



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 27/01/11
Ymweliad â safle a wnaed ar 26/01/11

gan **R G Gardener BSc(TownPlan)**
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11/05/11

Appeal Decision

Hearing held on 27/01/11
Site visit made on 26/01/11

by **R G Gardener BSc(TownPlan) MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 11/05/11

The Welsh Ministers have transferred the authority to decide these appeals to me as the appointed Inspector.

Site address: The Nursery, Mount Pleasant Cross, Cosheston, Pembrokeshire SA72 4TZ

Appeals made by Mr John Hargraves

Appeal A Ref: APP/L9503/C/10/2132307

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Pembrokeshire Coast National Park Authority (**NPA**).
- The NPA's reference is ENF/09/10.
- The notice was issued on 16/06/10.
- The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the land by the siting and residential occupation of a caravan.
- The requirements of the notice are to (1) permanently cease using the land for residential purposes; (2) permanently remove the caravan from the land; (3) permanently remove the compost toilet associated with the unauthorised use and (d) restore the land to its former condition.
- The period for compliance with the requirements is 3 calendar months.
- The appeal is proceeding on the ground (a) set out in section 174(2) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The notice is upheld as corrected and varied in respect of the period for compliance.

Appeal B Ref: APP/L9503/A/10/2132242

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the decision of Pembrokeshire Coast National Park Authority (**NPA**) to refuse to grant planning permission.
- The application Ref NP/10/017, dated 26/10/09, was refused by notice dated 12/03/10.
- The development proposed is to change the previous commercial nursery site into a low-impact organic horticultural smallholding. The site will be planned on sustainability principles and will include woodland coppicing, an orchard, fruit tree nursery, fruit and vegetable produce, free range eggs, wildlife habitats and a carbon neutral off-grid dwelling. The site will provide an educational resource for schools to use as an outdoor 'classroom', and retention of 2 polytunnels.

Summary of decision: Planning permission is granted subject to conditions.

Procedural matters

1. At the Hearing an application for costs was made by the NPA against Mr Hargraves. This application is the subject of a separate Decision.
2. An earlier hearing into these appeals was held on 12/13 October 2010. However, following complaints it was decided that a fresh hearing should be held. A number of documents were submitted at the earlier event and those remain as part of the cases before me. In addition, the appellant had concluded a Unilateral Undertaking, an Obligation under s106 of the 1990 Act, which he presented at the previous hearing. This set out 3 commitments on his part should planning permission be granted and the development commenced. The commitments are (1) compliance with the Management Plan included with the application; (2) retention of the dwelling, buildings and land as a single entity, and (3) cessation of the residential caravan use on occupation of the proposed dwelling. This Obligation remains in place should planning permission be granted and implemented.
3. For **Appeal A**, before Mr Hargraves acquired the land it seems that it was used in 2 parts – the southern part as a wholesale horticultural nursery and the larger, northern part as grazing land, an agricultural use. The NPA accepts these uses are lawful. As the description of the proposed development for Appeal B indicates, the appellant intends to continue essentially horticultural and other related activities which in large part would not amount to a material change of use requiring planning permission. Although at a lower level than intended by the proposal, such activities are already taking place albeit currently for the appellant's own use. Nevertheless, preparatory fruit and other tree planting and soil improvements have been undertaken and, I understand, livestock has been grazing the paddock. It seems to me that the lawful uses are still in place and therefore what has occurred is a mixed use involving the siting of the residential caravan alleged and for horticulture/agriculture. I shall correct the notice allegation accordingly.
4. For **Appeal B**, when determining the application the NPA described the proposed development as being for '*low-impact horticultural smallholding and retention of 2 polytunnels*'. This omits both the proposed dwelling and the intended use as an educational resource. There is nothing to establish that the NPA's description was first agreed with Mr Hargraves and I have continued to have regard to the application's full and expansive description.
5. At the hearing, while not overlooking Mr Hargrave's view that the enterprise should be considered as a whole, it was acknowledged that all elements of the proposal other than the erection of the dwelling, the use as an educational resource (once material) and the retention of the polytunnels could be undertaken without planning permission.
6. There are 2 polytunnels on the site, part of the former wholesale nursery, which the application proposes should remain. These result from earlier grants of temporary planning permission in 2000 and 2004, the last period of which (NPA Ref: NP/04/534) expired in October 2009. They are currently without planning permission but, while included in Appeal B they are not subject to the Appeal A Enforcement Notice requirements.
7. For completeness, there is also a small barn (the barn) on the site close to the site entrance and gravel parking area, which was granted permanent planning permission in 1998 (NPA ref: NP/98/319) again in connection with the horticultural activity. This would also be kept as part of the Appeal B proposal.

8. The Appeal B scheme does not include the continued siting of the residential caravan although Mr Hargraves expressed the wish to keep it as part of the educational resource. The s106 Obligation does not undertake to remove it, only to cease its residential use. Nevertheless, there is a connection between the 2 proposals since the appellant asks to remain living in the caravan pending the occupation of the Appeal B dwelling. Otherwise, Mr Hargraves accepts that he makes no case that the residential caravan use should remain. The matters turn essentially on the outcome of Appeal B I shall therefore consider that first.

