

Report of the Head of Economic Regeneration and Planning

Planning Committee – 14 July 2015

**Referral of Planning Application Ref: 2013/1745
from the Area 2 Planning Committee on 3rd June 2014, the Development and
Management Control Committee on 19th June 2014 and the Planning
Committee on the 17th February 2015.**

Cilibion Saw Mills, Cilibion, Gower

Detached (Rural Enterprise) Dwelling in association with Saw Mill (Outline)

1.0 Background

- 1.1 This application was reported to Area 2 Development Control Committee on 3rd June 2014, with the recommendation that planning permission be refused as the proposal constituted an unjustified dwelling in the countryside and would be detrimental to the character and appearance of the Gower AONB. Members did not accept the recommendation, but resolved that the application be referred to Development, Management and Control Committee (DMCC) with a recommendation that it be approved subject to a Section 106 Planning Obligation to tie the occupation of the dwelling to the Sawmill, on the grounds that the new dwelling was justified to serve a long standing business which makes a significant contribution to the rural economy and that the dwelling would not result in a detrimental impact upon the character and appearance of the area.
- 1.2 The DMCC on the 19th June 2014 subsequently resolved to grant planning permission subject to nine conditions and to a Section 106 Agreement tying the occupancy of the dwelling to the Sawmill.
- 1.3 Following legal advice it was confirmed that Conditions 8 and 9 (the last two unnumbered Conditions set out in the report to the DMCC below) did not satisfy the tests for conditions as set out in Welsh Government Circular WGC016/2014 - The Use of Planning Conditions for Development Management and Welsh Government guidance TAN 6 - Planning for Sustainable Rural Communities, which offers specific guidance on the use of occupancy conditions.
- 1.4 The application was therefore reported back to the Planning Committee on the 17th February 2015, where it was recommended that the previously proposed Condition 9 be removed, as it was beyond the scope of an enforceable condition and the relevant matters should be solely controlled by way of the proposed Section 106 Agreement. It was also recommended that Condition 8 be reworded to reflect the standard occupancy condition set out in Welsh Government Guidance TAN 6 for this type of development (see below) and which was cited as an appropriate and acceptable control by the applicant in the application.

The report to the Planning Committee on the 17th February 2015 is attached as Appendix 1 (this report also contained the previous reports made to the Area 2 Committee on the 3rd June and the report to the DMCC on the 19th June as appendices).

2.0 Main Issues

- 2.1 Following the receipt of further legal advice, it has been established that not all of the land within the red-line boundary identified on drawing 10.80.01 attached as Appendix 2, is within the applicant's (and close family member's) sole ownership or control - namely the access track running west of the Sawmill. Therefore, the applicant (and the family member) was not able to sign the Section 106 agreement as land owners, as they did not own all of the application site between them.
- 2.2 The applicant has subsequently now amended the red-line boundary of the site to exclude the access track. Therefore only land within the applicant's/family member's ownership/control is included within the revised site boundary, as detailed on drawing 10.80.01B attached as Appendix 3. Access to the proposed new dwelling will now be obtained via the main gated entrance to the existing sawmill and via the sawmill yard area. The Head of Transportation and Engineering raises no objection to the revised access arrangements.
- 2.3 Therefore, it is recommended that the revised red-line plan be included as part of the application details and that the application be approved subject to previously proposed Conditions 1-3 and the revised version of Condition 8, as previously agreed. The original Condition 9 has again been removed. Furthermore, the originally proposed Conditions 5-7 are also no longer required, as they are Code Level 3 Sustainable Homes conditions, which following recent changes to Planning Policy Wales, fall outside the remit of the Welsh planning system. The original Condition 4 has also been removed as advice contained within Welsh Government Circular 016/2014 states that such a condition should not be used.

For the avoidance of doubt, the four remaining conditions are listed below at 3.1.

3.0 Recommendation

- 3.1 It is recommended that:

The application is approved as a Departure from the provisions of the Development Plan subject to:

- (i) The conditions listed below;

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that the development is determined within a reasonable period.

2. Detailed plans and drawings with respect to the matters reserved in condition (01) shall be submitted for approval by the Local Planning Authority not later than the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that the development is determined within a reasonable period.

3. The development to which this permission relates shall be begun either before the expiration of 5 years from the date of this outline permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that development is begun within a reasonable period.

4. The occupancy of the dwelling shall be restricted to those:
 - a. solely or mainly working or last working at Cilibion Sawmill or on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;
 - b. who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either (a) and (b);
 - c. widows, widowers or civil partners of the above and any resident dependants.

Reason: Permission is not granted for new development in this area other than that which is genuinely required for rural enterprise or provides affordable housing.

- (ii) The applicant entering into a Section 106 Planning Obligation to tie the dwelling to the saw mill enterprise;

BACKGROUND PAPERS

Local Government Act 1972 (Section 100) (As Amended)

The following documents were used in the preparation of this report:
Application file, together with the files and documents referred to in the background information section of the appended Development Control committee report.

Contact Officer:	<i>Ryan Thomas</i>	Extension No:	<i>5731</i>
Date of Production:		Document Name:	<i>Cilibion Sawmill</i>

Report of the Head of Economic Regeneration and Planning

To Planning Committee

17th February 2015

**Referral of Planning Application Ref: 2013/1745
from the Area 2 Planning Committee on 3rd June 2014
and the Development and Management Control Committee
on 19th June 2014.**

Cilibion Saw Mills, Cilibion, Gower

Detached (Rural Enterprise) Dwelling in association with Saw Mill (Outline)

3.0 Background

- 1.1 This application was reported to Area 2 Development Control Committee on 3rd June 2014, with the recommendation that planning permission be refused as the proposal constituted an unjustified dwelling in the countryside and would be detrimental to the character and appearance of the Gower AONB. Members did not accept the recommendation but resolved that the application be referred to Development, Management and Control Committee (DMCC) with a recommendation that it be approved subject to a Section 106 Planning Obligation to tie the occupation of the dwelling to the sawmill, on grounds that the new dwelling was justified to serve a long standing business which makes a significant contribution to the rural economy and that the dwelling would not result in a detrimental impact upon the character and appearance of the area.
- 1.2 The DMCC on the 19th June 2014 subsequently resolved to grant planning permission subject to Conditions and to a Section 106 Agreement tying the occupancy of the dwelling to the Sawmill. A copy of the report to Area 2 Development Control Committee on 3rd June 2014 and the report to the DMCC held on the 19th June 2014 are attached as Appendix A and B respectively.

