

Bettws Newydd Opposition Group (BNOG)
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All Members of
The Development Management Committee
Pembrokeshire Coast National Park Authority

20th March 2011

Dear Development Management Committee Member,

Bettws Newydd

I am writing to you concerning the REPORT OF HEAD OF DEVELOPMENT MANAGEMENT to the DMC on 23rd March under OTHER PLANNING MATTERS (hereinafter termed the HDM Report).

This reports on BNOG's request for the Authority to make an Order under Section 102 of the Town and Country Planning Act 1990 requiring the removal of the as-built dwelling at Bettws Newydd, Newport. (ref.NP/10/033) and concludes that it is not expedient for the Authority to do so. We give full details in **Appendix 1** of why BNOG firmly disagrees with your Officers.

As you know, I write on behalf of the hundreds of signed up supporters to the BNOG campaign which aims

- To achieve the replacement of the present development at Bettws Newydd with one that is more appropriate to the location, in conformity with the LDP and other planning policies, and acceptable to both the local and wider community
- To persuade the PCNPA to identify and itemise the mistakes made in dealing with this development and to change its processes to prevent repetition.

When the DMC gave delegated consent for a replacement dwelling on site in 2006, it was for a building with a "two storey element to the north and a single storey element to the south"¹

All parties now agree that the building now standing is not the one given planning permission in 2006: it was an unauthorised construction. It should never have been built. Members first had the opportunity to issue an Order under s.102 for its removal in October 2007, but Officers told you then that it was in compliance with approved plans and the Development Plan. Compensation due then would have been a fraction of that which you must consider today.

BNOG has campaigned for the removal of Bettws Newydd, and we have been supported in this, not just by local people, but by many from Pembrokeshire, from all over Wales and other parts of the world, who object to this building. Bettws Newydd stands in a prominent position, completely ruining previously delightful and unique views into the Newport Parrog Conservation Area from the Bay, Traethmawr and the Heritage Coastline which have been very much loved, not just by local people, but nationally and internationally.

However your Officers have concluded that it would not be "*in the interests of proper planning to proceed with a discontinuance order **alone** as a very similar building could be constructed*"

(HDM Report page 7) (Emphasis added)

¹ Extract from Minutes of the DMC March 2006.

See also letter confirming this, written on 24th March 2006 at **Appendix 2**

BNOG disagrees, and argues that a Discontinuance Order “*alone*” **should result in** construction of, not only a building at a very much lower level, but also one located further from the public rights of way, with the orientation corrected and detailing of the north facade to be visually acceptable and sustainable, if the 2006 permission were to be implemented as intended, and if the conditions, this time, were correctly enforced.

BNOG however, hereby repeats a request made in 2010 that the Authority makes a declaration of the invalidity of the 26th July 2007 letter, which had been held to have “approved” levels.

BNOG is also very concerned that statements made in the HDM Report, that this development does not set a dangerous precedent, are not properly substantiated. Further assurances must be sought (and BNOG is uncertain that they can be) to be very certain that this is the case.

Finally, BNOG firmly disagrees with the statement in the HDM Report that this development has only “*a localised impact*” and “*does not cause such sufficient and damaging harm to the overall special qualities and landscape character of the National Park*”, to justify action by the Authority. The views of the public, outside planning consultants and even the Appeals Inspector (See **Appendix 3**), all help to demonstrate that your Officers are wrong.

The Bettws Newydd Opposition Group has built a great respect for the way that the Development Management Committee has dealt with the issues raised by the built development at Bettws Newydd in the past, and we are confident that you will do as much as you can under the powers still afforded to you to protect the landscape of the National Park.

We sincerely hope that you will issue a Discontinuance Order for the removal of this building.

However, we repeat now that, if you have to decide against issuing an Order, with the prohibitive cost being the deciding factor, that the Committee make it clear to all, that on the basis of the first test, “*that in the interests of proper planning of (this) area (including the interests of amenity)*”, to pursue an Order under section 102 of the Act for removal of the building would have been your course of action.

Yours sincerely

Reg Atkinson
Chairperson
**On behalf of the Bettws Newydd
Opposition Group.**

Is the continued existence of the as-built Bettws Newydd “in the interests of proper planning” of the Pembrokeshire Coast National Park?



Appendix 1. Detailed Comments to the Development Management Committee
on the REPORT OF HEAD OF DEVELOPMENT MANAGEMENT: 23rd March 2011
under OTHER PLANNING MATTERS (hereinafter termed the HDM Report)
concerning the request by BNOG for the Authority to make an Order under
Section 102 of the Town and Country Planning Act 1990 requiring the removal of
the as-built dwelling at Bettws Newydd, Newport. (ref.NP/10/033)

1. BNOG considers that your Officers are wrong in their stated view that it is
“not considered that it could be in the interests of the proper planning of the area to proceed
with a discontinuance order alone as a very similar building would be likely to be constructed
on site.”

