

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Refusal

<u>APPLICATION NO:</u> P2014/0333	<u>DATE:</u> 11/04/2014
PROPOSAL:	Removal of Conditions 1 and 2 of Planning Permission P2009/0406 approved on the 21/07/09 to allow the property to be used as a residential dwelling house.
LOCATION:	HENDRE LAS FARM, PENTWYN ACCESS ROAD, RHOS PONTARDAWE, NEATH PORT TALBOT SA8 3JT
APPLICANT:	Mr Jonathan Jones
TYPE:	Vary Condition
WARD:	Rhos

Background Information

The application subject of this report was received by the Council in April 2014, and seeks the removal of Conditions 1 and 2 of Planning Permission P2009/0406 approved on the 21/07/09 to allow the building to be used as a residential dwelling house.

The application was subsequently reported to the Planning and Development Control committee on 27th May 2014 where Members resolved to decline to determine the application under section 70a of the Town and Country Planning Act 1990.

The applicants subsequently submitted a Judicial Review against the authority's decision, which was successful on a point of law - on the basis that the Council failed to refer to and apply WO Circular 44/91 which was a material consideration - and the matter submitted back to the Authority. As a consequence, and given the length of time now passed, a decision was made to validate the application, undertake consultations, and report the matter back to the Planning Committee for a determination.

Planning History:

The application site has a detailed and complex planning history, including a number of planning appeals, a High Court Challenge, Enforcement action and subsequent appeal. These are summarised below in chronological order.

P2008/0585 Conversion of barn into dwelling - Approved 15/09/08

P2009/0405 Retention and completion of two-storey detached building for use as a dwellinghouse - Refused 02/09/2009

Members may recall that in 2009 planning permission was sought for the retention and completion of a two storey property for use as a residential dwelling after it was discovered that the barn subject of the previous permission (P2008/0585) had been demolished and a new larger two storey structure had been constructed in a different location, without the benefit of planning permission.

After detailed consideration and following a visit by the Planning (Site Visits) Sub Committee, the application for the retention of the dwelling house was reported to the Planning and Development Control Committee on the 2nd of September 2009 where the application was **refused** for the following reason:

- (1) The retention and completion of a new dwelling at this location would result in an unjustified form of development within the open countryside, to the detriment of visual amenity and character of this rural area as a whole, contrary to the overarching need to protect the countryside for its own sake. This would be contrary to Policies ENV1 ENV8c and ENV 17 of the Neath Port Talbot Unitary Development Plan and Planning Policy Wales (March 2002)*

P2009/0406 Retention and completion of detached two storey property for use as holiday accommodation - *Approved with conditions 21/7/2009*

Members may also recall that the applicant submitted a concurrent planning application, alongside P2009/0405, for the retention and completion of the detached two storey property for use as holiday accommodation only. After detailed consideration, the application for holiday accommodation was **approved** with appropriate occupancy conditions (which are the subject of the current application). This decision was made under delegated powers on 21st July 2009.

Appeal ref. no. APP/Y6930/A/09/2112770 (App ref. P2009/0405)

The applicant subsequently appealed against the refusal of planning permission for the retention of the building and its use as a residential dwelling (ref. **P2009/0405**) which was heard at a Hearing on the 26th January 2010. The appeal was subsequently **dismissed** on the 26th March 2010 on the grounds that the dwelling was an unsustainable and unjustified form of development within the open countryside.

The applicant then **appealed to the High Court** on the basis that he was not given adequate opportunity to address the issue of sustainability. On the 13th October 2010, the High Court quashed the decision of the Planning Inspectorate and re-submitted the appeal to the Welsh Ministers for the following reasons:-

- (1) the inspector did not afford the Claimant “a fair crack of the whip” on the question of whether the proposed development would promote sustainable travel patterns;
- (2) this gave rise to unfairness and substantial prejudice to the Claimant
- (3) therefore the Inspectors decision was not within the Powers of the Town and Country Planning Act 1990 and/or there was a failure to comply with relevant requirements;

Re-determination of Appeal Ref No. APP/Y6930/A/09/2112770.

On the 2nd December 2010, the Planning Inspectorate proceeded with the re-determination of the appeal for the retention of the building and its use as a dwelling. The applicant provided additional information in relation to sustainable travel patterns and the matter was dealt with by written representations. The site was visited on the 2nd March 2011.

On the 22nd March 2011, the appeal was again **dismissed** with the Inspector concluding that the development and use as a dwelling was an unsustainable and unjustified form of development within the open countryside.

P2011/0553 Retention of building and use as a dwelling house (Class C3) and completion of associated works and Enforcement Notices relating to Unauthorised use of the building and Unauthorised operational development - *Refused 05/12/2011*

In 2011 the applicant then made a 2nd planning application to retain the use of the building as a dwelling house. At that time Officers considered whether to decline to determine the application under s70A but chose to determine that application.

After detailed consideration and following a site visit by the Planning (Site Visits) Sub Committee, the application for the retention of the building for use as a dwellinghouse was reported to the Planning and Development Control Committee on the 29th of December 2011, with the application **refused** on 5th December 2011 for the following reasons:

(1) The proposal is an unjustified form of residential development within the countryside which by virtue of its remote location results in it being heavily dependent on motor cars and therefore unsustainable which is contrary to Policies GCI, ENVI, ENV8a, b and c and T1 of the Neath Port Talbot Unitary Development Plan

Formal Enforcement Action (ref E2010/0157)

On the 28th June 2012 and following the previous refusal of planning permissions, an Enforcement Notice was served upon the applicant to cease the use of the building as a residential dwelling within a compliance period of 3 months.

Joint Planning and Enforcement Appeal (Appeal Ref No. APP/Y6930/A/12/2177302 and C/12/2179809)

The applicant subsequently appealed against both the refusal of planning permission (ref. P2011/0553) and the Enforcement Notice (ref. E2010/0157).

The appeals were both **dismissed** on 15th April 2013.

The Inspector dismissed the planning appeal on the grounds that it was an unjustified and unsustainable form of development within the open countryside, and that any special circumstances put forward by the applicant were heavily outweighed by the harm identified by this development.

The related Enforcement appeal was dismissed on ground (a) – the deemed planning application - but the ground (g) appeal was allowed insofar as the Inspector extended the time allowed for compliance with the Notice to 12 months. This, the Inspector stated, “*would be proportionate as this should enable Mr Jones and his family to obtain alternative accommodation, whilst the harm that has been identified would continue for a limited period of time only*”.

In reaching his decision, the appointed Inspector concluded that planning permission P2009/0406 had been implemented albeit that occupation by the applicant and his family was in breach of condition 1. The Enforcement Notice was therefore varied to refer to a ‘Breach of Condition’.

A copy of the above appeal decision is attached at **Appendix A**, and Members are encouraged to read the full appeal decision, and the detailed summary

above, to understand the detailed context within which this application must be considered.

Instead of complying with the terms of the Enforcement Notice (and despite the 12 months extended time allowed by the 2013 Inspector), the applicant and his family continue to live in the dwelling and submitted the current application in April 2014, thus seeking to further extend the unauthorised use of the property. It was for this reason that the Authority sought to decline to determine the application (such powers essentially being used to stop persons abusing the planning system through repeated appeals covering the same issues). Unfortunately, as referred to above, a challenge to the Authority's decision to decline to determine the application was successful in the Courts, such that a decision has been made to determine this application.

Publicity and Responses if applicable:

The application was advertised by site notice on 17th March 2015 and advertised in the Local Press as a departure from the Development Plan on the 24th March 2015.

Two letters of support have been received which are summarised as followed:

- A letter of support from Gwenda Thomas AM which was received on 8th April 2014, noting that:
 - The dwelling house would not have a detrimental effect upon the residence or the character and appearance of the countryside
 - Concerns raised in relation to the fact that Mr Jones and his family may have to vacate the property
 - There has been no interest shown by prospective purchasers
- A letter of support received on the 1st May 2014 signed by Mr and Mrs Brettle of Coed Y Berllan, Mr and Mrs Jones of Hendrelas farm and J E Thomas of Pentwyn Farmhouse, the main representations are summarised as follows:
 - The application complies with policy ENV1 and ENV8B
 - The applicant has undertaken an extensive marketing campaign with the aim to attract purchasers and tourists
 - The subject property has been completed for some 4 years and is an acceptable structure which does not impact upon residential amenity and highway safety.

Cilybebyll Community Council: No response to date therefore no observations to make

Head of Engineering and Transport (Highways): Recommends Refusal

Head of Engineering and Transport (Drainage): No response to date.

Public Rights of Way Officer - Has advised that Footpath 17.D.Lo skirts the site.

Description of Site and its Surroundings:

The site comprises a converted barn located within the open countryside to the South East of Rhos. Access is off an existing track which serves several other rural properties directly off the A474. The site is located within a farmyard adjacent to the main farm house (Hendre Las Farm). The farm complex has a variety of agricultural buildings.

To the west of the site is Hendre Las farmhouse and a former agricultural building which has been converted to a dwelling. To the north of the farmhouse there are 3 holiday lets which were granted planning permission in 2005 (ref. P2005/1967) and which were completed on site towards the end of 2014. These properties are within 50m of the application site.

The application site adjoins the track that serves Hendre Las Farm and two other properties. The site slopes steeply to the east away from the access track. There is a public footpath (Footpath 17) that runs adjacent to the site but is not affected by the proposal. The site is bounded by open farm land in all other directions.

Brief description of proposal:

The application is submitted under section 73 of the Town and Country Planning Act 1990 and seeks the removal of Conditions 1 and 2 of Planning Permission P2009/0406 (approved on the 21/07/09), to allow the property to be used as a residential dwelling house.

Conditions 1 and 2 state as follows: -

- 1) *Notwithstanding the Town and Country Planning Use Classes Order 1987 (or any Order revoking or re-enacting that Order), the development hereby permitted shall be used for tourist holiday accommodation only. Occupation of the holiday accommodation hereby approved shall be restricted to a maximum of twelve weeks within a twelve month period for any individual.*
- 2) *From the date of first occupation of the building records shall be maintained of the names of visitors and their dates of occupation and these records shall be made available to the Local Planning Authority at any time upon request.*

The reason for both conditions is “in order to ensure that the accommodation is utilised for tourist holiday accommodation only”.

The removal of these conditions would allow for the unrestricted use of this property as a residential dwelling.

Material Considerations:

The main issues for consideration with regard to this application relate to the principle of the use of the building as a dwelling, having regard to prevailing planning policies, its countryside location, sustainability and the detailed planning history associated with the site. Other matters to consider include the impact upon visual and residential amenity, and highway and pedestrian safety. Should harm be identified, it is also necessary to consider whether there are any other material considerations of sufficient weight to outweigh such harm.

National Planning Policy Context

Planning Policy Wales Edition 7 (July 2014)

Paragraph 4.7.7 of Planning Policy Wales (7th Edition) states that “*For most rural areas the opportunities for reducing car use and increasing the use of public transport, walking and cycling are more limited than in urban areas. In rural areas the majority of new development should be located in those settlements which have relatively good accessibility by non-car modes when compared to the rural area as a whole. Local service centres, or clusters of smaller settlements where a sustainable functional linkage can be demonstrated, should be designated by local authorities and be identified as*

the preferred locations for most new development including housing and employment provision. The approach should be supported by the service delivery plans of local service providers.” (emphasis added)

Paragraph 4.7.8 goes on to state that “**Development in the countryside** should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where it meets a local need for affordable housing, but new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate scale and design.” (emphasis added)

Paragraph 9.3.6 further states that “New house building and other new development in the open countryside, away from established settlements, should be strictly controlled. The fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area. **Isolated new houses in the open countryside require special justification**, for example where they are essential to enable rural enterprise workers to live at or close to their place of work in the absence of nearby accommodation. All applications for new rural enterprise dwellings should be carefully examined to ensure that there is a genuine need. It will be important to establish whether the rural enterprise is operating as a business and will continue to operate for a reasonable length of time. New rural enterprise dwellings should be located within or adjoining the existing farm / business complex or access. Local planning authorities should follow the guidance in TAN 6 with regard to the requirements for rural enterprise dwelling appraisals”(emphasis added)

Technical Advice Note 6 - Planning for Sustainable Rural communities (July 2010)

TAN 6 provides detailed practical guidance on the role of the planning system in supporting the delivery of sustainable rural communities.