4.0 Main Issues

- 2.1 Following the receipt of further legal advice it has been confirmed that proposed Conditions 8 and 9 (the last two unnumbered Conditions set out in the report to DMCC below) do not satisfy the tests for conditions as set out in Welsh Government Circular WGC016/2014 - The Use of Planning Conditions for Development Management and Welsh Government guidance TAN 6 - Planning for Sustainable Rural Communities which offers specific guidance on the use of occupancy conditions. Therefore, it is recommended that proposed Condition 9 be removed as it is beyond the scope of an enforceable condition and should be controlled by way of the proposed Section 106 Agreement.

It is also recommended that Condition 8 be reworded to reflect the standard occupancy condition set out in Welsh Government Guidance TAN 6 for this type of development (see below) and which was cited as an appropriate and acceptable control by the applicant in the application.

3.0 Recommendation

3.1 It is recommended that:

The application is approved as a Departure from the provisions of the Development Plan subject to:

- (i) The applicant entering into a Section 106 Planning Obligation to tie the dwelling to the saw mill enterprise;
- (ii) The proposed Condition 8 should be replaced with the following Occupancy Condition:

Condition [8]

The occupancy of the dwelling shall be restricted to those:

- a. solely or mainly working or last working at Cilibion Sawmill or on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;*
- b. who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either (a) and (b);*
- c. widows, widowers or civil partners of the above and any resident dependants.*

Reason: Permission is not granted for new development in this area other than that which is genuinely required for rural enterprise or provides affordable housing.

- (iii) The removal of proposed Condition 9; and
- (iv) The remaining Conditions set out in the report to the DMCC on 19th June 2014 attached as Appendix B, (subject to any necessary minor rewording).

BACKGROUND PAPERS

Local Government Act 1972 (Section 100) (As Amended)

The following documents were used in the preparation of this report:

Application file, together with the files and documents referred to in the background information section of the appended Development Control committee report.

Contact Officer:	<i>Ryan Thomas</i>	Extension No:	<i>5731</i>
Date of	<i>9th February</i>	Document	
Production:	<i>2015</i>	Name:	<i>Cilibion Sawmill</i>

APPENDIX A

ITEM 5

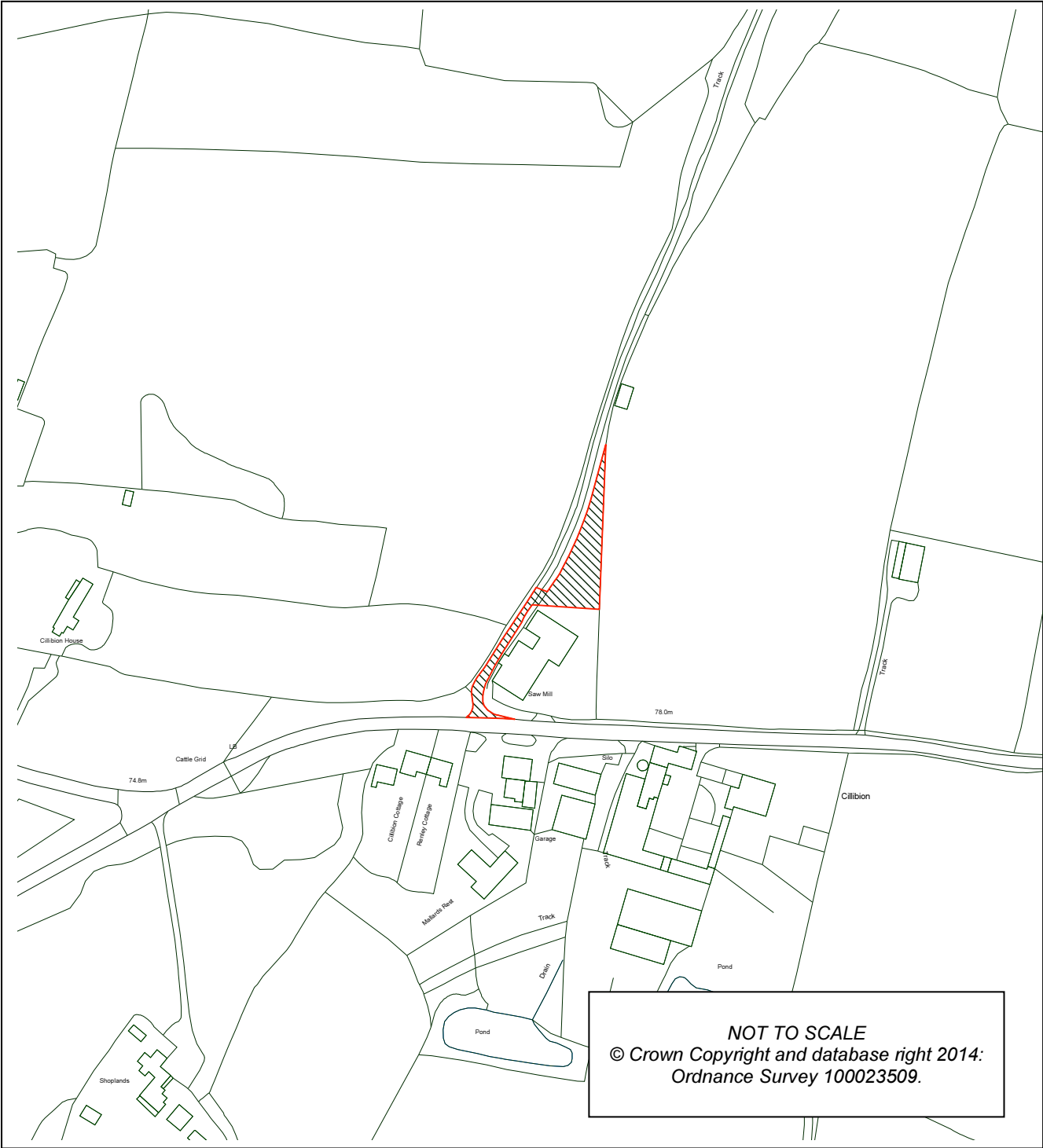
APPLICATION NO. 2013/1745

WARD: Gower Area 2

Location: Cilibion Saw Mills, Cilibion, Swansea, SA3 1EB

Proposal: Detached dwelling in association with sawmill (outline)