(HDM Report page7)

Your Officers have based this conclusion on the fact that the Inspector, in allowing the appeals, has said that “*I am bound to attach considerable weight to the fact that there is an extant planning permission for a new dwelling on the site; a dwelling that would only be slightly different from the building subject of these appeals*”. Your Officers have concluded that although the making of a Discontinuance Order would be effective in removing the current development, it would not prevent the construction of the fallback position which is not “*materially different to the building currently under construction*”

However, you have been advised, since the Inspector’s Decision, by the barrister who represented the Authority at the Appeals Inquiry, Mr Graham Walters, that the Inspector had decided that the as-built and fall-back developments were similar “**by reference to events relating to levels**” Mr Walters has advised you that “*Essentially the inspector concluded that the NPA had agreed that conditions 2 (approved plans) and 3 (finished levels) had been met.*” Mr Walters has stated, “***I consider that to be an error of law. It is in fact contrary to the submitted legal position of all parties to the appeal...***”

RE: Bettws Newydd, Parrog Newport Appeal Decisions of 10 December 2010 Advice
by Graham Walters 7th January 2011 paragraphs 15/16 (Emphasis added)

It should also be noted that both parties at the Appeals Inquiry agreed that the 2006 scheme has not yet been implemented. Conditions attached to the 2006 consent remain to be discharged before construction/work starts on site.

BNOG argues therefore; that whilst it is true, as your Officers state, that “*the making of a discontinuance order, whilst being effective in removing the current development, would not achieve the removal of the possibility of the 2006 permission being implemented*” (HDM Report page 6) the decision on “*finished levels*” in any implementation of the 2006 consent would rest with the Authority itself (just as the landscaping and details of all openings and location of the dwelling on the site and the need to resubmit the application to correct the orientation would be in the control of the Authority)

To bring the development into compliance with the Development Plan on any future implementation of the 2006 consent, those levels would inevitably be set much lower by the Authority, in discharging condition 3, than has been the case in the as-built development.

As we pointed out in our letter to you of 10th February, “Mr Walters himself has stated in the Closing Submissions on behalf of PCNPA to the Inquiry last October that “*A scheme meeting all conditions could be advanced, it would not harm amenity as does the as-built – it would be less visually intrusive and therefore materially better than the as-built.*” (Paragraph 64)”

Lynn Powell, the Planning consultant representing PCNPA at the Appeals Inquiry considered that the development could be set 4 metres lower into the landscape, thus massively reducing the visual impact and harm to amenity.

It is for this reason that BNOG argues that to proceed with a discontinuance order alone could be effective in achieving construction of a development “appropriate to the location, in conformity with the LDP and other planning policies, and acceptable to both the local and wider community” whether built to the 2006 approved plans or to some alternative plans granted planning permission by the Authority, if the development were to be properly managed by the Authority’s planning department in future to be in compliance with the Local Development Plan.

2. It follows that BNOG does not agree with your Officers that “Accordingly it is appropriate to consider in addition the powers of the authority to revoke the 2006 permission.” (HDM Report page 7)

However, BNOG believes it would be expedient for the Authority to do, as BNOG requested of the Authority even before the Appeals Inquiry took place:-

“to insist upon a written statement or declaration being made, for and on behalf of the Authority, to the following effect:

(a) that it is recognised by the Authority, due to the fact (inter alia) that the Officer who wrote the letter of 26th July 2007 was clearly acting outside of powers and in direct breach of the clear terms of the very planning condition which that letter purported to discharge, that the letter, at least in so far as it so purported to give approval for the so-called ‘discharge’ (or ‘fulfilment’) of that condition, was invalid, and

(b) that, from the aspect of any assertion or claim to any relevant and material planning consideration, as may be made in future, the Authority accordingly now affirms and declares that the said letter bears no such significance or weight; and the Authority remains free to take such a position on the future fulfilment of the condition in question, as at the relevant time that it may determine best allows it to satisfy its statutory obligations and democratic purposes.”

3. BNOG wishes to point out that the statement made in this Report that “It has however been conceded after careful consideration that the 2006 development was more visually intrusive than the original dwelling on the site; a criterion in the then policy 56 in relation to replacement dwellings.” (HDM Report page 8)

- is news to us!

When and how has this decision been made and in what document is it reported?
Is this a decision simply made amongst Officers themselves or has it been reported to the DMC?

We would also like to point out that, having made this statement, in a following paragraph, the HDM then says “*whilst the 2006 dwelling **may** be more visually intrusive than its predecessor ...*” as though she is yet uncertain, and we wonder therefore exactly what is the Officers’ position in this respect.

4. BNOG is not at all convinced by your Officers' statement that "it is not considered that any precedent has been set that would cause any greater impact in the National Park and thus wider implications that would not be in the public interest."
(HDM Report page 8)

Even with a Replacement Dwellings policy in place in 2006, this building was not prevented.

