

COUNTY BOROUGH OF BLAENAU GWENT

REPORT TO: THE CHAIR AND MEMBERS OF THE COUNCIL

**SUBJECT: PLANNING, REGULATORY & GENERAL
LICENSING COMMITTEE – 12TH MARCH, 2020**

REPORT OF: DEMOCRATIC OFFICER

PRESENT: COUNCILLOR B. SUMMERS (CHAIR)

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

WITH: Service Manager Development & Estates
Team Manager Development Management
Team Manager Built Infrastructure
Team Leader Development Management
Specialist Environmental Health Officer
Planning Officer
Press & Publicity Officer

AND: Mr. Martin Woodland - Advisor

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>There were no apologies for absence received.</p>	
No. 3	<p><u>DECLARATIONS OF INTEREST AND DISPENSATIONS</u></p> <p>There were no declarations of interest or dispensations reported.</p>	
No. 4	<p><u>QUARTERLY PERFORMANCE INFORMATION QUARTER 3 – OCTOBER – DECEMBER 2019</u></p> <p>Consideration was given to the report of the Service Manager Development & Estates.</p> <p>The Service Manager outlined the Council's current performance as follows:</p> <p>Figure 1 – the Council was ranked 1st in terms of its performance for determining applications in time i.e. within 8 weeks or within the period agreed by the applicant. This equated to 100% of applications, compared to the Welsh average of 86%.</p> <p>Figure 2 – the Council was ranked 5th for this measure in order of performance as on average it took 60 days from registration to decision for the Council to determine an application, whilst the Welsh average was 87 days.</p> <p>Figure 3 – 38% of Planning Committee decisions had been made contrary to the officer recommendation. The Welsh average was 10%.</p>	

	<p>A Member referred to Figure 3 and pointed out that only 3 decisions had been made contrary to officer recommendation which was quite a minute number.</p> <p>The Service Manager advised that the Council was consistently in the bottom two in terms of this performance measure. It was noted that a review of the scheme of delegation for enforcement matters had been undertaken the previous year and it was the intention to undertake a similar review in respect of the scheme of delegation for planning applications in the next few months.</p> <p>Upon a vote being taken it was unanimously,</p> <p>RESOLVED, subject to the foregoing, that the report be accepted and the Quarter 3 Performance Information contained therein be noted.</p>	
<p>No. 5</p>	<p><u>APPEALS, CONSULTATIONS AND DNS UPDATE MARCH 2020</u></p> <p>Members considered the report of the Service Manager Development & Estates, whereupon:</p> <p>Councillor D. Wilkshire joined the meeting at this juncture.</p> <p><u>C/2019/0090: APP/X6910/A/19/3243676 – Star Fields, Off Mountain Road, Ebbw Vale</u></p> <p>A Member expressed her appreciation to the Service Manager and officers for the excellent response submitted to the Planning Inspectorate in respect of this particular appeal.</p> <p>RESOLVED that the report be accepted and the information contained therein be noted.</p>	
<p>No. 6</p>	<p><u>LIST OF APPLICATIONS DECIDED UNDER DELEGATED POWERS BETWEEN 21ST JANUARY 2020 TO 21ST FEBRUARY 2020</u></p> <p>Consideration was given to the report of the Senior Business Support Officer, whereupon:</p>	

C/2020/0002 – Tesco Stores Ltd., Castle Street – Retention of Fast Charger

A Member enquired whether there were any guidance notes or a policy available covering the installation of electric charging points in order to provide clarity on whether planning permission was required or not as this could prevent an influx of retrospective applications being received. It was noted that there was not a 'universal' type of charger.

The Service Manager Development & Estates confirmed that whilst there was not a specific planning policy that related to electric charging points, regionally work was being undertaken in relation to the feasibility of rolling out of charging points across some developments.

In reply to a question, the Service Manager confirmed that only some types of charger required planning permission and building regulations may be amended to require mandatory consent for some new developments. Potentially there could be a change to the building regulations later in the year but draft guidance on this matter was awaited from Welsh Government.

Upon a vote being taken it was unanimously,

RESOLVED that the report be accepted and the list of applications decided under delegated powers between 21st January to 21st February, 2020 be noted.

