

Number: 4

Application Number: C17/0185/42/LL

Date Registered: 20/02/2017

Application Type: Full - Planning

Community: Nefyn

Ward: Morfa Nefyn

Proposal: A part-retrospective application for improvements to an existing café, to include the replacement of an awning with timber windows, the creation of a timber platform, a storeroom and new toilet provision

Location: Caffi Porthdinllaen, Lôn Golff, Morfa Nefyn, Pwllheli, Gwynedd, LL536DA

Summary of the Recommendation: TO APPROVE WITH CONDITIONS

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1. Description:

- 1.1 A part-retrospective application for improvements to an existing café, to include the replacement of an awning with timber windows, the creation of a timber platform, a storeroom and new toilet provision. When the application was submitted originally, the proposal included the provision of an ice cream kiosk, but amended plans were later received, removing this intention from the application.
- 1.2 The site lies adjacent to, but outside of the development boundary of the Morfa Nefyn village in the Unitary Development Plan. Access to the site is along an unclassified road which continues to be a public footpath to the direction of the golf course, which is to the west of the site. A residential housing estate lies to the south-east and north-east of the site, and the site is located within the Area of Outstanding Natural Beauty (AONB) and the Heritage Coast. The development would create 9m² of additional surface floor surface area, but it would not create an additional floor surface area for the existing café. There are open agricultural fields to the south and the west of the site.
- 1.3 The application was submitted in light of an action from the Planning Service's Enforcement Unit, and the application is submitted to Committee as there are three or more objections contrary to the officer's recommendation on the application.

2. Relevant Policies:

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that planning decisions should be made in accordance with the Development Plan, unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Unitary Development Plan.
- 2.2 The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet the 7 well-being goals within the Act. This report has been prepared in consideration of the Council's duty and the 'sustainable development principle', as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 2.3 **Gwynedd Unitary Development Plan 2009:**

POLICY B20 - SPECIES AND THEIR HABITATS THAT ARE INTERNATIONALLY AND NATIONALLY IMPORTANT - Refuse proposals which are likely to cause disturbance or unacceptable damage to protected species and their habitats unless they conform to a series of criteria aimed at safeguarding the recognised features of the site.

POLICY B22 - BUILDING DESIGN - Promote good building design by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features and character of the local landscape and environment.

POLICY B23 – AMENITIES - Safeguard the amenities of the local neighbourhood by ensuring that proposals conform to a series of criteria aimed at safeguarding the recognised features and amenities of the local area.

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POLICY B25 – BUILDING MATERIALS - Safeguard the visual character by ensuring that building materials are of a high standard and are in keeping with the character and appearance of the local area.

POLICY D8 - EXPANSION OF EXISTING ENTERPRISES

Proposals to extend/expand/intensify industrial enterprises and existing businesses or other enterprises will be approved if they conform with specific criteria regarding the appropriateness of the existing use in relation to the surrounding area and adjacent uses and how relevant it is to the existing work.

POLICY B8 – LLŶN AND MÔN AREA OF OUTSTANDING NATURAL BEAUTY (AONB).

Safeguard, maintain and enhance the character of the Areas of Outstanding Natural Beauty by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features of the site.

2.4 Gwynedd and Anglesey Joint Local Development Plan. (Composite Version including Matters Arising Changes, January 2017)

POLICY PCYFF1: DEVELOPMENT CRITERIA

POLICY PCYFF 2: DESIGN AND PLACE SHAPING

POLICY PCYFF 3: DESIGN AND LANDSCAPING

POLISI CYFF 5: RE-USE AND ADAPT RURAL BUILDINGS OR A RESIDENTIAL UNIT FOR BUSINESS USE OR CONSTRUCT NEW UNITS FOR BUSINESS/INDUSTRY

2.5 National Policies:

Planning Policy Wales (Edition 9, November 2016)