What in the Local Development Plan now will prevent a proliferation of this sort of development? It could be argued that more buildings of this scale would actually improve this now spoilt landscape around Bettws Newydd and there are plenty of people waiting in the wings for a trophy house with splendid sea views.

Your Officers repeatedly told us that visual intrusion was a subjective concept and one requiring a professional judgement, that in their view this development was not visually intrusive.

Several of your Officers, including the Conservation Area Officer, are on record as believing that even the as-built Bettws Newydd is appropriate in its setting, even when forming a dominant part of the backdrop to the Conservation Area. To quote just one statement from the April 2009 Officer Report

"...it is considered that the modern, innovative design approach is acceptable, and the scale, form and massing of the building, together with its more contemporary detailing result in an acceptable form of replacement dwelling, that whilst visible, is not intrusive but adds to the already diverse set of buildings along the Parrog and its surrounding area. It is therefore considered that the proposal complies with policy 56"

To BNOG's knowledge there has never been an official retraction of such statements.

Your Officers now tell you that it is ***"in view of the issues that this case has raised and the actions that it has instigated in working practices, it is not considered that any precedent has been set that would cause any greater impact in the National Park and thus wider implications that would not be in the public interest"*** - but no details are offered.

If Members follow your Officers' recommendation now, Bettws Newydd will stand as a beacon, and long into the future, as a well-known example of the sort of development that the planning system allows, even in a very highly sensitive location in this National Park.

BNOG trusts that Members will be questioning the Head of Development Management very closely concerning precedent, with its grave implications in this case, not only for Newport, but also throughout the Pembrokeshire Coast National Park, before reaching a decision.

5. BNOG objects very strongly indeed to the statement made to you by the Head of Development Management in this Report, as follows:-

“It is not considered that the impact of this dwelling has more than a localised impact and does not cause such sufficient and damaging harm to the overall special qualities and landscape character of the National Park to justify revocation of permission.”

(HDM Report page 6)

Your Officers have stated that the relevant consideration “*in determining whether it is expedient to make a revocation order is similar to that of making a discontinuance order; i.e. with regard to the development plan and any other material considerations*”, but have strangely chosen not to make this statement, concerning what they consider to be the insufficiently harmful impact of the development, in the section of this Report relating to section 102 of the Act.

In making this statement that ***this dwelling has only a localised impact and does not cause sufficient harm to the overall special qualities of the National Park***, your Officers are judging the impact of the 2006 consented scheme, as defined by the Inspector, to be set at the same level and only slightly different to the as-built dwelling, and by implication, Officers would therefore reach the same conclusion for the as-built dwelling.

In making this statement now, the Head of Development Management has once again failed to acknowledge and consider the views of the general public, not just in Newport but from Pembrokeshire, Wales and the wider world, as expressed in the hundreds of comments on the BNOG petition to the Chief Executive, as well as in hundreds of letters to the Authority, and recently to the Planning Inspectorate, since this saga began. Those views in their source, extent and content clearly show that the existence of Bettws Newydd, as-built, ***“has more than a localised impact”***

Bettws Newydd stands in a highly sensitive position. It is highly prominent in the first view from the Heritage Coastline by those walking the National Long Distance Coastal Path, entering Newport from the north. It stands high above the Parrog Conservation Area in an area of fields, noted within the Authority’s own Supplementary Planning Guidance on Newport and Newport Parrog Conservation Areas as

“Slopes below Feidr Ganol and Feidr Brenin (the location of Bettws Newydd) undeveloped and highly visible” considered to be **“important to the setting of Newport itself”**

(Emphasis added)

These major criteria in judging **“harm to the overall special qualities and landscape character of the National Park”** do not appear to have been considered at all by Officers, as the HDM reports here **only** that *“It causes no direct harm of sufficient weight to other individual properties...”* (HDM page 8) Even this one criterion is poorly considered by Officers and should be contrasted with the Appeals Inspector’s view that

“The design of the dwelling is uncompromisingly contemporary, with little concession made to the vernacular architecture of the area or the large historic buildings that form the core of the Parrog Conservation Area.”

“It makes a bold design statement that is a clear departure from the varied quality of domestic architecture in the surrounding area. As such, the building relates poorly to the place and its local distinctiveness.” (paragraph 17 Appeal Decision) (See Appendix 3)

You have only to turn to the other comments by the Inspector or to comments attached to the BNOG petition, or indeed to the views expressed by the Authority's own consultants to the Appeals Inspector, especially those of the County Council's Landscape Officer, to realise that your Officers **are wrong** that Bettws Newydd "*does not cause such sufficient and damaging harm to the overall special qualities and landscape character of the National Park to justify revocation of permission*" and by inference removal of the as-built dwelling.

