

Application Reference: FPL/2021/106

Applicant: Gareth Jones

Description: Full application for the retention of a wooden hut to accommodate a milk vending machine (Use Class A1) together with hardstanding and parking area, alterations to the existing vehicular access and associated landscaping on land at

Site Address: Neuadd, Cemaes



Report of Head of Regulation and Economic Development Service (Joanne Roberts)

Recommendation: Refuse

Reason for Reporting to Committee

The application is presented to the Planning and Orders Committee at the request of the Local Member, Councillor Aled Morris Jones.

At the meeting held on the 6th October 2021, members resolved to visit the site. The virtual site visit took place on the 20th October 2021.

At its meeting held on the 3rd November, 2021 the Committee resolved to approve the application contrary to officer recommendation. The recorded reasons being as follows:

- As a rural enterprise that contributes to the economic prosperity and viability of the community;
- As it is not considered the development will result in any overly harmful effects on the AONB
- On condition that any permission granted limits the use of the hut to the applicant only.

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;

- As a rural enterprise that contributes to the economic prosperity and viability of the community;

Reference was made to criterion 4. of policy PS 13 of the JDLP which relates to Providing Opportunity for a Flourishing Economy which states that supporting economic prosperity and sustainability or rural communities by facilitating appropriately scaled growth of rural enterprises, extension of existing businesses and diversification.....and by encouraging the provision of sites and premises in appropriate accessible locations....

The application is for a retail outlet and therefore the most appropriate policies against which to assess the proposal is policies PS15: Town Centres and Retail and policy MAN 6: Retailing in the Countryside.

The proposal is considered to be contrary to criterion 4 of policy PS15 which seeks to resist development that detracts from the vitality and viability of town centres, criterion 6 which seeks to restrict the expansion of out-of-town retailing and leisure development and criterion 1 of policy MAN 6 which requires that the shop is a subservient element of an existing business on the site.

Notwithstanding that policy PS13 is therefore of limited, if any, relevance in the assessment of the application since there are other specific policies which are more relevant to the proposal under consideration, the key element is the requirement for proposals to be in 'appropriate' accessible locations. That the proposal is not in an 'appropriate' location is central to the Local Planning Authority's objection. As noted in the initial report, the LPA are generally supportive rural enterprises that contributes to the economic prosperity and viability of the communities, provided they are located in appropriate locations and otherwise accord with relevant development plan policies.

- As it is not considered the development will result in any overly harmful effects on the AONB

The site is located within the designated Area of Outstanding Natural Beauty in a locally prominent location adjacent to the A5025 at the junction with the minor road to Llanbadrig. The site has attractive views to the coast and Cemaes but influenced by detracting features such as the A5025, wind turbines and longer views to Wylfa.

LANDMAP describes the area *"to the east and west of Amlwch, extending from the coast 2km... inland, this is an intricate small scale landscape with winding lanes, glimpses of the coast, small craggy hillocks*

*and damp valleys... There are scattered houses and small fields... Within the area is the settlement of Bull Bay dominated by bungalows and holiday accommodation, and an adjacent golf course... These detract from the integrity of the nearby landscape, as do views glimpsed to Wylfa power station... Otherwise, this is an attractive varied landscape...' and of **High** value as an 'Attractive and distinctive intricate landscape with rocky parts, views to coast, sheltered valleys... Generally unspoilt, except around Bull Bay'*

Despite its proximity to the A5025, the site displays the qualities typical of the LANDMAP description and local character of the AONB.

Strategic policy PS 19 relates to conserving and where appropriate enhancing the natural environment and states that the Councils will manage development so as to conserve and where appropriate enhance the Plan area's distinctive natural environment, countryside and coastline, and proposals that have a significant adverse effect on them will be refused unless the need for and benefits of the development in that location clearly outweighs the value of the site or area and national policy protection for that site and area in question.

Policy AMG 1 relates to Area of Outstanding Natural Beauty Management Plans and states that proposals within or affecting the setting and/or significant views into and out of the Areas of Outstanding Natural Beauty must, where appropriate, have regard to the relevant Area of Outstanding Natural Beauty Management Plan.

The Anglesey AONB Management Plan 2015-2020 notes:

CCC 3.1 All development proposals within and up to 2Km adjacent to the AONB will be rigorously assessed to minimise inappropriate development which might damage the special qualities and features of the AONB or the integrity of European designated sites.

