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Bridgend County Borough Council
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Legal and Regulatory Services /
Gwasanaethau Cyfreithiol a Rheoleiddiol
Direct line / Deialu uniongyrchol: 01656 643148
Ask for / Gofynnwch am: Mark Anthony Galvin

Our ref / Ein cyf:
Your ref / Eich cyf:

Date / Dyddiad: 30 December 2014

Dear Councillor,

DEVELOPMENT CONTROL COMMITTEE

A meeting of the Development Control Committee will be held in the Council Chamber, Civic Offices, Angel Street, Bridgend on **Thursday, 8 January 2015 at 2.00 pm.**

AGENDA

1. Apologies for absence
To receive apologies for absence (to include reasons, where appropriate) from Members/Officers.
2. Site Visits
To confirm a date of Wednesday 4 February 2015 (am) for proposed site inspections arising at the meeting, or identified in advance of the next Committee by the Chairperson.
3. Approval of Minutes 3 - 8
To receive and confirm the Minutes of a meeting of the Development Control Committee dated 11 December 2014.
4. Public Speakers
To advise Members of the names of the public speakers listed to speak at today's meeting (if any).
5. Declarations of interest
To receive declarations of personal and prejudicial interest (if any) from Members/Officers including those Members who are also Town and Community Councillors, in accordance with the provisions of the Members' Code of Conduct adopted by Council from 1 September 2008. Members having such dual roles should declare a personal interest in respect of their membership of such Town/Community Council and a prejudicial interest if they have taken part in the consideration of an item at that Town/Community Council contained in the following planning applications report.

CONT . . .

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Cyfnwidi testun: Rhwyd 18001 o flaen unrhyw un o'n rhifau ffon ar gyfer y gwasanaeth trosglwyddo testun

6. Amendment Sheet

That the Chairperson accepts the Development Control Committee amendment sheet as a late item, in accordance with Part 4 (paragraph 4) of the Council Procedure Rules, in order to allow for Committee to consider necessary modifications to the Committee report, so as to take account of late representations and revisions that require to be accommodated.

7. Planning Applications Report

9 - 48

8. Urgent Items

To consider any other item(s) of business in respect of which notice has been given in accordance with Part 4 (paragraph 4) of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency

Yours faithfully

P A Jolley

Assistant Chief Executive Legal and Regulatory Services

Distribution:

Councillors:

GW Davies MBE
PA Davies
RM James
B Jones
RC Jones
DRW Lewis

Councillors

HE Morgan
DG Owen
CE Rees
JC Spanswick
M Thomas
JH Tildesley MBE

Councillors

HJ Townsend
C Westwood
HM Williams
R Williams
M Winter
RE Young

MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD IN COUNCIL CHAMBER, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON THURSDAY, 11 DECEMBER 2014 AT 2.00 PM

Present

Councillor HM Williams – Chairperson

GW Davies MBE	RM James	RC Jones	DRW Lewis
HE Morgan	DG Owen	CE Rees	JC Spanswick
M Thomas	JH Tildesley MBE	HJ Townsend	C Westwood
R Williams	RE Young		

Officers:

Stephen Edwards	Team Leader Coastal and Flood Management
Craig Flower	Team Leader (Technical Support)
Nicola Gandy	Principal Planning Officer (Development Control)
Julie Jenkins	Team Leader Development Control
Rod Jones	Senior Lawyer
David Llewellyn	Group Manager - Development
Robert Morgan	Transportation Development Control Officer
Jonathan Parsons	Development and Building Control Manager
Satwant Pryce	Head of Regeneration and Planning
Mark Galvin	Senior Democratic Services Officer - Committees
Kevin Stephens	Democratic Services Assistant

488. APOLOGIES FOR ABSENCE

Apologies for absence were received from the following Members for the reasons so stated:-

Councillor P Davies – Holiday
Councillor M Winter – Hospital appointment

489. SITE VISITS

RESOLVED: That the date for site inspections (if any) arising from the meeting, or identified in advance of the next meeting of the Committee by the Chairperson, was confirmed as Wednesday 7 January 2015 (am)

490. APPROVAL OF MINUTES

RESOLVED: That the minutes of the Development Control Committee of 13 November 2014 be approved as a true and accurate record.

491. PUBLIC SPEAKERS

The Group Manager Development advised the Committee that there were no public speakers scheduled to speak at today's meeting.

492. DECLARATIONS OF INTEREST

The following declarations of interest were made:-

- | | | |
|--------------------------|---|--|
| Councillor C E Rees | - | P/14/168/FUL and P/14/518/FUL – Councillor Rees declared a personal interest as a Member of Porthcawl Town Council but who took no part in the consideration of planning applications. |
| Councillor H Townsend | - | P/14/618/FUL – Councillor Townsend declared a personal interest as a Member of Brackla Community Council but who took no part in the consideration of planning applications |
| Councillor J C Spanswick | - | P/14/618/FUL – Councillor Spanswick declared a personal interest as a Member of Brackla Community Council but who took no part in the consideration of planning applications |
| Councillor D R W Lewis | - | Councillor Lewis declared a personal interest as he attends meetings of the Newcastle Higher Community Council |
| Councillor H Morgan | - | Councillor Morgan declared a personal interest as a Member of Bridgend Town Council but who took no part in the consideration of planning applications |

493. AMENDMENT SHEET

The Chairperson announced that he had accepted the Development Control Committee amendment sheet as an urgent item in accordance with Part 4 (paragraph 4) of the Council's Procedure Rules in order to allow for the Committee to consider modifications to the Committee report, so as to take account of any late representations and revisions that require to be accommodated

494. PLANNING APPLICATIONS REPORT

TOWN AND COUNTRY PLANNING ACT 1990
PLANNING APPLICATION GRANTED CONDITIONALLY

RESOLVED: That the following application be granted subject to the Conditions contained in the report of the Corporate Director – Communities:-

<u>Code No</u>	<u>Proposal</u>
P/14/168/FUL	Blue Seas Guest House, 72 Beach Road, Porthcawl – Change of use from guest house and café into 5 no. self-contained flats.

495 TOWN AND COUNTRY PLANNING ACT 1990
SECTION 106 AGREEMENTS

RESOLVED (1) That having regard to the following application, the applicant enters into a S106 Agreement to dedicate the area known as 'P.O.S', as shown on the submitted location plan named 'TP-01' (received 7 November 2014) as public open space, in conjunction with a schedule for landscaping and maintenance, in perpetuity, of the open space

<u>Code No.</u>	<u>Proposal</u>
P/14/518/FUL	Land off Tythegston Close, Porthcawl – Development of 4 No. dwellings, provision of open space and associated works
	(2) That the Corporate Director – Communities be given plenary powers to issue a decision notice granting consent in respect of this proposal once the applicant has entered into the aforementioned Section 106 Agreement, subject to the Conditions contained in his report
	(3) That having regard to the following application the applicant be required to enter into a S106 Agreement to provide a minimum of 20% of the apartments on the site as affordable housing in accordance with the definitions contained in the Council's Supplementary Planning Guidance (SPG) 13 Affordable Housing

<u>Code No.</u>	<u>Proposal</u>
P/14/618/FUL	Land at Madoc Close, Brackla – Construct 8 Single bedroom apartments
	(4) That the Corporate Director – Communities be given plenary powers to issue a decision notice granting consent in respect of the above proposal, once the applicant has entered into the aforementioned S106 Agreement, subject to the Conditions contained in his report, and that the Developer also be requested to provide an extra monetary contribution under the S106 Agreement to explore nearby sites of Council owned land, upon which to provide a play area.

496 TOWN AND COUNTRY PLANNING ACT 1990
PLANNING APPLICATION DEFERRED

RESOLVED: That the following planning application be deferred to allow the Planning Officer to confirm the dimensions of the site:-

<u>Code No</u>	<u>Proposal</u>
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P/14/714/FUL Land adjacent to 11 Carn Wen, Broadlands, Bridgend – Double garage (to serve No. 11) with self-contained flat above (existing single garage to support new flat)

497 P/14/337/FUL
APPLICANT: SUNCREDIT UK, LAND NEAR COURT COLMAN, SOLAR PARK INCLUDING SWITCHROOM, FENCING, LANDSCAPING & ASSOCIATED WORKS

The Corporate Director – Communities submitted a report, advising that Members at the last scheduled meeting of Committee on 13 November 2014 had been minded to refuse planning permission for the above planning application, contrary to the Officer's recommendation contained within that report, and that a further report be presented to Members today, including draft reasons for refusal. These reasons were shown referenced numbered 1. To 3. On page 49 of the report.

The Principal Planning Officer (Development Control) advised Members that notwithstanding these suggested reasons for refusal of the application, further details had been received from the applicant in an attempt to address the views expressed by Members at the last meeting, and these were contained in the report and the Appendices that supported this. Further information in respect of the application was also included in the report's supporting Amendment Sheet. The Principal Planning Officer (Development Control) then gave a resume of this extra information and how it impacted upon the application, and particularly the suggested reasons for refusal, for the benefit of the Committee.

Members then debated the report and a vote was taken individually, as to whether or not to agree to each of the three reasons for refusal of the application, as outlined in the report. Members voted not to accept the draft reasons for refusal put forward.

