

COUNTY BOROUGH OF BLAENAU GWENT

REPORT TO: THE CHAIR AND MEMBERS OF THE COUNCIL

**SUBJECT PLANNING, REGULATORY &
GENERAL LICENSING COMMITTEE –
22ND JULY, 2021**

REPORT OF: DEMOCRATIC & COMMITTEE SUPPORT OFFICER

PRESENT: COUNCILLOR D. HANCOCK (CHAIR)

Councillors W. Hodgins
D. Bevan
M. Day
G.L. Davies
J. Hill
C. Meredith
K. Pritchard
T. Smith
B. Thomas
G. Thomas
L. Winnett
D. Wilkshire

WITH: Service Manager Development and Estates
Team Manager – Development Management
Team Manager – Built Environment
Planning Officer
Head of Legal and Corporate Compliance

AND: Public Speakers
Agent: Russell Pryce
Shop Row, Blaina, NP13 3DH

Agent: Peter Barnes
Rhes Yr Ysgol 1 – 7 Cwmcelyn Road, Blaina

Supporter: Mr Andrew Pugh
Rhes Yr Ysgol 1 – 7 Cwmcelyn Road, Blaina

DECISIONS UNDER DELEGATED POWERS

<u>ITEM</u>	<u>SUBJECT</u>	<u>ACTION</u>
No. 1	<p><u>SIMULTANEOUS TRANSLATION</u></p> <p>It was noted that no requests had been received for the simultaneous translation service.</p>	
No. 2	<p><u>APOLOGIES</u></p> <p>An apology for absence was received from Councillor B. Willis.</p>	
No. 3	<p><u>DECLARATIONS OF INTEREST AND DISPENSATIONS</u></p> <p>The following declaration of interest was raised:-</p> <p><u>Councillor L. Winnett</u> Item No. 4 – Planning Applications Report C/2020/0168 Rhes Yr Ysgol 1 - 7 Cwmcelyn Road Blaina NP13 3LT Retention of one detached and six semi-detached 2 storey houses (not constructed in accordance with planning approval C/2014/0257)</p>	
No. 4	<p><u>PLANNING APPLICATIONS REPORT</u></p> <p>Consideration was given to the following:-</p> <p><u>C/2021/0160</u> <u>Shop Row, Blaina, Abertillery, NP13 3DH</u> <u>Two Pairs of Semi Detached Dwellings and Replacement Accesses</u></p> <p>The Planning Officer outlined the application which related to 4 dwellings and replacement accesses at Shop Row, Blaina. An overview of the application was provided with the assistance of photographs and diagrams.</p>	

The Planning Officer advised that the site fell within Flood Zone C2 as defined by the Development Advice Maps (DAM) which underpins national planning policy Technical Advice Note 15: Development and Flood Risk and provided the Committee with an explanation as detailed in fig 8 of the report. It was added that both TAN 15 and the subsequent Welsh Government letter to Chief Planning Officers regarding Planning Policy on Flood Risk and Industry Changes provided strict advice on residential development which was classed as a highly vulnerable development in a C2 zone flood plain. The Planning Officer noted that NRW have advised that the application should be refused on planning policy grounds unless there are overriding reasons why planning permission should be granted. The Planning Officer fully acknowledged the argument outlined in the supporting statement that the latest NRW maps identified the site as not being at risk of flooding. However, it was stated that these maps had not yet been nationally adopted for planning purposes.

The Planning Officer thereupon noted the recommendation that the application be refused on flooding grounds. However, if the Committee was minded to set aside the policy objection and support the application contrary to Tan 15 and local plan policies, it was requested that further technical advice be sought from NRW on the suitability on the submitted flood consequence assessment before the application was determined to ensure the Local Authority could be satisfied that any potential flooding could be managed. Also any additional appropriate conditions be added in terms of ecology and highways as noted in the report.

At the invitation of the Chair, Mr. R Pryce, Agent in support of the application addressed the Committee. Mr. Pryce advised that careful consideration had been given to the flood risk of the proposed development and confirmed that he was fully satisfied. The dwellings would be an extension to the homes already in the area and be of similar plot sizes of those in the vicinity. Mr. Pryce added that the garden and home design was acceptable to the officer and highways had no objections.

The development would continue the existing footpath access to the frontage and the design would minimise the carbon footprint of the houses with structures that minimise heat loss. The development would also include low carbon heating systems, solar PVs and electric charging pumps for electric vehicles.

