

**COUNTY BOROUGH OF BLAENAU GWENT**

**REPORT TO: THE CHAIR AND MEMBERS OF THE PLANNING,  
REGULATORY & GENERAL LICENSING  
COMMITTEE**

**SUBJECT: PLANNING, REGULATORY & GENERAL LICENSING  
COMMITTEE - 15TH APRIL, 2021**

**REPORT OF: DEMOCRATIC AND COMMITTEE SUPPORT  
OFFICER**

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PRESENT: COUNCILLOR D. HANCOCK (CHAIR)

Councillors W. Hodgins (Vice-Chair)  
D. Bevan  
G. L. Davies  
M. Day  
J. Hill  
C. Meredith  
K. Pritchard  
K. Rowson  
T. Smith  
B. Thomas  
B. Willis  
L. Winnett

WITH: Service Manager Development and Estates  
Solicitor x 2

**DECISIONS UNDER DELEGATED POWERS**

ITEM	SUBJECT	ACTION
No. 1	<b><u>SIMULTANEOUS TRANSLATION</u></b>  It was noted that no requests had been received for the simultaneous translation service.	

<p><b>No. 2</b></p>	<p><b><u>APOLOGIES</u></b></p> <p>The following apologies for absence were received:-</p> <p>Councillor G. Thomas Councillor D. Wilkshire</p>	
<p><b>No. 3</b></p>	<p><b><u>DECLARATIONS OF INTEREST AND DISPENSATIONS</u></b></p> <p>The following declaration of interest was raised:-</p> <p><u>Councillor J. Hill</u> Item 4 – Planning Report - C/2020/0301 Unit 19, Rassau Ind Est, Rassau, Ebbw Vale Erection of 1 Wind Turbine and Associated Infrastructure</p>	
<p><b>No. 4</b></p>	<p><b><u>PLANNING APPLICATIONS REPORT</u></b></p> <p>Consideration was given to the following:-</p> <p><b><u>C/2020/0301</u></b> <b><u>Unit 19, Rassau Ind Est, Rassau, Ebbw Vale</u></b> <b><u>Erection of 1 Wind Turbine and</u></b> <b><u>Associated Infrastructure</u></b></p> <p>The Team Leader Development Management gave an overview of the area in which the wind turbine would be erected with the assistance of visual aids.</p> <p>The Officer informed Members that an application had been granted in 2019 to erect a single wind turbine at Unit 18, however this was no longer being built as planning permission for the erection of a Synchronous Condenser plant on the same site had been made and was under construction. Therefore, the developer was now applying for planning permission for a single wind turbine at Unit 19, Rassau Industrial Estate.</p>	

The site was in the middle of Rassau Industrial Estate, to the north/north west was open countryside which formed a buffer between the built up area and the boundary of Brecon Beacons National Park. The residential area of Rassau was located beyond to the south, southeast and southwest at a distance of approximately 400m away. The lower level of the estate was separated by the recently realigned A465 and a tree belt. To the east of the Industrial Estate approximately 1 km away was Garnlydan which was a similar elevation to the proposed turbine.

The Officer noted that there was already two wind turbines 74m and 77m in height on the estate approximately 550 metres to the south-west and 650m to the north-east respectively and these were highlighted on the visual aids presented. The Planning Statement confirmed that the turbine would be subject to two or more regular maintenance visits per year. The proposed dimensions are the same as those previously approved at Unit 18. The proposal included a small building to house a transformer, associated switchgear and electrical protection equipment and be located close to the base of the turbine tower and connected to the grid connection point via underground cabling. The proposed turbine would supply power directly to the nearby Yuassa Battery (UK) Ltd manufacturing facility. The Officer added that no details had been provided in relation to the small building with this application, however the layout/design plans would need to be provided to the Planning Department prior to development.

The Officer outlined the internal and external consultation responses as detailed in the report. It was reported that the technical query raised had been addressed by the Agent and the Brecon Beacons National Park had submitted an objection in respect of the cumulative impact on the special qualities of the National Park area. It was also noted that one objection was received by a member of the public in relation to noise.