Technical Advice Note 11: Noise

Technical Advice Note 12: Design

Technical Advice Note 18: Transportation

3. Relevant Planning History:

3.1 C04D/0443/42/LL - RETAIN A TIMBER MOBILE BUILDING AND ITS USE AS A SEASONAL SHOP AND CAFÉ - Approve with conditions - 17 January 2005

C05D/0643/42/LL - REMOVE CONDITION NUMBER 2 FROM APPLICATION C04D/0443/42/LL (MOVE THE CABIN FROM THE SITE WHEN NOT IN USE) - Approve with conditions - 14 June 2006

C07D/0256/42/LL - RE-ESTABLISH PLANNING REFERENCE C04D/0443/42/LL TEMPORARILY UNTIL OCTOBER 2007 IN ORDER TO PLACE A TIMBER CABIN FOR USE AS A SHOP-CAFÉ - Approve with conditions - 14 August 2007

C07D/0027/42/LL - CAFÉ - PERMANENT SHOP TO REPLACE THE EXISTING TIMBER CABIN - Approve with conditions - 31 July 2008 - Agreement under Section 106 of the Planning Act 1990 is signed, restricting the use to a seaside café/shop;

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4. Consultations:

Community/Town Council:	Overdevelopment of the site. Lack of parking spaces which could lead to an overflow. This would result in cars parking on the road which is already narrow.
Transportation Unit:	<p>Thank you for the amended plans. I confirm, on behalf of the Transportation Unit, that I have no objection to the proposal. Originally, the ice cream kiosk caused concern, which has been removed from the plan; partly in terms of loss of surface area in the car park, and partly due to the danger of a collision between customers with vehicular traffic so close to the access. Removing the kiosk from the plan eliminates the element of concern for the Transportation Unit.</p> <p>I have no conditions or instructions to propose on the rest of the application.</p>
Natural Resources Wales:	No observations
Welsh Water:	Standard conditions regarding drainage and sewer protection which crosses the application site.
Public Protection Unit:	Recommend that the application is approved subject to compliance with food and health and safety legislations.
Biodiversity	No ecological concerns in relation to the application, but the proposal should include ecological improvements.
AONB Officer:	The café has been established for a few years by now, and it provides a service and local employment. It is not believed that the minor developments proposed would impact on the AONB.
Public Consultation:	<p>A notice was posted on the site and nearby residents were notified. The advertising period has ended and a number of letters / correspondences were received objecting on the following grounds:</p> <ul style="list-style-type: none"> • Too many licensed businesses/premises already in this area • Insufficient parking spaces within the site and locally for the use in question • Loss of privacy • Noise nuisance • Significant increase in the floor surface area of the business • The area's infrastructure would not be able to cope with the increase in business that would come as a result of the development • The development is not in keeping with the local area • An overdevelopment of the site.

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As well as the objections above, objections were received that were not material planning objections and these included:

- The developments/work had started before planning permission was approved
- Concerns that the person operating the business will not comply with planning and licensing conditions
- Concern that the building could be extended again in future