Applicant: Mr Adam Cowley



BACKGROUND INFORMATION**POLICIES**

Policy	Policy Description
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy EV2	The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).
Policy EV22	The countryside throughout the County will be conserved and enhanced for the sake of its natural heritage, natural resources, historic and cultural environment and agricultural and recreational value through: <ul style="list-style-type: none"> i) The control of development, and ii) Practical management and improvement measures. (City & County of Swansea Unitary Development Plan 2008)
Policy EV26	Within the Gower AONB, the primary objective is the conservation and enhancement of the area's natural beauty. Development that would have a material adverse effect on the natural beauty, wildlife and cultural heritage of the AONB will not be permitted. (City & County of Swansea Unitary Development Plan 2008)
Policy EV20	In the countryside new dwellings will only be permitted where justification is proved in terms of agriculture, forestry or the rural economy; there is no alternative existing dwelling in nearby settlements; and the proposed dwelling is located close to existing farm buildings etc. (City & County of Swansea Unitary Development Plan 2008)

SITE HISTORY

App No.	Proposal
80/0873/01	ERECTION OF A DWELLING Decision: *HGPC - GRANT PERMISSION CONDITIONAL Decision Date: 28/08/1980
84/1112/03	ERECTION OF A THREE BEDROOM HOUSE. Decision: *HGPC - GRANT PERMISSION CONDITIONAL Decision Date: 31/01/1985

RESPONSE TO CONSULTATIONS

The application was advertised on site. No response.

The Gower Society - have the following comments to make:

1. The sawmill itself appears to be a viable and indigenous rural business.
2. We recognise the need to sustain rural initiatives and jobs within the AONB.
3. If this dwelling were permitted what guarantee is there that the saw mill business would continue to be viable and that the house would not be sold directly after completion?
4. If the business were discontinued the site could be presumably declared a brown field site and a house applied for in its place?
5. We are conscious of your refusal for a domestic static caravan in this location i.e. 2013/0224.
6. Any claim of thefts should be supported by police reports.
7. If permitted it should be associated with a Section 106 Agreement.

We ask that you take the above points into account when arriving at your decision and if allowed a clause be added that ties the house to a rural activity.

Dwr Cymru /Welsh Water – No Objection

Highways - Access to the site is acceptable for the likely level of use that this one dwelling will generate. The indicated site layout is acceptable with parking for three cars and room to turn within the site. I recommend that no highway objections are raised.

Report of Mr R Anstis (Chartered Surveyor) on Behalf of Swansea City & County Council – concludes that the tests are not passed.

Supporting Statement. – Rural Enterprise Dwelling Appraisal

As you are aware, the planning system has a key role to play in supporting the delivery of

Sustainable rural communities. It can help to ensure, as in this application, that appropriate development takes place in the right place at the right time by making sufficient land available to provide homes and employment opportunities for local people helping to sustain rural services. Happily the land is available to the rear of the timber yard and Adam Cowley, the applicant, is certainly helping to sustain a rural service which his father previously maintained and has, with his father, maintained the user. It is one of the oldest traditional family businesses still left in Gower, providing a service to the community since the end of the First World War. (Please see enclosed copy letter from Mrs. Austin dated 19th September.)

The applicant meets the goal of the planning system which is to support living and working

rural communities in order that they are economically, socially and environmentally sustainable. Mr. Adam Cowley meets all three requirements.

A key requirement is whether the proposed developer enhances sustainability and can generate wealth to support local services and, in particular, the LP A should encourage people to work and live in the same locality, which Mr. Cowley now does, and will in a much better and modern building if the consent required is granted.

New dwellings on established rural enterprises should only be allowed if they meet the

Criterion of 4.4.1 Tan 6 dealing with each requirement.

4.8.1 A) there is a clearly established functional need. The business is currently run and has been for many years, by Mr. David Cowley (Father) and Adam, the applicant (son).

Mr. David Cowley, due to his health problems of severe arthritis and joint problems, is no longer able to do heavy work essential when handling timber (a letter from his doctor can be forwarded if necessary, explaining this fact). It is therefore essential to the continuation of the business that the applicant, Mr. Adam Cowley, lives and continues to work at the premises. On his father's enforced retirement he will take on another employee to substitute for his father and, if the business continues to expand, will take on a further employee, thereby creating new and further employment at the site.

I would stress that his employment is not a 9.00 - 5.00 job but much longer hours are invariably worked, and due to the fact of the many break-ins at the premises (I enclose letter from Mr. Cowley to the Police Authority). The last break-in resulted in the intruders starting a fire which could well have destroyed the business. It is essential, therefore, that Mr. Adam Cowley resides at the rear of the premises. At present he lives in a dilapidated caravan which is far from ideal, and the proposed new house could bring to an end this unsatisfactory scenario. The house will be positioned so that he may maintain surveillance over the timber yard and buildings and deal with potential wrongdoers.

4.9.1 The Time Test has been dealt with under 4.8.1.

4.10 The Financial test.

Please find enclosed herewith a letter from Butterfield & Morgan Ltd., Chartered Accountants, which confirms the requirement of the Financial Test

4.11 Other Dwellings Test.

There are virtually no houses available on Gower that are financially in the price range of Mr. Adam Cowley. Housing on Gower is amongst the most expensive in Swansea and Wales. The Housing Department has none available and neither does the Housing Association.

Houses in the immediate locality (photo enclosed) are too expensive to be contemplated and the current housing development at Scurlage are in the region of £300,000 while those under construction at a closer site in the North Gower Hotel redevelopment are in excess of £400,000.

Mr. Cowley is only able to provide a new home for himself because he does not have to purchase the land on top of the cost of construction. Housing plots in Gower are in excess of £ 100,000.

4.12. With regard to this requirement, a detailed Design and Access Statement by the retained Architect, Mr. Adrian Philips who is also qualified as a Town Planner, is enclosed herewith and full details of the house to be constructed will be submitted as reserved matters when the outline consent has been granted.

I enclose several additional letters detailing the background and desirability of granting your required consent and if there are other matters or further details required, perhaps you would be kind enough to grant myself, Mr. Philips and Mr. Cowley the opportunity to meet with you at your office to resolve any issues, if any. However, I trust you now have all the information to make your decision.

I would add Mr. Cowley is perfectly willing to enter into a 106 Agreement with the Council

as he did in April 1985 when a previous application was granted on the 25th April 1985, but which was not proceeded with at that time as he had to choose between buying his in-laws' farm at Bury Green or developing the house, and he did not have enough money to do both.

Response from the Agent to Mr Anstis' report on behalf of City and County of Swansea (received 23rd April 2014)

Dealing with Mr. Anstis' report to you and your queries thereon, I will deal first with his report.