A detailed overview was provided of the Planning Assessment and the Officer noted key main points in relation to the following:-

- Welsh Government's commitment to Generating Renewable Energy
- Policy 18 - Pre-Assessed Areas for Wind Energy
- Policy 17 – Renewable and Low Carbon Energy and Associated Infrastructure Principle if development on a primary employment site
- Landscape and visual impact
- Direct local visual impact
- Noise and vibration
- Shadow flicker
- Ecology
- Traffic and transport
- Impact of users in the vicinity of the turbine and health and safety
- Hydrology and hydrogeology
- Historic environment
- Aviation
- Telecommunications
- Associated infrastructure and grid connection
- Geotechnical
- Decommissioning and site restoration

In conclusion, the Team Leader Development Management stated that in determining this planning application Members are advised to give significant weight to the contribution this proposal could make towards meeting identified National, UK and European targets for renewable energy, as well as giving weight to each material planning consideration when making the final decision. The report outlined in detail how the material planning issues associated with the development would be addressed and the impacts mitigated.

It was considered that the principle of the proposed wind turbine with associated infrastructure was acceptable in the proposed location and conformed with national and local policy. The application also contributed to the Welsh Government targets for energy provision from onshore wind. Therefore, the Officer noted recommendation that planning permission be granted subject to conditions detailed in the report.

There were no representations from Ward Members, therefore the Chair invited observations/questions from the Members of the Planning Committee.

A Member referred to shadow flicker, noise and vibration and asked if the impact had been taken of all three wind turbines on site. The Member felt that with the additional wind turbines already on the site consideration should be given to the impact the three wind turbines would have on the surrounding area. The Member asked that this overall impact be included in future applications where there was more than one wind turbine on the site.

The Team Leader Development Management advised that the relevant bodies had taken in consideration to noise, vibration and shadow flicker impacts and the Officer was satisfied that the proposed development had been assessed against current government guidance. It was accepted that there was minimal risk for residential properties in the vicinity to be affected by shadow flicker, noise and vibration. However, a condition had been proposed to ensure that mitigation measures could be enforced if there these issues arose.

The Team Leader Development Management agreed to include details in subsequent reports of what had been assessed in noise reports for future wind turbine applications.

In response to a question raised in relation to height of the wind turbines, it was reported that they are built to the height to maximise energy.

This wind turbine was built within heights of others on site being no higher than 80 metres.

Upon a vote being taken, Councillor J. Hill abstained from voting as he sat on the Brecon Beacons National Park and it was

RESOLVED that planning permission be **GRANTED** with delegated powers authorised to the Planning Officer.

**No. 5**

**MAES Y DDERWEN, CHARLES STREET, TREDEGAR**

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

The Service Manager Development and Estates referred to late correspondence related to the application and summarised the information received since the report had been written. The Service Manager noted the response to the correspondence and advised that having viewed the video it was felt that the lorry the driver's actions were in accordance with the Highways Code. The Service Manager also noted an email sent to all Members of the Committee from Shaws and that a copy of the correspondence from Asbri was appended to the report.

The Service Manager Development and Estates advised that at the February Meeting of the Planning Committee Members considered a report for the development of a new residential facility at Maes Y Dderwen. The development would provide a new 5 bedroom supported living unit and it was reported that the officer recommendation was that planning permission be granted subject to conditions. This was based on the fact that the proposal was for a residential use in a predominantly residential area, that there were no substantive matters raised by consultees that could not be addressed by planning condition and that the facility would make a valuable contribution to meeting the needs of a particular client group. However, following consideration and a lengthy debate the Planning Committee resolved that planning permission be refused.

The Service Manager further spoke to the report and outlined the key points to be considered when determining the reasons for refusal. The Members of the Planning Committee was reminded that the Council had been the subject to costs in recent times for refusing planning permission where the Planning Committee had been unable to defend the decision made. These significant costs for appeals had increased and there was no budget to meet this additional expenditure.

The Service Manager referred Members to the reasons for refusal and invited them to endorse, add/amend or withdraw the reasons for refusal accordingly.

