

PLANNING AND ORDERS COMMITTEE

Minutes of the hybrid meeting held on 7 June, 2023

- PRESENT:** Councillor Ken Taylor (Chair)
Councillor Glyn Haynes (Vice-Chair)
- Councillors Geraint Bebb, Jeff Evans, Neville Evans, Trefor Lloyd Hughes, MBE, John I. Jones, R. Llewelyn Jones, Dafydd Roberts, Robin Williams, Liz Wood.
- Local Members: Councillors Pip O' Neill (for applications 7.1, 7.2 and 7.3), Douglas Fowlie (for application 7.4) Nicola Roberts (Portfolio Member for Planning, Public Protection and Climate Change) (for application 12.2)
- Councillor Dafydd Rhys Thomas (for applications 7.1, 7.2, 7.3)
- IN ATTENDANCE:** Development Management Manager (RLJ)
Group Engineer (Development Control and Traffic Management (AR)
Planning Officer
Legal Services Manager (RJ)
Committee Officer (ATH)
- APOLOGIES:** Councillors Jackie Lewis and Alwen Watkin
- ALSO PRESENT:** Councillors Paul Ellis, Aled M. Jones, Derek Owen, Llio Angharad Owen, Gary Pritchard, Dylan Rees, Keith Roberts, Arfon Wyn, Senior Planning Officer (SOH), Planning Officer (HR), Business Systems Manager (EW)
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1. APOLOGIES

Apologies for absence were received from Councillors Jackie Lewis and Alwen Watkin.

2. DECLARATION OF INTEREST

A declaration of interest was made by Councillor Liz Wood under application 7.4 on the agenda.

3. MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meetings of the Planning and Orders Committee held on the following dates were presented and were confirmed as correct –

- 3 May, 2023
- 23 May, 2023 (election of Chair/Vice-Chair)

4. SITE VISITS

The minutes of the planning site visit held on 17 May, 2023 were presented and were confirmed as correct.

5. PUBLIC SPEAKING

There were no Public Speakers at this meeting of the Planning and Orders Committee.

6. APPLICATIONS THAT WILL BE DEFERRED

6.1 HHP/2023/51 – Full application for the demolition of the existing garage together with the erection of a two-storey annexe at Lancefield, Ffordd Cynlas, Tyn y Gongl

The application was reported to the Planning and Orders Committee at the request of the Local Member on the grounds of over-development of the site and adverse impact on the neighbours' amenities.

The Planning Development Manager reported that following the Committee's decision at its 3 May, 2023 meeting to undertake a site visit, the application site was visited on 17 May, 2023. Additional plans and amendments to the proposed plans relating to the application were received on 15 May, 2023 and were distributed to Local Members and to the Committee's members during the site visit. Re-consultation was conducted on 17 May, 2023 and it is therefore recommended that the application be deferred during the consultation period and a full report presented to the Committee's July, 2023 meeting.

Councillor Dafydd Roberts proposed, seconded by Councillor Trefor Lloyd Hughes, MBE that the application be deferred in accordance with the Officer's recommendation.

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

7. APPLICATIONS ARISING

7.1 46C427L/COMP – Submission of Community Liaison Group Scheme (CLGS) to comply with the Terms of Agreement as set out in Schedule 8, Section 7 and Penrhos Public Access Land Scheme (PPALS) as set out in Schedule 8, Section 13.1 of the Section 106 Agreement attached to planning permission reference 46C427K/TR/EIA/ECON at Land and Lakes, Penrhos Coastal Park, Holyhead

The application was reported to the Planning and Orders Committee as it relates to the discharge of obligations of a Section 106 Agreement attached to the consent of an application which was accompanied by an Environmental Impact Assessment. It was therefore referred to the Committee for determination in accordance with paragraph 3.5.3.10 of the Council's Constitution. At its meeting held on 3 May, 2023, the Committee resolved to refuse the application contrary to the Officer's recommendation as it deemed it unclear whether the original permission (application reference 46C427K/TR/EIA/ECON) had been lawfully implemented for two reasons, namely –

- Whether the works undertaken (under planning application RM/208/6) constitute a material start and,
- Whether the change of use to the Bailiffs Tower had commenced prior to the expiration of 5 years from the date of the original permission (being 19 April, 2016).

Also submitted for the Committee's information were Land and Lakes' Penrhos Leisure Village Implementation of Change of Use report (April 2021) and Penrhos Coastal Park Commencement of Approved Works report (April, 2021).

The Chair asked the Committee whether it wished to consider the three Land and Lakes applications (7.1, 7.2 and 7.3 on the agenda) as a composite application as at its previous meeting. Councillor Geraint Bebb proposed, seconded by Councillor John I. Jones that the three applications be considered together as one application.

The Legal Services Manager was invited by the Chair to read out a letter by Lisa Black from the Save Penrhos group. The letter read as follows –

“After the last planning meeting regarding Penrhos I was alarmed to hear that our planning councillors had not been privy to the documentation pertaining to the works done to constitute a material start that ultimately lead to the safeguarding of the planning application in perpetuity. Yet our councillors were asked to vote on matters that they were not fully informed on. It became apparent that many questions needed answering.

With the help of an independent planning consultant, we asked for and received a report in which the information provided seemed something that should be shared with our councillors regarding this matter.

