

BETTWS NEWYDD OPPOSITION GROUP
(BNOG)
c/o The Old Mill, Upper Bridge Street, Newport, Pembrokeshire, SA42 0PL
Tel 01239 820889
email:atkinsonreg@talktalk.net

Mr Tegryn Jones,
Chief Executive,
Pembrokeshire Coast National Park Authority,
Llanion Park ,
Pembroke Dock SA72 6DY

25th October 2011

Dear Mr Jones,
Report No. 55/11 ANNUAL REPORT OF THE MONITORING OFFICER
and
Report No. 56/11 MONITORING AND ACTIONS FOLLOWING RECOMMENDATION OF
MONITORING OFFICER INTO COMPLAINTS AGAINST PCNPA 2011 (including Bettws
Newydd) 12th October 2011

I am writing to give BNOG's reaction after reading these two Reports.

You will recall that the Monitoring Officer reported into complaints concerning Bettws Newydd in May 2011.

BNOG had then not been allowed to see the Monitoring Officer's Report in draft and we had very little time indeed, as did your Members, to prepare comments after receiving the Report a few days before the May Meeting of the Authority. Nevertheless, BNOG sent comments on what we immediately saw as shortcomings in the Monitoring Officer's investigation, indicating that BNOG was not satisfied with the outcome. BNOG also requested that time be given for further consideration before the Authority made any resolutions as an outcome of various complaints.

Members were allowed a short time at the Meeting to read our response but we heard nothing from the Authority afterwards.

Whilst the investigation was taking place, BNOG was actually told by the Monitoring Officer that this was not a Section 5 complaint and would not be handled accordingly by him. BNOG is surprised therefore to read in the Monitoring Officer's Annual Report that the Bettws Newydd investigation was considered under "*Section 5 of the Local Government and Housing Act 1989*". We would be grateful if you would explain the implications for this designation.

BNOG observed at the Meeting of the Authority at which the Monitoring Officer's Report was presented, that the Monitoring Officer was at pains to explain that the Report was "his", and that someone of a different expertise might reach different conclusions. We suggest that the Monitoring Officer's failure to realise the implications, as we see them, of some of the results of his investigation are due to the fact that this was not, as far as is known, informed by any kind of Report from the Head of Section as part of the investigative process.

I am setting down now some of the principle concerns that BNOG holds were central to failures at Bettws Newydd which we also hold were not the result of systems failure but of maladministration by Officers and for which Officers should be brought to account.

We ask that the Authority look further into these-

One complaint by BNOG (as renumbered by the Monitoring Officer Complaint 43) was phrased by the Monitoring Officer as follows :

'Point Raised

Stating in 26 July letter that development was being carried out in accordance with approved drawings'

The actual wording of the BNOG complaint was: '*Stating in the 26th July 2007 letter to the Developer that « I am able to confirm that the development is being carried out according to the approved drawings » ***when this was not the case.****' (Our emphasis now added)

The Officer's response as recorded by the Monitoring Officer was 'Repetition' The Monitoring Officer's findings were thus simply, '*This is a repetition*'

The Developer has admitted, in evidence to the Appeals Inquiry, that drawings submitted for Building Regulations were used for the construction of the development, and that the drawings stamped approved for planning purposes were not followed from the outset in constructing the replacement dwelling.

Major differences from the approved plans were already clearly obvious to anyone in July 2007 – not just a qualified planner – just by standing on the site and looking at the development. Changes fell outside the minor amendments protocol and could not be approved by an Officer.

It is mystifying enough that the Case Officer did not ask the Developer to submit a retrospective application (as even the Developer and his Counsel admitted at the Appeals Inquiry should have happened) but instead to write a letter to "***confirm that the development is being carried out according to the approved drawings***" was a totally incomprehensible action to have taken.

The Case Officer had already admitted that the structure was higher than she had expected and was responding to complaints when she met with the Developer, his first architect and the builder on site to check the development.

