

COUNTY BOROUGH OF BLAENAU GWENT

REPORT TO: THE CHAIR AND MEMBERS OF THE COUNCIL

**SUBJECT: PLANNING, REGULATORY &
GENERAL LICENSING COMMITTEE –
1ST OCTOBER, 2020**

REPORT OF: DEMOCRATIC & COMMITTEE SUPPORT OFFICER

PRESENT: COUNCILLOR D. HANCOCK (CHAIR)

Councillors W. Hodgins
D. Bevan
M. Day
S. Healy
J. Hill
C. Meredith
K. Rowson
T. Smith
G Thomas
B. Willis
L. Winnett

WITH: Service Manager Development & Estates
Team Manager, Development Management
Team Leader, Development Management
Team Manager Built Environment
Planning Officer
Solicitor

AND: Public Speakers

Mr. R. Sheppard (Applicant) – Application No. C/2020/0148
The Bridge, Station Approach, Pontygof, Ebbw Vale
Change of use to Nursery, Bin Storage, Escape Stair,
Landscaping and Associated Car Park

Kelly Evans (Objector), Councillors J.C. Morgan (Ward
Member) - Application No. C/2020/0121
Plot Adjoining Ty Croeso, Whitworth Terrace, Georgetown,
Tredgar - 2 No. Detached Dwellings with Detached
Garages, New Access and Associated Works

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>The following apologies for absence were received from:- Councillors B. Thomas and D. Wilkshire.</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>APPEALS, CONSULTATIONS AND DNS UPDATE OCTOBER 2020</u></p> <p>Consideration was given to the report of the Service Manager Development and Estates.</p> <p>RESOLVED that the report be accepted and the information contained therein noted.</p>	
No. 5	<p><u>ENFORCEMENT APPEAL UPDATE: 7 BRYNAWEL, BRYNMAWR</u></p> <p>Consideration was given to the report of the Planning Compliance Officer.</p> <p>RESOLVED that the report be accepted and the appeal decision for Enforcement Notice CO/2019/00052 as attached at Appendix A be noted.</p>	

<p>No. 6</p>	<p><u>ENFORCEMENT APPEAL UPDATE: LAND AT STAR FIELDS, EBBW VALE</u></p> <p>Consideration was given to the report of the Planning Compliance Officer.</p> <p>Discussions ensued in relation to the compliance period and it was advised that the Inspector had granted 6 months from the 11/09/2020. The completion date had been noted and compliance visits would be made over the 6-month period.</p> <p>RESOLVED that the report be accepted and the appeal decision for Enforcement Notice CO/2019/00105 as attached at Appendix A be noted.</p>	
<p>No. 7</p>	<p><u>PLANNING APPEAL UPDATE: FORMER LLANHILLETH RUGBY CLUB (THE WALPOLE), COMMERCIAL ROAD, LLANHILLETH</u></p> <p>Consideration was given to the report of the Planning Compliance Officer.</p> <p>The Chair and Members of the Planning Committee welcomed the appeal decision and felt that the decision would also be favoured by local residents.</p> <p>RESOLVED that the report be accepted and the appeal decisions for planning application C/2019/0312 and C/2019/0318 as attached at Appendix A be noted.</p>	
<p>No. 8</p>	<p><u>PLANNING APPEAL UPDATE: 39 BEAUFORT HILL, BEAUFORT, EBBW VALE</u></p> <p>Consideration was given to the report of the Team Leader, Development Management.</p> <p>A Ward Member noted his disappointment at the outcome of this appeal and remained of the opinion that the development posed a safety risk due to the location.</p> <p>RESOLVED that the report be accepted and the appeal decision for planning application C/2020/0036 as attached at Appendix A be noted.</p>	

