of the touring site into function/bar/seminar.

ix) Applicants states that the proposal involves the creation of a butchery – this will create another business and generate additional traffic.

Other issues were also raised in regards to the naming of the site as Gardd Rhosyr which gives the impression that another business will be run from the site.

In response to these comments I would comment as follows;

i) There is ample space within the site to accommodate the proposed buildings and due to the site being an existing commercial enterprise with the café/restaurant at the front of the site and touring caravan site at the rear it is considered that the proposal is acceptable in this location and will not have a detrimental impact on the Area of Outstanding Natural Beauty. The comments in regards to the car park has been addressed in the Main Planning Considerations section below.

ii) Further information has been requested in regards to the noise generated by the proposed external fridge building and at the time of writing this report we are still awaiting receipt of the assessment.

During the course of determining the previous application for the function building and demo/seminar building the Environmental Health Section confirmed that the erection of a 3m high acoustic fence along the boundary between the proposed buildings and Glan Aber and the amended design which included the removal of the openings in the proposed buildings their original concerns had been addressed and raised no objection to the erection the buildings on the site.

iii) During the course of determining the previous application the applicant was advised that a scheme for the provision of additional car parking within the existing site was considered to be the best solution. The applicant has confirmed that the land that lies to the rear of the site (touring caravan site) is not within their ownership and there is not enough space within the café/restaurant curtilage to provide the necessary parking spaces thus the need for the proposed parking to be located on land opposite the Marram Grass.

iv) The proposal for additional parking spaces will ensure that no parking take place on the public highway. The Highway Authority have raised no objection to the proposal and have recommended a conditional approval.

v) The site does not lie within a Flood Zone and therefore a flood risk assessment is not necessary as part of the application. As part of the application site lies within the designated Area of

Outstanding Natural Beauty a screening application was registered. Due to the scale of the development it was determined that an Environmental Impact Assessment was not required.

vi) I am unable to comment on what was stated during the course of determining the previous application. The application as submitted involves land within the approved playing field and will provide additional parking for Marram Grass customers and members of the local community and visitors to the area which will reduce the on street parking that currently takes place in Newborough.

vii) The Enforcement Officer has confirmed that complaints have previously been received at the department in regards to the possible change of use of the land and the matter was investigated. The activities that had taken place on the site i.e. keeping of pigs, tree planting and vegetable growing are an agricultural activities/uses and not therefore development requiring planning permission.

viii) The proposal does not involves the change of use of the touring caravan site at the rear of the site. The proposal involves the front of the site only where the Marram Grass is located.

ix) The information submitted in support of the application does not include the creation of a butchery. Clarification has been sought from the agent in regards to this claim and at the time of writing this report I am still awaiting clarification.

The fact that the applicant refers to the site as Gardd Rhosyr does not require planning permission. If another venture is proposed from the site which would require planning permission this will be dealt with at that time.

5. Relevant Planning History

45C84 - Change of use of outbuilding into a tearoom at White Lodge, Penlon, Newborough. – REFUSED 14/06/1988

45C84A/AD - Erection of two non-illuminated signs at White Lodge, Penlon, Newborough. REFUSED 19/09/1988

45C84B - Improvements to the access at White Lodge, Penlon, Newborough. APPROVED 18/04/1989

45C84C/AD - Erection of a non-illuminated sign at White Lodge, Penlon, Newborough. APPROVED 21/04/1989

45C84D - Extension to existing garage for storage purposes at White Lodge Nursery, Penlon, Newborough. - APPROVED 14/11/1995

45C84E - Certificate of lawfulness for the existing use of land as a caravan and camping site and café at White Lodge, Penlon, Newborough. LAWFUL USE APPROVED 29/01/2010

45C84F - Full application to increase the number of touring caravans from 10 up to 30, together with extend the opening system from Easter-September to all year round (12 month) at White Lodge, Penlon - RETURNED TO APPLICANT 24/06/2014

45C84G - Full application for alterations and extensions at White Lodge, Penlon GRANTED 24/02/2015

45C84H - Full application for demolition of the existing outbuildings together with the erection of a new building to accommodate a function space including bar, toilet facilities and office at white Lodge, Pen Lon APPLCIATION WITHDRAWN 07/04/2015

45C84I - Full application for the construction of a vehicular access and car park on land adjacent to White Lodge, Penlon Refused 03/12/2015

This application was refused as it proposed a parking area for 49 vehicles on land immediately opposite the Marram Grass and involved the laying of an approximately 100 metre access track and it was considered that this would have a detrimental impact on the surrounding landscape

45C84J - Full application for demolition of the existing outbuilding together with the erection of a new barn comprising of function room, bar, demonstration\seminar room, toilets and office at The Marram Grass Cafe, White Lodge, Penlon, Newborough Refused 03/12/2015

This application was refused due to the lack of parking on the site to cater for the additional traffic generated by the proposal

45C84K/SCR Screening Opinion for demolition of the existing outbuilding together with the erection of a new barn comprising of function room, bar, demonstration\seminar room, toilets and office at The Marram Grass, White Lodge, Penlon, Newborough EIA Not Required 27/10/2015

45C84M/ENF Retrospective application for the change of use of land into a playing field together with the construction of a new access at Pendref, Penlon, Niwbwrch / Newborough – Approved 02/11/2015

45C84N – Full application for extending the number of caravans from 10 to 30 with extension of opening season to all year round. White Lodge, Pen Lon, Niwbwrch – Returned to Applicant 24/10/2016

45C84P/ENF – / Application for retention of a pond on land adjacent to White Lodge, Penlon – Approved 17/08/2016

45C84Q/AD/ENF – Retrospective application for two illuminated signs. Granted 25/08/2016

6. Main Planning Considerations

Policy Context – Policy B1 of the Gwynedd Structure Plan states that employment generating developments which increase employment opportunities, which do not create unacceptable changes to the environment, and are acceptable to the local planning authority in terms of location, siting, scale, design, access and landscaping will be permitted. Policy 2 of the Ynys Mon Local Plan states that the Council will support job creating projects on allocated sites and sites within or on the edge of existing settlements. On sites outside existing settlements, the Council will permit employment developments only in exceptional circumstances where the applicant has been able to demonstrate specific locational requirements and economic benefits which would justify allowing the proposal.

Policy 2 of the Ynys Mon Local Plan states thatEmployment creating development on other sites within or on the edge of existing recognised settlements will be permitted where they are of a scale and type compatible with the surrounding area and accord with other policies of this plan.

On sites outside existing settlements, the Council will permit employment developments only in exceptional circumstances whether the applicant has been able to demonstrate specific locations requirements and economic benefits which would justify allowing the proposal.

Policy EP4 of the stopped Unitary Development Plan states that proposal which increase or diversify the range of employment opportunities, including rural diversification, will be permitted where they are of a scale and type compatible with the surrounding area or do not cause significant harm...

The development of the site will increase the current team of 14 employees to 35 and the existing number of full time employees will rise from 4 to 29.

The Joint Local Development Plan has now reached a stage in its preparation where it is now necessary to give it consideration as a relevant planning consideration.

Policy PS10 of the Joint Local Development Plan states that whilst seeking to protect and enhance the natural and built environment, the Council will facilitate economic growth in accordance with the spatial strategy....

Policy CYFF3 of the Joint Local Development Plan states that all proposals should integrate into their surroundings. Proposals that fail to show (in a manner to the nature, scale and location of the proposed development) how landscaping has been considered from the outset as part of the design should be refused....

Policy ISA2 of the Joint Local Development Plan states that the plan will help sustain and enhance community facilities by granting the development of new community facilities, provided that; and lists the criteria which must be met.

The JLDP is now subject to further public consultation and examination before the Plan is adopted. Although material, given the changes proposed and further public consultation, little weight can be placed on Policy TAI18 at this juncture.

As the site lies within an established commercial site the proposal is considered acceptable in principle.

Effect on surrounding properties – During the course of determining the previous application 45C84H for the erection of the function room the scheme was considered unacceptable due to the number of openings in both sections of the building and the proposed use of the intervening section as an open courtyard area for customer use. Noise nuisance to the detriment of the amenities currently enjoyed by the occupants of the neighbouring property was likely to occur. The current scheme has been amended and there are no openable windows or doors located on three of the four facades of the building. The boundary between both sections of the building is shown as being screened by a 3m high acoustic fence. Therefore the concerns raised during the course of determining the previous application have been addressed and it is not considered that the development will have a detrimental impact on the amenities of the neighbouring properties to such a degree as to warrant the refusal of the application.

As part of the current scheme a new external fridge is proposed between the existing building and neighbouring property known as Glan Aber. The Environmental Health Section have requested that a noise assessment be submitted in support of the application to assess whether the development would cause a nuisance to the surrounding properties. At the time of writing this report we are still awaiting receipt of the noise assessment.

The proposed car park will be located opposite the residential properties known as Lantern House and Pen Wal Bach. These properties are single storey properties and Lantern House has an earth bund within their curtilage which separated the dwelling and the highway. Pen Wal Bach is situated on a lower ground level than the highway and proposed car park. There is a distance of 25 metres between the proposed car park and adjoining properties. Screening is proposed as part of the development along the boundary of the proposed car park. Due to the proposed screening, distances between the car park and adjoining properties and due to the properties being located on a busy road network it is not considered that the proposal will have a detrimental impact on the amenities of the surrounding properties to such a degree as to warrant the refusal of the application.

Effect on surrounding landscape - The application site is partly located within an Area of Outstanding Natural Beauty (AONB). It is a statutory designation that recognizes its importance in landscape quality and nature conservation terms.

The primary objective for an AONB designation is the conservation and enhancement of their natural beauty. Local authorities have a statutory duty to have regard to AONB purposes and development control decisions affecting AONB's should in the first instance favour conservation of natural beauty.

The site is situated within an existing commercial site, set amongst existing built development and given this, and the scale and design of the proposed buildings, the scheme is not considered to have a detrimental impact on the surrounding landscape.

The proposal also includes the provision of a new car park for 39 vehicles on land located opposite the Marram Grass and lies close to the roundabout and next to the playing field. Landscaping has been proposed as part of the development and whilst the proposed landscaping outlined as part of the application will assist in reducing the impact of the development on the surrounding area it is not considered adequate and further landscaping of the site has been requested and agreed. The provision of further landscaping along the boundary of the site will mitigate against the visual impact of the proposed car park.

Highway Safety – The Highway Authority have raised no objection to the proposal and have recommended a conditional approval. The Highway Authority have also confirmed that there would be no objection to additional screening being planted along the boundary of the site.

7. Conclusion

The previous application for the creation of a car park for 49 vehicles on land immediately opposite the Marram Grass with an access track running along the whole of the site for approximately 100 metres was refused due to its impact on the surrounding area and on balance it was considered that the landscape impact outweighed the economic benefits of the proposal.

The car park has now been re-located and is situated on the neighbouring field to the west of the previous application site. Screening has previously been planted along the boundary of the current application site which will screen the site from the public vista. The number of parking spaces has been reduced from 49 to 39 on this parcel of land, however additional parking spaces are also proposed at the rear of the playing field where parking was granted under planning application 49C84M/ENF for the retention of the playing field.

The additional parking within the playing field area will be available to the local community and visitors to the area.

Further landscaping than that shown on the proposed plan will be necessary as part of the proposal and this together with the existing screening should ensure that the development will not have a detrimental impact on the surrounding landscape.

Due to the above it is considered that on balance that the economic benefits carry significant weight and although not being decisive in their own right help tip the balance in favour of the development.

Consequently, having considered the above it is considered that the development complies with current policy, will not detrimentally affect the amenities of the neighbouring properties or surrounding landscape and will not have a detrimental impact on highway safety.

Subject to the receipt of satisfactory landscaping scheme, ecological and noise assessment and drainage detail and provided that no further additional comments have been received from members of the public it is my recommendation that the application be approved.

8. Recommendation

To **permit** the development subject to conditions.

(01) The development to which this permission relates shall be begun not later than the expiration of five years beginning with the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning Act 1990.

(02) No development shall commence until full details for the pedestrian access and crossing point has been submitted to and agreed in writing by the local planning authority.

The pedestrian access and crossing point must be completed in accordance with the approved plans before the use hereby approved is commenced.

Reason: To comply with the requirements of the Highway Authority.

(03) The car parking accommodation shall be completed in full accordance with the details as submitted before the use hereby permitted is commenced and thereafter retained solely for those purposes.

Reason: To comply with the requirements of the Highway Authority.

(04) The premises shall only be open for business between the hours of 8.00am and 12.00 midnight Monday to Saturday and 8.00 and 11.00pm Sunday and Bank Holidays.

Reason: To safeguard the amenities of occupants of the surrounding properties.

(05) No customers shall be permitted to make use of the outside dining and seating area as shown on drawing AL.1.2 between the hours of 10.00pm and 8.00am.

Reason: To protect the amenities of nearby residential occupiers.

(06) The development permitted by this consent shall be carried out strictly in accordance with the plan(s) submitted below:

Drawing / Document number	Date Received	Plan Description
AL.0.1	13/01/2017	Location plan
AL.1.1	13/01/2017	Existing Site Plan
AL.0.2	13/01/2017	Site Topographical Survey
AL.2.3	13/01/2017	Proposed Plans and Elevations
AL.1.5	13/01/2017	Site Plan and Fridge Building
AL.1.2	13/01/2017	Site Plan
AL.0.5	13/01/2017	Revised Overall Site Layout
AL.0.4	13/01/2017	Access Road Detail
Planning Statement	03/02/2017	Planning Statement

under planning application reference 45C84R/ECON.

Reason: For the avoidance of doubt.

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

This page is intentionally left blank

12.1

Gweddill y Ceisiadau

Remainder Applications

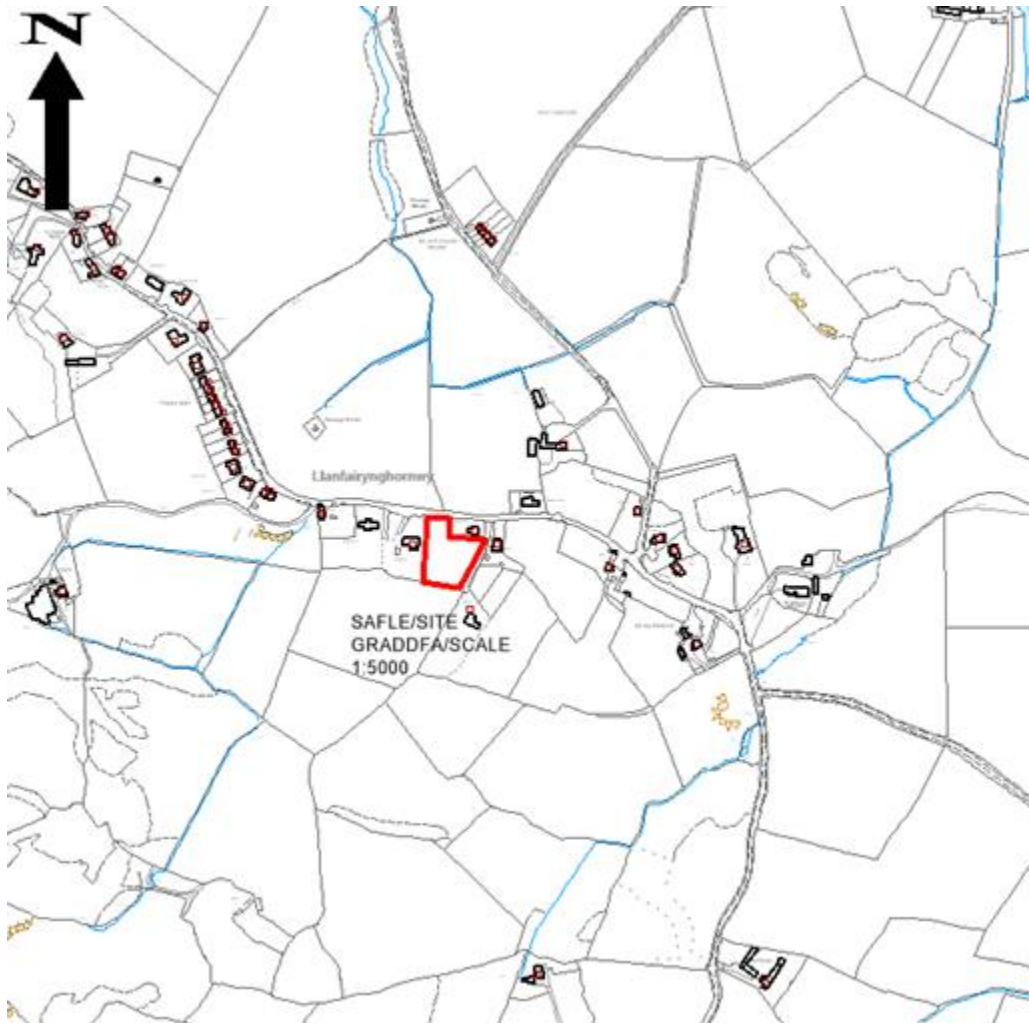
Rhif y Cais: **18C225B** Application Number

Ymgeisydd Applicant

B & E Pritchard

Cais llawn i godi annedd newydd, chreu mynedfa ynghyd a gosod paced trin carthffosiaeth ar dir ger / Full application for the erection of a dwelling, the creation of an access together with the installation of a package treatment plant on land adjacent to

Bron Castell, Llanfairynghornwy



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (SCR)

Recommendation:

Refuse.

Reason for Reporting to Committee:

At the request of the Local Member.

1. Proposal and Site

The application site is situated in an elevated position on the outskirts of the settlement of Llanfairynghornwy and lies within the designated Area of Outstanding Natural Beauty. A public footpath runs along the eastern and southern boundaries of the site. The site is afforded access off the Class III highway.

The application is a full application for the erection of a two storey dwelling and detached garage together with the construction of a new vehicular access and the installation of a package treatment plant.

2. Key Issue(s)

The applications main issues are whether the development complies with current policies, the affect of the development on neighbouring properties and on the locality which is designated as an Area of Outstanding Natural Beauty and whether the development will affect road safety.

3. Main Policies

Gwynedd Structure Plan

Policy D1 - Landscape
Policy D4 – Location, Siting and Design
Policy D29 – Design

Ynys Môn Local Plan

Policy 1 – General Policy
Policy 30 – Landscape
Policy 32 - Landscape
Policy 42 – Design
Policy 48 – Housing Development Criteria
Policy 50 – Listed Settlement

Stopped Unitary Development Plan

Policy GP1 – Development Control Guidance
Policy GP2 – Design
Policy HP5 – Countryside Hamlets and Clusters
Policy EN2 – Area of Outstanding Natural Beauty
Policy EN14 – Tree Preservation Orders and Hedgerows
Policy EN16 – Landscape features of major importance for flora and fauna

Deposit Joint Local Development Plan

Policy TAI18 – Housing in Clusters
Strategic Policy PS15 – Settlement Strategy

Planning Policy Wales, 2016, 9th Edition

Supplementary Planning Guidance – Design Guide for the Urban and Rural Environment

Technical Advice Note 12 – Design

4. Response to Consultation and Publicity

Community Council – No objection

Local Member Cllr LI M Huws – Call-in and requested a site visit

Local Member Cllr J Griffith – No response to date

Local Member Cllr K P Hughes – No response to date

Highway Authority – Recommended conditional approval

Drainage Section – Details are acceptable.

Natural Resource Wales – Comments

Welsh Water – No comments

Response from members of the public

The proposal was advertised through the posting of a notice on site and the distribution of personal letters of notification to the occupiers of neighbouring properties. The latest date for the receipt of representations was the 8th February 2017 and at the time of writing this report no letters of representation had been received at the department.

5. Relevant Planning History

18C225 - Full application for the erection of a dwelling, the creation of an access together with the installation of a package treatment plant on land adjacent to Bron Castell, Llanfairynghornwy – Refused 07/10/2016

18C215A/SCR – Screening opinion application for the erection of a dwelling, the creation of an access together with the installation of a package treatment plant on land adjacent to Bron Castell, Llanfairynghornwy - EIA not required 30/09/2016

18C225C/SCR - Screening opinion for the erection of a dwelling, the creation of an access together with the installation of a package treatment plan on land adjacent to Bron Castell, Llanfairynghornwy. – EIA not required 06/01/2017

6. Main Planning Considerations

Policy Context – Llanfairynghornwy is defined as a Listed Settlement under policy 50 of the Ynys Mon Local Plan and as a Countryside Hamlets and Cluster under Policy HP5 of the stopped Unitary Development Plan. Policy 50 supports residential developments that lie within or form a reasonable minor extension to the existing developed part of the settlement and would not constitute an undesirable intrusion into the landscape or harm the character and amenities of the locality.

Policy HP5 of the stopped Unitary Development Plan is a similar criteria based policy. In order to assist with the determining of planning applications an indicative frame has been created in order to identify the location of the settlement. However, this frame is not a development boundary and any application will have to satisfy the criteria listed within the policy. Policy HP5 supports applications for single dwellings on infill sites, or other acceptable sites that are immediately adjacent to the developed part of the rural hamlets and clusters, provided that the development will not cause undue harm to the character of the group or any harmful visual intrusion into the surrounding landscape.

The built up form of the village lies to the west of the application site and therefore this site is not considered as an acceptable infill development or an acceptable extension to the village.

Llanfairynghornwy had been identified as a Cluster under Policy TAI18 of the draft JLDP. The Council has recently published a Matters Arising Changes Notice which includes a change to Policy TAI18 and the removal of certain clusters, including Llanfairynghornwy from those identified under the Policy as well as removing a limit on numbers during the plan period (Action point S3 / PG6). The proposed changes is now subject to further public consultation and examination before the Plan is adopted. Although material, given the changes proposed and further public consultation, little weight can be placed on Policy TAI18 at this juncture.

Effect on neighbouring properties – There is a distance of 30 metres between the proposed dwelling and neighboring property known as Bron Castell and 16.5 metres between the proposed garage and Bron Castell. Due to the distances between the existing and proposed dwellings it is not considered that the proposal will have a detrimental impact on the amenities currently enjoyed by the occupants of the neighbouring property.

There is a distance of 13.5 metres between the side elevation of the proposed unit and the existing property known as Cae Gwyrdd. Cae Gwyrdd has openings within the side elevation and the proposed dwelling has openings in the staircase, wc and utility room. Due to the distances between the existing and proposed dwelling and the proposed use of the rooms where the openings are located it is not considered that the erection of a dwelling in this location will harm the amenities currently enjoyed by the occupants of the neighbouring property.

Effect on surrounding area - The application site is located within a prominent and elevated position within the Area of Outstanding Natural Beauty (AONB). It is a statutory designation that recognizes its importance in landscape quality and nature conservation terms.

The primary objective for an AONB designation is the conservation and enhancement of their natural beauty. Local authorities have a statutory duty to have regard to AONB purposes and development control decisions affecting AONB's should in the first instance favour conservation of natural beauty.

Policy 30 of the Ynys Mon Local Plan states that within the Area of Outstanding Natural Beauty, the Council will give priority to the protection and enhancement of the landscape when considering planning applications. Policy EN2 of the stopped Unitary Development Plan states that within the Area of Outstanding Natural Beauty, the Council will give priority to the conservation and enhancement of the landscape. The acceptability of development proposals will be evaluated in terms of

- i) Intrusive impact on the landscape character and visual qualities of designated areas and,
- ii) The effectiveness of any mitigation measures that are proposed and,
- iii) The necessity of the development and the availability of alternative locations outside the designated area.

The proposal is a full application for the erection of a large two storey dwelling with a ridge height of 9.1 metres, and a length of 16.7 metres and width of 13.6 metres. The ridge height of the proposed dwelling will be 13.8 metres above the level of the adjoining highway. Therefore the erection of a dwelling of this scale and in this location will have a detrimental visual impact on the surrounding landscape.

The boundary of the site with the adjoining highway is formed of a stone wall and hedge and in order to provide the necessary visibility splay the planting and wall height will need to be reduced to 1 metre high. At present, due to the landscaping on both sides of the highway the site is similar to what is found down country lanes and the removal of the stone wall and hedge will have an urbanising effect on the surrounding area.

Both sides of the hedge's location have been removed as part of neighbouring developments with poor boundary treatment a feature of both sides. The removal of this section of hedging in order to provide a 2.4 x 43 m visibility splay will have further adverse visual effect.

Policy 32 of the Ynys Mon Local Plan states that the Council will refuse application which result I the loss of trees, hedgerows, stone walls, 'cloddiau' and other traditional features unless acceptable proposals are included for their replacement. Policy EN14 of the stopped Unitary Development Plan states that hedgerows will be protected from inappropriate developments.

It is considered that the removal of the stone wall and hedgerow along the front boundary of the site, adjoining the highway, will have a detrimental impact on the character of the landscape and of the designated Area of Outstanding Natural Beauty.

Whilst it is acknowledged that there are properties located on both sides of the application site these differ to the current application by way of the dwelling to the east of the application site (Bron Castell) which is a two storey dwelling lies immediately fronting the highway. The dwelling to the west of the application (Cae Gwyrdd) is situated along the same building line as the proposed dwelling and lies in an elevated position similar to the proposed dwelling however the existing dwelling is of a single storey construction.

Due to the position, scale and loss of boundary treatment I conclude that the proposal would be harmful to the character and appearance of the area and would not be in accord with the relevant Policy 1, 30, 32 and 50 of the Ynys Mon Local Plan.

Highway Safety – The Highway Authority have raised no objection to the proposal subject to the inclusion of standard highway conditions.

7. Conclusion

The proposal cannot be supported as the development would extend beyond the built form of the settlement and is not an acceptable infill or edge of settlement development. Due to the scale of the proposal and its elevated position the erection of a dwelling in this location would constitute a harmful visual intrusion into the landscape which is designated as an Area of Outstanding Natural Beauty under Policy 30 of the Ynys Mon Local Plan and policy EN2 of the stopped Unitary Development Plan. The proposal would result in the extension of the built form into the countryside and is contrary to both Local and Structure Plan Policy and the advice contained in Planning Policy Wales.

8. Recommendation

Refuse

(01) The Local Planning Authority considers that the proposal would extend the built form into the open countryside and due to its scale and position would result in a harmful visual intrusion into the landscape which is designated as an Area of Outstanding Natural Beauty. The proposal is therefore contrary to Policy A2, A3, D1, D4 and D29 of the Gwynedd Structure Plan, Policies 1, 30, 32, 42, 48 and 50 of the Ynys Môn Local Plan, Policies GP1, GP2, EN2, EN14, EN16 and HP5 of the Stopped Unitary Development Plan and the guidance contained within Planning Policy Wales (9th Edition).