Mr. Pryce noted that the development was acceptable in all respects besides the policy based flood risk objections, however, thought had been given to the strong material planning considerations in this instance. Mr. Pryce referred to the detail contained in the report in respect of planning granted to the previous owners which had been accepted in line with the current nation flood risks policy. Whilst the flood risk policy had attracted greater scrutiny in recent years, Mr. Pryce pointed out that there had been no change since the December 2014 application had been submitted and advised that NRW did not make any objections at that time. The NRW and Welsh Government are in the process of accepting the new mapping and the revised policy was available on NRW website which stated that this site was not included in the revised plans. The new mappings would be available in the summer.

It was further informed that a site visit was made in 2013 to ascertain the exact source of the flooding and following investigations it was concluded that the flood risk was minimal. The latest evidence confirmed the site was not at risk of flooding and the approval of this development would not undermine planning policies. Mr. Pryce had hoped that Members would recognise there was special circumstances for this application and warrant approval for the development.

A Ward Member concurred with the comments raised and advised that this area had never been known to flood. The Member appreciated the Planning Officer's advice in the report, however on this occasion the Ward Member felt that NRW had been wrong in their findings. The land as it stands at present was unattractive and it was felt that the development would bring the area in line with surrounding homes. The Ward Member felt that there were no other overriding issues which would prevent this application from being granted and welcomed that conditions be added to the application.

The Ward Member also referred to the walking trail behind the proposed development and felt it was important that this be maintained. The Ward Member thereupon asked the Committee to grant planning permission on this occasion.

Members concurred with the Ward Member that there had not been any flooding in this particular area and did not see an issue with the application. The Vice-Chair advised that the current LDP Plan identified the area for housing and the development would increase the new homes available in Blaenau Gwent.

In response to concerns raised in relation to new maps not being provided by NRW, it was suggested that the decision be deferred until the Committee had sight of the maps. The Ward Member confirmed that the maps were available on the NRW website, however could not be presented to the Committee as part of this application.

The Service Manager Development and Estates reiterated that the revised maps are available on NRW website, although there was an intention to change the maps they had not yet been adopted by the Welsh Government. Therefore, the as the plans had not yet been adopted the recommendation was based on the information available as it stands at present.

In response to a question raised in relation to other improvements to be made, the Planning Officer advised that in terms of improvements it was felt that plot 4 was a little unbalanced compared to the properties and the Officer would like to see extra greenery on plot 4 and suggested a hedgerow to the northern boundary, however such matters could be easily conditioned if Members were minded to approve the application.

Another Member welcomed the report and felt that the Planning Officer had pointed out the problem with the flood risk. The Member felt if approval had been granted previously although the same flood risk applied, the Ward Member did not see any reason to refuse this application if the developers are mindful of the issues they can ensure that the necessary needs could be accommodated.

The Service Manager Development and Estates advised that if the application was granted that the Planning Officer be delegated powers to attach the relevant conditions to deal with any issues which may arise. If the applicant did not agree with the conditions, it would come back to the Planning Committee for consideration.

It was unanimously

RESOLVED that the planning application be **APPROVED** with authority granted to officer to agree appropriate planning conditions.

C/2020/0168

Rhes Yr Ysgol 1 - 7 Cwmcelyn Road Blaina NP13 3LT
Retention of one detached and six semi-detached 2
storey houses (not constructed in accordance with
planning approval C/2014/0257)

The Team Manager – Development Management advised that the planning application sought permission to retain seven houses erected on the former Cwmcelyn School site located off Cwm Celyn Road, Blaina. The Team Manager advised that planning permission was granted for the development on appeal in April 2015 subject to 12 conditions, however following investigations of an anonymous complaint received in November 2018 it was realised that there were additional discrepancies between the development which had approved and that implemented on site. However, by this point in time almost all the houses had been completed and sold.

The Team Manager detailed the key points of the application with the assistance of photographs and diagrams as outlined in the report. Reference was made to the consultation undertaken and it was hoped that all these matters had been addressed. The Team Manager provided an overview of the detailed planning assessment undertaken and conditions which had been imposed on the application.

In conclusion, the Team Manager Development appreciated that this was a complicated matter. Following receipt of a complaint regarding the development it was established that several elements of the development had not been implemented as approved. The extent of the discrepancies was agreed with the developer that the only practical means of addressing the issue was to submit a planning application for the retention of the houses as built. The application had been considered carefully and relevant consultees had been given the opportunity to consider whether the application to retain the houses could be supported from their various specialist perspectives. It was reported that of all the identified issues it was concluded that the development as implemented does not raise any significant visual, landscape, drainage, geotechnical nor infrastructure concerns. However, there remained two substantive highway related issues, the gradients of the driveways and the inadequate visibility splays at the vehicular access/egress points. The highways engineer was of the opinion that 'as built' driveway gradients far exceed current standards and that there would be a high risk of vehicles sliding off the drives in icy/inclement weather. He also advises that the lack of adequate visibility splays at the point of access onto the public highway was a significant concern and would constitute a danger to highway users, particularly pedestrians that might be walking along the footpath. Therefore, it was recommended that the development as implemented was unacceptable for highway safety reasons and the Team Manager fully acknowledged that the Planning Authority was faced with making a very difficult decision which could have severe and long lasting consequences on the applicant company and the owners of the individual properties.

