

NAME OF SCRUTINY COMMITTEE	Communities Scrutiny Committee
DATE OF MEETING	13 December 2018
TITLE	Planning matters, Plas Pistyll, Pistyll, Pwllheli
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CABINET MEMBER	COUNCILLOR DAFYDD MEURIG
PURPOSE	Report on how planning matters relating to Plas Pistyll, Pistyll, Pwllheli were dealt with

1. BRIEF CONTEXT

- 1.1 This report is submitted in light of concerns regarding the delegated process in the context of decisions involving Plas Pistyll and the former Farm.
- 1.2 In order to assist the Scrutiny Committee, an 'Overview of the planning history of Plas Pistyll and Farm' has been completed which elaborates on all planning matters that are relevant to this site since 2007. The overview along with relevant background documents have been attached to this report in Appendix 1 (Overview) and Appendix 2 (Planning History).
- 1.2 Before 2007, the site had been divided into 3 main sections as outlined below:
- Plas Pistyll which used to be a hotel
 - Farmhouse and associated buildings
 - Site for 29 static caravans
- 1.3 The condition of 'Plas Pistyll' itself had deteriorated significantly, and local residents were concerned that this was an 'eyesore'. At the time, the building was the subject of a planning enforcement investigation by the Council due to concerns regarding the impact of the unkempt building on local amenities. The fact that planning rights and established tourism uses existed offered developers a scope to redevelop a site in the countryside and within the Area of Outstanding Natural Beauty, where usually, where there is no established use, it would be very difficult to justify a development such as the one in Plas Pistyll.

2. PLANNING HISTORY

- 2.1 Having considered all submitted planning applications regarding the site in detail, it is clear that the site's appearance has changed over time, and the chronology of the planning applications is as follows:
- **18/9/07 Application (C07D/0309/43/LL)** - application to convert and extend external buildings into eight holiday units, and one for staff. The application was approved by the Planning Committee subject to conditions. Specific attention is drawn to two of the conditions, namely a condition to restrict use to holiday use only, and a condition preventing any individual or family to reside in the units for more than 28 days in any 12 month period. An appeal was submitted to the Planning Inspectorate to remove the condition that sought to restrict the holiday period to 28 days in any 12 month period. The Planning Inspectorate gave consideration to the Council's reasons for the condition which included seeking to ensure short-term holiday use in order to promote the tourism industry, rather than creating second homes or permanent

homes. The Inspector noted that there was no reference to this type of condition in the local planning policies at the time, or evidence to show that restricting the holiday period promoted the tourism industry or benefitted the local economy. In terms of ensuring that units were not used as permanent homes, the Inspector noted that the condition restricting use to holiday use only was essential and achieved this purpose. The Inspector also noted that a condition asking managers to keep an up-to-date register of the occupants of the units also assisted the Council with monitoring etc. The Inspector concluded that a condition restricting occupancy to 28 days in any 12 month period was completely unreasonable and the appeal to remove the condition was approved.

- **29/04/09 Application (C07D/0635/43/LL)** - application to construct a leisure building and replace 29 static caravans with 29 wooden double unit chalets in a revised layout. The application was approved by the Planning Committee.
- **16/2/09 Application (C08D/0422/43/LL)** - application to convert the former Plas Pistyll hotel into 14 holiday flats. The application was approved by the Planning Committee.
- **23/8/12 Application (C11/0661/43/LL)**- it is fair to note that this is the main permission that changed the site's appearance as it recommended the following:
 - Demolish 'Plas Pistyll'
 - Construct 20 self-contained holiday units on the former site of 'Plas Pistyll'
 - Construct 16 self-contained holiday units in lieu of the site for 29 static caravans

- The application was approved by the Planning Committee.
- **10/5/13 Application (C13/0322/43/LL)** - application to delete the condition that restricted people from residing in the holiday unit for more than three months, this reconciled the whole site and enabled unrestricted holiday use. This was approved in accordance with 'delegated rights'.
- **29/1/14 Application (C13/1021/43/LL)** - application to construct a reception to service the site. This was approved in accordance with 'delegated rights'.
- **14/10/16 Application (C16/0976/43/LL)** - application regarding the following matters:
 - Change the design and layout of the buildings
 - Reduce the number of units on the former site of 'Plas Pistyll' from 20 to 19.
 - Delete conditions 8,9 and 10 (code for sustainable homes)