Parts of this document include Section 56 of the Town and Country Planning Act which prescribes activities that constitute compliance referred to as a material operation which are defined as any work of construction in the course of the erection of a building; the demolition of a building; the digging of a trench which is to contain the foundation or part of the foundations of a building; the laying of any underground main or pipe to the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or part of a road; any change of use of any land which constitutes a material start. Planning permission is safeguarded subject to the start being authoritatively recognised as lawful in all aspects.

I therefore wish to bring to your attention the following –

There is no vehicular road formed, only what one would recognise as a short length pedestrian footpath in gravel. The boardwalk is a replacement of the original that leads nowhere with no signage for deepwater or beware. These changes seem a mere tokenism and not what constitutes the reasonable threshold of a material start.

I respectively wish to bring to your attention the Bailiffs Tower. Its heritage status is listed Grade 2 by CADW 5766, described as Bailiffs Tower with boundary walls, gates and attached outbuildings at Penrhos Home Farm. There is no evidence of any genuine change of use at the Bailiffs Tower to a visitors’ centre. I would also bring to your attention that the change from Bailiffs Tower to visitors’ centre proposal has no Listed Building consent so it would be unlawful to convert it to a visitors’ centre in any event.

This information is alarming. With respect, does any of the work undertaken meet the statutory activities cited in S56 of the Town and Country Planning Act? We, after professional planning consultants’ advice, believe not! It therefore follows that if this is not lawful then should our esteemed councillors be voting, or should it now be a matter reviewed on appeal or judicial review?”

The Planning Development Manager in addressing the reasons given for refusing the application at the previous meeting, particularly why they are not actual, material planning consideration in determining the application, said that he wished to take this opportunity to remind members that the development was granted planning consent in 2016 and that deciding whether or not the consent has been lawfully implemented is a matter for the courts and not the Committee.

With regard to the status of the works undertaken and whether they represent a material start, condition (04) of planning permission 46C427K/TR/EIA/ECON states that the development hereby permitted shall commence no later than whichever is the later of the following dates – the expiration of 5 years from the date of the grant of this permission, or the expiration of 2 years from the date of the approval of the first Reserved Matters application to be approved. In December 2018, the applicant Land and Lakes submitted a Reserved Matters application under reference RM/2018/6 for raised boardwalk, footways and works to trees subject to a TPO. The application was approved on 7 August, 2020. To implement this reserved matters permission, the applicant had first to discharge a number of pre-commencement conditions and an application under reference DIS/2020/92 was submitted in December, 2020 and was approved on 1 April, 2021. On 15 April, 2021 Land and Lakes submitted a report to the Council (Penrhos Coastal Park Commencement of Approved Works report) stating that works had commenced at Penrhos Coastal Park prior to 19 April, 2021 i.e., within 5 years of the grant or permission in accordance with condition (04). The report shows that works have been undertaken to install a section of pathway at the Penrhos Coastal Park approximately 15m long comprising in part of a compacted stone path with timber edging with some 5m comprising a raised wooden walkway. The photographs in the Land and Lakes report relate to a period between 24 March and 2 April, 2021 and although they show the works to be incomplete those works may have continued thereafter with the test being whether a material start has been made.

The main contention in a letter by Richard Buxton Solicitors dated 30 January, 2023 repeated in the letter by Lisa Black above is that the pathway works do not fall within the ambit of section 56(4)(d) of the Town and Country Planning Act, specifically “any operation in the course of laying out or constructing a road or part of a road.” The Council has subsequently sought its own legal advice through Burges Salmon and Leading Counsel Andrew Tait KC. The latter notes that “road” is not defined in the legislation but that the OED (1989 2nd edition) does refer both to “an ordinary line of communication used by persons passing between different places usually one wide enough to admit of the passage of vehicles as well as of horses or traveller on foot” and to “any way, path or (material) course.” Leading Counsel also notes that the definition in the most recent 2007 edition of the OED, does allow for “a path or way between different places, usually one wide enough for vehicles as well as pedestrians with a specially prepared surface.” Although Counsel acknowledges that “road” might be commonly assumed to involve vehicles which is reflected in the most recent shorter OED definition, he sees no reason why it cannot be given a broader meaning in circumstances where there is a specially prepared surface. Given that the dimensions and length of the pathway are not insubstantial especially in the context of cases where merely “pegging out” has been regarded as sufficient, Leading Counsel therefore considers that on balance the pathway works do fall with the description under section 56(4) (d).

Referring to the issue of the extent of the works carried out prior to approval of the pre-commencement conditions approval on 1 April, 2021, the Development Management Manager said that the Land and Lakes report states that the pathway was constructed between 24 March and 2 April, 2021. This is not clear from the photographs or otherwise. However, as the approval was shortly after some, or most of the works were carried out, Counsel is of the view that this would fall within one of the specific exceptions identified in the case *Whitley & Sons Ltd. v Secretary of State for Wales* as explained in the report. Counsel therefore considers that the pathway works can reasonably be regarded as having implemented the permission subject to considering the interaction with any other conditions. The Officer emphasised that the key consideration is evidence of the development having been lawfully implemented at the time in April, 2021 rather than what is evident now which is immaterial.

