

COUNTY BOROUGH OF BLAENAU GWENT

REPORT TO: **THE CHAIR AND MEMBERS OF THE COUNCIL**

SUBJECT: **PLANNING, REGULATORY & GENERAL
LICENSING COMMITTEE – 5TH SEPTEMBER, 2019**

REPORT OF: **DEMOCRATIC SUPPORT OFFICER**

PRESENT: COUNCILLOR B. SUMMERS (CHAIR)

Councillors G. L. Davies
D. Hancock
W. Hodgins
M. Moore
J. P. Morgan
K. Pritchard
K. Rowson
B. Thomas
B. Willis
L. Winnett

WITH: Service Manager, Development & Estates
Team Leader, Highways & Development
Team Leader, Development Management
Planning Compliance Officer x 2
Planning Officer
Solicitor

DECISIONS UNDER DELEGATED POWERS

<u>ITEM</u>	<u>SUBJECT</u>	<u>ACTION</u>
No. 1	<u>SIMULTANEOUS TRANSLATION</u> It was noted that no requests had been received for the simultaneous translation service.	
No. 2	<u>INTRODUCTIONS & APOLOGIES</u> Introductions were made, and the following apologies for absence were reported:-	

	Councillors D. Bevan, G. Thomas, K. Pritchard and T. Smith and D. Wilkshire	
No. 3	<p><u>DECLARATIONS OF INTEREST AND DISPENSATIONS</u></p> <p>Councillor L. Winnett declared an interest in the following item:</p> <p>Item No. 10 Planning Applications Report – Application No. C/2019/0090 Star Fields, Mountain Road, Ebbw Vale</p>	
No. 4	<p><u>VERBAL UPDATE: CAERPHILLY CBC – VISIT TO AUGUST PLANNING COMMITTEE</u></p> <p>The Service Manager, Development & Estates referred to previous discussions at Planning Committee in relation to making visits to other LPA's to observe their approach to Planning Committees in terms of agenda content, debate and interaction between the public and Officers. He confirmed that a visit had been made to Caerphilly CBC to observe their Planning Committee, and the timing of the visit coincided with a quite a contentious application for the development of 300 houses in a green belt area. He said the visit was productive and lessons were learned, and a briefing report would be brought to Committee in due course suggesting alternative ways of working.</p> <p>A Member asked whether a visit would be made to Merthyr Tydfil CBC as previously discussed. The Officer said he had contacted Merthyr CBC but they were unable to host a visit at that time due to the structure of their Committee cycle, however, further visits would be considered.</p>	
No. 5	<p><u>ENFORCEMENT POLICY</u></p> <p>Consideration was given to report of the Planning Compliance Officer.</p> <p>The Service Manager Development & Estates presented the report which provided an update on the enforcement service review. The Enforcement Policy was attached to</p>	

	<p>the report and the Officer outlined the key points contained therein. He said if the Policy was approved, the Policy would be operational from the 1st October, 2019.</p> <p>RESOLVED that the report be accepted and the Planning, Regulatory & General Licensing Committee approve the Enforcement Policy.</p>	
No. 6	<p><u>APPEALS, CONSULTATIONS AND DNS UPDATE – SEPTEMBER 2019</u></p> <p>Consideration was given to the report of the Service Manager Development & Estates.</p> <p>RESOLVED that the report be accepted and the information contained therein be noted.</p>	
No. 7	<p><u>PLANNING APPEAL UPDATE: GARDEN LAND OF 9 IVY CLOSE, RASSAU, EBBW VALE</u></p> <p>The report of the Planning Officer was submitted for consideration.</p> <p>The Service Manager Development Services presented the report which advised Members of the decision of the Planning Inspectorate in respect of a planning appeal against the refusal of planning permission for a residential property in the garden of 9 Ivy Close, Rassau, Ebbw Vale (App. No. C/2018/0262).</p> <p>The Officer explained that the original application was refused on the grounds of highway safety, and the potential effect on the character and appearance of the surrounding area and the residential amenity of occupiers of adjoining properties.</p> <p>He said the conclusion of the Inspectorate was that the proposed development would be harmful to highway safety, and also the character and appearance of the surrounding area and therefore dismissed the appeal.</p> <p>RESOLVED that the report be accepted and the information relating to the appeal decision for planning application C/2018/0262 be noted i.e. the Planning</p>	