Following the result of each of the votes in question, it was

- RESOLVED:
- (1) That having regards to the above application, the applicant be required to enter into a Section 106 Agreement to:-
 - (2) Provide Financial Security to ensure that de-commissioning works are carried out following cessation of operation of the development.
 - (ii) Control the route of all construction and decommissioning HGV traffic to and from the site

Code No

Proposal

P/14/337/FUL Land near Court Colman – Solar Park including Switchroom, fencing, landscaping and associated works

- (2) That the Corporate Director – Communities be given plenary powers to issue a Decision Notice granting consent in respect of this proposal once the applicant has entered into the afore mentioned Agreement, subject to the Conditions in both the report and Amendment Sheet dated 13 November 2014.

498 APPEALS DECISIONS

RESOLVED: (1) That it be noted that the Inspector appointed by the National Assembly for Wales to determine the following Appeal has directed that it be DISMISSED:-

Code. No Subject of Appeal

A/14/2222838 Erection of 3 Bedroom dwelling: 9 Adams Avenue, Bryncethin, Bridgend

(2) That it be noted that the following Appeal has been WITHDRAWN:-

Code No Subject of Appeal

X/14/2222050 (1740) New roof coverings and structure to Ext. lounge, Old Brewery and Pool room and New windows, doors and Int. alterations: Home Farm, Coytrahen

(3) That it be noted that the Inspector appointed by the National Assembly for Wales to determine the following Appeal has directed that the Appeal be DISMISSED and the Enforcement Notice be UPHHELD:-

Code No Subject of Appeal

C/14/2221455 (1741) Unauthorised use for Skip business: Former Devon View garage, South Cornelly

499 TRAINING LOG

RESOLVED: That the report of the Corporate Director – Communities advising of forthcoming training sessions for Members, on topics entitled Planning Enforcement and The Planning Inspectorate be noted.

The meeting closed at 3.35pm

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Agenda Item 7

DEVELOPMENT CONTROL COMMITTEE MEETING – 8 JANUARY 2015

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT OF THE CORPORATE DIRECTOR - COMMUNITIES ON PLANNING APPLICATIONS

I submit for your consideration the following report on Planning Applications and other Development Control matters based upon the information presently submitted to the Department. Should any additional information be submitted between the date of this report and 4.00pm on the day prior to the date of the meeting, relevant to the consideration of an item on the report, that additional information will be made available at the meeting.

AGENDA FOR PLANNING APPLICATIONS

<u>ITEM NO.</u>	<u>APPLICATION NUMBER</u>	<u>APPLICATION ADDRESS</u>	<u>RECOMMENDATION</u>
1	P/14/714/FUL	LAND ADJACENT 11 CARN WEN BROADLANDS BRIDGEND	GRANT WITH CONDITIONS
2	P/14/695/OUT	GROUNDS OF WEST WINDS 2 LOCKS LANE PORTHCAWL	GRANT WITH CONDITIONS
3		MARGAM OPEN CAST COAL SITE	
4		TRAINING LOG	

For Members' assistance I have provided details on standard conditions on time limits, standard notes (attached to all consents for planning permission) and the reasons to justify site inspections.

STANDARD CONDITIONS

On some applications for planning permission reference is made in the recommendation to the permission granted being subject to standard conditions. These standard conditions set time limits in which the proposed development should be commenced, and are imposed by the Planning Act 1990. Members may find the following explanation helpful:-

Time-limits on full permission

Grants of planning permission (apart from outline permissions) must, under section 91 of the Act, be made subject to a condition imposing a time-limit within which the development authorised must be started. The section specifies a period of five years from the date of the permission. Where planning permission is granted without a condition limiting the duration of the planning permission, it is deemed to be granted subject to the condition that the development to which it relates must be begun not later than the expiration of 5 years beginning with the grant of permission.

Time-limits on outline permissions

Grants of outline planning permission must, under section 92 of the Act, be made subject to conditions imposing two types time-limit, one within which applications must be made for the approval of reserved matters and a second within which the development itself must be started. The periods specified in the section are three years from the grant of outline permission for the submission of applications for approval of reserved matters, and either five years from the grant of permission, or two years from the final approval of the last of the reserved matters, whichever is the longer, for starting the development.

Variation from standard time-limits

If the authority consider it appropriate on planning grounds they may use longer or shorter periods than those specified in the Act, but must give their reasons for so doing.

Recommendation:

That Members note the requirements of the Act to impose time limits when granting planning permission for all new developments.

STANDARD NOTES

- a. Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developer's) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

DEVELOPMENT CONTROL COMMITTEE MEETING – 8 JANUARY 2015

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

- b. The enclosed notes which set out the rights of applicants who are aggrieved by the Council's decision.
- c. This planning permission does not convey any approval or consent required by Building Regulations or any other legislation or covenant nor permits you to build on, over or under your neighbour's land (trespass is a civil matter).

To determine whether your building work requires Building Regulation approval, or for other services provided by the Council's Building Control Section, you should contact that Section on 01656 643408 or at:-

<http://www.bridgend.gov.uk/buildingcontrol>

- d. Developers are advised to contact the statutory undertakers as to whether any of their apparatus would be affected by the development
- e. Attention is drawn to the provisions of the party wall etc. act 1996
- f. Attention is drawn to the provisions of the Wildlife and Countryside Act 1981 and in particular to the need to not disturb nesting bird and protected species and their habitats.
- g. If your proposal relates to residential development requiring street naming you need to contact 01656 643136
- h. If you are participating in the DIY House Builders and Converters scheme the resultant VAT reclaim will be dealt with at the Chester VAT office (tel: 01244 684221)
- i. Developers are advised to contact the Environment and Energy helpline (tel: 0800 585794) and/or the energy efficiency advice centre (tel: 0800 512012) for advice on the efficient use of resources. Developers are also referred to Welsh Government Practice Guidance: Renewable and Low Carbon Energy in Buildings (July 2012):-
<http://wales.gov.uk/topics/planning/policy/guidanceandleaflets/energyinbuildings/?lang=en>
- j. Where appropriate, in order to make the development accessible for all those who might use the facility, the scheme must conform to the provisions of the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005. Your attention is also drawn to the Code of Practice relating to the Disability Discrimination Act 1995 Part iii (Rights of Access to Goods, Facilities and Services)
- k. If your development lies within a coal mining area, you should take account of any coal mining related hazards to stability in your proposals. Developers must also seek permission from the Coal Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 7626848 or www.coal.gov.uk
- l. If your development lies within a limestone area you should take account of any limestone hazards to stability in your proposals. You are advised to engage a Consultant Engineer prior to commencing development in order to certify that proper site investigations have been carried out at the site sufficient to establish the ground precautions in relation to the proposed development and what precautions should be adopted in the design and construction of the proposed building(s) in order to minimise any damage which might arise as a result of the ground conditions.
- m. The Local Planning Authority will only consider minor amendments to approved development by the submission of an application under section 96A of the Town and Country Planning Act 1990. The following amendments will require a fresh application:-
 - re-siting of building(s) nearer any existing building or more than 250mm in any other direction;
 - increase in the volume of a building;
 - increase in the height of a building;
 - changes to the site area;
 - changes which conflict with a condition;
 - additional or repositioned windows / doors / openings within 21m of an existing building;

DEVELOPMENT CONTROL COMMITTEE MEETING – 8 JANUARY 2015

- changes which alter the nature or description of the development;
 - new works or elements not part of the original scheme;
 - new works or elements not considered by an environmental statement submitted with the application.
- n. The developer shall notify the Planning Department on 01656 643155 / 643157 of the date of commencement of development or complete and return the Commencement Card (enclosed with this Notice).
- o. The presence of any significant unsuspected contamination, which becomes evident during the development of the site, should be brought to the attention of the Public Protection section of the Legal and Regulatory Services directorate. Developers may wish to refer to 'Land Contamination: A Guide for Developers' on the Public Protection Web Page.
- p. Any builder's debris/rubble must be disposed of in an authorised manner in accordance with the Duty of Care under the Waste Regulations.

THE SITE INSPECTION PROTOCOL

The Site Inspection Protocol is as follows:-

Purpose

Fact Finding

Development Control Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises, held for the benefit of Members, where a proposed development may be difficult to visualise from the plans and supporting material. They may be necessary for careful consideration of relationships to adjoining property or the general vicinity of the proposal due to its scale or effect on a listed building or conservation area.

Request for a Site Visit

Ward Member request for Site Visit

Site visits can be costly and cause delays so it is important that they are only held where necessary normally on the day prior to Committee and where there is a material planning objection.

Site visits, whether Site Panel or Committee, are held pursuant to:-

1. a decision of the Chair of the Development Control Committee (or in his/her absence the Vice Chair) or
2. a request received within the prescribed consultation period from a local Ward Member or another Member consulted because the application significantly affects the other ward, and where a material planning objection has been received by the Development Department from a statutory consultee or local resident.

A request for a site visit made by the local Ward Member, or another Member in response to being consulted on the proposed development, must be submitted in writing, or electronically, within 21 days of the date they were notified of the application and shall clearly indicate the planning reasons for the visit.

Site visits can not be undertaken for inappropriate reasons (see below).

The Development Control Committee can also decide to convene a Site Panel or Committee Site Visit.