<p>No. 9</p>	<p><u>LIST OF APPLICATIONS DECIDED UNDER DELEGATED POWERS BETWEEN 17TH AUGUST AND 14TH SEPTEMBER, 2020</u></p> <p>Consideration was given to the report of the Senior Business Support Officer.</p> <p>RESOLVED, that the report be accepted and the list of applications decided under delegated powers between 17th August and 17th September, 2020 be noted.</p>	
<p>No. 10</p>	<p><u>ENFORCEMENT REPORT</u></p> <p>Consideration was given to the report of the Team Leader, Development Management.</p> <p>RESOLVED that the report be accepted and noted that the file was closed.</p>	
<p>No. 11</p>	<p><u>PLANNING APPLICATIONS REPORT</u></p> <p>Consideration was given to the report of the Team Manager Development Management.</p> <p><u>Application No. C/2020/0148</u> <u>The Bridge, Station Approach, Pontygof, Ebbw Vale</u> <u>Change of use to Nursery, Bin Storage, Escape Stair, Landscaping and Associated Car Park</u></p> <p>The Service Management Development & Estates outlined the planning application and noted that planning permission had previously been refused by the Committee on 11th February, 2020. The Service Manager advised that the reason for refusal was that the site was located within a flood zone C2 as defined by TAN 15 and National planning policy advised that highly vulnerable use such as the proposed nursery should not be permitted in such an area. The current application was a resubmission which seeks to overcome that reason for refusal.</p>	

The Service Management Development & Estates added that the application details are the same as those submitted previously, apart from the addition of a Technical Note on Flood Risk for the site which had been commissioned by the Applicant. The technical note was in the form of Flood Consequence Assessment (FCA) which examined the likely cause of flooding and the risks.

The Service Manager Development Management drew Members attention to external consultation and the response from Natural Resource Wales (NRW). The NRW stated that the site lies entirely within Zone C2 as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15). The TAN 15 framework also referred to the vulnerable development category which as noted a nurse was in this group. The applicants FCA had been received and the Service Manager outlined the points of the review and noted that in accordance with the FCA no objection was raised to the proposed development. However, the application site remained in Zone C2 and the submission of the FCA would not alter this fact. The Local Authority should therefore determine this application based on the location being within Zone C2.

It was further informed that the DAM zones could be challenged and a flood map challenge would need to be submitted on completion of any proposed works. However, NRW are not currently accepting flood map challenges, pending an update to TAN15 by Welsh Government.

The Service Manager noted that the tests should only be applied to low vulnerable development in Zone C2. This development was highly vulnerable. The FCA and the tests in TAN 15 are not to be applied to highly vulnerable developments. Therefore, consideration of the proposed development in relation to the justification and acceptability tests was a misinterpretation of the policy and the requirements of TAN 15. Although this was a critical point, the Service Manager also acknowledged that the FCA concluded the threshold of flooding was largely, but not entirely, in accordance with the guideline values outlined in TAN 15.

The Service Manager concluded that this application was of a complex nature. There was the benefit of creating local jobs as well as enhancement to the current building. However, the flood issues are critical and the recommendation was based on the guidance in TAN 15 which advocated a precautionary approach where highly vulnerable development was not allowed in high risk C2 areas. Therefore, the Service Manager noted the recommendation was that planning permission was refused. It was felt that unless the DAM map was changed it remained that the development would be in the wrong place. The applicant had sought to address the policy objection via the submission of the FCA. If the development was not highly vulnerable and the site not in a C2 area, it would allow the Planning Committee some discretion in applying tests set out in TAN 15. However, it was the view of the Team Manager that it was not within the gift of this Committee to apply these tests and in this respect the submission of the FCA nothing had changed from the previous refusal.

The Service Management Development & Estates further noted the options which had been provided to the applicant following previous refusal and advised that the preference had been to submit a FCA to NRW to amend the DAM maps, however it was unfortunate that NRW was currently not taking forward such requests at this point in time.

At the invitation of the Chair, the Applicant, Mr. R. Sheppard informed Members of the Planning that of the history of the site and that the area had been flood free in 1 in 100 and 1 in 1000 years which was mechanisms used by the FCA to monitor against flood risk.