5. Assessment of the material planning considerations:

The principle of the development

- 5.1 Policy D8 of the GUDP is relevant to this application. This policy states that proposals to extend/expand/intensify industrial enterprises and existing businesses or other enterprises will be approved if they conform with specific criteria regarding the appropriateness of the existing use in relation to the surrounding area and adjacent uses and how relevant it is to the existing work. Extensions and improvements to extend the existing established business is what is in question here. Criterion 1 of this policy is related to ensuring that the existing use of the site causes significant harm. As noted in the above planning history, the business has been established for over 10 years, and no enforcement complaints have been received since its establishment. It is therefore considered that the principle of the development complies with the criteria of policy D8.
- 5.2 The proposal is located within the curtilage of the existing café business, and the proposed improvements are ancillary to the current existing work. This means that the development complies with criteria 2 and 3 of policy D8 of the GDUP. Concerns have been raised by local residents regarding the noise and privacy disturbance that could possibly derive from the development. Nevertheless, it needs to be realised that an extension to the existing business is what is in question here, and that the changes are located on the development's north-west appearance, i.e. the section of the development which is furthest from any residential property, which means that there will be less impact on the amenities of nearby residents. In addition, no concerns were received from the Council's Public Protection Service regarding the proposal. It is also noted that if any potential noise nuisance problems derived from the development, these could be solved under public protection licensing regulations and legislations. Concerns were also received regarding road safety which comes as a result of improvements to the business. In light of removing the provision of an ice cream kiosk from the plan, the Transportation Unit had no concerns regarding the development. It is realised that there are less parking spaces within the site as a result of a raised wooden decking, but it is considered that there are sufficient parking spaces for a development of this size in the National Trust car park adjacent to the site. The applicant also noted that a nearby field could be used for parking (under permitted development rights of temporary land use in Section 5 of the Town and Country Planning Order [General Permitted Developments] 1995) at busy period of the years such as bank holidays. The existing building is not an obvious feature within the wider landscape as it is located near other buildings. In addition, *cloddiau* are located along the site's boundaries, and there will be no change to these boundaries as a result of the proposal. As a result, there are no concerns regarding the prominence of the development in the landscape, especially considering that improvements to the existing building is what is in question here. It is considered that the proposal

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complies with criteria 4 and 5 of policy D8 above, and the principle of policy D8 in its entirety.

5.3 It is a requirement that planning applications be determined in accordance with the adopted development plan, unless material considerations state otherwise. The current 'Development Plan' is the Gwynedd Unitary Development Plan (2001 - 2016) and the Joint Local Development Plan for Gwynedd and Anglesey (JLDP) will replace the Unitary Plan as the 'development plan' once it is formally adopted. It is likely that the JLDP will be adopted during July 2017.

5.4 When dealing with any planning application the statutory test should be your first consideration at all times, i.e. it is necessary to determine planning applications in accordance with the development plan, unless other relevant considerations state otherwise. The JLDP is now a material planning consideration for the purposes of development control. Paragraph 3.1.3 of Planning Policy Wales states:

"Material considerations could include current circumstances, policies in an emerging development plan and planning policies of the Welsh Government. All applications should be considered in relation to up-to-date policies ..."

5.5 Although many policies have been discussed in detail during the Gwynedd and Anglesey Joint Local Development Plan Hearings, we will not know for certain what the contents of the Plan will be until the Inspector presents his binding report.

5.6 Paragraph 2.14.1 of Planning Policy Wales states:

"...thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances."

5.7 In this case, the JLDP policies as noted in 2.4 above are material and as these policies are consistent with the policies of the Unitary Development Plan and the relevant National Advice included in PPW, it is considered that the above assessment and the recommendation of this report are consistent with the emerging policy.

Visual amenities

5.8 The location of the proposed development is located on the periphery of the village of Morfa Nefyn. The existing building is used as a café, and a car park is located within the site.

5.9 The proposed changes to the building are not significant changes. The improvements in question in the application are located within the existing site which is located on level land and is surrounded by a *clawdd* and a post and rail fence. It is believed that the proposal would be acceptable in terms of its size and location. The proposed design is acceptable for this type of building and therefore it is not considered that the proposal is unacceptable in terms of the requirements of policy B22 of the UDP and NCT 12. Concern was received regarding the proposal being an over-development of the site. Nevertheless, considering the small scale of the improvements, such objection is not considered reasonable. Comments were received from the Area of Natural Outstanding Beauty Officer confirming that the proposed minor developments would not impact on the AONB. It is therefore considered that the

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proposal complies with policy B8 of the GUDP which aims to protect, maintain and improve the character of the AONB.

- 5.10 The final external finishes are supposed to be a dark brown colour, or an alternative colour to be agreed in writing with the local planning authority through a formal condition. This would ensure that this element is acceptable and therefore satisfies the requirements of policy B25 of the UDP.