The Planning Development Manager informed the Committee of the receipt of an e-mail late the previous afternoon from Hilary Paterson Jones which enclosed a report by Elfed Williams

of ERW Consulting giving an opinion on the works implemented at Penrhos after visiting the site with members of the Save Penrhos group on 1 June, 2023, although as noted the material consideration is whether the works implemented in April 2021 are sufficient to constitute a material start to the development rather than the site as it is at present. With respect to Mr Elfed Williams whose report is entitled An Opinion on the matter of Planning Law, the Leading Counsel engaged by the Council has assessed the information and evidence and is of the opinion that the works undertaken can be considered to fall within the definition of the law. Based on the legal advice from Leading Counsel therefore, the Local Planning Authority considers that a material start has been made and there is no lawful reason why the Committee cannot determine the three applications. As per previous advice it is a matter for the Courts to decide whether the works constitute a material start but no such challenge has been made. The time limit for bringing a claim of judicial review has long passed and as a third-party objector cannot challenge a planning decision, this is not an option either. Currently no decision has been made that would enable a legal challenge to take place. The Committee has a statutory duty to determine planning applications and the information presented as part of the three applications is deemed acceptable in accordance with the requirements of the Section 106 agreement. Therefore, it is not considered that refusal can be justified on this basis.

In relation to the second reason for refusing the three applications namely whether the change of use to the Bailiffs Tower commenced prior to the expiration of 5 years from the date of the original permission on 19 April, 2016, in accordance with condition 70, the Planning Development Manager referred to Condition 71 which states that the change of use shall only commence following the implementation of the first Reserved Matters application approval in respect of the Penrhos phase of the development. As regards compliance with condition 71 commencement of the change of use is subject to prior implementation of the first Reserved Matters Application (RM/2018/6) which was implemented between 24 March and 2 April, 2021. Pre-commencement conditions had to be discharged prior to the implementation of permission RM/2018/6 and this was approved on 1 April, 2021 (DIS/2020/92). The change of use had to commence before 19 April in line with condition 70. As detailed in the Penrhos Leisure Village Implementation of Change of Use Report dated 15 April, 2021 the works to change the use of Bailiffs Tower to a Visitor Information Centre was implemented before 19 April, 2021. The building is suitable for this use, requiring only internal decoration and refurnishing to adapt to this purpose thereby avoiding the need for further planning approval or Listed Building consent. The works undertaken include cleaning, painting, filling and decorating, installation of carpet, signage, table and chairs.

In circumstances where no actual use has changed it could be said to be doubtful that a change of use constituting material development has occurred. However, it is difficult to see what more could have been done in a context where Covid 19 restrictions were in place at the time (April 2021) which prevented people from visiting the site.

The Development Management Manager said it was Hilary Patterson Jones's contention in her e-mail that Covid restrictions had long been removed by April, 2021. He provided the Committee with a detailed analysis of the Covid restrictions timeline in Wales from February to May, 2021 which showed that strict Covid restrictions were in place in the period to April, 2021 and only began to be relaxed during April and May, 2021 following lockdown meaning there is no substance to this allegation and no reason therefore for a further deferral. Furthermore, Counsel has gone on to advise that he considers that the elements of the permission consented in full (section C of the permission) are likely to be regarded as in practice severable from the other permissions and even if it had lapsed, that would not affect the validity of the other permissions. If the applicant had failed to implement the change of use of Bailiffs Tower, this element of the permission (i.e., the full planning permission included in section C of the original permission) is severable from the outline elements of the permission (included in sections A and B of the permission). If the change of use has not

been lawfully implemented these elements would fall away but the rest of the permission would remain.

However, the applicant believes that a change of use has taken place before the expiration date of 19 April, 2021. The Council has no reason to challenge this view given the evidence presented and due to the Covid restrictions in place at the time. The Council is aware that the Bailiffs Tower has not been used as a Visitor Information Centre since the lifting of Covid restrictions. In light of the evidence presented, the Covid restrictions in place at the time and the severability of these elements of the permission, Officers do not consider this a valid reason for refusing the applications. Following the receipt of specialist legal advice by Counsel, Officers are of the view that the development has been lawfully implemented and that the reasons cited by the Committee for refusing the applications are not valid. As noted in a letter to Members on 15 May, 2023 should the applications be refused Land and Lakes are likely to appeal which could entail costs to the Council. The development was granted permission in 2016 and has been lawfully implemented; the applications presented are to submit further details in accordance with the requirements of the Section 106 agreement. The Officer advised that it is not the Committee's role to decide on the legal matters but rather to determine the planning applications. The information presented as part of the three applications is considered sufficient to discharge the obligations of the Section 106 agreement to which they refer, and the recommendation remains to approve the three applications.

Councillor Pip O'Neill, a Local Member referred to the development as one fraught with controversy from the outset and as an emotive subject. He thought that Land and Lakes had done the bare minimum to safeguard the permission and highlighted that signage for the cricket club remains on Bailiffs Tower with no indication of its being used as a Visitor Centre. Councillor O'Neill called for more transparency, sensitivity, and professionalism with these applications given the strength of feeling and opposition to the development with people of the locality scrutinising everything that is going on. He strongly contested the merits of safeguarding the permission as Land and Lakes had undertaken so little work with it being kept alive on the basis of legalities. It had come down to a matter of how the law is interpreted with one side saying not enough has been done and the Council's legal advisors supporting Land and Lakes. Councillor O'Neill said he felt let down by the Planning Service with no one really looking out for the evidence presented by Land and Lakes and making sure that Members are not being hoodwinked. No Officers to his knowledge had been around Penrhos to ensure that what Land and Lakes are saying is true or if they had, he had not seen the evidence. It was his view that the permission had lapsed, that Land and Lakes should make a fresh application and as such the applications presented today should not be voted on at all.

