

12.1

Gweddill y Ceisiadau

Remainder Applications

Rhif y Cais: **46C569A/ENF** Application Number

Ymgeisydd Applicant

Mr Martin Poulter

Cais ôl-weithredol ar gyfer trac breifat ar dir ger / Retrospective application for the retention of a private track on land adjoining

Moryn, Bae Trearddur/Trearddur Bay



Planning Committee: 04/010/2017

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

Recommendation:

Permit

Reason for Reporting to Committee:

At the request of the Local Member – Councillor Trefor Lloyd Hughes

1. Proposal and Site

The proposal is for the retention of a private vehicular track. Since work has previously been carried out at the site the application is submitted as a retrospective application.

The application site is situated in a coastal and rural location approximately 1.5km north west of Treaddur Bay. The development has been carried outside the curtilage of Moryn, Treaddur Bay.

The proposed track is approximately 3 meters wide and approximately 85 metres in length with associated earthworks, to provide vehicular movement from the existing dwelling to an existing unmetalled track leading to the beach at Porth y Corwgl.

2. Key Issue(s)

The key issues are whether or not the development is acceptable in terms of its impact upon the amenities of the area, neighbouring properties and upon the character and appearance of the area.

3. Main Policies

Joint Local Development Plan

PCYFF1 – Development Boundaries

PCYFF 2 – Development Criteria

PCYFF3 – Design and Place Shaping

PCYFF 4 – Design and Landscaping

AMG1 – Area of Outstanding Natural Beauty Management Plans

PS19 - Conserving and where Appropriate Enhancing the Natural Environment

AMG3 - Protecting and Where Appropriate Enhancing the Natural Beauty

AMG4 – Coastal Protection

AMG5 – Local Biodiversity Conservation

AMG6 – Protecting Sites of Regional or Local Significance

Planning Policy Wales (9th Edition)

Technical Advice Note 5: Conservation and Planning

Technical Advice Note 9: Enforcement

Technical Advice Notes 12: Design

4. Response to Consultation and Publicity

Councillor Trefor Lloyd Hughes– Request that the application be referred to the Planning Committee for determination. Concerns regarding work being carried out adjoining the sea and use made of other land.

Councillor Jeffery M Evans - No response at time of writing report.

Councillor Dafydd Rhys Thomas - No response at time of writing report.

Community Council – No response

Ecological and Environmental Advisor – The Authority's advisor is satisfied following assessing the submission of a Conservation Management Plan as part of the proposal.

Natural Resources for Wales – No Objection

Footpath Officer – There is no public rights of way shown on our Definitive Map at this location however a topographic path exists from Lon Isallt to the beach south of Moryn. No objection to the planning application. Officer has suggested that a condition be attached to any permission ensuring that no fencing be erected which would not interfere with the un – metalled track on the adjoining unregistered land.

Landscape Officer – The proposal has minor local effects on the AONB landscape and will not alter any of the key characteristics of local landscape.

AONB Officer – No objection raised to the proposal. The AONB Management Plan has been highlighted.

Built Environment – Supportive of the application on the basis that both landscape and ecological considerations can be addressed.

Local Highways Authority – No comments regarding the application.

Response to publicity.

The proposal was advertised with the posting of notifications to adjacent properties. A site notice was also displayed near the application site.

One letter of representations was received as a result of the publicity afforded to the application. The main points raised are summarised below:

- No public rights of way from the land owned by the applicant and has no public right of way over the beach and foreshore at high or low tide. The applicant has no rights with respect to the sea bed.
- There is no need for another beach in the locality and its marine life should not be disturbed.
- An application for a Marine Licence has been submitted.
- Applicant has carried out works to a rocky outcrop which becomes visible at low tide and has unlawfully destroyed marine habitat.
- The beach is a small public beach with access via a rights of way from the footpath crossing from the clifftop either side. It is only accessible by foot and is free of vehicular activity. The proposed access ramp will cross the rights of way and create an unsafe and unpoliced private vehicular access.
- The proposed vehicular access will reduce the public right of way and area in which the public may use for bathing and social / leisure activity.
- The proposed carving out of a boating channel will harm and or destroy marine life which have enjoyed un-spoilt and undisturbed habitation.
- The proposed Marine license is unnecessary due to the already established and well policed County Council boat launching and recovery facility at Trearddur Bay, within half a mile of this beach.
- The secluded beach sits adjacent to a SSSI and AONB which is very often visited by sea mammals such as Seals, Porpoise and Dolphins.
- The sea bed and rocky outcrop is an undisturbed ground for crustaceans and rock adhering marine life.
- The proposed vehicular and boat access will disturb the public right of way and create a possible trespass issue. If Marine License is granted that will mean vehicles and boats will be "stored" and or "parked" on the beach and will affect the public rights of use for bathing and other leisure activities. There will be no means by which the council or its representatives could police the activities in a secluded area such as this.