	<p>Inspectorate had determined that the appeal be dismissed.</p>	
No. 8	<p><u>DEVELOPMENT OF NATIONAL SIGNIFICANCE</u> <u>DECISION: 30MW SOLAR PARK AT WAUNTYSSWG FARM, ABERTYSSWG, RHYMNEY, TREDEGAR</u></p> <p>Consideration was given to report of the Team Leader Planning.</p> <p>The Service Manager Development Services presented the report which advised Members of the decision of the Welsh Minister in respect of the proposed 30MW solar park, access and ancillary development at Wauntysswg Farm. The Planning Inspector, appointed by the Welsh Minister, submitted a report to the Welsh Government on 12th April, 2019. The Welsh Minister subsequently considered the findings of the Inspector's report and issued a decision on 31st July, 2019.</p> <p>The Officer explained that the LPA was not responsible for determination of the proposal due to its classification as a Development of National Significance (DNS). However, the LPA was a key consultee and submitted a Local Impact Report, and a representation letter of objection. The Council's view was that planning permission should be refused on the basis that the proposal would have a significant detrimental impact on the setting of the Cholera Cemetery Scheduled Ancient Monument and an unacceptable visual impact on the character, quality and amenity of the landscape. Objections to the development were also submitted by CADW and Tredegar Town Council.</p> <p>The Officer reported that the Planning Inspector concurred that the proposal would have a significant adverse effect on the local landscape, and that it would considerably harm the character and distinctiveness of the rural location, and have an adverse effect on the setting of the SAM. The Inspector also concluded that the renewable energy benefits of the proposal would not outweigh the harm to the landscape and therefore recommended refusal of the application. This view was consistent with the concerns raised by the Council.</p>	

	<p>The Inspector's report was then considered by the Welsh Minister, and whilst the Minister agreed with the majority of the Inspector's assessment, the Minister disagreed with the Inspector's assessment of landscape and visual impact, and the setting of the SAM. The Minister gave significant weight to paragraph 5.9.17 of the Planning Policy Wales and concluded that the impact of the proposal was temporary and fully reversible, and the significant renewable energy benefits of the proposal outweighed any harmful landscape or visual impacts, or any harm to the setting of the SAM. On this basis the Minister granted planning permission for the proposed solar park, subject to conditions, and discharge of those conditions would come back to the LPA.</p> <p>Members expressed concern that the Planning Inspectorate's recommendation was overruled by the Minister, and a Member suggested that a letter be sent on behalf of the Planning Committee, expressing its dissatisfaction with the decision.</p> <p>RESOLVED accordingly.</p> <ul style="list-style-type: none"> • FURTHER RESOLVED that the report be accepted and Members note for information the Welsh Minister's decision letter and Planning Inspector's report attached at Appendix 1, i.e. that planning permission be granted, subject to the conditions set out in the Annex to the decision letter, for DNS application reference DNS/3213639; and • A draft letter to the Minister be submitted to the next cycle for Members consideration. The letter should reflect the concerns and disappointment at the decision. 	
No. 9	<p><u>LIST OF APPLICATIONS DECIDED UNDER DELEGATED POWERS BETWEEN 20TH JUNE, 2019 AND 21ST AUGUST, 2019</u></p> <p>The Committee considered the report of the Senior Business Support Officer.</p> <p>The Service Manager Development Services clarified points raised by a Member, and it was</p>	

	RESOLVED that the report be accepted and the list of applications decided under delegated powers between 20 th June, 2019 and 21 st August, 2019 be noted.	
No. 10	<p><u>PLANNING REPORT</u></p> <p>Consideration was given to the report of the Team Manager Development Management.</p> <p>The Service Manager Development & Estates explained the following planning applications to Members with the aid of slides. He also referred Members to the late correspondence sheet that had been circulated that contained details of correspondence received after the reports had been written:-</p> <p><u>Application No. C/2018/0300 – 10 Laurel Grove and carriageway along Laurel Grove, Bedwellty Gardens, Tredegar – Retention of house as built and extension of curtilage</u></p> <p>The Service Manager Development Services said this application was reported to the Committee in June, and originally proposed the reduction in width of the carriageway serving the frontage of properties at Laurel Grove to accommodate the proposed extension of curtilage and driveway of No. 10. A number of objections were received due to the perceived impact that the narrowing of the road would have on access and parking for residents, and Members decided that the application should be deferred for further negotiations to be undertaken with the developers.</p> <p>The Officer confirmed that following discussions a revised site plan had now been received removing the proposed narrowing of the carriageway and widening along the entire street frontage. This application now proposed that the curtilage of No. 10 would only be extended into the footway, which would be reduced in width at this point only to 1.2m. No other changes to the carriageway/footway are proposed. No objections had been received in relation to the revised application.</p> <p>A brief discussion ensued when the Team Leader</p>	

Highways & Development clarified points raised.

