



## Penderfyniad ar yr Apêl

## Appeal Decision

Ymweliad â safle a wnaed ar 19/01/12

Site visit made on 19/01/12

gan **R.M.Poppleton** JP, DipTP, DMS, MRTPI

by **R.M.Poppleton** JP, DipTP, DMS, MRTPI

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 30/01/12

Date: 30/01/12

**Appeal Ref: APP/L9503/A/11/2162376**

**Site address: Mayville, 21 The Norton, Tenby, SA70 8AA**

**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 & Mrs O Thomas against the decision of Pembrokeshire Coast National Park Authority.
- The application Ref NP/11/196, dated 17 March 2011, was refused by notice dated 8 July 2011.
- The development proposed is the change of use to form 4 residential apartments.

### Decision

1. The appeal is allowed and planning permission is granted for the change of use of Mayville, 21 The Norton, Tenby, SA70 8AA to form 4 residential apartments in accordance with the terms of the application, Ref NP/11/196, dated 17 March 2011 and the submitted plans, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than five years from the date of this decision.
  - 2) No development shall commence until details of the proposed external works, including the materials to be employed, have been submitted to and approved in writing by the Local Planning Authority: the development shall be carried out in accordance with those approved details.

### Main Issues

2. The appeal site lies within the Conservation Area where section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that decision makers have regard to the desirability of the development preserving or enhancing the character or appearance of the Conservation Area. Being within the National Park, there is also a duty under the Environment Act 1995 to have regard to conserving and enhancing its special qualities.
3. Secondly, the Council's decision notice states that the proposal would result in the loss of a community facility and that as such policy 48 of the adopted Pembrokeshire Coast National Park Local Development Plan 2010 (the LDP) is engaged.
4. Thirdly, it is stated that the proposal does not make provision for affordable housing in accordance with policies 2 and 48 of the LDP.

5. Thus, the main issues distil to the effect of the proposal upon the attributes and special qualities of the Conservation Area and National Park, secondly, upon the provision of community facilities and thirdly, upon the supply of affordable housing in the area.

## Reasons

6. The appeal site lies within an established residential area that includes small scale cottages, taller terraced buildings and new flatted accommodation. The appeal premises are currently vacant and externally show signs of decay. Internally, that decay is more prominent with widespread damage, some water penetration and rotted timbers. Although there is no lawful development certificate confirming its last and current use, there appears to be no dispute that the building was last used as a local authority hostel with a resident manager. Certainly, the layout and use of the internal accommodation suggests that is most likely to have been the case. I therefore proceed on that basis.
7. The proposal would bring the building back into a use that would be compatible with the character of the locality. It would also enhance the building's appearance through its repair and future on-going care. I conclude therefore that the development would serve to enhance both the character and appearance of the Conservation Area. By the same token, the special qualities of the National Park would be similarly conserved and enhanced.
8. With regard to the stated loss of a community facility and the conflict with policy 48, I note that the policy's supporting text does not specify what is meant by a 'community facility', but the LDP's Glossary clearly excludes uses such as a hostel. The Council's statement does not explain why policy 48 is therefore engaged and I find no reason to explain why it should be. Therefore, I conclude that the development would not result in the loss of community facility and therefore no conflict with policy 48 would result.
9. Turning to the proposal's effect upon the provision of affordable housing. It is evident from the LDP that there is a policy requirement that this type of residential accommodation be provided. It matters not that the gross need in Tenby is said to have fallen over the last 3 month period and that housing developments have declined. The policy reflects a priority expressed in national policy and in Ministerial statements and this objective is rightly expressed in the recently adopted LDP which seeks to achieve it through policy 45. This policy identifies Tenby as a place where the Authority will *'seek to negotiate 60% affordable housing to meet the identified need in developments of 2 or more units in housing developments'*.
10. Taking into account the manner in which this strategic policy is phrased, it represents a corporate aim and the expression of an intent on the part of the LPA: the LPA 'will seek...'. Therefore, having regard to section 38(6) of the Act, when considering the question of whether a particular planning proposal accords or conflicts with the policy, it is not possible to make a clear determination that the scheme conflicts with the policy. Nevertheless, the policy's objective is clear and one that should be supported where applicable.
11. Secondly, the policy and its supporting text does not make it clear as to whether it applies to new residential uses or whether it includes an alteration to an existing residential use. The phrase 'housing developments' is used, but as the Plan's housing allocations include other forms of residential accommodation such as flats and not just dwelling houses, I consider that it is reasonable to conclude that the phrase does