No. 7 PLANNING REPORT

Consideration was given to the report of the Team Manager Development Management.

The following planning applications were explained to Members with the aid of slides:

Councillor G. Thomas joined the meeting at this juncture.

Application No. C/2019/0330 – Unit 2, Tafarnaubach Industrial Estate, Tafarnaubach – The Change of Use of Existing Buildings from Education and Training Centre to B2 Industrial Use for the Recycling and Recovery of WEEE (Waste Electronic and Electrical Equipment) and Associated Materials and Products

The Team Leader Development Management explained that this was a follow up report in relation to the original planning application which had been presented and discussed in detail at the February 2020 meeting of the Committee.

Members had raised concern regarding the potential impact of the proposal on nearby residents. It had, therefore, been resolved that a decision on the application be deferred pending a fact finding site visit. The follow up report had addressed the concerns that had been raised at that meeting.

It was noted that a Swept Path Analysis had been undertaken which demonstrated that heavy goods vehicles (HGV's) would be able to turn safely within the curtilage of the site. The Highway Authority had confirmed that the traffic movements associated with the proposed use was comparable to those for the previous use of the building and had raised no objection in respect of this matter.

The views of the Committee were, thereupon, sought and Members commented/raised questions as follows:

- **Litter** - A Member pointed out that with residential properties being located so close to the site, it was the issue of litter that the residents were more concerned about rather than the small amount of flammable liquids being stored at the site.
- **Screening** – Would sound proof screening be provided?

The Team Leader Development Management confirmed that a condition had been proposed within the original report which required the submission of details of fencing for both visual and noise mitigation

purposes.

The Specialist Environmental Health Officer advised that details of the submitted fencing would need to be considered by Environmental Health to ensure that the structure would provide satisfactory noise mitigation and that they would advise the Planning Officer accordingly. It was noted that the approved fencing would need to be erected before the proposal became operational.

- **Future Variation of Conditions/Change of Use** - A Member requested that if there were variations to any of these conditions or a change of use to vary the operation at the premises, that the application be automatically considered by the Committee.

The Service Manager Development & Estates said that he was unable to provide this guarantee. Any application received would be included in the weekly list which was circulated to all Members and Ward Members retained the option to 'call in' the application.

- **Weighbridge** – To address a concern raised, the Team Leader gave details of the proposed location of the weighbridge.
- **Vehicular Noise** - It was confirmed that in order to protect the amenity of nearby residents, vehicles would be restricted to entering and leaving the site during specified times between the hours of 08.00 and 18.00 Monday to Friday and 08.00 and 13.00 on Saturdays. It was noted that the company would not operate on a Sunday.

A Member said that in his opinion the applicant had been very accommodating in terms of the operational times and had also agreed to prohibit the activity on bank holidays. He concluded by stating that he supported the application.

- **Loading and Unloading of Vehicles** - It was confirmed that vehicles would be loaded and unloaded outside of the building.

- **Dust & Fumes** – Members were advised that the processes involved in the operation did not produce airborne dust at the site. All recycling processes would be carried out within the buildings.

A Member commented that the applicant was putting measures in place to protect the amenity of nearby residents.

- **Pallets** - The Team Leader Development Management advised that she was unable to provide a guarantee regarding the extent of the number of pallets that would be stock piled. However, these would be located at the rear of the building and would not be visible from the road and they would be screened from residents.

It was proposed and seconded that the officer recommendation i.e. that planning permission be granted be endorsed subject to minor changes to conditions regarding the extent of the fencing and hours that vehicles entering the site.

Upon a vote being taken it was unanimously,

RESOLVED, subject to the foregoing, that planning permission be **GRANTED**, subject to the conditions outlined in the original report of the Team Manager Development Management.

Application No. C/2019/0310 – 1 Hawthorn Glade, Tanglewood, Blaina, NP13 3JT – Retention and Extension of Raised Decking Area

It was noted that late correspondence had been received from the applicant in support of the application.

The Team Manager Development Management advised that this application had been presented to the last meeting of the Committee and sought to retain and extend a raised decked area within the rear garden of the above detached residential property. It was noted that the decision on the application had been deferred at the last Committee pending a fact finding site visit.