RESOLVED that planning permission be **GRANTED**, subject to the conditions outlined in the report.

Application No. C/2019/0149 – 12 Eureka Place, Ebbw Vale – Change of use from single dwelling to a house in multiple occupation (HMO) with 4 bedrooms. Works to the rear garden to provide two off-street parking spaces (resubmission)

The Service Manager Development & Estates said this application had been reported to Committee previously in September 2018 where Members resolved to refuse planning permission, contrary to the Officer recommendation, on the basis that the development provided insufficient parking to meet the needs of the development, and would therefore exacerbate existing on street parking problems.

The current application sought to overcome the previous reason for refusal by seeking permission to regularise the use of the property as a HMO, and reducing the scheme to 4 bedrooms with the provision of two off-street parking spaces to the rear.

He said advice from the Highway Authority was that the proposal would require 3 parking spaces, however, having considered the criteria contained in Annexe 5 of the SPG, it confirmed that a reduction of one parking space would be permitted, and therefore deemed the two spaces proposed as sufficient in this instance.

The Officer confirmed that late correspondence had been received from two Ward Members objecting to the proposal on the grounds that Eureka Place was a very busy road, and concerned that the creation of two parking spaces at the rear would make the turn into the spaces very tight.

A Member said the Planning Committee had requested advice and guidance on HMO's, and expressed concerned that colleagues in Environmental Health had approved a Licence for property without the HMO being granted planning permission.

In response the Officer explained that the remit of the Planning Committee was defined to issues covered by the Town and Country Planning Act 1990, whereas Environmental Health were governed by different legislation. In this case, and in planning terms, the proposal was acceptable.

A brief discussion ensued when the Service Manager Development confirmed that a training session on HMO's would be arranged.

Upon a vote being taken it was

RESOLVED that planning permission be **GRANTED**, subject to the conditions outlined in the report.

Application No. C/2018/0285 – Gardner's Cottage, Woodland Terrace, Nantyglo – Rebuild of existing dwelling, raising of main roof, two storey rear extension and front porch

The Service Manager Development & Estates reported that the original application was presented to Committee in April 2019 with a recommendation for refusal. The Committee decided to defer the application pending a fact finding visit and this was undertaken on 1st May, 2019.

At the site visit the Agent requested the opportunity to undertake a bat roost assessment, and a revised Bat Scoping Survey was subsequently received which was accepted by the Authority's Ecologist. As such, the bat related reason for refusal has been removed from the original recommendation.

The Officer reported that the recommendation was still for refusal on the grounds of abandonment of the original residential use, and inadequacy of the access route.

A Member felt that planning permission should be granted as it was originally a residential dwelling.

The Officer said the previous residential use was abandoned and there was no evidence of anyone having

lived in the house since the early 1980's.

Another Member agreed with the abandonment issue but felt that the application should be granted in order to bring the property back into use. In terms of the access route, he assumed that the applicant would bring the lane up to standard in order to access the dwelling.

The Officer said there was no guarantee that would happen as the applicant did not own the lane.

The Planning Officer referred to the recommendation of the report which sets out appropriate conditions that should be attached to a planning permission if Members were to grant planning permission, contrary to the Officer recommendation.

RESOLVED that planning permission be **GRANTED**.

Application No. C/2019/0090 – Star Fields, Mountain Road, Ebbw Vale – Retention of stable (building 4) outbuilding and containers for storage purposes and change of use of stable (building 1) to dog breeding kennels

Following advice sought from the legal advisor Councillor L. Winnett declared an interest in the application on the grounds of pre-determination; however, she was permitted to make a statement prior to leaving the meeting.

The Service Manager Development & Estates explained the application to Members which was for the retention of a stable (building 4) outbuilding and containers for storage purposes and change of use of the stable (building 1) to dog breeding kennels.

He reported that a petition objecting to the application had very recently been received.

The Officer then went through the details of the application as outlined in the report. He referred to last sentence of section 1.6 of the report and pointed out that the date should be amended to read 18th June, 2015.

He referred to the nature of the application and urged Members to limit their considerations to the remit of material planning matters only.

Councillor L. Winnett said she welcomed the petition that had been received, and also the legal advice which had provided her the opportunity to make a statement.

The Member then referred to the application and said she disagreed with a number of the issues raised, particularly where it stated that Powys CC's Licensing Conditions stated that the total number of dogs for every full-time attendance was 30. The Member said this figure was wrong and that the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 stated that the number of adult dogs per full-time attendance was 20. This variation would greatly impact on the Planning Officer's recommendation.