Inappropriate Site Visit

Examples where a site visit would not normally be appropriate include where:-

- purely policy matters or issues of principle are an issue
- to consider boundary or neighbour disputes
- issues of competition
- loss of property values
- any other issues which are not material planning considerations
- where Councillors have already visited the site within the last 12 months, except in exceptional circumstances

Format and Conduct at the Site Visit

Attendance

Members of the Development Control Committee, the local Ward Member and the relevant Town or Community Council will be notified in advance of any visit. The applicant and/or the applicant's agent will also be informed as will the first person registering an intent to speak at Committee but it will be made clear that representations cannot be made during the course of the visit.

DEVELOPMENT CONTROL COMMITTEE MEETING – 8 JANUARY 2015

Officer Advice

The Chair will invite the Planning Officer to briefly outline the proposals and point out the key issues raised by the application and of any vantage points from which the site should be viewed. Members may ask questions and seek clarification and Officers will respond. The applicant or agent will be invited by the Chairman to clarify aspects of the development.

The local Ward Member(s), one objector who has registered a request to speak at Committee (whether a local resident or Town/Community Council representative) and a Town/Community Council representative will be allowed to clarify any points of objection, both only in respect of any features of the site, or its locality, which are relevant to the determination of the planning application.

Any statement or discussion concerning the principles and policies applicable to the development or to the merits of the proposal will not be allowed.

Code of Conduct

Although site visits are not part of the formal Committee consideration of the application, the Code of Conduct still applies to site visits and Councillors should have regard to the guidance on declarations of personal interests.

Record Keeping

A file record will be kept of those attending the site visit.

Site Visit Summary

In summary site visits are: -

- a fact finding exercise.
- not part of the formal Committee meeting and therefore public rights of attendance do not apply.
- to enable Officers to point out relevant features.
- to enable questions to be asked on site for clarification. However, discussions on the application will only take place at the subsequent Committee.

Frequently Used Planning Acronyms

AONB	Area Of Outstanding Natural Beauty	PINS	Planning Inspectorate
APN	Agricultural Prior Notification	PPW	Planning Policy Wales
BREEM	Building Research Establishment Environmental Assessment Method	S.106	Section 106 Agreement
CA	Conservation Area	SA	Sustainability Appraisal
CAC	Conservation Area Consent	SAC	Special Area of Conservation
CIL	Community Infrastructure Levy	SEA	Strategic Environmental Assessment
DAS	Design and Access Statement	SINC	Sites of Importance for Nature Conservation
DPN	Demolition Prior Notification	SPG	Supplementary Planning Guidance
EIA	Environmental Impact Assessment	SSSI	Site of Special Scientific Interest
ES	Environmental Statement	TAN	Technical Advice Note
FCA	Flood Consequences Assessment	TIA	Transport Impact Assessment
GPDO	General Permitted Development Order	TPN	Telecommunications Prior Notification
LB	Listed Building	TPO	Tree Preservation Order
LBC	Listed Building Consent	UCO	Use Classes Order
LDP	Local Development Plan	UDP	Unitary Development Plan
LPA	Local Planning Authority		

ITEM:

1

**RECOMMENDATION : GRANT
WITH CONDITIONS**

REFERENCE:

P/14/714/FUL

APPLICANT:

MR JUSTIN GRIFFITHS
11 CARN WEN BROADLANDS BRIDGEND

LOCATION:

LAND ADJACENT 11 CARN WEN BROADLANDS BRIDGEND

PROPOSAL:

DOUBLE GARAGE (TO SERVE No.11) WITH SELF CONTAINED FLAT
ABOVE (EXISTING SINGLE GARAGE TO SUPPORT NEW FLAT)

RECEIVED:

27th October 2014

APPLICATION/SITE DESCRIPTION

Members will recall that the application was originally referred to Committee on 11th December 2014. Following a Panel site visit, which took place on 10th December 2014, Committee resolved to defer consideration of the application to enable the Planning Officer to measure the site and confirm the dimensions of the development.

The Planning officer has measured the plot on site and confirms that the dimensions on site correspond with the dimensions on plan.

The application seeks planning permission to erect a double garage with a self-contained flat above. The proposed building will measure 11m x 6m, will be finished with a pitched roof reaching a maximum height of 6.7m and will include two modest dormer windows to the front elevation. The proposed development will accommodate a day room, a w.c. and a double garage at ground floor level and a kitchen/dining room, 2 bedrooms and a bathroom at first floor level. The flat will be accessed via the door on the front elevation and will be served by a private garden area.

11 Carn Wen currently uses the single garage to the east of the site, the turning head and the parking space to the front of 11 Carn Wen to park vehicles. The existing garage and parking space adjacent to the garage will be used to serve the proposed flat and the proposed double garage and existing parking space to the front of 11 Carn Wen will be used to serve No. 11.

The application site is located at the head of a cul de sac serving Carn Wen in the Broadlands housing estate, Bridgend.

RELEVANT HISTORY

None

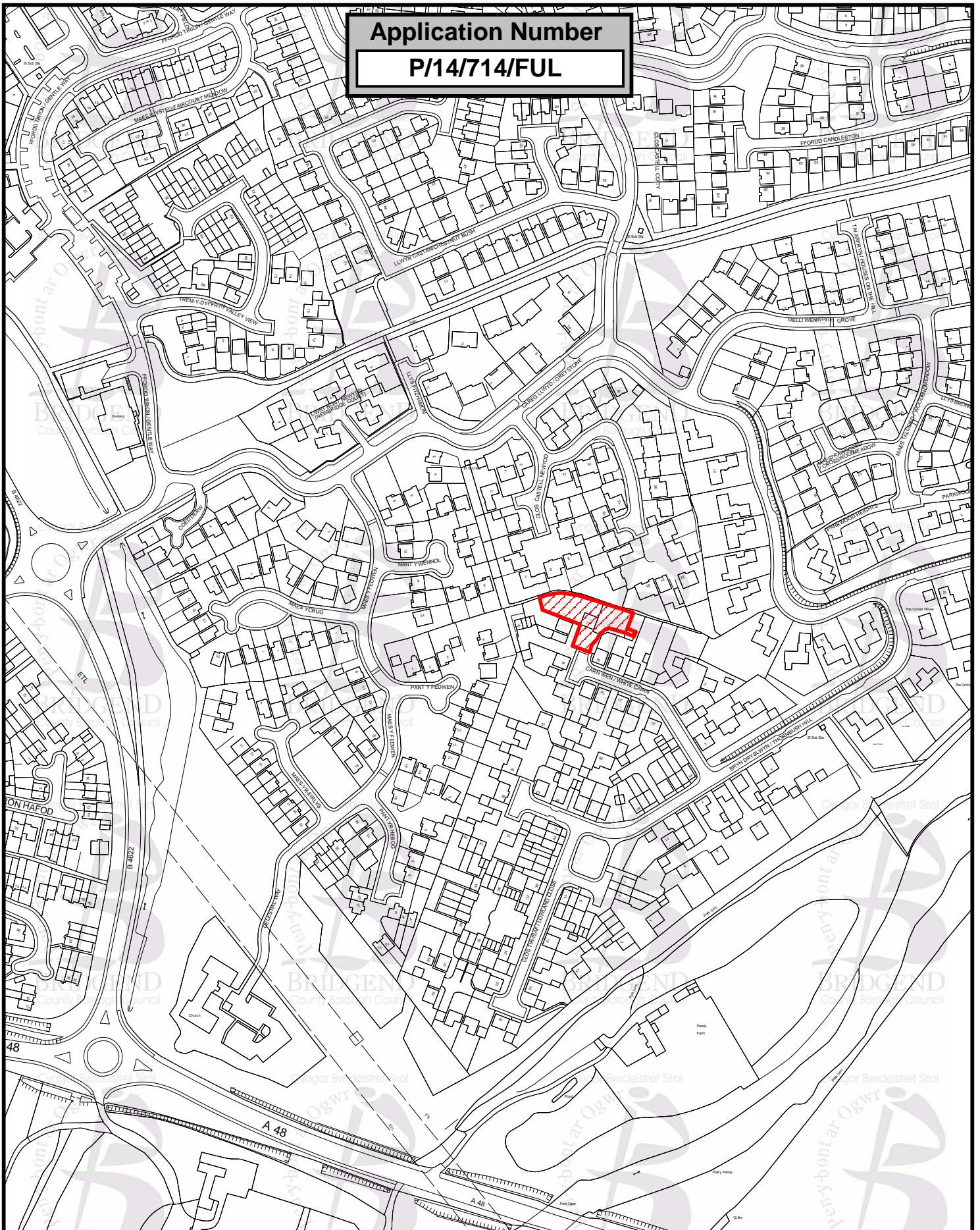
PUBLICITY

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations expired on 2 December 2014.

Application Number

P/14/714/FUL



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Scale 1:3,000

Date Issued:
29/12/2014

Development-GIS Team
Tel: 01656 643176

Mark Shephard
Corporate Director-Communities

Communities Directorate,
Bridgend County Borough
Council, Civic Offices,
Angel Street,
Bridgend CF31 4WB.

O/Drive/Plandraw/new MI layouts/
Committee DC Plan

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Cyngor Bwrdeistref Siro

BRIDGEND
County Borough Council

NEGOTIATIONS

The agent was requested to provide a plan identifying trees to be removed and to remove the proposed French doors and balcony at first floor level and replace them with a window in order to reduce the impact of overlooking. The amended plans were received on 2 December 2014.