- The nearly 100sq m of extra Lower Ground Floor space not on approved plans was clear to be seen. (100 sq m is the size of a 3 person/2 bedroom Housing Association House being built in Newport at the time)
- The elevations were higher from the external ground, than shown on the approved drawings (and the East elevation at the North East corner of the building was 3 and a half metres taller!).
- The ridge was about half a metre higher than it should have been above the level which the Case Officer had apparently (as it transpired in 2010) "agreed" to be the Upper Ground Floor level.
- Officers were standing on made up ground at the entrance to the building that had not been part of the application.

- The dimensions of the building were longer on a north/south axis and shorter on an east/west axis and those dimensions had been taken by the Site Foreman and, according to the appellant's evidence to the Inquiry, checked on "*her plans*" by the Case Officer on 20th July.
- The building was closer to the public footpaths, both west and south of the site, by at least 5 metres compared to the position shown on the approved site plan.

BNOG now seeks from the Authority, clear explanation of why the Case Officer did not recognise these changes and respond to them appropriately by seeking a retrospective application to retain the development as built. BNOG believes that such an application would not have received approval, on grounds that Bettws Newydd could be clearly seen in 2007 to not comply with the Development Plan (JUDP)

Throughout the application process, and until outside consultants were employed by the Authority in 2009, Officers held that the development as built at Bettws Newydd did comply with the JUDP. Officers continued to argue that the development as approved in 2006 complied with the JUDP until it could be inferred from the Appeals Inspector's Report that it did not, and the Head of Development Management (formerly the Case Officer) at last conceded that this was the case (in the Report to the Authority into the possibility of a section 102 Order to remove the building in February 2011)

BNOG holds that the stated professional judgement of Officers against a public outcry for more than 3 years had been wrong, and we argue that this was held simply to avoid admitting a major mistake in granting consent in the first place.

BNOG also seeks further investigation into the whole extraordinary matter of the handling of levels by Officers.

BNOG was unaware of any particular level '*approved*' by an Officer until this was introduced into the April 2010 Officer Report. In fact, it seems that all Officers (other than the Case Officer) and also the planning consultants employed at enormous expense by the Authority in July 2009, and shortly afterwards their Counsel, were unaware of this 'approved level' until the pre-app meetings for the 2010 application (of which no record exists on the Planning Register)

Piecing together information from the Appeals Inquiry and the Monitoring Officer's Report it now seems that the Case Officer discussed with the Developer the principle of the Upper Ground Floor (entrance level) of the replacement dwelling coinciding with the top of a nearby step, before the application came to the DMC in March 2006, but the Case Officer did not draw the attention of Members to the implication that the entrance level would thereby be a full storey above that of the original dwelling on the site.

Only now from the Monitoring Officer's Report in 2011 is it known for the first time that the Case Officer not only '*agreed/approved*' the same '*top of nearby steps*' level sometime during the negotiation period with the Developer before delegated consent was issued in October 2006 (though no record of this appears on the Planning Register and no levels whatsoever are shown on the drawings stamped approved) but

also thereby stood in breach of the condition precedent (condition 3) written by the same Officer which required

*“ Following site clearance and prior to the commencement of any construction work, site profiles of the external ground and internal finished floor levels shall be set out on site **for approval** by the National Park Authority.”* (Our emphasis)

As you are aware, BNOG and others fought an expensive campaign for removal of the development at Bettws Newydd for more than 3 years on the basis of information drawn from the Planning Register. We are entitled to know why information pertaining to levels was withheld and ask that the Officers involved be held to account.

Lastly, BNOG is concerned about the levels of checks and balances in place in relation to the powers afforded to Officers under the existing Delegation Scheme and also the reliance by the DMC on presumed high quality in Officer Reports in decision making by the Authority. Our experience of the Reports concerning Bettws Newydd – particularly those of March 2006, October 2007, October 2009, and April 2010 lead us to believe that the opportunity for Members and Town and Community Councils and concerned members of the public both to study and make representation about, not only applications, but also Officer Reports, must be maximised in future.

Yours Sincerely

Reg Atkinson
Chairperson
on behalf of The Bettws Newydd Core Group