The refusals raised at the last meeting as well as officer comments were outlined as follows:-

#### **Reason for Refusal 1**

The proposed development would give rise to major highway concern as it would generate additional demand for parking spaces for which there was insufficient capacity within the site and surrounding area. This would lead to on street parking associated with the development to the detriment of highway safety.

#### **Officer Comment**

Highway matters are a material planning consideration. However, in this case the Highway Authority have confirmed that subject to the 3 new spaces being constructed prior the occupation of the building, they have no objection to the scheme. The development complies with our parking guidelines.

There was therefore no evidence to suggest that the car generating aspects of the proposal cannot be accommodated within the site.

#### **Reason for Refusal 2**

The site was not suitable for a home for vulnerable clients with support needs as the site was adjacent to a public house.

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Officer Comment

Evidence was required to explain why this arrangement of uses was unacceptable. Members should remember that management of the facility was controlled by other regulators.

**Reason for Refusal 3**

The proposed development would result in overdevelopment of the site.

Officer Comment

The Service Manager was unclear whether reference to over development related to the footprint of buildings, ancillary development like the car park or whether it concerns a lack of available amenity space within the site. The reason for refusal should be expanded to explain the concern that Planning Committee holds.

**Reason for Refusal 4**

The proposed development was not in the best interests of the community surrounding the development.

Officer Comment

This reason was ambiguous and does not explain to the applicant why Planning Committee consider the development unacceptable. The Officer advice was to elaborate the reason to deal with why the community was disadvantaged by virtue of the scheme. These negative impacts must be relevant to planning and be incapable of being mitigated/addressed by planning conditions.

**Reason for Refusal 5**

The proposed development will result in a Class C3 building next to a public house. These uses should not be located next to each other.

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### Officer Comment

The proposed use was residential. The surrounding area was primarily residential. Domestic/residential uses commonly co-exist with licensed premises in our valley communities. There are numerous examples of this throughout the County Borough. If this was to be a reason for refusal, evidence would be required at an appeal to demonstrate why this relationship between the uses was unacceptable. As it stands, there was nothing to support the view that these uses are incompatible.

At this juncture the Chair invited comments/observations from the Planning Committee.

A Member responded to the reasons for refusal as outlined by the Service Manager, as follows:-

#### **Reason 1**

The Member respectfully disagreed with the view of the highways officer on this occasion and stand by my comments last month. Parking was a major issue in the street and caused a lot of disruption to residents, as has been outlined in their comments. Historically, when the Tredegar By-Pass was first constructed this street was closed off at the bottom in an attempt to make it more of a residential area. Within weeks the closure was rescinded because of the absolute chaos caused as a result. There are major parking concerns already in this area as shown in the original planning report.

#### **Reason 2**

The management was controlled by other regulators, but this was very much our decision which places them in a potentially dangerous position. The public house, as with all public houses sometimes has customers using the outside area for smoking or other uses, which puts the residents in close proximity to potential harmful situations such as those outlined by the residents who live in the area.

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### **Reason 3**

The proposals will reduce amenity space currently enjoyed by existing residents in the daytime and will impact on their wellbeing.

In terms of **Reason 4 and Reason 5**, the Member advised that he had addressed these concerns in **Reason 1 and Reason 2** respectively. The Member reminded the Officer that refusals had been permitted in the past with less than five reasons.

In response to the reasons for refusal, a Member felt that some of these issues, if being experienced, would have been addressed as this development was an addition to the current facility in the area.

A Member reiterated his concerns raised at the February Planning Committee and advised that his position had not changed he still wished the application to be refused.

A Ward Member referred to the comments raised in relation to current facility and associated issues and stated that the comments give the assumption that the original facility had been passed recently. However, this was not the case and the facility had been in the area for approximately 30 years and in this time many things had changed including increased traffic on our roads. The application was not for an annex to the current building it was for an additional building on the site which would be 1m from the Public House, whereas the existing building was 38m from the Public House. The Member felt that the decision made at the last meeting should still stand in the interest of the community and the debate around the application being allowed to be continued was in appropriate.

The Vice-Chair informed that he had visited the area and noticed that there were other commercial premises in the neighbourhood and therefore felt that the highways issues could not be blamed solely on Maes Y Dderwen. The Vice-Chair was of the opinion that the reason for refusal on highways was a weak argument.

