

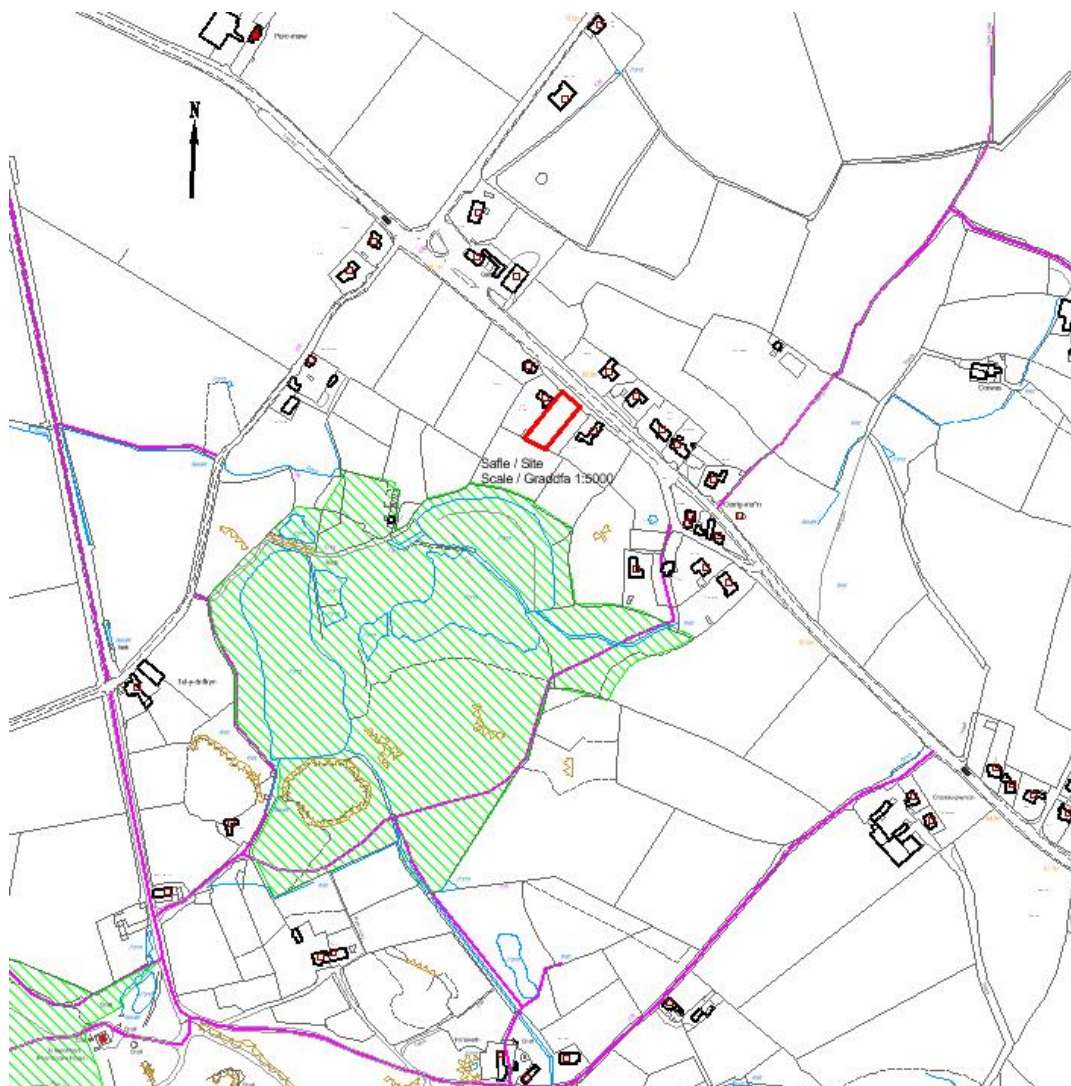
Rhif y Cais: **24C288B** Application Number

Ymgeisydd Applicant

**Mr G Hughes**

**Cais llawn i ail-leoli'r annedd a ganiatawyd o dan caniatad cynllunio rhif 24C288A ynghyd â newidiadau i'r edrychiad ar dir ger / Full application for the re-siting of dwelling previously approved under planning permission reference 24C288A together with alterations to the appearance on land adjacent to**

**Hafod y Grug, Penysarn**



**Planning Committee: 04/03/2015**

**Report of Head of Planning Service (IWJ)**

**Recommendation:**

Permit

**Reason for Reporting to Committee:**

The application is submitted to the committee as an application which is contrary to the adopted Ynys Mon Local Plan but that can be supported under the Stopped Unitary Development Plan.

