

BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to:	Planning, Regulatory & General Licensing Committee
Report Subject:	<i>Application: C/2020/0282</i> <i>Site: Maes y Dderwen, Charles Street, Tredegar</i> <i>Proposal: 5 bedroom supported living unit and associated works</i>
Report Author:	Service Manager Development & Estates
Directorate:	Regeneration and Community Services
Date of meeting:	15 th April 2021

1.0 Purpose of Report

- 1.1 At the February cycle of this Committee, Members considered a report for the development of a new residential facility at the above site. It would provide for a new 5 bedroom supported living unit.
- 1.2 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.
- 1.3 Following a vote, Planning Committee resolved to refuse planning permission. This report considers the reasons for refusal.
- 1.4 I have also appended a letter submitted on behalf of the applicant received after last Planning Committee.

2.0 Background & Context

- 2.1 Before turning to the reasons, it is my duty as principal advisor to this Committee to deal with issues surrounding that resolution.
- 2.2 As I informed Members at the March meeting, if planning permission is refused then Members must be cognisant of important issues and consequences:
 - 2.3 1. Consideration of the merits of the application must be limited to relevant planning matters. That is a legal requirement. Whilst operational issues relating to the existing home may give rise to concern, if they come under the remit of other regulatory systems, then Planning Committee is not entitled to have regard to those matters.
 - 2.4 2. If planning permission is refused, the reason(s) must be clear and unambiguous. This is dealt with later in this report.
 - 2.5 3. The reason(s) for refusal must be capable of being defended at an appeal. This will require evidence.
 - 2.6 4. Each reason for refusal must stand on its own merit. The case is not made stronger by virtue of the number of reasons given. It is preferable to use one defensible reason where evidence can be produced rather than multiple reasons of questionable validity. Failure to justify each and every reason is important at an appeal; costs can be awarded in respect of an unjustified reason(s) even if the appeal itself were to be dismissed.
- 2.7 This Council has been the subject of a number of costs awards in recent times for refusing planning permission where Planning Committee has been unable to defend that decision with evidence. These costs awards are mounting up and are significant. There is no budget to meet this expenditure.
- 2.8 I must place on record my concern that an unsustainable refusal of this application again places the Council in a position where a costs award is a realistic prospect. Reliance on anecdotal evidence or “local knowledge” is insufficient.
- 2.9 I also wish to pick up on comments made by Members at the last meeting around their role on Planning Committee.

- 2.10 It appeared to me from the debate that there is a misconception that Planning Committee Members should merely represent the majority view of their electorate when deciding planning applications. This demonstrates a fundamental misunderstanding of the role.
- 2.11 Democracy is built into the system in that Planning Committee is comprised of elected representatives. However, Planning Committee does not decide applications by way of a “referendum”. A Member of Planning Committee must represent the wider public interest. In doing this they must have regard to planning policy, relevant planning matters and the advice of the planning officer and other consultees.
- 2.12 The fact that there are objectors to a planning application is itself a material consideration. However, it is not determinative. Members should have regard to the volume of correspondence and in my view, more importantly the matters raised and attach weight as they see fit. Placing undue weight on any one consideration (including the views of the public) amounts to flawed decision making
- 2.13 Some of the comments made at the last meeting suggested that Members were acting as Ward Members and not as a member of Planning Committee – an issue that has been covered numerous times in Member induction, training (including an external trainer) and in the Planning Protocol – a document approved by this Committee and distributed to all Planning Committee Members.
- 2.14 That Protocol States.... *“Planning Committee acts in a quasi-judicial capacity. This means that the Committee sits in judgement of planning applications in a similar way to a court of law. It must therefore comply with the legal requirements of national and UK government.”*
- 2.15 It goes on...
- 2.16 *“A Councillor’s knowledge of the issues and area they serve is a key part of the process. They are accountable to their constituents, including those who did not vote for them. When sitting on Planning Committee, their overriding responsibility is to the community of Blaenau Gwent as a whole”.*

2.17 Further...

2.18 *“Members must vote in what they perceive to be the best interests of the whole of Blaenau Gwent, not simply the interests of their Ward. It is acknowledged that this can place Members in a difficult position, especially where there is widespread public opinion either for or against a proposal. Nevertheless, it is a requirement that applications are decided for planning reasons and not simply on weight of public opinion.”*

2.19 And finally...

2.20 *“If Members wish to take a decision contrary to the professional advice contained in the report (to approve or refuse), they are fully entitled to do so. They must state clearly for the minutes their reasons for setting aside the recommendation.... However, it is not the role of Officers to provide Members with reasoning to justify their decision.*

3.0 Reasons for Refusal

3.1 Turning specifically to the matters that were referred to at the meeting as reasons for refusal, 5 broad subject areas were recorded for refusing planning permission. I offer wording (in **bold**) which reflects Members concern as they appear in the minutes of the meeting.

3.2 I invite Planning Committee to endorse, add/amend or withdraw each as appropriate. I also offer a commentary on each reason.

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

3.4 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.

- 3.5 There is therefore no evidence to suggest that the car generating aspects of the proposal cannot be accommodated within the site.
- 3.6 **2. The site is not suitable for a home for vulnerable clients with support needs as the site is adjacent to a public house.**
- 3.7 Comment - Evidence is required to explain why this arrangement of uses is unacceptable. Members should remember that management of the facility is controlled by other regulators.
- 3.8 **3. The proposed development would result in overdevelopment of the site.**
- 3.9 Comment – I am unclear whether reference to over development relates 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.
- 3.10 **4. The proposed development is not in the best interests of the community surrounding the development.**
- 3.11 Comment - This reason is ambiguous. It does not explain to the applicant why Planning Committee consider the development unacceptable. My advice is to elaborate the reason to deal with why the community is disadvantaged by virtue of the scheme. These negative impacts must be relevant to planning and be incapable of being mitigated/addressed by planning conditions.
- 3.12 **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.**
- 3.13 Comment - The proposed use is residential. The surrounding area is 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 is to be a reason for refusal, evidence would be required at an appeal to demonstrate why this relationship between the uses is unacceptable. As it stands, there is nothing to support the view that these uses are incompatible.

4.0 Recommendation

- 4.1 i. Members carefully consider each reason for refusal and advise on any amendments in order that a decision notice that formally refuses planning permission can be issued.
- 4.2 ii. That Members note that under the terms of the adopted Blaenau Gwent Planning Committee Protocol, in the event of an appeal, officers will not be able to defend the decision. Members will be called upon to present the case, including if necessary be subject to cross examination at a public inquiry.
- 4.3 iii. That Members note that in the event of an appeal, the potential for an award of costs is high unless substantive evidence to support the reasons for refusing planning permission are brought to the case.