The applicant provided additional information in relation to cars being damaged by cats, copies of letters from BCBC confirming that there are no TPOs on the site, a letter from Bovis Homes regarding the site, a letter from the building contractor advising that the building period will be approximately 3 months and advising that Western Power Distribution and Welsh Water are satisfied with the new connections.

CONSULTATION RESPONSES

Town/Community Council Observations

Notified on 29th October 2014

Provided the following comments on the application:-

'Laleston Community Council considered the application and came to the conclusion that it looked rather complicated.

I am directed to request that this application be considered after a local site meeting. This should allow our local County Borough Members to see the site and have the guidance of a Planning Officer on site.'

Head Of Street Scene (Highways)

Has no objection to the development.

Destination & Countryside Management

The Council's Ecologist visited, assessed the trees against the Bat Conservation Trust (2012) Bat Surveys - Good Practice Guidelines and advised that the trees are considered to have limited potential to support bat roosts and there are no bat records in the vicinity of the application site.

The Ecologist requested that a Method Statement regarding the felling of the trees be submitted to and agreed in writing by the Local Planning Authority and also requested that, as the site is the remnant of a field boundary, a condition be attached to any consent granted requiring a replacement planting scheme to be submitted to and agreed in writing by the Local Planning Authority.

Welsh Water Developer Services

Advised on sewerage.

Natural Resources Wales

Has no objection to the proposal.

Head Of Street Scene (Drainage)

Requested a condition be attached to any permission granted.

REPRESENTATIONS RECEIVED

Alan Marsh, 14 Carn Wen

Supports the proposal.

Mr I And Mrs L Porter, 17 Carn Wen

Supports the proposal and provides the following comments:-

'I own number 17 Carn Wen, which is opposite number 11 & the proposed new development. I can't think of any reason why this development should not go ahead, as it is set back from the road & will have little or no effect on the surrounding properties.'

Paul Curryer, 12 Carn Wen

Supports the proposal.

Julian & Sarah Arthurton, 19 Clos Castell Newydd

Supports the proposal and provides the following comments:-

'Have discussed with Applicant desire for 1.5/2 foot gap from our boundary / our garden decking rail to new rear wall of build plus possible need for small retaining wall on Applicants adjoining boundary to ensure no land slip from where our decking posts are situated due to dig out / levelling of site required for build. Happy in general otherwise and no issues with velux roof windows on rear of build roof.'

David Smith & Janet Smith, 10 Carn Wen

Object to the proposal and have requested to speak at the Development Control Committee meeting.

The objection is summarised as follows:-

- Loss of trees and green buffer zone between dwellings
- Loss of privacy
- Overshadowing
- Increase in on-street parking
- Increase in noise
- Restriction to parking area for 10 Carn Wen during the construction period
- The coach house at 14 Carn Wen, differs from the proposed dwelling, in that it is on level land and has a large area directly to the front.
- Drainage
- Parking and highway safety
- Risk to Bats and biodiversity and requirement for a Bat Survey

A further letter was received which advised that 17 Carn Wen is directly opposite 10 Carn Wen and not 11 Carn Wen.

The full objections can be viewed at the reception area of the Civic Offices.

Colin Tutton, 9 Carn Wen

Objects to the proposal and has requested to speak at the Development Control Committee meeting. The objections are as follows:-

DEVELOPMENT CONTROL COMMITTEE MEETING - 8TH JANUARY 2015

- 'Loss of Privacy

The garden buffer and all the big trees are to be removed to make way for the new structure and the garden thereof. This means a total loss of privacy from our back garden the felling of the trees also means the wild life population will be lost, birds, squirrels, bats etc.

Not only will be overlooked by the new structure the windows etc. face east, therefore, overlook our back garden and the back of the house. Also once the trees are felled the properties behind will be in view so again will overlook our property.

Obviously the building of the structure will cause much disruption but also worrying is the infrastructure or drainage/sewerage. '

Fay Nevens, 20 Clos Castell Newydd

Objects to the proposal and has requested to speak at the Development Control Committee meeting. The objections as follows:-

'1. I had a measured boundary survey in July 2014 by a professional surveyor, which confirms my legal boundary lies beyond my picket fence almost 2 metres into the tree-line. The plans show the new structure as abutting my picket fence, which is well within my legal boundary.

2. According to my professional survey, the trees, which form the natural barrier between the properties, were a condition on the original development.

3. I believe the work would be a threat to the wildlife currently inhabiting the adjoining boundary.

4. Loss of privacy from back of house and back garden as the trees currently provide the privacy between the separate houses and gardens.

5. The proposal would likely cause damage to root structures of remaining trees, which could make them dangerous.

6. I believe my entire garden would be overlooked by the upstairs window of the proposed side elevation, even if a fence was erected along the boundary.'

Additional comments were received which reiterated the original objections made.

L Watts, 8 Clos Castell Newydd

Objects to the proposal and provides the following comments:-

'I object to the proposal due to noise and disturbance including traffic (engine noise) coming & going. As a whole I feel the area will be affected with possible removal of cutting down of trees & bushes.

I am particularly worried about green area at back of my property (at side of 11 Carn Wen) which proposer tells me he now owns? I would be extremely grateful for confirmation on this aspect of my objection. '

Mark King, 23 Carn Wen

Supports the proposal.

Chris Morgan, 16 Carn Wen

Raised the following concern:-

DEVELOPMENT CONTROL COMMITTEE MEETING - 8TH JANUARY 2015

'I have been made aware that the owners of number 10 Carn Wen have used our address as registering a concern with the proposed application. They have never spoken to us regarding the proposed planning and I would like our number stricken from their statement.'

COMMENTS ON REPRESENTATIONS RECEIVED

The agent was advised that a claim was made in regard to land ownership and a Certificate B was submitted to the Local Planning Authority on 11 November 2014.

With respect to the claim from 8 & 20 Clos Castell Newydd the applicant has verbally confirmed that the land, other than the shared access, is within his ownership.

The Land Drainage Officer has assessed the scheme and considers it acceptable subject to a condition.

The Transportation Development Control Officer has assessed the scheme and considers it acceptable in terms of highway safety and parking provision as the proposal will retain 3 spaces for 11 Carn Wen and 2 spaces for the proposed flat. The turning facilities are unaffected and the existing parking arrangements for 10 Carn Wen remain as existing.

The Land Drainage Officer and Welsh Water have assessed the scheme and consider it acceptable subject to a condition.

With regard to the comments relating to the lack of a turning head as vehicles are parking in this position, this is a private matter occurring on private land and is outside of the remit of planning. The matter is a private matter between the parties involved.

The Council's Ecologist has advised that the development is acceptable in terms of biodiversity and ecology and a bat survey is not required.

With regard to the removal of trees, a condition was attached to the original planning permission, for the site to the north (P/98/1073/RES refers), which required written consent from the Local Planning Authority prior to the removal of the trees from the northern boundary of the site. The submission of this application is considered as a written request for prior consent from the Local Planning Authority for the removal of some of the trees. The trees do provide some visual amenity value but are not prominent from any public positions and, during the site visit, it was noted that the trees were not of a high quality. As such the removal of the trees is not considered to be so harmful to the visual amenities of the area to warrant refusal of the scheme. Furthermore, the removal of this minimal section of trees located between residential dwellings will not dilute the overall strategic green corridors of the Broadlands housing estate.

Additionally, none of the trees are protected by a Tree Preservation Order.

Whilst the removal of trees will allow for views between Carn Wen and Clos Castell Newydd, the distance between gardens and dwelling houses will be in excess of the distances suggested in Supplementary Planning Guidance 02: Householder Development, i.e. 10.5m from dwellings to garden boundaries and 21m between directly facing habitable room windows.

The concern expressed regarding disruption and restricted access to parking during the construction phase is not a reason to refuse planning permission as this is for a short time only and any potential restricted access is a private matter.

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The case officer is aware of the conservatories at the properties to the rear from carrying out a desk based survey of the site and they were evident during the site visits.

Loss of view is not a material planning consideration.

The impact of the development on residential and visual amenities is addressed in the 'Appraisal' section of this report.

It is noted that 17 Carn Wen is directly opposite 10 Carn Wen.

APPRAISAL

The application is referred to the Development Control Committee for determination in view of the objections received from local residents.

The application seeks planning permission to erect a double garage with a self-contained flat above.

The application site is currently an area of trees and plants located to the north of a shared access drive serving the garages of 10 and 11 Carn Wen. The area was originally a planting and tree band between Carn Wen and the residential development to the north, Clos Castell Newydd. A condition was attached to the consent which restricted the removal of trees along the application site boundary without the prior written consent of the Local Planning Authority. The application includes the removal of several trees and planting within the site but the retention of trees along the north eastern boundary of the site.

The application site is located within the settlement boundary of Bridgend as identified by Policy PLA1 of the Local Development Plan (LDP) and, as such, Policy COM3 of the LDP is relevant.

Policy COM3 states:-

'Residential developments within settlement boundaries defined by Policy PLA1 on 'windfall' and 'small scale' sites for the conversion of existing buildings, or the re-use of vacant or under-utilised land will be permitted where no other LDP policy protects the building or land for an existing or alternative use.'