Appeal B

The scheme

9. The character distinction between the 2 parts of the site would be reflected in the layout of the scheme. That part occupied by the former wholesale nursery would be cleared of large portions of the black plastic sheeting which covers the site and new orchard would be planted to complement that which already exists. In addition, vegetable beds would be created, including school plots, and peripheral wildflower areas. The polytunnels would remain, as both growing areas and as part of the educational resource on offer, particularly as cover during inclement weather. The barn would be kept as a secure store for tools and so on, as would a rainwater reservoir. A solar composting toilet would be provided for visitors close to the existing entrance, which would remain much as now.
10. On the northern grazing part the central area would be improved as meadow/pasture flanked by a pond and wild flower area. The major change here would be a belt of new broadleaf woodland to be managed as coppice principally to provide wood as heating fuel. Existing trees and hedges which bound and divide the site are shown to be kept but added to with native species.
11. The proposed dwelling would be positioned about midway along and within the hedge line which separates the northern and southern parts and roughly central to the site. The structure would be single storey, clad in larch boards under a turf roof and would provide 2 bedrooms, bathroom/w.c. and shared living/kitchen. I refer to other aspects of the dwelling in due course.
12. It is integral to the project that it would be a low impact form of development.

Main Issues

13. The Pembrokeshire Coast Local Development Plan (LDP) has been adopted since the decision was made to refuse planning permission. In all relevant respects, however, it continues the National Park, countryside and low impact development policies set out in the earlier Joint Unitary Development Plan for Pembrokeshire (JUDP), now superseded within the National Park, on which the decision to refuse permission was framed. That the development must secure the conservation and enhancement of the natural beauty, wildlife and cultural heritage of the National Park^{1 2} and its special qualities³ is not in dispute.

¹ LDP Policy 1 National Park Purposes and Duty

² LDP Policy 15 Conservation of the Pembrokeshire Coast National park

³ LDP Policy 8 Special Qualities

14. Nor is the fact that only development within a specified range should be permitted outside settlement boundaries⁴. Those include, for instance, housing for essential farming or forestry workers' needs. Mr Hargraves does not suggest that his project would satisfy that restriction or with the wider requirements set out in PPW and TAN6 for rural enterprise dwellings in countryside locations such as this. However, more particularly, via Policy 7(g), low impact development (LID) which would make a positive contribution in accordance with Policy 47 is also permitted.
15. Policy 47 was developed in recognition of an overarching objective to promote sustainable development and as such is a specific exception to the restriction on development in the countryside. It is this exception on which Mr Hargraves relies. As stated it continues the earlier JUDP Policy 52 amended only to specifically recognise that it applies within the countryside. Indeed, the supporting Supplementary Planning Guidance⁵ (SPG) is that which was prepared with JUDP Policy 52 but has been carried through to sit with Policy 47. The SPG has been appropriately prepared and adopted and I give it significant weight. It provides guidance on how Policy 47 is to be applied.
16. The role of planning in assisting the Assembly Government's One Planet⁶ initiative is set out in PPW⁷ and TAN6⁸. One Planet Development takes forward LID in the Welsh context but to avoid confusion I use only the LID acronym here. It seems that the draft version of TAN 6 was known when the LDP was under consideration; indeed the LDP was adopted after PPW and TAN6 were published but the fact that Policy 47 was so little changed from the earlier Policy 52 suggests that they were issued too late to have any marked effect. I have therefore also had regard to the Assembly Government's policy and advice when assessing the proposal.
17. Although the appeals raise potentially different issues, Mr Hargraves' original grounds of appeal were the same for both. In effect they were that the residential caravan and the proposed Appeal B project comply with the local and national policies for LID. However, in view of Mr Hargraves' concession concerning the residential caravan, that cannot be the case for Appeal A .
18. Consequently, the main issue to be determined for Appeal B is whether the proposal is an acceptable low impact development in accordance with LDP Policy 47, when considered also in relation to the Assembly Government's policy and guidance, and consequently a justifiable exception to the strong presumption against development in the countryside. In any event, where not already addressed by consideration of Policy 47 criteria, regard is also to be had to the impact of the proposals on the attributes of the National Park and on the landscape, one of Outstanding Historic Interest.

⁴ LDP Policy 7 Countryside.