The Team Manager referred to the recommendation for refusal and felt that Members must carefully consider whether they are prepared to:-

- a) adopt a high risk approach by approving a form of development which clearly does not meet adopted standards and is viewed by the highways authority as being unacceptable on highway safety grounds (which in itself could be used by third parties in the future to argue over the justification and acceptance of further unacceptable development in the Borough); or
- b) accept the advice of its highway officers and refuse the application on the basis that the potential consequences of approving a form of development that poses a potential danger to users of the adopted highway cannot be supported - irrespective of the consequences such a decision may have on the developer and current owners.

The Chair invited Mr. A. Pugh, resident to address the Committee. Mr. Pugh informed that he was speaking on behalf of the residents and Mr. P. Barnes would speak on behalf of developers. Mr. Pugh explained that he and his neighbours are shocked that this had been allowed to happen as the houses as been lived in since September 2018. The residents were unaware of the issues and thought the homes purchased were all above board and legal. Mr. Pugh stressed that if the application was refused the costs to residents would be significant.

In response, to issues raised in relation to highways, it was reported that there had not been any accidents in the area for the last 3 years or any incidents of cars being scratched. It was asked if some kind of traffic calming measure could be placed in the area to alleviate the highway concerns.

Mr. Pugh made a passion plea on behalf of residents to the Committee to give serious consideration to application.

The Ward Member addressed the Committee and advised that this development had been contentious from the original date of application. There had been issues raised in relation to parking at the time and the Committee agreed with these concerns and refused the application. However, it was approved by the Planning Inspectorate on appeal. Although there are parking issues in the area, the Ward Member disagreed with the Highways Officer as the visibility splay from the wall depended on the type of car.

The Ward Member was confused as to how residents were able to secure mortgages on the properties as the Council should make such matters available upon searches.

At the time of development building control had visited the site and meetings had been held on site with Ward Members. However, even after the complaint was received a mortgage was obtained on the last house to be sold and the Ward Member stressed that solicitors had also not picked up these issues for their respective clients. If the Committee turned this application down the residents would suffer and the Ward Member stated her constituents were the innocent parties. The Ward Member reiterated the costs of the homes to residents and the financial impact such a loss would have on families.

The Ward Member appreciated that the decision placed before Committee was hard, however she reiterated that this was no fault of the residents who currently reside in the properties and the financial loss would be significant.

At this juncture, the Chair invited Mr. P. Barnes to speak to the Committee.

Mr. Barnes thanked Members for the opportunity to address the Committee and wanted to point out that the Team Manager Development stated that the development commenced in 2018 and there were no issues until completion. However, Mr. Barnes advised that this was not the case and reported that an officer from the Local Authority visited the site early-mid 2017 and spent 20 minutes on site walking around. The site visit had been in response to a report that the buildings were too high, following the visit the levels of the two dwellings already built were accepted and the developers was informed that if there were any issues the enforcement officer would be in touch.

Mr. Barnes accepted the comments raised by the Ward Member in respect of the people to suffer on this occasion would be the homeowners as their properties hold no value due to no planning permission. Mr. Barnes noted the report and felt it dealt solely with the controls of the planning permission and did not address the decision to be made by the Committee. If the application was refused the home owners would be left with worthless properties. In response to these issues, Mr. Barnes had worked with the developer to try to find a solution to the highway concerns and most important visibility splays. It was proposed that the contractor would be willing to lower the walls of Nos 2-7 to 1015 mm which would ensure visibility from the slopping drives. Mr. Barnes felt that this would relieve some issues, if the home owners were in agreement for the contractor to carry out the works.

In response to statements made, the Service Manager Development and Estates clarified that this was a Planning Committee and planning merits should be considered. The building regulations are dealt with under the building act and therefore both roles are separate. In terms of paperwork, the Service Manager advised that the Council did not sign off paperwork for mortgages. The Service Manager suspected that when the homes were purchased a solicitor undertook a search and although it was seen that there was a planning permission on the site and there was a house on site, it was then naturally assumed they both go together, but on this occasion, this was not the case.