### **1. Proposal and Site**

The application site is a parcel of land adjoining Hafod y Grug in the village of Cerrigman between Amlwch and Penysarn.

### **2. Key Issue(s)**

The key issues are whether the proposal is acceptable in terms of policy, the effect on the amenities of neighboring properties, and whether the design of the proposed dwelling reflects the character of the surrounding area.

### **3. Main Policies**

#### **Ynys Mon Local Plan**

Policy 1 - General Policy

Policy 31 - Landscape

Policy 42 - Design

Policy 48 - Housing Development

Policy 53 - Housing the Countryside

#### **Gwynedd Structure Plan**

Policy A2 - Housing

Policy A3 - Housing

Policy A4 - Housing

Policy A6 - New Dwellings in the Open Countryside

Policy D4 - Location / Siting / Design

Policy D29 - Design

#### **Stopped Unitary Development Plan**

Policy GP1 - Development Control Guidance

Policy GP2 - Design

Policy HP2 - Housing Density

Policy HP5 - Countryside Hamlets and Clusters

**Technical Advice Note (Wales) 9: Enforcement of Planning Control**

#### **4. Response to Consultation and Publicity**

**Local Member – No Response**

**Community Council – No Response**

**Welsh Water – Standard Comments**

**NRW – Standard Advice**

**Highways –** Reiterate comments from previous application (Recommend conditional approval).

**Drainage -** Reiterate comments from previous application. The amended location has no specific drainage implications.

The application was afforded three means of publicity; these were by the placing of a site notice near the site and the distribution of personal letters of notification to the owner / occupiers of properties in the immediate locality. An advert was also placed in the local newspaper.

The publicly process was undertaken on two separate occasions. The initial publication was made at the time the application was received, while the second was made following the Local Planning Authority receiving an amended plan.

At the time of writing this report two letters of representations were received at the department. The issues raised can be summarised as follows:

- Proposal would block a considerable amount of light from the sitting room window of Hafod y Grug.
- Ongoing boundary dispute between the sellers of Hafod y Grug and the applicant.
  
- View from the sitting room window will be a brick wall.
- Owners of Hafod y Grug would have taken a different decision as to whether to purchase the property if aware of the proximity of the development.
- Concerns regarding retrospective planning applications.
- If the current application is approved what reassurances does the Local Authority have that other alterations will not be carried out.

The objector's initial correspondence was forwarded to the applicant. The applicant's comments in response were received on the 13<sup>th</sup> January, 2015 and can be viewed in full on the planning file. In summary however the response can be summarised as follows:

- The previously approved application is in fact closer to Hafod y Grug than the current application.
- The owners of Hafod y Grug were fully aware of the planning approval prior purchasing the property.

In response to the points raised by the objector I comment as follows:

- Given the scale and distance between the proposal and Hafod y Grug, I consider that the proposal would not have an unacceptable impact upon Hafod y Grug in terms of loss of sun / daylight. A full assessment has been undertaken which is discussed later within the report.
- Boundary dispute is a civil matter.
- View is not a material planning consideration.
  
- All planning applications are in the public domain and are regularly available for viewing at the planning department.

- It is not a criminal offence to carry out development without first obtaining the necessary planning permission. The legislation allows development to be carried out without first obtaining the necessary consent and thereafter applying for permission retrospectively.
- Any development not classed as Permitted Development would require planning permission. The Local Planning Authority is unable to provide reassurances that no further unauthorised alterations will be made to the proposal.

## **5. Relevant Planning History**

24C288 – Outline application for the erection of a dwelling together with the construction of a new access and installation of a private treatment plant on land adjacent to Hafod y Grug, Cerrigman – Approved 02/03/2011.

24C288A – Full application to erect a dwelling together with the installation of a private treatment plant at Hafod y Grug, Cerrigman – Approved 24/12/2013.

## **6. Main Planning Considerations**

The principal of the development has previously been established for the site back in December 2013 when a full application for the erection of a dwelling was approved under application reference number 24C288A.

