

Mr David Prescott  
Solicitor to Pembrokeshire Coast National Park Authority  
Llanion Park  
Pembroke Dock

5<sup>th</sup> February 2010

Dear Mr Prescott,

**Re Application to Retain and finish dwellinghouse at Bettws Newydd (NP/10/33)**

I write on behalf of the Bettws Newydd Opposition Group (BNOG) concerning the latest application, and which according to the application form (headed Pembrokeshire County Council) and completed by the applicant's agent is made "*pursuant of s.73A(1) and 62 of the Town and Country Planning Act 1990.*"

It has not been stated by the applicant on the form, per s.73A subs.(2)(c) of the Act, and which we suppose in practice is the provision he in fact now seeks to invoke, precisely which condition(s), attached to the 2006 planning consent, that he no longer wishes to apply, and we urgently seek clarification in this respect.

Further, you will recall that the Advice to the Authority, dated 4<sup>th</sup> December 2008, from your counsel, Mr Forsdick, concerning the previous retrospective application for Bettws Newydd NP/08/361, clearly stated :-

*"The development has been carried out in breach of a condition ... there is a requirement for a s73A application. On that s73A application the whole planning merits need to be looked at"*  
(p.8)

*"In considering the planning merits the application has to be judged against the development plan. JUDP policy 56 will be relevant"*  
(p.10).

That particular policy, as you will recall, in part specifically requires the "visual intrusiveness" of the proposed development to be compared to that of the existing dwelling which it is to replace. We note, however, that the Development Management Officers do not appear to have passed this advice to the applicant's new agents, in that in "The Introduction" to the "Design and Access Statement" which they have submitted together with this latest application, it states (at 1.14)

*"The details relating to the original dwelling located on the site has no relevance to the determination of this application due to the fact that there is an extant planning permission for a dwelling on the site (i.e. The fall-back position)"*

Whether or not there is a case for a so-called "fall-back" position, as a further 'material consideration', is a separate and entirely different issue, not affected by your Authority's well known underlying and statutory duty "*to determine the application in accordance with the development plan – unless material considerations indicate otherwise*"<sup>1</sup>. We anticipate your making the Members of the relevant Committee fully aware of this position in law.

We look forward to your reply at your earliest convenience.

Yours sincerely,

Reg Atkinson,  
Chairman BNOG

Cc: Cllr M Williams, Chairman DMC; Ifor Jones, Director of Planning; Catherine Miner, DM Officer;  
John Parsons, Monitoring officer

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<sup>1</sup> See of s.38(6) of the Planning & Compulsory Purchase Act 2004, as that has effect by virtue of s.70(2) of the 1990 Act (as amended).