In terms putting a charge on the property to highlight a breach. The Service Manager advised that this would not happen until an enforcement notice was served or the Local Authority placed a marker on the files in the registration system. It was added that before that happened the planning application to retain the houses was submitted and that was the reason no marker had been flagged up the Council. Therefore, the Service Manager was of the view that this was not the fault of the Council as by the time the Council became involved the homes were largely occupied.

The Team Manager Development referred to the compromise put forward by the Agent and advised that the Agent and Developers had been asked numerous times if they wished to put forward any mitigation action. The Team Manager was disappointed that the action had been raised at Committee following a great deal of work undertaken by officers and after numerous discussions with the Agent.

The Team Manager expressed concern as the Agent had only proposed to undertake work to Nos 2-7 and not No. 1, however this property had the same issues.

The Team Manager – Built Environment advised that it would be difficult to make a decision without plans and concurred with the concerns raised by the Team Manager in relation to No. 1 Cwmcelyn Road.

The Vice-Chair stated that no Local Authority or Elected Member wished to put such stress and financial burden on residents. The Vice-Chair asked if the application could be deferred until the works was undertaken and then make a decision on the application. The Service Manager Development and Estates confirmed that this course of mitigating action could be taken forward, however there would be no guarantee that the works would be acceptable.

Mr. Barnes agreed to prepare suitable drawings, however the consent of the home owners would be needed before works could be commenced. Therefore, Mr. Barnes reiterated that he would be happy to make appropriate adjustments, but the householders would need to be in agreement.

The Vice-Chair felt it would be in the best interest of the residents to allow the developer to undertake the works as at present their homes hold no value.

The Ward Member felt that there was a need for the retaining wall to be reduced to ensure there was adequate visibility splay. The Team Manager – Built Environment noted the concerns of the Ward Member, however it was confirmed that following an inspection the visibility splay was compliant.

Thereupon, the Vice-Chair proposed that the application be deferred to allow dialogue with the contractor and relevant officers in respect of the works to be undertaken at the site to alleviate the highways concerns

This proposal was seconded and upon a vote being taken it was unanimously

RESOLVED that the planning application be **DEFERRED.**

Councillor L. Winnett did not take part in the voting.

No. 5

PLANNING APPEAL UPDATE:
LAND REAR OF PARK HILL, TREDEGAR
REF: C/2017/0193

Consideration was given to the report of the Service Manager – Development & Estates.

RESOLVED that the report be accepted and the information contained therein be noted.

No. 6	<p><u>APPEALS, CONSULTATIONS AND DNS UPDATE: JULY 2021</u></p> <p>Consideration was given to the report of the Service Manager – Development & Estates.</p> <p>The Service Manager Development and Estates spoke to the report and advised that a request had been made to local Members to put forward the case in relation to Charles Street, Tredegar, however no response had been received. Therefore, it was confirmed that the Local Authority would not contest the appeal and a copy of the relevant report and minutes had been forwarded for information.</p> <p>RESOLVED that the report be accepted and the information contained therein be noted.</p>	
No. 7	<p><u>LIST OF APPLICATIONS DECIDED UNDER DELEGATED POWERS BETWEEN 25TH MAY, 2021 – 9TH JULY, 2021</u></p> <p>Consideration was given to the report of the Senior Business Support Officer.</p> <p>A Member raised concerns in relation to the ongoing planning permission at Marine Street, Cwm. A Ward Member asked if officers could refuse further planning permission or ensure the owner takes forward the appropriate works on the site. The site was in a very poor state of repair and it was a local eyesore.</p> <p>It was confirmed that the application had already been approved for the period of 5 years and the Team Manager Development advised that a site visit had been undertaken and the state of the land did not warrant a 215 Notice being serviced, however the Team Manager suggested discussions with the owner to request that the land was developed although no timescale could be placed on this request.</p> <p>RESOLVED that the report be accepted and the information contained therein be noted.</p>	

No. 10 **ENFORCEMENT CLOSED CASES BETWEEN
25TH MAY, 2021 TO 8TH JULY, 2021**

Having regard to the views expressed by the Proper Officer regarding the public interest test, that on balance the public interest in maintaining the exemption outweighed the public interest in disclosing the information and that the report should be exempt.

RESOLVED that the public be excluded whilst this item of business is transacted as it is likely there would be a disclosure of exempt information as defined in Paragraph 12, Schedule 12A of the Local Government Act 1972 (as amended).

Consideration was given to the report of the Service Manager Development & Estates.

RESOLVED that the report which contained information relating to a particular individual be accepted and the information contained therein be noted.