- The beach sits between Trearddur bay and Porthdafarch which are hugely popular and are visited by huge numbers of public boat, surf, canoe and other activities. To introduce a further highly populated boating beach is unnecessary and will introduce further pressure to the fragile marine life that exists in the shallows of a beach and provides valuable feeding for the local bird population.

In response to the points raised, the Authority comments as follows:

- Land Registry documents suggest that the applicant owns the area of land within the application site. The applicant has a right of way over the existing track (adjoining the proposed track) leading from Lon Isallt onto the beach.
- The application is submitted solely for the retention of a private vehicular track. Works to marine life will be considered as part of a Marine Licence under a separate legislation, outside the planning remit.
- Landscape visual impacts, including the AONB will be considered and discussed later within the report as part of the determination process. Ecological matters will also be considered as part of the application.
- The application will be considered on its planning merits, in line with all material considerations and local and national planning policies. Any works / activity which may occur outside the application site cannot be considered as part of the application.

5. Relevant Planning History

46C569 – Full application to replace two chamber septic tank with a package treatment plant – Granted 10/10/2016

6. Main Planning Considerations

The impact the development might have upon the residential amenity upon the surrounding properties and area is a key issue in the determination of the current proposal.

In addition, it is necessary to consider whether or not the development would have an unacceptable effect upon the landscape and ecological matters.

The proposed track leads from the curtilage of Moryn, Treaddur Bay onto an existing trackway leading to the beach at Porth y Corwgl. The proposal entails the removal of rock outcrop and erection of an embankment against the cliff side by materials used from such works. The track will have crushed slate as surfacing.

There are no other residential properties within close proximity to the application site. It is therefore not considered that the proposal will have any adverse impact upon residential amenity.

Land Ownership and Rights of Way

The applicant owns the adjoining dwellinghouse known as Moryn together with the land in which the application is submitted. The applicant also owns a section of the beach which lies above the high tide water mark level.

The applicant has a right of way over the existing track in which the proposed track leading onto. The adjoining track leads from Lon Isallt onto the beach at Porth y Corwgl. The right of way includes the taking of boats to and from the foreshore and to take seaweed and gravel from the foreshore to the land.

The applicant claims that the use of the existing track from the curtilage of Moryn would minimise the risk of vehicular movement in comparison to accessing the track from the public highway.

Landscape and Ecological Considerations

Section 5 of Planning Policy Wales states:

“Biodiversity and landscape consideration must be taken into account in determining individual applications and contributing to the implementation of specific projects. The effect of a development

proposal on the wildlife or landscape of any area can be a material consideration” ... “When considering any development proposal (including land allocated for development in a development plan) Local Planning Authorities should consider environmental impact, so as to avoid, wherever possible, adverse effects on the environment”

Landscape and Visual Effects

The site is on the coastal edge and slopes down from c.15m AOD to sea level. The craggy coastline here creates a large number of distinct minor inlets with localised views on land.

It is within the AONB and the AONB Features and Special Qualities are noted below – not all are related to Landscape and Visual effects.

The site is within Landscape Character Area 2 – Holy Island, of the Anglesey Landscape Character Update 2011, an area where the landscape character is predominately rural, wild, exposed and coastal.

Key Issues in relation to the Coastal landscape are noted as:

Given the pressure for recreational and tourism developments should take into account:-

- Direct or indirect impact upon coastal landscapes.
- Visual impact on people’s perception of the coast, its character and qualities.
- Have regard to the AONB Management Plan.

LANDMAP values the area as High in the Visual and Sensory Aspect Area as a Generally quiet unspoilt rural landscape with attractive mix of rough knolls, marshy and small-scale fields, and coastal views...

Outstanding in the Historic Landscape Aspect Area for its considerable historical interest, from 'relict' prehistoric ceremonial and settlement sites to 19th century encroachment settlement on common (east side of Mynydd y Twr) and for its visual relationship with the rest of Anglesey (and beyond) and Outstanding in the Cultural Aspect Area as the backdrop to a unique town and harbour; as the first sight of Wales and of Britain for travellers from Ireland....