The proposed development is considered to be compliant with Policy COM3 of the LDP. All new development in the County Borough is also assessed against Policy SP2 of the LDP, which states:-

All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment.

The formally adopted Supplementary Planning Guidance (SPG) 02 - Householder Development (adopted on 12/12/2008), sets out objectives that define what is likely to be acceptable. Whilst the SPG relates to householder development it is considered that the principles of the SPG are generally relevant to this application and in particular Notes 1,2 6 and 8.

Note 1 of SPG02 states 'No extension should dominate the outlook of an adjoining property.' In this instance there is a dwelling house located to the rear and a dwelling house located to the front of the proposed development, which could potentially be affected by the proposed development. With regard to the dwelling house to the front, 10 Carn Wen, this is located some

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20.5m to the south of the proposed development, which is well in excess of the 10.5m distance between habitable room windows and neighbouring boundaries which is recommended by Note 1. As such the proposed development is not considered to dominate the outlook of 10 Carn Wen to such an extent as to warrant refusal. With regard to the property to the rear of the proposed development, 19 Clos Castell Newydd, the proposed development will be located some 9m from the dwelling house and will be set at a right angle to No.19. As such the proposed development is not considered to dominate the outlook from No. 19 to such an extent as to warrant refusal of the scheme. Furthermore, 19 Clos Castell Newydd is on a higher level than the application site, which will further minimise any dominating impact.

Note 2 of SPG02 states 'No extension should unreasonably overshadow adjoining property.' The proposed development will be some 20.5m to the north of 10 Carn Wen and, as such, will not cause any overshadowing to No. 10. With regard to the impact on the properties to the rear, the proposed building will be located due south of 19 Clos Castell Newydd and south west of 20 Clos Castell Newydd. The development will cast a shadow over small elements of the garden areas serving these properties, however, these areas are already overshadowed by the existing boundary trees which will be removed to accommodate the proposed development. As such, the proposed development is not considered to exacerbate the existing overshadowing situation to an unacceptable degree.

The proposed development will be located to the north east of the rear elevation and garden area of the applicant's property, 11 Carn Wen, however, as the development will be located to the north east and there are no habitable room windows on the rear elevation, shown on the original plans for 11 Carn Wen, the proposed development is not considered to cause any overshadowing to 11 Carn Wen. Note 6 of SPG02 states 'An extension should respect the privacy of neighbouring houses.' The proposed development does not propose any habitable room windows directly facing habitable room windows in neighbouring properties at a distance less than 21m.

The proposed development includes habitable room windows on the front elevation which are in excess of 10.5m from the boundary of 10 Carn Wen and, consequently, the proposed development is not considered to infringe the privacy standards of No. 10.

The development proposes a first floor window on the side elevation facing the north eastern boundary of the site. The distance between the first floor window and the boundary is 7.9m, which is less than the 10.5m suggested by Note 6 of SPG02. The window will overlook an area which appears to be owned by 9 Carn Wen. This area, although owned by No. 9, does not appear to be used as recreational amenity space and forms part of the planting/tree band between Carn Wen and Clos Castell Newydd. Whilst the distance between the boundary and the window does not strictly meet the guideline in SPG02 of 10.5m, as the window is overlooking an area which is not being used as a recreational garden, it is not considered that the application can be refused for this reason as it will not infringe privacy standards.

The proposed first floor window on the side elevation may also have angled views over 20 Clos Castell Newydd, however, as the views will be at an angle and will only overlook a small side element of the side garden serving No. 20, it is not considered that privacy standards are being infringed to such an extent as to warrant refusal of the scheme. Furthermore, trees are to be retained at this location which will act as a screen between the two properties.

With regard to the impact of the development on the visual amenities of the area, a condition shall be attached to any consent granted requiring details of the materials to be submitted to and agreed in writing by the Local Planning Authority. Additionally, it was noted, during the site visit, that there is a similar development on the shared driveway to the rear of 12 Carn Wen and, as

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such, this style of development is not uncommon in the immediate street scene and is considered acceptable.

The proposed residential unit will be served by an adequate level of amenity space and off-street parking facilities.

In order to ensure that residential amenities of the both the neighbouring properties and the future occupiers of the development are protected a condition shall be attached to any consent granted restricting permitted development rights.

Whilst determining this application Policies PLA1, COM3 & SP2 of the Bridgend Local Development Plan and Notes 1, 2, 6,8,9,10,11 & 12 of Supplementary Planning Guidance 2 were considered.

CONCLUSION

Notwithstanding the objections received, this application is recommended for approval because the development complies with Council policy and Council's guidelines and does not adversely affect privacy or visual amenities nor so significantly harms neighbours' amenities or highway safety as to warrant refusal.

RECOMMENDATION

(R02) That permission be GRANTED subject to the following condition(s):-

- 1** The development shall be carried out in accordance with the following approved plans and documents: plan numbers 1439-P01 Rev A, 1439-P02 Rev A, 1439-P03 Rev A & 1439-P04 Rev B .

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

- 2** Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification), no development which would be permitted under Article 3 and Classes A, B , C , D , E & G of Part 1 to Schedule 2 of the Order shall be carried out within the curtilage of the (any) dwelling without the prior written consent of the Local Planning Authority.

Reason : In the interests of visual and residential amenities.

- 3** No development shall take place until a detailed specification for, or samples of, the materials to be used in the construction of the surfaces of the development hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason : To ensure that the proposed materials of construction are appropriate for use on the development so as to enhance and protect the visual amenity of the area.

- 4** No development shall take place until there has been submitted to and agreed in writing by the Local Planning Authority a plan indicating the positions, design, materials and type

DEVELOPMENT CONTROL COMMITTEE MEETING - 8TH JANUARY 2015

of boundary treatment to be erected and a timetable for its implementation. Development shall be carried out in accordance with the agreed plan and timetable.

Reason : To ensure that the general amenities of the area are protected.

- 5** No development shall commence on site until a scheme for the comprehensive and integrated drainage of the site, showing how foul drainage, and roof/yard water will be dealt with has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to beneficial use of the development.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that flood risk is not increased.

- 6** Notwithstanding condition 1 above no development shall take place until the exact siting and finished floor levels of the dwelling have been agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual and residential amenities

- 7** No development shall commence on site until a Method Statement, detailing how the tree felling will be undertaken and the processes to be followed in the event that bats are encountered has been submitted to and agreed in writing by the Local Planning Authority. The Method Statement shall be adhered to throughout the felling of the trees.

Reason: To ensure any bats encountered are protected

- 8** Prior to any works commencing on site a landscaping scheme shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: To maintain and improve the appearance of the area in the interests of visual amenities and to promote nature conservation

*** THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS**

a) This application is recommended for approval because the development complies with Council policy and Council's guidelines and does not adversely affect privacy or visual amenities nor so significantly harms neighbours' amenities as to warrant refusal.

b) In order to satisfy condition 5 the following supplementary information is required:-

- Provide full details of any existing arrangements and
- Provide information about the design calculations, storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent the pollution of the receiving groundwater and/or surface water.
- Provide a timetable for its implementation; and
- Provide a management and maintenance plan, for the lifetime of the development and any other arrangements to secure the operation of the scheme throughout its lifetime.