CCC 3.2 All new developments and re-developments within and up to 2Km adjacent to the AONB will be expected to adopt the highest standard of design, materials and landscaping in order to enhance the special qualities and features of the AONB. Proposals of an appropriate scale and nature, embodying the principles of sustainable development, will be supported.

The details submitted with the application are of a timber hut located at the Southern end of the site, measuring 5m x 3m x 2.5m painted with a dark wood stain and roofed with corrugated metal.

However the hut has been erected in a different position and of a different design and colour to the submitted plans. The hut is closed to the elevation facing the A55 and internal lighting would be constant to the elevation facing the carpark. Some indicative planting is shown on the submitted plan, but no detailed specification is provided and in any case would not serve to adequately screen or landscape the development.

The hut together with the gravel hardstanding parking area are prominent and incongruous in the sensitive designated landscape and give rise to adverse effects, particularly as a result of the vehicular activity at the site, localised light spill from the open hut upon the special qualities of the AONB contrary to policy AMG 1 of the JLDP.

- On condition that any permission granted limits the use of the hut to the applicant only.

Whilst the imposition of restrictive conditions would serve to alleviate some of the Local Planning Authority's concerns in relation to the development, it would not overcome the fundamental objection in relation to the acceptability of the development in this prominent, sensitive location in the open countryside contrary to local and national policy & guidance or address concerns in relation to the range and nature of goods being and to be sold from the site. The goods currently being sold from the site include, milk, milkshake, glass bottles and cakes, while the submitted planning statement confirms the applicants desire to sell other local produce through the vending machines such as cheese, jam and

ground coffee. An article in the Daily Post on the 4th October 2021 stated that plans to add an extra vending machine for the sale of local produce had been put on ice pending a decision on the application.

Furthermore, the need to impose such conditions to justify approval of the application would appear to be an acknowledgement by Members of the inappropriateness of the development in this location.

Moreover, paragraph 5.83 of Welsh Government Circular WGC 016/2014: The Use of Planning Conditions for Development Management advises against the use of such conditions stating that since planning controls are concerned with the use of land rather than the identity of the user, the question of who is to occupy the premises for which permission is to be granted will normally be irrelevant. Conditions restricting occupancy to a particular occupier or class of occupier should only be used when sound planning grounds can be demonstrated, and where the alternative would normally be refusal of permission. A local planning authority who imposes such conditions may run the risk of contravening its duties under the Equality Act 2010 and care should be taken to avoid such conflict. Conditions should not be imposed which provide for a system of vetting by the local planning authority or the use of a vague test such as "needing to be located in the area".

Paragraph 5.84 goes on to state that commercial and industrial buildings in an area of open countryside will not become more acceptable because their occupancy is restricted. Similarly, the expansion of a local firm will not necessarily lead to less pressure for further development (e.g. housing) than the arrival of a firm from outside. Such conditions are therefore undesirable.

Put simply, the development of a retail shop in this location is either acceptable or it isn't, irrespective of what is being sold and by whom.

Approval of the development with such conditions, would therefore be contrary to the advice contained in the Circular.

The Local Planning Authority therefore remain of the opinion that the establishment of a retail outlet in the open countryside in a designated Area of Outstanding Natural Beauty is unacceptable and is contrary to policies PCYFF1, PCYFF2, PCYFF3, PCYFF4, PS15, MAN6, PS19, AMG1, the provisions of Planning Policy Wales (Edition 11) and Technical Advice Note 6: Planning for Sustainable Rural Communities.

Recommendation

That the application is refused for the following reasons:

(01) The Local Planning Authority considers that the development by virtue of not being a subservient element of an existing business on the site is contrary to the provisions of policy MAN 6 of the Anglesey and Gwynedd Joint Local Development Plan.

(02) The Local Planning Authority considers that the proposal would result in the unacceptable and unjustified development of an isolated A1 retail outlet in the open countryside contrary to the provisions of policies PCYFF1 and PS 15 of the Anglesey and Gwynedd Joint Local Development Plan and the advice contained within Technical Advice Note 6 'Planning for Sustainable Rural Communities' and Planning Policy Wales (Edition 11).

(03) The Local Planning Authority considers that the development neither conserves nor enhances the special qualities and features of the designated Area of Outstanding Natural Beauty to the detriment of the character and appearance of the area contrary to policies PCYFF1, PCYFF2, PCYFF3, PCYFF4, PS19 and AMG 1 of the Anglesey and Gwynedd Joint Local Development Plan.