There are a number of footpaths in the area part of which includes the Wales Coast Path.

The area can be considered of High Sensitivity to development.

Landscape effects are related to the loss of features such as trees or hedges or changes to the key characteristics of the landscape.

Visual effects relate largely to changes in public views. They are related but separate assessments.

Landscape Effects

AONB

Policy AMG 1: Area of Outstanding Beauty Management Plans requires proposals within the AONB, where appropriate to have regard to the AONB Management Plan. There are minor localised direct effects on AONB features and special qualities related to coastal landscape and the loss of an area of western gorse and heather. Spoil generated by the track has created prominent edges which extend the area of the track and do not relate well to surrounding vegetation or areas of rock outcrop.

It is not considered that the scale or nature of the development has more than negligible effects on other landscape receptors as identified above.

Visual Effects

The area immediate to the site is largely gorse and heather and elements of the track as constructed are visible from Lôn Isallt coast road (also Wales Coast Path) but does not project above the current landform. It is also visible from land to the south which is not part of any footpath, but appears to be used informally. It is not visible from the Wales Coast Path south of

Porth y Post where there are views towards the site and of the rugged coast in this location or on the approach to the site from the east.

Mitigation

No additional works to the edge banks/berms is proposed other than reseeded. While the path edges are the most prominent element, additional works may create an engineered finish and not additional mitigation is proposed in relation to landscape. Newly seeded areas are likely to be more prominent initially until ground conditions affect the vigour and composition of vegetation.

Landscape Conclusion

The proposal has minor local effects on the AONB landscape and will not alter any of the key characteristics of local landscape. While the area under track will remain as implemented, the finish and edge (as per mitigation proposed) will become more vegetated, reducing long-term landscape effects. Within a period of 5 years residual landscape effects will be negligible.

Visual effects from public viewpoints are limited to brief oblique views, and the track is not visible from the pedestrian only section of the Wales Coast Path to the south.

Ecology

The application site is part of the designated Local Wildlife Site (LWS) known as 'Afordir Bwth Corgwl-Bar', which comprises three, separate parts along the coast. The land comprises of a rocky coastland with a mosaic of coastal grassland and coastal heath with areas of bare rock.

A Habitat / Botanical survey was undertaken and confirmed that the construction of the access trackway has resulted in the loss of an area of coastal grassland and maritime heath.

The Local Planning Authority requested that an Ecological Report and Mitigation Plan should be prepared and submitted and considered as part of the application.

Following the submission of a Management Plan it was concluded that the overall eradication and conservation management plan will require a staggered approach, as the eradication of the montbretia will remain a key priority to the conservation approach for the future of the site.

In summary, the Conservation Management plan has identified and proposed the following course of action:

- The eradication, including treatment and control for the presence of on-site montbretia and;
- Long-term plan mitigating loss of habitat connected with the creation of the access trackway, with an overall conservation approach for the remainder of the wildlife site at Moryn.

An effective conservation plan can only be implemented once the montbretia eradication can be fully controlled in an effort to avoid any further conflict in achieving a successful conservation plan for the future of the site, and neighbouring sites.

The works is proposed to be carried out over a 5-year period. The implementation strategy will include the inspection of the Authority's Ecologist in order annually review and monitor the mitigation works.

Natural Resources for Wales have confirmed that they do not wish to comment and have raised no concerns with respect to application.

The application is submitted at the request of the Local Planning Authority and in accordance with Welsh Government advice contained in Technical Advice Note 9: Enforcement of Planning Control following an enforcement investigation into the matter.

The advice provided under paragraph 9 within Technical Advice Note (Wales) 9: Enforcement of Planning Control on such matters states

'Where the Local Planning Authority's assessment is that it is likely that unconditional planning permission would be granted for development which has already taken place, the correct approach

is to suggest to the person responsible for the unauthorized development that they should promptly submit a retrospective application for planning permission.'

Whether or not the unauthorised development was carried out intentionally or not is a moot point. In any event it is not a criminal offence to carry out development without first obtaining any necessary planning permission. There are provisions within the Act to allow for permission to be applied for retrospectively.

Following the submission of the application which includes mitigation measures with respect to Ecology, it is not considered expedient nor in the wider public interest for the Local Planning Authority to take formal planning enforcement action in this case irrespective of the motive, whether intentional or otherwise.