- This was approved in accordance with 'delegated rights'.
- **17/2/17 Application (C16/1595/43/LL)** - application to change staff accommodation use as holiday unit use. This was approved in accordance with 'delegated rights'.
- **16/6/17 Application (C17/0416/43/LL)** - application to install rooflights and a gable window. This was approved in accordance with 'delegated rights'.
- **13/12/17 Application (C17/1010/43/LL)** - application to change materials for the external elevation of the units on the farm site. This was approved in accordance with 'delegated rights'. (See the former Delegated Scheme that was relevant to this application and previous ones in Appendix 3)

- **3/10/18 Application (C18/0678/43/LL)** - application to install two temporary signs. This was refused in accordance with 'delegated rights'. (See the Current Delegated Scheme that was approved by the Full Council in May 2018 in Appendix 4)

2.2 The author has considered two questions with regards to the consideration of the above applications namely:

1. Was the procedure in terms of referral to Committee, or making a decision in accordance with the 'delegated rights' procedure, followed correctly?

This matter has been discussed and challenged and I conclude that the right procedure was followed in accordance with the delegated scheme that was in operation at the time. Furthermore, in terms of planning application C16/0976/43/LL (where it appears that most concerns arise), the Monitoring Officer has confirmed that arrangements have been followed correctly in terms of the Delegated Scheme that was relevant at the time. It is noted that the Delegated Scheme sets specific thresholds and rights for the reporting of applications to the Planning Committee. In the case of application C16/0976/43/LL, this was an application to amend conditions on an existing planning permission (C11/0661/43/LL), which included reducing the number of units and amending the design. The application was dealt with under the delegated procedure for the following reasons:

- i. It did not meet relevant thresholds to report this type of development (holiday accommodation) to the Planning Committee.
- ii. Three or more objections to the application were not received.
- iii. The application was not referred to the Committee by the Local Member.
- iv. The application was not referred to the Committee by two other Members.
- v. Bearing in mind all of the above and that the application was requesting the amendment of the extant permission for the same use, namely holiday accommodation, but with fewer units, there were no grounds for Officers to use the right to refer the application to the Committee.

In terms of the public consultation, it is also noted that the Planning Service has gone beyond the statutory requirement in terms of raising awareness of the 14/10/16 application (C16/0976/43/LL)

2. Is the logic behind officers' recommendations robust?

On a technical basis regarding the planning matters, the relevant planning policies and planning history, evidence shows that planning officers' recommendations and decisions correspond with statutory requirements for reaching a decision, and are therefore, robust.

It is noted that there have been many examples of appeal decisions which have approved this type of developments as well as developments for static caravan sites, subject to conditions including a condition restricting use to holiday use only, and a condition asking managers to keep an up-to-date register of the occupants of the units. The conditions satisfy statutory tests and are in accordance with national planning policy and the local planning policy. The conditions have also been confirmed on appeal by the Planning Inspectorate.

3. What control does the planning procedure have on the use of holiday homes / second homes?

The planning procedure cannot control the purchase / sale of open market housing and its subsequent use as second homes or holiday homes. Planning permission is not required for this as planning legislation does not differentiate between a house that is used occasionally and a house that is used throughout the year. Having an influence on this would require a change in legislation, which could possibly prevent the increasing use of open market housing as holiday homes, but it is unlikely to change the current situation.

3. OBSERVATIONS FROM THE LOCAL COMMUNITY

Pistyll Community Council (18/10/18)

- 3.1 Raising questions why plans have changed so much compared to the ones submitted to the Planning Committee, possibly Application 23/8/12 (C11/0661/43/LL), and asking why the Council did not consult with them about the changes.

Ms Bethan Hughes (02/10/18)

- 3.2 Design not as expected, and again, plans have changed considering the application that was submitted to the Planning Committee, 23/8/12 Application (C11/0661/43/LL). A feeling that the Council has insufficiently informed local residents of the changes submitted in the 14/10/16 application (C16/0976/43/LL).