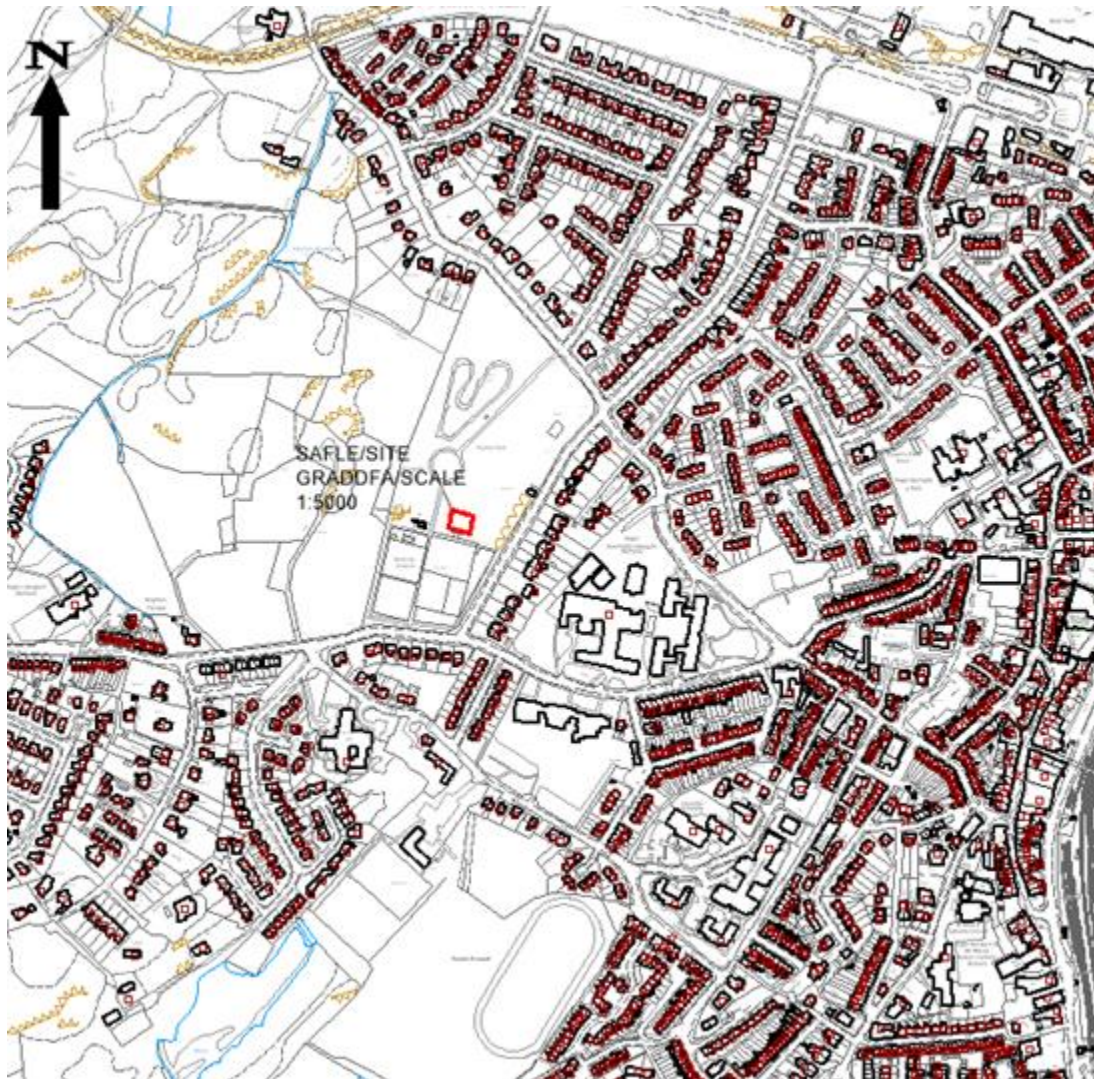
Rhif y Cais: 19C1198 Application Number

Ymgeisydd Applicant

Holyhead Town Council

Cais llawn i newid defnydd adeilad o pafiliwn i gaffi yn / Full application for change of use of building from a pavilion into a café at

Pafiliwn Parc Caergybi/Holyhead Park Pavilion, Caergybi/Holyhead



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (NJ)

Recommendation:

Permit.

Reason for Reporting to Committee:

The application is made on Council owned land.

1. Proposal and Site

The Holyhead park is centrally located in the town and the pavilion building is centrally located in the park, separating the formal recreation areas such as the bowling green and tennis courts / skate park from the informal green space.

The application as made is to change the use of the pavilion into a café with external seating areas included on the terrace.

2. Key Issue(s)

Design, amenity and ecology impacts.

3. Main Policies

Gwynedd Structure Plan

Policy B1 – Employment Generating Developments

Policy CH1 – Recreation and Tourist Development

Policy CH11 – All-Weather Facilities

Policy D10 – Flora and Fauna

Ynys Mon Local Plan

Policy 1 – General Policy

Policy 2 – New Jobs

Policy 14 – Recreation and Community Facilities

Policy 35 – Nature Conservation

Unitary Development Plan

Policy EN4 – Biodiversity

Policy CC1 – Community Facilities

Joint Local Development Plan

Policy TWR1 – Visitor Attractions and Facilities

Policy ISA2 – Community Facilities

Policy AMG 4 - Local Biodiversity Conservation

Planning Policy Wales Edition 9

TAN 5 : Nature Conservation and Planning

TAN 12 : Design

4. Response to Consultation and Publicity

Town Council – The Town Council is the applicant and has therefore declined to comment on the application

Cllr R LI Jones - Fully support the application for the park at Holyhead to be upgraded

Cllr J A Roberts - No objection to the proposed application as I fully support the efforts of the Town Council to enhance the area for the residents of Holyhead and Anglesey.

Cllr R Jones – No response to consultation at the time of writing

Environmental Health – No response to consultation at the time of writing

Ecological Advisor – No response to consultation at the time of writing

Natural Resources Wales – No response to consultation at the time of writing

No response had been received at the time of writing as a result of the publicity undertaken.

5. Relevant Planning History

19LPA509/DC Replacement pavilion – no objection

19LPA509A Lighting to tennis courts – no objection

6. Main Planning Considerations

Principle of the Development: The Holyhead park is centrally located in the town and amongst its facilities is the pavilion building which has been used as changing rooms and a store. The application, as part of a wider project to upgrade facilities at the park, is for the change of use of the pavilion, together with some alterations to its fabric and surrounding terrace, to create a café facility. The proposal has been developed in response to wide ranging public consultation exercise and is being advanced by the Holyhead Town Council which has taken over the running of the facility from this Council. One part time staff member is currently employed but the scheme is anticipated to create an additional 2 part time posts.

Policies in both the Gwynedd Structure Plan and Ynys Mon Local Plan support community recreation facilities within development boundaries. The site is already in use for recreational purposes and its change of use to a café will add an additional dimension to the facilities available at the park and extend its use during inclement weather.

The Stopped UDP, which is a material consideration carrying significant weight, also contains a policy supporting the creation of community facilities.

Also material to the application are policies contained within the Joint Local Development Plan. The Plan is currently at a consultation phase in relation to Matters Arising Changes and is not yet an adopted document. Policy TWR 1 and Policy ISA2 are material as they deal with visitor attractions and facilities and with community facilities.

Policy TWR 1 in relation to Visitor Attractions and Facilities (as amended in the Matters Arising Changes document currently out to public consultation) states:

TWR 1: Proposals to develop new visitor attractions and facilities or to improve and extend the standard of existing facilities will be encouraged to locate to sites within the development boundary.

All proposals will be required to comply with all the following criteria:

5. The scale, type and character of the proposed development is appropriate for its urban/rural setting;
6. The proposed development is of high quality in terms of design, layout and appearance;
7. The proposed development will support and extend the range of facilities within the Plan area;
8. The proposal is supported by evidence to demonstrate that there would be local employment opportunities.

Where appropriate, the development can be accessed by various modes of transport, especially sustainable modes of transport, such as walking, cycling and public transport.

Policy ISA 2 is not subject to Matters Arising Changes and states:

POLICY ISA 2: COMMUNITY FACILITIES

The Plan will help sustain and enhance community facilities by:

1. Granting the development of new community facilities, provided that:

- i. they are located within or adjoining development boundaries or they are located outside development boundaries but within clusters where the proposal will provide an essential facility to support the local community;
 - ii. in the case of new buildings, that the local community's needs cannot be satisfied through the dual use of existing facilities or the conversion of existing buildings;
 - iii. where the proposal is for a facility being relocated, it can be demonstrated that the existing site is no longer suitable for that use;
 - iv. the proposal is of an appropriate scale and type compared to the size, character and function of the settlement.
- v. the proposal is easily accessible by foot, cycle and public transport

The provision of new or enhanced multiuse community facilities, including the co-location of healthcare, school, library and leisure facilities in accessible locations will be encouraged.

The JLDP policies contain criteria against which such developments will be assessed which are different to the development plan criteria for example, placing greater emphasis on sustainability. The scheme as presented in the application is compatible with extant and emerging policies.

Amenity: The pavilion is centrally located in the park and although on an elevated site and visible from properties on New Park Road and South Stack Road, there are trees intervening on the latter view and the distance and proposed use is such that it is not anticipated that unacceptable amenity impacts will occur. In particular, the proposed opening hours of 10.00am to 5.00pm every day will reduce any potential impacts.

Ecological Impacts: A protected species report has been undertaken which indicates that no bats are present in the building. It is not anticipated that any unacceptable ecological impacts will occur but a precautionary approach to development works is advised.

7. Conclusion

The scheme will enhance the recreational and tourist offer at the park and will provide extended use of the site during inclement weather. It is not anticipated that ecological impacts will occur.

8. Recommendation

To **permit** the development subject to conditions.

(01) The development to which this permission relates shall be begun not later than 5 years from the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning Act 1990

(02) The café shall only open to customers between 10.00am and 5.00pm.

Reason: In the interests of amenity.

(03) The development shall take place in accordance with the following documents and plans:

Holyhead ark Pavilion Design and Access Statement.

S001 Location Plan

P002 Proposed Building Plans and Elevations

P003 Proposed General Landscape Arrangement Plan

Reason: To define the scope of this permission.

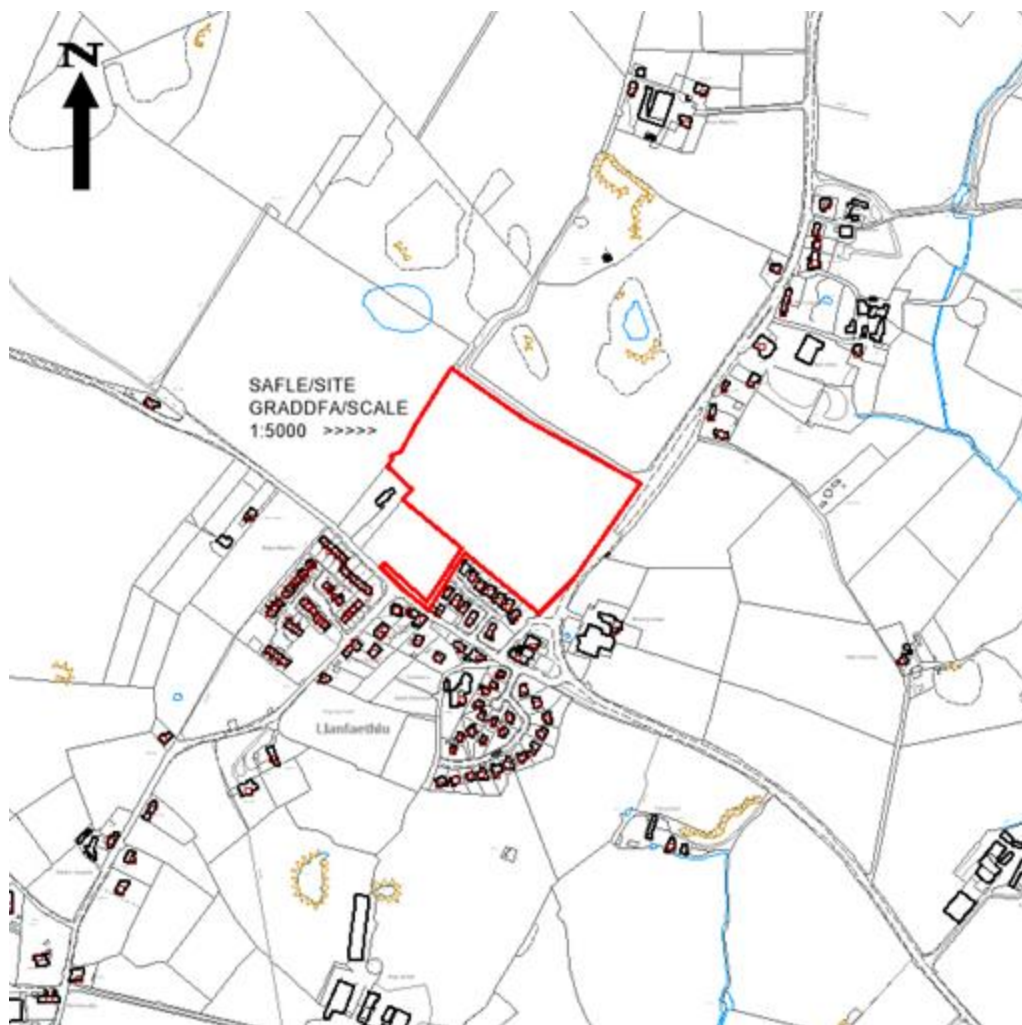
In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

Rhif y Cais: **29LPA1008F/CC/VAR** Application Number

Ymgeisydd Applicant

Head of Service (Lifelong Learning)

Cais o dan Adran 73 i ddiwygio amod (10) o ganiatâd cynllunio rhif 29LPA1008A/CC (codi ysgol gynradd newydd) er mwyn caniatáu rhywfaint o oleini i lifo o'r safle dros y ffinau yn / Application under Section 73 for the variation of condition (10) of planning permission reference 29LPA1008A/CC (erection of a new primary school) so as to allow some light from the site to spill over its boundary at

Ysgol Rhyd y Llan, Llanfaethlu

Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (NJ)

Recommendation:

Permit

Reason for Reporting to Committee:

The application is made by the Council.

1. Proposal and Site

The site is located to the north of the village of Llanfaethlu, abutting its development boundary as delineated under the stopped Unitary Development Plan. Vehicular access to the site is proposed off the A5025 whilst a pedestrian access is proposed opposite Maes Maethlu. St Maethlu's Church is located to the south west of the site but on a higher elevation overlooking the proposal.

Planning permission was granted subject to conditions in 2015 for the development of a new primary school under the Council's Schools Modernisation Programme. The application as now made seeks a variation of one of those conditions – condition 10 which sought to ensure that any artificial lights on the site were directed to the site and did not overspill onto adjoining property, imposed to safeguard existing residential amenities. It has not been possible to design a lighting scheme which meets required safety standards without some overspill illumination.

2. Key Issue(s)

Impact of the development on the designated landscape, historic assets and residential amenity.

3. Main Policies

Ynys Mon Local Plan

Policy 1 – General Policy
Policy 14- Recreation and community facilities
Policy 17 – Recreation and community facilities
Policy 30 – Landscape
Policy 32 – Landscape
Policy 34 - Nature conservation
Policy 35 – Nature conservation
Policy 41 – Conservation of buildings
Policy 42 – Design

Gwynedd Structure Plan

Policy D1- AONB
Policy D4 - Location, siting and design
Policy D10 – Flora and fauna
Policy D22 – Listed buildings
Policy D32 - Landscaping
Policy F7 – Community use of schools

Stopped Unitary Development Plan

Policy GP1 – Development control guidance
Policy GP2 – Design
Policy EN2 – AONB
Policy EN4 – Biodiversity
Policy EN 13 – Conservation of buildings
Policy SG6 – Surface water run-off

Planning Policy Wales – Edition 7

TAN 5 – Nature Conservation and Planning
TAN 6 – Planning for Sustainable Rural Communities
TAN 12 – Design
TAN 18 – Transport
TAN 23 – Economic Development

SPG – Design Guide for the Urban and Rural Environment

4. Response to Consultation and Publicity

Community Council – no objection

Cllr J Griffith – no response at the time of writing

Cllr K Hughes – no response at the time of writing

Cllr LI Huws – no response at the time of writing

Built Environment and Landscape Section – I don't believe the proposed footpath lighting will have any adverse impact on the setting of the listed church due to the distance as well as the low proposed light levels set against the existing light levels of the street lighting and the Bryn Llwyd Estate street lighting. From a built conservation perspective I am satisfied that the applicants have given the matter careful consideration and as such I am supportive of the application.

Environmental Health Officer – The information provided in the accompanying statement submitted by the Architectural Services Manager, indicates that the calculated overspill lighting from the proposed footpath, lighting will be 2 lux. This value appears to satisfy the design guidance of the Institution of Lighting Professionals for obtrusive light limitations for external lighting Installations, (light intrusion through windows) for the Environmental Zone E2 –rural low district brightness.

Notwithstanding this, you may wish to include an appropriate lighting curfew for the path to restrict lighting operation to School hours or for the duration of special events at the school where access is required during the hours of darkness school.

As a result of the publicity undertaken, 1 letter of objection was received from the occupier of 9 Bryn Llwyd Estate, which stated as follows:

I object to any unnecessary flooding of light within this area of outstanding natural beauty and towards and over my property of an evening.

I propose that every effort is made to utilise modern (21st century) technology and that :-

- 1) timers are installed to shut off lighting from the side pathway when it will not be in use and the pathway is closed.
- 2) security lighting within the ysgol complex is minimised and the use of infrared cctv is deployed in areas that would formerly have required lighting for cctv and such security purposes.

5. Relevant Planning History

29LPA1008/SCR/CC - Screening opinion for the erection of a new primary school. EIA not required.

29LPA1008A/CC - Full application for the erection of a new primary school together with the creation of a new pedestrian access near Bryn Llwyd Estate and a new vehicular access onto the A5025. Approved 19/10/2015

29LPA1008B/DIS/CC - Application to discharge conditions (02), (03), (04) (foul water, surface water and drainage run-off), (06) (Traffic Management Plan), (07) (design and construction details

of public footways), (08) (landscaping scheme), (09) (details of the external finishing materials), (11) (programme of archaeological work), (12) (scheme of reasonable avoidance measures in relation to great crested newts) and (13) (scheme of traffic calming measures on the A5025) of planning permission 29LPA1008A\CC (full application for the erection of a new primary school). Discharged 11/05/2016

29C1008C/CC/MIN - Minor amendments to scheme previously approved under planning permission 29LPA1008A/CC so as to decrease the scale of the building. Granted 14/3/2016

29LPA1008D/DIS/CC - Application to discharge condition (05) (provision and implementation of surface water limitations) of planning permission 29LPA1008A/CC. Discharged 22/08/2016

6. Main Planning Considerations

Principle of the development: The site is located on the edge of the village of Llanfaethlu, abutting its built form. Development plan policies support the creation of community buildings and resources within or on the edge of existing settlements. Permission for the school was approved in 2015 but a condition was imposed on the planning consent that any lighting scheme should be approved by the local planning authority prior to its installation but that any such scheme should be designed such that no light spillage occurred beyond the boundaries of the site.

It has not been possible to design a scheme that meets safety requirements in terms of lighting but which does not present some overspill onto neighbouring land. In particular, residential properties along the external footpath are likely to be affected. However, the lights will only be utilised during the hours of darkness during school term-time when children are arriving in the morning and departing in the evening and periodically when school-based events are taking place e.g. parents' evenings or school concerts. A management plan is proposed to ensure lights are in use only as reasonably required. It is not therefore considered that subject to proper management, the lighting of the site will have an adverse impact on residential amenities.

The application site is located within an Area of Outstanding Natural Beauty (AONB). It is a statutory designation that recognises its importance in landscape quality and nature conservation terms. The primary objective for an AONB designation is the conservation and enhancement of its natural beauty. Local authorities have a statutory duty to have regard to AONB purposes and development control decisions affecting AONBs should in the first instance favour conservation of natural beauty. PPW advice is that "Development plan policies and development control decisions affecting AONBs should favour conservation of natural beauty, although it will also be appropriate to have regard to the economic and social well-being of the areas."

PPW advises that

"Statutory designation does not necessarily prohibit development, but proposals for development must be carefully assessed for their effect on those natural heritage interests which the designation is intended to protect"

And further that

"The effect of a development proposal on the wildlife or landscape of any area can be a material consideration. In such instances and in the interests of achieving sustainable development it is important to balance conservation objectives with the wider economic needs of local businesses and communities."

The site is situated alongside the village and a housing estate where street lighting is already present. It is not considered that the use of lighting during early morning and early evening school arrival and departure times, or periodically later in the evening for school-based activities, will have an unacceptable impact on the designated landscape.

The site is on the edge of Carreglwyd Registered Park and Garden and adjacent to St Maethlu's Church area which is a listed building. It is not considered that the proposal will have an unacceptable impact on these features.

7. Conclusion

The principle of the scheme is acceptable in policy terms. The impacts on the designated landscape and cultural heritage are considered acceptable.

8. Recommendation

To **permit** the development subject to conditions.

(01) The lighting shall only be operated in accordance with document ED173 Ysgol Rhyd y Llan (Llannau) – Application for Variation of Planning Condition 10 – External Lighting January 2017.

Reason: In the interests of amenity.

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

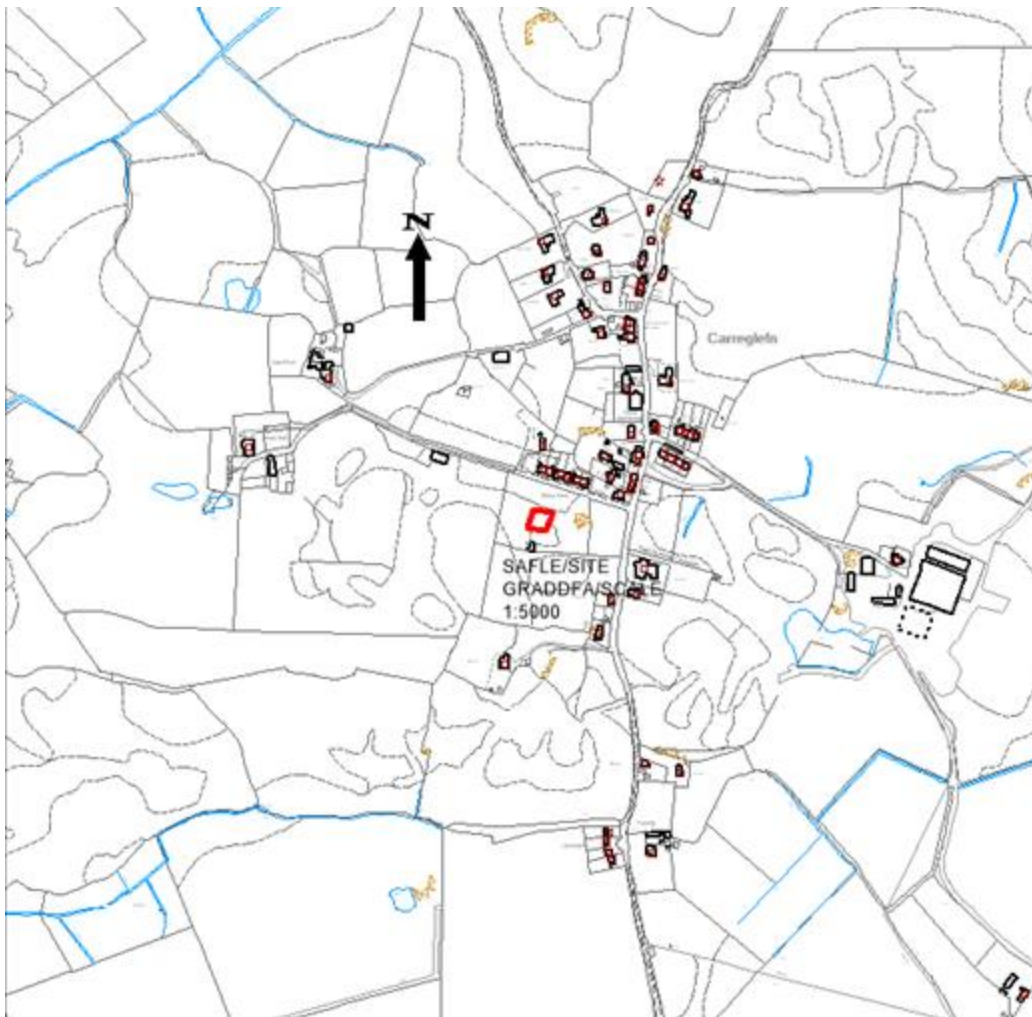
Rhif y Cais: **38C324** Application Number

Ymgeisydd Applicant

Mr Sion Jones

Cais amlinellol ar gyfer codi annedd gyda'r holl materion wedi'u gadw'n ôl ar dir yn / Outline application for the erection of a dwelling with all matters reserved on land at

Alma Hall, Carreglefn



Planning Committee: 01/03/2017

Report of Head of Planning Service (GJ)

Recommendation:

Refuse.

Reason for Reporting to Committee:

The application is presented to the Planning Committee on the request of the local member.

1. Proposal and Site

The proposal is for Outline planning for the erection of a dwelling with all matters reserved on land at Alma Hall, Carreglefn.

2. Key Issue(s)

The key issue is whether the proposal complies with current policies and the emerging Local Development Plan, and whether the proposal will affect the amenities of the surrounding properties.

3. Main Policies

Ynys Mon Local Plan

Policy 1 – General Policy

Policy 31 - Landscape

Policy 42 – Design

Policy 48 – Housing Development Criteria

Policy 50 – Listed Settlement

Policy 53 – Housing in the open countryside

Gwynedd Structure Plan

Policy A2 – Housing

Policy A3 - Housing

Policy D4 – Location, Siting and Design

Policy D29 - Design

Stopped Unitary Development Plan

Policy GP1 – Development Control Guidance

Policy GP2 – Design

Policy HP5 – Countryside Hamlet and Cluster

Policy HP6 – Dwelling in the Open Countryside

Policy EN1 – Landscape

Deposit Joint Local Development Plan

Policy TAI 17 – Housing in Local, Rural and Coastal Villages

Strategic Policy PS15: Settlement Strategy

4. Response to Consultation and Publicity

Community Council – No response at the time of writing the report.

Local Member (Cllr Ken Hughes) – Requested that the application be presented to the Planning and Orders Committee for consideration.

Local Member (Cllr Llinos Medi Huws) – No response at the time of writing the report

Local Member (Cllr John Griffith) – No response at the time of writing the report

Highways Authority – Conditional Approval

Drainage Section – Standard Comments

Welsh Water – Conditional Approval

The proposal was advertised through the posting of a notice on site together with the distribution of personal letters of notification to the occupiers of neighbouring properties. The latest date for the receipt of representations was the 17th February, 2017. At the time of writing the report 1 letters had been received expressing concern. The main concerns being as follows:-

- The access track should not be blocked
- Sharing of cost of access track maintenance
- Create a precedent for further development

5. Relevant Planning History

None.

6. Main Planning Considerations

Policy

Carreglefn is identified as a Listed Settlement under Policy 50 of the Ynys Mon Local Plan and as a Hamlet and Cluster area under Policy HP5 of the stopped Unitary Development Plan.

Single plot applications within or on the edge of a settlement are considered acceptable under Policy 50 of the Ynys Mon Local Plan.

Policy HP5 of the Stopped Unitary Development Plan states that single dwellings will be permitted on 'infill' sites, or other acceptable sites that are immediately adjacent to the developed part of the rural hamlet and clusters, provided that the development will not cause undue harm to the character of the group or any harmful visual intrusion into the surrounding landscape.

Policy A2 of the Gwynedd Structure Plan states that new housing should be located within or on the edge of settlements at a scale which reflects the settlements existing population at a proportion of the total population of the relevant district.

Paragraph 9.3.3 states that insensitive infilling, or cumulative effects of development or redevelopment, should not be allowed to damage an area's character or amenity

Paragraph 9.3.4 states that in determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area's character and amenity.

Policy TAI 17 of the Local Development plan identifies Carreglefn as a coastal Rural Village. The policy states that housing in Carreglefn should only be approved for community need and affordable housing.

Main planning considerations

The application site is not considered to be immediately on the edge of the settlement of Carreglefn. The application site consists of uneven land that would require substantial removal of land. The dwelling will be located on agricultural land with no properties on either side of the proposed plot.

The proposal would be harmful to the character and appearance of the area and would not accord with Policy 50 of the Ynys Mon Local Plan. The erection of a dwelling on this site could also possibly result in future residential development on the land.

The application does not comply with Policy 50 by virtue of the fact that it would extend the built form further into the landscape which would harm the character and amenities of the locality.