The Member also pointed out that in 2019 Blaenau Gwent was the first Local Authority in Wales to adopt the proposals of Lucy's Law as Council Policy. In her opinion granting this application would contradict adoption of that policy, for example Lucy's Law stipulated that all puppies must be sold from their place of birth, however, if the application was approved today, one of the planning conditions was that 'no dogs shall be bought or sold on site'. She also referred to the statement in the report that 'bitches have 1 season per year'. She said this was also misleading, and at times there could be as many as 100 dogs at the site.

The Member said the application site had been brought to her attention in 2015 in relation to animal welfare issues, and Nick Smith MP had also raised issues in May 2019. Numerous complaints had also been made to Powys County Council.

In relation to the actual site, the Member expressed concern that there was no designated outside exercise area for the dogs, and the building intended to house the dogs had no windows and no ventilation. She said if the application was approved then the dogs would lack quality of life. There were also drainage issues at the site.

In conclusion the Member reiterated that the Council had become an advocate for animal welfare by signing up to Lucy's Law and granting this application would be a direct contradiction of that policy, and that the application should be refused.

She said the site was no fit for purpose, and at any one time there could be up to 100 dogs at the site, which in her opinion was not fit for purpose and that the planning application should be refused.

Councillor L. Winnett left the meeting at this juncture.

Another Member said that the application stated "retention of buildings". He commented that Planning Committee had just passed a new enforcement policy, yet now have buildings in excess of 60ft long. He questioned what planning permission was in place to allow for the applicant come to apply for a change of use. In a previous application we pursued a lady to take away a stable. The Member suggested that the Council deal with planning permissions of individual buildings first and then look at the change of use.

Another Member expressed concern that the application was for the retention of buildings, and asked why the applicant had not submitted a planning application previously. He felt that due to the scale of the site, the Planning Committee should consider planning applications for the individual buildings in the first instance, prior to consideration of the 'change of use' aspect of the application.

In response to the issue of 'retention' of the buildings, the Service Manager Development Services explained that Officers were not aware of the buildings and their use previously. In terms of dealing with different aspects of the application, he confirmed that the Planning Committee had a legal obligation to consider the application as submitted, and it was his view that the information provided was sufficient to make an informed decision. The application was submitted for the retention of the buildings and the proposed use.

A Member said this was a very complex application, and noted from the late correspondence received that a lot of objections had been received since the preparation of the report. She felt that consideration of the application should be deferred in order for the Planning Officer to consider the details of the correspondence, and update the planning report accordingly.

The Officer said he would be happy to defer the application to clarify the advice received from Powys CC in relation to the number of dogs per full-time attendant, and also the over-lap of planning issues. It would also provide opportunity to look at the late correspondence that was not currently referred to in the report.

A Member then referred to section 3.4 of the report where an Officer stated that 'following a site visit, it was clear there was significant engineering activity taking place on the site'. He expressed concern that the applicant was undertaking activities at the site with little regard for planning issues, and said a site visit should be undertaken to determine exactly what activities were being undertaken at the site, and proposed that the application be deferred pending a site visit, and this was seconded.

A discussion ensued when the Officer confirmed that arrangements had been made for a Members' Briefing on Animal Welfare on the 3rd October, 2019. However, he suggested that the Animal Welfare Officer be invited to the site meeting to clarify any issues arising.

In response to a question raised, the Officer confirmed that the operations at the site would remain unauthorised, but the applicant was able to continue running the business while planning permission was being considered.

Another Member proposed an amendment to the proposal for deferment, and proposed that the application be refused, and this was seconded. The reason given was based on animal welfare issues.

Upon a vote being taken, it was unanimously

	RESOLVED that the application be <u>REFUSED</u> , and that the reasons for refusal be subject to a further report.	
No. 11	<p><u>ANY AREAS FOR MEMBER TRAINING/BRIEFINGS</u></p> <p>It was reported that a training session on HMO's would be convened as soon as Officers were able.</p>	
No. 12	<p><u>ENFORCEMENT CLOSED CASES BETWEEN 22nd JUNE, 2019 AND 19TH AUGUST, 2019</u></p> <p>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.</p> <p>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 14, Schedule 12A of the Local Government Act 1972 (as amended).</p> <p>Consideration was given to report of the Service Manager Development.</p> <p>A brief discussion ensued, and it was</p> <p>RESOLVED that the report which related to the financial or business affairs of any particular person (including the Authority) be accepted and the recommendations contained therein be accepted.</p>	