⁵ 'Low Impact Development making a positive contribution' adopted 24 May 2006

⁶ One Wales - One Planet May 2009

⁷ Planning Policy Wales Third edition July 2010, since revised

⁸ Technical Advice Note 6 Planning for Sustainable Rural Communities July 2010

Reasons

19. The starting point is the development plan⁹. The LDP explains that, in general terms, proof will be needed to show that proposed LID would meet the various Policy 47 criteria and that a management plan is required to cover a range of issues while the SPG expands on what is necessary. The policy lists criteria, all of which need to be satisfied. In this case, the NPA contend that criteria a), b), d), e) and f) are not met. Consideration of those is the basis of what follows. TAN 6 also emphasises the need for robust evidence and also states that a management plan must accompany all applications for such developments and sets out what should be included.
20. Mr Hargraves' Management Plan is comprised of 8 separate documents. Updated versions of several of these from those submitted with the application were provided. Bearing in mind the notification and consultation which has been undertaken together with the added timescale following the earlier hearing I am satisfied that these 'new' documents can be taken into consideration without prejudice to other interests.

Policy 47 Criterion a) – make a positive environmental, social and/or economic contribution with public benefit

21. It is apparent that it is not necessary for a LID to provide all of these contributions. On the environmental factor, the site is relatively small, said variously to be about 1.75ha. or 2 ha., which limits the scale of contribution it could make although even small sites can provide ecological and habitat diversity which is of value. The project proposes the planting of further orchard of more unusual varieties of fruit, the planting of an area of broadleaf coppice and the regeneration of the remaining meadow with traditional mixed grasses and wild flowers. Artificial fertilisers and herbicides would be avoided and I accept that these measures would aid the ecology and bio-diversity of the site. While the boundary hedges and trees already provide habitat of value, including for a barn owl, this would be enhanced with additional native species and managed. Together with the pond, additional wildflower planting and the removal of areas of the black matting I do not doubt that there would be a significant environmental improvement over that which the site currently offers.
22. While in large measure these works are intended to support Mr Hargraves' low impact initiative they would also have some public benefit. Both the coppice and orchards, for instance, would not only be productive but would also benefit the landscape, habitat and ecological diversity as well as promote carbon absorption. Some of this planting has already been commenced, mainly the extension of the orchard and some of the proposed broadleaf coppice which has been approved and supported by the Welsh Forestry Commission.
23. The NPA, however, considers that the possibility of such gains would be undermined by the retention of the horticultural area, particularly the polytunnels. However, as I explain elsewhere, I consider that the impact of this area would be both physically reduced and acceptably mitigated by the project as a whole. In addition, the polytunnels – and barn - are an existing resource and their re-use is to be preferred to replacement. Again, I comment on this aspect of the project elsewhere. Overall, I consider that the scheme would improve bio-diversity and make a positive

⁹ S38(6) of the Planning and Compulsory Purchase Act 2004

environmental contribution sufficient for purposes of this aspect of criterion (a). It would also meet the biodiversity and landscape requirements of TAN6¹⁰.

24. Whether or not there would be social and/or economic benefits also requires both positive and negative impacts to be assessed. As well as reducing Mr Hargraves' own demands on the world's resources, the main benefit claimed is that the project would provide an educational resource for local schools and other organisations. This would offer children hands-on experience of, for instance, growing organic fruit and vegetables as well as an understanding and appreciation of low impact living and the concept of a sustainable lifestyle. In addition, events would be organised which would be open to the public. Whether these would indeed be a public benefit depends largely on their popularity. There are a significant number of schools within the locality, some of which have expressed an interest and willingness to make use of the educational resource offered. These were supportive but not entirely without reservation. For instance the need for approval of the education authority is identified but has not been sought despite assurances given at the hearing that it would be forthcoming. Its success remains uncertain. The NPA's criticism of the need for schools to travel by car or private bus is addressed elsewhere.
25. Much of the project, including building and development work would be undertaken by Mr Hargraves himself and not generate local employment. The propagation and sale of fruit trees and surplus vegetables would be to sustain him and his family with less than obvious public gains. While he hopes to be a source of local produce and promote the planting of new orchards, the project would generate little for the local rural economy as such. Given the relatively small area suggested to be shared as school plots, the suggested growing of vegetables for use in their own kitchens is unlikely to be significant.
26. On this and other matters I have had regard to 2 other LID projects relied on by Mr Hargraves which were the subject of successful appeals; I refer to these simply as Lammas¹¹ and Coedwig Blaen¹². Although both were within the administrative area of the Pembrokeshire County Council and not the NPA they were subject to effectively the same development plan policy context. However, while of interest they did not support Mr Hargraves' case to the extent believed - Lammas because it was for a communal development of considerably greater scale and corresponding credibility as an exemplar of low impact lifestyle and Coedwig Blaen because it was for temporary accommodation for forestry workers which was found to be also acceptable under other rural dwelling considerations. Moreover, in the latter case the scheme offered significantly more tangible public and community benefits, a number of which were already being realised.
27. Even so, LID can be single homes¹³ in which case the benefits such small projects might reasonably be expected to provide should be commensurate. This would be a small project which would undoubtedly provide at least equivalent environmental gains. There is potential for community benefit if the educational resource is utilised

¹⁰ See 4.20.1

¹¹ Appeal ref: APP/N6845/A/09/2096728

¹² Appeal ref: APP/N6845/A/09/2106414

¹³ TAN6, 4.15.2

and there are indications that it could be. Other social and/or community activities are aspired to but remain unclear and uncommitted. However, I see little negative impact on the local community from the project either from the works proposed or from movements to and from the site at the level projected, both of which I comment on in greater detail in due course. While uncertainty remains whether the project will be effective as an education resource I have concluded that criterion (a) is met, and the assessment of community impact required by TAN6¹⁴ does not weigh against it.