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It was noted that local Members had no issues with the facility, it was the impact the additional building would have on local residents.

The Member raised concerns on the further discussions being allowed on this application where a decision had already voted upon at the last meeting for refusal. The Member stated that the report presented should be considered by Members, the report had not been submitted to give consideration to overturn the planning decision already made. The reasons had been presented and the Member felt that these were sufficient and proposed that these be taken forward. There was also concerns raised on the additional correspondence reported to Members from residents and the Member felt that these should not have been included in the report or indeed reported to the Planning Committee as the decision had been made in a right and proper way.

Concerns were also raised on the expectation that this application would go to appeal and it was felt that this was not an assumption for the Planning Committee to make.

The Member respected the officers right to bring forward the costs of an appeal, but these costs would be the responsibility of the Local Authority and would be addressed as part of the next budget setting process. The Member stated that a decision had democratically be made and therefore these costs should not be raised or the decision overturned due to anticipated costs. The Planning Committee had refused many applications against an officer's recommendations and these had not been presented in this way. An appeal had not yet been lodged and the Member advised that he would be happy to defend an appeal if and when required. The Member concurred that these discussions were inappropriate as the decision had been made and a vote had been taken.

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The Service Manager Development and Estates explained that a decision notice had not yet been issued as the reasons for refusal had not been clear. The Service Manager stated that the report was not inviting Members to revisit the resolution made at the last meeting it requested that the reasons for refusal be clarified.

Another Member reiterated his concerns and felt that an experienced officer had provided their professional opinion. The Member felt that Members are asking Officers to present refusal against their recommendation for approval and the Member added that the responsibility of this decision would fall to the Local Authority and Officers. This was unacceptable and the Member felt that Members were not acting responsibly.

A local Ward Member stated that the reasons for refusal would need to be determined in order to defend an appeal. The Ward Member added that the decision to refuse the application was taken in the interest of the community and residents of the facility. The Ward Member stressed that he was not here to take another decision and proposed that the reasons put forward should be approved. If an appeal submitted, the Member advised that the decision could be defended.

If the appeal was lost, the Member added that this would be no different to other appeals which had been made in the past. There had been many instances where Members of the Planning Committee had not agreed with the officer's recommendation and the Member felt that if the Planning Committee was to approve all applications as per officer's recommendations then the Planning Committee may as well be disbanded and allow officers to make all decisions.

Another Member concurred with the comments raised and added that if the Planning Committee take all officers recommendation what was the point of the Committee. It was important that there was a democratic view and that was what the role of the Committee and Elected Representatives.

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The Vice-Chair appreciated that a number of Members were experienced Members of the Planning Committee, however, he wished to point out that eight weeks ago a case went to appeal and the Planning Committee was accused by the Planning Inspectorate as acting irresponsibly. The Vice-Chair advised that as Members we are not experts, we take advice from officers and therefore felt that he could not defend this particular decision to refuse the application.

A Member pointed out that the report had not been presented to overturn the original decision and reminded Members that the Chair, Vice-Chair and officer had been asked at the last meeting for stronger guidance in respect of the reasons for refusal, justifiable reasons for refusal. The Planning Inspectorate may feel these are not strong reasons for refusal, as it had done in previous instances, however, the local Members felt that they could sit in front of the Planning Inspectorate and defend the reason for refusal, if requested.

In response to the reason for the report being presented, the Solicitor advised that the recommendations were clear and the officer had asked the Planning Committee to consider and approve the reasons for refusal on the application which had been refused at the last meeting.

The Service Manager Development and Estates responded to concerns raised in relation to the purpose of the report. The Service Manager advised that it was planning protocol adopted by Members which required officers to present such a report and also the Service Manager noted that the resolution agreed at the last meeting instructed the report be presented as no clear reasons were provided at the Committee. The Service Manager informed that the decision could be revisited as the decision notice had not been issued as no reasons for refusal had been agreed. It was also added that the Service Manager was of the view that the reasons outlined would not be strong enough to prevent an appeal.