The dwelling has been erected to slab level at the time of the department's investigation into anomalies with respect to its positioning. Following confirmation of the fact the dwelling was in fact incorrectly sited, the developers promptly suspended works in accordance with the department advice.

Along with the siting of the dwelling, the current proposal also entails alterations to the appearance of the dwelling.

With the principal of development previously established, the impact the amendments might have upon the residential amenity of neighbouring properties is a key issue in the determination of the current proposal.

In summary, the floor area of the dwellinghouse has been reduced from the previously approved dwelling under planning application 24C288A. Its position has been moved approximately 1 meter away from Hafod y Grug (Western boundary).

The proposed dwelling is positioned approximately 2.1 metres away from the living room window of Hafod y Grug, in comparison to 1.2 metres on the original approved application.

It is therefore considered that the proposal would have a lesser impact in terms of overshadowing upon Hafod y Grug in comparison to the original approved permission. Furthermore, the elevation closest to Hafod y Grug is a garage having no proposed windows, therefore will not have an unacceptable impact by virtue of overlooking.

I consider that the amended alterations to the appearance of the dwellinghouse will not look out of character with the vicinity. In my opinion it provides a quality design which accords with policy, is balanced and in proportion with vicinity in general.

## **7. Conclusion**

In this instance I have considered the substance of representations received from the public, the

applicant and agent together with the statutory consultees alike and have balanced these against the advice contained within the relevant policy documents. Although careful consideration has been given to the points raised by the objectors, it is considered that the objections received carry insufficient weight to warrant the refusal of the application.

The advice provided under para 3.1.8 within Planning Policy Wales (Edition 7) on such matters states

*When determining planning applications local planning authorities must take into account any relevant view on planning matters expressed by neighbouring occupiers, local residents and any other third parties. While the substance of local views must be considered, the duty is to decide each case on its planning merits. As a general principle, local opposition or support for a proposal is not, on its own, a reasonable ground for refusing or granting planning permission; objections, or support, must be based on valid planning considerations. There may be cases where the development proposed may give rise to public concern. The Courts have held that perceived fears of the public are a material planning consideration that should be taken into account in determining whether a proposed development would affect the amenity of an area and could amount to a good reason for a refusal of planning permission. It is for the local planning authority to decide whether, upon the facts of the particular case, the perceived fears are of such limited weight that a refusal of planning permission on those grounds would be unreasonable.*

There are no other significant material consideration which are of relevance in the determination of the application presently under considerations which have not already been given due consideration.

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.

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 neighboring 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 I do not consider the unauthorised development is so adverse that it should warrant refusing the application. Moreover, I do not consider 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'*

On balance therefore, having given detailed consideration to all correspondence received, together with all other material planning considerations, I do not consider the impact which the proposal might

have in terms of overshadowing, loss of privacy or overlooking to be so adverse as to make the proposal unacceptable. In fact I consider that the development would have less impact upon the neighbouring property (Hafod y Grug) as its position is sited further away than what was initially approved under planning reference number 24C288A.

## **8. Recommendation**

### **Permit**

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.

**(01) The development permitted by this consent shall be carried out strictly in accordance with the plan(s) submitted on the 20/01/2015 under planning application reference 24C288B.**

Reason: For the avoidance of doubt.

**(02) The access shall be completed with a bitumen surface for the first 5 metres from the nearside edge of the County Highway with the surface water drainage system completed and in perfect working order before the dwelling is occupied.**

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

**(03) The access shall be constructed with its gradient not exceeding 1 in 20 for the first 5 metres back from the nearside edge of the adjoining carriageway.**

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

**(04) The highway boundary wall/hedge/fence or any new boundary erected fronting the highway shall at no time be higher than 1 metre above the level of the adjoining county road carriageway along the whole length of the site's boundary with the adjoining highway and nothing exceeding this height erected within 2m. of the said wall.**

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

**(05) The car parking accommodation shall be completed in full accordance with the details as shown in red on the attached plan before the use hereby permitted is commenced and thereafter retained solely for those purposes.**

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

## **9. Other Relevant Policies**

**Supplementary Planning Guidance: Design in the Urban and Rural Built Environment**

**Planning Policy Wales (Edition 7)**