Councillor Dafydd Rhys Thomas said he was disappointed by some of the protestors' attitude in attacking councillors on social media which he felt was unfair and did not help their cause. [Several members of the Planning and Orders Committee speaking later in the discussion also expressed their dismay at some of the e-mails and messages they had received]. He was proud to represent the people of Ynys Cybi most of whom he thought opposed the development in Penrhos. If the application for the development were to be presented today, he didn't believe it would be approved or even considered. The decision at the time was wrong and the Committee had dust thrown into their eyes with the hybrid application. He said the decision is the subject of national attention and that the Committee is in a difficult position. What is under consideration has been described as a side show given that outline permission has been granted for 500 lodges at the Penrhos site. He could see no solid evidence that a material start to the development had been made on this site and that that was a matter of opinion. He called for the Committee to be brave in the face of an appeal and risk of costs; however, how an inspector might see the situation cannot be predicted as it is not black and white especially as climate change is also a factor. He

referred to the saying “to know the cost of everything but the value of nothing” and said that a price cannot be put on Penrhos. He asked the Committee to refuse the applications and to let the matter go to appeal if that is the applicant’s wish.

Councillor Glyn Haynes, the Vice-Chair spoke of being a member of the Committee for seven years and having had to make some difficult decisions in that time which impacted on people. This application topped any decision he had had to make even though on the face of it the decision is about ratifying certain elements of work that should have taken place. He spoke of the Committee’s members being inundated with e-mails, most informative but some bordering on threatening. He emphasised that no one should think that members have been parachuted in to make a decision with no knowledge of Penrhos – he recounted his boyhood experiences living in the area when Penrhos was his stomping ground before the nature reserve was established. He emphasised that no decision today would be taken lightly but would be based purely on the facts as presented to the Committee.

Councillor Jeff Evans, who was also a Local Member, said that he had listened intently to all that had been said and that he understood his statutory duty as a member of the Planning and Orders Committee. He pointed out that the Committee consists of thirteen members of whom only seven are required to approve or refuse an application. That said, it was understandable how the application had proceeded as it has but not to the plaudit of anyone in his view. Whilst he had not been involved historically in this application, he applauded those from the locality who had taken such interest in it and in their desire to maintain Penrhos Coastal Park and their enjoyment of it. Whilst he appreciated the passion, it had to be acknowledged that people and communities are split in their views with their being various other opinions about the benefits or detriments of the application. Councillor Evans said that any application has to be honest, open and transparent and that he would again carry out his role in that spirit at this meeting. However, he felt that he was in an invidious position having been involved in the previous application albeit he had abstained at the time because people might have been aware of which way he might vote, and he did not want it to be considered that he had a pre-determined view. That being so he did not intend to vote on the matter at this meeting believing it to be a terrible situation with people, communities and society split down the middle. He could not see how seven individuals could be expected to vote fairly, honestly and rightly on a matter which the legal teams involved cannot agree upon. He believed the application should be refused again so that it can take its course through to a higher level be that the courts or elsewhere even if that entails costs as people have the right to put their views forward and the Committee has the right to know the legal position. He thought the public should have the opportunity to have professionals who are more skilled than the Committee decide on the matter. He did however want letters questioning his integrity and attacks on councillors and their families to stop. It was his view that the matter should be taken to the right body so that a correct legal decision could be made.

The Chair in saying that he agreed with much of what Councillor Jeff Evans had said referred to the time before he was elected a councillor when he had opposed the original application in 2016 when it was approved. Neither he personally nor the Committee could now change that outcome and it might be fair to say that the Save Penrhos Group also now recognises that the matter can only be resolved through the courts. Should that be the case and the group is successful then everything that has been determined since 2013 would fall. The Chair emphasised that that was not a matter for this Committee which is only concerned today with the three applications to discharge conditions under the Section 106 agreement.

Councillor Robert Ll. Jones also spoke of his personal history with Penrhos and his opposition to the application from the outset before he became a member of the Committee. He thought the situation difficult and was glad there were people willing to fight to overcome it. He also acknowledged the hard work of Planning Officers on this matter over many

months saying that he had every faith in them. Those sentiments were also echoed by Councillors Robin Williams, Jeff Evans Trefor Lloyd Hughes, MBE and Neville Evans as former Chair of the Committee who all recognised the work put in by the Officers in respect of the applications.

Councillor Robin Williams thought that a great deal of time and attention had been given to these applications over a considerable period. The group opposing the application has been asked to provide evidence, although he had yet to see that evidence. The original application was agreed in 2016 and the Committee now must deal with the facts. Councillor Williams said that while he had abstained from voting at last month's meeting having not been persuaded one way or the other, he believed that evidence had now been presented to enable him to come to a decision. As regards the Committee having only 13 members who can decide, he commented that only 12 individuals serve on a jury which makes life affecting decisions often on a majority basis. It was therefore the Committee's duty to come to a decision on these applications.