Finally, we take the opportunity to remind you of some of the history of your Officers considered judgements in relation to Bettws Newydd.

It was your Officers who judged the height of the building to be appropriate in 2006 and stamped this approved, and then agreed and approved in 2007 both the location of the dwelling and the very high level at which the building now sits, all of these aspects contrary to the expectations of the Members who considered the application in March 2006.

We have already reported at length, in letters to your Chairmen and to the Monitoring Officer, how we believe that it came about through misleading reporting by your Officers to the DMC that section 102 was not properly considered in October 2007.

It was also your Officers, whose judgement for two and a half years after erection of the frame, was continuously expressed to be that the as-built development was in compliance with the Local Development Plan - against the views of so many complainants. It was only when outside planning consultants became involved that your Officers were at last forced to concede otherwise - to you as Members and to the public, in the October 2009 Officer Report.

BNOG regrets, therefore, that the Authority has not sought an independent judgement by outside planning consultants in deciding the appropriateness of applying s.102 of the Act.

We have reproduced just the comments of the Inspector on the as-built development at Bettws Newydd, as attached at Appendix 2, and also, for your convenience, we have supplied a photograph of Bettws Newydd as it is now seen from Taethmawr within our covering letter.

We ask you, the Members of the Authority, to carefully consider the clear evidence before coming to your own decision about whether Bettws Newydd causes such *sufficient and damaging harm to the overall special qualities and landscape character of the National Park, that it should now be removed.*

BNOG 20th March 2011

Appendix 2. Letter confirming building should be reduced in size to have the aspect of a 2 storey building to the North (North and South were confused – again! Our highlight.)

NP/O 610 761 VHJdg

24th March 2006

Mr G Davies,
15 Connacht Way
Llanion Park
Pembroke Dock,
SA72 6FB

Dear Mr Davies

Re: Bettws Newydd, The Parrog, Newport

I refer to the application for a replacement dwelling at the above site.

This application was reported to the Development Management committee meeting on 22 March 2006 where it was resolved to delegate the decision to officers to further discuss the detailed design. Members endorsed the principle of the modern design approach taken, but there are a number of areas that were considered to require further discussion. These were primarily:

- The overall height of the building with a need to reduce the size to a more traditional two storey dwelling at its southern side and a single storey on its northern side. At present the heights reflect a three storey property to the south and two storey to the north.
- The roof balcony — there was much concern at this element and it is considered that this needs to be removed or provided in an alternative way.
- The front (entrance) elevation — this was felt to be rather bland and needs further consideration
- The treatment of the surrounding woodland/scrubland — it was considered that this should be retained and managed to provide a long term woodland habitat
- Materials —in particular the use of UPVC

The application was also delegated to take advice regarding a badger sett on the site, and further consultations will need to take place in this respect.

It will be necessary to carry out further consultations with regard to any amended plans, and I would therefore be grateful if the above matters could be given further consideration and further plans submitted at your' earliest convenience. Should you wish to meet to discuss these aspects I would be happy to do so, although I regret that my diary is rather full for the next three weeks!

Yours sincerely
Vicki Hirst
Principal Assistant
Development Management

**Appendix 3: Comments made on the As-built Development at Bettws Newydd
by Mr Clive Cochran Government Inspector²**

“The newly constructed building is **highly visible from close up and in distant viewpoints** around the site”

“It is **prominent in views from the estuary sands, beaches, from craft on the water and in more distant views from the coastal footpath** around the estuary to the north of Newport.”

“I consider that the completed building would be **visually intrusive and insensitively sited within the protected landscape of the National Park due to its scale, design and location on rising ground above the coastal scene.**”

“**It also impinges upon the level of amenity currently enjoyed by local people,** particularly on the appearance of this part of the town and adjoining countryside.”

“**In those views of the northern elevation from near and far, the building has a 3-storey appearance, with much reflective glazing** in the main living room gable.”

“**Being set back on higher ground, it is tall and dominant in its surroundings,** notwithstanding the existence of 3-storey houses along the Parrog seafront, which it towers above in distant views.”

“Therefore I take the view that, **when completed, the building would fail to harmonise with, or enhance the landform and landscape character of the National Park** as required by Policy 15 of the LDP.”

“The design of the dwelling is **uncompromisingly contemporary, with little concession made to the vernacular architecture of the area or the large historic buildings that form the core of the Parrog Conservation Area.**”

“**It makes a bold design statement that is a clear departure from the varied quality of domestic architecture in the surrounding area. As such, the building relates poorly to the place and its local distinctiveness.**”

(Paragraphs 14 to 17 Appeal Decision. 10/12/10

Ref: APP/L9503/C/10/2131835 and

Ref: APP/L9503/A/10/2128919

Emphasis added)

² Source: Appeal Decision, Ref Ref: APP/L9503/C/10/2131835