The JLDP is a material consideration that can be afforded weight in the determination process at present. The Council will shortly be publishing a Minor Matters Arising Changes Notice which includes a change to Policy TAI17. This will be subject to further public consultation and examination before the Plan is adopted.

Effect on the amenities of adjacent residential properties

It is not considered that the dwelling would have an adverse effect on the amenities currently enjoyed by the occupants of the neighbouring properties due to the distance from existing residential properties.

Highways

The Highways Department has confirmed they are satisfied with the appropriate worded conditions.

7. Conclusion

It is not considered that the erection of a dwelling in this location would be acceptable, and it would result in development into the open countryside contrary to Policy 53 of the Ynys Mon Local Plan and Policy HP6 of the Stopped Unitary Development Plan.

8. Recommendation

Refuse

(01) The Local Planning Authority consider that the proposal would amount to the erection of a new dwelling in the countryside for which no long term need is known to exist for the purposes of a rural enterprise; the development would therefore be contrary to the approved Policy A6 of the Gwynedd Structure Plan, Policy 53 of the Ynys Mon Local Plan, Policy HP6 of the Unitary Development Plan (Stopped 2005) and the advice contained within Planning Policy Wales.

(02) The Local Planning Authority considers that the proposal would be harmful to the character and appearance of the area bringing about the unacceptable erosion of an attractive rural field in this Special Landscape Area and would therefore be contrary to Policy A2, A3 and D4 of the Gwynedd Structure Plan, policies 1, 31, 42, 48 and 50 of the Ynys Môn Local Plan, policies GP1, GP2, EN1 and HP5 of the stopped Unitary Development Plan and the provisions of Planning Policy Wales (Edition 9, 2017).

9. Other Relevant Policies

Technical Advice Note 12 – Design

SPG – Urban and Rural Environment

Planning Policy Wales 9th Edition

12.5

Gweddill y Ceisiadau

Remainder Applications

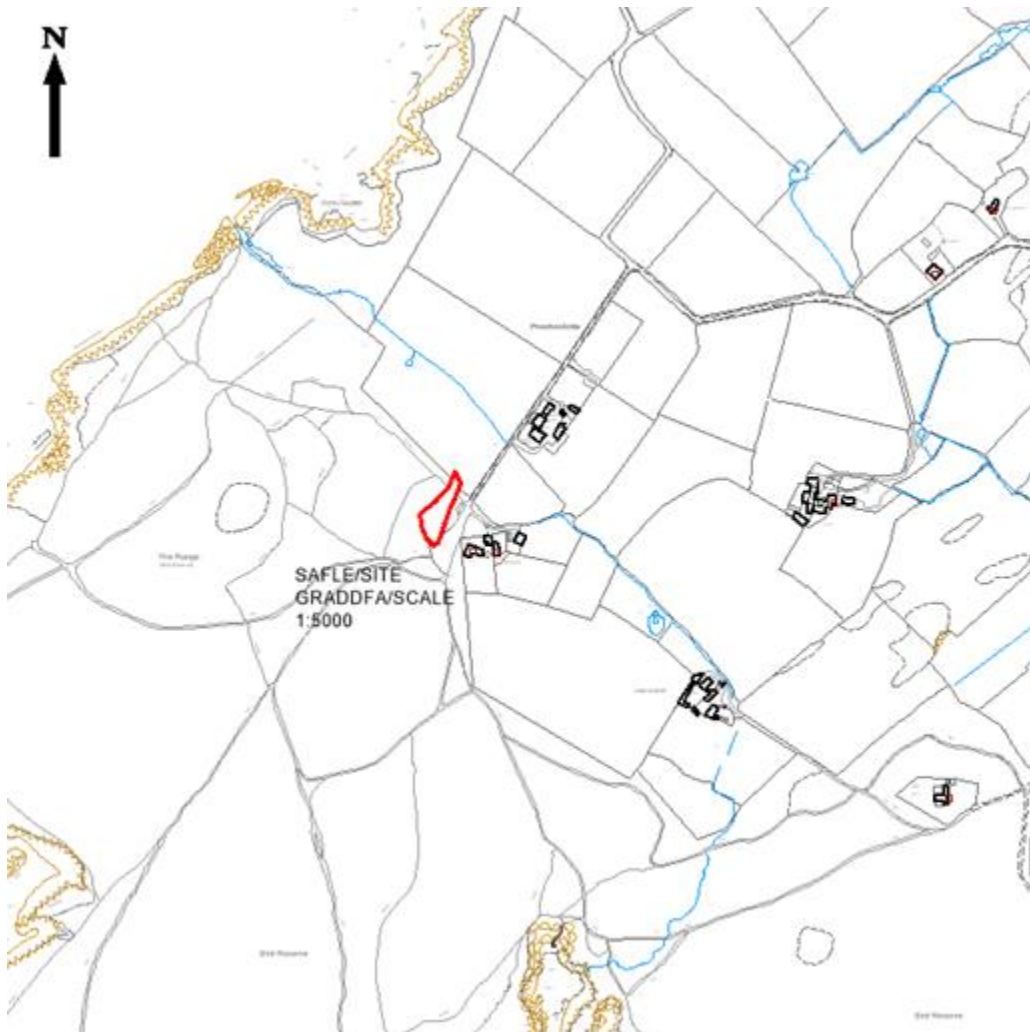
Rhif y Cais: **46C582/AD** Application Number

Ymgeisydd Applicant

RSPB

Cais llawn i godi arwydd gwybodaeth yn / Full application for the erection of an information sign at

Maes Parcio The Range Car Park, Penrhos Feilw, Caergybi/Holyhead



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (OWH)

Recommendation:

Permit

Reason for Reporting to Committee:

The land is owned by the Council.

1. Proposal and Site

The application lies at The Range car park in Penrhos Feilw, Holyhead.

The proposal entails the erection of information signage at the end of the existing car park.

2. Key Issue(s)

The key issue is whether the proposed scheme is acceptable in terms of its impact on the AONB and landscape.

3. Main Policies

Ynys Mon Local Plan

Policy 1 – General Policy

Policy 5 – Design

Policy 22 – Advertisement

Policy 30 – Landscape

Gwynedd Structure Plan

Policy D1 – Area of Outstanding Natural Beauty

Policy D4 – Location, Siting and Design

Stopped Unitary Development Plan

Policy GP1 – General Control Guidance

Policy GP2 – Design

Policy EN2 – Areas of Outstanding Natural Beauty

Policy SG10 - Advertisement

Anglesey and Gwynedd Joint Local Development Plan – Deposit Plan (2015)

Policy AMG2 – Protecting and enhancing features and qualities that are unique to the local landscape character

Planning Policy Wales (9th Edition), November 2016

Technical Advice Note 7 – Advertisement

Technical Advice Note 12 – Design

4. Response to Consultation and Publicity

Councillor Trefor Lloyd Hughes – No response received at the time of writing this report

Councillor Dafydd Rhys Thomas - No response received at the time of writing this report

Councillor Jeffery Evans – No response received at the time of writing this report

Town Council – No response received at the time of writing this report

Highways – No response received at the time of writing this report

Public Consultation – The application was afforded two means of publicity. These were by the placing of a notice near the site and serving of personal notifications on the owners of neighbouring properties. The latest date for the receipt of representations was the 15/02/2017. At the time of writing this report, the department has not received an observation.

5. Relevant Planning History

No planning history

6. Main Planning Considerations

The proposal is for the installation of an information signage at the Range car park.

It will measure 940mm by 690mm with a maximum height of 1.83 metres. The materials of the information panel are acceptable being constructed by oak.

It is not considered that the proposed information signage by reason of its scale and materials would impact on the surrounding landscape or the AONB to such a degree so to warrant a refusal.

7. Conclusion

The proposed development is considered acceptable to the Local Planning Authority. Consequently, it is my opinion that the proposal should be permitted subject to conditions.

8. Recommendation

To **permit** the development subject to conditions.

(01) The development to which this permission relates shall be begun not later than the expiration of five years beginning with the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning Act 1990.

(02) The development permitted by this consent shall be carried out strictly in accordance with the plan(s) submitted below:

Drawing number	Date Received	Plan Description
-	16/01/2017	Location plan
-	16/01/2017	Details of the signage

under planning application reference 46C582/AD.

Reason: For the avoidance of doubt.

(03) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the local planning authority.

Reason: In the interests of visual amenity.

(04) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

Reason: In the interests of amenity.

(05) Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the local planning authority.

Reason: In the interests of amenity.

(06) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: In the interests of amenity.

(07) No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: To ensure that the siting and design of the sign will be satisfactory from an amenity point of view and to comply with the requirements of the Highway Authority in the interests of the safety of vehicular and pedestrian traffic

12.6

Gweddill y Ceisiadau

Remainder Applications

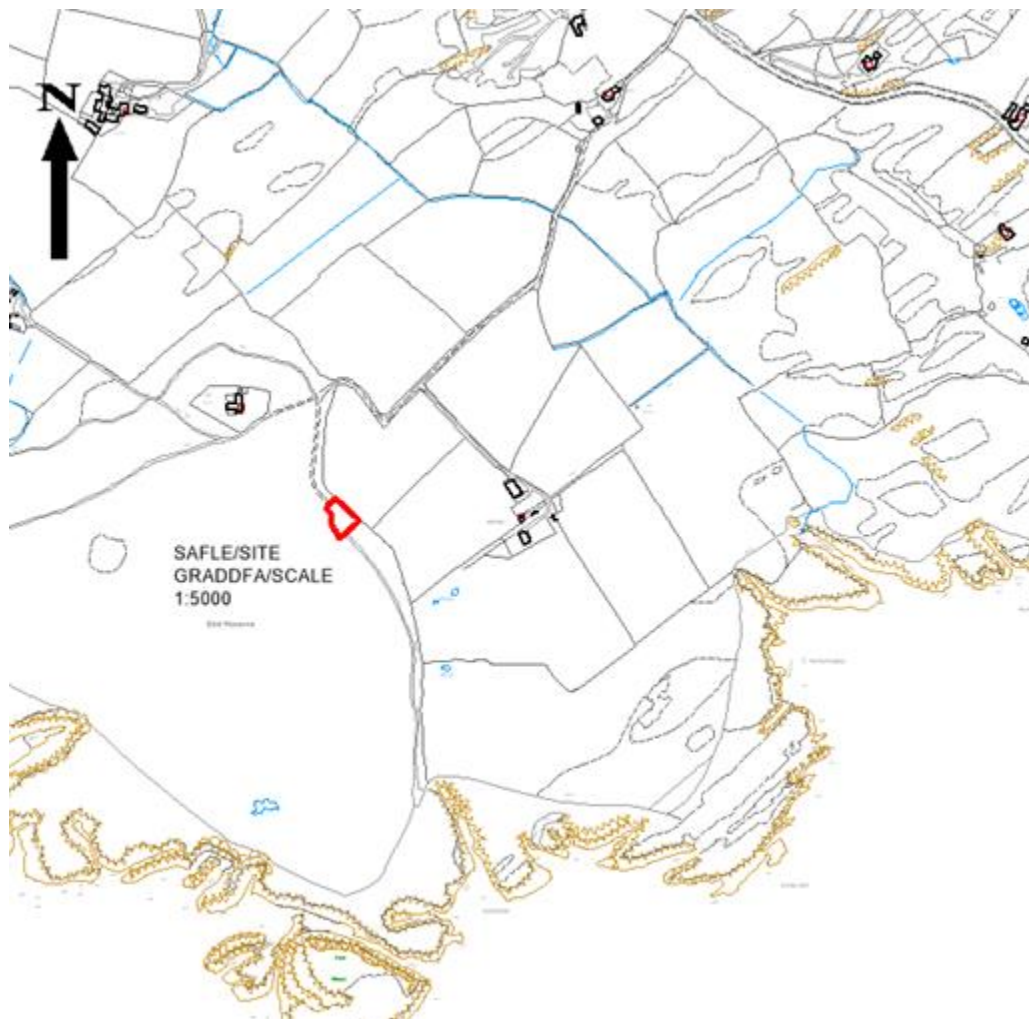
Rhif y Cais: **46C583/AD** Application Number

Ymgeisydd Applicant

RSPB

Cais llawn i godi arwydd gwybodaeth yn / Full application for the erection of an information board at

Maes Parcio Pysgotwyr/Fishermen's Car Park, Penrhos Feilw, Caergybi/Holyhead



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (OWH)

Recommendation:

Permit.

Reason for Reporting to Committee:

The land is owned by the Council.

1. Proposal and Site

The application lies at the Fisherman car park in Penrhos Feilw, Holyhead.

The proposal entails the erection of information signage at the end of the existing car park.

2. Key Issue(s)

The key issue is whether the proposed scheme is acceptable in terms of its impact on the AONB and landscape.

3. Main Policies

Ynys Mon Local Plan

Policy 1 – General Policy

Policy 5 – Design

Policy 22 – Advertisement

Policy 30 – Landscape

Gwynedd Structure Plan

Policy D1 – Area of Outstanding Natural Beauty

Policy D4 – Location, Siting and Design

Stopped Unitary Development Plan

Policy GP1 – General Control Guidance

Policy GP2 – Design

Policy EN2 – Areas of Outstanding Natural Beauty

Policy SG10 - Advertisement

Anglesey and Gwynedd Joint Local Development Plan – Deposit Plan (2015)

Policy AMG2 – Protecting and enhancing features and qualities that are unique to the local landscape character

Planning Policy Wales (9th Edition), November 2016

Technical Advice Note 7 – Advertisement

Technical Advice Note 12 – Design

4. Response to Consultation and Publicity

Councillor Trefor Lloyd Hughes – No response received at the time of writing this report

Councillor Dafydd Rhys Thomas - No response received at the time of writing this report

Councillor Jeffery Evans – No response received at the time of writing this report

Town Council – No response received at the time of writing this report

Highways – No response received at the time of writing this report

Public Consultation – The application was afforded two means of publicity. These were by the placing of a notice near the site and serving of personal notifications on the owners of neighbouring properties. The latest date for the receipt of representations was the 15/02/2017. At the time of writing this report, the department has not received and observation.

5. Relevant Planning History

No planning history.

6. Main Planning Considerations

The proposal is for the installation of an information signage at the Fisherman car park.

It will measure 940mm by 690mm with a maximum height of 1.83 metres. The materials of the information panel are acceptable being constructed by oak.

It is not considered that the proposed information signage by reason of its scale and materials would impact on the surrounding landscape or the AONB to such a degree so to warrant a refusal.

7. Conclusion

The proposed development is considered acceptable to the Local Planning Authority. Consequently, it is my opinion that the proposal should be permitted subject to conditions.

8. Recommendation

To **permit** the development subject to conditions.

(01) The development to which this permission relates shall be begun not later than the expiration of five years beginning with the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning Act 1990.

(02) The development permitted by this consent shall be carried out strictly in accordance with the plan(s) submitted below:

Drawing number	Date Received	Plan Description
-	16/01/2017	Location plan
-	16/01/2017	Details of the signage

under planning application reference 46C583/AD.

Reason: For the avoidance of doubt.

(03) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the local planning authority.

Reason: In the interests of visual amenity.

(04) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

Reason: In the interests of amenity.

(05) Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the local planning authority.

Reason: In the interests of amenity.

(06) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: In the interests of amenity.

(07) No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: To ensure that the siting and design of the sign will be satisfactory from an amenity point of view and to comply with the requirements of the Highway Authority in the interests of the safety of vehicular and pedestrian traffic.

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/ development.

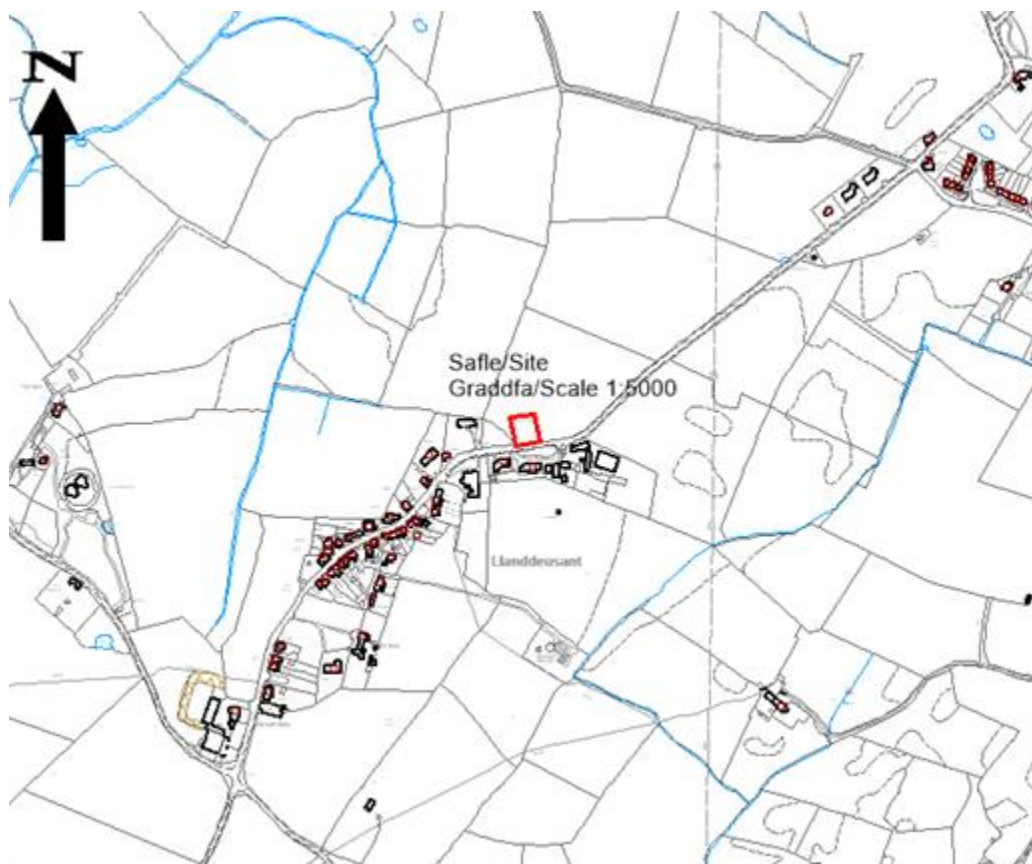
Rhif y Cais: **47C153** Application Number

Ymgeisydd Applicant

Mr Owain Samuel Owen

**Cais amlinellol ar gyfer codi annedd sydd yn cynnwys manylion llawn am yr fynedfa a gosod paced trin carthffosiaeth ynghyd a chreu estyniad i'r fynwent presennol ar dir gyferbyn a /
Outline application for the erection of a dwelling with full details of the vehicular access and the installation of a package treatment plant together with the extension of the existing cemetery on land opposite**

Plas Newydd, Llanddeusant



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (OWH)

Recommendation:

Refuse

Reason for Reporting to Committee:

The application has been call-in by Cllr Llinos Medi for a Committee decision.

1. Proposal and Site

The application is in outline form for the erection of a dwelling with all matters reserved apart from access to the site. As part of the application the applicant offers land to be used for the extension of the adjoin cemetery.

The site lies on the Northern side of Llanddeusant village, to the North of the church and its cemetery. The site comprises a corner plot of a large agricultural field which is within the applicants' family ownership.

2. Key Issue(s)

Compliance with Policy 50 of the Ynys Môn Local Plan, and landscape and visual impact.

3. Main Policies

Ynys Môn Local Plan

Policy 1 – General Design

Policy 31 – Landscape

Policy 42 – Design

Policy 48 – Housing Development Criteria

Policy 50 – Listed Settlement

Gwynedd Structure Plan

Policy A2 – Housing

Policy A3 – Housing

Policy D4 – Location, Siting and Design

Stopped Unitary Development Plan

Policy GP1 – Development Control Guidance

Policy GP2 – Design

Policy HP4 – Villages

Policy EN1 – Landscape Character

Policy SG4 – Foul Sewage Disposal

Anglesey and Gwynedd Joint Local Development Plan

Policy TAI 18 – Housing in Clusters

Policy PS15 – Settlement Strategy

Planning Policy Wales – 9th Edition, 2016

Technical Advice Note 12 – Design

Supplementary Planning Guidance – Design Guide for the Urban and Rural Environment

Circular 10/99

4. Response to Consultation and Publicity

Local Member (Cllr Llinos Medi) – Call in

Local Member (John Griffith) – No response to date

Local Member (Kenneth Hughes) – No response to date

Community Council – No response to date

Highways – Recommended conditional approval

Drainage – Should connect to Welsh Water Mains

Welsh Water – Standard comments

GAPS – No comments

Response to publicity – the application has been publicised by personal notification and site notice with an expiry date for receipt of representations of 15/02/2017. At the time of writing, no letters of representations had been received.

5. Relevant Planning History

None

6. Main Planning Considerations

Principle of the Development: Llanddeusant is defined as a Listed Settlement under Policy 50 of the Ynys Môn Local Plan and as a village under Policy HP4 of the stopped Unitary Development Plan. The proposed plot is located outside the defined UDP boundary.

Llanddeusant is noted as a cluster identified on inset map 137 in the Deposit Joint Local Development Plan and under Policy TAI18 which supports new affordable housing proposals on infill sites or sites immediately adjoining the cluster, subject to criteria.

The Council has published a Matters Arising Changes Note which includes certain changes to Policy TAI18 and the removal of certain clusters, including Llanddeusant, from those identified under Policy as well as removing a limit on numbers during the plan period. This will be subject to further public consultation and examination before the Plan is adopted. Although material, given the changes proposed and further public consultation, little weight can be placed on Policy TAI18 at this juncture.

Notwithstanding the above, single plot applications within or on the edge of a settlement can be considered acceptable under Policy 50 of the Ynys Môn Local Plan. However the application currently under consideration does not comply with Policy 50 by virtue of the fact that it would extend the built form further into the countryside thus creating an undesirable intrusion into the landscape which would harm the character and amenities of the locality.

The proposed plot is located in an open agricultural field and it physically and visually separated from the existing built form by the cemetery and its boundary which is made up of mature trees and walling.

The application site is separated from the adjacent properties by a row of trees. These represent a strong physical boundary and serve to provide a distinctive break between the built-up area of the village and the agricultural field beyond. This boundary feature corresponds with the development boundary for Llanddeusant, as defined in the UDP.

The importance of this physical boundary, coupled with the open nature of the agricultural field beyond, leads one to believe that the application site has a greater affinity with the agricultural field

than the existing built form of the village. This development site would disrupt the general open and unspoilt character of the field and would therefore represent an undesirable intrusion into the wider landscape. Furthermore, the fact that the application site represent a corner of a field, with no physical boundary to mark the end of the settlement, means there would be an inevitable increase in pressure for the whole of the field to be realised for development – as seen under planning reference 47C154.

It is noted that there are properties on the opposite side of the road – these however lies within the settlement boundary and in any event, do not materially affect the character of the field within which the proposal would be sited.

Whilst Policy 50 of the Ynys Môn Local Plan allows for infill development within or on the edge of settlements, it is considered that the residential development on this site would result in the loss of an open rural field. This field contributes significantly to the open character of the locality. The erection of a dwelling on this site could possibly result in future development within the field as clearly shown in the other application submitted.

Non-compliance with Policy 50 (together with non-compliance with Policy HP4 of the Stopped UDP) renders this proposal an application for a new dwelling in a countryside location for which no long term need is known to exist to support a rural enterprise.

Other Matters- the applicant offers land to be used to extend the existing cemetery. This is not essential as part of the application and does not carry material weight in the recommendation made.

7. Conclusion

The proposal does not constitute development which can reasonably be described as being within or adjoining the existing developed part of the settlement. The test for 'adjoining the existing developed part of the settlement' is more complex than merely sharing a contiguous boundary with an existing dwelling on the opposite side. The proposal is physically and visually removed from the settlement and would constitute and undesirable new dwelling in a countryside location.

8. Recommendation

Refuse

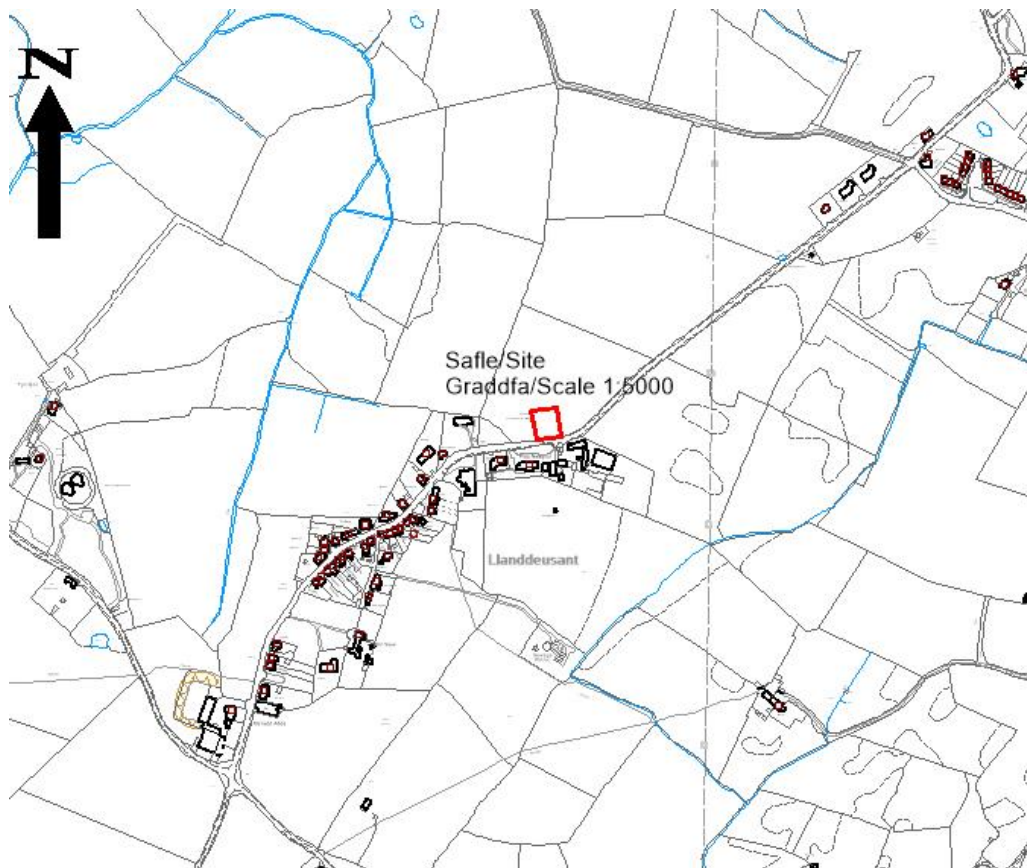
(01) The Local Planning Authority does not consider that the proposed development is within or forms a reasonable minor extension to the existing developed part of the settlement of Llanddeusant which is included as a Listed Settlement under Policy 50 of the Ynys Môn Local Plan. The proposal in this form would prejudice the implementation of Policy 50 of the Ynys Môn Local Plan by creating a set of circumstances which would make it difficult to resist further development on this field would could purport to be a logical extension of the settlement. The proposal is physically and visually removed from the settlement and would amount to the erection of a new dwelling in the countryside. The proposal is therefore contrary to Policies A2, A3 and D4 of the Gwynedd Structure Plan, Policies a, 31, 42, 48 and 50 of the Ynys Môn Local Plan, Policies GP1, GP2, EN1 and HP4 of the stopped Unitary Development Plan and the provision of Planning Policy Wales (9th Edition, 2016)

Rhif y Cais: **47C154** Application Number

Ymgeisydd Applicant

Miss Llio Samiwel Owen

Cais amlinellol ar gyfer codi annedd sydd yn cynnwys manylion llawn am yr fynedfa newydd ynghyd a gosod paced trin carthffosiaeth ar dir gyferbyn a / Outline application for the erection of a dwelling together with full details of the new vehicular access together with the installation of a package treatment plant on land opposite

Plas Newydd, Llanddeusant

Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (OWH)

Recommendation:

Refuse

Reason for Reporting to Committee:

The application has been call-in by Cllr Llinos Medi for a Committee decision.