DEVELOPMENT CONTROL COMMITTEE MEETING - 8TH JANUARY 2015

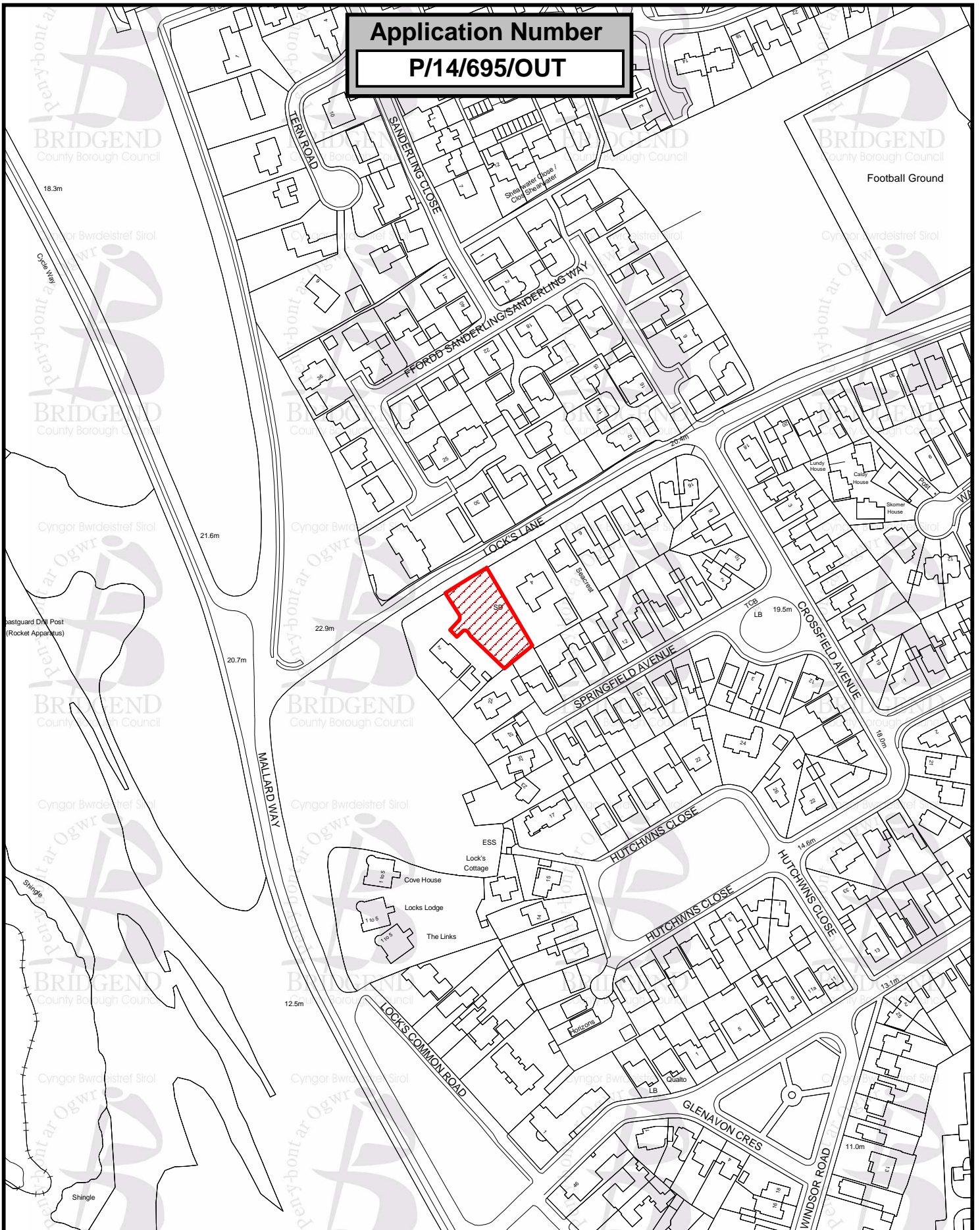
- c) Foul water and surface water discharges shall be drained separately from the site.
- d) No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system.
- e) Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
- f) The developer is advised to that bat boxes should be installed on the building and is directed to Supplementary Planning Guidance (SPG) 19 Biodiversity and Development SPG: A Green Infrastructure Approach <http://www1.bridgend.gov.uk/media/227718/final-green-infrastructure-spg-for-web.pdf>. At B1 Biodiversity Design Guidance Sheet Bats and Development is included information relating to bat boxes which may be of assistance.
- g) The developer is advised to adopt a sensitive lighting scheme that does not allow light to spill onto the boundary to maintain a dark corridor which bats can travel.
- h)The site may be used by nesting birds. It is recommended that the applicant be made aware that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Clearance works should be undertaken between (September and March) outside of the bird nesting season.
- i) If at any time nesting birds are observed, works, which may disturb them, must cease immediately and advice sought. Any active nests identified should be protected until the young have fledged. Where a Schedule 1 species is involved, mitigation for impacts, e.g. loss of nesting site, should be devised and implemented.
- j) In the event of a wildlife issue be encountered works to stop immediately and advice sought from in house ecologist resource (if available), Bridgend County Borough Council's Countryside Team on 01656 643160/643196 or Natural Resources Wales' Species Team on 02920772400.
- k) The developer is urged to consider the advisory information on this application that has been received from consultees and which may be accessed via:-

<http://www.bridgend.gov.uk/planningapplications/search.php>

ITEM:	2	RECOMMENDATION : GRANT WITH CONDITIONS
REFERENCE:	P/14/695/OUT	
APPLICANT:	MS JANE TAYLOR WEST WINDS 2 LOCKS LANE PORTHCAWL	
LOCATION:	GROUNDS OF WEST WINDS 2 LOCKS LANE PORTHCAWL	
PROPOSAL:	BUILDING PLOTS TO ACCOMMODATE 2 x 2.5 STOREY DWELLINGS - RE-SUB OF P/14/446/OUT	
RECEIVED:	20th October 2014	
SITE INSPECTED:	22nd July 2014	

Application Number

P/14/695/OUT



Compass rose showing North (N), South (S), East (E), and West (W).
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Scale 1:2,500

Date Issued:
29/12/2014

Development-GIS Team
Tel: 01656 643176

Mark Shephard
Corporate Director-Communities

Communities Directorate,
Bridgend County Borough
Council, Civic Offices,
Angel Street,
Bridgend CF31 4WB.

O/Drive/Plandraw/new MI layouts/
Committee DC Plan

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BRIDGEND
County Borough Council

DEVELOPMENT CONTROL COMMITTEE MEETING - 8TH JANUARY 2015

APPLICATION/SITE DESCRIPTION

The application seeks outline planning permission with all matters reserved for two 2.5 storey dwellings within the garden area of 'West Winds', 2 Locks Lane, Porthcawl.

Whilst all matters are reserved for future consideration the applicant has submitted an indicative layout plan, which shows the positions and dimensions of the two dwellings, positions of habitable room windows and associated garages and the site access. The indicative plans show that the dwellings will measure 11.5m x 7m and will reach a maximum height of 9.4m.

New accesses will be created off Locks Lane to serve both Plots and a new access will be created to serve the existing dwelling, 2 Locks Lane.

The application site is part of the garden/parking area serving 'West Winds', which is a large detached dwelling in substantial grounds at the entrance to Locks Lane, Porthcawl.

RELEVANT HISTORY

P/14/446/OUT	REFUSED	28-08-2014
BUILDING PLOTS TO ACCOMMODATE 2No. 2.5 STOREY DWELLINGS		

PUBLICITY

The application has been advertised on site.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations and publicity expired on 20 December 2014.

NEGOTIATIONS

The agent was advised that there was some concern in regard to the positions of the proposed plots in terms of visual amenities. Amended plans were received on 8 December 2014.

CONSULTATION RESPONSES

Town/Community Council Observations

Notified on 22nd October 2014

Has no objection to the proposal.

Head Of Street Scene (Highways)

Has no objection to the proposal subject to conditions.

Group Manager Public Protection

The following comments were received:-

'The presence of any significant unsuspected contamination, which becomes evident during the

development of the site, shall be brought to the attention of the Local Planning Authority. '

Welsh Water Developer Services

Advised on sewerage.

Head Of Street Scene (Drainage)

Requested that a condition be attached to any permission granted.

REPRESENTATIONS RECEIVED

Mary Marsden, 22 Springfield Avenue

Objects to the proposal for the following reasons:-

- The existing sewer to cope with the capacity of increased flow
- Surface water discharges to soakaways is problematic due to permeability of the ground in the area
- These have been problems historically with the foul drains from West Winds passing under my property to its junction with the main sewer in Springfield Ave. This sewer was designed to cope with a single dwelling, at the discharge to be expected at the time of construction. The addition of foul and grey water from the two new buildings with water rates of discharge will severely cause overload. I note the response of the land drainage department and this confirms my fears. During periods of heavy rainfall my garden, adjacent to West Winds, is unable to cope with storm water and floods. Any seepage from the soakaways to be provided to cope with the new development will cause additional problems. I note again, that the land drainage department response confirms my fears.

Until the above issues are properly resolved I must object to the proposed development.

Tony Lewis Cbe DI, 4 Locks Lane

Objects to the proposal for the following reasons:-

- Overdevelopment and requests that permitted development rights be removed.
- Out of keeping in the area
- Development will dominate 4 Locks Lane
- Residential amenity concerns
- Disturbance
- Privacy
- Highways

Jenny Davitt, 50 West Park Drive

Queried whether a site notice had been displayed and advised that she would be disappointed to see the skyline crowded with rising roofs and considers single storey would be more appropriate.

Mrs M Comley, 3 Birch Walk

Raised the following concerns:-

The above Planning Application has been brought to my attention and I would suggest that before approving this proposal consideration be given to widening the stretch of Locks Lane adjacent to "West Winds" to ease the traffic problems that arise at present.

Geraldine Turner, 34 Sanderling Way

Objects to the proposal and provided the following comments:-

I wish to object to the above planning application on the grounds that the new houses proposed will generate a good deal more traffic in Locks Lane which is a single track lane with few passing places and is a bus route. The houses in Sanderling Way were not allowed access from Locks Lane because of these same problems as I understand it.

Peter Evans, 18 Hutchwns Close

Objects to the proposal on highway safety grounds.

COMMENTS ON REPRESENTATIONS RECEIVED

The Land Drainage Officer and Dwr Cymru Welsh Water have assessed the scheme and consider it acceptable in terms of sewerage and drainage, subject to conditions.

The Transportation Development Control Officer has assessed the scheme and considers it acceptable in terms of highway safety and parking provision, subject to conditions.

The impact of the development on residential and visual amenities is fully addressed in the 'Appraisal' section of this report.

Whilst the construction phase may result in some disruption to nearby residents, this is considered acceptable as it is for a limited time period only.

A site notice was erected outside the site by a member of staff from the Development Group, it is not known what happened to the notice after it had been erected by the Officer. All neighbours which share a boundary with the site were notified on receipt of the application. The Council has complied with its obligations regarding the publicity for this application.

The amount of information submitted is sufficient for an application for outline consent with all matters reserved.

APPRAISAL

The application is referred to the Development Control Committee meeting for determination in view of the number of objections received from local residents.

The application seeks outline permission with all matters reserved for two 2.5 storey high dwellings within the grounds of 'West Winds' 2 Locks Lane, Porthcawl.