Policy 47 Criterion b) – all activities and structures on site would have low impact in terms of the environment and use of resources

28. TAN6 similarly requires that such development should achieve a low ecological footprint and zero carbon in construction and use. In both instances the evidence establishes that they can be met to a satisfactory extent. While it is the project and not Mr Hargraves which is under consideration his lifestyle gives a reasonable indication of what can be expected. An assessment of that to date, before the project is underway, indicates an ecological footprint of 2.37 gha¹⁵, just within the TAN6 stipulation that LID should initially achieve 2.4 gha or less in terms of consumption. This is about 53% of the Welsh average and is a reflection of his modest use of resources, transport and energy. Should the project proceed, his ecological footprint should be improved by, for instance, the high sustainability attributes of the dwelling when compared to his caravan, greater on-site food production and, possibly, reduced demand on public and private resources. It is reasonable to contemplate that the project is capable of moving towards 1.88 gha over time, as the Assembly Government expects¹⁶.
29. The dwelling is said to be designed to achieve Level 5/6 of the Code for Sustainable Homes despite assertions that this assessment method is not appropriate for this type of low-tech project. The details provided show that it would be carbon neutral both in respect of the energy embodied in its construction materials and in energy use over the life of the building. It would be off-grid, that is, not connected to mains electricity, gas or sewers, oriented to maximise passive solar gain, use renewable energy sources and recycled materials, be highly insulated and incorporate features such as a composting toilet and wood burning stove. By using shallow foundations, suspended floor and removable, re-usable components such as timber cladding the building would also be movable should that be necessary.
30. Even so, the NPA considers that this criterion is not met because the source of the materials to be used is not clear and the extent to which they would be renewable or re-useable has not been demonstrated. However, the underlying principles are stated and these matters could be resolved as discussed at the hearing. In addition the NPA contends that, in use, it would not entirely support a self-sufficient lifestyle derived solely from the site. While water catchment and retention would provide for most needs, an existing mains supply would be retained for drinking water and bottled gas would be used for cooking, both of which the NPA considers contrary to the underlying LID philosophy. Since the water connection is already in place from the previous horticultural activity it would not add to the initial energy input required.

¹⁴ See 4.21.1

¹⁵ Global hectares per person

¹⁶ See 4.15.1

Since bottled gas for cooking would need to be imported the project cannot be deemed to be zero carbon in use, although it would still be low impact. Consumption of bottle gas is likely to be relatively small but will need to be monitored. Neither of these factors seriously negates the project's otherwise sound LID credentials.

31. With regard to activities associated with the project, clearly the tree, fruit and vegetable growing and the coppicing would have a low impact. Mr Hargraves is committed to a low use of his private car and uses public transport or cycles when he can. Despite the relative remoteness of the site, a high usage of private vehicles is not essential for such a lifestyle. The completion of a cycleway link to Pembroke Dock will assist that in due course. There would be a need to deliver his produce as well as shop for his own needs and for school trips but his overall use is assessed to be less than a third of the average rural household and could be reduced further. This is committed to within the management plan.
32. Use of the educational resource would also generate journeys to and from the site. These are estimated to be 1-2 minibus trips weekly should up to 12 local schools make use of the facility. Other less specified community and educational activities have not been similarly assessed. Consequently, the project overall would continue to have a dependence on the use of private vehicles, as the NPA points out, and be fossil-fuel dependent to an extent.
33. Realistically it is improbable that it could be otherwise and the emphasis should be on minimising the impact. A travel plan as such has not been produced and I do not consider it necessary for a project of this size. Some comparison with the former horticultural use is justified. Despite the very limited evidence available, it is reasonable to assume that the delivery of raw materials such as compost and so on, the delivery and despatch of plants and the daily worker trips would have been comparable if not greater than that which is suggested could arise from the all aspects of the proposal, including the education resource. As Mr Hargraves also pointed out, were he not to live at the site he would need to travel back and forth in any event. Again, close monitoring will be necessary but I consider that this criterion could be satisfied as could the Assembly Government's transport objectives¹⁷.