Whilst any development could be argued to have a potential impact upon the amenities of neighbouring properties or the character of the locality, the question which needs to ask is whether or not the impact is so adverse that it warrants refusing the application. On balance however it is not considered the unauthorised development is so adverse that it should warrant refusing the application. Moreover, it is not considered that any refusal issued could be substantiated on appeal.

The application presently under consideration has been considered in light of the advice provided within Technical Advice Note (Wales) 9: Enforcement of Planning Control together with all other material planning considerations. In accordance with the advice contained with the aforementioned document

'Enforcement action should be commensurate with the breach of planning control to which it relates; it is usually inappropriate to take formal action against a trivial or technical breach of control which causes no harm to public amenity. The intention should be to remedy the effect of the breach of planning control, not to punish the person(s) carrying out the breach. Nor should enforcement action be taken simply to regularise development for which permission had not been sought, but otherwise acceptable'

7. Conclusion

The amenities of the area have been taken into account, however it is not considered that the application could be refused and an appeal sustained. Landscape, visual and ecological considerations have been assessed by the specialist Officers of the Authority who have not raised any objection to the scheme subject to conditions which includes the carrying out of a conservation management plan.

On balance, having given detailed consideration to the professional consultees comments in the matter, the representations received and all other material planning considerations, it is not considered that the refusal of the application could be warranted. Moreover, it is not considered that it would be expedient or in the wider public interest that formal planning enforcement action should be instigated in the matter. It is my recommendation that the application be approved.

8. Recommendation

To **permit** the application for the reasons below:

(01) The development permitted by this consent shall be carried out strictly in accordance with the plan(s) submitted below under planning application reference 46C569A/ENF

Drawing/ Document Number	Date Received	Plan Description
3070/12	19/12/2016	Proposed Site Plan
3070/13	19/12/2016	Proposed Plan
3070/11	19/12/2016	Location Plan
3070/14	19/12/2016	Cross Section

3070/11	1 8/09/2017	Richards Moorehead & Laing Ltd: Eradication plan for Montbretia and conservation management plan for wildfire site: Revision 1
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Reason: For the avoidance of doubt.

(02) All works in connection with the development hereby approved shall proceed strictly and entirely in accordance with the Management Plan (Richards Moorehead & Laing Ltd: Eradication plan for Montbretia and Conservation Management plan for wildfire site: Revision 1 reference number 3070/11) within the timeframe stated within the Management Plan.

Reason: In the interest of Ecology.

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

12.2

Gweddill y Ceisiadau

Remainder Applications

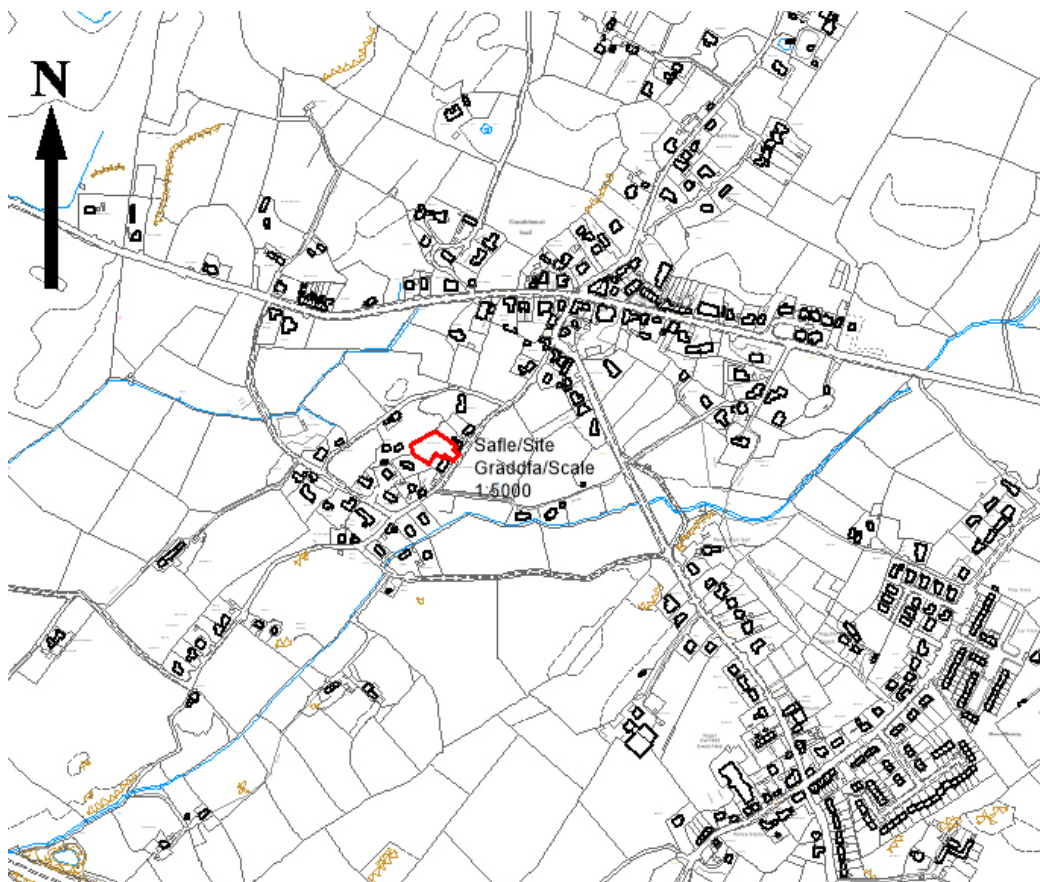
Rhif y Cais: **48C202A** Application Number

