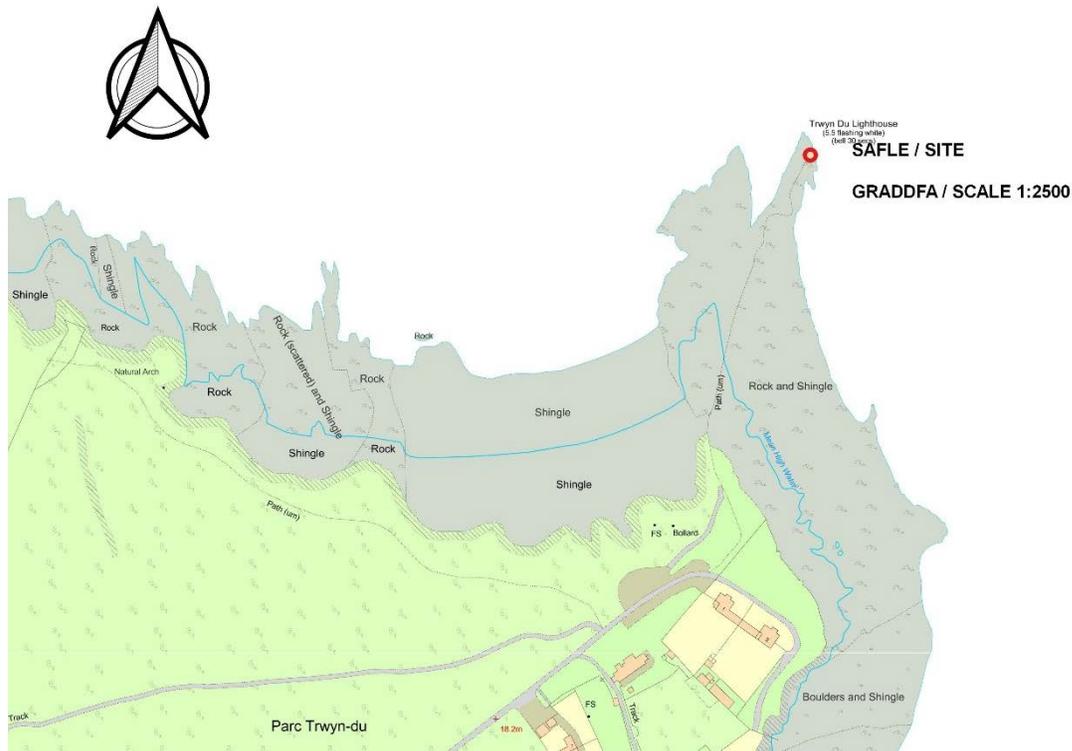


Application Reference: LBC/2020/1

Applicant:

**Description:** Caniatâd Adeilad Rhestredig ar gyfer mynedfa newydd, signal niwl newydd a phaneli solar newydd yn / Listed Building Consent for new access, new fog signal and replacement solar panels at

**Site Address:** Goleudy Trwyn Du Lighthouse, Penmon



**Report of Head of Regulation and Economic Development Service (Keith Williams)**

**Recommendation:** Er gwybodaeth / For Information

**Reason for Reporting to Committee**

To report on a procedural error in the determination of an application for Listed Building Consent to install a new access, new fog signal, and replacement solar panels at Trwyn Du Lighthouse, Penmon

**Consent requirements**

It is useful to have an understanding of the consent requirements in this case, the main issue being that planning permission for the development was not required due to the permitted development rights afforded to lighthouse authorities in the General Permitted Development Order (GPDO).

It is by virtue of the listing of the lighthouse that an application for listed building consent (LBC) had to be made. The relevant part of the GPDO (Schedule 2, Part 17, Class I) allows lighthouse authorities to undertake "Development required for the purposes of the functions of a general or local lighthouse authority under the Merchant Shipping Act 1894 and any other statutory provision made with respect to a local lighthouse authority, or in the exercise by a local lighthouse authority of rights, powers or duties acquired by usage prior to the 1894 Act."