At para 3.1.2 it notes that “Planning authorities should support the diversification of the rural economy as a way to provide local employment opportunities, increase local economic prosperity and minimise the need to travel for employment”, and at 3.6.1 states that “Whilst residential conversions have a minimal impact on the rural economy, conversions for holiday use can

contribute more and may reduce pressure to use other houses in the area for holiday use”.

At 4.3.1 it also emphasises that “One of the few circumstances in which new isolated residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at, or close to, their place of work. Whether this is essential in any particular case will depend on the needs of the rural enterprise concerned and not on the personal preference or circumstances of any of the individuals involved. Applications for planning permission for new rural enterprise dwellings should be carefully assessed by the planning authority to ensure that a departure from the usual policy of restricting development in the open countryside can be fully justified by reference to robust supporting evidence”.

For the purpose of this TAN qualifying rural enterprises comprise land related businesses including agriculture, forestry and other activities that obtain their primary inputs from the site, such as the processing of agricultural, forestry and mineral products together with land management activities and support services (including agricultural contracting), tourism and leisure enterprises.

Local Planning Policy Context

The Development Plan comprises the Neath Port Talbot Adopted Unitary Development Plan within which the following policies are of relevance: -

Policy GC1	New Buildings/Structures and changes of use
Policy ENV1	Development in the open countryside
Policy ENV8b	Conversion or reuse of buildings in the Countryside
Policy T1	Location, Layout and Accessibility Of New Proposals

The application site lies outside settlement limits and in the countryside for the purposes of the Neath Port Talbot Unitary Development Plan.

Policy ENV 1 states that development will not be permitted except in very exceptional circumstances. Only the following new buildings are appropriate: buildings justified by agriculture or forestry needs, small scale diversification within farm complexes where run as part of the farm business or where it is the conversion, re use, adaptation or replacement of an existing building.

The latter example is clarified within policy ENV8A which states that a replacement dwelling will only be permitted where it can be demonstrated that the building has a current lawful use as a dwelling. Although the building (now demolished) that previously occupied the site had planning consent for its conversion to a residential dwelling under P2008/585 that permission was not commenced and the dwelling not completed to activate the lawful use. This issue was considered in the previous application and subsequent appeal where the Planning Inspector accepted the fact that it was not a replacement dwelling. (App Ref: P2009/0405)

Of most relevance to this proposal is therefore Policy ENV8B which states that:-

“The conversion, rehabilitation and/or re-use of an existing building will be permitted only where the proposal satisfies all the following criteria:

- a. if located in a Green Wedge, the proposal complies with Policy ENV2;*
- b. the existing building is permanent, structurally sound, capable of conversion and suited to the purpose proposed without major reconstruction;*
- c. the siting and design of the proposal, including its means of enclosure, garden and parking space, would not have an unacceptable adverse effect upon the character of the area, including its architectural traditions;*
- d. the conservation of existing buildings which are of architectural or historic interest would not be prejudiced;*
- e. satisfactory provision is made to retain and encourage wildlife habitats including bat roosts and bird boxes;*
- f. where a conversion to residential use is proposed, the applicant has made every reasonable attempt to secure suitable business re-use; or the residential conversion is a subordinate part of a scheme for business re-use; or the resulting housing will provide affordable housing to meet an identified local need.”*

Paragraph 8.12.6 further states *“The creation of local employment is a priority within the County Borough and especially within rural areas in order to sustain the rural community. Applicants proposing the conversion of a rural building to a dwelling will be expected to provide a statement explaining the efforts which have been made to secure a business use through advertising the property over a two year period and at a price reflecting the market for such business use.”*

Principle of Residential Development

As will be noted from the planning history above, the use of this property as a residential dwelling has been considered by the Planning Inspectorate on more than one occasion, with each appeal having been dismissed. The most recent appeal decision was received in April 2013, at which time the Inspector noted (amongst other things) that: -

- No case has been advanced on the basis that there is a functional need for the building to be occupied by an agricultural worker or person engaged in a rural enterprise associated with farm diversification
- The proposal would not be a subordinate part of a scheme for business re-use and nor is it affordable housing
- He was not satisfied that the appellants could be said to have made every reasonable attempt to retain a suitable business use of the building
- Accordingly the development would not be a justified form of development in the open countryside – contrary to PPW and Policy ENV8B of the UDP.
- The proposals would not be sustainable because the appeal site's location is such that there would be dependency on the private motor car as a primary means of travel, contrary to PPW and Policy T1 of the UDP.
- Matters put forward by the appellant relating to the planning history, other appeal decisions and personal circumstances were heavily outweighed by the harm that he identified

The appeal was therefore dismissed and, in accordance with the Enforcement Notice which was considered and upheld at the same appeal, occupation of the premises as a residential dwelling should have ceased by 15th April 2014.

As stated above, Members are encouraged to read the full appeal decision at **Appendix A** to understand the detailed context within which this application must be considered.

Since the date of the previous appeal decision, it is considered that there have been no material changes in site or policy circumstances which would justify reaching an alternative conclusion on the principle of development. Indeed the only material change on site since the appeal decision is the completion of the adjacent farm buildings conversion into three holiday units (albeit it is understood that these are yet to be let out).

The application site is therefore located in an unsustainable location within the open countryside where there remains a presumption against unjustified forms of isolated development. The applicant proposes to remove the holiday let conditions to use the building as a dwelling house for his family, with no case put forward that seeks to justify the use of the building as a dwelling as part of an established agricultural or rural enterprise. The removal of conditions would therefore result in an unsustainable residential dwelling in the countryside, contrary to Planning Policy Wales and Unitary Development Plan Policies ENV1 and T1 .

Notwithstanding the above, Policy ENV8B of the UDP was considered by the previous appeal Inspector, who considered it to be relevant and primarily considered it appropriate to examine “whether or not the appellants have made every reasonable attempt to retain a business use for the building” (para 17 of appeal decision).

In this regard, criterion (f) of Policy ENV8B requires that: -

- (f) *Where a conversion to residential use is proposed, the applicant **has made every reasonable attempt to secure suitable business re-use; or the residential conversion is a subordinate part of a scheme for business re-use; or the resulting housing will provide affordable housing to meet an identified local need.***” (emphasis added)

In considering this issue, the Inspector stated that: -

- Evidence produced to him showed 16 establishments in the Swansea valley representing 30% in the County... [with] occupancy rates are between 65% and 98% which suggests ... there is a demand for tourist accommodation. The conversion of agricultural buildings being undertaken by Mr Jones father at Hendre Las also suggests that there is demand for accommodation. He thus gave little weight to a previous Inspector’s conclusion that tourism is not strongly established in the area.
- There was some evidence that the building has been marketed for sale as holiday accommodation, and that little interest has been shown in it, although he raised concern about the marketing, including lack of evidence that the asking price was commensurate with its permission restricting occupancy to holiday accommodation
- That there was no attempt to let the building as holiday accommodation

- Overall he was not satisfied that the appellants could be said to have made every reasonable attempt to retain a suitable business use of the building

Having regard to the above, the main issue to consider under this application concerns whether the additional information provided by the applicants – which identifies the extent of marketing and other activity which they have undertaken since the previous appeal decision - adequately demonstrates that the applicant has made **all reasonable attempts to secure a suitable business use**. This is considered in detail below.

The applicant's original submission consists of a Marketing Report and supporting information which is broken down into 4 sections: -

- Part 1 Attempts to sell the property
- Part 2 Attempts to let the property
- Part 3 Business feasibility
- Part 4 Comparisons, alternative users and conclusions

The applicant has also recently submitted an additional pack of information consisting of:

- A Planning Statement Prepared by Ieuan Williams of Reading Agricultural Consultants (December 2014)
- An Updated Marketing Report Prepared by Herbert R Thomas Covering the Market Campaign January 2012 to December 2014
- An Additional Report from the applicants website www.coedynant.co.uk in relation to the number of users etc for the period November 2014 to 22nd February 2015
- A Draft Unilateral Planning Obligation pursuant to section 106 of the Town and Country Planning Act 1990
- Additional Supporting Marketing report prepared by the claimant and accompanying documents
- Various appeal decisions and permissions relating to similar applications
- Photographs taken of the footpath at the site together with a footpath plan
- The Councils rights of Way improvement Plan

All of the above are addressed below under the following sub-issues: -

1. Attempts to sell the property as a holiday let
2. Attempts to let the property as a holiday let
3. Business plan / viability issues
4. Comparisons / competitors
5. Potential conversion into 2 holiday lets
6. Alternative uses
7. Planning Statement (December 2014) / Other Issues

1. Attempts to sell the property as a holiday let

As detailed above, two sets of information have been submitted, which are considered together below.

Marketing Report and supporting information Part 1 - attempts to sell the property received March 2014

The applicant has submitted information in relation to their attempts to sell the property, which are assessed in brief below: -

- 5 Adverts placed in the Swansea edition of the Evening Post on 14th May 2013, 11th June 2013, 30th July 2013, 13th August 2013 and 10th September 2013 (HRT).
- Correspondence from HRT (14th March 2014) in relation to price reductions and details of interested parties who only express interest if the building was a residential dwelling.
- Email from HRT (30th November 2012) regarding 'hits' to Right Move website. This was before the date of the last appeal
- Letter from HRT (10th October 2012) re. confirmation of advertisements. This was before the date of the last appeal.
- Valuation from Clee Thomkinson Francis (9th August 2013) regarding future sale of property.
- Correspondence from a property acquisition company (thepropertyfairy.com) (21st Feb 2012). This correspondence relates to matters before the date of the last appeal.

- Comparables, reference made to comparison of Plas Cilybebyll at conversion during previous appeal (2011/0553). This is not relevant; the Local Authority are looking for any significant change in circumstances since the last appeal. The sale of another property, asking prices and location of other holiday accommodation is not relevant, and would have no effect upon the use of this property as a holiday let.

The applicant then submitted additional information in February 2015 which consists of the following:

- An Updated Marketing Report Prepared by Herbert R Thomas covering the Market Campaign January 2012 to December 2014 which consisted of the following:
 - Details of advertising on the internet and advertisements in the South Wales Evening Post property section with a total of 16 advertisements in the press over the marketing period.
 - The property was included in HRT's commercial properties
 - For sale boards were erected at the junction of Tyn Y Cwm Lane and the A474
 - Details of offers made for a residential property
 - Details of a reduction of asking price.
- Additional Supporting Marketing report prepared by the applicant and which included the following:
 - A For Sale Summary which summaries the following:
 - Property marketed for 36 months to date
 - Asking price has been reduced by £50,000
 - 2 viewings in 2013 undertaken which resulted in no further interest
 - Emailed comments from an Associate at Savilles Chartered Estate Agent which notes that contact was made with Savilles in May 2014 (although no details of the initial email have been provided), and which confirmed they would not be interested in marketing the property, stating that “they do not consider there would be much demand in the region for a property constrained in such a way”, and noting that they “do not hold a database of people who might be interested in this”.

Conclusion on attempts to sell the property as a holiday let

Since the last appeal the applicant has continued to advertise the property with HRT, with the submitted information noting that the marketing has taken place over 26 months and providing details of the press advertisements and an additional 16 adverts have been placed within the Swansea edition of the South Wales Evening Post. Whilst the applicant consulted another estate agent (Clee) to value the property in August 2013 they were not instructed to sell the property.

It is noted that the applicant reduced the asking price to £199,950 on 31st May 2013 and to £189,995 on 16th July 2013, and it is acknowledged that this price is less than it would fetch as an unrestricted dwelling. However, the value of a commercial property such as this is difficult to judge, and will usually have regard to the 'value' of the business (for example based on previous letting evidence). In this regard, in the absence of any such evidence it is perhaps unsurprising that potential purchasers may not be forthcoming, given that there are no reasonable grounds to justify the price or any likely yield from it as a business.