1. Proposal and Site

The application is in outline form for the erection of a dwelling with all matters reserved apart from access to the site.

The site lies on the northern side of Llanddeusant village, to the north of the church and its cemetery. The site comprises a corner plot of a large agricultural field which is within the applicants' family ownership.

2. Key Issue(s)

Compliance with Policy 50 of the Ynys Môn Local Plan and landscape and visual impact.

3. Main Policies

Ynys Môn Local Plan

Policy 1 – General Design

Policy 31 – Landscape

Policy 42 – Design

Policy 48 – Housing Development Criteria

Policy 50 – Listed Settlement

Gwynedd Structure Plan

Policy A2 – Housing

Policy A3 – Housing

Policy D4 – Location, Siting and Design

Stopped Unitary Development Plan

Policy GP1 – Development Control Guidance

Policy GP2 – Design

Policy HP4 – Villages

Policy EN1 – Landscape Character

Policy SG4 – Foul Sewage Disposal

Anglesey and Gwynedd Joint Local Development Plan

Policy TAI 18 – Housing in Clusters

Policy PS15 – Settlement Strategy

Planning Policy Wales – 9th Edition, 2016

Technical Advice Note 12 – Design

Supplementary Planning Guidance – Design Guide for the Urban and Rural Environment

Circular 10/99

4. Response to Consultation and Publicity

Local Member (Cllr Llinos Medi) – Call in

Local Member (John Griffith) – No response to date

Local Member (Kenneth Hughes) – No response to date

Community Council – No response to date

Highways – Recommended conditional approval

Drainage – Should connect to Welsh Water Mains

Welsh Water – Standard comments

Response to publicity – the application has been publicised by personal notification and site notice with an expiry date for receipt of representations of 15/02/2017. At the time of writing, no letters of representations had been received.

5. Relevant Planning History

None

6. Main Planning Considerations

Principle of the Development: Llanddeusant is identified as a Listed Settlement under Policy 50 of the Ynys Môn Local Plan and as a village under Policy HP4 of the stopped Unitary Development Plan. The site is located outside the UDP boundary.

Llanddeusant is noted as a cluster identified on inset map 137 in the Deposit Joint Local Development Plan and under Policy TAI18 which supports new affordable housing proposals on infill sites or sites immediately adjoining the cluster, subject to criteria.

The Council has published Matters Arising Changes Notes which includes changes to Policy TAI18 and the removal of certain clusters, including Llanddeusant, from those identified under Policy as well as removing a limit on numbers during the plan period. This will be subject to further public consultation and examination before the Plan is adopted. Although material, given the changes proposed and further public consultation, little weight can be placed on Policy TAI18 at this juncture.

Notwithstanding the above, single plot applications within or on the edge of a settlement can be considered acceptable under Policy 50 of the Ynys Môn Local Plan. However the application currently under consideration does not comply with Policy 50 by virtue of the fact that it would extend the built form further into the countryside thus creating an undesirable intrusion into the landscape which would harm the character and amenities of the locality.

The cemetery which currently defines the edge of the village is separated from the proposed plot by a strong physical and visual boundary made up of trees and stone walling. These create a firm edge to the village, separating it from the agricultural field into which it is proposed to place the plot. The plot as proposed in this application is further removed from the edge of the village by intervening application (being considered concurrently by this Committee under reference 47C153). These trees represent a strong physical boundary and serve to provide a distinctive break between the built-up area of the village and the agricultural field beyond. This boundary feature correspond with the development boundary for Llanddeusant, as defined in the UDP.

This development site would disrupt the general open and unspoilt character of the field and would therefore represent an undesirable intrusion into the wider landscape.

It is noted that there are properties on the opposite side of the road – these however lie within the settlement boundary and in any event, do not materially affect the character of the field within which the proposal would be sited.

Whilst Policy 50 of the Ynys Môn Local Plan allows for infill development within on the edge of settlements, it is considered that the residential development on this site would result in the loss of an open rural field. This field contributes significantly to the open character of the locality. The erection of a dwelling on this site could possibly result in future development within the field as clearly shown in the other application submitted. Approval of this application in isolation would lead a dwelling isolated from the remainder of the village. Approving this and the interviewing plot would lead to unacceptable erosion of the land edge of the settlement.

Non-compliance with Policy 50 (together with non-compliance with Policy HP4 of the Stopped UDP) renders this proposal an application for a new dwelling in a countryside location for which no long term need is known to exist to support a rural enterprise.

7. Conclusion

The proposal does not constitute development which can reasonably be described as being within or adjoining the existing developed part of the settlement. The test for 'adjoining the existing developed part of the settlement' is more complex than merely sharing a contiguous boundary with an existing dwelling on the opposite side. The proposal is physically and visually removed from the settlement and would constitute an undesirable new dwelling in a countryside location.

8. Recommendation

Refuse

(01) The Local Planning Authority does not consider that the proposed development is within or forms a reasonable minor extension to the existing developed part of the settlement of Llanddeusant which is included as a Listed Settlement under Policy 50 of the Ynys Môn Local Plan. The proposal in this form would prejudice the implementation of Policy 50 of the Ynys Môn Local Plan by creating a set of circumstances which would make it difficult to resist further development on this field would could purport to be a logical extension of the settlement. The proposal is physically and visually removed from the settlement and would amount to the erection of a new dwelling in the countryside. The proposal is therefore contrary to Policies A2, A3 and D4 of the Gwynedd Structure Plan, Policies a, 31, 42, 48 and 50 of the Ynys Môn Local Plan, Policies GP1, GP2, EN1 and HP4 of the stopped Unitary Development Plan and the provision of Planning Policy Wales (9th Edition, 2016)

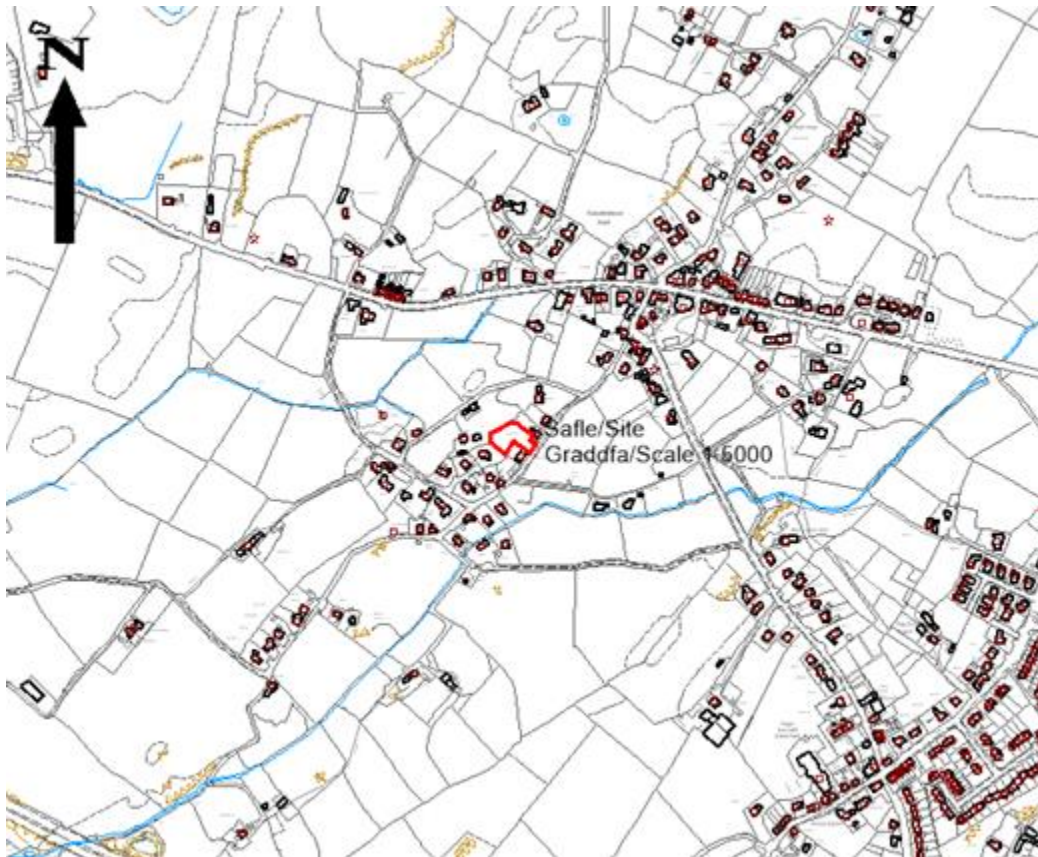
Rhif y Cais: **48C202** Application Number

Ymgeisydd Applicant

Mr & Mrs Davies

Cais llawn ar gyfer codi annedd ynghyd a creu mynedfa i gerbydau ar dir yn / Full application for the erection of a dwelling together with the construction of a vehicular access on land at

Penrallt Bach, Gwalchmai



Planning Committee: 01/03/2017

Report of Head of Regulation and Economic Development Service (SCR)

Recommendation:

Refuse

Reason for Reporting to Committee:

At the request of the Local Member.

1. Proposal and Site

The proposal involves the erection of a detached dormer bungalow together with alterations to the existing vehicular access.

The site lies in an elevated position on a parcel of land that lies to the rear of Penrallt Bach and Tyn Lon Bach, Gwalchmai. Access to the site is afforded off the Class III highway and the proposed vehicular access to serve the dwelling will run along the side and rear of Penrallt Bach and Tyn Lon Bach.

2. Key Issue(s)

The applications main issues are whether the proposal complies with current policies, effect of the proposal on the surrounding properties and surrounding area and whether the proposal will affect highway safety.

3. Main Policies

Gwynedd Structure Plan

D4 – Location, Siting and Design

D29 – Design

Ynys Môn Local Plan

Policy 1 – General Policy

Policy 31 - Landscape

Policy 42 – Design

Policy 48 – Housing Development Criteria

Policy 49 – Defined Settlement

Stopped Unitary Development Plan

Policy GP1 – Development Control Guidance

Policy GP2 – Design

Policy HP4 – Villages

Policy EN1 – Landscape Character

Joint Local Development Plan

Policy TAI16 – Housing in Service Villages

Strategic Policy PS15 – Settlement Strategy

Planning Policy Wales, 2016, 9th Edition

Supplementary Planning Guidance – Design Guide for the Urban and Rural Environment

Technical Advice Note 12 – Design

4. Response to Consultation and Publicity

Community Council – No response to date

Local Member Cllr D Rees – No response to date

Local Member Cllr N Roberts – No response to date

Local Member Cllr B Parry – Call-in due to use of land

Highway Authority – Requested further information

Drainage Section – No response to date

Welsh Water – No response to date

Natural Resource Wales – No objection

Response from members of the public

The proposal was advertised through the posting of a notice on site together with the distribution of personal letters of notification to the occupiers of neighbouring properties. The latest date for the receipt of representations is the 3rd March, 2017 and at the time of writing this report no letters of representation had been received at the department.

5. Relevant Planning History

None

6. Main Planning Considerations

Policy Context – Gwalchmai is a Defined Settlement under Policy 49 of the Ynys Môn Local Plan and as a Village under Policy HP4 of the stopped Unitary Development Plan.

Policy 49 of the Ynys Mon Local Plan states that planning permission for new houses will be granted on sites allocated for housing and on other sites within the development boundary provided that the proposals conform to other policies.

Gwalchmai is identified as a Service Village in the Joint Local Development Plan. Policy TAI16 states that housing to meet the Plan's strategy will be delivered through housing allocations identified and suitable unallocated sites within the development boundary based upon the indicative provision in the table. As stated above the site is also included within the development boundary as defined under Policy 49 of the Ynys Mon Local Plan and Policy HP4 of the stopped Unitary Development Plan.

Effect on surrounding properties – Tandem development, consisting of one house immediately behind another and sharing the same access is generally unsatisfactory because of the difficulties of access to the house at the back and the disturbance and lack of privacy suffered by the house in front.

Access to the proposed dwelling will be located between Tyn Lon Bach and Penrallt Bach and the access will pass the side of the properties and would therefore result in a 'tandem development'. The traffic generated by the occupiers of the proposed dwelling together with the visitors to the property will have an impact on the living conditions of the existing properties as their garden area and the rear of their properties will be overlooked by the passing vehicular and pedestrian traffic to the dwelling.

The boundary of the side/front garden area of the proposed dwelling runs along the gable of the neighbouring property known as Tyn Lon Bach and the parking area for the proposed dwelling would be located 9 metres away from the existing window at the rear of Tyn Lon Bach. Three windows are also located along the side of the extended part of Tyn Lon Bach and one of these windows will only be 7 metres away from the proposed parking area. These windows are located only 2 metres away from the boundary of the site and overlooking would occur to these openings

from the ground floor lounge window and first floor bedroom window and from the garden and parking area. Any additional screening erected along this boundary would result in the loss of light to these windows due to the difference in levels between the application site and Tyn Lon Bach.

As stated above there are numerous windows in the rear of the existing properties and the erection of a dwelling in this location will have a detrimental impact on the amenities currently enjoyed by the occupants of the surrounding properties.

Effect on locality- The application site is situated in an elevated position to that of the neighbouring property. The general pattern of development in the locality is single storey cottages fronting the highway.

The proposal involves the erection of a 6.4 metre high dormer dwelling in the rear of the field. Due to the siting and scale of the proposed dwelling the proposal will result in an insensitive infilling to the detriment of the locality as it would result in a dominant feature in the locality and would therefore be contrary to Policy 1, 31, 42 and 49 of the Ynys Mon Local Plan, Policy GP1, GP2, EN1 and HP4 of the stopped Unitary Development Plan and Policy D4 of the Gwynedd Structure Plan.

Highway Safety – At the time of writing this report the Highway Authority have confirmed they have no objection in principle to the proposal subject to parking provision for the existing dwelling known as Penrallt Bach to be located within the site. At the time of writing this report we are still awaiting receipt of the additional information.

7. Conclusion

The erection of a dwelling of this scale and design and in this location will result in an insensitive infilling to the detriment of the neighbouring properties and surrounding area.

8. Recommendation

Refuse

(01) The local planning authority consider that the erection of a dwelling of this scale and in this location will detrimentally affect the amenities of the neighbouring properties and would result in an insensitive infilling to the detriment of the character and amenities of the area. The proposal is therefore contrary to Policy 1, 31, 42 and 49 of the Ynys Mon Local Plan, Policy GP1, GP2, EN1 and HP4 of the stopped Unitary Development Plan, Policy D4 of the Gwynedd Structure Plan and the advice contained within Supplementary Planning Guidance – Design Guide for the Urban and Rural Environment and Plannign Policy Wales (9th Edition).

ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE	PLANNING AND ORDERS
DATE	1 st March, 2017
TITLE OF REPORT	An application to register land as a Town or Village Green (TVG) at Newry Beach and Greens, Holyhead (Application reference GTP/TVG01/2014)
PURPOSE OF REPORT	For the Council, acting as Registration Authority, to determine application reference GTP/TVG01/2014
REPORT BY	Head of Function (Council Business) and Monitoring Officer
ACTION	To determine the TVG application reference GTP/TVG01/2014

1 INTRODUCTION

- 1.1 The Isle of Anglesey County Council (the Council) is the Registration Authority for its area for the purposes of the Commons Act 2006 (the Act). The Registration Authority is responsible for determining applications to register land as new town or village green (TVG) under the Act. Under the Constitution, full Council has allocated the responsibility to determine TVG applications to the Planning and Orders Committee – paragraph 3.4.3.16.
- 1.2 In June 2014 the Registration Authority received an application (dated April 2014) on behalf of the Waterfront Action Group to register land as a TVG at Newry Beach and Greens, Holyhead. That application was registered and given reference GTP/TVG01/2014 (the Application) and then duly given the required statutory publicity. Observations and objections were received including objections from Stena Line Ports Limited (Stena) and Conygar Stena Line Limited (CSL). There followed a lengthy period when further submissions were made by the Applicant and Stena and CSL as principal objectors.
- 1.3 As the of law of TVG is specialised and complicated, officers of the Registration Authority took advice from Mr Jeremy Pike a barrister with expertise in the subject. On 31 March 2016 Mr Pike provided written advice to the Registration Authority on the Application, the objections made to it and the further submissions received. This advice was published in full by the Registration Authority on the Council’s website in May 2016 and the advice remains available online. Mr Pike advised, amongst other things, that the Registration Authority should not determine the Application until evidence and argument had been heard on certain matters as detailed in his advice. In accepting this advice, officers of the Registration Authority instructed Mr Pike to act as Inspector at a non-statutory public inquiry into the Application and then to prepare a report with a recommendation as to how the Registration Authority should determine the Application. The Registration Authority informed the principal parties accordingly.
- 1.4 A publicised pre-inquiry meeting was held on 30 June 2016 to which all principal parties were invited. Thereafter a public inquiry was held at Holyhead Town Hall between 3 and 7 October 2016 at which the Applicant and the principal Objectors were legally represented and at which both evidence was heard and arguments made on the Application. Mr Pike has now delivered his Report and this is attached in full. The Report has also been published on the Council’s website as part of the Agenda papers for this meeting. The Applicant, Stena and CSL (the latter two through their lawyers) received a copy of the Report on 15 February.

362194

- 1.5 The Report is substantial and comprehensive and deals at length with the evidence heard and the arguments made at the Inquiry and also the issues engaged by the Application. Mr Pike summarises his conclusions at page 72 and then makes a clear recommendation to the Registration Authority that the Application be rejected.
- 1.6 Please note that no Welsh language translation of the Inspector's Report will be prepared. This follows the practice publicised on the publication of Mr Pike's advice in May 2016. All the parties to this matter have chosen to use English, the Pre-Inquiry Meeting and the Inquiry were conducted through English (although translation facilities were available). The Report is the personal work of the Inspector and has been written in his language of choice. This is a complicated and technical area of law all of which exists in English and the Report quotes at length from English-only sources. The only person who can verify an accurate translation of the Report into Welsh is the Inspector and that cannot be done. Finally, of course, the Committee is sitting in a quasi-administrative capacity and the chosen language of the parties involved is English.

2 RECOMMENDATION

- 2.1 Having considered the comprehensive Report prepared by Mr Pike, Officers of the Registration authority recommend that Application reference GTP/TVG/01/2014 to register land at Newry Beach and Greens, Holyhead as town or village green should be rejected by the Committee acting on behalf of the Council as Registration Authority, and for the reasons stated by Mr Pike.

Appendix – Report dated 14 February 2016 of Mr Jeremy Pike, barrister, acting as Inspector at an Inquiry into an Application to register land at Newry Beach and Green, Holyhead as a Town or Village Green.

SECTION 15 OF THE COMMONS ACT 2006

ISLE OF ANGLESEY COUNTY COUNCIL

**APPLICATION TO REGISTER LAND AT
NEWRY BEACH AND GREEN, HOLYHEAD, ANGLESEY
AS A TOWN OR VILLAGE GREEN**

REPORT

to the Isle of Anglesey County Council

INDEX

INTRODUCTION	p.2
EVIDENCE	p.6
ISSUES	p.26
Issue (I)	p.27
Issue (II)	p.32
Issue (III)	p.49
Issue (IV)	p.63
OVERALL CONCLUSIONS AND RECOMMENDATION	P.72

SECTION 15 OF THE COMMONS ACT 2006

ISLE OF ANGLESEY COUNTY COUNCIL

**APPLICATION TO REGISTER LAND AT
NEWRY BEACH AND GREEN, HOLYHEAD, ANGLESEY
AS A TOWN OR VILLAGE GREEN**

REPORT

to the Isle of Anglesey County Council

INTRODUCTION

1. I am instructed to write a report and make a recommendation to the Isle of Anglesey County Council (“the Council”), as to whether the Council should accept or reject an application to register land at Newry Beach and Green, Holyhead (“the Land”) as a town or village green, under section 15 of the Commons Act 2006. In a written Advice dated 31 March 2016 (“the 2016 Advice”) I advised the Council as to whether the Application made a prima facie case for registration of the Land as a green.
2. An application was first made to the Council on 5 February 2014, by Mrs K E Balfour on behalf of the ‘Waterfront Action Group’ (“the Applicant”). In correspondence the Council pointed out to the Applicant that the application was not in order. Subsequently Mrs Balfour submitted a revised application form with certain matters corrected. The revised Application, dated 22 April 2014 and stamped as received by the Council on 6 June 2014, is hereafter referred to as “the Application”.
3. The Application was advertised by the Council in the usual way, and objections to the Application were received from Stena Line Ports Ltd (“Stena”) and Conygar Stena Line Ltd (“CSL”). Representations in relation to the Application were also received from the Association for Gaff Rig Sailing, Holyhead Maritime Museum, Ramblers Cymru (North Wales

Area), and Holyhead Town Council. Further representations were subsequently received from the Applicant, and from Stena and CSL. A schedule of the various documents and representations received by the Council before I provided the 2016 Advice is appended to that Advice.

4. In the 2016 Advice I advised the Council as to whether the Application made a prima facie case for registration. My advice was that it did not, but the Council decided that it would not determine the Application until a public inquiry had been held to consider evidence presented by the Applicant and the Objector. I was therefore instructed to hold a public inquiry, and provide a Report and a Recommendation to the Council in light of the evidence and arguments presented at the public inquiry.
5. I held a public inquiry between 3 and 7 October 2016, at Holyhead Town Hall, Newry Street, Holyhead. The Applicant was represented by Ms Constanze Bell, Counsel; the Objectors were represented by Mr Douglas Edwards, Queen's Counsel.
6. I am grateful to Ms Bell and Mr Edwards for their clear and helpful submissions.
7. The Land subject to the Application, which is shown on the plan at 'Exhibit C(ii)' included with the Application, comprises an area of beach in the north west of the town of Holyhead called Newry Beach, together with a promenade, and several grassed areas adjacent to the promenade. The approximate southern boundary of the land is formed by the boundaries of gardens of numerous residential properties on (in particular) Tan-y-Bryn Road and St David's Road. The Land is bounded on its western side by the Holyhead Marina Limited boatyard, and on its eastern side by the Holyhead boat yard. The northern boundary of the land is, according to the Application, the mean low tide mark.
8. The grassed areas within the Land are divided from each other by various public roads, including Beach Road and Prince of Wales Road. Those two roads are adopted highways. They have been excluded from the Land which is the subject of the Application.
9. The freehold reversion of the Land is owned by Stena. CSL has a 999 year lease of the Land, which began on 3 December 2007, but that lease is in turn subject to a further lease of the Land to the Council. The Council's lease, granted to the Council's predecessor in title by Stena's predecessor in title, is for a term of 99 years from 25 December 1926.

10. It is common ground that for the whole of the relevant qualifying period the entirety of the land which is the subject of the TVG application was in the possession of the Council pursuant to a lease of 26 September 1927, entered into between the Minister of Transport and Holyhead UDC, save in respect of the slipway located to the south-west of the Sailing Club, which is located within the claimed Land but is outside the leasehold interest of the Council (shown on the plan at page B121). It is also common ground that the Council is successor in title to the UDC, and that Stena Line Ports Limited is successor to the Minister of Transport.

11. The Application is made on the basis that section 15(2) of the Commons Act 2006 (“the 2006 Act”) applies.

12. Section 15 of the 2006 Act provides, so far as material:

“(1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2)..... applies.

(2) This subsection applies where –

(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and

(b) they continue to do so at the time of the application.”

13. Section 61(1) provides that in the 2006 Act:

“...“land” includes land covered by water”.

14. It is said by the Applicant that a significant number of inhabitants of the electoral ward of Porth y Felin (“the Locality”) have used the Land for lawful sports and pastimes for at least 20 years, as of right, and that such use was continuing on the date the Application was made. The relevant period is 20 years running back from the date of the Application, namely 5 February 1994 to 5 February 2014 (“the Relevant Period”).

15. The matters raised in the Objectors’ objections, and the Applicant’s initial responses to the objections, are summarised in the 2016 Advice, and I do not repeat them here.

16. There are four main issues which must be considered, in light of the evidence and submissions made by the parties. They are, in summary:

- (i) whether there was use of the Land for lawful sports and pastimes by a significant number of inhabitants of the Locality throughout the Relevant Period, and without any interruption to that use;
- (ii) whether use of the Land by local inhabitants was 'as of right' or not, in light of the fact that the Council made the Land available for public recreation and maintained it accordingly; and also in circumstances whereby there were certain signs situated on the Land, and whereby the Council gave permission for various public events to take place on the Land from time to time;
- (iii) the effect, if any, of Byelaws made by the First Objector affecting land in its ownership; and also the fact that the First Objector had granted a lease of the Land to the Council for the latter to make the Land available for public recreation; and
- (iv) whether the doctrine of 'statutory incompatibility' applied to some or all of the Land, meaning that some or all of the Land could not be registered as a town or village green.

EVIDENCE

The Applicant's Evidence

17. I have been provided with four bundles of evidence, containing some 125 evidence forms completed by residents of the Porth y Felin Locality. I have taken all of that evidence into account. I also heard oral evidence from 31 witnesses. Of those, all except five had lived within the Locality for all, or some, of the Relevant Period. Necessarily, I must give greater weight to the evidence of those witnesses who attended the public inquiry and could be asked questions about their evidence, than to the evidence which was in written form only. The evidence of those witnesses who attended the public inquiry is summarised below.

Terry Looker

(Statement App p2333)

18. Professor Looker lives within the Locality. He moved to his present address in 2009 and did not know the Land before that time. He and his wife were at the forefront of preparing the Application, for the Waterfront Action Group ("the WAG"), although neither were named on the original application form (which was later corrected and resubmitted to the Registration Authority).

19. He drafted the evidence form template which was used by many Application supporters and witnesses (including the evidence form he himself completed at App p2336). When giving evidence he raised an issue concerning the numbers of people who had completed evidence forms and who lived within the Locality: the Applicant considered the number of such people was 125 (and a shopkeeper whose shop was within the Locality but who did not live in the Locality), whereas the Objectors had the number at 116. This matter was later resolved by discussion between the parties, who agreed that the number was 125. Prof. Looker told me that approximately 7.5% of those on the electoral register within the electoral ward had completed evidence forms. Of those who were provided with the evidence forms, only 5 people did not complete and return them.

20. Professor Looker referred to a new Note he had written, at App p2332, which was an analysis of responses to the evidence forms in the Applicant's Bundle.