Policy 47 Criterion d) – be well integrated into the landscape and does not have adverse visual effects

34. The character of the site would be changed through further planting and adaptation as I have described and would become a new landscape feature within the same open rural setting close to the estuary and within the National Park. While I also note that the site is within the Milford Haven Waterway Landscape of Outstanding Historic Interest¹⁸ I do not consider that its historic qualities would be affected. Moreover, these particular changes are not criticised by the NPA.
35. I share the NPA's view that the visual impact of the former commercial horticultural area is alien to the otherwise open rural landscape. This area would effectively remain in horticultural use and with it the main structures. However, other than the temporary polytunnels, there is nothing to suggest other features, including the barn, would not stay should the project not be allowed to go ahead. That said, the

¹⁷ See TAN6 4.22.1

¹⁸ Published by Cadw

polytunnels are particularly intrusive but their effect would be balanced by other gains such as the removal of areas of sheeting, further tree and wildflower planting and boundary enhancement to which I have referred. The prominence and impact of the polytunnels would be considerably reduced by such changes, as would the current overtly commercial horticultural character of this part of the site. Additionally, the polytunnels are an existing resource which it would be more sustainable to retain in use as proposed rather than replace, a principle supported by criterion c).

36. The dwelling would be a modest, single storey structure set centrally within the site at the intersection of the southern and northern parts of the site, positioned in the developing hedge and tree line which separates them. Its low profile would be complemented by a turf roof and timber clad walls with a natural finish as well as further nearby planting to aid its assimilation into its immediate setting. This combination of scale, design, materials and location away from any immediate viewpoints into or across the site would render the dwelling largely inconspicuous.
37. Moreover, LID is in principle acceptable in countryside locations and it is to be expected that it would have some impact on the local rural scene. The project needs to be considered as a whole and the considerable overall upgrading intended would considerably offset the presence of the various structures in the local landscape.
38. Finally, the caravan would be used as temporary accommodation for Mr Hargraves only while the dwelling was being constructed. As to then being retained as part of the project in some fashion, it is not shown in the application scheme. In my view its retention should, if necessary, be considered separately once its function can be more clearly established.

Policy 47 Criterion e) – requires a countryside location and is tied directly to the land on which it is located

39. The project is essentially horticultural and forestry based. It requires land from which to function and a rural location offers the most likely and appropriate location as the NPA broadly acknowledge. Mr Hargraves' household needs both in terms of consumption and income generation would be largely derived from land and is consequently also reliant on where it is.
40. The NPA's main contention is that it has not been demonstrated that such an educational resource needs be in the countryside. In its view it could be located in or adjacent to a settlement, for instance in school or other community grounds, which would reduce the need to travel to and from it. I can well understand that point of view and it is evident from TAN6 that a rural location is not inevitably required for LID. A less isolated location would be preferable but the characteristics of this site and its previous history of use lend itself to the project. It is unlikely that such diverse ecology and habitats would be found in a settlement or at acceptable cost.
41. Moreover, while Mr Hargraves has stressed the education resource as a public benefit, it is not the principle activity underlying the project which is the organic horticultural smallholding and the opportunity it offers for its inhabitants to meet their own needs. Moreover, it is the low impact lifestyle proposed which would largely offer the educational interest and consequently the 2 activities are mutually supportive and mutually reliant on being in the countryside. This is a clear relationship between the

use of the land and the projects proposed such as referred to in TAN6¹⁹. Similarly, both would be tied to the land. This criterion is accordingly met.

42. TAN6 raises other related matters, notably that such proposals in the countryside must justify the need to live on the site²⁰. In this case there is no functional need for Mr Hargraves to be resident, for instance, to safeguard the trees, fruit or vegetables he intends to grow or in any other way and he does not claim otherwise. Nevertheless he relies on 2 factors; first, that living elsewhere and so commuting to the site would be contradictory to the ethos of low impact carbon neutral development and, second, the dwelling itself would be integral to and illustrative of his sustainable lifestyle and so part of the educational resource the project would offer.
43. The need for Mr Hargraves to live on the site is clearly one of principle rather than function. Even so, while TAN6 does not explain what factors would justify the need to live on a proposed site, it is reasonable to assume that they are not those required for rural enterprise dwellings. Had that not been so this might well have been an instance, as with other rural enterprises, where initial temporary accommodation would have been permitted pending the successful proving of the project. That is not the situation here since the elements of the scheme cannot be separated and still secure the same low impact. On balance, I consider that the need to live on the site has been shown. Mr Hargraves has also confirmed, through the management plan, that the dwelling would be his sole residence.

Criterion f) – will provide sufficient livelihood for and substantially meet the needs of residents on the site

44. The SPG explains that 75% of the inhabitants' basic household needs should be met from the site by Year 3 of the project. Mr Hargrave's intention is to be largely self-sufficient in fruit, vegetables and eggs and to derive water, other than for drinking, and fuel and electricity from the site, other than for cooking. Income would be generated in part by selling surplus food in various ways (box scheme, markets, and local shops) but mainly by propagating fruit trees and native species trees and wildflowers. The NPA considers the anticipated returns from these sources to be ambitious which, in an untested market they might well be. However, support from a local shop for the fruit and vegetables and from a nursery for trees has already been given. There is no expectation of any income from the education or community activities.
45. Mr Hargraves' annual expenditure, including notional values for food and fuel derived from the site, is low but not seriously contradicted. It a number of ways the level of expenditure is already being incurred. As to consumption and income, vegetables and some fruit from the site could be grown very quickly and indeed it seems that Mr Hargraves is already able to partly meet his own needs. Trees for sale are unlikely to be available for 2/3 years at best and the coppice is unlikely to provide timber for fuel within that period, if not longer since it has yet to be planted. Whether or not the anticipated income is ambitious, the projected timescale probably is.
46. With these factors in mind, I treat Mr Hargraves' claim that he would meet 96% of his basic household needs from the resources and activities on the site by Year 3 with