The applicant also contacted Savilles in relation to selling the holiday let however they declined. Savilles stated that they do not hold an applicant database of people who might be interested in this type of property. In response to this, contact was made with Savilles to discuss general issues surrounding the sale of holiday lets (not specifically this property) which indicated that the decision not to 'pitch' for such business is not uncommon, given the element of risk associated with potentially significant work for little reward, having regard to the low value of such a property and also to the fact that they do not have an active database to market a single property to. This does not, however, indicate that such a holiday let property/business would not sell, simply that Savilles did not wish to do so.

It is considered, however, that the fact that the property is a single unit of such accommodation limits its attractiveness (in the absence of a 'history' of letting – see below) and the likelihood of someone purchasing the property. It is notable, however, that the property, while in separate ownership, is not completely divorced from the remaining holiday accommodation which has recently been completed at Hendre Las. In this respect, in addition to the economies of scale expected where 4 units are let, there is also a much greater likelihood of holiday accommodation being marketed successfully for sale if it were part of a group of such cottages. This is not to suggest that the whole of the property must be sold, but is considered to be an indicator that this property should not be considered solely in isolation.

In considering the attempts to sell the property, the Inspector concluded (at para. 19 of his appeal decision dated 15th April 2013) that he was “*not therefore satisfied that the appellants could be said to have made every reasonable attempt to retain a business use of the building*”. For the reasons above, it is considered that the same conclusions can be reached on the case today. Moreover, irrespective of the marketing exercise undertaken, failure to sell does not in itself represent a failed business. Moreover, it is especially pertinent that the sale of such ‘holiday accommodation’ in the absence of any holiday letting (see below) is unsurprising given that commercial properties would in all likelihood require a history of letting to establish that the value of the property was appropriate and that the property can be run as a profitable business having regard to the asking price stated.

2. Attempts to let the property as a holiday let

Marketing report and supporting information Part 2 - Attempts to let the property

As detailed above, the Inspector concluded (at para. 19 of his appeal decision dated 15th April 2013) that he was “not therefore satisfied that the appellants could be said to have made every reasonable attempt to retain a business use of the building”. This included noting that “*there has been no attempt to let the building as holiday accommodation*”.

The submitted information in support of their application contains a list of information relating to the applicants subsequent attempts to let the property which can be summarised as follows:

○ Adtrader

- 4 Adverts were placed on 8th May 2013, 22nd May 2013, 5th June 2013, 19th June 2013.

These included:

- Advert placed within the Adtrader magazine on the 8th May which reads as follows. “*TO LET 4 bedroom holiday cottage, rural location, oil central heating, no pets, not disabled friendly, 10-12 people £550 - £1200 per wk*”

- Advert placed within specialist property for rent section on Adtrader web site on the 8th May 2013. *“To Let 4 bed holiday cottage, rural location gf 4 bedrooms, 2 bathrooms ff lounge kitchen study toilet 3 car parking spaces designated. Oil central heating, private water supply, no pets, no children, not disabled friendly 10-12 people, lovely location subject to availability.”* (no price given)

○ Free Ads

- 3 adverts were placed on 18th December 2013, 20th August 2013 and 4th Feb 2014. The 18th December 2013 advert reads as follows: *“4 bedroom holiday cottage 4 miles from Neath, Lovely location 3 car parking spaces, £1200 call Jonathan Jones on Mobile or email”* (only a single price given)
- The applicant updated supporting info reiterates that Property advertised via free ads for 15 months and that no interest received for holiday accommodation, 1 message was received to rent the property long term as a residential dwelling.

○ Dwr Cymru Buy & Sell

- 3 adverts are shown on 19th April 2013, 22nd October 2013 and 26th February 2014. The advert on the 19th April 2013 reads as follows: *“4 bedroom holiday cottage located within Rhos (4 miles from Neath 8 Miles from Swansea) rural location, GF 4 bedrooms,2 bathrooms, FF lounge kitchen utility study toilet, 3 car parking spaces designated oil central heating, private water supply, no pets, no children, NOT disabled Friendly, Lovely location £550 -£1200 per week subject to availability. Contact Jonathan Jones on Mobile number”*
- The applicants updated supporting information advises that the website has a potential coverage of 3000 employees with additional coverage to associated employees and that property was removed in September 2014 due to lack of interest.

○ Domegos.co.uk

- There is evidence that something was advertised on 18th April 2013 and looks to be active until the 2nd March 2014 however there is no information relating to what was advertised apart from a photograph and the address of the property.

○ Leisurehappy.co.uk

- The following advert was placed on 18th April 2013 their web site “*4 bedroom holiday cottage set on outskirts of rural village, walking distance from facilities, GF 4Bedroom, 2 bathrooms, FF Lounge kitchen, Study utility toilet, rear garden, 3 no Car parking spaces.*”

○ Website - ‘Activity Tracker’ of unique Visitors to website

- The submissions show the number of unique visitors to their website which they claim has translated into a lack of business.

Such matters are addressed in the assessment below.

○ Letting Agents

- The applicant has advised that they did not use any holiday cottage letting agents in their attempt to let the property. The applicant engaged the help of Threshold Property management to advertise the property to let, who advertised on rightmove.co.uk which they claim is the most popular search function for property searches in the UK. Threshold Property Management advertised the property on 14th May 2014 as a “*barn conversion for holiday lets decorated to the highest standard throughout and will accommodate 8 people. 2 en-suites and a family bathroom, excellent views and within a distance from the M4, and Pontardawe. £4333 per calendar month*” The property was removed with advice from right move on November 2014

○ Other Marketing Methods

- The applicant advised that advertising cards were placed in local shops/post offices; advertising cards were also placed at the applicant’s place of work with no interest. The applicant has advised they have used road signs throughout the winter months with no interest received.

The applicant then submitted further marketing information in February 2014 which consisted of the following:

- Website advertising
 - Property has been advertised for some 19 months via 2 professional web sites
 - Websites have been constantly reviewed and despite being viewed by the general public, no bookings have been secured.
- An Additional Report from the applicants website www.coedynant.co.uk in relation to the number of users etc for the period November 2014 to 22nd February 2015
 - It is not clear from the report what the charts represent, although it is presumed it shows lack of visitors to their web site.

Assessment

The likelihood of success in marketing a holiday let online on an individual basis (i.e. without use of a professional agency – discussed below) is wholly dependent on the ability of a website to attract ‘hits’. In this respect it is considered that the average person when searching for a holiday would (if they chose not to use a professional website which focuses on such holiday accommodation) search for the type of accommodation they want and the area they would like to stay.

As part of a very unscientific approach, in considering the type of website advertising of the property and the likelihood of such sites attracting sufficient ‘hits’ to generate business, Officers undertook a number of ‘Google’ searches of the following phrases which failed to identify the applicants web site in the first 50 results (only first 50 results checked).

- Holiday cottage South Wales
- Holiday cottage Rhos South Wales
- Holiday cottage Pontardawe South Wales
- Self catering Rhos South Wales
- Self catering South Wales

It is also of note that very few ‘independent’ websites for cottages were identified on searches, although one in Pontardawe (<http://www.cwmshoncottageswales.co.uk/>) did come up and their professional website, included a good level of detail and an availability search which is considered to be very important in attracting visitors).

In addition, it is of note that the 'professional websites' referred to are the applicants own, and that these sites were only found by actually typing in its name "coedynant" or "countrycottage.vpweb.co.uk" into a google search, which would obviously require a person to already know of the site rather than allow someone searching for a holiday to 'stumble across' it.

Having regard to the above, whilst it is acknowledged that the applicant creating a website is an attempt to market the property for let (and indeed recent visits have shown the website to have been updated quite recently), it is considered that the availability of a website does not demonstrate active marketing. In this regard it would be considered reasonable - especially in this case where there is an Enforcement Notice in place requiring the residential use to cease, which should be encouraging the owners to actively seek business - to market the property via specialised holiday letting sites that appear quite often in all the above searches. This is considered below.

- Letting Agents

Notwithstanding the above, the later submissions state that the property was listed with 'Wyndham vacation rentals' for 7 months. The applicants state that input and comments received from visit Wales and Wyndham Rentals both have concerns with the sustainability of the subject property due to its inflexible accommodation.

They then conclude that "no interest was received and the letting agent was disinstructed".

While this information suggests marketing on a national site, it is of note that there is no evidence to support that the application has been actively marketed with Wyndham Vacation Rentals, with no formal correspondence (in full – not just extracts) from Wyndham, and no screen shots to identify the nature of advertising, the prices sought etc.

In addition, irrespective of whether it can be demonstrated that there was no interest, it is considered that to 'disinstruct' a national holiday letting company after 7 months – in a situation where it would be thought that the applicant should be desperately trying to let the property (rather than convince an Authority that the property can't be let) – is wholly unjustified, and indeed unusual. This is even more the case when Officer's own enquiries with the Wyndham Group advise that the only ongoing cost associated with a property remaining on their site is an annual fee of £105 (with the company retaining a percentage of letting sales). Such enquiries also identify that sites such as

<http://walescottageholidays.co.uk> allow properties to be advertised with no charge for set-up, photography, and inclusion on their website or in our brochure.

Moreover, there are sites available (such as www.ownersdirect.co.uk) which allow for a property to be advertised either for a one-time subscription fee (from only £199 excl. VAT) or on a free, commission-only basis, and include a money back guarantee if a client is unhappy with the service offered.

In addition, whether it is on their own website or the above, it would be expected (especially for a ‘new’ venture) for details of special offers, targeted advertising (e.g. walkers, mountain bikers, business use) etc. to be identified, to give the business the best chance of gaining a foothold and receiving positive reviews (for example on Trip Advisor) which can in itself generate further business.

Finally, while extracts of emails have been provided (again, not full formal correspondence), these refer to 3 holiday cottages nearby, and refer to these “having the best of both worlds, being able to be let individually or as a group”, noting also that “often families or friends enjoy a holiday together but do not necessarily want to be in the same property. So here you can offer to larger parties or just individual bookings”. In other words, precisely the opportunity that exists at Hendre Las with Mr Jones Senior’s holiday lets.

There is also another extract of an email from Visit Wales referring to weekend bookings as opposed to full weeks due to the size of the property, yet there is no context to the email. It just illustrates that weekend booking of the venue would be preferred to weekdays. There is no additional information or evidence provided to consider just the applicants statement with some extracts of an email.

These extracts are therefore wholly inconclusive and certainly do not provide the extent of evidence required to justify the harm caused by this proposal.

Conclusions on attempts to let the property

In considering the above submissions it is necessary to consider if the submitted information illustrates that the applicant has made all reasonable attempts to market the property as a holiday let

Having considered these submissions, the following conclusions are reached: -

- All attempts to let the property as listed above are where any interested party would contact the applicant directly. The Local Authority therefore has no independent evidence to ratify the level of interest in letting the property.
- The applicant has made two attempts to utilise a third party to attract business, the first was via Threshold Property Management. This company appears to be a normal letting agency that do not have any specialist holiday accommodation searches. This would be the wrong type of company to attract tourists and holidaymakers. It would attract people looking to let a residential property or student lets and not a holiday rental. Moreover, the letting price was on a monthly basis at a seemingly unrealistic price.
- The second attempt to employ a third party was within the applicant additional submission, which stated that they employed Wyndham Vacation rentals for a period of 7 months. However there is no evidence to support that the application has been actively marketed with Wyndham Vacation Rentals, there is no formal correspondence (in full – not just extracts) from Wyndham, and no screen shots to identify the nature of advertising, the prices sought etc.
- Little evidence has been produced to demonstrate that, since the date of the appeal decision, a dedicated holiday letting agent has been employed to market the property for let. Whilst the applicant makes reference to Wyndham Holiday Rentals, there is little evidence to support the applicants claim, and the decision to ‘disinstruct’ is considered to undermine the applicants submissions
- It is only very recently, when officers undertook additional research, that the applicants websites have included details of the price for the property varying according to demand at different times of the year (as would be expected). Even these recent improvements are not considered to provide any where near sufficient evidence that extensive and convincing marketing of the property as a holiday let has been undertaken
- Despite the applicant advising that both web sites are professional, they are independent, and not linked to any holiday letting site (either a national ‘chain’ or an ‘ownersdirect’ approach) as would normally be

expected. A Google internet search for several phrases illustrate that a member of the public searching for a holiday let in the area would be unlikely to find their website.