The Applicant referred to a wall within a patio area that was 1.2m in height which was also 10 times higher than the depth of the flood. Therefore, the Applicant felt that the development would remain flood free. This wall which was adjacent to the bridge had not been taken into consideration by NRW.

The Applicant informed that he had appointed Hydro Solutions to look at the site. Their investigations concluded

that the egress and access route was flood free with the stone wall. Following their investigation, a request had been made to NRW to take into consideration their findings. However, due to no challenges being considered in 2021 this was yet to be determined. The Applicant pointed out that NRW had not rejected the request made to challenge the flood risk.

The Applicant further referred to the recent storms which had been the worst storms seen in the area for many years and advised that the area had been completely flood free, although further down the river there had been significant damage from the storm. The Applicant added that the development would bring employment to the area and be a unique facility and felt that we live with much bigger risks on a daily basis.

In conclusion the Applicant felt that Storm Dennis was the biggest test in recent history which showed that the site was not at risk of flooding.

A Member recalled discussions on this application previously and advised that although there are some complex processes around the development in terms of flood risk, the Member pointed out that there had always been a school in this area. The Member also advised that she had visited the site following Storm Dennis to see if the area had been flooded and as informed there was no such flooding when parts of the Valley had been extremely damaged.

Members concurred with the comments raised and also pointed out that there was a rugby grounds nearby which had never experienced flooding. A Member advised that a Flying Start Hub had been developed on a flood plain in the Cwm Ward and therefore he could not agree with the officer's recommendation on this occasion. Another Member also noted the many storm drains in the area.

Other Members sympathised with the issues highlighted in the application and noted that there was a fine line

between agreement and refusal. However due to the vulnerability of the development they were in support of the officer's recommendation

The Service Management Development & Estates Team concurred that it was a tricky situation as flooding could be unlikely, however policies state that it was a flood risk and unfortunately at present this could not be challenged with NRW.

Following further discussions, a vote was thereupon taken

9 Members supported the proposal to grant the application with associated conditions being presented to the next meeting of the Planning Committee; and

3 Members supported the refusal of the application.

It was therefore

RESOLVED that planning permission be **GRANTED** subject to a further report to be presented to the November meeting with conditions to be attached to the planning permission.

Application No. C/2020/0121
Plot Adjoining Ty Croeso, Whitworth Terrace,
Lower Georgetown, Tredegar
2 No. Detached Dwellings with Detached Garages,
New Access and Associated Works

The Team Leader Development Management advised that the application related to a parcel of land on the west side of Whitworth Terrace, Tredegar. It was an open grassed area with a significant fall in levels from the road frontage to the grassed lane. The site was bound to the north by steps with sloping grassed land beyond. This application was being considered on the basis of revised plans as concerns were raised with the applicant following initial consultation regarding the height of the dwelling, mass of the roof, scale of the garage and the use of septic tanks for disposal.

The Team Leader added that revised plans were submitted which sought to address the initial concerns.

The Team Leader continued that planning permission was sought for the erection of two, large detached dwellings, each with its own vehicular access off Whitworth Terrace. The developments would have a winding driveway that would lead to a double garage. The dwellings would sit just below their respective driveways and garages. The Team Leader further explained the layout and design of the development as outlined in the report.

The Team Leader noted the consultation which included feedback from the first scheme and the revised planning application presented.

It was reported that there were no constraints in terms of the Blaenau Gwent LDP and the site was located in a well-established residential area. The proposal was therefore acceptable in principle and contributed to the housing needs of the Borough. The Team Leader referred to the layout, scale and appearance of the development and noted that the creation of two access points off this road had raised objections from nearby residents for a number of reasons which are detailed in the report. It was added that objections had also been received regarding the overbearing nature of the development. The Team Leader was of the opinion that there was sufficient distance between the existing and proposed properties not to have an unacceptable impact on the occupiers of the dwellings above and below the site. The view from the properties in Woodfield Road toward the proposed dwellings would be restricted due to different levels.