To start, the front page is inaccurate. My application was for "a new rural enterprise dwelling" - Mr. Anstis' report is concerned with an application to "CONVERT" an agricultural build to a rural enterprise worker's dwelling, a completely wrong and incorrect description.

2.2.1 Not significant, states Mr. Anstis.

2.2.2 The fact that the parents own a bungalow some 200 metres from Dunraven Farm is irrelevant and has nothing to do with this application, even though it proves how successful the business is in that they have bought their farm and worked the sawmill profitably for many years.

2.3.1 There is a caravan on site, not a structure.

2.5.1 This caravan, not structure as referred to by Mr. Anstis, has been in the same position since 2006, but Mr. Anstis fails to state caravans have been occupied on this site since 1967 and three caravans have been used on the same site since 2001. The third caravan, due to age, was replaced in 2006. Adam has occupied the last two caravans since the summer of 2000 (see letter forwarded to Mrs. Kelly, 5th June 2013). Mr. Anstis' statement needs updating and it is incorrect of him to state two months.

2.5.2 Mr. Anstis is repeating himself and the reference to his brother's bungalow is completely irrelevant.

2.5.3 Irrelevant.

2.6.1 The sawmill has been established since 1917, almost 100 years. This is one of the last remaining traditional businesses on Gower and one which is of prime importance to the community. Mr. Anstis states "more recently" his son has joined the business. He did, in fact, join the business when he left school some 20+ years ago and has been for a very long time an important, essential and integral part of the business.

The business trades under the heading of D. W. G. Cowley trading as Gower Timber Co. with one bank account and one chequebook. Separate accounts are prepared for the Farm and the Sawmill, although they are run under the same business heading, and separate accounts are prepared and such returns are made to the Inland Revenue

Mr. Anstis, in his reply to you, states, "However, he may well be able to show that although it is a separate business (Chartered Accountant's letter confirmed), it does support the farm in allowing it to be viable or more viable. I would expect this to be the case. It would however require that link to Dunraven Farm to be made". Mr. Anstis, therefore, considers that the submission application qualified as a rural enterprise.

2.6.2 Mr. Anstis complains there is no detail on the activities that are carried out at the sawmill. They are not selling fish & chips or ice-cream; they are carrying out the normal activities of a sawmill. It is as silly as asking the owners of a brothel what activities are being carried out at the premises. If Mr. Anstis had been prepared to get off his backside and visit the site, all would have been revealed. There can be no substitute for a site visit. The work carried out is not seasonal but is varied and takes place all the year round.

2.6.3 Mr. Anstis complains no details of the farming enterprise at Dunraven Farm are submitted. These details are immaterial. The application is for a dwelling at the back of Cilibion Sawmill. I trust in any event, as an agricultural expert, he should be well aware of what happens on a farm and its obvious user.

3.1 Mr. Anstis considers there is no material evidence to show that the sawmill is a qualifying rural enterprise under the definition in 4.3.2. I beg to disagree. The sawmill is a process of forestry and is ancillary to that user, and in his reply to you that it qualifies as a rural enterprise. TAN 6, 4.3.2 states qualifying rural enterprises comprise land-related business including agriculture, forestry and the processing of agriculture and forestry together with land management activities and support services. The sawmill contributes in a major way to land management, with the cutting and maintenance of hedges, removal of trees and is in total support of the rural economy.

For Mr. Anstis to state there is no evidence that it is run independently from the farm as an established rural enterprise is nonsense. I enclose the necessary evidence from Butterfield & Co. Chartered Accountants. Mr. Anstis is completely wrong in suggesting that the application should not be considered under TAN 6.4.4, it should. It certainly should not be considered under TAN 4.6 which deals with new dwellings on NEW ENTERPRISES. If he visited the site, it would be obvious to him that the sawmill is an established business. It is beyond belief that the business has traded at a loss as it has provided profitable employment for the family for over 40 years. Mr. Anstis, when he spoke to me, was unaware that Butterfield & Co., the Chartered Accountants, had forwarded a letter to Mrs. Kelly, confirming that the business was profitable (19th September 2013) - further copy is enclosed. Mr. Anstis also referred to the fact that the proposed dwelling was 3,000 sq.ft. I informed him that this figure was nonsense and that Mr. Cowley could not afford 2,000 sq.ft., let alone 3,000. I recommended he speak to Andrew Philips, the retained architect, but he did not do so, other than his original call to find my telephone number.

3.2.1 I accept that the tests should be on the assumption of an established enterprise under 4.4.1.

3.2.1(a) The functional need is beyond dispute and it is essential for the proper functioning of the business for the worker to be readily available on site and is a full-time worker. I am not aware from my reading of 4.4 that this should relate to unexpected situations for which the worker would be required outside working hours. I am pleased to note that he acknowledges that "there may well be a security issue on the site", which Police correspondence and crime numbers confirm. However, he considers security to be a secondary planning issue which I and the owners do not. It is indeed a MATERIAL planning consideration which the LP A must take into account.

In any event, the LPA must take into account the Crime & Disorder Act of 1988 (which Mr. Anstis ignores and does not draw it to your attention). Local Authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they make. CCTV will not prevent a break-in or prevent an intruder breaking in and, if so minded, setting the sawmill on fire which happened at the last break-in. Contrary to Mr. Austin's recommendation, this test is passed.

3.2.2(b) There is need for a full-time assistant worker on site. Mr. Adam Cowley works in excess of 50 hours a week and longer if necessary. A Local Government worker considers a 5-day 35 hour week is full-time employment. A week at the sawmill would give them a nervous breakdown and cause complete exhaustion. The basic reason for this application is that Mr. David Cowley will shortly have to retire due to ill health (copies of doctor's letters enclosed) with chronic arthritis and the wear and tear of 46 years' hard, physical, work. Thereafter, Adam will have to take on another employee to replace his father as there is no way he could cope with the business and with the day-to-day work and management of this increasingly busy, successful business.

3.2.3(c) The sawmill has been established for many years. Evidence has been submitted to the LPA as to its profitability. Further letters will be submitted from Butterfield, the retained Chartered Accountants, and I trust neither the LP A nor Mr. Anstis will challenge the expertise or honesty of their written evidence.

3.2.4(d) We have submitted to you photographs and prices of new properties being developed at Scurlage and Llanrhidian, varying from f200,000 to f550,000 - prices well beyond what Mr. Adam Cowley, or any young man, can afford. He can afford to build behind the sawmill as he only has to pay for the construction costs and not the land, which will be gifted to him by his parents.