The application is a re-submission of a previous application for two 2.5 storey dwellings at this site, which was refused for the following reason:-

1. The proposed development would detract from the privacy and amenities reasonably expected to be enjoyed by occupiers of nearby residential properties, contrary to Policy SP2 of the Bridgend Local Development Plan and Note 6 of the Supplementary Planning Guidance 02: Householder Development.

The current application, in an attempt to overcome the previous reason for refusal, has been

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amended by proposing slightly reduced scale dwellings, repositioned dwellings and plots and also includes details of the positions of any habitable room windows.

The application site is located within the settlement boundary of Porthcawl as identified by Policy PLA1 of the Local Development Plan (LDP) and, as such, Policy COM3 of the LDP is relevant.

Policy COM3 states:-

'Residential developments within settlements boundaries defined by Policy PLA1 on 'windfall' and 'small scale' sites for the conversion of existing buildings, or the re-use of vacant or under-utilised land will be permitted where no other LDP policy protects the building or land for an existing or alternative use.'

The proposed dwellings are considered to be compliant with Policy COM3 of the LDP. All new development in the County borough is also assessed against Policy SP2 of the LDP, which states:-

All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment.

The application is in outline with all matters reserved and, as such, the design of the proposed dwellings cannot be assessed. However, the height of the proposed dwellings has been provided, which is 9.7m and it is proposed that the dwellings will be 2.5 storeys. The property to the east of the site, 4 Locks Lane, is also 2.5 storeys high and the property to the west of the site, 'West Winds' is of a similar height and, as such, the height of the proposed dwellings is considered to be in keeping with the character of the immediate street scene.

The proposed dwellings will be set back from the definable building line on Locks Lane. The proposed dwellings are not considered to raise any overriding concerns in terms of visual amenities.

In terms of the impact of the development on residential amenities, the indicative plans show that there will be no habitable room windows directly facing neighbouring properties and the distances between the proposed dwellings and the neighbouring property boundaries will ensure that there will be no overriding concerns in regard to dominance and overshadowing.

The formally adopted Supplementary Planning Guidance (SPG) 02 - Householder Development (adopted on 12/12/2008), sets out objectives that define what is likely to be acceptable. Whilst the SPG relates to householder development it is considered that the principles of the SPG are generally relevant to this application and in particular Note 6. Note 6 states 'The extension should respect the privacy of neighbouring houses.' Para 4.6.2 continues 'The County Borough Council believes that the minimum distance between directly facing habitable room windows in adjacent properties should normally be 21 metres.' Para 4.6.3 further expands on privacy and states 'To reduce the loss of privacy it is recommended that the minimum distance from the new habitable room window to the boundary should be 10.5 metres.'

The plans show that there will be no habitable room windows at first floor level directly facing habitable room windows at neighbouring properties at a distance less than 21m or overlooking neighbouring boundaries at a distance less than 10.5m, consequently the proposed development is not considered to infringe privacy standards and overcomes the reason for refusal on the previous application.

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Plot 1 will be 4m from the boundary shared with 4 Locks Lane at the closest point and 14.5m at the furthest point. Note 1 of SPG02 states 'No extension should unreasonably dominate the outlook of an adjoining property.' Para 4.1.2 continues 'Unreasonable domination is an issue only where a main window to a habitable room in an adjacent dwelling will directly overlook a proposed extension. In addition, for unreasonable domination to be demonstrable, the extension must be either:

(a) Higher than a line, perpendicular to the window wall, rising at 25 degrees to the horizontal from the mid-point of the affected windows, or

(b) Closer than 10.5m to the window'

In this instance No. 4 Locks Lane has a side facing first floor window which will directly face the side elevation of Plot 1. However, the distance between Plot 1 and the side elevation of 4 Locks Lane will be 10.5m and, as such, the dominating impact is not considered to be so harmful as to warrant refusal of the scheme. Furthermore, an inspection of the original plans for 4 Locks Lane established that the side facing first floor window is a secondary window serving a bedroom.

With regard to Plot 2, the proposed dwelling would be shielded from 4 Locks Lane by Plot 1 and would be some 23m from the property to the south, 23 Springfield Avenue. Given the location and orientation of the proposed dwelling it is not considered to raise any concerns in terms of overshadowing.

The proposed development will not have any adverse impacts on the existing building on site, 2 Locks Lane, and there is adequate provision of off street parking and amenity space remaining to serve No. 2.

The proposed dwellings will be served by an adequate amount of amenity space and off street parking provision and, are therefore, not considered to be over development of the site.

Whilst determining this application Policies PLA1, COM3 & SP2 of the Bridgend Local Development Plan and Notes 1,2,6,8,9,10,11 & 12 of Supplementary Planning Guidance 2 were considered.

CONCLUSION

Notwithstanding the objections received, this application is recommended for approval because the development complies with Council policy and Council's guidelines and does not adversely affect privacy or visual amenities nor so significantly harms neighbours' amenities or highway safety as to warrant refusal.

RECOMMENDATION

(R05) That permission be GRANTED subject to the following condition(s) in addition to the standard conditions:-

- 1 No development shall commence until the materials to be used in the construction of the external surfaces of the approved dwellings have been submitted to and agreed in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason: To ensure that the proposed materials of construction are appropriate for use

DEVELOPMENT CONTROL COMMITTEE MEETING - 8TH JANUARY 2015

on the development so as to enhance and protect the visual amenity of the area.

- 2** No development shall commence on site until a scheme for the comprehensive and integrated drainage of the site showing how foul drainage, road and roof/yard water will be dealt with, has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the beneficial use of the development.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that flood risk is not increased.

- 3** No development shall take place until the exact siting and finished floor levels of the dwellings have been agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: In the interests of visual and residential amenities

- 4** No development shall commence until there has been submitted to and agreed in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the agreed details prior to the respective dwelling being brought into beneficial use.

Reason: To ensure that general amenities are protected.

- 5** No development shall commence on site until a scheme for permanently stopping up the existing access and reinstating the vehicular crossing as a verge has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented in full prior to any part of the development being brought into beneficial use.

Reason: In the interests of highway safety.

- 6** No development shall commence until a scheme for the provision of replacement access to 2 Locks Lane has been submitted to and agreed in writing by the Local Planning Authority. The access area shall be implemented in permanent materials before the commencement of any construction on the dwellings hereby approved.

Reason: In the interests of highway safety.

- 7** Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification), no development which would be permitted under Article 3 and Classes A, B & C of Part 1 to Schedule 2 of the Order shall be carried out within the curtilage of either of dwellings without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual and residential amenities.

* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

a) This application is recommended for approval because the development complies with Council policy and Council's guidelines and does not adversely affect privacy or visual amenities nor so significantly harms neighbours' amenities and highway safety as to warrant refusal.

b) The developer is advised that if the presence of any significant unsuspected contamination becomes evident during the development of the site, the Public Protection department of the Council shall be notified.

c) Foul water and surface water discharges shall be drained separately from the site.

d) No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system.

e) Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

f) In order to satisfy Condition No. 2 the following supplementary information is required:-

- Provide infiltration tests to confirm acceptability of any proposed soak-away;
- Provide information about the design calculations, storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent the pollution of the receiving groundwater and/or surface water;
- Provide a timetable for its implementation; and
- Provide a management and maintenance plan, for the lifetime of the development and any other arrangements to secure the operation of the scheme throughout its lifetime.

g) The developer is encouraged to consider the advisory information on this application that has been received from consultees and which may be accessed via <http://www.bridgend.gov.uk/planningapplications/search.php>

h) The developer is advised that the indicative floor plans show a bedroom and living room at second floor level, the height of the proposed dwellings may not accommodate the proposed second floor layout.

ITEM: 3

MARGAM OPENCAST COAL SITE

Purpose of the report

Members may be aware of the issues surrounding the restoration of the Margam opencast coal site and associated planning enforcement action. This report updates members with regard to the current position on the site and outlines options for further action.

Site description and history

Opencast coal mining has taken place in the area to the west of Tondy and to the north of Cefn Cribbwr since the late 1950s. Since the mid-1960s opencast operations have progressed in a westerly direction from Tondy, commencing with the Fountain site. Following the privatization of the mining industry in 1994 Celtic Energy Ltd took over the operation of the opencast site.

Planning consent was granted for the most recent level of operations in 2001 as a direct extension of the Parc Slip West Site under application P/98/377/MIN with a further consent granted in 2007 to extend coaling operations under P/06/1478/RLX. Coaling operations finally ceased in 2008.

The site occupies a large area of land situated between Ffordd-yr-Gyfraith, Bedford Road and Crown Road. It straddles the boundary between Neath Port Talbot (NPT) and Bridgend (BCB), covering an area of approximately 200 hectares of which 110 hectares are within Bridgend. Whilst the main coaling site is located in NPT, much of the principal visual and environmental impact falls on residential and other receptors within the BCBC administrative district. The void is entirely within NPT and has been filling with water since operations ceased. Planning conditions required the operators to commence backfilling of the void within 2 months of cessation of work and to submit a restoration and aftercare scheme in order to secure full restoration of the site. However these works did not commence, nor were the above required schemes submitted by the operators or landowners, despite requests to do so from both Local Planning Authorities.