The Development Management Manager responding to the points raised by the Local Members accepted that the matter evoked strong feelings but refuted the suggestion that Officers were not professional or had not treated the matter with due respect. An independent specialist legal company and Counsel have been instructed to work for the Council because the matter has been taken seriously and if a challenge is not made by the Save Penrhos Group it will likely be made by Land and Lakes leaving the Council caught in the middle. The Planning Officers have been working in the best interests of the Council throughout. While the applications presented are in themselves straightforward, the courts might be the best place to decide on their legality, but they must be determined for a challenge to be made. Responding to a question by Councillor Robert Ll. Jones about whether Land and Lakes had been invited to address the Committee at this meeting, he confirmed that in accordance with the Public Speaking protocol, when the objector spoke at the Committee's meeting in May, an invitation to speak was also extended to the applicant – Land and Lakes, who were happy to leave the matter to the Officers.

Councillor Trefor Lloyd Hughes, MBE also thought that the original application if presented today would likely be rejected and he said that he had heard enough to be able to come to a decision on the applications which are to discharge conditions under the Section 106 agreement only and that he was supportive. Councillor Hughes also asked people not to make threats given that as councillor he was there to make life better for the people of Anglesey.

Councillor Dafydd Roberts proposed that applications 7.1, 7.2 and 7.3 be approved in accordance with the Officer's recommendation. The proposal was seconded by Councillor Robin Williams.

Councillor John I. Jones proposed that the three applications be refused on the basis that they were contrary to the leading principles of the AONB Management Plan to which they referred namely peace and tranquillity, forestry, the protection of important ecological spaces, archaeology and the Welsh language; in respect of tourism to ensure that the management plan improves the characteristics and special qualities of the AONB (which would not best be served by 500 lodges) and as regard leisure to ensure that the special qualities of the AONB works with groups to reduce instances of conflict. The proposal was seconded by Councillor R. Llewelyn Jones.

The Development Management Manager advised that the Section 106 agreement requires the developer to submit documentation e.g., SSSI Management Scheme, to show how the site would be managed in future. It currently costs Land and Lakes £200k per annum to keep the site open to the public; it is private land and is available to the public through permissive

access i.e., Land and Lakes as the landowner is voluntarily allowing the public to access the Penrhos site. Schemes such as the SSSI and AONB Management schemes are important but require an investor to make them possible.

In the ensuing vote on applications 7.1, 7.2 and 7.3, the proposal to approve the three applications was carried by 5 votes to 3 with 2 abstentions.

It was resolved to approve the application in accordance with the Officer's recommendation and report thereby discharging the obligations of the Section 106 Agreement to which it refers. (Councillors Jeff Evans and Neville Evans abstained from voting)

7.2 SI06/2020/3 – Submission of “Penrhos Coastal Park Welsh Language Scheme” under Section 1 (Welsh Language Scheme) of schedule 12 of the Section 106 Agreement completed in connection with planning permission 46C427K/TR/EIA/ECON and the submission of a Deed of Variation to vary the following provisions of this legal agreement: paragraphs 2.2.2 Schedule 8 (Cae Glas Nature Reserve and Visitor Centre Specification), Appendix 2 Bond Table Penrhos Visitor Centre (including the Penrhos Visitor Centre Toilets) and their maintenance, paragraphs 1.1 and 1.2 of Schedule 12 (Welsh Language Scheme) and the substitution of Plan 2 Penrhos Land Drawing – Plan 2 drawing reference PL1114.VW008/Rev.03 dated 03/03/2016 at Land and Lakes, Penrhos Coastal Park, Holyhead

The application was reported to the Planning and Orders Committee as it relates to the discharge of obligations of a Section 106 Agreement attached to the consent of an application which was accompanied by an Environmental Impact Assessment. It was therefore referred to the Committee for determination in accordance with paragraph 3.5.3.10 of the Council's Constitution. At its meeting held on 3 May, 2023, the Committee resolved to refuse the application contrary to the Officer's recommendation for the reasons set out under item 7.1 above.

It was resolved to approve the application in accordance with the Officer's recommendation and report thereby discharging the obligations of the Section 106 Agreement to which it refers. (Councillors Jeff Evans and Neville Evans abstained from voting)

7.3 COMP/2021/1 – Submission of information necessary to discharge sections Schedule 8, Section 1, Clause 1.1 Car Parking and Public Access Strategy – Penrhos Coastal Park Phase; Schedule 8, Clause 12.2 Ancient Woodland Scheme – Penrhos Coastal Park Phase; Schedule 8, Section 15, Clause 15.1 Green Linkages Scheme – Penrhos Coastal Park Phase; Schedule 8, Section 17, Clause 17.1, SSI Management Scheme – Penrhos Coastal Park Phase; Section 8, Section 19, Clause 19.1 Ecological Survey and Monitoring Scheme – Penrhos Coastal Park Phase; Schedule 8, Section 19, Clause 19.4 Ecological Compliance Audit – Penrhos Coastal Park Phase; Schedule 8, Section 20, Clause 20.1 Existing Tree Management Scheme – Penrhos Coastal Park Phase; Schedule 8, Section 21, Clause 21.1 Warden Service Appointment/Warden Service Annual Reporting – Penrhos Coastal Park Phase; Schedule 8, Section 21, Clause 21.2 Warden Service Security Obligations/AONB Impact and use of Green Linkages monitoring assessment – Penrhos Coastal Park Phase; Schedule 8, Section 21, Clause 21.3 Warden Service, AONB Impact Annual Report commitment – Penrhos Coastal Park Phase; Schedule 9, Section 3, Clause 3.1 Penrhos Leisure Village Phasing Plan – Penrhos Coastal Park Phase; Schedule 11, Section 1, Clause 1.1 Local Labour Plan – Penrhos Coastal Park Phase of the S106 agreement obligations attached to planning permission 46C427K/TR/EI/ECON at Land and Lakes, Penrhos Coastal Park, Holyhead