Grŵp Pistyll (15/10/18) [led by Ms Bethan Hughes]

- 3.3 Design not as expected, and again, plans have changed considering the application that was submitted to the Planning Committee, 23/8/12 Application (C11/0661/43/LL). A feeling that the Council has insufficiently informed local residents of the changes submitted in the 14/10/16 application (C16/0976/43/LL).
- 3.4 That permission for the 10/5/13 Application (C13/0322/43/LL) had been granted to delete the condition that restricted people from residing in the holiday unit for more than three months and reconciled the whole site and enabled unrestricted holiday use. It was felt that this enabled people to establish a permanent home there. A general feeling that local people, the area's culture and the Welsh language were not protected, and a lack of confidence in the Council.
- 3.5 Asking for a change in policy to be more similar to Cornwall, to refuse the construction of new holiday units and to facilitate applications to offer more opportunities for local young people to build homes in order to prevent depopulation and promote the language.

4. CONCLUSIONS

- 4.1 There is considerable history to this site and there was local demand for action on the 'eyesore' of the former Plas Pistyll. It is also noted that there was a caravan park with 29 static caravans with the former hotel - meaning that established tourism use / holiday accommodation was on the site which was a planning consideration when dealing with planning applications. Several planning applications have been considered, some of them have been determined by the Committee and some by means of the 'delegated rights' procedure.
- 4.2 It is clear that many people in the community feel that they have been let down by the Council, and it appears that the breadth of this discontent is involved with not being aware of the changes following the previous decision that was submitted to the Planning Committee, namely 23/8/12 Application (C11/0661/43/LL).
- 4.3 There is no evidence to suggest that the technical and constitutional procedure, in terms of where the decision stands, was not followed correctly or any evidence either that decisions are not robust based on planning policies and considerations. It is clear from the planning history that this site is in the countryside and within the Area of Outstanding Natural Beauty among other designations, and it would have been very difficult to receive permission for all developments unless the historical rights of the Plas Pistyll hotel, the static caravans and farm had existed historically.
- 4.4 Evidence supports the fact that the Service had contacted the Local Member, the Community Council and neighbouring residents. Specific attention is drawn to application **C16/0976/43/LL** - namely the application that has raised the greatest concern among some residents - and it is noted that there was no objection from the Local Member, the Community Council or residents. This situation is also reflected with other most recent planning applications. From hearing the concerns that are now raised by some residents - it appears that the response of the Local Member and the Community Council did not reflect the opinion of some residents. In terms of the use of the former Delegated Scheme and the New Delegated Scheme, evidence shows that some Members use the rights to refer planning applications to the Committee, which highlights that there is an awareness of the procedure. It is noted that relevant Local Members are consulted upon every application in their ward.
- 4.5 It must be noted that the planning system has no powers to prevent the use of open market housing as second homes or holiday homes.

5. RECOMMENDATIONS

- 5.1 Planning officers have a professional statutory and technical role, to assess planning applications against the policies, considering all observations that are submitted by other bodies - including Community Councils - as well as Local Members. It appears from this case that some Local Members and Community Councils do not fully appreciate the importance of their role in the planning process. It is therefore recommended that the Department should collaborate with the Learning and Development Service to outline the importance of training to raise awareness of the planning process, as well as the important role of Members and Community Councils when considering planning applications in their areas.

- 5.2 Although this case is unique for reasons that have already been noted, it is clear that there is a feeling in the community that general points regarding the tourism industry and restrictions on the use of holiday units in Gwynedd need to be considered. In the past, the Council has sought to restrict the holiday period, but the Planning Inspectorate did not believe that such a condition was reasonable. By now, restrictions by means of planning conditions, that satisfy statutory tests and are consistent with national and local planning policies, are implemented by the Council.
- 5.3 In terms of attempting to change legislation to gain more control over open market housing that are used as holiday homes / second homes, this would be a matter for the county's politicians rather than officers, to consider what legislation should be amended and how, and to discuss or put pressure on Welsh Government for change.

APPENDICES

- 1 Overview
- 2 Planning History
- 3 The former Delegation Scheme
- 4 The current Delegation Scheme