21. There was some debate as to question 22e of the evidence form, and the manner in which it had been phrased, and the potential for uncertainty or ambiguity in the answers which could be given. Ultimately I do not consider that anything in my recommendation to the Council on that matter.
22. Professor Looker accepted in cross examination that, as far as evidence form question 22 was concerned, one could not discern the number of users, where in the locality they came from, or whether those persons had filled out evidence forms themselves, or the frequency of their visits to the Land.
23. Professor Looker agreed that the sign/notice shown in the picture on Obj Vol B p689, at the top of the slipway at the north western edge of the Land, adjacent to the Sailing Club, had been in place since at least 2009. He agreed that there was a chain at the top of the slipway but he had never seen it fixed across the slipway to prevent access.
24. Concerning the fenced enclosure adjacent to the Yacht Club (photographs at Obj Vol A p149-151; photo map at p122), he agreed that the enclosure had been in place since at least 2009 and that there could not have been access by the public to that area once the enclosure was in place. As to the area to the north of the yacht club, surfaced with hardstanding, that had been used for car parking and storing dinghies since at least 2009, although Prof Looker said he had seen people in that area sitting in or on cars and watching sailing in the harbour.
25. Professor Looker agreed that since the Sunken Garden area on the Land had been renewed in 2011 the signs at the perimeter of that area (Obj Vol B p692) were likely to have been in place. He agreed that the area for car parking – surfaced with concrete cubes – at the west end of the Land by the access road to the Yacht Club, had been used for parking since at least 2009 and that recreational use of that area would have been limited.
26. Professor Looker accepted on behalf of the Applicant that for periods of time during the Relevant Period the Land had been used for a circus, fairs and festivals, and that permission was sought for those events from the Council, and permission was given. He did not accept, however, that the Council had the power to grant permission or require that it be requested. The Circus was an annual event, sited on Green 3, and people would have to pay to enter the Big Top. The Fair was shown in photographs at bundle Vol A p 169 and

onwards. Fencing could be seen in the photographs but Professor Looker considered that the fencing was to prevent people from straying onto the public road. The perimeter of the fair, sited on Green 2, was not fenced in its entirety. People would go in and then pay to enjoy particular rides. The Festival took place annually and was sited mainly on Greens 2 and 3

27. I found Professor Looker to be a generally fair, and truthful, witness.

Olga Looker

(Statement App p2303)

28. Dr Looker is married to Prof Looker. She explained to me the survey exercise which was described at Bundle p2312a, and undertaken by Dr Looker and her teenage step-daughter.

29. Dr Looker referred to the groyne on the beach, their state of repair, and said they appeared to have been neglected and not maintained as per the terms of the Council's lease. She expressed the view that the state of the beach was a safety hazard. From what I have seen of the foreshore and beach following several visits, I was not entirely sure why Dr Looker was of that view.

30. She gave evidence concerning the circus, and the festival, which was consistent with Prof Looker's evidence. She said that one had to pay to enter the circus, and also a couple of the events in the festival such as evening concerts. The festival and fun fair were very well attended, in her recollection. By reference to the plan at Obj Bundle A p 14 Dr Looker told me that the circus would be held on 'green no.1', whereas the fair would be located on 'green no.2'.

31. Dr Looker accepted in cross examination that she was not aware of any action against the Council by the Objectors or their predecessors concerning breach of the lease and the maintenance (or lack of) of groyne on the beach. WAG had not made any complaint to the Council about the state of the beach.

32. I found Dr Looker to be a fair, and truthful, witness.

Beryl Jackson

(Statement App p2177)

33. Mrs Jackson lived within the Locality. She said that people who lived locally and went on to the Land tended to know the other people that they saw on the Land, but also that people from Holyhead but outside the Locality would go on to the Land.

34. She said that in a typical month in 2014 she would be on the land daily, and would see up to 10 people wandering on the land, approximately half of which would be known to her as residents of the Locality. Her daughter had used the Land when living with her in approximately 1997-1999.

35. In cross examination she accepted that of those people she saw on the Land daily she knew some of their names but could not say which had completed evidence forms. Ms Judith Pritchard, who also gave evidence, was her next door neighbour. She also remembered seeing a gentleman called Howard on the Land; he lived in Newry Street in Holyhead, outside the Locality.

36. I found her to be a fair, and truthful, witness

Kate (Kathryn) Balfour

(Statement App p2081)

37. Mrs Balfour was the Treasurer of WAG and had submitted the Application when first made to the Council. She said she had used the Land extensively over the years. Her son had lived with her until 2000, and then again from 2012-2016. He also used the Land at those times. She considered that the majority of her neighbours used the Land, and she knew this because she saw them walking past her house.

38. In cross-examination she was asked about her answer to question 22e in the evidence form, whereby she had written that she "did not know" whether other people she had seen recreating on the Land were residents of the Locality; this conflicted with an answer she had given in evidence in chief, whereby she said that she had seen people recreating on the Land whom she knew to be residents of the Locality.

39. In response to these questions she maintained that she had not lied and had not meant to mislead; although she accepted she had made an error in her answers on that issue, and explained that the error lay in what she had written in the evidence form. She could not explain why she had written what she did in the evidence form.

40. I found her to be a fair witness. I did not consider that Mrs Balfour had failed to tell me the truth, although I was perplexed by the difference between her answer in evidence in chief, and the answer she had originally given to question 22e in the evidence form.

David E Jones

(Statement App p2195)

41. Mr Jones was a resident of the locality, but only since 2006. He had used the harbour since childhood; he had sailed, kept a boat, and swum in the water. The 'harbour', as he regarded it, was between the breakwater to the west and the long jetty to the east – he referred to the photograph at Obj Vol A p140. He did not consider that Newry Beach was part of the operational harbour. He had never regarded the greens (within the Land) as part of the harbour.

42. He said he had used the Land with his immediate family, being his wife Marion, and elderly mother Gwinifer Jones of Gwelfor Avenue. When on the Land he had seen Kate Balfour and her children Jamie and Alex. He also gave other names of people he had seen on the Land; some were also giving evidence at the public inquiry, and others were not. As far as the latter category is concerned I note that Mr Jones said he had seen them but in the absence of direct evidence from those people I can give his evidence relatively little weight in relation to that matter.

43. Mr Jones was a member of the Sailing Club. In his recollection the fenced 'compound' adjacent to the Sailing Club had existed for approximately 10 years. The area had previously been used to store boats that were for sale. The fencing had been erected to deter theft of small dinghies and kayaks; it was usually locked. The appearance of that area now was generally the same as it had been for the previous 10 years; before the compound was fenced, the boats were more spread out, over a wider area. He said that members of the Sailing Club had erected the fence. It had been a controversial issue at the time. He did not

know whether the Council's permission had been sought. The Sailing Club kept keys for the compound. He did not know if people had to pay to keep boats there.

44. I found Mr Jones to be a fair and truthful witness.

Cadi Evanson

(Statement App p2139)

45. Mrs Evanson had lived in the Locality for 30 years, with her late husband and 2 children. Her children had moved out in 2008 and 2011 respectively. Her daughter Sara lives in the Locality at Upper Part Street. Ms Evanson goes to the Land with her daughter and granddaughter.

46. Other members of her family – her nephews Arthur Jones and Stephen Jones and their families – live within the Locality at Porth y Felin road and use the Land. Her niece also lives with her family within the Locality on Queen's Park, and they use the Land. She had seen these members of her family walking on the Land but she could not say how often.

47. Mrs Evanson referred by name to one or two other people, who she had seen using the Land.

48. I found Mrs Evanson to be a fair and truthful witness.

Alexander Balfour

(Statement App p2045)

49. Mr Balfour, who lives within the Locality, is the husband of Mrs Katherine Balfour. He clarified his evidence form, saying that he had used the Land on average 6 times per week rather than every day.

50. He had seen his immediate family and neighbours on the Land; he referred to Mr and Mrs Jones, and Mr and Mrs Stewart. He would usually see Beryl Jackson when he was on the Land. He gained access to the Land over the cinder path which runs along the southern boundary of the Land. His usual route for walking ran over the Land for a relatively short stretch; he would then go off to the west on various paths or tracks.

51. I found Mr Balfour to be a fair and truthful witness.

Judy Williams

(Statement App p2597)

52. Mrs Williams did not live in the Locality but her shop was within it. She had the shop since 1999. She would go on to the Land to walk and meet other people. She referred to her children and to step children using the Land, but they had not been residents of the locality. She said she had seen lots of people passing her shop travelling in the general direction of the Land.

53. I found Mrs Williams to be a fair and truthful witness.

Sian Tracey

(Statement App p2559)

54. Mrs Tracey (who had not completed an evidence form) had lived at three different addresses within the Locality, for the whole of the Relevant Period. She lived with her husband, 2 children, and 3 foster children; the children had lived with her for most of the Relevant Period. She described using the Land for rockpooling, crabbing, swimming, kayaking, jumping off the pier, picnicking and football. She would walk on the Land twice a day, every day, and would see lots of familiar faces there. She recited a long list of people who were said to live within the Locality, and who used the Land, but they were not people who were giving evidence at the public inquiry.

55. I found Mrs Tracey to be a fair and truthful witness.

Judith Pritchard

(Statement App p2445)

56. Mrs Pritchard had lived within the Locality for the whole of the Relevant Period. Her son and daughter had moved away from the family home in 2000, but her daughter had moved back in to the Locality, with her partner and 2 children, in 2008. They used the beach regularly.

57. Mrs Pritchard used the Land every day to walk her dogs; she had always had dogs. She would now take her grandchildren (aged 4 and 5 years) to the Land weekly, or more often if possible. She would see Beryl Jackson on the Land, and also referred to 4 or 5 other people who were not giving evidence at the public inquiry. She knew that her next door neighbours used the Land, and she saw other people from the Locality on the Land but did not know their names. She also saw people on the Land who had come by car from further away.

58. I found Mrs Pritchard to be a fair and truthful witness.

Paul Richards

(Statement App p2481)

59. Mr Richards had lived at Seaborne Road, with his wife Doreen, within the Locality for 5 years. Otherwise he had not lived in the Locality within the Relevant Period. He did not give any particular evidence of use of the Land in the previous 5 years, although he did talk about his use of and his knowledge of the Land from the 1950s to the 1970s.

60. I found Mr Richards to be a fair and truthful witness.

Mrs Joyce Stalman

(Statement App p2537)

61. Mrs Stalman (who had not completed an evidence form) lived outside the Locality. She had particular knowledge of the Holyhead Festival, which took place on the Land, because she had been involved in its organisation. She told me that 95% of the Festival was free to enter. For the last 15 years the festival had taken place over 3 days but before that it lasted 4 days. There were various events within the festival; there would be concerts in a marquee for two nights, for which an admission fee was charged. Mrs Stalman confirmed that the 2 marquees and other structures (tents and so forth) for the festival would be set up on a Thursday, would be used from Friday to Sunday, and then taken down on the Monday. The Festival always obtained the Council's permission to use the Land.

62. Mrs Stalman also told me about the funfair. It would arrive and be present for a whole week, coinciding with the Festival weekend.

63.I found Mrs Stalman to be a fair and truthful witness.

John Parry

(Statement App p2427)

64.Mr Parry, a resident of the Locality, gave relatively brief evidence. He said that he had been on the Land between 1994 and 2014 – he did not explain how often – and had seen other people from the Locality on the Land. He had a dog, which he would walk on the Land, until approximately 2006.

65.I found Mr Parry to be a fair and truthful witness.

Colin Chessell

(Statement App p2119)

66.Mr Chessell (who had not completed an evidence form) had lived in Station Street for 28 years, outside the Locality.

67.He had been closely involved in the organisation of the Festival, having held the office of Treasurer, and various other roles. His evidence as to the nature of the Festival was consistent with that of Mrs Stalman.

68.I found Mr Chessell to be a fair and truthful witness.

Clive Alder

(Statement App p2043)

69.Reverend Alder (who had not completed an evidence form) lived on Newry Street, within the Locality. He had lived there for approximately 9 years. As to his own use of the Land, he was a runner and his weekly route (on a Saturday morning) would include the Promenade within the Land.

70. He said that he was aware of people passing his house, and church, on the way to the Land. He was also aware of local schoolchildren using the Land, he said, but could not be precise as to who they were.

71. I found Rev. Alder to be a fair and truthful witness.

Carys Griffith

(Statement App p2159)

72. Mrs Griffith had lived on Min y Mor Road within the Locality for 30 years. Her children had moved out of that address by 1994. Her husband lives with her, and now her granddaughter also lives there.

73. She had seen other residents of the Porth y Felin area on the Land, and she mentioned three by name. She would walk her dog at least once a day and she saw other dog walkers.

74. I found Mrs Griffith to be a fair and truthful witness.

Janet Roberts

75. Mrs Roberts (who had not completed an evidence form) had not lived within the Locality during the Relevant Period.

76. Mrs Roberts recalled the state of the Land before the Relevant Period. There had been a swimming/paddling pool near to where the kayaking/canoeing kiosk is now situated. There had been a second sunken garden but it was filled in during the 1960s. Along the promenade nearest to the sea there had been white posts with coloured lights.

77. I found Mrs Roberts to be a fair and truthful witness.

William Jones

(Statement App p2267)

78. Mr Jones had lived in the Locality for nearly 50 years. He and his wife Linda, and their son, would go on to the land during the Relevant Period. Their use would be weekly, but in more recent years their frequency of use has declined.

79. He recalled that the circus would be sited on greens 1&2.

80. I found Mr Jones to be a fair and truthful witness.

James Balfour

(Statement App p2063)

81. Mr Balfour (who had not completed an evidence form) is the son of Kathryn and Alexander Balfour. He had lived in the Locality until 1997 and then again after 2010. He and his friend Liza Williams would use the Land regularly before 1997, for walking, playing and sailing. After 2010 they would also use it to walk, with Ms Williams' children. He referred to other friends whom he had seen on the Land regularly before 1997, although none of them gave evidence at the public inquiry.

82. I found Mr Balfour to be a fair and truthful witness.

Karl Jones

(Statement App p2213)

83. Mr Jones (who had not completed an evidence form) had lived at 81 Newry Street, within the Locality, from time to time during the Relevant Period. That was his parents' address and he would come home to stay when he was a student, and also when he was living or working abroad, or elsewhere in the UK.

84. Other members of his extended family lived within the Locality and he remembered family and community activities and gatherings on the Land.

85. I found Mr Jones to be a fair and truthful witness.

Craig Stalman

(Statement App p2519)

86. Mr Stalman had lived in the Locality for the last 7 years. He ran every day if possible, and his routes generally included parts of the Land. He remembered family events on the Land such as games of rounders. Other people from the Locality also took part on these occasions.

87. I found Mr Stalman to be a fair and truthful witness.

Edwin Owens

(Statement App p2385)

88. Mr Owens lived on Seiriol's Close, within the Locality, for 18 of the 20 years of the Relevant Period. He would use the Land approximately twice a week. His children had lived in the Locality for approximately 7 years, and they themselves had children. He would go onto the Land with his grandchildren a couple of times a week, in the school holidays. As a young man he had worked for the local authority, and recalled doing work to maintain the groynes. He considered that they had deteriorated in the intervening years.

89. Mr Owens was a keen local historian and provided me with some very interesting historical information as to the formation of the breakwater at the western end of the harbour, as well as the Land itself.

90. I found Mr Owens to be a fair and truthful witness.

Nesta Owens

(Statement App p2407)

91. Mrs Owens is married to Edwin Owens. They had lived in the Locality since 1998. She recalled seeing her friend Mrs Nichols of Lower Park Street (within the Locality) on the Land some three times a week. They would walk on the Promenade and have a coffee and a chat.

92. I found Mrs Owens to be a fair and truthful witness.

Kay Jones

(Statement App p2231)

93. Ms Jones is Karl Jones' mother. She had lived at 21 Newry Street within the Locality for 26 years. During the Relevant Period she would go on to the Land as often as she could; daily, or at least several times a week. She would see families and friends from the Porth y Felin area when she was on the Land.

94. I found Mrs Jones to be a fair and truthful witness.

Jan Rutkowski

(Statement App p2499)

95. Mr Rutkowski had lived within the Locality, on Beach Road, since 1952. He had always kept dogs and walked them frequently, sometimes 4 days a week depending on work. During the Relevant Period he would be walking on the Land on most days. He identified 5 other people that he would see on the Land; none of them were giving evidence at the public inquiry.

96. I found Mr Rutkowski to be a fair and truthful witness.

James Lacey

(Statement App p2285)

97. He and his wife Ann used to go on to the Land on average once or twice a week. He has 4 children and the youngest left home in 1997, and would have used the Land before 1997. He referred to 7 or 8 other people from the Porth y Felin Locality that he would see on the Land, but again they were not people who gave evidence at the public inquiry.

98. I found Mr Lacey to be a fair and truthful witness.

Marilyn Walsh

(Statement App p2577)

99. Mrs Walsh had lived with her husband within the Locality, on Porthyfelin Road, for 28 years. Her mother and sister had also lived within the Locality although her sister had now moved

away. Her daughter Sarah Carrington lives within the locality with her husband and 2 teenage children.

100. Mrs Walsh would mostly go to the Land on her own. During the Relevant Period she would go regularly, sometimes with her daughter. They would walk on the Land on a Saturday or Sunday afternoon. She would also take her grandchildren to the beach at summer weekends when they were younger.

101. I found Mrs Walsh to be a fair and truthful witness.

Michael Milligan

102. Mr Milligan (who had not completed an evidence form) lives in Trearddur Bay. He formerly lived in Holyhead, although not within the Locality. He had been educated in Holyhead in the late 1940s and early 1950s and knew the Land well. His family went on to the Land and there was a family business adjacent to the Land. He described the use that he and other children and families would make of the various features on and near the Land, such as the promenade, the Mackenzie Pier and so on. He also provided me with some further historical information about this part of Holyhead and some of the more notable buildings which could be seen in the area.

103. Mr Milligan was a frequent visitor to the Porth y Felin Locality in 2007 because he had an interest in a residential property on Tan y Bryn Road.

104. I found Mr Milligan to be a fair and truthful witness.

Shaun Redmond

(Statement App p2461)

105. Mr Redmond (who had not completed an evidence form) gave some evidence as to his knowledge of the Land, but he had not been a resident of the Locality within the Relevant Period.

106. I found Mr Redmond to be a fair and truthful witness.

107. Mr Redmond had earlier raised an allegation that some members of the public had been discouraged from attending the public inquiry by Council employees who told them that it was necessary to obtain in advance a ticket or a place at the public inquiry, and that no such tickets or places were now available. This information had been provided to Mr Redmond, he told me, by people in a public house. I was given no more specific information than that. The matter was not raised again by Mr Redmond or by anyone else who attended the public inquiry.

108. I made enquiries of those who instructed me at the Council, and they were not aware of any Council employees being instructed to do that which Mr Redmond alleged had been done. There was no other evidence to support Mr Redmond's allegation. I must confess that to me it sounded rather improbable. A number of members of the public, including those who gave evidence, attended the public inquiry. It was not said to me that there were any other people who wished to attend, and possibly also speak, but who had been unable to do so for one reason or another. The Applicant did not raise any such concern.

109. Ultimately, Mr Redmond did not raise the matter again with me and I was not asked to do anything in the light of that which he had alleged. Accordingly I did not take the matter any further.

Cllr Llewellyn Jones

110. Cllr Llewellyn Jones (who had not completed an evidence form) gave evidence concerning the history of the Land and the wider Harbour. He referred to a petition, in his possession, from thousands of Holyhead residents who said they had used the Land, but I reminded him that I could only consider evidence of Porth y Felin residents' use. He also referred me to the published Conservation Area Appraisal for Holyhead, which included a photograph of the Land, showing numerous people on it.

111. Cllr Llewellyn Jones had lived on Tan y Bryn Road within the Locality for 40 years, and he said he had seen all of his family, friends and neighbours on the Land in that time. He named several of them, but again it did not seem to me that they were people who

were giving evidence at the public inquiry, or if they had, I had already received that evidence.

112. I found Cllr Llewellyn Jones to be a fair and truthful witness.

Philip Tracey

(Statement App p2541)

113. Mr Tracey (who had not completed an evidence form) is married to Sian Tracey. He told of his own use of the Land, either going with his children or foster children a couple of times each week in the Relevant Period, or going on his own on a daily basis. For 13 years the family kept a dog and he shared dog walking duties.

114. I found Mr Tracey to be a fair and truthful witness.

Other written representations

115. In addition to the written material contained within the Applicant's bundle (4 volumes), I received written representations during the course of the public inquiry from Mrs Pauline Chessell, Mr Shaun Redmond (whose oral evidence is summarised above), Mr Ian Keymer, and Mrs J L Williams. I have also taken those representations into account.

The Objectors' Evidence

116. I was provided with 4 files of evidence by the Objectors (Volume A, Volume B in two parts, and Volume C), much of it documentary and photographic evidence relevant to matters raised in the objections.

117. Originally the Objector intended to call 2 witnesses, but the Applicant helpfully indicated that they did not wish to ask any questions of Mr David Jones of AXIS PED, the First Objector's planning/development consultant. I also had no questions for him. He was not therefore called to give oral evidence.

Captain Wyn Parry

(Obj Vol A p141)

118. Captain Parry was the Captain of the Port, employed by the First Objector Stena. He is a Master Mariner and Registered Harbour Master.
119. He gave evidence as to the 'Fun Days' which had taken place on the Land. These events included a number of organised activities and races which occurred occasionally or on a one-off basis, including an 'Extreme' running race known as the 'Ring of Fire' which would pass through the Land; the 'Tour de Mon' cycle race which started and finished on the Land; the Old Gaffers Boat Festival.
120. There was also the annual Sailing Club Regatta. This involved amongst other things a marquee sited on the car parking area to the north of the Sailing Club building. The road to the south of the Sailing Club would be closed for the event. There would be a temporary car parking area on the grass to the south of the Sailing Club building. There was evidence, at Obj Vol B p460, of permission being granted by the Council to the Sailing Club for this use. Captain Parry considered that the Regatta had been held for a number of years, going back to 2000/2001, and before that time, but he could not be more precise.
121. His evidence also referred to other instances of the Council giving permission for certain events on the Land, such as a Girl Guides' pet show (Obj Vol B p475); and a Celtic Goodwill Raid (Obj Vol B p510) – to my great regret no one was able to explain to me what this event involved, and so I can only speculate.
122. Captain Parry referred to several signs on the Land, which were shown in photographs: signs at the Sailing Club slipway (Obj Vol B p688-689) which he understood had been in place for 5 or 6 years; the signs at the Sunken Garden (Obj Vol B p692) which had been in place since 2011 he believed; and the notice relating to a wreck in the harbour (Obj Vol B p693); the warning concerning the bow wave generated by the now discontinued HSS ferry service (Obj Vol B p693).
123. The area to the west of the Land, south of the Sailing Club building, which was surfaced with concrete cubes and used as a car park, had been so for at least 10 years, he believed.

124. Captain Parry explained the function of the groynes on the beach, which were there to assist in retention of the material which formed the beach. He said that in his time at the harbour there had never been an instance of a commercial vessel beaching on the foreshore when in trouble. He had never inspected the groynes, although it was within his expertise to do so. He accepted that the groynes had deteriorated over time. He was not aware of any complaints as to their condition. They were, he said, a low priority for the Harbour and the First Objector Stena because the beach is not required for the operation of the Harbour.

125. Captain Parry confirmed that there had not been any operational use of the Land by the First Objector Stena since 1994, the beginning of the Relevant Period.

126. He was aware of the Byelaws but was not aware of any occasion when they had been enforced in relation to the Land, although the Byelaws covered a wider area and they had been enforced elsewhere in the Harbour.

127. Captain Parry's evidence referred to a 'public place designation order' (Obj Vol B p690) which came into force on 1 February 2005, and which prohibited the drinking of alcohol in public. That order applied to a wider area of Holyhead which included the Land

128. He was aware of a local tradition of jumping off the Mackenzie Pier. His employers did not support that activity. He had not seen people jumping off the groyne opposite the sailing club building, but he did not say that it did not happen. There was a fee for use of the slipway to launch or pull up boats but he did not know if everyone paid that fee.

129. It was put to Captain Parry that he had judged the Festival Princess competition some 25 years ago, but he could not remember. He said he had not been involved in the Festival organisation.

130. I found Captain Parry to be a fair and truthful witness

Sailing Club Lease

131. I was provided with information concerning the Sailing Club lease, by the Objectors. A lease was granted by the Council to the Sailing Club on 2 January 1957, I was told. However as far as the car parking area and the enclosed boat storage compound are

concerned, there was no formal agreement in place between the Council and the Sailing Club.

Location of signs

132. Objector Plan B (Obj Vol A) was agreed between the parties as accurate, concerning the location of signs on the Land. Captain Parry gave evidence as to those signs and I myself saw them on the Land.

Other matters arising from the evidence

133. The Applicant and the Objectors were, helpfully, able to agree the limits of the claimed Locality the electoral ward of Porth y Felin (on the “Agreed Locality Plan” dated 7 October 2016), and the number of those people (125) who had completed evidence forms and who lived within that Locality.

Areas of the Land which cannot have been subject to significant use throughout the Relevant Period

134. The area occupied by the Sailing Club building is not within the claimed Land. However the fenced boat storage compound adjacent to the Sailing Club, and the car parking area to the north of the Sailing Club building (see the areas hatched in red and orange on Objector Plan A, in Obj Vol A) are within the Land, and they could not have been used for lawful sports and pastimes at a ‘significant’ level for the whole of the Relevant Period. Ultimately that was accepted by the Applicant, who applied to amend the Application accordingly. I deal with that amendment below.
135. Similarly the car parking area at the west end of the Land (the area annotated as “car park” within the Land, on Objector Plan A, in Obj Vol A, immediately below the words “Trinity Marine”) seems unlikely to have been subject to continuous recreational use because it would have had cars parked upon it, and no witness suggested that it had been subject to continuous recreational use for the whole of the Relevant Period. I do not therefore consider that it would fall to be registered in any event.

136. As I discuss below, the Sailing Club slipway (shown on Objector Plan A, in Obj Vol A, being a rectangular strip of land at the north-westernmost part of the Land, west of the green boundary line) could not have been subject to qualifying use for the whole of the Relevant period. This is because, first, there was a prohibitory sign at the slipway which meant that use by the public could not have been 'as of right'; and second that I did not hear evidence of significant use of the slipway for lawful sports and pastimes unconnected with the Sailing Club.

Amendment of the Application Land

137. On the fourth day of the public inquiry (6 October 2016) the Applicant asked me to consider whether the Application should be amended, so as to exclude from the Land the areas hatched in red, and orange, on 'Objector Plan A' (Obj Vol A). This was because, on the evidence, those areas could not have been subject to qualifying use and so would not fall to be registered as village green. The Objector did not resist such an amendment.

138. On 7 October 2016 I informed the parties that I saw no reason not to accept the proposed amendment to the Application, and would advise the Registration Authority accordingly.

ISSUES

139. The 2016 Advice proceeded on the basis that four principal issues were raised by the Application and the Objections to it:
- i. Did the manner in which the Council held and maintained the Land mean that public use of the land could not be 'as of right'?
 - ii. Did the fact that the Council had permitted third parties to hold occasional events on parts of the Land, or otherwise to use parts of the Land, and also the presence of certain signs on the Land, mean that public use of some or all the Land could not be 'as of right'?
 - iii. Did the Holyhead Harbour Byelaws which came into force on 4 August 1971 ('the Byelaws') mean that any sports and pastimes indulged on the Land were not 'lawful'; or alternatively that any sports and pastimes which were lawful were carried out with express or implied permission and therefore were not 'as of right'?
 - iv. Would registration of some or all of the Land as a town or village green be incompatible with the future exercise of the statutory powers which were conferred on Stena, with the consequence that the Land was not land to which section 15 of the Commons Act 2006 could apply?
140. In addition, the Objectors also contend that (fifthly) the Applicant had failed to demonstrate that there was significant use of the Land by inhabitants of the claimed Locality for the whole of the relevant 20 year period; and (sixthly) that there were events or uses which caused an interruption to any such significant use (had it occurred) with the result that there was not continuous qualifying use for the whole of the 20 year period.
141. I have reordered these six matters, resulting in the four issues summarised at paragraph 16 above. This Report now considers those four issues in that order. I deal first with the question of significant user, because if the Applicant fails to demonstrate that matter in relation to some or all of the Land, then the Application cannot succeed.

ISSUE (I) was there use of the Land for lawful sports and pastimes by a significant number of inhabitants of the Locality throughout the Relevant Period, and without any interruption to that use?