The Team Manager reminded the Committee that the officer recommendation was for refusal for the following reasons:

- By virtue of its scale and mass, the retention of the raised decking was considered to be an unduly dominant feature that had an adverse visual impact on the street scene and was contrary to the Local Development Plan principles and Supplementary Planning Guidance.
- The structure would cause material harm to the living conditions of the occupiers of neighbouring residential properties by having an overbearing impact and causing loss of privacy.

The Team Manager advised that the fact that neighbouring properties had not objected to the application did not abdicate Planning Committee from responsibility and it was not acceptable in the absence of an objection to approve a development that was clearly unacceptable for legitimate planning reasons and contrary to planning policies and SPG advice

At the site visit Members were able to view the full impact of the structure as erected together with the impact that any further extension would have. The development was wholly unacceptable and it undermined the adopted Supplementary Planning Guidance for Household development, note 7 'Raised decks, balconies and retaining walls' and was in direct conflict with long standing and good planning practice. Members needed to consider the reputation of the authority in this regard of planning principles.

Additional late correspondence had been received from the applicant and officers had responded to each of the points raised. It was noted that most of the points had been adequately covered in the original report which had been presented to the previous Committee. The one additional comment to be made was that whilst officers fully appreciated health issues that the applicant may be suffering, these were not a material planning consideration.

Therefore, based on careful consideration that the impact of the development; the precedent of approving a development of such magnitude and the impact upon the adjoining neighbouring property, officers had concluded that planning permission should be refused.

The views of Members of the Committee were, thereupon, sought in relation to the application.

- A Member welcomed the fact finding site visit as Members were able to view the structure from a different perspective as compared to how it looked in photographs and said that the decking would make the garden area more usable. It was noted that Tanglewood contained a variety of properties and other similar developments could be found at the site.

She continued by pointing out that as the development was unfinished it would look more obtrusive than in its finished state and if a condition was imposed that appropriate screening be provided (i.e. planting) this would conceal the structure from view.

The Member concluded by proposing that the application be approved subject to the provision of external screening.

- Another Member said that whilst he accepted that the applicant's health issues were not a material planning consideration, as part of the requirements of the Health and Wellbeing Act and Disability Act, the applicant's current and future health conditions did need to be considered.

He referred to the objection received that the development was of an overbearing nature on neighbours but pointed out that the adjacent neighbours had not complained.

The Supplementary Planning Guidance were 'guidelines' only and not policy and with this type of construction becoming increasingly popular (due to

the topography of the area) there ought to be a review of this guidance to take into consideration decked areas. He concluded by stating that providing the applicant undertook an extensive screening programme he would be content to support the application. Other Members supported these comments.

The Service Manager Development & Estates advised that Members had an obligation to bring unauthorised development to the attention of the Planning Department and those unauthorised developments should not be used to set a precedent.

- A Member pointed out that the topography of the area was known when the property had been purchased. Screening would take a number of years to develop unless mature specimens were planted. He was of the view that the development was unacceptable as it looked unsightly, particularly from the approach into the site and there were a variety of alternative ways that this could have been achieved.

The Service Manager Development & Estates asked Members to confirm if they were satisfied that the decking was structurally sound should planning permission be granted.

- A Member said that as the applicant had gone to such expense he would have ensured that the structure was safe, particularly as he had children. This was a matter for building regulations.

The height of the garden was higher than the decking and with the screening this provide the neighbouring properties with far more privacy than they had currently. The Member concluded by proposing that planning permission be granted.

The Team Manager Development Management clarified the following points:

- Personally she was not convinced that the structure could be effectively screened bearing in mind that if

the application was approved approval was being granted for a further extension of that structure.