Most pertinently, however, while the evidence provided and assessed above is considered to be inconclusive and certainly failed to meet the expectations of Adopted Development Plan policy (having regard to the harm identified by the Council and by previous Inspectors) the property continues to be occupied as a permanent residential dwelling.

While it is claimed that the property could be vacated quickly by the applicants when demand arises, it is considered that there has been no sustained and active effort to let the property out (which would have been more likely had the property been vacated and furnished for holiday lets, and such letting would have brought in essential income). In this respect it is considered that there has been little incentive for the applicants to actively and appropriately market the property for holiday lets, especially at short notice, especially since the ultimate objective of removing the conditions is best achieved through not letting the property out.

Failing to vacate the property also makes any letting request unrealistic as the applicant has stated within paragraph 1.1 of the applicant's Design and Access Statement that they have no alternative accommodation to live in. Suggestions that they could move into the father's accommodation is not considered to provide justification since the house is set up as a family home with all personal possessions, food, toys, clothes etc. needing to be moved out to facilitate a holiday use. This is simply unlikely and impractical, and demonstrates why the property should be vacated to provide incentive and every reasonable opportunity for a degree of holiday use to commence.

Accordingly, while the submissions indicate that there has been some activity by the applicant to let the property since the last appeal decision, this is not considered to demonstrate any active or coordinated effort, but rather an attempt to provide evidence for the purposes of a planning submission. It is therefore considered that the applicant has not made all reasonable attempts to let the property as a holiday let.

3. Business Plan / Viability Issues

The Marketing report and supporting information Part 3 – Business feasibility received in February 2015 includes: -

- A Business plan for Coed Y Nant Holiday cottages approved by a business advisor employed by “business in Focus” based in Swansea, setting out how the holiday let would be operated. It also identifies occupancy rates as published by Visit Wales who indicated that occupancy rates run on average at 56% with August being the highest month at 96% and January being the lowest at 25%
- A table of Self catering occupancy rates from Visit Wales for the period 2011 and 2014, these falling to 24% in January (being the lowest) and rising to 85%, and noting that these are well below the 98% stated by the Council
- A Cash flow forecast showing a breakdown of projected income and cost in relation to the holiday business, which concludes (having regard to fixed costs including mortgage payments) that there would be a loss made over the period of 12 months.

The applicant has tried to demonstrate that a holiday let business is not viable, however, as detailed above has made no real attempt to vacate the property so that it is available to let, nor provided satisfactory evidence to demonstrate that they have made reasonable attempts to let the property as a holiday let. There is also some discrepancy within the figures (for example the figures shown for August show an income of £1920; If let for £1200 per week during the high season at 96% occupancy, this should show approximately £4600 for the month of August alone) in an attempt to portray an unviable use which appears to be an attempt to provide evidence to show a holiday let has not been successful, for the purposes of a planning submission.

An updated Business Assessment was received in February 2015 which detailed the following:

- An assessment of profits and loss. They conclude that the business is unviable and unsustainable.

The breakdown shows expenses of gas electric and rates, but these are the living costs of the applicant who are living in the property, private gas and electricity should not be used in the forecast. there is also a fee associated with rates however after checking the Local Authority’s Council Tax/Business Rates section the rates relates to domestic rates that the applicant are paying as they live within the property. Again these should not be included in a business forecast.

The applicants submissions also refer to the appeal decision which cites annual occupancy rates referred to by the council between 65% and 98%. In this regard, it is considered that the Inspector was provided with information referring either to peak months, or perhaps to another holiday let company close by (see below) which was, and is, thriving and indeed looking to expand its business. In any respect, the viability of such a business should only be considered once all active efforts have been made to market the property through all appropriate channels.

Notwithstanding the above, the Council is aware that there are a number of other successful holiday cottages within the local area and throughout the County Borough which, either individually or as part of a complex, are very similar in scale and rural location.

One such nearby holiday let business is at Plas Farm in Pontardawe – known as Swansea Valley Holiday Cottages, which is located approximately 2 miles from the application site. They have recently submitted a planning application (P2015/0355) to convert one of their barns into holiday accommodation to extend their current business. They state within this application that addition of the new cottage is necessary for the ongoing success and growth of the business, and will enable them to invest further in local employment and other businesses.

The owner of this business also sent in a statement (Appendix B) during the Mynydd March Hywel Wind Farm appeal, expressing concern that the turbines would have an unacceptable impact upon the tranquillity of the rural area and have a negative impact upon their business. Within the statement they advise that since 1st January 2013 (up to the appeal submission in November 2014) they have welcomed 1,395 guests from 22 countries worldwide. They advise that a total of 6,039 bed nights were booked in this period. Assuming an average daily spend per tourist of £45 per day, Swansea Valley Holiday Cottages adds approximately £0.25 million to the local economy per year.

The statement also illustrates that they have been used by the Welsh Government and Visit Wales as an industry Case Study of Best Practice within the green tourism sector. In 2012 Swansea Valley Holiday Cottages were named the NPTCBC Green Business of the Year across all sectors. The company enjoys an excellent working relationship with NPTCBC Partnerships and Community Development Department

The business is also involved with other parties to develop tourism in the Swansea Valley as it is a targeted area for development within the rural communities of NPT.

This demonstrates not only that a holiday let business within this area is viable and has thrived and outperformed other parts of the UK despite the global recession, but also that this part of the County (and country) remains an important one for tourism in general, with a continual need for good quality tourist accommodation to target and benefit the rural economy. In this context, it remains the firm view that either individually, or as part of the 'complex' at Hendre las Farm including three holiday cottages which are owned by the applicant's father directly opposite the application site, there is no reason to suggest this holiday let business could not become a viable commercial operation.

4. Comparisons / Competitors

Marketing report and supporting information Part 4 – Comparisons, alternative users and conclusions

The above document includes: -

- Competition: The applicant has submitted details of Occupancy rates for several Holiday Let Businesses
 - Depot Road, Cwmavon
 - Tan Yr Eglwys Cottage, Cilybebyll, Pontardawe,
 - Swansea Valley Holiday Cottages, Cilybebyll, Pontardawe
- Business plan for Hendre las cottages (this appears to pre date the last appeal)
- Assessment of alternative uses i.e. retail, office industrial.

Comparables

- LPA planning officer compared the subject property to Plas Cilybebyll during previous discussions; the said property has been closed for business and has been on the market for some 22 months at a significantly reduced price.
- Holiday cottages in established tourism locations i.e. Gower command a premium asking price

- The subject's asking price has been supported by 2no chartered surveyors and continues to attract no interest.

Although the applicant refers to Plas Cilybebyll, it is considered that the previous discussion relates to Plas Farm Cillybebyll, not Plas Cilybebyll. Details of this business have been addressed elsewhere in this report, and suggest the business is doing well, including a recent planning application submitted to expand the business. Their statement also suggests that whilst the seaside location and the Gower command premium asking prices, that there are lots of people worldwide wanting a rural holiday as suggested within Swansea Valley Holiday Cottages statement in relation to the recent windfarm appeal at Mynydd March Hywel

- **Competitors**

The applicant's submissions refer to competitors including Depot Road, Cwmavon and Tan Yr Eglwys Cottage, Cilybebyll.

Depot Road Cwmavon

In reviewing this, it is of note that *Depot Road, Cwmavon* (<http://www.holidaylettings.co.uk/rentals/cwmafan/300699>) has a Certificate of Excellence 2014 from TripAdvisor, a high quality website and link to 'holiday lettings' to allow online booking. It also includes midweek special offers, and focuses on mountain bikers / outdoor enthusiasts – a key target in this area – plus business users, and is considered to be a good example of how to market your business.

Tan Yr Eglwys Cottage, Cilybebyll

This holiday let in Pontardawe is also a reasonable example, having links to a third party site which is with "Wales Tourist Online". This site boasts to have hundreds of great places to stay for memorable holidays in Wales. They have accommodation listed in all areas. They also detail **last minute bargain breaks** and cheap discount deals. There are links on this site to contact the owner to make bookings. This establishment also has a 5 star rating from trip advisor, with some very good reviews from its occupants.

The applicants state that the properties above have an average of 41.8% and 36% occupancy respectively (between the months of June 2013 and March 2014), and that these letting rates are below the average occupancy rates compiled by Visit Wales. However despite this both holiday business appear to thriving and achieving excellent standards and reviews.

The applicant also states that “*The occupancy rates calculated would be unsustainable for the subject property to deliver its business plan and provide the objectives required by the applicant*”. With respect, however, it is considered that this is not about “providing the objectives required by the applicant”, but instead should be about making every reasonable effort to use a property for the approved purposes as tourist accommodation with the sole aim of making a viable business. Until such time as the owner’s attention is solely directed towards that aim, this business will not become a success.

Plas farm, Cilybebyll

The applicants also refer to Plas farm Cilybebyll , and claim that they ‘*have a monopoly within the marketplace*’. Plas Farm is a good example of a holiday let business that is doing well. Their website linked to several some of which are listed below:

- www.Booking.com
- www.Welsh Holiday Cottages.com
- www.visitswanseabay.com
- www.farmstay.co.uk

They also have an excellent rating on trip advisor with some excellent reviews on their accommodation. They have 4 no. holiday cottages at present (all sleeping 4 persons) however they have recently applied for an additional barn to be converted to meet current demand.

This site is considered to be an excellent example on how to attract business. They have a professional web site that is linked to numerous other holiday related sites, and it is considered that their success would be partly down to this and the quality of the accommodation and the tourism value of the area.

Hendre Las as a whole, however, also has 4 holiday lets, which are considered to be finished to a very high standard, and with the application property sleeping more than 4 persons, also has the benefit of a larger property to meet need. The site is also located within 2 miles of Plas Farm, which would suggest that they have the potential to attract the same type of visitors (or any ‘overspill’ from them if they are booked). Therefore the only difference between the two businesses would be the marketing that has been carried out. This would further suggest the applicant has just carried out the minimum with the simple goal of providing evidence for a planning submission.

The applicant seems to suggest that if a low occupancy rate wouldn't be viable for them and yet a high rate would mean the business has a monopoly and they are unable to compete. All the information above suggest that the holiday lets mentioned and others within the area are doing well suggesting that tourism is doing well within the Borough despite going through a tough few years in the economy. There is nothing to suggest that if the applicant marketed the property accordingly like their competitors that they could not also achieve success. In this regard, the applicant's comments unfortunately appear unacceptably negative.

In addition to the above, basic Officer's research on cottages in the area show, for example, both cottages at Cwmshon Cottages (<http://www.cwmshoncottageswales.co.uk>) to be fully booked during school holidays and largely booked for the summer months.

5. Potential Conversion into 2 Holiday Lets

The applicant has referred to discussions with the Planning department which suggested that the larger unit is sub-divided into two smaller units which may provide greater interest

In considering the viability of such works, the applicant has submitted a single hand written quote (unsupported by plans or any comparisons) from Simon Knight Builders to convert the building "into two separate dwellings" the total cost for which would be £75000, a cost which the applicants has advised is unfeasible due to financial constraints.

While the financial issues associated with this are not considered to be relevant to such matters, nevertheless it is considered that the cost of the subdivision appears to be high, noting also that the quote relates to "two separate dwellings".

In addition, there is no breakdown of each cost, and no justification as why each point is required such as:

- Take down all ground floor and first floor ceilings
- A new oil tanks base and feed to new dwelling,
- New electrical feed in second dwelling and complete rewire
- New external staircase and patio.

It is unclear why the above is needed and how much each of the elements cost. The price quoted therefore may be considerably more than the minimum actually necessary to operate the building as two units. Nevertheless, while this work is something that may generate more interest, the prohibitive costs for the applicant are not considered to be sufficient to justify this development.