¹⁹ See 4.17.1

²⁰ See 4.16.1 and 4.17.1

considerable caution. However, it is sufficiently in excess of the NPA's required 75% threshold to be tolerable. As I infer, the NPA's particular concern that fuel from the coppice will not be available when predicted is well-founded but, even allowing for the modest income/expenditure sums involved, it is a relatively small element of the overall accounting. In the meantime, it seems that wood can be cheaply sourced both from the boundary hedgerows and trees and by, for instance, trading hay with local farms, as is the case now. Here also monitoring the scheme will be important but it is implicit in the concept of such projects that there will inevitably be a need to adapt to changing circumstances, so long as the underlying low impact principle is maintained. In these ways this policy criterion is also met.

47. TAN6 sets possibly more stringent expectations. Inhabitants' requirements in terms of income, food, energy and waste assimilation are to be obtained directly from the site and the land use activities must be capable of supporting such needs, even on a subsistence basis, within no more than 5 years²¹. Mr Hargraves' projections do not advance that far ahead but he suggests that what he has shown is sufficiently close to the target that it is reasonable to expect that all of his requirements would be met once the project matures. As I say, 96% by Year 3 is questionable but strongly in the right direction and I would not condemn the project for this alone.
48. While he owns the land himself, Mr Hargraves has been assisted by outside funding and expects to receive further grants. The nature and purpose of such assistance was not given but may bring into question whether his requirements would then be truly derived from the resources and activities on the site. This may be a further matter for the monitoring regime which is to go hand in hand with the project.

Conclusions

49. With regard to Policy 47, the NPA had already accepted that criteria (c), (g) and (i) were either met or did not apply to the proposal. To that I would now add that I consider that the other criteria would be satisfied to an acceptable degree or could be made to, as would the corresponding provisions of TAN6 to an acceptable degree. Consequently, I am satisfied that the proposal should be treated as being low impact development within the terms of the development plan.
50. As such, it would be justifiable development within the countryside and, for the reasons I have given, its impact on the landscape and other attributes of the National Park would also be acceptable. Despite initial objections, the NPA accepted that the design of the dwelling, notwithstanding its non-traditional appearance, should not be a reason to refuse planning permission if the project was otherwise acceptable. Consequently, and having regard to all other matters raised, I have concluded that planning permission should be granted.

Conditions

51. I have referred to the s106 Obligation entered into by Mr Hargraves and its provisions. PPW explains that the imposition of conditions is preferable to the entering into a planning obligation, where there is a choice. In this case it seems to me that the obligation's provisions could be satisfactorily met by suitable conditions and its existence does not strengthen the case for planning permission being granted. For the same reasons, while TAN6 indicates that legal agreements should be in place in

²¹ See 4.17.1

relation to the occupation of the site²², to control the activities agreed in the permission and to tie the dwelling to the land²³ in this case I consider planning conditions would offer an appropriate degree of control.

52. A list of conditions was discussed at the hearing. Full compliance with the management plan is essential to ensure that the project is low impact as intended since it is this quality which sets it apart from, for instance, other forms of rural enterprise and justifies the exception being made. Thereafter, annual monitoring reports to assess the project's progress are equally important together with measures, if necessary, to maintain compliance with LID principles. To be effective it will also be necessary to specify the consequences should the project fail. Should that prove to be the case, the NPA suggested 28 days for the use to cease and structures, including the dwelling, to be removed. The dwelling will be demountable so that the land can be restored to its former condition if necessary. However, since it will be Mr Hargraves' sole residence a longer period was felt to be necessary at the hearing. Having considered the debate, I consider that 6 months would be appropriate.
53. The application was made before the date set for the application of national policy to impose code Level 3 performance for single dwellings²⁴. Even so, the project should meet the more stringent requirement to be zero carbon in construction and use. Indeed, Mr Hargraves' management plan states that the dwelling will achieve Level 5/6. Strictly, since imported bottled gas would be used for cooking it is questionable whether Level 6 could be met. Moreover, since Mr Hargraves contends that the code was not suitable for this type of dwelling, an alternative analysis of carbon use was provided. The NPA asked for conditions to ensure compliance with the code following the models suggested in TAN22²⁵. The code is the nationally adopted standard and should be the starting point. Even so, the NPA accepted that an alternative method might secure the same standard and I shall allow some flexibility in that regard. I would expect that such an assessment, whether in line with the code or otherwise, would cover such matters as the source and nature of the materials to be used, a matter referred to previously as a possible condition.
54. The NPA asks that a condition be imposed to prevent the dwelling, buildings and land involved from being separated, a commitment already given with the s106 Obligation. I agree that this is necessary and appropriate although there is a strong likelihood that the management plan could not be complied with were sub-division to occur.
55. In view of the extensive planting involved and illustrated on the project layout Mr Hargraves questioned the need for a further landscaping scheme. However, the layout omits essential details such as plant species, standards and densities and in view of the landscape sensitivity of the location a full scheme is required, together with a commitment to subsequent implementation and maintenance. A similar challenge was made to the need for materials to be separately agreed for the proposed dwelling. These are indeed indicated on the scheme drawings while the application specifies the finishes. The condition as tabled is unnecessary.