Mr. Anstis refers to 39 properties available to buy for less than £150, 000 within five miles

of the site, and 21 properties to rent from £450 p.c.m. would he please detail, for your and my benefit, the addresses of these properties of which I am not aware? In any event, if Adam has to drive to work from one of these properties, by the time he reached the sawmill the break-in could have occurred, the intruders could have fled and if they were so minded as the people responsible for the last break-in, his business could have been burnt to the ground and 40 years of hard work destroyed, which would be a great loss to the Gower community.

I would draw your attention to TAN 6 4.3.1, Rural Enterprise Dwellings, which states one of the circumstances on which new, isolated, residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at or close to their place of work. Whether this is essential in any particular will depend on the needs of the rural enterprise concerned and not on the personal preference of circumstances of any of the individuals concerned. (Lord Scarman's dictum would also apply.)

Mr. Adam Cowley meets all the criteria and you will be aware that PPW Housing Objectives 9.1.1. states a home is a vital part of people's lives; it affects their health and wellbeing, quality of life and the opportunities open to them. The Welsh Government approach as set out in the National Housing Strategy is, inter alia, "to provide more housing of the right type and offer more choice". I trust, Mrs. Tucker, it will not be your intention to smother initiative and make life difficult for hard-working entrepreneurs whose application complies with PPW, TAN 6 and the UDP. Such a course of action would be directly contrary to the stated wishes of the Council Leader who has exhorted the Council to adopt a "CAN DO" policy and would open the Council to ridicule having regard to their preamble in the Business Directory of 2012 which states in large, bold lettering "CAN WE HELP?" I would trust that we are not dealing with any enemies of enterprise in the LPA.

I enclose herewith a copy of relevant and compelling information from Mr. David Cowley, copies of letters to and from the Police and from Butterfield Chartered Accountants, also Mrs. Austin of Terra Nova, whose grandfather started the sawmill, my Rural Enterprise Dwelling Appraisal, and you already have a copy of the previous planning consent granted in 1985. I would add my client is prepared to enter into a 106 Agreement re the proposed development and in the event you decide to adopt a negative attitude to this application and recommend refusal, we would wish the application to go before the Planning Committee for their decision.

APPRAISAL

This application is reported to Committee for decision and a Site Visit has been requested by Councillor Richard Lewis to assess the impact upon the AONB.

Outline planning permission is sought for the erection of one rural enterprise workers dwelling at Cilibion Saw Mills, Cilibion, Swansea. The application site is located within the curtilage of the existing sawmill which is itself located within the open countryside and Gower AONB.

The proposed dwelling will be sited some 16m north of the main sawmill and will include a parking and turning area forward of the dwelling. Whilst matters relating to appearance, scale, layout and landscaping are reserved for future approval, access will be derived directly of the main B4271.

Issues

The main issues for consideration during the determination this application relate to the principle of a rural enterprise dwelling at this location, the impact of the proposed dwelling upon the visual amenities of the area and wider Gower AONB, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV2, EV3, EV20, EV22 and EV26 of the Swansea UDP, the Supplementary Planning Guidance document entitled 'A Gower Design Guide', Planning Policy Wales 2012 and Technical Advice Note 6 – Planning For Rural Sustainable Communities.

Policy EV20 of the Swansea UDP is the relevant policy when considering new dwellings in Countryside locations such as this. Such dwellings will only be permitted where:

- (i) The dwelling is required to accommodate a full-time worker solely or primarily employed in agriculture, forestry or an appropriate use to serve the rural economy who needs to live on the premises rather than a nearby settlement, and
- (ii) There is no alternative existing dwelling available in nearby settlements and there are no existing buildings on the farm unit suitable for conversion to residential use, and
- (iii) The proposed dwelling is located as close as possible to the existing farm buildings.

Applications for dwellings such as this are required to be accompanied by objective information assessing:

- (i) The functional need for the dwelling, and
- (ii) Demonstrating the financial sustainability of the enterprise, and
- (iii) The genuineness of the need for accommodation to serve the enterprise.

This is further expanded in Technical Advice Note 6 Planning for Sustainable Rural Communities July 2010 and Planning Policy Wales 2012 paragraph 9.3.7 which have been material changes in planning considerations since the formulation of the Swansea UDP. Paragraph 4.4 of TAN 6 focuses upon new dwellings on established rural enterprises. This clearly states new dwellings should only be allowed to support established rural enterprises provided:

- There is a clearly established existing functional need;
- The need relates to a full time worker and does not relate to a part time requirement;
- The enterprise concerned has been established for at least 3yrs, profitable for at least 1 of them and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so;
- The functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned and
- Other normal planning requirements, for example siting and access are satisfied.

Background

Gower Timber Company (also known as Cilibion Saw Mill) was originally formed some point shortly after World War One, and as such is one of the oldest rural enterprises in Gower which is still running today. The applicant's father purchased the business in 1974 and it remained in the family since, providing the main source of income. The applicant has been solely/primarily employed in the business in a full time capacity and has resided on site in temporary accommodation for many years.

The applicant has submitted supporting information aiming to justify the need for the proposed dwelling in association with the above referred enterprise.

This information describes the business and its history. Includes copies of a previous planning permission and S106 Legal Agreement issued for a dwelling on the site (84/1112 refers). A copy of a letter from Butterfield Morgan Ltd. Chartered Accountants dated September 2013 confirming that the business has proved viable over the years; copy of an acknowledgement of report of a criminal offence from South Wales Police dated 1996 and a number of supporting statements provided by the applicants agent, Mr Harry Jenkins.

In response to this submission, the Council's own consultant produced an appraisal report on the applicant's submissions which is examined as follows:

Tenure

The site and the adjacent sawmill, extending to approximately 2.500 sqm in total is owned jointly by the applicant's father and mother. The applicant is therefore assumed to be occupying the site with his father under an informal agreement, but with no formal security of tenure. Because of the close family link and the long establishment of the business, this lack of technical security is not considered significant.

The applicants' parents jointly own Dunraven Farm as well as a bungalow some 200m from the farmhouse there, occupied by the applicants' brother. The parents live in the Dunraven Farm being owned by the same parties as the sawmills and the application site for a dwelling is clarified further below.

Buildings

The sawmills comprise a set of buildings, internal machinery and external hard-standing and storage area. There is also a poor standard structure on site occupied by the applicant.