- Numerous comments had been made about decking and the need for guidance. Welsh Government required that any decking 300mm (1ft) elevated required planning permission and took the view that anything over that threshold would have an impact on neighbours. In terms of this application the overall height was 3.5m and this needed to be borne in mind.
- The authority did have guidance in place i.e. Household Design Guide which had been approved and adopted by this Committee. This guidance related to raised decks, retaining walls and balconies. Therefore, if this application was approved it would be in direct conflict of that guidance which had been used in the decision making process in the County Borough including appeal decisions and enforcement notices had been served on the basis of that guidance.
- Usability of garden – the correct approach would have been for advice to be sought from officers who could have advise on other options.
- A lack of objection to the proposal was not a reason to undermine good planning practice.
- Expense and structural stability – the expense incurred by the applicant was not a material issue for the Committee, the application had to be considered on its planning merits. With regard to structural stability if Members were mind to approve the application the Team Manager would advocate that the decision be deferred pending the applicant providing structural stability information before a final decision was made.
- The Team Manager said that whilst she respected the right for Members to take a contrary view to the officer recommendation for refusal, she asked the Committee to think about the credibility of officer's advice given to other residents in the County

Borough and how approving this application would undermine this.

Recommendation:

A Member proposed that the application be approved subject to appropriate planting of shrubbery to screen the area and that structural information be supplied.

The Chair confirmed that if structural information was required the application should be deferred pending that information.

Following a discussion for clarification, the Service Manager advised that once planning permission had been granted it could not be revoked without following a complex legal process.

A further discussion ensued when a Member asked whether there was an opportunity for dialogue to take place between the parties to slightly amend the structure.

The Team Manager advised that there were three options available to Members:

- Approve the application to retain and extend the decking subject to a condition regarding appropriate screening.
- Defer determination of the application pending a structural stability report and determine at that stage what conditions might be appropriate.

It was noted that officers had not requested the applicant to provide the required structural information due to the unnecessary expense that this would have incurred for the applicant as the application was being recommended for refusal.

- Refuse the application.

The officer advised that refusal would allow the applicant to appeal and an independent Planning Inspector scrutinise the refusal. It was noted that in the event that planning permission was refused the

applicant could alternatively resubmit an application free of charge and at that point there would be an opportunity for dialogue to take place.

In reply to a question, it was confirmed that the other half of the decking would impact on a neighbouring property. The Team Manager referred Members to paragraph 1.6 of the report i.e. in addition to the retention of the decking to the south, this application sought to extend the unauthorised decking, returning it along the full length of the rear (western) neighbouring boundary for a length of 17m x 6.5m wide (at its widest point). In effect, the resultant decking would warp around the garden in a 'L' shape.

A Member said that the site meeting had been very informative and Members had provided with the opportunity to view the structure. He proposed that the officer recommendation for refusal be endorsed.

Another Member proposed an amendment i.e. that planning permission be approved subject to appropriate screening being provided. This amendment was seconded.

A recorded vote was, thereupon, taken in respect of the amendment i.e. that planning permission be approved subject to appropriate screening being provided.

In Favour of the Amendment – Councillors L. Winnett, G. Thomas, B. Thomas, W. Hodgins, J. P. Morgan, K. Rowson, D. Hancock

Opposed to the Amendment – Councillors B. Summers, M. Moore, D. Bevan, G. L. Davies, K. Pritchard, T. Smith, D. Wilkshire, B. Willis

RESOLVED, subject to the foregoing, that planning permission be **REFUSED** for the reasons outlined in the report of the Team Manager Development Management.

8.	<p><u>ANY AREAS FOR MEMBER TRAINING/BRIEFINGS</u></p> <p>Visit to Neighbouring Planning Authority:</p> <p>A Member referred to the previous discussions that had taken place to visit a neighbouring planning authority.</p> <p>This point was noted.</p> <p>Houses of Multiple Occupation:</p> <p>A training event in respect of HMO's i.e. House of Multiple Occupation would be held during June.</p> <p>Supplementary Planning Guidance:</p> <p>Refresher training on the above was requested.</p>	
9.	<p><u>EXEMPT ITEM</u></p> <p>To receive and consider the following report which in the opinion of the proper officer was an exempt items taking into account consideration of the public interest test and that the press and public should be excluded from the meeting (the reason for the decision for the exemption was available on a schedule maintained by the proper officer).</p>	
10.	<p><u>ENFORCEMENT CLOSED CASES BETWEEN 22ND JANUARY 2020 AND 27TH FEBRUARY 2020</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 the report of the Service Manager Development & Estates.</p>	

RESOLVED that the report which related to the financial or business affairs of any particular person (including the Authority) be accepted and the information contained therein be noted.	
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