Ymgeisydd Applicant

Mrs Llinos Davies

Cais llawn ar gyfer codi annedd ar dir ger / Full application for the erection of a dwelling on land adjacent to

Penrallt Bach, Gwalchmai



Planning Committee: 04/10/2017

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

Recommendation:

Refuse

Reason for Reporting to Committee:

The planning application has been called to the planning committee by Councillor Bob Parry as Local Member in relation to the design and site.

1. Proposal and Site

The application site comprises an agricultural field of around 0.12 hectares in size located within a grouping of dwellings located to the south west of Gwalchmai. The field is served by an existing field entrance located between two residential properties one of which is within the ownership of the applicant. Both of these properties comprise traditional single storey cottages and have their frontages in close proximity to the public highway. Both these existing properties also have to varying degrees ground floor windows at the rear facing the application site. The agricultural field comprising the application site extends to the rear of these properties, there are existing hedges and trees along the field boundaries to the north, west and south.

The proposal is a full planning application for a two storey dormer type dwelling, the whole of the agricultural field would form the residential curtilage of this dwelling. The proposed dwelling would be set back within the field such that it is behind the two existing residential properties described in the preceding paragraph. Access would be via a new private access arrangement in the same position as the existing agricultural field access with a drive and turning area leading to the property within the site.

2. Key Issue(s)

Effect of the proposed development on the amenities of the area.

Impact on the residential amenity of occupants of the existing dwellings either side.

3. Main Policies

Anglesey and Gwynedd Joint Local Development Plan (2017)

PCYFF 1: Development Boundaries

PCYFF 2: Development Criteria

PCYFF 3: Design and Place Shaping

PCYFF 4: Design

TAI 3: Housing in Service Villages

AMG 3: Protecting and Enhancing Features and Qualities Distinct to the Local Landscape Area.

Planning Policy Wales Edition 9 (2016) "PPW"

Technical Advice Note 12 Design (2016)

Isle of Anglesey Council Supplementary Planning Guidance: Design in the Urban and Rural Built Environment (2008)

4. Response to Consultation and Publicity

Community Council – No response to date

Councillor Bob Parry – Called to the planning committee on the grounds of design and siting.

Councillor Dylan Rees – No observations.

Councillor Nicola Roberts – No observations.

Highway Authority – No response to date

Drainage Section – No response to date

Built Environment (Landscape) – Have considered the impact of the proposed dwelling on a tree on the northern boundary of the application site and concluded that whilst the proposal may affect the roots, given existing signs of disease on the tree and the fact that it is not prominent a Tree Preservation Order “TPO” is not justified and its loss would not have a significant adverse impact on the character of the natural landscape. New planting shown on the proposed site plan is indicative only and does not contain any detail.

Welsh Water – Conditional permission.

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 11.09.17 and at the time of writing this report no letters of representation had been received at the department.

5. Relevant Planning History

48C202 Full application for the erection of a dwelling together with the construction of a vehicular access, withdrawn 16.03.17.

6. Main Planning Considerations

The application site is within the settlement boundary defined in the JLDP and the principle of residential development for one dwelling accords with policy TAI 3.

Effect on Amenity - The application site is situated in an elevated position to that of the neighbouring properties. The two immediate properties adjacent are single storey cottages fronting the highway.