General and residential amenities

- 5.11 The closest residential housing (to the east and north-west of the site) are located approximately 20m away from the site. The land between these houses and the site consists of hedges and significant vegetation. Local residents have objected based on noise nuisance and loss of privacy.
- 5.12 The objectors note that the development would likely cause noise. Nevertheless, it must be noted that the use as a café already exists, and that picnic tables for customers are already placed outside the building. It is considered that the timber decking, which is already raised, formalises the difference between the car park and the areas for customers to sit outside, therefore it is not considered that the proposal would cause additional disturbance on the amenities of nearby residents. Concern was received regarding the over-development of the site, and that there is a significant increase in the development's floor surface area, but, it would not create an additional floor surface area for the existing café. As already noted in this report, no response has been received from the Public Protection Unit, and also any problems could be solved under licensing and public protection regulations and legislations. In considering the distance, and that there is a fence and considerable vegetation between these houses and the application site, it is unlikely that the additional development to what already exists would cause additional disturbance to nearby residents. Loss of views cannot be considered as a planning matter.
- 5.13 It is noted that conditions exist on the original planning permission issued for the permanent building (permission ref: C07D/0027/42/LL) on the site noting that the business cannot be open to customers outside the hours of 08:00 and 21:00, and that no music can be played on the site outside of those hours. In addition, the business has conditions on their licence which means that the amenities of residents are protected.
- 5.14 In considering the existing use of the site, the intended use, appearance, size etc., it is not considered that the proposal would have an unacceptable detrimental impact on local residents and it is therefore considered that the proposal is acceptable in relation to Policy B23 of the GUDP and TAN 11.

Transport and access matters

- 5.7 The location of the proposed development is located on the periphery of the village of Morfa Nefyn. Access to the site is gained from an unclassified road which leads through the town. The road continues past the site to the west and services the golf course and the Porthdinllaen beach. Concerns were received from objectors regarding traffic and parking, it is realised that the road is one which could be busy, especially during the summer holiday season. As already noted, in light of removing the provision of an ice cream kiosk from the plan, the Transportation Unit had no concerns regarding the development. It is considered that the proposal is acceptable from a highways perspective and, therefore, complies with the requirements of policy CH33 of the GUDP and TAN 18.

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Biodiversity matters

- 5.16 The Council's biodiversity officers had no ecological concerns regarding the application, but ecological improvements should be included as part of the proposal. Nevertheless, it is not considered that the scale of the proposed developments justify including such improvements. The proposal is therefore considered to comply with policy B20 of the GDUP which notes that proposals that are likely to cause disturbance or harm to protected species and their habitats should be refused.

Infrastructure matters

- 5.17 In response to the original consultation received from Welsh Water, concern was noted regarding the ice cream kiosk which would impact the sewer that crosses the site. Following receipt of an amended plan removing the ice cream kiosk from the plans, a further response has been received noting that the plan is acceptable but that it should include a condition on any permission in order to protect the sewer and regarding drainage.

Response to the public consultation

- 5.18 Concerns were received that there are too many licensed businesses in the nearby area. Nevertheless, this is an established café business and this is not a matter for consideration on this planning application. It is considered that this matter should be considered in relation to licensing the business. In addition, concern was received that it's possible that the person operating the business would not comply with planning and licensing conditions, and that the building could be extended again in future. Every application must be considered on its own merits and it is not considered that these matters are material to the application in question here. Objecting the application based on the fact that developments/work have commenced before planning permission is approved is not material either.

6. Conclusions:

- 6.1 Having considered the above and all the material planning matters including the local and national policies and guidance, it is believed that this development is acceptable and complies with the requirements of the relevant policies noted above.

7. Recommendation:

- 7.1 To approve – conditions
1. In accordance with submitted plans.
 2. A dark brown coloured finish, or alternative, to be agreed in writing for the extensions/structures.
 3. No development to impact the sewer which crosses the site.