Land

The site for the proposed dwelling forms part of the larger area which includes the access road and the sawmills themselves. The proposed curtilage extends to 961sqm, but the whole extends to around 2500sqm. Dunraven Farm is some 3 miles away and has significant further land.

Dwellings

There are no dwellings on the proposed site, or the wider sawmills site, but there is a structure on the site occupied by the applicant. The applicant states that this structure has been the subject of an application for retention via a certificate of lawfulness (2013/0224 refers), the detail of which has not been examined, but it is relevant to the application to note that the existing structure has been in the same position since 2006 and before that the applicant occupied a touring caravan on an adjacent plot for around 2 months, before which an equivalent structure was placed on the same position as occupied as a dwelling.

It is also relevant that the applicants' parents own both this land and Dunraven Farm, upon which there is a dwelling occupied by his parents, adjacent to which is a bungalow occupied by his brother. The applicant states that no other dwellings are owned by either the applicant or his parents.

Enterprise

The sawmill has been run as such on the site for many years and was bought by the applicants father in 1974. The applicants' father may have spent some time in the past residing on site, but for a substantial period of years, he ran the enterprise from his house at Dunraven Farm. More recently, his son, the applicant, has joined the sawmill business. It is not clear from the evidence whether the sawmill is run as a separate business to the farm, with separate accounts or as a part of the main farm business.

There is no detail of the activities carried out at the saw mill, but the applicants father has stated that he owns the business and that the type of work is varied and seasonal no details on the farming enterprise at Dunraven Farm are submitted with this application.

Assessment

The agent presents the application as a new dwelling on an established enterprise. There are two issues that arise from that. Firstly, apart from statements confirming it to be the case, there is no material evidence to show that the rural enterprise is a qualifying rural enterprise under the definition in 4.3.2 of TAN 6. It is not agriculture or forestry and it is not presented as part of a wider farming enterprise and cannot conceivably be an activity that obtains its primary inputs from the site itself. Secondly, it is not clear from the evidence submitted, despite it being run for many years, that it is run independently from the farm and as an established rural enterprise, warranting assessment under 4.4 of TAN 6, as opposed to being a new enterprise, assessed under 4.6 of TAN 6. Further evidence may be available to satisfy this primary test.

Running through the tests on the assumption that it is an established enterprise, the assessment is examined under 4.4.1 of TAN 6

- a) Clearly established existing functional need: Whether it is essential for proper functioning of the business for a worker to be readily available on site. This should relate to unexpected situations for which the worker would be required outside normal working hours.

The singular evidential reason provided to support the need for a worker to reside on site is security. There are reported incidents and there is no reason to challenge that there may well be a security issue on the site. However security is a secondary planning issue and there is no primary justification offered. It is not clear why CCTV and other security measures could not be established on site as opposed to a dwelling.

THIS TEST IS NOT PASSED.

- b) Full-time worker. The agent and applicant states that there is sufficient labour requirements for the enterprise to fully employ a worker, but there are no statistical submissions, describing the operations and the man hours for each element and without such detail, including the scale and specific nature of the enterprise it is difficult to see how the bland statements can be accepted as evidence required under 4.9.1 of TAN 6.

It is possible that if further evidence were submitted, this test would be satisfied, but as it stands THE SUBMISSION FAILS.

- c) Established for three years, profitable for at least one and a current financially sound enterprise and a current financially sound business need, with a clear prospect of remaining so.

The sawmill as an entity has been established for over three years, but there is no cogent evidence submitted that it has been run as an enterprise independent from the farm as a stand-alone enterprise for a period of at least three years. There are no separate accounts submitted to demonstrate that this enterprise has been profitable (in isolation or as part of the farm) for at least one year or that show the enterprise as financially sound with clear prospect of remaining so.

It is possible that further submissions will show this, but as it stands THE EVIDENCE IS NOT COMPELLING.

- d) Other dwelling – other dwellings available for purchase or rent locally, other dwellings owned by the applicant or already on the same holding, other dwellings that could service a sawmill which was relocated.

The submitted evidence is minimal in terms of presenting all properties available within 5 miles that are available to rent or buy, but very swift search on a popular site reveals 39 properties of two bedrooms or more available to buy within 5 miles of the site at a price less than £150,000. The same site shows 21 properties to rent in the same area, with a rent from £450 pcm.

No detail is submitted of other buildings owned as part of the farm, but certainly there are no buildings on the application site that could be converted.

No evidence is submitted to show why the sawmill could not be relocated to where a dwelling already exists, including the farmyard at Dunraven Farm. There may be cost issues associated with such a relocation that would make it uneconomic compared with the cost of constructing a dwelling here, but certainly THIS TEST IS NOT PASSED.

- e) Other planning issues. The concerns highlighted in 4.12.1 of TAN 6 have NOT BEEN ADDRESSED.

In conclusion, the tests are not passed.

The applicants advisor responded to the above conclusions (reported in full above) and on the basis of the content of the response, the Councils advisor Mr. Anstis was consulted once more to clarify the points raised. The following specific questions were asked:

- Q. If the applicant can demonstrate through the provision of additional supporting information that the sawmill provides a 'support service' to the rural economy, could there be a case that the submission may qualify as a rural enterprise?

A. Support service is one that it is ancillary to another specific and related qualifying rural enterprise. For example, if this was a saw mill that supported Dunraven Farm, then it would qualify. The test does not an enterprise that acts as a support service to a wider generic rural community, (See paragraph 2.7 and the last sentence in particular of the Practice Guidance December 2011).

The difficulty for the applicant in this case is that (at the moment) he presents the sawmill as a detached and separate enterprise to the main farm. However, he may well be able to show that, although it is a separate business, it does support the farm in allowing it to be viable, or more viable. Indeed, I would expect this to be the case. It would however require that link to Dunraven Farm to be made, or for him to show that a countryside location for this enterprise is justified as necessary and in terms of the nature of services provided and the absence of suitable alternatives.

- Q. If the applicant can demonstrate through the submission of additional information (e.g. siting of a residence may enable the applicant to invest further in the business), could the applicant potentially establish a functional need?

A. The test at 4.8.1 does not have the flexibility to establish a functional need to be proven by allowing further investment in the business to be possible. Such a justification may perhaps support the requirement for the dwelling to be essential "for the proper functioning of the enterprise" but that would not relate to its need to respond to "unexpected situations that might arise" and "emergencies that would threaten the continued viability and existence of the enterprise", given that security is a secondary issue. If security was considered a primary issue in this case, as an exception, then the need to prevent security issues could be presented as the need, but this may create a significant precedential shift on policy interpretation. (See paragraphs 4.5 and particularly 4.6 of the Practice Guidance - the limits of the interpretation that are shown here).