142. The particular passage in the judgment of Sullivan J (as he then was) in *R v Staffordshire County Council ex parte McAlpine Homes Ltd* [2002] EWHC 76 (Admin); [2002] 2 P.L.R. 1, concerning the meaning of “significant number”, is very well known but worth repeating:

“71...the inspector approached the matter correctly in saying that “significant”, although imprecise, is an ordinary word in the English language and little help is to be gained from trying to define it in other language. In addition, the inspector correctly concluded that, **whether the evidence showed that a significant number of the inhabitants of any locality or of any neighbourhood within a locality had used the meadow for informal recreation was very much a matter of impression.** It is necessary to ask the question: significant for what purpose? In my judgment the correct answer is provided by Mr Mynors on behalf of the council, when he submits that **what matters is that the number of people using the land in question has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers.**”

143. The emboldened words suggest that the threshold of ‘significance’ is relatively low rather than high.

The Applicant’s Submissions

144. The Applicant submits that the evidence demonstrates in robust terms that there was a significant number of users from the Porth Y Felin area recreating on the claimed land. All the evidence questionnaires were signed with a statement of truth. The inquiry saw, the Applicant submits, how the evidence of different witnesses interrelated. It was clear that this is a community where many people remain for many years and return to in order to start a family. Witnesses tended to have extensive experience of the land and Holyhead. Witnesses had shared memories of playing with other children from the locality, seeing neighbours and dog walkers from Porth Y Felin on the greens and attending events.

145. The decision in McAlpine tells us that ‘significance’ is a matter of impression; in both qualitative and quantitative terms the evidence was clear that ‘significance’ had been established.

The Objectors’ Submissions

146. The Objectors took issue with the fact that in oral evidence the Applicant’s witnesses referred to names of others who live or lived for some period or other in the Porth y Felin ward, as well as others from outside the ward, and who they have accompanied or seen on the land. The Objectors say that to produce evidence in this way was highly unsatisfactory and prejudicial, and it was not capable of meaningful testing at the inquiry. Very little weight should be attached to it, the Objectors say, and determination of the application to be based on use by just the 125 individuals who have given statements as to their personal use. If that is accepted the use by a significant number of local inhabitants cannot be demonstrated.

147. The Objectors however recognised that this issue is a matter of impression for the Registration Authority applying the Cheltenham Builders approach, albeit one which must be based on cogent evidence.

148. The Objectors argue that the Applicant’s evidence of use, from 125 inhabitants of the locality relied upon, plus one shopkeeper from the locality, can on no reasonable basis amount to use by a “significant number” of those who live in the relevant locality. The total population of the locality comprises 2266 (B2 p683), according to the 2011 census.

Conclusion on this issue

The emergence during the public inquiry of additional evidence as to ‘others’ who had been seen using the Land, by those who were giving oral evidence, was not ideal. It was however far from unusual at public inquiries such as these, particularly where the evidence forms, letters and statements which typically serve as the written evidence of lay witnesses are often brief, or very brief. If advance notice of the names of family or neighbours seen by the witnesses on the Land had been provided, would it have made any real difference? Perhaps the Objectors could have challenged the Applicant’s witnesses as to the very existence of the

'other' people they referred to, but in the final analysis I am not sure that one can do much more than take note of the fact that other users of the Land were referred to, and give that evidence some weight; but that such weight is inevitably limited because those named people were not present to answer questions as to the nature and frequency of their use of the Land. That is the approach I have taken to the evidence.

149. It seems to me that on the basis of the evidence from the 31 witnesses who spoke at the public inquiry, 26 of whom had lived within the Locality for all or most of the Relevant Period, and taking into account the 125 evidence forms (noting that all but five of those who gave oral evidence had also completed evidence forms), but giving that written evidence limited weight, there was enough evidence of use by inhabitants of the Locality throughout the Relevant Period to be satisfied that the Land was in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers.

150. I am reminded by the Objectors that the Council took a lease of the Land, laid it out, and maintained it, for public recreational use. The Objectors' position is that the Land has been well used by the public, in circumstances whereby the Council encouraged that use and, it would appear, intended that very outcome. The evidence I have read and heard is consistent with there being substantial use of the Land by the public. The condition of the Land as I saw it does not suggest otherwise. I heard oral evidence from 26 inhabitants of the locality, as to their use and use by other local inhabitants (the latter evidence being something to which I give weight, but only limited weight). The Land appears to have been a significant feature in the daily lives of the people who lived closest to it during the relevant 20 years, not least because, as several witnesses put it they treated the Land as "their back garden" (because many of the houses in the Locality had very small gardens). Having laid out the Land for public recreation and maintained it for that purpose over many decades it would not be surprising to the Council if the community which was located closest to the Land used it for general recreation, rather than occasional trespass. As a matter of impression it is difficult therefore to see what other conclusion I should reach, in the light of all the evidence and circumstances. I do not consider that it would be irrational, as the Objectors' submissions imply, for a Registration Authority to conclude that the oral evidence of 26 witnesses, referring to their own use and use by other local inhabitants, taken together with the other written evidence of more than 100 people, disclosed an overall impression that the Land was in use by the community of Porth y Felin for general recreation. This is particularly so where the Council put the Land to the very use of public

recreation, and encouraged it by maintaining the Land in a good state for public use over a long period of time. The Objectors ask the Registration Authority to “step back” and consider all of the circumstances, and I agree that is what the Registration Authority should do, rather than concentrating on the number of 125 as a percentage of the overall population of 2266 in the Locality. My conclusion, and advice to the Registration Authority, is that there has been use of the Land by a significant number of inhabitants of the locality throughout the Relevant Period.

151. Whether such use was “as of right”, and whether it was “continuous” and/or not interrupted, are of course separate matters. I turn next to the matter of whether there was any interruption of local inhabitants’ use of the Land so as to prevent continuous use for a full 20 years.

152. The suggestion of an interruption of use arises from the fact that the following events in particular were present on the Land:

- the circus, which was operated commercially, and entry to the Big Top required the payment of an entry fee;
- the funfair, to which access for rides and other attractions would have required payment;
- events within the Holyhead Festival marquee, some of which also required payment; and
- the annual use of the overflow car park by the sailing club, in association with the regatta.

153. I do not consider that these events had the effect of interrupting continuous use by local inhabitants throughout the Relevant Period; or to put it another way, any such interruption was de minimis and no so significant or material that it should be taken into account in determining whether there was 20 years’ continuous use. The fair lasted for a week, annually. The other events (the festival, the circus) lasted between one day and four days, depending on the event. The area of the Land occupied by these events was relatively small in relation to the Land as a whole, and the evidence I heard was that local inhabitants continued to go on to the Land unimpeded, save for having to pay to enjoy individual fairground rides or pay to go into the Big Top, or to pay to enter the marquee during evening events within the Holyhead Festival. I find that these matters were not so

significant that they caused an interruption to the overall passage of use over 20 years over the whole of the Land; or alternatively that any physical interruption they caused was de minimis in this respect. Local inhabitants went on to the Land to recreate or enjoy themselves all year round; they were enabled to do so and implicitly encouraged to do so by the Council's actions in maintaining the Land, and these particular events were consistent with that overall picture albeit they resulted in leisure or recreation which was of a different but nevertheless consistent character with local inhabitants' enjoyment of the Land during the totality of the Relevant Period. The evidence I heard did not create any impression that these events caused some sort of interruption or cessation of the use which people made of the Land; they simply gave rise to different enjoyment of the Land for very short periods of time.

ISSUE (II) whether use of the Land by local inhabitants was ‘as of right’ or not, in light of the fact that the Council made the Land available for public recreation and maintained it accordingly; and also in circumstances whereby there were certain signs situated on the Land, and whereby the Council gave permission for various public events to take place on the Land from time to time;

154. In *R (on the application of Barkas) v North Yorkshire County Council* [2014] UKSC 31; [2015] AC 195 the Supreme Court held that where a parcel of land is held by a local authority, and that land has been allocated and made available for public use, then the use of the land by the public, in absence of unusual or additional facts, will be ‘by right’, rather than ‘as of right’.

155. In *Barkas* the Supreme Court considered the effect of a local authority having made that land available for public recreation. The Supreme Court concluded in particular that public use of such land could not be ‘as of right’ for the purposes of village greens legislation, and that the decision of the House of Lords in *R(Beresford) v Sunderland City Council* [2003] UKHL 60; [2004] 1 A.C. 889 was wrong and could no longer be relied upon (per Lord Neuberger PSC at paragraph 49, with whom Baroness Hale of Richmond DPSC, Lord Reed and Lord Hughes JJSC agreed; per Lord Carnwath JSC at paragraph 86, with whom Baroness Hale of Richmond DPSC, Lord Reed and Lord Hughes JJSC agreed).

156. I set out relevant passages from the judgments of Lord Neuberger of Abbotsbury PSC, and Lord Carnwath JSC, in the 2016 Advice and I do not repeat those passages here.

157. In his judgment Lord Carnwath did not apparently consider that evidence of acquisition or appropriation of land to open space use, under a specific statutory power, was necessary in order to found the conclusion that use of land by the public was implicitly approved by a public authority landowner (see paragraph 85). The other members of the court, apart from the President Lord Neuberger, expressly agreed with him.

158. The other members of the court also agreed, expressly, with Lord Neuberger. He referred to the fact that under section 80(1) of the 1936 Act the land in *Barkas* was acquired and maintained by the local authority, with the consent of the relevant minister, as public recreation grounds (see e.g. paragraph 46-47). Lord Carnwath did not refer to the need for the consent of the Minister.

159. Lord Neuberger did not address in his reasoning whether there would always be a need to identify a specific appropriation or purchase under a specific statutory power, and whether the consent of the Minister would need to be obtained (where a relevant statutory power contained reference to ministerial consent) before it would be lawful for a local authority to have made land available to the public for recreation. Lord Carnwath's reasoning appeared to go further than that of Lord Neuberger, finding that evidence of a specific appropriation under a particular power was not necessary. Where the local authority landowner had made land available for public recreation, and there had been no suggestion that to do so was unlawful, use by the public thereafter did not have the effect of putting the landowner on notice that he would need to resist that use in order to prevent a right being acquired.

160. Lord Carnwath's approach was clear, it seems to me, and a majority of the court agreed with him. The fact that Lord Neuberger did not go as far as Lord Carnwath but confined his observations to the facts of that case – and in that case the consent of the Minister had been obtained to exercise the relevant power – does not necessarily mean that there is inconsistency between his position, and that of Lord Carnwath.

161. Subsequently, in *R (Goodman) v Secretary of State* [2015] EWHC 2576 (Admin); [2016] 1 P. & C.R. 8 the High Court held that one could not infer a holding power following appropriation simply by the nature of subsequent use of land, but the fact of appropriation, or the decision to appropriate, need not be spelled out expressly in a document. Evidence of the power having been exercised would suffice (see paragraphs 20-25 of the decision).²

The Applicant's Submissions

162. The Applicant submits that *Barkas* is not authority for the proposition that local authority acts alone are sufficient to determine whether there has been an implied permission to use the land.

163. The proper approach to ascertaining whether use is "as of right" is, as suggested by Lord Carnwath in *Barkas* (At paragraph 61, and reiterated in *Newhaven* at paragraph 135) to seek "the appropriate inference to be drawn from the circumstances of the case as a whole".

164. The particular facts of this case include the difference between the freehold owner and lease holder (and their respective behaviour) and the fact that all evidence questionnaire respondents did not interpret any signs they saw on the land as permissive. The varied facts of this case need to be considered in the round before a view can be reached as to the user of the land.
165. Barkas and Lancashire County Council v Secretary of State for Environment and Rural Affairs [2016] EWHC 1238 (Admin) support the proposition that a specific statutory power must be identified to conclude that a local authority has taken land and made it available to members of the public so that use is by right. The comment in Barkas at [66] was case specific. Alternatively the present case has 'additional or unusual facts' which take it outside the Barkas 'general rule' (if such a rule exists).
166. The Registration Authority must determine whether it is satisfied, on this evidence, that a case for a specific statutory power has been made out. There is a lack of certainty regarding what statutory provision the Council intend to act under and whether they have the statutory powers necessary for their scheme. The Council's competence is questioned.
167. If the Registration Authority does not agree that a specific statutory power ought to be identified, then the issue of whether the land is made available for public use, laid out and maintained arises.
168. The Applicant has accepted that the greens and promenade have been maintained, laid out and made available for public use but does not accept that the Newry Beach has been maintained. The Objectors must prove that the beach has been laid out and made available.
169. Lack of maintenance of the beach suggests it has not been maintained for public use. The groynes have deteriorated over the years. Whilst the Objectors' witness Captain Parry explained that drifting or erosion of the beach would not be of concern to his employer, the Applicant submits that any drifting would not be compatible with the position that the beach was maintained or laid out for public use. In terms of being 'made available' if one of the groynes was unsafe (as the photograph seems to indicate) then it is submitted that the Newry beach was not made available for public recreation.

170. There is an obvious tension between the argument that the byelaws apply to all of the land and the submission that all of the land is lawfully held by the council for recreational use by right. The Applicant submits that this is the sort of inconsistency or ‘additional or unusual fact’ that would displace what might be one reading of *Barkas* (that the laying out, maintaining and making available of land alone will suffice to conclude that the land use is ‘by right’).

171. The number of events permitted by the Council on the Land was such that the facts of this case indicate that there was not a limited exclusion properly ancillary to the management of the land as open space under the Open Spaces Act 1906 or any other act (Burnell at 68). If that is the case then the land has not been held and made available for public use lawfully under any such act and, the Applicant submits, the unusual or additional facts alluded to in *Barkas* stand to be considered.

The Objectors’ Submissions

172. The Objectors submit that the decision of the Supreme Court in *Barkas* establishes that where land is made available by a public authority as recreational open space pursuant to an express statutory power to do so, the use of that land by the public is “by right” and not therefore as of right.

173. The application site, the Objectors submit, seems to be very well used by the public in general for the very recreational activities which it is designed and maintained to accommodate. The application site, and its management, displays all the characteristics of public open space, and a well-used piece of public open space at that.

174. A local authority is a creature of statute. It may only exercise powers – including a power to acquire interests in land – where authorised by statute to do so. As such, it must be deemed that a local authority when acquiring an interest in land (and indeed in exercising any other function) is doing so pursuant to a statutory power vested in it.

175. The lease of 1927 does not recite the statutory powers under which the UDC took the land. And there is nothing unusual about that. Experience suggests very many public sector conveyances do not do so. A conveyance or lease to or from a local authority is not

required as a matter of property law or of public law to recite the power being exercised. It is now well established that the statutory power being relied upon is capable of being ascertained by consideration of the circumstances of acquisition of the interest and the intentions for and use of the land, see:

a. *R (Beresford) v Sunderland CC* [2004] 1 All.E.R.160 (AV tab 4) per Lord Scott at para.30 (citing *A-G v Poole Corp* [1938] Ch. 23 at p.27 (AV Tab 1));

b. *R (Goodman) v Secretary of State for Environment, Food and Rural Affairs* [2015] EWHC 2576 – at para. 21, where Dove J. accepted that in the context of an appropriation, there was no formal requirement to record an appropriation so long as there is evidence that the authority had directed its mind to and answered the relevant statutory test for appropriation in s.122 LGA 1972;

c. *R (Lancashire CC) v SoSEFR* [2016] EWHC 1238 (Admin) per Ouseley J. at para.57.

176. Even where the circumstances do not establish the purpose and statutory power under which an interest in land is taken by a local authority, where land is thereafter laid out and maintained for a particular purpose which the local authority has power to provide, the evidential presumption of regularity operates such that the authority is to be presumed to be acting lawfully and therefore exercising that statutory power unless there is evidence to the contrary capable of rebutting that presumption. *R (Naylor) v Essex CC* [2014] EWHC 2560 (Admin) is an example of that presumption operating in the TVG context such that a local authority who maintained as open space land belonging to another, was presumed to be doing so pursuant to an agreement entered into under the Open Spaces Act 1906 (see esp. para.44-50). Indeed, Lord Carnwath JSC made very much the same point in *Barkas* (AV 10). At paragraph 84 Lord Carnwath held, in the context of TVGs, that:

“The explanation for acts of maintenance by the authority during that period has to be found elsewhere. The reasonable inference was not that the public had no rights, but that the land had been committed to their use under other powers.” (see also para.82 in this context).

177. With regard to the operation of the presumption of regularity, Ouseley J. in the *Lancashire* case also supported an approach whereby a holding power may be established

through (a) examination of contemporaneous documents and (b) as a consequence of actual use. The Inspector in Lancashire carried out precisely the same task as the Objectors invite the Registration Authority to perform, namely to examine contemporaneous material to establish whether it reveals the power of acquisition relied upon. Ouseley J. did not suggest that such an approach was in any way erroneous (see para.55 and 57 as well as other references given above) but rather he concludes that the position is quite to the contrary. In Lancashire the land in question, in substantial measure, had not in fact been used for statutory education purposes (that being the holding power there contended for by the Objectors) at any time since acquisition and the Judge recognised this in para.55.

178. The Applicant gains no support from the decision in *Malpass*, the Objectors submit. The Deputy Judge in *Malpass* (see judgement para.44, adopting Mr.George QC's submissions inter alia summarised at para.31(d)), and indeed Dove J. subsequently in *Goodman* (see para.22), held that unless there was clear evidence that a local authority had directed its mind to the statutory test in s.122 there was no room for implying appropriation from a general resolution or from actual use. That is plainly correct. The matter in issue in both *Malpass* and in *Goodman* concerned the particular requirement for a lawful appropriation. Those conclusions are not transferrable to the question of establishing the power of acquisition of land, which does not require a local authority to meet conditions precedent such as are set out under s.122 LGA 1972

179. Dr.Looker confirmed that at no time was she aware of the Lessor taking action against the Council under the lease for breach of covenant, nor has the Waterfront Action Group or any member of the public ever made complaint as to the upkeep or condition of the groynes. The beach has at all time been a popular focus for recreational use, as the Applicant's photographs demonstrate. Nothing of materiality turns therefore on Dr.Looker's evidence in this respect.

180. The land has been laid out for, and to facilitate, recreational uses. There is a promenade and other made-up recreational routes, there is an high-quality ornamental sunken garden (renovated in 2011) (indeed there were two such gardens in times past), there are benches, shelters, lights (including coloured lights along the promenade in the past), there was formally a paddling pool, there are numerous formal pedestrian steps and other access points into the foreshore, there is car parking and public conveniences. All

these features, together with the maintenance of the greenspace, are all consistent with, and are intended to encourage, recreational use.

181. The principle in Barkas and use “by right” does not require some express statement or express recognition by the relevant local authority at the point of acquisition that the land has been acquired and would subsequently be made available pursuant to an identified statutory power to provide recreation space:

a. the question as to whether such an express statement etc. is required as to the statutory basis on which land is acquired and held before use can be deemed to be by right was not in issue, was not argued nor even raised for discussion before the Court in Barkas;

b. indeed, the land in Barkas was in fact acquired expressly for “the erection of houses” pursuant to s.73 of the HA 1936 (see Lord Neuberger PSC at para.2), albeit then laid out as a recreation ground pursuant to a power under s.80 of that Act (now s.12 HA 1985). Neither the resolution nor the conveyance in Barkas recorded that the land would be made available as a recreation ground but only that it was to be acquired for housing. This fact of itself suggests that the SC did not consider that any express reference that land was to be acquired and made available for recreation purposes is a pre-condition for that land to be used thereafter “by right”;

c. what the SC held was required for land to be used “by right” is expressed by Lord Neuberger PSC as follows:

“So long as land is held under a provision such as section 12(1) of the 1985 Act, it appears to me that members of the public have a statutory right to use the land for recreational purposes, and therefore they use the land by right and not as trespassers so that no question of user “as of right” can arise” (para.21).

d. what therefore is required is to establish the power under which the land is held. That may in some cases be expressed within a conveyance or a resolution. In other cases it may need to be inferred from contemporaneous documents and all the relevant circumstances. What the PSC was concluding was what follows in law from land being held pursuant to a statutory power to provide recreation space and not how that power is to be established or inferred.

e. Lord Carnwath JSC did however go some way to addressing this matter paras.82-84;

f. Lord Neuberger at para.24 referred to land “lawfully allocated” for public use; Lord Carnwath at para.64 referred to land which has been “validly and visibly committed ... for public recreation, under powers which have nothing to do with the acquisition of village green right”. Neither suggest, nor is there any room for an inference that either intended, that “allocation” or “commitment” requires a particular express statement. Indeed, Lord Carnwath’s comment must be considered along side his statements at paras.82-84 and the facts in *Barkas* do not support such a conclusion;

g. It is notable that the SC disapproved of the outcome in *Beresford* where the land was acquired “under very wide powers” contained in the New Towns Act 1965 by Washington DC, for no “specific purpose” (see Lord Neuberger PSC at para.31). As such, the SC in *Barkas* was content that in *Beresford* the land was used “by right” notwithstanding the general power under which it was acquired. Use "as of right" in *Beresford* arose by reason essentially of subsequent management and use;

h. Indeed, were the SC in *Barkas* to be construed as requiring some overt statement or recognition as to the power of acquisition before use can be "by right", that would be inconsistent with:

- i. the basic principle that use "as of right" must be examined from the perspective of the reasonable landowner and not the user; why should the landowners perception be influenced by whether it had expressed or not expressed the power under which the land was acquired? A landowner can be expected to know and appreciate the power under which the land was acquired and held;
- ii. the fact that, in the context of publicly held land, at least, for use to be permissive, there is no requirement for the permission or the basis of the implied permission, as the case may be, needs to be communicated to the users; if there is no requirement for communication of the permissive basis

of the use why would there needs to be some express statement or recognition of the basis of acquisition?; and

- iii. any basis for implied permission in the case of local authority land which, following *Beresford*, applies to local authority land as to any other land (as indeed Lord Carnwath acknowledged in para.84.).

i. in *Naylor*, Goodman (albeit in the context of appropriation rather than acquisition) and *Lancashire* the High Court has accepted and approved that a holding power can be inferred, as necessary, from documentation contemporaneous with acquisition (or indeed appropriation) and/or use (albeit not in the case of appropriation (see Goodman)). These decisions all post-date *Barkas* and do not support an interpretation of the Supreme Court's decision so as to require some express statement or recognition at the time of acquisition of the powers relied on. In fact, those decisions point to precisely the opposite conclusion. These decisions are binding on the Registration Authority.

182. Although the lease may not specify the statutory power under which the land was acquired (and, as already submitted, there was no reason for the lease to do so), the contemporaneous correspondence and other documentation leading up to the entering into of the lease by the UDC makes it clear – and abundantly clear - that the Council's predecessor the UDC was and can only have been exercising powers to acquire land for recreational purposes set out within s.165 of the Public Health Act 1875 and s.9 of the Open Spaces Act 1906. Secondly, this conclusion is reinforced by the documentation subsequent to the 1927 lease, by the laying out of the land for and so as to facilitate recreational use and by its maintenance for such purposes at all times since.

183. If the Objectors are wrong about the effect of the correspondence and the other documentation which pre-dates the 1927 lease then, they submit, the subsequent laying out and the management of the land at all times since 1927 for, and to facilitate, recreational use is consistent only with the exercise of such powers and, pursuant to the presumption of regularity, the local authority should be deemed to be exercising such powers (as per *Naylor*) and there is nothing to rebut that presumption here.

184. Nevertheless the contemporaneous correspondence and documentation, as set out in Annex A to the Objectors' closing submissions, demonstrates that the UDC took the lease in 1927 pursuant to the powers of acquisition in the 1875 and 1906 Acts:

a. the UDC had a proposal in the period between 1922 and 1927 to take a long lease of the foreshore at Newry Beach and land to the south, between the foreshore and the land it already held on an annual tenancy from the Government to the north of Beach Road (ie, greens 1,2 and 3) and to make that land available for recreational purposes;

b. it pursued this proposal with the Ministry of Transport over a five year period and had developed plans as to how the land was to be laid out, including the provision of a promenade, shelters, gardens, tennis courts, a bowling green and a swimming and paddling pools;

c. a grant was sought and granted for the delivery of the recreational scheme and ratepayers in Holyhead were consulted;

d. the motivation for the proposal on the part of the UDC was to respond to the economic decline in the fortunes of the Port of Holyhead, particularly in servicing the route from Dublin. The UDC's objective was to use the Newry recreational scheme to enhance employment and to enhance Holyhead's profile as a seaside resort. A further manifestation of this objective was a scheme to operate or offer fish curing facilities from a new facility at Salt Island – but this, so far as the Ministry of Transport was concerned, was a serious sticking point;

e. eventually, the MoT, having refused to release Salt Island to the UDC, agreed to a 99 year lease of land at Newry Beach but subject to strong covenants to permit the Government to recover possession of the land if it was required for or in connection with Port or national purposes; and

f. the lease was granted on essentially those agreed terms in September 1927.

185. It is plain therefore, the Objectors submit, that the land was sought and secured by the UDC with the intention that it be put to use for recreational purposes. As such, it is equally plain that the UDC was exercising those statutory powers available to it in 1927 to

acquire land for recreational purposes. Those powers were twofold, namely s.164 of the Public Health Act 1875 and s.9 of the Open Spaces Act 1906. The former power – to acquire a leasehold interest in land for use as public walks or pleasure grounds – is exercisable in respect of any land, and is not limited to land already in recreational use. It is this power of course which was used to deliver many of the great Victorian parks up and down the country. This power would plainly have been the power exercised by the UDC in respect of the foreshore and the whole, or the majority, of the land acquired in 1927. The alternative or additional power – s.9 of the 1906 Act – is available in respect of land which already comprises “open space” as defined in s.20 (i.e. land in recreational use or waste or unoccupied land) – when the interest is taken. As such, it empowered the UDC to acquire a lease of that part of the land which was already in use as a recreation ground in 1927 (ie. greens 1,2 and 3). As such, the power plainly being exercised in 1927 was the 1875 Act and, potentially, in addition the 1906 Act. Since the legal effect is the same – namely that any recreational use of the land by the public is “by right” rather than “as of right” – whether or not the 1906 Act was in fact relied upon matters not.

186. That the land was acquired under the 1875 Act and potentially in part the 1906 Act is reinforced by the reality of what occurred. Post 1927 the UDC developed plans and drawings for the paddling pool. Moreover, importantly, the UDC thereafter laid out the land for recreational use and the UDC (albeit not with formal playing pitches to the south of Beach Road) and latterly the the Council has maintained the land for such use. This reinforces the conclusion which follows from consideration of the contemporaneous documentation, namely that the land was acquired by the UDC under the 1927 lease expressly for recreational purposes.

187. In the alternative the Objectors rely on the presumption of regularity as used in Naylor for example. The point can be expressed simply. The land has been laid out essentially as a park, facilities – benches, shelters, flower beds, paddling pool, a promenade – have been introduced onto the land consistent with use as a park, and the land has been maintained at not inconsiderable expense for recreational use. The UDC and latterly the Council can only have carried out these measures pursuant to a statutory power and the only available powers are those set out within s.164 of the 1875 Act and s.10 of the 1906 Act. The presumption of regularity operates such that there is a rebuttable evidential presumption that the UDC and the Council were acting lawfully and therefore exercising powers pursuant to those statutory provisions. If this presumption is not rebutted then the

evidence of laying out, facilitation of use and management of the land must lead to a conclusion that the land was held and made available pursuant to those powers. If that is the case, use by local inhabitants will be by right and not as of right.