In relation to highways, the Service Manager felt that there was robust evidence from the Highways Inspector who had not raised any objections to the application.

The Service Manager once more asked Members to clarify the five reasons and the Member outlined as follows:-

1. I respectfully disagree with the view of the highways officer on this occasion and stand by my comments last month. Parking is a major issue in the street and is causing a lot of disruption to residents, as has been outlined in their comments. Historically, when the Tredegar By-Pass was first constructed this street was closed off at the bottom in an attempt to make it more of a residential area. Within weeks the closure was rescinded because of the absolute chaos caused as a result. There are major parking concerns already in this area as shown in the original planning report.

The Member proposed that the aforementioned be submitted as reason 1.

2. The management is controlled by other regulators, but this is very much our decision which places them in a potentially dangerous position. The public house, as with all public houses sometimes has customers using the outside area for smoking or other uses, which puts the residents in close proximity to potential harmful situations such as those outlined by the residents who live in the area.

The Member proposed that the aforementioned be submitted as reason 2

3. The proposals will reduce amenity space currently enjoyed by existing residents in the daytime and will impact on their wellbeing.

In terms of reasons 4 and 5, the Member reiterated that these had been covered in reasons 1 and 2 respectively. The Service Manager asked for clarity on reasons 4 and 5 and the Member asked could the refusal be issued on three reasons.

At this juncture, Members of the Planning Committee asked for direction from the Chair.

The Chair advised that the decision had been voted upon and refused at the last meeting and therefore stands. The report presented was for the Planning Committee to give consideration to the reasons for the refusal. The Chair felt that Members had considered the application presented at the last meeting along with this report presented today and the majority of Members still wished the application to be refused.

The Service Manager appreciated the ongoing discussions, however the Officer was unclear if there was a reason 4 or 5 as only 3 reasons had been brought forward by Members.

A Ward Member raised concerns over the way in which this report had resulted in Members quarrelsome behaviour over this application. The Ward Member had never experienced such a debate in respect of a reasons for refusing a planning application. The Ward Member could not recall a report of this nature being presented to the Planning Committee and wished it recorded that he felt that this was totally out of order.

The Service Manager Development and Estates disagreed with the comments raised and advised that reports had been presented previously to determine reasons for refusal if they had not been provided.

A Ward Member felt that the reasons provided were sufficient and advised that following the last meeting it was suggested that the Chair, Vice-Chair, Service Manager Development and Estates along with the local Members meet to confirm the reasons.

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However, as no contact had been made, the Ward Member assumed that the matter had been addressed. There had been no point in inviting the whole Committee as only a selection of Members voted to refuse the application.

In response to the suggestion of a small selection of Members meeting to make a decision, the Solicitor confirmed that this would not be acceptable. It was noted that the Vice-Chair had suggested the meeting in order to determine the reasons for refusal which had not been provided at the last Planning Committee. The Vice-Chair recalled that he had asked if it would be possible for such a meeting.

A lengthy discussions ensued, around the reasons and the number of reasons required and Members felt that three reasons were adequate. The Ward Member advised that at the last Committee the issues had been around the community impact of increased traffic on the highways and parking in the vicinity. The facility being close to the Public House, the loss of garden space for the residents of the facility and overdevelopment of the facility. The Service Manager pointed out that this was what had been outlined in the report.

The Service Manager referred to the reasons raised by the local Member and those included in the report and asked the Planning Committee clarify the reasons for refusal.

Following further discussions, it was proposed that reasons 1-3 outlined by the local Member be taken forward as well as reason 4 and 5 outlined in the report of the Service Manager Development and Estates.

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### **Reason 1**

The view of the highways officer was disagreed on this occasion and stand by comments made at the March meeting of the Planning Committee. It was felt that parking was a major issue in Charles Street and caused a lot of disruption to residents – these concerns were raised in correspondence and reported to the Planning Committee. Historically, when the Tredegar By-Pass was first constructed Charles Street was closed off at the bottom in an attempt to make it more of a residential area and within weeks the closure was rescinded because of the absolute chaos caused as a result. There are major parking concerns already in this area as shown in the original planning report.