- Q. Currently it would be fair to say that the applicant has not demonstrated that the sawmill has been run as an independent enterprise from the Farm or that it has operated as a financially profitable enterprise in the last 3 years.

A. Correct

- Q. In the event that they are unable to provide the required financial evidence, and on the basis of the information provided it is unlikely that the applicant will be able to demonstrate that the business is financially sound and therefore in light of this would it then be reasonable for the LPA to issue a temporary consent for the siting of a caravan in order to give the applicant the opportunity to further establish the business from both a financial and functional perspective?

A. This is covered in 4.6.2 of TAN 6 and the test there is whether the tests at 4.4 "are not completely proven", which by implication may mean that some of the tests have to be passed already. In this case, it is not only the financial test that is problematic.

It is also a requirement in giving consent for a temporary dwelling that the authority considers at the point of granting it, that the functional need and all the other tests at 4.4.1 are reasonably likely to materialise by the end of the temporary consent period. Reading through those tests with that perspective, it is difficult to see how the current evidence in this case gives that comfort.

- Q. This would give the Local Planning Authority the opportunity to revisit the business at a later date and establish whether this is a genuine 'Rural Enterprise' and also give the applicant a reasonable amount of time in which to expand this important rural business as a separate entity.

A. Agreed that further evidence could be submitted to demonstrate that 4.4.1b,c, d and e could be satisfied now by the submission of further evidence. 4.4.1a is a problem though in relation to a temporary dwelling permission.

- Q. Notwithstanding all of the above, with regard to the "other dwelling" test, do you consider the availability of properties for sale and rent within 5 miles of the site, sufficient to outweigh all of the above, regardless of any additional information/evidence that could possibly be provided?

A. No. If for example, the authority accepted that the reason for the dwelling was from security against fire and theft, then a dwelling beyond the sight and sound of the buildings may not satisfy that need. Certainly, the applicant has failed to present these other properties and then show why they would not meet the purported need, the principle difficulty with this case is that there is no other presented need for the dwelling other than for security and security is a secondary planning consideration for new dwellings in the open countryside, not primary.

Having regard to all of the above it is therefore considered that insufficient evidence has been submitted to satisfy 4.4.1, criterion a-e of TAN 6. The application has failed to prove a functional need; demonstrate that the enterprise is financially sound; or that the need can not be met elsewhere in the locality. The proposal therefore represents an unjustified development in the countryside and conflicts with National Guidance and the policies of the UDP which seek to protect the countryside from unjustified development and conserve and enhance the character and appearance of the countryside and the Gower AONB. Furthermore, if approved the proposal would establish an undesirable precedent for the consideration of other applications of a similar nature, the cumulative impact of which would seriously detract from the character and appearance of the countryside and the Gower AONB.

Visual Amenity

The proposed dwelling would be situated within the curtilage of relatively isolated sawmill yard within the Gower AONB. Whilst it is acknowledged that all matters of detail are reserved for subsequent future approval, and as such it may be possible to achieve a satisfactory design, the fundamental overriding objections to the proposal in terms of principle, are such that it is considered to represent an unjustified visually intrusive form of development that would result in unacceptable visual intrusion into the Gower AONB and fail to protect the character of the countryside for its own sake contrary to Policies EV1, EV2, EV22, EV26 and EV20 of the Unitary Development Plan 2008.

Residential Amenity

In terms of residential amenity, the proposed dwelling would be sited in a concealed location to the rear of the main sawmill buildings a sufficient distance away from the nearest adjacent properties. And as such it is not considered that the proposal would impinge upon the residential amenities of the neighbouring occupiers in compliance with the provisions of Policies EV1 and EV2 of the UDP.

Highways

Access to the site is acceptable for the likely level of use that this one dwelling will generate. The indicated site layout is acceptable with parking for three cars and room to turn within the site. The Head of Transportation and Engineering therefore raises no objection.

Conclusion

It is therefore concluded, that the proposal clearly conflicts with the countryside and AONB protection policies and as such would detract from the natural beauty of the countryside in the locality, furthermore, if approved it would establish an undesirable precedent for the consideration of other applications of a similar nature, the cumulative impact of which would seriously detract from the countryside. In this instance, the need for a dwelling at this site and the reasons put forward by the applicant do not sufficiently override the planning considerations. The proposal is therefore considered contrary to Policies EV1, EV2, EV3, EV26 and EV20 of the Swansea Unitary Development Plan. Refusal is therefore recommended.

RECOMMENDATION

REFUSE, for the following reasons:

- 1 The applicant has failed to demonstrate a functional or financial need or any other overriding agricultural, economic or social need for this residential unit which would constitute an unjustified form of development that would be detrimental to the character and appearance of the countryside and the Gower AONB contrary to Policies EV1, EV2, EV20, EV22 and EV26 of the City and County of Swansea Unitary Development Plan 2008 and the provisions of Welsh Government Technical Advice Note No. 6.
- 2 If approved the proposal would establish an undesirable precedent for the consideration of other applications of a similar nature, the cumulative impact of which would seriously detract from the character and appearance of the countryside and the Gower AONB contrary to Policies EV20, EV22 and EV26 of the City and County of Swansea Unitary Development Plan 2008 and the provisions of Welsh Government Technical Advice Note No. 6.

INFORMATIVES

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV2, EV20, EV22 and EV26 of the Swansea Unitary Development Plan 2008.