The submissions state that “in the opinion of the local planning authority, the design and layout of the property was sufficient to serve as holiday accommodation and result in a sustainable business”. While they state “this has clearly not been the case”, with respect it is not the LPAs role in determining such an application to decide if a business would be viable, only to consider whether it would be acceptable in planning terms. It is maintained, however, that there is every realistic likelihood of the business being successful if the property is vacated and appropriate and detailed efforts are made, and at a realistic price point, to ‘make a go’ of a tourist let, especially when such a business now has the added benefit of forming part of a group of such tourist accommodation (with this property allowing for a mix of sizes to suit different clients). It is also pertinent that the retention of the building as a holiday let was an alternative put forward by the applicant, also noting that the other alternative to such re-use a number of years ago (through enforcement) would have been demolition of the property.

6. Alternative Commercial Uses

The applicant’s submissions state that: -

- Property not suitable for alternative commercial uses – retail, office and industrial
- Economic growth within the county is centralised within established commercial hubs
- No commercial support within a rural location
- Building design and size offers little support to commercial uses i.e. IT, disabled access, car parking

In addition a letter from HRT advises that “there is currently a distinct lack of demand for barns for commercial use in rural locations”

While it is acknowledged that the demand for such uses *may* not be great, nevertheless this is not considered to demonstrate active marketing for alternative uses. For example, it could quite possibly be an attractive location for a small business to purchase a property at a proportionately reasonable price to run a business from in an attractive area. There has been no evidence

provided to show what attempts have been made to secure an alternative use such as offices or industrial, and the property has not been marketed for such an alternative use.

7. Planning Statement (December 2014) / Other Issues

In addition to the above, the application has been accompanied by a Planning Statement produced by Reading Agricultural Consultants (December 2014).

A large part of the statement concentrates on the history of the site. In addition to personal circumstances, the main conclusions are that:

- Three years of marketing the property has demonstrated that there is no demand for it as a holiday let, either on the sales or let markets
- This new application provides a significant amount of new detail indicating that there is no viable market for this type of dwelling in this particular location
- Proof from Visit Wales statistics demonstrates that self-catering accommodation is not as well-developed as implied in the 2012 Appeal decision; and local market conditions are even less well-developed than the Welsh national average

While the additional submissions seek to place doubt on the “65% to 98%” figure referenced by the previous Inspector (and which it is understood relates largely to the Plas Farm site referred to elsewhere in this report), nevertheless the submissions clearly indicate that self-catering establishments across Wales continue to perform well, with unit occupancy rates in the South west as a whole increasing from 62% in 2013 to 68% in 2014, with the summer months of July and August in particular above an average of 70%.

Accordingly, while any business needs to actively market itself in a number of alternative ways to boost its profile and attractiveness to visitors, it is considered that Neath Port Talbot, and the Swansea valleys in particular, are areas which have an active tourist industry which the Council is committed to protecting and developing, and that there is a demand for holiday lets within the area which can be met in part by the retention of the application property as holiday accommodation. To argue otherwise on a site which itself has three recently converted holiday properties is considered to be without merit.

Conclusion on Principle of Residential Development

The application site is located in an unsustainable location within the open countryside where there remains a presumption against unjustified forms of isolated development. The applicant proposes to remove the holiday let conditions to use the building as a dwelling house for his family, with no case put forward that seeks to justify the use of the building as a dwelling as part of an established agricultural or rural enterprise. The removal of conditions would therefore result in an unsustainable residential dwelling in the countryside, contrary to Planning Policy Wales and Unitary Development Plan Policies ENV1 and T1 .

Notwithstanding the above, in assessing the proposals against Policy ENV8B of the UDP it has been concluded that the applicant has failed to make every reasonable attempt to secure (or retain) a suitable business use.

In this regard, while it is accepted that there has been some activity over a period of time by the applicant to let and/or sell the property since the last appeal decision, the supporting information appears to primarily be an attempt to provide evidence purely for the purposes of this planning application and suggests that active and sustained efforts have not been made to let out the property. The continued occupation of the property, and the clear inference that the applicant has no intention or desire of renting out the property – not least because it would undermine their intention of gaining an unrestricted residential use of the property – is a clear indication of this, as is the applicant's failure to undertake basic efforts to market the site to the widest possible audience, and to seek to gain any occupation of the property (even if it were primarily in the summer months when rates would be at the highest).

For the reasons detailed above, therefore, it is concluded that the applicant has failed to demonstrate that all reasonable attempts have been made to secure (or indeed retain given the authorised holiday let) a business use at the property. Accordingly, there is no justification for the removal of the conditions, which would result in an unjustified and unsustainable form of residential development in the countryside, which would be contrary to Countryside protection policies contained within Planning Policy Wales and Policies ENV1, ENV8b and T1 of the Neath Port Talbot Adopted Unitary Development Plan.

Highway Safety (e.g. Parking and Access):

The Head of Engineering and Transport (Highways) has advised that the removal of conditions would result in a new residential dwelling in the countryside. The site is accessed off the A474 and the use of the property as a residential property results in increased vehicle movements over and above that which would reasonably occur should it be used for its authorised use as a holiday let. This in turn increases the use of the junction in terms of constant use for the residents of the new home and visitors, other than a holiday home which would be occupied intermittently.

They advise that the use of the building as a dwellinghouse is not sustainable because the location is such that there is dependency on the private motor car as a primary means of travel which is contrary to the Planning Policy Wales and to Policy T1 of the Unitary Development Plan, noting that Technical Advice Note 18 looks to promote sustainable access for modes of transportation that support social inclusion and reduces rural isolation; however this location is not socially inclusive because of its isolation.

The highways section has therefore recommended the application be refused on the grounds of the unsustainable location of dwelling which is a considerable distance beyond the public highway.

Visual Amenity:

The overall scale, design and finish of the building have not changed since the previous application, and in determining a previous appeal the Inspector concluded that the proposal would not adversely affect the character and appearance of the countryside. No objections are therefore raised on such grounds.

Residential Amenity:

The Local Authority has previously advised that the separation distances between the properties and the size and orientation of windows will not create additional unacceptable overlooking, overshadowing or overbearing impact. There have been no physical changes to the building therefore the proposal would be considered acceptable in terms of residential amenity.

Other Material Considerations

Having regard to the above conclusions on the principle of development, it is also necessary to consider whether there are any other material considerations which might outweigh the harm identified above. These are considered below.

Personal Circumstances

The 2013 Inspector noted (para 36) that “he was well aware of the appellants’ personal circumstances”. He concluded, however, that these points, even when added to the ‘special circumstances’ argument (which related to the protracted history at the site) were not such as to tip the balance in the appellants favour, and found that the matters in support of the proposal are heavily outweighed by the harm that has been identified.

In this respect while the matter has continued to cause hardship and concern on the appellants behalf, it is emphasised that the Enforcement Notice should have been complied with by April 2014, but the applicants have chosen to continue to fight the case rather than comply with the Notice upheld by the 2013 Inspector. The ongoing personal circumstances, therefore, cannot be considered to have materially changed such that there would be any justification in these outweighing the harm identified above and by the previous appeal Inspector.

Proposed Section 106

As part of their submissions, the applicants have also submitted a draft Unilateral Planning Obligation pursuant to section 106 of the Town and Country Planning Act 1990. This Undertaking (according to the agents letter of 27 February 2015) “contain various contributions as provided for in the Council's "Supplementary Planning Guidance - Developer Contributions" and the Council's "Rights of Way Improvement Plan that will, it is submitted, make the development acceptable in planning terms”

The agreement itself is incomplete (lacking details in schedules 1 and 2) and provides little detail of precisely what is proposed, although it suggests that it would update the footpaths in accordance with plans to be submitted to and approved in writing by the Local Planning Authority, and include (unspecified) owner contributions to the council in accordance with schedule 2. The submissions are accompanied by 20 photographs and a plan showing the extent of public footpath network within the control of the applicant, and a copy of the Local Authority’s rights of way improvement plan.

Section 122 of The Community Infrastructure Levy Regulations 2010 (relating to limitation on use of planning obligations) makes it clear that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is –

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

While the details within the agreement are quite basic, it is nevertheless clear that even if it were prepared in full and with appropriate level of detail, that a proposal to upgrade footpath(s) in the local area would not meet any of the above tests. It cannot, therefore, amount to a material consideration of any weight, and would not “make the development acceptable in planning terms” as suggested by the applicant’s agent.

Other Appeal decisions

As part of the application, the applicant has submitted details relating to past appeal decisions that he would like the Local Planning Authority to consider as part of this application. While it is clear that every case should be assessed on its own individual merits, it is notable in this case that there has been a complex planning history including numerous appeals, all of which have been dismissed. Accordingly, in the specific and detailed context of this property, a comparison with other appeal decisions, only one of which is in Wales, is not considered appropriate.

In this regard, while it is acknowledged that there are examples of similar applications to remove holiday occupancy conditions being successful, none of those quoted relate to a property which is the subject of an extant enforcement notice, and which has never been used for its approved purpose. It is therefore considered that they do not raise any issues which would provide justification for outweighing the harm identified within this report. Finally, there would no doubt be many more examples of proposals seeking to remove such conditions being dismissed at appeal. Accordingly, the applicant’s submissions are not considered to have any material weight sufficient to outweigh the impacts described earlier in this report.

Conclusion:

The application seeks to remove holiday let occupancy conditions (Conditions 1 & 2 of planning permission P2009/0406) so that the building can be used as a residential dwelling in the open countryside on a site designated outside the settlement limits as defined by the Neath Port Talbot Unitary Development Plan. As explained in the detailed site history section, residential use of this property has been considered and dismissed by independent Planning Inspectors a number of times, and as recently as April 2013.

The applicant, despite the extant Enforcement Notice which requires the cessation of the residential use, has continued to live in the property, which is both an offence and a situation which supports the Council's conclusions that the applicant has failed to demonstrate that all reasonable attempts have been made to secure (retain) a business use at the property.

Accordingly, whilst the submissions indicate that there has been some activity over a period of time by the applicant to let and sell the property since the last appeal decision, for the detailed reasons given in the report, this is not considered to demonstrate any active or coordinated effort, nor to provide the justification necessary to outweigh the harm caused by the continuing residential occupation of the property. Moreover, the nature of submissions, coupled with the continued occupation in breach of the Notice, suggest that the information has been gathered for the sole purpose of getting the condition lifted rather than as a genuine attempt to market the property for its intended purpose, within a submission aimed at placing undue pressure on the Local Authority.

In addition, there are considered to be no other material considerations, including personal circumstances, appeal decisions or suggested planning obligations, which would outweigh the harm caused by the development.

For the reasons detailed above, therefore, it is concluded that the applicant has failed to demonstrate that all reasonable attempts have been made to secure (retain) a business use at the property. Accordingly, there is no justification for the removal of the conditions, which would result in an unjustified and unsustainable form of residential development in the countryside, which would be contrary to Countryside protection policies contained within Planning Policy Wales and Policies ENV1, ENV8b and T1 of the Neath Port Talbot Adopted Unitary Development Plan.

Associated Enforcement Issues

Members will note from the detailed planning history section above that this has been a long drawn out case, and that this application (and likely appeal should it be refused) will further delay the resolution of the breach through the requirement that the residential use cease and the property revert to its authorised holiday accommodation use.

The Enforcement Notice on the property remains in force, and is being breached through continued residential occupation, some 13 months after such use should have ceased, and over two years since the independent Inspector allowed an extended 12 month period for such use to cease. This extended period would, the Inspector stated at that time, *“be proportionate as this should enable Mr Jones and his family to obtain alternative accommodation, whilst the harm that has been identified would continue for a limited period of time only”*.

In light of the above, and the need to limit the time the breach will continue, it is considered necessary to make a second recommendation to Members in respect of future enforcement action.

Should Members be minded to refuse planning permission, then it is recommended that Members resolve to take prosecution action against the continued breach. Such action, however, would be delayed provided the applicant appeal against the refusal within one month of the refusal (such date given to ensure that the applicant does not wait the allowable 6 months before submission, thus further prolonging resolution of the breach). Should a swift appeal not be forthcoming, then prosecution action would be instigated.