The Team Leader noted that if planning permission was granted, once the dwellings were completed, they would benefit from Permitted Development Rights. This means certain forms of development could be undertaken without planning permission.

The Team Leader felt that the construction of any outbuildings, enlargements to the dwelling or further raising of ground levels to create additional flat areas of amenity space in the future may be unacceptable in terms of the impact on the occupiers of properties below and felt

it was reasonable in this instance to remove Permitted Development Rights for such works

It was noted that in terms of access the highway network was adequate to serve the proposed development. The creation of two access points off this road had received objections from residents for a number of reasons as outlined in the report. However, the Team Manager Built Environment confirmed during the consultation process that he had no objections to the proposal subject to necessary conditions. In terms of safety concerns surrounding on street parking on both sides of the road it was acknowledged that this was an issue, however vehicles should not be parked in this manner causing an obstruction.

In terms of the danger with the creation of two access points due to the width of the road and close proximity to a bend, it was confirmed that the width of the road at Whitworth Terrace adjacent to the development site complied with current highway design standards. The positioning of the driveways was acceptable to the highway authority and is not considered dangerous. The nearest driveway was at least 15 metres away from the junction which was acceptable. The Local Highways Authority was satisfied that subject to conditions the highway network was capable of serving the development and satisfactory access could be provided for both pedestrians and vehicles.

In conclusion, the Team Leader was of the opinion that the proposed residential development was considered acceptable and would not have an unacceptable impact on the character and appearance of the surrounding area, the amenity of the surrounding properties or the safe, effective and efficient use of the highway network.

At the invitation of the Chair, an Objector, Miss Kelly Evans addressed the Committee.

The Objector advised that she had been a resident in this area for over 15 years and felt that this application would exacerbate the parking problems already experienced in the area. There was a nasty blind corner in the vicinity and

if you were not a resident you would not be aware of the danger.

In terms of the development, the Objector thought that the houses would have an overbearing effect on neighbouring properties, there could be issues with flooding and although she welcomed the new housing she was of the opinion that Social Housing should have been considered.

The Chair invited the Ward Member, Councillor J. Morgan to present to the Committee. The Ward Member felt that the concerns of the residents had been summed up by the Objector and concurred with her comments.

A Member advised that if this application had been considered under normal circumstances she would have requested a site visit in order to ascertain the parking in the area. However, due to COVID-19 this would not be permitted.

The Member raised concerns around the additional planning restrictions to be placed on these homes which could result in owners not being able to erect a shed in their garden. The Team Leader Development Management advised due to the topography of the site, in her opinion it was necessary to impose such a condition to ensure the Authority controlled any further developments with the site to protect the amenity of the occupiers of the properties below

The Team Manager Built Environment referred to concerns around additional parking problems and advised that the development consisted of a large garage and driveway, therefore parking would be accommodated. He sympathised with the concerns raised in terms of parking and stated that if there was illegal parking in the area these should be reported accordingly to the highway authority.

The Ward Member raised concerns around the proximity of the junction to the development. The Team Manager confirmed that the proposed driveway was positioned at least 15m away from the junction which complied with the Highway Authority Design Standards, therefore there were no issues from the Highways Authority.

	<p>Following discussions, it was unanimously</p> <p>RESOLVED that Planning Permission be GRANTED subject to the conditions contained in the report.</p>	
<p>No. 12</p>	<p><u>AREAS FOR MEMBERS BRIEFINGS/TRAINING</u></p> <p>No areas for training and Members Briefing were brought forward.</p>	
	<p><u>ENFORCEMENT CLOSED CASES BETWEEN 14TH JULY 2020 AND 16TH SEPTEMBER 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 12, 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> <p>RESOLVED that the report which contained information relating to a particular individual be accepted and the information contained therein be noted.</p>	