The proposal involves the erection of a large two storey dormer type dwelling in the rear of the field. Due to the siting and two storey scale it is considered that the proposed dwelling would result in dominant feature which would result in insensitive infilling to the detriment of the amenity of locality.

Effect on Amenity – Access to the proposed dwelling will be located between Tyn Lon Bach and Penrallt Bach. The proposed access drive is in close proximity to Penrallt Bach and car parking area is in close proximity to the rear of Tyn Lon Bach. The proposed dwelling and its garden area will be to the rear of these existing properties.

Tyn Lon Bach has one window in the rear elevation on the boundary with the application site, there are also a further three windows on a rear extension in close proximity to the boundary and facing the application site. Tyn Lon Bach also has its rear amenity in close proximity to the norther elevation of the proposed dwelling.

In terms of impacts on Tyn Lon Bach traffic movements and general activity from the proposed dwelling will have an impact on the living conditions given the close proximity to the rear elevation of this dwelling. Fencing could mitigate these impacts but given that the existing windows are on and in close proximity to the boundary with the application site such mitigation could also impact on outlook and loss of light.

The proposed front elevation of the proposed dwelling is around 16 meters from the rear elevation of Tyn Lon Bach on a front to back basis. As explained previously there is window on the boundary

with the application site in this rear elevation which will directly face the front elevation of the proposed dwelling. The rear extension of Tyn Lon Bach is closer at less than 10 meters. The SPG Design indicates that there should be a distance of 21 meters between front and rear elevations but that this may be increased if a development is higher than the existing dwelling. Given these considerations the relationship and proximity of the existing and proposed dwelling is considered unsatisfactory by virtue of the siting behind and too close to the rear elevation of Tyn Lon Bach.

There is a window in the northern elevation of the proposed dwelling facing the rear garden of Tyn Lon Bach, which is indicated to be obscurely glazed on the plans. A condition obscurely glazing this window would mitigate overlooking, but the need for this window is questioned given that a further window is also proposed on the rear elevation of this bedroom.

Whilst Penrallt Bach is within the applicant's ownership it is still material to consider the impacts on residential amenity given that ownership can change in the future. The proposed residential curtilage of the proposed dwelling extends around the rear of Penrallt Bach, and is at a higher level. The corner of the proposed two dwelling is also located in close proximity to the rear curtilage of Penrallt Bach. All in all this creates an unsatisfactory relationship with the potential for overlooking, disturbance and the impacts on the outlook from the rear garden of having a large two storey dwelling in close proximity.

Given the considerations described above it is considered that the proposed dwelling will have an unacceptable impact on the residential amenity of the existing dwellings because of its proximity and its siting to the rear which will result in general disturbance, overlooking and impacts on the outlook from the respective properties.

The planning application comprises a resubmission of planning application 48C202 which was subject to a committee site visit and was withdrawn prior to consideration at the March 2017 Planning Committee. The recommendation to the planning committee was one of refusal on the grounds that the proposal would unacceptably affect the amenities of the neighbouring properties and the amenities of the area. The proposal subject to this report is identical to that considered under planning application 48C202.

Highway Safety – The comments of the highway authority are awaited at the time of writing but no objections were raised to the previous planning application 48C202 which was withdrawn prior to being determined.

Landscape – The council's Landscape Officer has considered the impact of the development on a tree on the northern boundary of the application site. Whilst the proposed development may impact on the health of the tree no objections are raised for the reasons described.

7. Conclusion

The proposed development is considered unacceptable on the grounds of amenity and residential amenity primarily due to its siting, two storey scale, relationship and proximity to the existing dwellings.

8. Recommendation

That planning permission is **refused** on the following grounds:

(01) The siting and two storey scale of the proposed dwelling would result in a dominant feature which would result in insensitive infilling to the detriment of the amenity of locality. This would be contrary to the provisions of policies PCYFF 3 of the Anglesey and Gwynedd Joint Local Development Plan (2017) and Planning Policy Wales Edition 9 (2016).

(02) The siting and scale of the proposed dwelling would have an unacceptable impact on the residential amenity of the existing dwellings at Tyn Lon Bach and Penrallt Bach because of its proximity and relationship with the rear of these dwellings which will result in general disturbance, overlooking and impacts on the outlook from the respective properties. This would be contrary to

the provisions of the Isle of Anglesey Council Supplementary Planning Guidance: Design in the Urban and Rural Built Environment (2008) and Planning Policy Wales Edition 9 (2016).