In addition, in the event that an appeal is submitted and successfully defended, it is recommended that Members agree to an additional period for compliance with the Notice. In this circumstance, it is open to the Authority to allow a reasonable time for compliance with the Notice before prosecution action is taken. In this regard, while the Inspector allowed 12 months, it is considered that the delays to date in complying with such extended period are such that a period of no greater than 6 months should be given. This will also ensure that there is ‘closure’ and prevent further planning submissions which seek merely to delay the enforcement process, as has been the case with this application. Again, should the owner fail to comply with such an agreed ‘extension of time’, prosecution action would be instigated.

Having regard to the above the following dual recommendation is made

RECOMMENDATION

A. That planning permission is REFUSED on the following grounds:

The removal of conditions 1 and 2 of Planning Permission P2009/0406 would allow for the unrestricted use of this building as a residential dwelling, which is considered to amount to an unjustified form of residential development within the countryside which, by virtue of its remote location, also results in it being heavily dependent on motor cars and therefore unsustainable. Furthermore the applicant has failed to demonstrate that he has made every reasonable attempt to secure (or retain) a suitable business re-use for the building. The continued residential occupation of the property is therefore contrary to Planning Policy Wales and Policies ENV1, ENV8b and T1 of the Neath Port Talbot Unitary Development Plan.

B. That Members authorise prosecution action against the failure to comply with the terms of the extant Enforcement Notice

- a) in the event that an appeal against this decision is not validated by the Planning Inspectorate within one month of the date of this decision; or
- b) in the event that an appeal is dismissed by the Planning Inspectorate that the Notice is not complied with within a further agreed compliance period of six months



Penderfyniad ar yr Apêl

Appeal Decisions

Gwrandawriad a gynhaliwyd ar 04/12/12
Ymweliad â safle a wnaed ar 04/12/12

Hearing held on 04/12/12
Site visit made on 04/12/12

gan James Ellis LLB (Hons) Cyfrethiwr
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 15/04/13

by James Ellis LLB (Hons) Solicitor
an Inspector appointed by the Welsh Ministers
Date: 15/04/13

Appeal A Ref: APP/Y6930/C/12/2179809

Site address: Coed Y Nant Barn, Hendrelas Farm, Rhos, Pontardawe SA8 3JT

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act").
- The appeal is made by Mr Jonathan Jones against an enforcement notice issued by Neath Port Talbot County Borough Council.
- The Council's reference is A2012/0011.
- The notice was issued on 28 June 2012.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the Building at Hendre Las Farm, Pentwyn Access Road, Rhos, Pontardawe, Swansea SA8 3JT to residential use.
- The requirements of the notice are to cease the use of the Building as a residential dwelling within the time for compliance set out below and thereafter use as holiday accommodation in accordance with Condition 1 of Planning application P2009/0406.
- The period for compliance with the requirements is three calendar months.
- The appeal is proceeding on the ground set out in section 174(2) (g) of the Act. No fee was paid but the application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered because the appeal is fee exempt.

Summary of decision: The appeal is dismissed in respect of the deemed application but allowed in respect of ground (g), and the enforcement notice is upheld with correction and variation.

Appeal B Ref: APP/Y6930/A/12/2177302

Site address: Coed Y Nant Barn, Hendrelas Farm, Rhos, Pontardawe SA8 3JT

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs J O Jones against the decision of Neath Port Talbot County Borough Council.
- The application Ref P2011/0553, dated 30 June 2011, was refused by notice dated 5 December 2011.
- The development proposed is retention of building and use as a dwelling house (Class C3) and completion of associated works.

Summary of decision: The appeal is dismissed.

Application for costs

1. At the Hearing an application for costs was made by the Council against the appellants. This application is the subject of a separate Decision.

Planning history

2. On 15 September 2008, the Council granted planning permission under Ref: P2008/0585 for conversion of a barn (which formerly stood on the appeal site) to a dwelling. Works to implement the permission were subsequently undertaken. However, this resulted in a partial collapse of the walls of the barn, following which the remainder of the barn was demolished prior to the erection of the building which is now on the appeal site ("the Building"). I am told that the Building is somewhat larger than the barn the subject of permission Ref: P2008/0585 and that it is in a slightly different location. During the course of the construction of the Building, Mr Jones contacted the Council about an element of design and it was then ascertained that the Building did not have the benefit of planning permission.
3. In order to regularise the situation, two planning applications were submitted in 2009. The first application (Ref: P2009/0406) was for the retention and completion of a detached two storey property for use as holiday accommodation. It received planning permission on 21 July 2009. Condition (1) attached to this permission states that: 'Notwithstanding the Town and Country Planning Use Classes Order 1987 (or any Order revoking or re-enacting that Order), the development hereby permitted shall be used for tourist holiday accommodation only. Occupation of the holiday accommodation hereby approved shall be restricted to a maximum of twelve weeks within a twelve month period for any individual'.
4. The second application (Ref: P2009/0405) was for the retention and completion of a detached two storey property for use as dwelling house. This was refused by the Council on 2 September 2009. An appeal was lodged against the refusal of application P2009/0405 and in Appeal Decision Ref: APP/Y6930/A/09/2112770 dated 26 March 2010, the appeal was dismissed. However, the appeal decision was overturned by the High Court and a redetermination of the appeal took place with it being dismissed in a further appeal decision under Ref: APP/Y6930/A/09/2112770 dated 22 March 2011. I give considerable weight to the decision dated 22 March 2011 as it is recent and refers to some of the issues before me.

Procedural matters

5. Following the Hearing, I sought the views of the parties on the deemed application included in Appeal A as this had not been specifically debated at the Hearing. Written representations made by the parties in response to my request have been taken into account by me in my determination.
6. After considering the planning history of the site, it is clear that, following planning permission Ref: P2009/0406, the Building can be retained and this was acknowledged by the Council at the Hearing. The permission refers to use of the Building as holiday accommodation. In my view, such use is a residential use in the context of the Building. I am mindful here of the nature of the accommodation that has been provided within the Building. However, Condition (1) attached to the permission seeks to restrict occupation of the Building to holiday makers. This would exclude Mr and Mrs Jones and their family who currently occupy the Building. Other conditions attached to permission Ref: P2009/0406 require certain works to be carried out before occupation of the Building but these conditions do not, in my view, go to the heart of

the permission and cannot therefore be construed as conditions precedent. Given Mr and Mrs Jones' occupation of the Building, I consider that the permission has been implemented, albeit that such occupation has been in breach of Condition (1).

7. The alleged breach of planning control set out in the enforcement notice the subject of Appeal A ("the EN") is change of use of the Building to residential use. However, as I have indicated in paragraph 6, it seems to me that residential use of the Building has commenced in accordance with planning permission Ref: P2009/0406 and that occupation of it by Mr Jones and his family is in breach of Condition (1) attached to that permission. I therefore consider that it would be appropriate for the breach of control identified in the EN to reflect this and for the requirements of the EN to be altered accordingly. Consequential amendments would also need to be made to the heading of the EN so as to refer to a breach of condition, rather than a material change of use, and to the reasons for issuing the notice so as to refer to the breach occurring within the last ten years, rather than four. After consultation with the parties, I am satisfied that I can make the required corrections to the EN without causing injustice to the parties. I shall therefore exercise the powers given to me under section 176(1) of the Act accordingly.
8. Given the corrections that are to be made to the EN, the deemed planning application made under Appeal A is, therefore, to carry out the development permitted by planning permission Ref: P2009/0406 without compliance with condition (1).
9. Mr Jones originally appealed against the EN under ground (c) of section 174 (2) of the Act, as well as under ground (g). However, the ground (c) appeal was withdrawn before the hearing.
10. Mr Jones also originally appealed against another enforcement notice issued by the Council on 28 June 2012. The breach of control of planning control identified in that notice was failure to complete the building at Hendre Las Farm, Pentwyn Access Road, Rhos, Pontardawe, Swansea SA8 3JT in accordance with the plans approved by Planning Application P2009/0406. However, the appeal was withdrawn in advance of the hearing.
11. The description of development in the application the subject of Appeal B was originally 'change of use of existing building from holiday accommodation to residential use', although this was subsequently changed with the agreement of the appellants to 'retention of building and use as a dwelling house (Class C3) and completion of associated works'.

Appeal A – deemed application, and Appeal B

Background

12. The appeal site is located in open countryside to the east of Rhos, adjacent to a farmyard associated with Hendrelas Farmhouse which is occupied by Mr Jones' parents. Also adjacent to the farmyard is a dwelling occupied by Mr Jones' sister and her family. At the time of my site visit, a redundant agricultural building at the farm was being converted into three units of holiday accommodation with the benefit of planning permission. A detached building (the Building) has been erected on the appeal site and is currently occupied for residential purposes by Mr and Mrs Jones and their children. The appeal site is accessed by a private track which serves Hendrelas Farm.

Main issues

13. The main issues are: whether or not the use of the Building as an unrestricted unit of residential accommodation/dwelling house would be a justifiable forms of development in the open countryside having regard to planning policies which are designed to protect the countryside; whether or not such use would be sustainable in terms of modes of transport; and whether any harm arising from the previous main issues (if found) would be outweighed by other material planning considerations.

Reasoning

Whether or not the proposals would be justifiable forms of development

14. National planning policy in Planning Policy Wales: Fifth Edition ("PPW") states that new development in the open countryside will be strictly controlled and that isolated new houses in open countryside require special justification, for example where they are essential to enable rural enterprise workers to live at or close to their place of work in the absence of nearby accommodation. Policy ENV1 of the Neath Port Talbot Unitary Development Plan ("the UDP"), adopted in 2008, goes on to say that new development in the countryside will not be permitted except in certain circumstances. Those which could be considered to be relevant to my determination are ENV1 a – development for agricultural or forestry purposes; ENV1 b – development associated with farm diversification; and ENV1 e – the conversion, re-use, adaption or replacement of an existing building.
15. Mr Jones does assist his father with work on the farm and also helps out with a rural enterprise carried on there, albeit that he works full time for Dwr Cymru. I shall bear this in mind when I consider other material considerations. However, no case has been advanced on the basis that there is a functional need for the Building to be occupied by an agricultural worker or a person engaged in a rural enterprise associated with farm diversification.
16. The Building is not a replacement dwelling, and nor is it the conversion of a building. However, in my opinion, it could reasonably be argued that the appellants are seeking 're-use' of the Building in the sense that the permitted residential use of the Building is restricted to holiday accommodation which could be said to be for 'business purposes'.
17. Policy ENV8B of the UDP is relevant here and states that the conversion, rehabilitation and/or re-use of an existing building will be permitted only where the proposal satisfies a number of criteria. Criterion f states that where a conversion to residential use is proposed, the applicant has made every reasonable attempt to secure suitable business re-use; or the residential conversion is a subordinate part of a scheme for business re-use; or the resulting housing will provide affordable housing to meet an identified local need. The proposal would not be a subordinate part of a scheme for business re-use and nor is it affordable housing. However, given the background in this case, I consider it appropriate to examine whether or not the appellants have made every reasonable attempt to retain a business use for the Building.
18. The appellants have claimed that there is no demand for 'an isolated, four bedroom dwelling in the countryside that is restricted to holiday-let use only'. Here, the appellants drew my attention to appeal decision Ref: APP/Y6930/A/12/2181472, dated 15 January 2013, which relates to Gelly Fowy Fawr Farm, Ynysmeudwy, Pontardawe. That case involved the proposed conversion of redundant agricultural barns into two units of residential accommodation. The previous Inspector does mention that

tourism is not strongly established in the area. I do not know what evidence was before the previous Inspector. However, the Council has produced evidence to me which indicates that there are 16 establishments in the Swansea Valley representing 30% in the County. I consider this to be a significant proportion. I am told that occupancy rates are between 65% and 98% which suggests to me that there is a demand for tourist accommodation. The conversion of agricultural buildings to holiday accommodation that is currently being undertaken by Mr Jones' father at Hendrelas also suggests to me that there is a demand for accommodation. This is notwithstanding that the units which are being constructed will be of different sizes to the Building and are the subject of a scheme backed by the Welsh Assembly Government. I therefore give little weight to the comment of the previous Inspector.