188. Is any evidence to rebut that presumption? The Applicant submits that the permission given by the Council to hold a circus, the Holyhead Festival and a funfair on part of the land is inconsistent with the land being held pursuant to the 1875 or 1906 Acts. That, the Objectors submit, is wrong as a matter of law. The Public Health Acts Amendment Act 1890 allows a local authority to the public any park or pleasure ground inter alia for any “show” or “public purpose” for a period not exceeding 12 days per year (and not more than 4 days consecutively). Moreover, s.145 of the Local Government Act 1972 (and its predecessor s.132 of the Local Government Act 1948) provide a wide and general power to “do, or arrange for the doing of, anything ... necessary or expedient for ... (a) the provision of an entertainment of any nature ...”. By s.145(2)(a) a local authority “may ... enclose or set apart any part of a park or pleasure ground belonging to the authority or under their control”. There is no temporal limit to this power. The wide application of this provision – and its scope to allow entertainment to be provided by commercial organisations – was confirmed by Supperstone J. in *R (Friends of Finsbury Park) v Haringay LBC* [2016] EWHC 1454, which concerned the Wireless Festival to be held by a commercial operator within Finsbury Park. Supperstone J. confirmed at para.48 that “the specific power in s.145(2) is also without any limitation on the period of time during which such enclosure or setting aside may continue”. It follows that there was express statutory power vested in the Council to permit events such as a circus, the Holyhead Festival and funfairs on a park or other recreation ground. No inconsistency or inference of inconsistency with the land being held under the 1875 or 1906 Acts arises.

189. Secondly, if (which is not clear) the Applicant takes the same point in respect of the sailing club, car park or enclosed compound, that too is a bad point. S.76 of the Public Health Acts Amendment Act 1907 a local authority, in respect of “any public park or pleasure ground” (a) “set apart any such part of the park or ground ... any part of the ground ... for the purposes of any other game or recreation ... and to exclude the public from the part set apart ...” and (g) “to provide and maintain any ... other buildings”. This provides a power for the Council and the UDC to have made provision on the land the subject of the lease for the sailing club – an important an popular organization – through

the car park and compound and to provide, through the 1957 lease, for the erection of a clubhouse. There is nothing in the 1907 Act to suggest that any land so set aside or any building provided may not be used by or dedicated to a particular sports or recreational club or organisation. Nothing inconsistent with the land being held and maintained pursuant to the 1875 Act and the 1906 Act arises.

190. The Applicant has thus far offered no explanation of the legal basis on which the UDC entered into the lease in 1927 and has subsequently laid out and maintained the land for recreational purposes. The Applicant's case (as thus far articulated) amounts to a bare assertion that the UDC in 1927 entered into a lease and took the land unlawfully and by consequence has been acting unlawfully for the past 89 years.

Conclusion on this issue

191. The Applicant accepts that the Council took a lease of the Land; and that since the lease began the Council has maintained the Land and made it available for use by the public. The Applicant does not accept that the Council lawfully took the lease, and thereafter acted lawfully in maintaining the Land.

192. As noted in the 2016 Advice, it seems to me that once the Council's predecessor took a lease of the Land in 1927, and then allocated the land for public use thereafter, it would not – to adopt the terms used by Lord Neuberger in *Barkas* – be appropriate to infer that members of the public have been using the land “as of right”, simply because the Council and/or its predecessor have not objected to the public using the land (see *Barkas* per Lord Neuberger PSC at paragraphs 24 & 42, and Lord Carnwath JSC at paragraphs 64 & 65). No “unusual or additional facts” have been suggested which might point to a different conclusion.

193. The High Court's decision in *Naylor* confirmed that the principle in *Barkas* applies to privately-owned land which a public authority is occupying and making available to the public.

194. As the Applicant points out, there is no record of the statutory basis for the Council taking the lease or making the land available for public use thereafter. But there are good reasons to conclude that the reasoning of the Supreme Court in *Barkas* does not depend

upon the identification of a particular statutory power under which land is acquired and then made available for public recreation. What the Supreme Court found was that where a council had made land available for public recreation, and maintained that land for that purpose, it would have no reason to object to members of the public using it for the very purpose that it had been made available and was being maintained. Accordingly no question of acquiescence to the acquisition of a prescriptive right would arise as far as the landowning public authority was concerned, because the manner in which local inhabitants had used the land was not such as to demonstrate that a right was being acquired and claimed. The landowner had made the land available for that very purpose. If the Applicant's submissions is correct then the manner in which a public authority has made the land available to the public is of no consequence if one is unable to identify, perhaps many years after the event, the precise statutory basis upon which the public authority was proceeding. I do not consider that is the correct interpretation of the Supreme Court's reasoning in Barkas.

195. The Applicant's submissions have not persuaded me that the approach of the Supreme Court in Barkas depends upon the identification of a particular statutory power under which land is acquired and then made available for public recreation. As summarised above, the Objectors set out a number of reasons why identification of a specific statutory power, and/or a record of an express decision by a public authority to commit land within its ownership to a particular use, is not necessary in this context. I accept the Objectors' submissions on that matter.

196. The presumption of regularity must also be considered in the circumstances of this case. In Naylor the High Court held: "As the Inspector correctly pointed out, it must be assumed, unless there is evidence to the contrary, that the District Council did what it did properly and lawfully in pursuance of some statutory power enabling it to do so" (at paragraph 27) (see also R (Goodman) v Secretary of State at paragraph 32). For approximately 90 years the Council (or its predecessor) has made the Land available for public recreation and has maintained it for that purpose. In the absence of any reason to consider that the Council was not acting lawfully throughout that very long period of time, it should, in my view, be assumed that the Council's conduct in that respect was lawful.

197. The Applicant accepts that use of the roadways and shelters within the Land was "permissive" and not 'as of right' - with the practical consequence that the Applicant did

not include those areas within the Land which was the subject of the Application. This may be only a forensic point, but it is difficult to see why use of the rest of the Land, which was maintained the same way by the Council, was not also 'permissive' and therefore not 'as of right', if use of the roadways and shelters was, and was understood by the Applicant to be, by permission of the Council.

198. The Applicant also argues that if the Council did permit third parties to use parts of the Land in ways which had the effect of limiting or excluding general public access, for the duration of such uses, then that would be incompatible with the proposition that the Council was in general terms permitting the public to use the Land for recreation (by right). For the reasons set out in the Objectors' submissions it seems to me that public authorities do have the power to allow such uses on land which is made available for public recreation, and I do not consider that such inconsistency as the Applicants contend for, arises.

199. In the absence of any "unusual additional facts" as contemplated by the Supreme Court in Barkas, I do not consider it is appropriate to infer that members of the public were using the land "as of right", simply because the Council had not objected to their using the land. In the absence of any evidence to the contrary, I conclude that the Council lawfully took a lease of the Land – both the Inland Area (the greens, the promenades and so on) and the foreshore – and then lawfully made it available for public recreation, lawfully maintaining it thereafter. That land was allocated for public use, and there would be no reason for the Council to consider that members of the public going on to the Land were trespassers whose use must be resisted. Use by the public and local inhabitants in particular of the Land for recreation was precisely what the Council intended by taking a lease of the Land and putting it into a state, and maintaining it in that state, whereby the public were encouraged to go on to it. In the light of Barkas I see no tenable conclusion other than that use by local inhabitants was by right, and not 'as of right'. The application fails for that reason.

200. The Applicant submits the Objectors have failed to demonstrate that the Council maintained the foreshore/beach, *as well as* making it available for public use. I do not consider that this argument takes the matter any further. The foreshore is a beach. Whilst the groynes do not appear have been maintained regularly, or indeed at all, the beach is still there and has not been washed away. Local inhabitants continue to recreate on it. There is nothing in the authorities which requires that land must have been made available

for public recreation *and also maintained* for that purpose, in order that it can be concluded that the public went on to that land by right rather than 'as of right'. In all the circumstances, and the fact that the foreshore is a beach which is still in use by the public, I do not consider that a lack of active maintenance of the foreshore or beach by the Council should lead to the conclusion that, in this case, public use was 'as of right' rather than by right.

Third party use

201. Does the principle in *R (Mann) v Somerset County Council* [2012] EWHC B14 (Admin) apply in this case? The court in *Mann* held that where the circumstances in which local residents used land for recreation were sometimes controlled by the landowner, because the landowner held events on the land which had the effect of excluding the general public from part of the land, there was an implied grant of permission to use the land at times when there were no events on the land. That implied permission applied to the whole of the land, rather than simply the part upon which the festival took place. The events in question were beer festivals, held within a marquee, entrance to which was conditional upon the paying of an entrance fee.

202. In this case, unlike in *Mann*, the body with control of the Land – the Council – encouraged recreational use of the Land by members of the public, by making it available and maintaining it for that purpose. The public or community events which the Council allowed to take place on the Land – in particular the Holyhead Festival, the fun fair, and the circus - were consistent with the landowner having made the land available to the public for leisure and recreation. It seems to me, therefore, that these events do not, on the facts of this case, add anything to the question of whether or not use by local inhabitants was 'by right' or 'as of right'. If the very fact of the Council having intentionally made the land open to public access, and having maintained it for public recreation, was not enough to demonstrate that the public were going on to the Land with the Council's permission, then I do not consider that the public events which the Council permitted to take place on the Land would change the situation and by themselves bring home to members of the public that their use was by permission and not 'as of right'.

Signs

203. The Objectors submit, in relation to the signs, that several of the notices have been in place for some considerable time – the “Stena” warning notices (see B693) and the notices at the sunken garden (B692). The first of these notices is expressly to warn users of the foreshore of the dangers of wake from fast ferries. Any reader of this notice would, the Objectors contend, assume that they were authorised by Stena to use the foreshore but advised to exercise caution. The second notice is plainly seeking to regulate the use of the sunken garden, they submit. This would imply that access to and use of the sunken garden was permitted. The effect of these notices (both of themselves and also when considered in conjunction with the other measures taken to facilitate use of the land referred to in the submissions on point (a) above) give rise to a further basis for implied permission.

204. I am not convinced that the ‘Stena’ warning notice concerning the wake from the former HSS Ferry service does convey to a reader that they are permitted to use the foreshore. It seems to me that the notice contemplates that people are on the Land and warns them of a potential hazard, rather than communicating that they have permission to be on the Land. The signs at the restored Sunken Garden may suggest that use of that area is regulated in some way, but they do not appear to me to qualify use of the wider Land. This point was not argued particularly strongly by the Objectors and my conclusion is that the whilst the signs serve to reinforce the overall picture that the Council and/or Stena have permitted – in other ways – public access to and use of the Land, those signs would not on their own make clear to users of the Land that their use was by the landowner’s permission and not use ‘as of right’.

205. There is one other sign which needs to be considered. The Sailing Club slipway lies within the application Land but outside the area of land demised to the Council under the 1927 lease. At the southern access point to the slipway there is a sign (Obj Vol B p689) – which states amongst other things “HOLYHEAD SAILING CLUB PRIVATE SLIPWAY ...”. I did not hear evidence of significant use of that slipway by local inhabitants unconnected with the Sailing Club use, but in any event Use of the slipway for lawful sports and pastimes other than by members of the sailing club or those authorised by it was clearly prohibited by that sign. Any use of the slipway inconsistent with the prohibition conveyed by the notice would be ‘vi’ i.e. forceful or against the wishes of the landowner, and therefore not ‘as of right’.

ISSUE (III) the effect, if any, of Byelaws made by the First Objector affecting land in its ownership; and also the fact that the First Objector had granted a lease of the Land to the Council for the latter to make the Land available for public recreation

The issue

206. By virtue of the British Transport Commission Act 1959 the First Objector Stena, as successor to the British Transport Commission, was the statutory port and harbour authority for Holyhead Harbour. The 1959 Act, in particular sections 31 and 32, conferred certain powers and duties to develop and operate and maintain a safe harbour.

207. The foreshore within the Application Land below High Water Ordinary Spring Tides (“HWOST”) fell within the described harbour limits by reference to section 28 of the 1959 Act. The remainder of the Application Land (the “Inland Area”) also fell within the harbour limits. The Objectors rely on the lease under which the Council had occupation and control of the Land as a whole and which included various “covenants, reservations and termination provisions” the purpose of which was to ensure that the functions of the harbour would be protected during the term of that lease. The lease also included provisions enabling Stena to determine the lease – and regain control and occupation of the Land – at any time at its absolute discretion for harbour or national purposes. Accordingly, the Objectors contend, it was to be implied from the lease, and the measure of control which Stena retained over the Land, that the Inland Area also fell within the harbour limits as defined in the 1959 Act.

208. Byelaws which came into effect on 4 August 1971 (“the Byelaws”) applied to land within the harbour limits, and all of the Land was within the harbour limits. Any activity which was carried out other than in accordance with Holyhead Byelaw 41 would, the Objectors contended, be unlawful and therefore could not constitute a lawful sport and pastime for the purposes of section 15 of the Commons Act 2006. Any sport and pastime which was carried out in accordance with byelaw 41 would be lawful but must have been carried out with express or implied permission and could not be ‘as of right’. Alternatively, the Objectors contended, following the decision of the Supreme Court in *Newhaven*, the fact that Byelaws had been made in relation to the harbour limits meant that any use of the Land within the harbour limits was by implied permission.

209. In *R (on the application of Newhaven Port and Properties Limited) v East Sussex County Council and another* [2015] UKSC 7 [2015] A.C. 1547 the Supreme Court held that although no byelaw expressly permitted members of the public to use the West Beach in Newhaven Harbour for leisure activities, such user might be permitted by implication if such implication were necessary or obvious. The prohibitions contained in the Newhaven byelaws against bathing in a specified area of the harbour and of doing acts which might impede use of the harbour impliedly permitted bathing elsewhere in the harbour and associated activities which did not impede its use. Although section 88 of the 1847 Clauses Act required notification of the byelaws by public display, they became effective when they were confirmed, and publication and display were intended to follow such confirmation. Parliament had not intended that the byelaws would not apply if such notification were not or were no longer displayed and, while it might be necessary to show that the byelaws were displayed for the purposes of justifying prosecution for their infringement, they were nevertheless effective in that they represented local laws applicable to the harbour even though they were not displayed as required by section 88 of the 1847 Clauses Act.

210. A landowner did not have to draw to the public's attention that their use of the land was permitted in order for it to be "by right" rather than "as of right": per Lord Neuberger of Abbotsbury PSC and Lord Hodge JSC at paragraphs 71-72.

211. It is accepted by the Applicant that Byelaws were made by the relevant authority in 1971. Of those, Byelaw 41 provides:

"Except in the exercise of a public right of way or a licence or other written permission of the Board [or its successors] no person shall enter or be without having proper business thereat or loiter upon any part of the harbour.

Every person so being or loitering shall on the request of the Harbour Master or other agent or servant of the Board give a satisfactory account of himself and his business and in default may be forthwith removed and excluded from the Harbour".

212. The Applicant accepts that the Byelaws apply to the foreshore below HWOST, but does not accept that the Byelaws apply to all of the Application Land i.e. not only the foreshore below HWOST but also the Inland Area.

213. In the 2016 Advice I expressed uncertainty as to whether the Inland Area is part of the harbour limits as defined in the 1959 Act. I have heard further argument on that point, which I return to below.

The Applicant's Submissions

214. The Applicant accepts that the Byelaws apply to the foreshore i.e. the land below HWOST. Whether the byelaws apply with respect to the rest of the claimed land turns on the question of whether the rest of the claimed land belongs to Stena and is 'held for harbour purposes'. It is common ground between the parties that the Land is not presently in active use for harbour purposes.

215. As far as the foreshore below HWOST is concerned, the Applicant relies upon Mr James Balfour's evidence regarding the activities of the sea cadets who used to beach boats on the Newry Beach making use of inflatable rigs.

216. It is unclear, the Applicant submits, whether such activity would fall within byelaw 41. Would the sea cadets be deemed to have 'proper business' at the harbour? Or, would they be deemed to be a nuisance disrupting harbour activity and/or loitering? If asked about their activities, would they be able to give a satisfactory account of them? It is submitted that the answer to these questions is unclear and that the byelaw is vague in respect of this activity and these questions. It follows therefore that the byelaw cannot assist with the question of whether or not the activity in question would be lawful.

217. Were the sea cadets asserting a right as trespassers on the Newry beach? It is submitted that the answer to this question is yes and that therefore the presence of other sports and pastimes (which may be unlawful) on the Newry beach falls to one side. The Applicant relies on this activity, which is said to have been lawful and continuous.

218. The Applicant accepts that 'belonging to' must necessarily mean or include 'freehold interest'. It is agreed that the lease makes provision for the use of the land by the First Objector (for example use of the beaching ground).

219. The question between the parties is therefore whether held means ‘held in reserve for potential harbour purposes’ as the Objectors contend.
220. The Applicant does not accept that this is the meaning of ‘held’, or that the lease is evidence that the land was in fact held in reserve for potential harbour purposes.
221. The ability to terminate on 6 months’ notice, in the context of the harbour of refuge suggests that the land was not truly being held for harbour purposes as such a termination clause actually represents rather a long amount of time in such a context. Further, since the harbour became non-operational the prospect of it actually being needed for such a purpose was non-existent. The evidence is that the harbour has been non-operational as early as the negotiations for the 1927 lease. In that case, such a lease, whilst showing an abundance of caution, does not confirm that the land is being used for harbour purposes.
222. The concession by the Objectors that the Byelaws did not apply to the land above HWOSt (i.e. to the Inland Area) after 2007 is helpful, but the date at which the byelaws ceased to apply to the non-foreshore land/Inland Area would, the Applicants submit, be the date on which Stena actually resolved to use the land for development not the date on which they signed the lease. This must, on any reckoning, been a date far earlier.
223. Finally on the suggested interpretation of ‘held in reserve for potential uses for such purposes’ the Applicants suggest that (as in the Lancashire case regarding educational land), the fact that the land was never in fact used for such purposes can found a conclusion that it was never truly ‘held’ in that way irrespective of the cautious approach in the lease. In any event, it is plain from the witness evidence, that for the 1994-2014 period the land was not held in reserve for any such purposes and was not seen as part of the harbour proper. There is a difference between held and used but it is not as extreme as is suggested by the Objectors.

The Objectors’ Submissions

224. The Objectors’ submissions were set out as follows. The first point to be considered, they submit, is whether, and if so to what extent, the 1971 byelaws – and in particular byelaw 41 - apply to the application land.

225. The second point is over what time period the byelaws applied to the land and in particular whether they apply to the whole of the land for the whole of the qualifying period or for some lesser period.

226. The third point is that, if they apply to the land in whole or in part for all or any of that qualifying period, then what is the legal consequence which arises

Spatial and Temporal Extent of Byelaws

227. Byelaw 41 applies to the “harbour”, which, by byelaw 2, “means the harbour at Holyhead comprised within harbour limits”. The definition of “harbour limits”, within byelaw 2, engages s.28 and Schedule 3 to the BTC Act 1959 (which comprise the Schedule to the 1971 Byelaws).

228. There are two elements to the definition of “harbour limits” in section 28 of the 1959 Act and both are engaged in respect of different parts of the application land. Section 28(1)(b) provides that “the area below high-water mark ordinary spring tides (“HWOST”) bounded by the limits described in the Third Schedule ... and shown on the signed map” falls within “harbour limits” and therefore the “harbour” so far as the Byelaws are concerned (the signed map is at Obj Vol B p382).

229. The area proposed to be registered as a green includes the foreshore – ie. land between mean low water and mean high water ordinary tides (Obj Vol B p386). The TVG area comprising the foreshore must therefore obviously include an area of land “below high-water mark of ordinary spring tides”, since a high water on an ordinary tide must be lower than high water on a spring tide. The application land includes the “foreshore”, namely the area between low water mark mean ordinary tide and high water mark mean ordinary tide. As such, since the byelaws, by s.28(1)(b), extend to high water mark ordinary spring tide, it must follow logically that the part of the application land comprising the foreshore (at least) must fall within the definition of “Harbour limits” prescribed by s.28(1)(b), Sch.3 and the signed map within the 1959 Act. As such, that part of the application land comprising the foreshore (at least) must form part of the “harbour” and therefore be the subject of the Byelaws and byelaw 41 in particular by operation of s.28(1)(b) (and irrespective of any issue as to what purposes the foreshore was “held” for). Indeed, the Applicant recognises that this is the case and has conceded, as recorded in the

Registration Authority's Revised Issues Paper at para.7.2 that "byelaws applied to the foreshore".

230. The 1927 lease, in so far as it includes land to "LWMOT" (Obj Vol B p19), must also include land below HWOST and, as such, must include land within the Byelaws for precisely the same reasons as are set out above in respect of the application land. In substance, the northern boundary of the application land and the northern boundary of the leasehold interest which is the subject of the 1927 lease are one and the same.

231. With regard to the temporal extent of the Byelaws in so far as they apply to the foreshore, the area below HWOST fell within the remit of the byelaws for the whole of the qualifying period, as the Applicant has accepted. It continues to fall within the extent of the byelaws following the lease to the Second Objector CSL in 2007 and will continue into the future. The lease to Stena does not affect, plainly, the operation of the second limb of the definition of "harbour limits" within s.23(1)(b) of the 1959 Act, which does not concern whether the land is "held" by Stena but rather is dictated only by the extent of HWOST.

232. The first limb of the definition of "harbour limits" within s.28 of the 1959 Act is "Harbour works", which are, for the purposes of the byelaws, defined by byelaw 2, as including "... any lands from time to time belonging to or leased by the Board and held or used by them for any purpose in connection with the harbour". It is this element of the definition of "harbour limits" which concerns that part of the application land lying above HWOST.

233. The starting point is one of interpretation. The definition of "harbour works" refers to land (a) "belonging" to the Board (now Stena) and which (b) is "held by or used for any purpose in connection with the harbour". There are therefore two elements to the definition; part (a) concerns the fact of ownership and (b) concerns the purpose of ownership, namely whether the land is "used" or "held" for harbour purposes. As such, not all land "belonging" to Stena will fall within this element of "harbour works" but only that "held or used" for harbour purposes.

234. With regard to (a), the term "belonging" must, on any sensible basis, include the freehold interest. The term "belonging" is not defined in the Byelaws. It is notable that the

term “occupy” or “in possession” is not used. “Belonging” should be given its natural meaning as including, but not limited, to the holding of the freehold interest.

235. With regard to (b), the definition draws an express distinction between land “held” for any purposes in connection with the harbour and land “used” for such purposes. “Held” must mean something other than “used”, or else it would be superfluous. “Used” connotes land in active use; “held” connoted land “belonging” to Stena but which is not in active use for harbour purposes but rather is held “in reserve” for potential use for such purposes. The concept of a public authority or undertaker “holding” land is not an unfamiliar one. Land is often held by a local authority for “highway purposes” or for “education purposes” albeit it may not be in active use for such purposes. Indeed, such land may be (and frequently is) put to some alternative purpose in the interim period. That land “held” for a particular purposes does not require the land to be in active and operational use was recognised in R v Minister of Fuel and Power ex p Warwickshire CC [1957] 1 WLR 861 - see Lord Goddard CJ at p.3 .

236. The reference to land being “held” for harbour purposes (as opposed to being in active use assists in construing the terms “belonging”. The reference within the definition to land being “held” as well as “used” for harbour purposes recognises that land may fall within the definition if it is, for example, held in “reserve” for future use but not in use or required for use immediately. As such, “meanwhile uses” may be expected to be introduced onto such land and there is no reason to suppose that a meanwhile use is one which is required to be carried out by the harbour authority, as opposed to another individual or organization with the harbour authority’s consent, so long as provision is made for recovery of possession by the harbour authority as and when the land is required for a harbour purpose. If that be the case, then there is no reason why the term “belonging” must in some way impliedly require actual occupation or possession by the harbour authority, so long as such occupation and possession is capable of being straightforwardly obtained.

237. Turning to the circumstances which concern that part of the land which lies above HWOST (ie. the promenade and the land to the south), it is common ground that the freehold interest in that land is held by Stena. As such the land “belongs” to the First Objector for the purposes of s.58 of the 1959 Act.

238. The land is not and was not during the relevant qualifying period in active “use” by Stena for any purposes in connection with the harbour. As such the land was not “used for any purpose in connection with the harbour” during the qualifying period.

239. However, the land was, the Objectors submit, “held” for harbour purposes during that part of the qualifying period to 2007 before the lease to CSL was entered into. During the period from 1994 to 2007 the land was leased to the Council by Stena (and/or their respective successors) without any intervening leasehold interest. The lease to the UDC of 1927 makes extensive provision for the use of the land by Stena, if required, and for termination and recovery of possession, on six months’ notice, of the whole or any part of the land from the UDC is required “for or in connection with ... Holyhead Harbour or for or in connection with national purposes”. The effect of this arrangement is that the use of the land for recreational purposes could be terminated by Stena on six months’ notice, were the land to be required for harbour purposes. In effect the recreational use was to continue for only so long as the land was not required by Stena to be used for harbour purposes - it was, in effect, a meanwhile use. This demonstrates, the Objectors submit, that the land above HWOST was “held” for harbour purposes and therefore was within “harbour limits” and therefore was part of the “harbour” for that part of the qualifying period between 1994 and 2007. That part of the land was therefore subject to the Byelaws between 1994 and 2007.

240. The Objectors however accept that after the 999 year lease to CSL was entered into in 2007 (without the same break provisions as are contained in the 1927 lease) the land above HWOST cannot sensibly be claimed to be “held” by Stena for harbour purposes. From 2007 therefore the land above HWOST was no longer part of the “harbour limits” or therefore the “harbour” and was not thereafter subject to the Byelaws. However the same is not the case for the area below HWOST which continued and continues to be within ‘harbour limits’ and subject to the Byelaws notwithstanding the 2007 lease.

241. In conclusion the Objectors submits:

- the byelaws applies throughout the qualifying period to that part of the application land which lies below HWOST; and

- the byelaws applied to that land above HWOST from that part of the qualifying period between 1994 and 2007 but not thereafter.

Effect of the Byelaws

242. The principal effect of the byelaws arises from byelaw 41. The effect of byelaw 41 is straightforward. Any person within that part of the “harbour” which comprises the application land requires permission or a licence from Stena (there being no public rights of way within the Land). If they do not have permission, their presence is contrary to byelaw 41 and unlawful.

243. If the Objectors are correct, the public (including local inhabitants) have a “right” to use the area of the TVG land deriving from the lease granted by the landowner in 1927 to the UDC. The 1927 lease in substance amounts to licence or written permission of the landowner, Stena. As such, their use is permitted and no breach of byelaw 41 arises. The Byelaw issue therefore falls away.

244. The fact that the Byelaws apply to land which was the subject of the 1927 lease does not give rise to some form of inconsistency, even when one considers the use to which the land was put pursuant to the lease. The Byelaws, by and large, seek to control use of the waterside elements of the harbour and the foreshore. However, byelaw 41 is engaged but the effect of the 1927 lease to the UDC plainly amounts to a licence or written permission from the MoT for the land to be used for recreational purposes by the public; the MoT, the contemporaneous correspondence reveals, were well aware of the UDC’s intended use of the land. Byelaw 48, concerning the control of dogs, is in no way inconsistent with recreational use of the land. As such, no inconsistency arises.

245. In the alternative, if the Applicant is correct and the area of the TVG land which is the subject of the 1927 lease does not generate a right vested in local inhabitants to use that land for recreation, then such recreational use was in breach of byelaw 41, since no licence or written permission was given by Stena nor is any such licence or permission suggested by the Applicant to exist. As such, in respect of (i) the land below HWOST for the whole of the qualifying period and (ii) in respect of the remainder of the land until 2007 any sports and pastimes would not be “lawful” and, moreover, in light of a breach of byelaws made by Stena, as landowner, the use would be vi or forcible. Thus, if the Applicant,

prevails in respect of the “permission” issue (whether or not the Council had permitted recreational use of the Land by making it available for such use) the logical consequence of its success in that respect is that a breach of byelaw 41 arises and qualifying use of the Land did not occur.