The application was reported to the Planning and Orders Committee as it relates to the discharge of obligations of a Section 106 Agreement attached to the consent of an application which was accompanied by an Environmental Impact Assessment. It was therefore referred to the Committee for determination in accordance with paragraph 3.5.3.10 of the Council's Constitution. At its meeting held on 3 May, 2023, the Committee resolved to refuse the application contrary to the Officer's recommendation for the reasons set out under item 7.1 above.

It was resolved to approve the application in accordance with the Officer's recommendation and report namely –

- **That Council completes the Deed of Variation so as to amend the legal agreement completed on 19 April, 2016 as part of planning permission 46C427K/TR/EIA/ECON and**
- **Upon completion of the Deed of Variation that the Welsh Language Scheme (February 2021) is approved by the Council so far as it relates to the "Penrhos Public Access Land" as defined in the legal agreement completed on 19 April, 2016.**

(Councillors Jeff Evans and Neville Evans abstained from voting)

7.4 FPL/2022/256 – Full application for the erection of 33 affordable homes, new vehicular access, construction of new estate road together with associated works on land adjacent to Crown Street, Gwalchmai

The application was reported to the Planning and Orders Committee at the request of the two Local Members. At its meeting on 5 April, 2023 it was resolved that a physical site visit be conducted. The site visit took place on 26 April, 2023. At its meeting on 3 May, 2023, the Committee resolved to refuse the application contrary to the Officer's recommendation for reasons of its being outside the development boundary; overdevelopment of the site; the proposal being contrary to the Council's Corporate Plan; negative impact on the Welsh language; inaccuracy of housing figures and community opposition to the scheme.

Councillor Liz Wood declared a prejudicial interest in the application and took no part in the discussion or voting thereon.

The Development Management Manger responded to the reasons cited for previously refusing the application saying that Policy TAI of the JDLP is made for the specific scenario of development consisting of affordable housing adjoining the development boundary. He referred to TAI 16 which provides that as an exception, proposals for 100% affordable housing schemes on sites immediately adjacent to development boundaries that form a reasonable extension to the settlement will be granted where there is a proven need for affordable housing which cannot be met within a reasonable timescale on a market site within the development boundary. Such development must be small scale and proportionate to the size of the settlement unless there is a demonstrable need for a larger site. It is the Officer's view therefore that refusal on the grounds of the proposal's location outside the development boundary cannot be justified as the scheme is acceptable within the confines of Policy TAI 16.

As regards overdevelopment, Policy PCYFF2 stipulates that all housing developments should achieve a minimum density of 30 units per hectare to make the best use of land. The application site measures 0.83 hectares which equates to a housing density of 41 units per hectare thereby meeting the minimum housing density requirement of the policy. Additionally, SPG Design Guide sets that each residential unit should benefit from 50m² of

amenity area. Each unit proposed as part of the application benefits from such amenity area with open space, landscaping and a substantial drainage basis forming part of the site. The Planning Service does therefore not agree that the proposal constitutes overdevelopment of the site.

Although the importance of the Council's Corporate Plan is acknowledged by the Planning Service, it is not a material planning consideration and therefore not a valid reason for refusing the application. With reference to the Welsh language, the application was accompanied by a Welsh Language Impact Assessment in line with Policy PS1 of the JDLP which was assessed by the Local Authority's Policy and Welsh Language Manager. No concerns were raised on account of the proposal's impact on the Welsh language although a query about the wards covered by the assessment was raised and was later clarified by the agent. It is therefore not considered that this provides a basis for refusing the application.

The accuracy of the housing figures provided was questioned by Members at the last meeting. Housing need figures have been provided by the Local Authority's Housing Service and are official figures based on registers kept by the service. As such, it is not considered there is any reason to question the figures and should the Committee be minded to refuse the application on these grounds, it would need to show substantial evidence to the contrary or run the risk of costs at appeal. As regards the strength of community opposition to the proposal, although the Planning Service acknowledges the community's sentiments regarding the proposal, having carefully considered the objections raised in the 119 letters submitted, it found there were no reasons to refuse the application. Local opposition is not grounds for refusal in its own right.

At the last meeting, concerns were also expressed that the proposed development would have an adverse impact on the community of Gwalchmai if they were allocated to individuals outside the village and ward. North Wales Housing Association has since provided a letter of support which sets out the local letting policy which would apply to the site. The policy consists of five priority levels as outlined in the report with priority being given to individuals who are currently or have been part of the community or have a local connection. Having considered the points raised by the Committee, Officers are still of the view that there are no material planning reasons for refusing the application and the recommendation remains one of approval.