### **Reason 2**

The view of the highways officer was disagreed on this occasion and stand by comments made at the March meeting of the Planning Committee. It was felt that parking was a major issue in Charles Street and caused a lot of disruption to residents – these concerns were raised in correspondence and reported to the Planning Committee. Historically, when the Tredegar By-Pass was first constructed Charles Street was closed off at the bottom in an attempt to make it more of a residential area and within weeks the closure was rescinded because of the absolute chaos caused as a result. There are major parking concerns already in this area as shown in the original planning report.

### **Reason 3**

The management is controlled by other regulators, but this is very much our decision which places them in a potentially dangerous position. The public house, as with all public houses sometimes has customers using the outside area for smoking or other uses, which puts the residents in close proximity to potential harmful situations such as those outlined by the residents who live in the area.

### **Reason 4**

The proposal will reduce amenity space currently enjoyed by existing residents in the daytime and will impact on their wellbeing.

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### **Reason 5**

The proposed development is not in the best interests of the community surrounding the development.

RESOLVED accordingly.

Councillor C. Meredith wished it be recorded that he did not support the refusal for this application at the last meeting nor did he accept the reasons for refusal.

FURTHER RESOLVED that the report be accepted and Members carefully considered each reason for refusal and agreed the following reasons for formally refusing planning permission:-

- (1) The view of the highways officer was disagreed on this occasion and stand by comments made at the March meeting of the Planning Committee. It was felt that parking was a major issue in Charles Street and caused a lot of disruption to residents – these concerns were raised in correspondence and reported to the Planning Committee. Historically, when the Tredegar By-Pass was first constructed Charles Street was closed off at the bottom in an attempt to make it more of a residential area and within weeks the closure was rescinded because of the absolute chaos caused as a result. There are major parking concerns already in this area as shown in the original planning report.
- (2) The management is controlled by other regulators, but this is very much our decision which places them in a potentially dangerous position. The public house, as with all public houses sometimes has customers using the outside area for smoking or other uses, which puts the residents in close proximity to potential harmful situations such as those outlined by the residents who live in the area.

	<p>(3) The proposal will reduce amenity space currently enjoyed by existing residents in the daytime and will impact on their wellbeing.</p> <p>(4) The proposed development is not in the best interests of the community surrounding the development.</p> <p>(5) The proposed development will result in a Class C3 building next to a public house. These uses should not be located next to each other.</p> <ul style="list-style-type: none"> <li>• Members noted that under the terms of the adopted Blaenau Gwent Planning Committee Protocol, in the event of an appeal, officers would not be able to defend the decision. Members would be called upon to present the case, including if necessary be subject to cross examination at a public inquiry.</li> <li>• Members noted that in the event of an appeal, the potential for an award of costs was high unless substantive evidence to support the reasons for refusing planning permission be brought to the case.</li> </ul>	
<p><b>No. 6</b></p>	<p><b><u>APPEALS, CONSULTATIONS AND DNS UPDATE APRIL 2021</u></b></p> <p>Consideration was given to the report of the Service Manager – Development &amp; Estates.</p> <p>RESOLVED that the report be accepted and the information contained therein be noted.</p>	
<p><b>No. 7</b></p>	<p><b><u>PLANNING APPEAL UPDATE: 51 TYNEWYDD NANTYBWCH TREDEGAR REF: C/2020/0202</u></b></p> <p>Consideration was given to the report of the Planning Officer.</p> <p>RESOLVED that the report be accepted and the appeal decision be noted for planning application C/2020/0202 as outlined in Appendix 1 of the report.</p>	

<b>No. 8</b>	<p><b><u>LIST OF APPLICATIONS DECIDED UNDER DELEGATED POWERS BETWEEN 19TH FEBRUARY 2021 AND 19TH MARCH 2021</u></b></p> <p>Consideration was given to the report of the Senior Business Support Officer.</p> <p>RESOLVED that the report be accepted and the information contained therein be noted.</p>	
<b>No. 9</b>	<p><b><u>ENFORCEMENT CLOSED CASES BETWEEN 24TH FEBRUARY 2021 TO 26TH MARCH 2021</u></b></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 &amp; 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>	