246. The Applicant does not suggest that the Byelaws were not properly promulgated and the presumption of regularity would apply now to the making of the Byelaws in any event. The Byelaws are available on Stena’s website. If it had been the case that the Byelaws had not been actively brought to the attention of the public, following *R (Newhaven Port and Properties) v East Sussex CC* [2015] UKSC 7, that would not result in the Byelaws having any less effect as in respect of the operation of the as of right test. That Stena has not had cause to enforce the Byelaws in respect of the application land is nothing to the point. There was no evidence of enforcement of the byelaws at issue in *Newhaven* yet those byelaws were held by the Supreme Court to have legal effect.

247. The Byelaws regulate use of the land to which they apply. In particular, byelaw 48 (Obj Vol B p69) requires controls on dogs and byelaw 46 concerns the throwing of stones (eg. on the foreshore). If the Registration Authority concludes that the Byelaws apply to the land in whole or in part and/or for the whole or part of the qualifying period, then to the extent that the Byelaws apply they give rise to an implied permission to use the land (following the principle established in *Newhaven*).

Conclusions on this issue

248. It is common ground that the Byelaws apply to the area below HWOST. Byelaw 41 provides, in particular:

“Except in the exercise of a public right of way or a licence or other written permission of the Board [or its successors] no person shall enter or be without having proper business thereat or loiter upon any part of the harbour. ...”.

249. On the face of it, therefore, any person who is within the harbour limits who is not exercising a public right of way, or who does not have a licence or other written permission to be there, or does not have proper business within the harbour, is in breach of that

byelaw. If a sport and pastime is being indulged in within the harbour limits in breach of that byelaw, such a sport and pastime would not be lawful.

250. Stena's predecessor granted a lease to the Council's predecessor in respect of the Land including the foreshore. That lease apparently envisaged that members of the public would enter upon the Land for open space or recreation or other similar purposes. In the 2016 Advice I expressed the view that the lease to the Council may have created a licence for members of the public to go on to that part of the Land which is within the harbour limits for recreation or open space purposes. Accordingly, sports and pastimes upon areas subject to the Byelaws might not be unlawful; but equally they may have been by permission.

251. If sports and pastimes were in breach of the byelaws, they were not lawful, and so there could not have been lawful sports and pastimes on the Land. In the absence of permission or licence to be on the Land, any sports and pastimes were not lawful.

252. If sports and pastimes were not in breach of the byelaws in the period before 2007 it would have to be because they were in exercise of a public right of way, or because they were in exercise of a licence or other written permission from Stena. There are no public rights of way within the Land. Any sport or pastime not in breach of byelaw 41 would therefore have to be by licence or other written permission from the First Objector Stena. I do not accept the Applicant's submission, if indeed the Applicant does make the submission, that under the second paragraph of the byelaw a person could "give a satisfactory account of himself or his business" and therefore not be in breach of that byelaw. A person indulging in sports and pastimes would not have "proper business" within the harbour and so could only accord with the byelaw if they had licence or permission to be there. The only manner in which it would appear that such a permission could have been granted was by virtue of the Council's lease: the First Objector leased the Land to the Council in the knowledge that the Land was going to be held by the Council for public recreation and made available for public recreation. It seems to me that by granting that Lease, the First Objector was giving permission for members of the public to go on to the Land which had formerly been part of the operational harbour.

253. The Applicant submits that the activities of sea cadets on the foreshore below HWOST was (a) not in breach of byelaw 41 because it would not be a nuisance or

inconvenience to harbour activities, and (b) sufficient to show significant qualifying use of that area. I am not persuaded by this contention. I heard evidence of some sea cadet use of the foreshore, but not enough to show “significant” use of the foreshore at any particular point in time and certainly not for the whole of the Relevant Period. In any event I do not consider that sea cadet activities would be a special case in relation to byelaw 41 and so would not be caught by it. The byelaw applies to any person who is on the Land who does not have proper business within the harbour, and who does not have licence or permission of the First Defendant. I see no reason why that byelaw would not apply to sea cadets whose presence could be, potentially, just as inconvenient or unsafe in the context of operational harbour activities as any other trespass by unauthorised members of the public. The sea cadets would not in pursuit of their own recreational activities be on “proper business” in the harbour.

254. Did the Byelaws apply to area above HWOST – the “Inland Area” – as well as the foreshore? It is common ground that the Inland Area was owned by the First Objector, even though leased to the Council. It is common ground that the Inland Area was not in use for harbour purposes. What, then, is the meaning of “held” in this context? It is not the same as “used”, as the parties appear to agree.

255. If “held” is not simply “owned”, and is not “used”, then it must mean land which is owned but is not used, at a given point in time. It must also mean more than “owned” but less than “used”. If land is owned by a body such as Stena but leased to a third party (such as the Council) on a fixed term lease with no break clauses or reservations, there would seem to be no real prospect of the Land being used by Stena for its statutory purposes before the expiry of a the fixed term lease. In those circumstances, it would appear that for the duration of such a lease the Land whilst owned by Stena is not held by Stena for its statutory purposes.

256. In the present case there is provision in the lease to the Council – namely the final reservation clause on the ninth page of the lease – which enables Stena to retake possession of the Land after 6 months’ notice. It would appear that at the time the lease was granted Stena (or its predecessor) considered that such a provision was necessary, and that it might need to regain possession of the Land, for its statutory purposes, before the expiry of the lease. In 2007 however Stena was apparently of the view that there was no prospect of it requiring the Land for its statutory purposes in the foreseeable future, and

granted a head lease to the Second Objector CSL with no provisions allowing it to regain possession if needed for its statutory purposes.

257. The Objectors accept that, once the lease to CSL was granted, the Land was no longer being “held” by Stena for its statutory purposes. The Applicant agrees, but submits that the Land ceased to be “held” by Stena at some earlier point, being the point at which the decision was taken by Stena to free the Land for development (which is the reason, as I understand it, why the lease to CSL was granted). The Applicant does not say, however, when it considers that decision was taken by Stena.

258. It seems to me that, because of the terms of the lease to the Council, the Land was being “held” but not “used” by Stena’s predecessor immediately after the lease was granted in 1927. That is because Stena’s predecessor envisaged that it might require the Land for its statutory purposes and granted the lease expressly on the basis that it could regain possession accordingly, if it considered it necessary. The question that arises therefore is when, if at all, circumstances changed such that the land was no longer “held” by Stena. On the evidence and submissions of the parties I am not aware of any event which might constitute such a change in circumstances until the lease was granted to CSL in 2007. The Applicant submits that the passing of the years since the Council’s lease was granted, without Stena seeking to make any use of the Land for its statutory purposes, demonstrates that at some point the Land changed from being “held” to being “not held”. The Applicant does not however suggest when that change occurred. It seems to me that in the absence of some material change in circumstances (material in the sense of ‘falls to be considered or taken into account’) it would be arbitrary to conclude that after the passage of a certain number of years – whether it be one year, two years, five years, ten years, 25 years, or 50 years – the land was no longer being “held” by Stena for its statutory purposes.

259. For these reasons I accept the Objectors’ submissions on this point. The Land above HWOST was, until the new lease was granted to CSL in 2007, being held by Stena for its statutory harbour purposes.

260. The Byelaws therefore applied to all of the Land until 2007. Either any use of any part of the Land for sports and pastimes was in breach of Byelaw 41 and not lawful; or it was with the licence or permission of Stena and not in breach of Byelaw 41, but by permission and not ‘as of right’.

261. It seems to me that the latter position is probably the correct analysis: the lease to the Council granted permission to members of the public to go on the Land which Stena had leased to the Council for that purpose. It would seem a bizarre outcome if, having granted that lease in contemplation of that use, and the Council then having made the land available to the public in the decades since the lease was granted without any objection from Stena, any use of the Land for lawful sports and pastimes and general public recreation was nevertheless in breach of byelaw 41 after the Byelaws were made in 1971, and therefore unlawful. It is common ground between the parties that the Byelaws apply to the foreshore below HWOST; when the byelaws came into force in 1971 Stena would have been aware that those byelaws applied to the foreshore within the land leased to the Council and on which the public were recreating.

262. Whichever way one looks at it, either byelaw 41 rendered sports and pastimes unlawful on the whole of the Land until at least 2007; or sports and pastimes were not in breach of byelaw 41 and therefore lawful, but were with the permission of Stena at all times because of the lease granted to the Council in 1927, and so could not have been 'as of right'. Alternatively, as the Objectors submit, the effect of the byelaws was to regulate use of the Land, and so gave rise to an implied permission to use it, with the result that any public use could not be 'as of right'.

ISSUE (IV) whether the doctrine of statutory incompatibility applied to some or all of the Land, meaning that some or all of the Land could not be registered as a town or village green.

263. The Supreme Court held in *Newhaven* that section 15 of the Commons Act 2006 did not apply to land acquired by a statutory undertaker and held for statutory purposes which were inconsistent with its registration as a town or village green. Since powers were conferred on the claimant in that case to carry out its functions of operating and maintaining a working harbour, and since the effect of registration under the 2006 Act was to create criminal offences in respect of damage to the registered site or interruption to its use and enjoyment, there was a clear incompatibility between the 2006 Act and the statutory regime applying to the claimant's harbour. The 2006 Act did not enable the public to acquire user rights over West Beach that were incompatible with the continued use of the land for the statutory purposes on which it was held by the port authority (see paragraphs 93-97, 101, 102, 103-104).

264. The Objectors contend that the whole of the Land is within the harbour limits. They also contend that even if the Inland Area is not within the harbour limits, it is occupied by the Council under restrictive terms and in circumstances whereby Stena can determine the lease at any time if the Land is needed for harbour or national purposes. Accordingly, they argue, the doctrine of statutory incompatibility, explained by the Supreme Court in *Newhaven*, applies to the Land.

265. Since the Council was granted a lease in 1927 Stena has been content to allow the Council to make the land available for public recreation, and then in 2007 Stena granted a long head lease to CSL apparently in contemplation of future development proposals, whilst the lease to the Council subsisted.

266. On the basis of the evidence and submissions then presented by the Objectors, as explained in the 2016 Advice I did not consider it had been demonstrated that registration of the Land as a town or village green would be incompatible with the statutory purposes of Stena, and that therefore the land could not be registered as a green. Further submissions on this issue were made by the parties at the public inquiry.

The Applicant's Submissions

267. The Applicant does not accept that any issue of statutory incompatibility arises in this case. In Newhaven the Supreme Court observed that the law on prescriptive rights drawn from the creation of highways and easements needed to be approached with care. That is because in such cases the law operates on the basis that there had been presumed dedication of the easement or the public right of way. So, in such cases, where the landowner had no power to dedicate the land, there could be no presumed dedication. TVGs are different, the court held, as the law does not operate on the basis of a fiction of dedication. Instead, if the substantive conditions of the relevant sub-section in section 15 of the 2006 Act are met, the land is to be registered as a TVG. Statutory incompatibility in TVG cases had to have some other intellectual basis.

268. The Supreme Court held that the question of incompatibility was one of statutory construction and did not depend on the legal theory that underpins the rules of prescription of rights. The question was simply whether section 15 of the 2006 Act applies to land which has been acquired by a statutory undertaker (whether by voluntary agreement or by powers of compulsory purchase) and which is held for statutory purposes that are inconsistent with its registration as a town or village green. The Court held that it did not.

269. The Newhaven case made clear that the statutory incompatibility question arose when statutory ownership of the land brings specific statutory duties or functions in relation to that specific land which are prevented or hindered by its use for public recreation after registration. In Lancashire County Council v Secretary of State [2016] EWHC 1238 (Admin) (at [75], [76] and [80]) this point is made explicit.

270. The decision maker is concerned with the period of time after registration with reference to the state of affairs at registration. The issue of whether there might have been any statutory incompatibility in the past is not, it is submitted, relevant to the TVG criteria at the point where the decision maker must decide if the criteria are met.

271. In Newhaven, the provision which governed it as a harbour authority showed that the land or beach in question could be required for harbour works including dredging and the construction of breakwaters for a working harbour with public obligations to fulfil. Public recreational access as of right would be incompatible with that function. The land in question was obviously significant to the future performance by the harbour authority of its duties. Given the consequences of registration of land as a TVG there was a clear conflict

between the purposes of the Company and the registration of the land. Dredging of a TVG would be a criminal offence.

272. In the present case the land in question is not significant to the future performance by the harbour authority of its duties for two reasons: firstly, the acknowledgment of the land being non-operational and no evidence that that position is likely to be revisited anytime soon and secondly, the existence of the 2007 lease and outline planning permission which show that the Objectors have formed the view that there is no such conflict.

273. The evidence therefore clearly establishes that there was and is no issue with regard to a statutory incompatibility arising from harbour authority duties. In any event it is submitted that the relevant point in time at which the decision maker should ask if statutory incompatibility arises is the date of registration. This being the point at which any concern about specific duties (like dredging) being rendered illegal (and the consequences entailed therein) arises.

274. The intention of the statutory undertaker, it is submitted, must be highly relevant to the question of whether statutory incompatibility arises in any given case. If the statutory undertaker secures a planning permission for the relevant piece of land and therefore announces an intention to develop it, it flies in the face of common sense to maintain that registration will create a conflict with statutory obligations in respect of that land. Clearly in circumstances where the land owner who is a statutory undertaker has announced an intention to develop land for non-undertaker purposes the 'mischief' at which Newhaven was concerned with (making a specific necessary act illegal) does not arise.

275. The issue of statutory incompatibility is not simply a matter of purely theoretical analysis as to whether there is a conflict in the terms of any one document. It is a highly practical doctrine directed at avoiding the sort of problems in Newhaven, which do not arise in this case.

276. Further and in the alternative, where a statutory undertaker gives an unequivocal statement to the effect that a piece of land is non-operational then it is submitted that they cannot sensibly assert that there is an incompatibility arising from (on their own case) statutory provisions which do not apply to the land in question anymore. Any other approach would be ludicrous and allow a statutory undertaker to assert statutory

incompatibility on the basis of historic statute and long overtaken by other real-world events, like, for example a new housing development. *Newhaven* and *Lancashire* made clear that statutory incompatibility was not an academic discussion but rather about identifying specific problems which would actually be in issue on registration.

The Objectors' Submissions

277. Qualifying use of the Land has to be free of statutory incompatibility throughout the relevant qualifying period, the Objectors submit, and the test does not fall to be applied only at the point of registration or at the end of the qualifying period.

278. This temporal point was not addressed directly by the Supreme Court in *Newhaven*, the Objectors accept. However *Newhaven* and *Barkas* when considered together provide the answer, the Objectors submit:

a. the Supreme Court in *Newhaven* established that a village green right cannot subsist where, as a matter of statutory construction, the right is incompatible with the specific statutory powers and duties of a public authority or undertaker;

b. in *Barkas*, Lord Carnwath JSC confirmed that, in the context of town or village greens and the quality of use during the qualifying period, “the conduct must bring home to the owner, not merely that “a right” is being asserted, but that it is a village green right” (para.65);

c. it follows that if, as a matter of law, a village green right cannot subsist at any time during the qualifying period by reason of statutory incompatibility then as a matter of fact local inhabitants cannot assert such a right during the qualifying period so as to generate qualifying use.

d. Lord Neuberger PSC states as much, the Objectors submit, at paragraph 93 in *Newhaven* where, in the context of statutory incompatibility, he finds that “... the 2006 Act does not enable the public to acquire by user rights which are incompatible with the continuing use of land for those statutory purposes”. If the public cannot acquire TVG rights in such circumstances then, logically, the public cannot assert such rights during the qualifying period;

e. were the position to be otherwise the registration would be permissible on the basis of evidence of use which is said to amount to an assertion of a right but where that asserted right cannot in law exist; that plainly is a nonsense; and

f. it would be odd indeed if the Commons Act 2006 was to be construed such that land can be registered as a TVG at a point in time notwithstanding it fell into and out of registrability during the qualifying period.

279. The Objectors also submit that statutory incompatibility does not require evidence of such incompatibility arising from actual or potential future uses: in *Newhaven* Lord Neuberger PSC (at paragraph 93) concluded that “the question of incompatibility is one of statutory construction”. The President held expressly that evidence of incompatibility with the port operator’s future plans was not necessary (see para.96). Whether statutory incompatibility arises is a matter of law and not of evidence.

280. The statutory incompatibility argument is made by the Objectors on two bases.

281. The first, which concerns the TVG land as a whole, focuses on the period before 2007 when a 999 year lease was granted to CSL. During that period before 2007 Stena held the freehold interest of the land and retained a right to recover possession of the land from the Council for harbour related purposes on six months’ notice.

282. Stena is a statutory undertaker whom, by s.30 of the British Transport Commission Act 1959, was vested with certain powers and duties.

283. By s.30(1) of the 1959 Act, the provisions of the Harbour, Docks and Piers Clauses Act 1847 is incorporated into the 1959 Act, including the duty within s.33 that the “harbour, dock and pier shall be open to all persons for the shipping and upshipping of goods, and the embarking and landing of passengers”. The 1959 Act thereafter provides a series of powers to carry out works within the “harbour limits”. “Harbour limits” is defined in s.28 and therefore encompasses the same area of TVG land, and for the same periods, as do the Byelaws.

284. With regard to those powers, Stena, as harbour authority “may from time to time deem necessary or convenient for any purpose for or in connection with the harbour or the accommodation of vessels and traffic thereat” (s.32(1)(a)) and “maintain and from time to time alter reconstruct renew extend and improve the harbour and the harbour works or any of them” (s.31(1)(b)). These are powers contained within the 1959 Act which are specific to Holyhead Harbour and to Holyhead Harbour only (see Part IV of the 1959 Act, which begins with s.27). Section 32 is a specific enactment and not a general one.

285. Would the assertion of a TVG right – the effect of which is to allow at all times use for the land for lawful sports and pastimes – be compatible with the exercise of these statutory powers? They are not, the Objectors submit. The harbour authority could not, for example, construct buildings on the application land compatible with a TVG right. It could not construct a pier, jetty or indeed a new groyne on the foreshore within the application land. The position is on all fours with Newhaven in this respect. Just as in Newhaven, evidence of actual future incompatibility was not necessary (see para.96), it is not necessary here. Approached as a matter of statutory construction, as is required, the incompatibility becomes clear.

286. Further and alternatively, the 1971 Byelaws applied to the TVG land below HWOST throughout the qualifying period and continued to apply now and into the future (notwithstanding the 2007 lease). The Byelaws applied to the TVG land above HWOST until 2007. Stena (and its predecessor) had power to make byelaws pursuant to s.37(1) of the 1957 Act, which incorporates s.83 of the 1847 Clauses Act. It also has power to enforce the Byelaws (see s.57(2)). If the land were registered as a green, rights would accrue and be vested in the local inhabitants. The Byelaws – including byelaw 41 and 48 (concerning control of dogs) by way of example – would not be capable of being enforced by Stena. With regard to the former, a TVG right is not a public right of way, nor is it a licence or written permission of Stena. Only those with such a right, licence or permission may be within the “Harbour” as defined. The Harbour Master may remove and exclude those who have no such right, licence or permission. Plainly, if TVG rights exist, this restriction is unenforceable.

287. It follows that TVG rights would not therefore be consistent with the statutory byelaw making powers derived from s.37 of the 1959 Act. Statutory incompatibility arises therefore for this additional reason.

288. If the submission that statutory incompatibility must not arise during the qualifying period is correct, this submission holds good in respect of all of the land (including the land above HWOST which became subject to a 999 year lease in 2007 and thereby ceased to fall within the “Harbour” from that date).

289. If however statutory incompatibility only falls to be tested at the point of registration (or indeed at the end of the 20 year qualifying period in 2014) then this point still holds good in respect of the land below HWOST which, at all times until now and into the future, it remains within the “harbour” by reason of s.58(1)(b) of the 1959 Act and therefore subject to the Byelaws, including byelaw 41.

Conclusions on this issue

I accept the Objectors’ argument that, because of the powers and duties of the First Objector Stena as statutory harbour authority, had the Land been registered as a green in the period before 2007, such registration would be incompatible with the First Objector’s statutory powers and duties. I have concluded that the whole of the Land was held for the First Objectors’ statutory purposes during the period 1994-2007 (see the discussion concerning the Byelaws issue, above). As the Objectors observe, the assertion of a village green right – the effect of which is to allow at all times use for the land for lawful sports and pastimes – would not have been compatible with the exercise of the statutory powers in question before 2007. The harbour authority could not construct buildings on the Land, for its statutory purposes, compatible with village green rights. It could not construct a pier, jetty or a new groyne on the foreshore within the Land. The position is comparable with *Newhaven* in this respect.

290. However, no incompatibility arose in practice because although the Land was held for the First Objector’s statutory purposes there was no attempt by the First Objector to use the Land for those purposes. After 2007 the Inland Area above HWOST (i.e. all of the Land except the Foreshore) was no longer held by the First Objector for its statutory purposes because it had granted a 999 year head lease to CSL with no provisions enabling it to recover possession of the Land as per the relevant clauses in the Council’s lease. Since 2007 it would appear that, ‘on the ground’ no issue of statutory compatibility could arise at any given moment in relation to the Inland Area above HWOST.

291. The Objectors submit that because the foreshore below HWOST remains within the defined harbour limits, it is still subject to the Byelaws, and that statutory incompatibility continued to arise in relation to that area of land after 2007 , because registration of that land as a green would be incompatible with the power to make and enforce byelaws.

292. The principal matter to consider, therefore, is whether one considers whether statutory incompatibility arises at the point of the determination of the Application (i.e. as matters stand today), which is the position contended for by the Applicant; or whether as the Objectors contend one approaches the matter on the basis that there can be no statutory incompatibility arising at all during the Relevant period i.e. that in order for land to become a green, there can be no legal impediment to registration of that land at any point in the 20 year qualifying period.

293. There is no authority on this point, as far as I can discern. The decision of the Supreme Court in Newhaven did not deal with the issue because on the facts it did not arise; in that case the operational harbour continued to be operational throughout the 20 year qualifying period for registration as a green.

294. I see force in the Objectors' submissions to the effect that:

- if, as a matter of law, a village green right cannot subsist at any time during the qualifying period by reason of statutory incompatibility then as a matter of fact local inhabitants cannot assert such a right during the qualifying period so as to generate qualifying use;

- were the position to be otherwise the registration would be permissible on the basis of evidence of use which is said to amount to an assertion of a right but where that asserted right cannot in law exist; and

- it would be odd if the Commons Act 2006 was to be construed such that land can be registered as a TVG at a point in time notwithstanding it fell into and out of registrability during the qualifying period.

295. If it was essential for me, and for the Registration Authority, to reach a conclusion on this matter, I would be likely to agree that the Objectors' approach was correct, and

conclude that because no village green rights could have arisen in the period before 2007, for the reason that registration of the Land would have been incompatible with the First Objector's statutory powers and duties in relation to the whole of the Land, the Applicant could not show 20 years qualifying use of the Land for that reason also. I am less persuaded that the continued application of the Byelaws to the foreshore after 2007 gives rise to a separate conclusion of statutory incompatibility barring registration of that area, because the lease to CSL enables CSL the right to carry out (subject to obtaining planning permission and other regulatory consents) acts of development on the Land which would appear to be contrary to the Byelaws in any event.

296. However, because of the other conclusions that I have reached, namely:

- that use of the Land was 'by right' and not 'as of right' for the whole of the Relevant Period because the Council held it and had made it available for such use; and
- because until 2007 the whole of the Land was subject to the Byelaws, which either caused any sports and pastimes on the Land to be unlawful rather than lawful, or alternatively when considered in conjunction with the lease to the Council gave rise to the grant of permission to the public to use the Land

my overall recommendation is that the Land cannot be registered at this time and that the Application must be rejected. I do not consider, therefore, that it is necessary for the Council to reach a final conclusion on the issue of statutory incompatibility preventing registration of the whole, or any part, of the Land.

OVERALL CONCLUSIONS AND RECOMMENDATION

(1) The Application should be amended, as noted at paragraph 137 above, to exclude certain areas from the Land.

(2) The car parking area to the west of the Sailing Club, and the Sailing Club Slipway, could not have been subject to significant use for lawful sports and pastimes for the whole of the Relevant Period, and those areas could not fall to be registered (see paragraphs 135-136 above).

(3) In the light of all the evidence, the Applicant has demonstrated that there was use of the remainder of the Land (i.e. the Land, excluding the areas referred to in (1) and (2) above) by a significant number of inhabitants of the Locality, for sports and pastimes, continuously throughout the Relevant Period (issue (I)). That, however, is not on its own sufficient to warrant registration of the Land as a town or village green.

(4) In the 2016 Advice I concluded that, following the decision of the Supreme Court in *Barkas*, the manner in which the Council held and maintained the land, and made it available for public recreation, resulted in public use of the Land being 'of right' and not 'as of right'. Having considered all the evidence and received further submissions from the parties my view on that matter has not changed. I conclude that use of the Land by inhabitants of the Locality was not 'as of right' at any time within the Relevant Period (issue (II)). Accordingly the application should be rejected.

(5) The fact that the Council permitted various public events to take place on the Land within the Relevant Period tends to reinforce the conclusion and recommendation at (4) above, but that matter does not give rise to a freestanding reason to reject the application. Similarly, the signs placed on the Land do not give rise to a freestanding reason to reject the application.

(6) The whole of the Land was subject to the Byelaws between 1994 and 2007, and therefore either sports and pastimes on the Land could not have been lawful in that time, because they were contrary to byelaw 41; or alternatively the First Objector Stena had given permission for the public to recreate on the Land, by virtue of the 1927 lease to the Council, and therefore any sports and pastimes were not in breach of byelaw 41 but were by permission and not 'as of right'. Alternatively the existence of the Byelaws gave rise to an implied permission for the public to use the Land, and

therefore use could not have been 'as of right' (issue (III)). Accordingly the Application should be rejected.

(7) The objection arising from the doctrine of statutory incompatibility, as advanced on the facts of this case, is novel and is not the subject of any authority strongly supporting it or detracting from it (issue (IV)). Because of my other recommendations, above, that the Application should be rejected, I do not consider it is necessary for the Registration Authority to reach a concluded view on this point.

For these reasons the Application should be rejected.

297. I understand that this recommendation is likely to dismay those inhabitants of the Porth y Felin Locality, and others, who support the application. They have demonstrated that the Land was subject to use for sports and pastimes by a significant number of inhabitants of that Locality for the whole of the claimed 20 year period. That, however, is not enough to lead to registration of the Land as a town or village green. It must also be shown, amongst other things, that such use of the Land was 'as of right', and this is principally why the Application cannot succeed. A lease of the Land was taken by the Council in order that the Land be laid out as an area of public recreation, and it was maintained for that purpose thereafter. The Council intended to confer a right upon the public to use the Land for recreation, until circumstances changed, and Stena's predecessor the Ministry of Transport was aware that the lease had been taken in contemplation of that purpose and use. The consequence is that the public had a right to go on the Land, but that right was granted by the Council and/or its predecessor (and indeed by Stena and/or its predecessor) and could be withdrawn. Local inhabitants have never been able to use the Land 'as of right'. As matters stand the Land is not capable of being registered as a town or village green.

JEREMY PIKE

Francis Taylor Building,
Temple, London EC4Y 7BY.

14th February 2017

SECTION 15 OF THE COMMONS ACT 2006

ISLE OF ANGLESEY COUNTY COUNCIL

**APPLICATION TO REGISTER LAND AT
NEWRY BEACH AND GREEN,
HOLYHEAD, ANGLESEY
AS A TOWN OR VILLAGE GREEN**

REPORT

to the Isle of Anglesey County Council

Robyn Jones esq.
Isle of Anglesey County Council
Council Offices
Llangefni
Anglesey
LL77 7TW