19. There is some evidence before me that the Building has been marketed for sale as holiday accommodation by Herbert R Thomas since February 2012, and that little interest has been shown in it. However, notwithstanding that the sales particulars refer to the Building as having the benefit of planning permission for use as holiday accommodation, a degree of uncertainty over the future use of the Building has been introduced. For example, it is stated that: 'The permission has yet to be formally validated and a further planning application is to be submitted to regularise'. There is also reference to the Building being a short travelling distance from 'all local centres of employment and recreation'. To my mind, the mention of 'centres of employment' has little to do with holiday accommodation. Also, there is no detailed evidence before me to demonstrate that the asking price for the Building is commensurate with its planning permission that has the condition restricting occupancy to holiday accommodation. In addition, I note that there has been no attempt to let the Building as holiday accommodation.
20. Overall, in this particular case, I am not therefore satisfied that the appellants could be said to have made every reasonable attempt to retain a suitable business use of the Building.
21. I therefore conclude that the development would not be a justifiable form of development in the open countryside. In this respect, it would be contrary to PPW and Policy ENV8B of the UDP.

Sustainability with regard to modes of transport

22. Turning now to sustainability, PPW states that proposals should locate developments so as to minimise the demand for travel especially by private car. PPW also seeks to promote sustainable patterns of development. Policy T1 of the UDP states that a proposal will only be permitted if wherever appropriate it would be well located in terms of reducing the need to travel especially by private car, and have good and easy access by public transport, cycling and walking.
23. I am told that, along the highway, the appeal site is about 1.6 km from the A474 and 2.4 km from local services. Distances via the public footpath network are about 1.1 km and 1.6 km respectively. However, from what I saw on my site visit the footpaths cross open fields, were not surfaced, and were unlit – typical of those in a countryside area. I think it unlikely that the paths would be used on a frequent basis.
24. In support of their appeals, the appellants produced a traffic plan/summary of movement from the appeal site from 12 to 26 June 2011. This showed Mr Jones travelling to and from work sharing a car with his sister and Mrs Jones taking children to school by car. No reference was made to walking or journeys by public transport.

To my mind, the information only confirms that travel to and from the appeal site is dependant on the private car. Car sharing is to be commended, but there is no guarantee that this situation would not change in the future, say if family members were to move away from Hendrelas.

25. The Inspector who determined the last appeal relating to the site found that the appeal property was dependant on car use and as such cannot be considered to be in a sustainable location. He referred to car trips generated by holiday use but noted that the trips that would be generated by such use would have to be balanced against the benefits associated with farm diversification and that such arguments cannot be applied to trips that would be associated with unrestricted residential use of the building. I can only concur with him.
26. My attention was again drawn by the appellants to appeal decision Ref: APP/Y6930/A/12/2181472 in the context of sustainability. The previous Inspector stated that although the proposed dwellings (the subject of the appeal before him) would be somewhat remote from centres and would be largely dependant on the private car as a means of transport, residential use would ensure the preservation and effective re-use of sound buildings which make a positive contribution to the rural landscape. He found that, on balance, the proposed development would be sustainable. However, the proposals before me are not concerned with the conversion (including preservation and re-use) of a redundant agricultural building and can, therefore, be distinguished from the scheme before the previous Inspector. In any event, each proposal has to be dealt with on its own individual merits. I therefore give little weight to the previous appeal decision.
27. Overall, I therefore conclude that the proposals would not be sustainable because the appeal site's location is such that there would be dependency on the private motor car as a primary means of travel, contrary to PPW and to Policy T1 of the UDP.

Other considerations

28. The appellants have sought to rely on 'special circumstances' in order to justify the proposals. In essence, these relate to the partial collapse of the walls of the barn which used to stand on the appeal site and its subsequent demolition. There is no policy basis for this 'special circumstances' argument either in PPW or in the UDP, although I accept that it is a planning consideration which can be weighed against the harm that I have previously found.
29. It is clear from the evidence that a structural engineer's report revealed that walls of the barn were bowing as a result of lack of lateral restraint. The report went on to indicate that the addition of internal walls would remedy this situation. It also appears evident that the removal of existing lateral restraints, such as roof timbers, would make the situation worse. However, I am told the appellants' builder removed roof timbers without the walls having been adequately supported. As a consequence of this, about 60% of the walling in the front elevation and 40% of the walling in the rear elevation collapsed.
30. After this, and following a discussion held between Mr Jones and his builder, it was decided to demolish the remainder of the barn and reconstruct a somewhat larger building on a marginally different site. Mr Jones stated that he was mindful of a similar situation which had occurred with his sister's dwelling at Hendrelas where she had been told by a building control officer from the Council to go ahead and demolish her building. Mr Jones also explained that he had appointed his builder in good faith

and that he had let the builder get on with the works whilst he, Mr Jones, was out at work. It is considered by the appellants that the collapse was therefore outside their control.

31. In support of their case, the appellants relied on two previous appeal decisions, Ref: T/APP/P2365/A/98/0563 dated 11 December 1998 (relating to Wyke Thorn Farm, Scarisbrick Moss, West Lancashire), and Ref: APP/V4250/A/05/1187197 dated 31 July 2006 (relating to Landside Farm, Pennington, Leigh, Wigan). Reference was also made to three officer reports relating to sites in West Lancashire, Cheshire and Wrexham, where permissions had been granted by the relevant Councils, and also to other barn conversions within the Council's area.
32. I give little weight to the officer reports as they merely set out the views of officers at other planning authorities which lead to planning permissions being granted. These views have not been tested at appeal. Moreover, in each case, unforeseen climatic factors (high winds in West Lancashire and Wrexham, and an earthquake in Cheshire) were taken into account when assessing material considerations in favour of the proposals. Climatic factors played no part in the collapse of the barn leading to the appeals before me. I also give little weight to the other barn conversions in the Council's area as I have not been provided with the planning histories of the sites in question or with full details of how they compare with the appeal proposal.
33. In appeal decision Ref: T/APP/P2365/A/98/0563, the Inspector did grant planning permission for the substantial reconstruction of a barn within Green Belt on the basis of 'very special circumstances'. In that case, it appeared that a development plan policy allowed a 25% removal of a building, and also more substantial removal in 'very special circumstances'. In addition, some 15% of the building remained. This is not the situation in the appeals before me where the barn was demolished in its entirety. Given this, and the fact there is no development plan policy referring to 'special circumstances' in the appeals before me, I find that the situation can be distinguished from that in decision Ref: T/APP/P2365/A/98/0563. I therefore give little weight to the previous decision.
34. Turning now to appeal decision Ref: APP/V4250/A/05/1187197, the Inspector found that works of conversion pursuant to a previous planning permission granted by the relevant Council would have amounted to major reconstruction, far in excess of that Council's policy guideline and that it would have been inappropriate development in the Green Belt. He considered this to be a very important circumstance which outweighed harm to the Green Belt. In the appeals before me, there was no previous planning permission where works would have amounted to major reconstruction. As such, the situation pertaining to the case before the previous Inspector can again be distinguished from those in the appeals before me and I give little weight to it.
35. Overall, in the appeals before me (which have to be considered on their own individual merits), it seems to me that the appellants' 'special circumstances' amount to no more than a failure of their builder to use adequate construction methods, and their own lack of knowledge (concerning the planning process) which lead to the demolition of the entire barn after the partial collapse. I have also found little support for the 'special circumstances' argument in the various appeal decisions and officer reports relied on by the appellants. There is no evidence before me to suggest that the appellants have acted other than in good faith. I am aware that they have been faced with an unfortunate situation. Nevertheless, I do not find that the circumstances relied on by the appellants are such as to outweigh the cogent harm to planning objectives that I have found.

36. I am also well aware of the appellants' personal circumstances. Coed y Nant Barn is currently their family home, and one of their children attends a local school. In addition, Mr Jones provides valuable help to his father in connection with the agricultural enterprise carried on at Hendrelas Farm and also assists with a farm diversification business there. However, in my view, these points, even when added to the 'special circumstances' argument, are not such as to tip the balance in the appellants' favour. I find that the matters in support of the proposals are heavily outweighed by the harm that has been identified.

Conclusion

37. For the reasons given above, I conclude that the deemed application in respect of Appeal A, and Appeal B must fail.

Appeal A - the ground (g) appeal

38. This ground of appeal is that the time given to comply with the requirements of the EN is too short. The Council has given a period of three calendar months, but Mr Jones is seeking a period of twelve months. This is so that he can sell the property and acquire a new house in the locality close to where his child attends school. Reference was also made by Mr Jones to the difficulties of finding rented accommodation in the locality. After having regard to the submissions made by Mr Jones, it does seem to me that it would be reasonable to grant an extension of time. In my view, the suggested period of twelve months would be proportionate as this should enable Mr Jones and his family to obtain alternative accommodation, whilst the harm that has been identified would continue for a limited period of time only. I shall therefore vary the EN accordingly.

39. The appeal therefore succeeds in relation to the matters raised under ground (g).

Human rights

40. I appreciate that my decisions result in an interference with the rights of Mr and Mrs Jones in respect of their private and family life and their home. Article 8 of the European Convention on Human Rights is therefore engaged. However, I consider that my response is proportionate after taking into account the conflicting matters of public and private interests so that there is no violation of those rights.

Formal Decision (Appeal A)

41. Following on from paragraph 7 above, I direct that the EN be corrected by:

- (a) the deletion of the all the wording in the third paragraph of the EN which identifies the alleged breach of planning control and their substitution with the following: 'Planning permission was granted by the Council on 21 July 2009 under Ref: P2009/0406 for the retention and completion of a detached two storey property for use as holiday accommodation, subject to conditions. Condition (1) states that: 'Notwithstanding the Town and Country Planning Use Classes Order 1987 (or any Order revoking or re-enacting that Order), the development hereby permitted shall be used for tourist holiday accommodation only. Occupation of the holiday accommodation hereby approved shall be restricted to a maximum of twelve weeks within a twelve month period for any individual'. It appears to the Council that the condition has not been complied with because the Building is occupied by persons using it as permanent residential accommodation rather than as tourist holiday accommodation';
- (b) the deletion of all the wording in the fifth paragraph of the EN which sets out the

Council's requirements and its substitution with the following wording: 'Discontinue the residential use of the Building other than in accordance with Condition 1 attached to planning permission Ref: P2009/0406;

(c) the deletion of the words 'material change of use' in the heading of the EN and their replacement with the words 'breach of condition'; and

(d) the deletion of the word 'four' in the first sentence in the fourth paragraph of the EN which sets out the reasons for issuing the EN and its substitution with the word 'ten'.

42. Having regard to my findings in paragraphs 38 and 39, I also direct that the EN be varied by the deletion of the period of 'three (3) calendar months' and the substitution of the period of 'twelve months' as the period for compliance set out in the sixth paragraph of the EN.

43. Subject thereto, I dismiss the appeal and uphold the EN as corrected and varied.

Formal decision (Appeal B)

44. The appeal is dismissed.

James Ellis

Inspector

APPEARANCES

FOR THE APPELLANT:

Graham Carlisle	Director, CDN Planning
Jonathan Jones	Appellant
Gareth Jones	Appellant's father
Richard Phillips	Proprietor, RPD Building Consultants
David Harris BSc	Group Secretary, NFU

FOR THE LOCAL PLANNING AUTHORITY:

Robert Bowen	Team Leader, North Development Control Area, Neath Port Talbot County Borough Council
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DOCUMENTS

- 1 Council's letter dated 5 November 2012 giving notification of the hearing
- 2 Letter dated 6 November 2012 from CLA Wales to the Planning Inspectorate
- 3 Letter dated 14 November 2012 from NFU Cymru to the Planning Inspectorate
- 4 Letter dated 20 November 2012 from NFU Cymru to the Council
- 5 E-mail dated 30 November 2012 from Herbert R Thomas LLP to Mr J Jones
- 6 NFU Cymru booklet 'Why Farming Matters to the Welsh Economy'
- 7 Closing submissions on behalf of the appellants
- 8 Council's application for an award of costs

My name is Richard Bowen and I represent Swansea Valley Holiday Cottages Plas Farm, Cilybebyll, Pontardawe Swansea, SA8 3JQ, Wales.