²² TAN6 4.16.1

²³ TAN6 4.23

²⁴ PPW 4.11.4, Code for Sustainable Homes

²⁵ Technical Advice Note 22 Planning for Sustainable Homes June 2010

56. Finally, the NPA asks for a number of permitted development rights to be removed. These would otherwise permit alterations and extensions to the dwellinghouse as well as the additional ancillary residential use of caravans. The condition would require prior permission for such eventualities. The need for all of the restrictions was questioned since it is not apparent that the dwelling would have a specific curtilage within which the rights could operate. That may not always be the case and, again, in view of the location and ethos of the project such a control is justified.
57. A condition is not required for the residential use of the caravan to cease in view of what follows.

Appeal A

Ground (a) – whether planning permission ought to be granted

58. The main issue here is the impact of the continued use of the land for the siting of a residential caravan on the character and appearance of the area, within the National Park landscape.
59. As I have explained recorded, Mr Hargraves does not suggest that, in isolation, the use should be allowed to continue. Unrelated to the LID project, for instance, such a use would appear incongruous and harmfully add to present unsightly appearance of the site, contrary to those policies designed to safeguard the National Park and the countryside. Mr Hargraves case is that he should be allowed to occupy his caravan, which is of a traditional traveller style, as an interim measure pending the occupation of the dwelling considered under Appeal B. Although that appeal was successful, a grant of planning permission for the caravan use would be separate and free-standing. It cannot be assured that the dwelling will be built. Consequently such a planning permission would be open-ended without certainty that the trigger to secure its removal – occupation of the dwelling – would ever come about. That would have harmful and unacceptable consequences.
60. I have therefore determined that planning permission should not be granted and the appeal on ground (a) fails.

Ground (f) – whether the period for compliance is reasonable

61. Although an appeal on this ground has not been made I have instead considered whether under the circumstances the period for compliance with the notice requirements should be extended to provide for this situation. Mr Hargraves was confident that he would commence the construction of the dwelling quickly once planning permission was granted. It is a moot point whether, once he has commenced construction of the dwelling, an express grant of planning permission is required in any event to retain the caravan for his own occupation while works are continuing. If not, by virtue of s180, that would be likely to override the notice provisions for that period.
62. I shall therefore extend the period for compliance. Some allowance should be made for the requirements of the conditions arising from the Appeal B project to be discharged and to allow any other approvals to be obtained. The extended period will be 12 months. The appeal succeeds to that extent.

Formal Decisions

Appeal A Ref: APP/L9503/C/10/2132307

63. I direct that the enforcement notice be

- (a) Corrected by the substitution of the allegation set out in Section 3 of the notice with the following "**Without planning permission the material change of use of the land to a mixed use comprising horticulture and agriculture and by the siting and residential occupation of a caravan.**"

and

- (b) Varied by the substitution of **12 months** for 3 calendar months as the period for compliance with the notice requirements set out in at Section 6 of the notice.

64. Subject to this correction and variation I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Ref: APP/L9503/A/10/2132242

65. I allow the appeal, and grant planning permission to change the previous commercial nursery site at The Nursery, Mount Pleasant Cross, Cosheston, Pembrokeshire SA72 4TZ into a low-impact organic horticultural smallholding. The site will be planned on sustainability principles and will include woodland coppicing, an orchard, fruit tree nursery, fruit and vegetable produce, free range eggs, wildlife habitats and a carbon neutral off-grid dwelling. The site will provide an educational resource for schools to use as an outdoor 'classroom', and retention of 2 polytunnels in accordance with the terms of the application, Ref NP/10/017, dated 26/10/09, and the plans submitted with it, subject to the appended conditions.