Councillor Douglas Fowlie, speaking as a Local Member reiterated the doubts raised regarding the housing figures saying that there were no persons waiting for a 4 bedroomed house even though the development proposes 3 four 4 bedroomed houses. He referred to the location outside the development boundary as a significant consideration meaning the loss of green space in the midst of a climate emergency when such spaces are needed, and he questioned whether further building will then take place on the next boundary. Why take a green field from outside the boundary and build houses on it.? He referred to questions he had asked about the number of housing registers and duplication. He repeated the concern about the pressure on infrastructure and referred specifically to the local school's capacity to be able to accommodate additional children – the developer's contribution would not even cover the cost of a portacabin. Councillor Fowlie said that the definition of "local" and how it is applied is a major concern with the fifth priority level of the Local Letting Policy referring to applicants in relation to the Isle of Anglesey County as a whole. Who therefore is going to come to the area especially as there have been recent problems in Gwalchmai with a tenant having to be evicted from a one-bedroom flat? The development is described as affordable but there are no properties for sale meaning the scheme is for social housing which is misleading, and which is also known as a revolving door because people do not put roots down within the community. Gwalchmai is among the strongest communities on Anglesey and is opposed to the development – had sufficient consideration been given to the 119 letters of objection and the unanimous opposition of the Trewalchmai Community Council?

He referred to errors in the naming of wards which he thought astonishing and errors in the use of data, with data relating to Bodffordd and Bryngwran being used. He also expressed concern about the impact on the Welsh language especially in the context of a “revolving door” policy with people coming and going and not able to settle within the community saying that the Welsh Language Commissioner was looking into it. If the development was for people in the Gwalchmai ward, then perhaps they would be prepared to listen. He said that he had every faith that the Committee would do the right thing regarding the application.

Responding to a question by Councillor Jeff Evans regarding the reasons for the Community Council’s opposition to the proposal, Councillor Douglas Fowle said they were numerous but confirmed that the issue of what “local” meant in practice and whether the houses would be allocated to people from outside the Gwalchmai ward is a major concern especially as 20% of 10 new recently added social properties in the village had been allocated to persons that were not local. The fact that the Community Council is unanimous in its opposition says everything.

Councillor Jeff Evans asked that Community Council feedback from consultations be made known to members of the Committee. The Chair advised that comments on applications by community councils are included in Officers’ reports.

The Development Management Manager addressing some of the points made by the Local Member confirmed that the Housing Service in further discussion had confirmed the accuracy of the figures provided, there being no evidence to suggest otherwise. He clarified that there are two housing registers – the one for social housing and the other for affordable housing (Tai Teg). An element of duplication is inevitable as persons who want social housing may also be willing to accept an offer of affordable housing so appear on both registers. He confirmed that there are currently 50 people on the social housing register. He said that the location of the application site outside the development boundary is acceptable under current policy and had been addressed previously. With regard to the use of data for Bodffordd and Bryngwran, after the Policy and Welsh Language Manager queried the methodology, the developer explained that because the new ward of Crigyll was formed after the last census in 2011, data from Bodffordd and Bryngwran had to be included as part of Crigyll which was accepted by the Policy and Welsh Language Manager. The financial contribution to be made by the developer is based on the criteria contained within the Supplementary Planning Guide and applies to all developments across the Island; the Learning Service has assessed the proposal against the school’s capacity and has stipulated the contribution required to mitigate the impact on the community.

Councillor Neville Evans prior to giving his views as a Local Member asked advice regarding a radio interview he had given that morning clarifying that he did not make any comments that were different to those he had expressed at last month’s Planning Committee meeting where he had also proposed that the application be refused. The Legal Services Manager said that while he had not heard the radio interview he was aware of an interview given by Councillor Evans on the BBC’s website where he questioned the development. The Legal Services Manager advised that he did not think from the excerpt shown that the remarks made were prejudicial to the Member’s taking part in the discussion.

Councillor Neville Evans said that he wanted to go back to the beginning where he thought lessons could be learnt from the public meeting held in Gwalchmai prior to the formation of the Protect Gwalchmai group which is referenced in a letter by the landowner which contained many things which he could not disagree with. However, the letter does not mention that the public meeting was attended by almost 60 people but that there was no representation from the County Council nor the Housing Association with only the developer’s agent present. Councillor Evans said that the meeting would have provided the Council, the landowner, and the Housing Association with an opportunity to put forward their

views at an early stage and to try to sell the scheme. If applications are to be considered thoroughly, fairly and transparently then the pre-application meeting has to involve all parties to ensure an open discussion that is clear about what is being proposed. The views from the public meeting were unanimous (bar one) as were those from the community council in their opposition to the proposed development. Whilst it has been said that the proposal does not contravene any policy or technical requirements, should the view of the whole community be disregarded in such applications and even though the figures might be correct, Councillor Evans said that he maintained that the proposal for 33 houses is an enormous amount for a small rural village such as Gwalchmai and therefore constitutes over-development. The Officer's original report as well as the landowner's letter mention their initial concerns about the scale of the development; this has been a consideration for the service and has been considered by landowner also with the advice being that that amount is needed. Even so there are many other villages in dire need of affordable housing. Councillor Evans said that while he fully supported the provision of affordable housing across the Island, the scheme proposed is not suitable for Gwalchmai for the reasons already given and he appealed to the Committee to remember those reasons. When there is such a level of community opposition including from the Community Council, it has to be a consideration. Councillor Evans proposed that the Committee's previous decision to refuse the application contrary to the Officer's recommendation be reaffirmed. The proposal was seconded by Councillor Jeff Evans for the reasons given and because of the opposition of the Community Council.