include all forms of residential uses. The question then arises as to whether those residential uses need be new ones or whether it includes alterations to existing uses. As the building's existing use is residential falling, within Part C of the Use Classes Order albeit a different Class from dwelling houses, the question arises as to whether a new residential use is in fact being created through the proposal and as a result, whether the policy is engaged. However, I have no evidence that explores these matters and therefore do not make a determination in this regard, but proceed on the basis that the policy is engaged.

12. In this regard, the viability of the proposed scheme is a relevant consideration because if not viable, then it would not proceed and the benefits to general housing provision and to the Conservation Area would not come forward. It is submitted that if affordable housing is provided at the 60% level, the scheme would be unviable. In response the Council have challenged the purchase price paid by the appellants suggesting that this was too high and that it failed to take into account the contributions towards affordable housing as required by the policy. The Council also suggests that the tenure/size mix is inappropriate for Tenby's needs.
13. The appellants have provided valuations from local estate agents and costs estimates of the works needed to bring the building back into use. The Council has questioned the basis of the original valuations in terms of whether these were based upon the building's use as a hostel or a residential conversion. I note however that the agent states that they were based upon the building 'as it stands'. Moreover, they generally reflected the reserve price put on the property by the Pembrokeshire County Council at the time of the auction. I also note that the actual purchase price was not significantly higher than that reserve price. I find no compelling reason to conclude that the submitted valuations were not a reasonable assessment at the time. Further, I consider that those figures submitted with the appeal dating from August 2011 relating to the Gross Development Value have a reasonable basis, based upon information from local estate agents who must reasonably be assumed to be cognizant of local market conditions.
14. I recognise that the original valuations may have been based upon the pre-LDP period when the level of affordable housing provision in Tenby was 50% and not 60%. I also note that an independent valuation has not been provided as mentioned in the Council's SPG of March 2011. However, I find nothing to convince me that what has been provided is unreliable or that a viability exercise based upon 50% provision would materially alter the outcome. I also recognise that an alternative mix of units might result in a different outcome in terms of viability, but as an appeal is before me, I have to consider it on the basis that it is made. As such, I have no sound basis to conclude that the provision of any level of affordable housing within this building would be viable and thus reasonable in terms of the policy.
15. In my view, there is sufficient evidence to conclude that the proposal would not be viable if it were to be required to provide affordable housing units. Given the length of time that the building has been empty or inactive and its present state of repair, the resultant delay in bringing it back to a compatible use would harm the Conservation Area. Thus in balancing these competing objectives, I conclude that in this case, the provision of affordable housing should not be required.
16. As to the imposition of planning conditions, given my conclusions relating to the provision of affordable housing, it would be unreasonable to impose the condition suggested by the Council. As there are no amendments to the submitted plans, there is no need to list them in a condition for the purposes of clarity. However, given the

lack of detail and bearing in mind the location within the Conservation Area, it is appropriate to require the submission of details of the proposed external works. Finally, although improvements to the energy efficiency of the building are proposed in the DAS, as the application does not involve a new building, the policy requirements set out at paragraph 4.11.4 of PPW and paragraph 1.4.5 of TAN22 relating to the Code for sustainable homes, do not apply.

17. I have had regard to all other matters raised, but find nothing that sways me from this view.

*R.M. Poppleton*

Inspector