1. **The Tourism Business** Plas Farm in Cilybebyll is the home of our family business Swansea Valley Holiday Cottages. We diversified into tourism from dairy farming in 1996 to become the largest, most successful self-catering farm holiday business in the Borough of Neath Port Talbot in terms of bed spaces and occupancy rates.
 2. We welcome over 500 guests per year to Plas Farm, adding over £175,000 to the local economy which supports several jobs (financial estimate based on average spend figures for guests to non-serviced accommodation provided by NPT Economic Development Team/STEAM 2010 Report. We are currently in the process of expanding our business which has thrived and outperformed other parts of the UK despite the global recession.
 3. A significant proportion of our guests cite the peace and quiet as the factor that most pleased them about their holiday at Plas Farm on the western slopes of Mynydd Marchywel (sample of 221 Feedback Forms available on request). The peace, tranquillity and spectacular landscape that we offer our guests are fundamental to the success of our rural business.
 4. **Industry Recognition** Swansea Valley Holiday Cottages are used by the Welsh Government and Visit Wales as an industry Case Study of Best Practice within the green tourism sector (see attached). In 2012 Swansea Valley Holiday Cottages were named the NPTCBC Green Business of the Year across all sectors. The company enjoys an excellent working relationship with NPTCBC Partnerships and Community Development Department who have provided grant aid to support the expansion of the business. In 2009 SVHC were invited by NPTCBC Tourism Development Coordinators, as key stakeholders in tourism development in the local area, to join the Swansea Valley Tourism Steering Group. Its fundamental purpose is to develop, implement and monitor a new action plan to develop tourism in the Swansea Valley as it is a targeted area for development within the rural communities of NPT.
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5. **Professional Background** In tandem with developing the tourism business on Mynydd Marchywel, I work as an applied geophysicist in the development of onshore and offshore windfarms. I often work as client representative, representing the interests of wind farm developers at various sites across the EU. I worked on the development of the 26MW Maesgwyn and 32MW Ffynon Oer wind farms in South Wales, 66.7MW Berryburn near Inverness and more recently the larger round 3 offshore windfarms such as the 4,000MW Hornsea development off the Yorkshire coast, the 900MW Gode wind farm project in the German Sector of the North Sea and the 750MW Beatrice development in the Outer Moray Firth.
6. I am a visiting lecturer in applied geophysics at the University of Bristol and University of Exeter, which includes the application of geophysics in wind farm development. I have cross-sector experience having carried out environmental site investigations at nuclear facilities such as Sellafield Nuclear Power Station and Capenhurst Uranium Enrichment Plant. In 2010 I represented British Petroleum (BP) as Chief Scientist onboard R/V Ocean Veritas and R/V Gyre during the Deepwater Horizon Oil Spill Disaster in the Gulf of Mexico.
7. As tourism business owners, we are pro-renewable energy and the development of appropriate wind energy installations on suitable sites as part of our energy mix within the UK. However, we cannot support the application to erect five wind turbines on Mynydd Marchywel due to the proximity of T1 and T2 to our business Swansea Valley Holiday Cottages. The noise impact and visual impact of the development is likely to have a profoundly negative impact on our rural tourism business in terms of visitor numbers, causing significant damage to the rural economy in Neath Port Talbot.
8. The image below shows how Marchywel and the surrounding countryside is used to market the area to the world travel market. It will be featured in Neath Port Talbot Borough Council's 2015 Business Guide, a publication designed to promote Neath Port Talbot as a vibrant place to do business.



The County's Premier Farmstay Accommodation

This jewel in the countryside is perfect for the business traveller or tourist alike.

Situated on the historic Plas Cilybebyll Estate, guests benefit from an idyllic countryside setting close to amenities and central to many of South Wales' best attractions.

Guests are free to explore over a hundred acres of private countryside with panoramic views across the region.

Graded five star by Visit Wales, these multi-award winning cottages are heated by green energy.



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9. Since the 1st January 2013, Swansea Valley Holiday Cottages have welcomed 1,395 guests to holiday on Mynydd Marchywel from 22 countries:

- Australia
- Belgium
- Canada
- Czech Republic
- France
- Germany
- Greece
- Guernsey
- Hong Kong
- Indonesia
- Ireland
- Malaysia

Malta
Netherlands
New Zealand
Norway
South Africa
Spain
Switzerland
United Arab Emirates
United Kingdom
United States

10. A total of 6,039 bed nights have been booked in this period. Assuming an average daily spend per tourist of £45 per day, Swansea Valley Holiday Cottages on Mynydd Marchywel adds approximately £0.25 million to the local economy per year. In addition the business employs a cleaner, gardener and handyman, all of whom live within walking distance of the property. Rural Neath Port Talbot is one of the most economically deprived areas in Western Europe and sustainable businesses such as Swansea Valley Holiday Cottages cannot be lost due to the location of these turbines.

11. Over 25% of our guests specifically mention the beautiful setting of the holiday cottages in their visitor book comments.

12. Many mention the wildlife and walking in addition to those who specifically mention the beautiful setting in their comments.

13. Although we did not do a proper survey (lack of support from RES), we asked many guests if they would have booked our cottages had they known it was on the doorstep of a windfarm. Around 50% of those asked said they would have booked elsewhere.

14. The following are typical reviews of the cottages:


- Typical Trip Advisor Review commenting on walking on the mountain and its “beautiful scenery”.



JeanLeicester
Leicester

2 reviews

 Reviews in 2 cities

 1 helpful vote

“Our trip to Plas Farm, Pontardawe”

 Reviewed 7 September 2013

We spent a most enjoyable week in this lovely well equipped cottage. It was in a peaceful setting and we felt at home there immediately. There is a book in the cottage which contained all the information you could possibly need, which we found extremely useful. We walked the Plas Farm trail with its beautiful scenery and enjoyed the walk from Swansea to The Mumbles along the promenade. We spent a day at the Margan Park which has something for everyone and drove to Worms Head which is well worth a visit. The shops are not too far away and we enjoyed meals at The Butcher's Arms and Dyffryn.


Stayed August 2013, travelled as a couple

 Value

 Cleanliness

 Location

 Service

 Sleep Quality

Less▲

Was this review helpful? 1

[Ask JeanLeicester about Swansea Valley Holiday Cottages](#)

This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC

A Review of Climbing Mynydd Marchywel on www.mountain-forecast.com (one of the world's biggest weather forecasting websites)

Mynydd Marchywel Climbing Notes

NR from UNITED KINGDOM writes:

I climbed this mountain with Richard from his farm at the foot of the mountain. Parts of the ascent were remarkably steep, but the spectacular views from the top are well worth it on a clear day. Also recommended are night time ascents where, on a cold, frosty evening, the steelworks at Port Talbot glow like some evil volcano from Lord of the Rings. It is slightly odd being on a summit surrounded by trees, however the archaeology up there transport the visitors mind back to another time in history.

2010-04-21

Random Quotes Taken From Visitor Book Highlighting people's love of the current landscape and how much they love walking on the mountain

“Kind regards to Richard Bowen for his humorous “Plas Farm Trail.” A cosy

cottage in a fairy-tale surrounding. Well, it's overwhelmingly beautiful: hedges, meadows with animals, woods with bizarre trees, ferns and mosses. And an abundance of flower species, a little further, rocks, waterfalls, ruins, mountains, the sea. An ancient language still alive, and every rock, ever plant and building has a story to tell. And after a fascinating field trip you return home to a cosy shelter where in the night the owls are hooting... thanks! And well, it's the same with the cottage, all those little amiable details, which made it come alive." Werner, Irene, Veronika and Mathias, Mainaschaff, Germany

What can one say? Very many thanks for a wonderful cosy cottage and the information on the surrounding area and the information on the local walks. Didn't quite make it to the top of The History of Plas Farm. Above all else we are sorry to leave such a beautiful closeness to nature. Yes, time in our favour would love to visit again. Peter and Pam from Fareham

"A perfect week in idyllic surroundings." The Branch family, Langtoft, Lincolnshire

We have just had the best holiday ever. Things in London had been very fraught and coming to Hafod Y Wennol was a perfect antidote to stress and strain. Indeed it has been perfect, fantastic accommodation, fantastic hosts, everything we could have thought of was provided, even our 'foster daughter dog' Holly", shall be missed greatly, as will the calming rush of the river, the green blanket of grass and fields, hills that wrapped itself securely around us, which was hugely comforting, yet left us with a yearning to return as soon as possible, hence we will see you in September. If ever I had dreamt of a perfect place to live - it would be here at Hafod Y Wennol, much to see and do, yet enough peace and solitude to sit back and ponder. David and Rachel - thank you so much for a lovely holiday and we look forward to our return in a couple of months. P.S. David and Rachel you are both very special - Plas Farm is not just a business to you but a reflection of both your honest, caring and attentive personalities. It is obvious you care very much about the quality of the experiences of your 'holidaymakers'. You both deserve the success you have worked hard to achieve. Thank you." Kathy and Jill from Notting Hill, London.

"We would like to thank you for a fantastic week in your lovely cottage. All our needs were catered for. We come to South Wales from Nottingham to research our family history. We have been very successful and found most of what we came to look for. Have been very lucky with the weather but need to come back to do the Farm Trail." Joan, Michael & Janet from Nottingham

"We've never slept as well as here for many...years! The nights were good but the days also, many visits and the walk around the farm. A sunny week, little cold (but it was April). We like to come next..." Isabelle, Philippe and Camille from France

"Lovely place. Peaceful location. Spectacular views." Dave, Linda, Wayne & Carol from Ontario, Canada

"Beautiful cottage on a lovely farm in a stunning location, a real get away from our lives in London. We were blessed with beautiful weather and made the most of it by exploring our surroundings. The river was a real treat with the relaxing sounds and wildlife. We enjoyed the birds singing and we were fortunate to see a stunning buzzard in it's natural environment. We came to get away for a few days but experienced so much more than we could have hoped for and we were sad to leave. Our border collie was relaxed and exhausted from all the exercise and without a doubt we will be coming back!" Helen, Johnny, Maureen & Brody from Walthamstow in East London

"Just had to come back after our first visit in September, yet again we have enjoyed our stay plus we were very lucky with the weather. The cottage is set in such beautiful surroundings which is a real treat compared to London! We have had an amazing break, sad to be going home, however we will be coming back again." Helen, Johnny, Maureen & Brodie the Border Collie from E17, London

"Thank you first for the people who maintain Plas. We came here on a one off short break that we found looking through the internet for somewhere we could get away from the hassle and troubles of the modern world through TV and radio, cities and modernised villages. As soon as we drove up the road to here, we knew it was going to be something special. The cottage is something else, everything you need is here, the walks are outstanding. Its peaceful, quiet and with sounds of nature everywhere. All we had to do was open our eyes. A very big thank you to everyone involved for this incredible journey around the Plas Farm. Nature = Evolution=I=You. To: C Sharp is to tune C Sharp with Nature. When you See Sharp, Your Eyes will be Open. One Life. Live It." The Williams Family from Caerphilly, South Wales

"People here continuously ask us why we Americans with no connections to Wales visited for nearly three weeks. The best answer would be to show them this place, where the working landscape, the people, the natural diversity, the history all simply shine. Thanks." John & Alida from Dinklage, Vermont, USA

"Thank you both so much for the warm hospitality! Every trip to Wales differs from the last and this was no exception. It is in my view a stunning landscape with so many features to explore. It also reminds me of home - New Zealand. Henrhyd Falls and Castell Carreg Cennen were awesome. So glad my phone has a torch which allowed us to explore the cave. A warm that going out to the Bowen family." Cary from New Zealand

"This must be one of the most amazing and tranquil places that I have had the pleasure of visiting. So many places to visit locally and on the property. Do read the book. Thank you both so much." Norm Foster, Cambridge, New Zealand

"We have had a wonderful stay here. Everything as we hoped it would be. A real home away from home. The information folders were packed with great suggestions. Thank you. Richard Bowen's The Plas Farm Trail was a well researched local and personal history written with such wit that it was hard to put down until it was finished. The book brought all the old photos to life - especially liked knowing the context to the one of Richard's dad on the frozen river. We loved the farm trail." The Maher Family, Mullingar, Westmeath, Ireland