R.G Gardener

Inspector

APPEARANCES

For the appellant:

Mr John Hargraves	Appellant
Mr Paul Wimbush	Of Lammas Low-Impact Initiatives
Mr Kevin Thompson	Of Innovative Design and Architecture Ltd

For the Local Planning Authority:

Mrs Vicki Hirst MA MRTPI	Head of Development Management
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Interested persons:

Mr Richard Shepherd, for Cosheston Community NPA

Mr Raul Speek

Mr John Downes

Mr David Williams

Mrs Anne Gregson

Mr Simon Jacobson

Mr Ian Ratcliffe

Mrs Kay Allen

Ms Helen Flavel

Ms Rachel Matthews

Gareth Bickerton, Director, Wales UnLtd

Documents produced at Hearing 12/10/2010

- 1 Letter of notification and list of persons notified
- 2 List of corresponding JUDP/LDP Policy numbers (NPA)
- 3 Extract from Cadw publication: Register of Landscapes of Outstanding Historic Interest in Wales (NPA)
- 4 S106 Obligation dated 13/10/201 (Appellant)
- 5 Breach of Condition Notice dated 16/06/2010 concerning Condition 1 of planning permissions NP/99/486 and NP/04/534 (NPA)
- 6 Copy of planning permission NP/04/534
- 7 Map to show Location of South Pembrokeshire Schools (Appellant)

Documents produced at Hearing 27/01/2011

- 1 Policies – Pembrokeshire Coast Local Development Plan September 2010 (NPA)
- 2 Suggested Conditions – Appeal A (NPA)
- 3 Suggested conditions – Appeal B (NPA)

Appeal B Ref: APP/L9503/A/10/2132242

Conditions

- 1) The development comprising the dwelling hereby permitted shall begin not later than five years from the date of this decision.
- 2) The construction of the dwelling shall not commence unless and until a timetable for the implementation of the whole of the development hereby approved as been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out only in accordance with the aims, objectives and methodology set out in the Management Plan and the approved timetable unless otherwise agreed in writing with the Local Planning Authority.

The use hereby permitted shall be discontinued, the low impact dwelling and other structures hereby permitted removed from the land and land restored to its former condition, within 6 months if the requirements of the Management Plan are not implemented within the approved timetable.

The Management Plan consists of the following:

- a) Green Apple Cross, A One Planet Development (August 2010)
 - b) Updated GACE low-impact statement (June 2010)
 - c) Green Apple Cross Business Plan (June 2010)
 - d) Updated Green Apple Cross Management Plan (July 2010)
 - e) Ecological Footprint Report (August 2010)
 - f) Carbon Assessment of low impact dwelling (August 2010)
 - g) Green Apple Cross Monitoring Proposals (August 2010)
 - h) Biodiversity in relation to surrounding area (October 2009)
- 3) No later than 1st April each year, commencing 1st April 2012, a written Monitoring Report shall be submitted to the Local Planning Authority giving details of the activities carried out during the previous twelve months in compliance with the Management Plan. In particular, the Monitoring Report shall include details of the following
 - a) An appraisal of the project's progress in relation to the Management Plan and towards 1.88 gha ecological footprint.
 - b) An assessment of the proportion of basic household needs being met directly from land-based activities on the site to secure at least 75% provision by Year 3 and 100% by Year 5.
 - c) An appraisal of vehicle trips generated by the project.
 - d) A record of social and/or educational events provided.
 - e) A carbon analysis of the project and its activities to demonstrate that it is zero carbon in use
 - 4) Should the Monitoring Report identify to the Local Planning Authority that the aims and objectives of the Management Plan are not being met, there shall be submitted to the Local Planning Authority at its request and for its approval in writing details of corrective or mitigating measures to be taken and a timetable for doing so. Such approved measures shall thereafter be implemented in accordance with the approved details and timetable.
 - 5) Construction of the dwelling hereby permitted shall not begin until an Interim Certificate has been submitted to the Local Planning Authority certifying that a

- minimum Code for Sustainable Homes Level 5/6 (Low to Zero Carbon) has been achieved for the dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide or an assessment clearly demonstrating similar attributes. The development shall be carried out entirely in accordance with the approved assessment and certification.
- 6) Occupation of the dwelling hereby permitted shall not commence until a Final Certificate has been submitted to the Local Planning Authority certifying that a minimum of Code for Sustainable Homes Level 5/6 (Low to Zero Carbon) has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide or an assessment clearly demonstrating similar attributes.
 - 7) The dwelling, buildings and land comprising the application site shall be retained in use and occupation as a single site and no part shall be sold or leased separately.
 - 8) Before any development is commenced, a comprehensive scheme for the soft and hard landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall take full account of the natural trees and shrub species on the site and in the area in general together with the existing hedgebanks, natural stone boundary walls and tree/shrub growth. The scheme shall include measures for the protection of trees, shrubs, stone walls and hedgebanks at all times.
 - 9) All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of development, whichever is the sooner; and any trees or plants which, within a period of five years from the completion of the development, fail, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority give written consent to any variation.
 - 10) Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995, (relating to extensions to, and changes to the external appearance of, the dwelling and to development or the siting of a caravan within the curtilage of the dwellinghouse), no development within Parts 1, 2, 5 and 40 of Schedule 2 of that Order (or any Order revoking or re-enacting that Order) shall be carried out without specific planning permission being obtained.