PLANS

10.80.01 site location and block plan dated 29th November 2013

Report of the Head of Economic Regeneration & Planning

To Development Management & Control Committee – 19th June 2014

**Referral of Planning Application Ref: 2013/1745
From Area 2 Development Control Committee on 3rd June 2014**

CILIBION SAW MILLS, CILIBION, GOWER, SWANSEA

DETACHED DWELLING IN ASSOCIATION WITH SAWMILL (OUTLINE)

Purpose:	To determine the outline application for a detached dwelling in association with sawmill
Policy Framework:	National and Local Planning Policies
Reason for Decision:	Statutory responsibility of the Local Planning Authority
Consultation:	Statutory consultations in accordance with planning regulations as set out in the planning application report contained in Appendix B
Recommendation(s):	Refuse as set out in the report
Report Author:	Ryan Thomas
Finance Officer:	<i>Not applicable</i>
Legal Officer:	<i>Not applicable</i>

5.0 Background

- 5.1 This application was reported to Area 2 Development Control Committee on the 3rd June 2014, with the recommendation that planning permission be refused as the proposal constituted an unjustified dwelling in the countryside and would be detrimental to the character and appearance of the Gower AONB. Members did not accept my recommendation but resolved that the application be referred to Development, Management and Control Committee with a recommendation that it be approved subject to a S106 Obligation to tie the occupation of the dwelling to the sawmill, on grounds that the new dwelling was justified to serve a long standing business which makes a significant contribution to the rural economy and would not result in a detrimental impact upon the character and appearance of the area.
- 5.2 A plan showing the location of the application site is attached as Appendix A, and a copy of my report to the Area 2 Development Control Committee on the 4th December 2012 attached as Appendix B.
- 5.3 The report was updated to include reference to a letter from Gower Chiropractic Centre confirming that the applicant's father has been treated for joint conditions.

2.0 Planning Policy Issues

- 2.1 With regard the acceptability, in principle, of this form of development at this location, the proposal would result in the introduction of a residential dwelling in the heart of the Gower AONB and wider countryside where such development is strictly controlled and must be justified in the interests of agriculture, forestry or an appropriate use to serve the rural economy and under the provisions of Policy EV20 of the City and Country of Swansea Unitary Development Plan and where Policy EV26 seeks to resist development which would not conserve or enhance the character and appearance of the area.
- 2.2 A full policy appraisal is provided within the main body of my report at Appendix B.
- 2.3 In summary Welsh Government advice provided in paragraph 4.4.1 of Technical Advice Note (Planning for Sustainable Rural Communities) sets out clear function and financial tests which must be satisfied if a dwelling is to be justified in the countryside.
- 2.4 Of specific relevance is the functional need and the requirement for the proper functioning of a qualifying business for a worker to reside on site and to be readily available at all times for example, if to be on hand night and day to deal with an emergency that would threaten the viability and existence of the enterprise without immediate attention. In this respect the evidence submitted in support of the application is limited to the security requirements of the business. This is a secondary matter and not one which would in its own demonstrate a functional need or justify the development of a new dwelling in the countryside.
- 2.5 In addition no evidence, for example a statistical submission describing the operations and the man hours for each element of the enterprise, has been produced to demonstrate that there is a labour requirement for a full time worker and no accounts have been submitted to demonstrate that the enterprise has been run for the last 3 years, been profitable for at least one and is currently financially sound with a clear prospect of remaining so. These are key policy tests which have not been addressed let alone satisfied by the applicant's submission.
- 2.6 Planning Policy Wales (paragraph 3.16) makes clear that whilst the personal circumstances of occupiers, personal hardship or the difficulties of businesses which are of value to the local community may be material to the consideration of an application permission may be granted subject to a condition that is personal to the application. However personal permissions will hardly ever be justified for works, as in this instance that will remain long after the personal circumstances of the applicant have changed.
- 2.7 In conclusion, therefore, it has not been demonstrated that the proposal relates to agriculture or forestry or that it has been run as an independent rural enterprise. No evidence has been submitted to demonstrate a functional need or that there is a sufficient labour requirement for the enterprise to fully employ a full time worker and no compelling evidence has been submitted to satisfy the financial test or that the requirements of the holding could not be satisfied by available accommodation elsewhere in the locality.

On this basis alone it is not considered that there is sufficient justification for a new dwelling at this locations or that established policy and National Guidance should be set aside in this instance.

3.0 Financial Implications

3.1 There are no financial implications associated with this report.

4.0 Legal Implications

4.1 There are no legal implications associated with this report.

5.0 Recommendation

5.1 It is recommended that:

- I. The application is refused subject to the reasons set out in my report in Appendix B
- II. Should Members resolve to approve planning permission contrary to my recommendation that it be approved subject to a S106 Obligation to tie the dwelling to the saw mill and subject to the conditions as detailed at Appendix C.

BACKGROUND PAPERS

Local Government Act 1972 (Section 100) (As Amended)

The following documents were used in the preparation of this report:
Application file, together with the files and documents referred to in the background information section of the appended Development Control committee report.

Appendices:

Appendix A – Location Plan
Appendix B – Committee Report
Appendix C – Conditions

Contact Officer: Ryan Thomas
Date of Production: 10th June 2014

Extension No.: 5731
Document Name: Cilibion Sawmill

Suggested Conditions

Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that the development is determined within a reasonable period.

Detailed plans and drawings with respect to the matters reserved in condition (01) shall be submitted for approval by the Local Planning Authority not later than the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that the development is determined within a reasonable period.

The development to which this permission relates shall be begun either before the expiration of 5 years from the date of this outline permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that development is begun within a reasonable period.

The development shall be completed in accordance with the approved plans prior to any part of the development being brought into beneficial use.

Reason: To ensure that the development is completed in accordance with the plans approved by the Council, and so avoid any detriment to amenity or public safety by works remaining uncompleted.

The dwelling(s) shall be constructed to achieve a minimum of Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category "Ene1 - Dwelling Emission Rate" in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (November 2010 - Version 3). The development shall be carried out entirely in accordance with the approved assessment and certification.

Reason: In the interests of sustainability.

The construction of the dwelling(s) hereby permitted and any external works shall not begin until an "Interim Certificate" has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes (Level 3) and a minimum of 1 credit under "Ene1 - Dwelling Emission Rate", has been achieved in accordance with the requirements of the Code for Sustainable Homes; Technical Advice Guide (November 2010 - Version 3).

Reason: In the interests of sustainability.

Prior to the occupation of the dwelling(s) hereby permitted, a Code for Sustainable Homes "Final certificate" shall be submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes (Level 3) and a minimum of 1 credit under "Ene1 - Dwelling Emission Rate", has been achieved in accordance with the requirements of the Code for Sustainable Homes; Technical Advice Guide (November 2010 - Version 3).

Reason: In the interests of sustainability.

The occupation of the dwelling hereby approved shall be limited to a person solely or mainly or last employed at Cilibion Sawmill (which shall include the dependants of such a person residing with him or her) or a widow or widower of such a person.

Reason: Permission is not granted for new development in this area other than that which is genuinely required for rural enterprise.

The proposed development shall remain at all times an integral part of the existing Sawmill enterprise and shall not be sold, let or otherwise occupied, as a separate planning unit.

Reason: Permission is not granted for new development in this area other than that which is genuinely required for rural enterprise.