The Development Management Manager clarified that with developments of more than ten units, developers must conduct a pre-application consultation with the community to obtain the views of the community before they apply for planning permission; the consultation must also include any specialist consultees but not the Council. Once a planning application has been submitted the Council undertakes its own consultation. The Officer emphasised that the community's views are an important consideration in evaluating a proposal but are not of themselves a reason for refusing an application. He further clarified with regard to the landowner's letter that the Planning Service had not advised that the proposal should be for 33 units – the number of units is a matter for the developer and applications are dealt with by the Planning Service as they are presented.

Councillor Geraint Bebb proposed that the application be approved in accordance with the Officer's recommendation because of the housing need. The proposal was not seconded.

In the ensuing vote the proposal to reaffirm the Committee's refusal of the application was carried with eight members voting for the proposal.

It was resolved to reaffirm the Committee's previous decision to refuse the application contrary to the Officer's recommendation for the reasons given.

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

11.1 HHP/2023/53 – Full application for alterations and extensions at 48 Cae Braenar, Holyhead

The application was reported to the Planning and Orders Committee as the applicant is related to an employee of the Council's Planning Service. The Legal Services Manager confirmed that the application had been scrutinised by the Monitoring Officer as required under paragraph 4.6.10.4 of the Council's Constitution.

The Development Management Manager reported that the application proposes the erection of a single storey porch extension underneath the existing small roof structure to create a new entrance porch. The proposed extension is considered small scale and although the occupants of the neighbouring property have objected on account of loss of sunlight, it is not considered the impact is such as to justify refusal. Several dwellings within the estate have created similar porches underneath their existing roof structures. The proposal complies with the relevant policies of the JDLP and it is recommended that the application be approved.

Councillor Jeff Evans proposed, seconded by Councillor Geraint Bebb, that the application be approved in accordance with the Officer's recommendation.

It was resolved to approve the application in accordance with the Officer's recommendation and report subject to the conditions set out therein.

12. REMAINDER OF APPLICATIONS

12.1 FPL/2023/108 – Full application for installing various fences measuring 2.2 metres, 2.9 metres and 3.2 metres high with matching gates at Ysgol Syr Thomas Jones, Pentrefelin, Amlwch

The application was reported to the Planning and Orders Committee as the land is owned by the Council.

The Development Management Manager reported that the application is to install various fences and gates measuring 2.2m, 2.9m and 3.2m at several locations around the school. The fences will be high-quality galvanized security fences with green polyester coating Fortex. The fences and gates are required to safeguard the site and will be located on the school premises and will not obstruct visibility from the existing vehicular accesses. The proposal complies with all the relevant policies, and it is not considered that it will negatively affect the area, the setting of the Grade II listed building of the school or any neighbouring properties. The recommendation is therefore to approve the application.

Councillor Geraint Bebb proposed, seconded by Councillor Liz Wood, that the application be approved in accordance with the Officer's recommendation.

It was resolved to approve the application in accordance with the Officer's recommendation and report subject to the conditions set out therein.

12.2 FPL/2023/66 – Full application for the siting of 120 35.KW solar panels on land at Hen Blas, Bethel, Bodorgan

The application was reported to the Planning and Orders Committee having been called in by a Local Member for the reason there would be local concern.

The Development Management Manager reported that the proposal entails the installation of 120 solar panels which will be arranged in two banks running east to west and will generate 35kw of electricity for the applicant's residential dwelling. The panels will be located at

ground level and mounted on a steel frame covering a total area extending to 194m². Although located in the open countryside the site is well screened from the highway by mature hedges and trees except for a small section where there is a gap in the hedge to accommodate visibility at the site access. The views from this gap are brief and would not have a drastic impact on the character of the area. A substantial amount of landscaping is proposed as part of the application which will screen this view over time. The countryside within which the proposal is located is sparsely developed with the nearest neighbouring property 100m to the northwest and the nearest property facing the front of the panels over 330m away. The panels will have a lifespan of 20 to 25 years after which they can be replaced, subject to planning permission, or removed in accordance with the restoration and aftercare scheme submitted as part of the application. The way in which the panels are fixed to the ground will have minimal impact and will allow the land to return to its former condition at the end of the functioning life of the panels. The Officers are satisfied that the scheme complies with the relevant policies of the JDLP and will have no impact on residential amenity in the area. The recommendation is therefore to approve the application.

Councillor Nicola Roberts who as a Local Member had called in the application due to concern about potential loss of quality agricultural land and the proposal's impact on nearby listed buildings confirmed that having understood that the proposal will be for residential use only and having received no objections from the locality, she did not oppose the application.

The Development Management Manager responding to a query by the Committee about the scale of the proposal for residential use and whether any contribution could be made to the community, advised that the level of electricity generated by the panels is relatively low commensurate with what a domestic dwelling uses in a day and is therefore insufficient to be able to be of benefit to the community. The proposal is a micro scale development in line with Policy ADN 2. The Officer further advised regarding the continued use of the land for grazing purposes that the applicant had confirmed that the method of fixing the panels to the ground will allow continued grazing around and between the panels meaning there will be no long-term effect on the land as agricultural grazing land.

Councillor Geraint Bebb proposed, seconded by Councillor Neville Evans that the application be approved in accordance with the Officer's recommendation.

It was resolved to approve the application in accordance with the Officer's recommendation and report subject to the conditions set out therein.

13. OTHER MATTERS

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

**Councillor Ken Taylor
Chair**