Determination of a LBC application rests on the impacts of the proposed development upon the character of the listing. In this instance, it was considered that the works did not adversely impact upon this character, a stance supported by Cadw.

### **Determination of application**

A Listed Building application was approved by Planning Function Officers under delegated powers despite initially being the subject to a Committee 'call-in' by two local members. The 'call-ins' were received separately by email on the 17/01/2020 and the 19/01/2020.

The application was originally scheduled for consideration by the Planning & Orders Committee on the 01/04/2020, however, this meeting was cancelled due to the Covid-19 pandemic.

Following further discussion with the Planning Built and Natural Environment Manager concerning the nature of the application, one of the local Members agreed to withdraw the 'call-in' request, confirmed in an email dated 01/04/2020. The application was subsequently approved by officers under current delegated powers on the 15/04/2020, with the notice of decision being issued on the same day.

Despite securing the withdrawal of a 'call-in' request by one of the Members, no such request was made of the other until the error was discovered and a retrospective request made on the 04/05/2020. This request was rejected.

Legal advice was subsequently sought in the matter and this confirmed that the decision stood unless challenged and overturned in the Courts.

As can be seen from the application title, there was no intention to remove the bell from its position on the lighthouse, an issue which generated a wide response. Such a proposal would have adversely impacted upon the character of the listing and would have been resisted by the local planning authority (LPA), a position that was shared by Cadw. The decision not to use the bell as a means of warning, a reason provided for justifying the application's call-in, is a decision that could be taken outside the auspices of the planning/consenting system and was not a matter for consideration in the determination of this application. Despite attempts made by the case officer at compromise on this issue, where a reduced frequency of the sounding of the bell would be retained, the applicant refused to accede on the basis of additional maintenance and cost burdens.

Taking the above and other material circumstances into consideration, particularly from a heritage planning perspective, the LPA is satisfied that the appropriate considerations were taken into account in determining this application.

### **Actions arising from decision**

In the light of this decision, a review of procedures in relation to the call-in procedure was undertaken by the Chief Planning Officer. A summary of the findings and actions arising from these findings is provided below.

### **Context**

Recent remote working arrangements imposed by Covid-19 restrictions have proved challenging and have tested established procedures and management arrangements, as it has not been possible to replicate

'normal' office interactions. However, an audit of call-in requests over the last 12 months revealed that no other incidents of 'call in' applications being determined under delegated powers without prior discussion and agreement with local member(s).

### **Mitigating Circumstances**

The urgency with which new remote working arrangements were established as a result of the Covid-19 pandemic, meant that the usual 'checks and balances' were difficult to replicate and test robustly whilst continuing to process the Function's active caseload.

### **Conclusion**

The findings of the review suggest that the failure to respond to the Elected Member's 'call-in' request was as a result of human error.

### **Actions arising from review of situation**

In order to improve the robustness of processes in order to mitigate against a recurrence (thereby providing reassurance to the Interim Head of Service, the Senior Leadership Team and Elected Members), the actions listed in the table below have been implemented.

<b>Ref</b>	<b>Action</b>		<b>Date Implemented</b>
a	The CPO convenes and leads a weekly meeting of the Planning Function Management Team, assisted by the Business Systems Manager, to carry out a weekly audit of applications to identify those subject to 'call in'.		Week commencing 18.05.2020
b	A new document type for inputting member 'call in' into the electronic document management system is created.		Week commencing 18.05.2020
c	Clear guidelines are put in place (and training provided) in respect of the accurate filing of submissions received.		By the 22.05.2020
d	Officers to be reminded of the importance of carefully scrutinising all submissions received.		By the 22.05.2020
e	The delegated report template is amended to include an additional check on member 'call ins' before being authorised.		By the 22.05.2020
f	Case officers provide regular weekly updates to local members on the status of applications subject to 'call in'.		Week commencing 18.05.2020