The site lies to the north of Kenfig Hill and is separated from the settlement by the Nant Iorwerth Goch watercourse and a railway line. The nearest properties are in Swn yr Afon, Kenfig Hill approximately 300 metres south of the void.

Prior to the cessation of work, the operators pursued an application for the extension of the extraction area to the west in order to allow further coaling to take place. The proposal involved the extraction of 1.7 million tonnes of coal over a five and a half year period, which equates to 6500-7000 tonnes per week. This application was refused planning permission by BCBC and NPTCBC in January 2008 (reference P/07/569/MIN). The reasons for refusal were principally on landscape, visual and residential amenity grounds and that the development was contrary to national planning guidance.

The applicant Celtic Energy Ltd, appealed against this decision, (which was subsequently recovered by the Welsh Government). The appeal was dismissed in April 2009 but this decision was challenged by Celtic. The challenge was also dismissed by the High Court in July 2010 and again by the Court of Appeal in October 2011. In accordance with national

guidance, neither BCBC nor NPTCBC were able to pursue enforcement of the restoration conditions, whilst the appeals process was ongoing.

During this time, the operator transferred ownership of the site (together with another three sites within South Wales), to an off shore company registered within the British Virgin Islands. This company is known as 'Oak Regeneration'. Following this transaction, there was little communication from the operator concerning any matters associated with the site. Furthermore at this time it was unclear who was representing the new owners of the site (given that they were registered offshore) until a legal firm confirmed that they were representing Oak Regeneration and a subsidiary company 'Beech' who were responsible for the site. They in turn appointed consultants, SLR, to act on their behalf and a number of meetings have since taken place with representatives from SLR, Celtic, Oak and NPTCBC/BCBC since 2011 to discuss the need to secure restoration of the site. During these meetings both local authorities expressed concerns with regard to the lack of site restoration to date. Also, it was raised that as an extension of the extraction area had previously been refused consent, dismissed at appeal and in the High Court, it was difficult to see how these reasons could be addressed within a new submission. Officers from both authorities have consistently taken the view that they would like to see full restoration of the site in accordance with the original planning permission.

As part of those discussions in mid-2012 a scheme was put forward by SLR on behalf of the owners to restore the site back to original or similar ground levels and implement a regeneration scheme involving the creation of a 'Garden City'. Both LPAs expressed concern with regard to such a proposal, given that it is located in a non-sustainable location, is outside settlement limits, will result in the construction of significant numbers of dwellings which go beyond the identified housing projections of both authorities and did not comply with the vision and objectives of the adopted and emerging Development Plans within both LPA areas. In response to such concerns the planning consultants acting on behalf of both Celtic and Oak advised both LPAs that a strategic solution was required for this site which went beyond the objectives of the current Development Plan(s). Nevertheless concerns were maintained by both LPAs that the creation of a Garden City would not be supported by officers in either Council. In subsequent meetings it was confirmed by Celtic, Oak and their consultants that for financial reasons, restoration of the site could only be delivered if further coaling and regeneration of the site was permitted.

Whilst these discussions were taking place, external legal advice was sought by both LPAs. The advice suggested that both authorities undertake the following two actions:

- Serve a Planning Contravention Notice (PCN) to establish ownership and interests in the site.
- Draw up a restoration scheme to append to a potential future enforcement notice. Such a scheme is required in the absence of a submission by the operator in accordance with the requirements of planning conditions. This scheme would identify the extent of the work required to complete restoration of the site and the timescales within which such work must be completed.

In response to the above advice, planning contravention notices (PCN) were served in February 2013. The purpose of the PCN was to seek information in relation to land ownership, other interests, the current or last use of the site and if a restoration scheme had been prepared. All responses to the PCN were received within the prescribed

deadline. The responses confirm that Oak Regeneration is the owner of the site and Celtic Energy Ltd is the license holder. Oak regeneration is based in the British Virgin Islands.

After the serving the PCNs, a restoration scheme was jointly commissioned by both LPAs from an independent consultant. The restoration scheme identifies how the site could be restored in accordance with the originally approved restoration strategy, together with a restoration sequence plan which outlines timescales for the completion of the work. The completed restoration scheme was finalised in July 2013 and shortly after made available to both Oak and Celtic to consider. It was suggested by both parties in a meeting in September 2013, that there were insufficient funds available to restore the site in accordance with the originally approved restoration strategy and the recently prepared restoration scheme unless there was an 'enabling scheme', i.e. some form of after use development. Also, should an enforcement notice be served to secure compliance with such a restoration scheme, that due to insufficient funds being available it was suggested that it may force the companies into liquidation, which would ultimately culminate in no site restoration taking place at all. Concerns were expressed by both LPAs with regard to this position however both companies indicated that they were prepared to meet regularly with the LPAs to discuss alternative restoration proposals. Celtic and Oak confirmed that the only feasible way to secure restoration of the site involved the winning and working of further coal reserves.

Consequently, the planning consultants working on behalf of both companies prepared a number of restoration proposals in relation to the site and a total of 18 potential schemes were presented to the LPAs in the Autumn of 2013 together with a justification as to why each one could or could not be delivered. The schemes ranged in scale from those which involved additional coaling followed by restoration, to those that involved a lesser degree of coaling but with renewable energy as an after use, and those which involved pure residential regeneration of the site with no coaling. Most of the potential schemes were dismissed as being undeliverable by Celtic and Oak for financial reasons, while those which they proposed to pursue were dismissed by the LPAs as they did not address the original reasons for refusal as cited for the above mentioned planning application.

A further two alternative proposals were submitted early in 2014. One of these schemes included the extraction of 800,000 tonnes of coal (significantly less than originally refused consent) together with the creation of a camp site and construction of holiday lodges which would be sited around a lake to be positioned above the extraction area associated with the additional coaling area. The restoration of the existing void would also be secured and would include the creation of small ephemeral ponds and geothermal ponds and food production areas including agri-science projects utilizing geothermal heat sources. It was also proposed to retain the existing overburden mound with some peripheral re-grading, the plateau of which would be utilised to accommodate a solar farm. In addition to the aforementioned it was proposed to reintroduce water courses and highways through the site. This proposal was referred to as Option K

The second option, referred to Option L3, also proposed to extract 800,000 tonnes of coal. The site would then be restored to form a lake that would be surrounded by a hotel and leisure facilities together with holiday lodges and executive housing. The existing void would be restored and would be occupied by ephemeral ponds and approximately 55 hectares of low carbon housing in addition to allotments, and a public park. Again it was proposed to retain the existing overburden mound with some peripheral re-grading, the plateau of which would be utilised to accommodate a solar farm. The water courses and highways would also be reinstated through the site.

A meeting was held with officers from NPTCBC, BCBC, Oak and Celtic Energy in June 2014 in order to discuss these above schemes. At the meeting the Planning Consultant acting for the landowner suggested that Option K may be undeliverable for financial reasons. Following the meeting NPT requested further details in order to provide further information on any financial appraisal in order to clarify why the consultant concluded that such an option was undeliverable. Despite several requests from NPT, clarification has not been forthcoming.

The restoration fund secured under the most recent planning consents, currently stands at £5.7million and is wholly insufficient to secure any form of restoration of the site which may extend to £30-40 million. It is likely that this fund may be used up during the pumping of the void alone which will take around 18 months to complete. Throughout the meetings held with Celtic, Oak and SLR, officers from both LPAs have repeatedly outlined concerns regarding site security and safety, rising water levels, lack of pumping of the void and lack of restoration. In response to these concerns, the operator and landowner have indicated that the restoration of the site in accordance with the originally approved restoration strategy and recently prepared restoration scheme may not be delivered for financial reasons. The indication is that any restoration of the site would have to pay for itself although the limited money secured within the restoration fund could contribute towards such costs.

There have been no further discussions with either Celtic Energy or Oak since the June 2014 meeting although officers from both NPTCBC and BCBC have been actively considering the potential options and have jointly been in discussion with other agencies.

The potential impacts on the Bridgend County Borough Council area

The former open cast coal site has not been restored, the overburden mounds remain and the void continues to fill with water. The implications of an unrestored site on the communities of Bridgend include the risk of the over topping of the void leading to a flooding event , public safety issues and significant landscape and visual impact.

A draft intermediate de-watering strategy has been submitted by consultants acting on behalf of Celtic Energy which proposes a system of monitoring and methods for handling the water in the void together with an outline of the potential impact on the surrounding area in the event of an overflow. The study suggests that when the water level within the void goes above 40m AOD, it should theoretically connect with old workings and in particular the Brynddu engine shaft which is located to the west of the void area beyond the Hafodheulog woods within NPT. If the water emanates from the Brynddu shaft the water will eventually flow into the nearest watercourses, including the Afon Kenfig, and should in theory not cause any adverse impact upon the surrounding communities and environment. If this scenario occurs then the water levels will stabilise and should not rise substantially above 40m AOD. However, the current measurements indicate a water level of approximately 41.80m AOD and there is some evidence to indicate that there is a flow of water from the void emanating from the Brynddu shaft into the surrounding water courses. If the water levels continue to rise in the void, it would suggest that there is a blockage in the flow path between the void and the Brynddu shaft restricting the onward flow of water underground to the watercourses beyond the site. If this is the case then the water level in the void will not stabilise and will continue to rise.

This potential scenario has been discussed at length with the landowner, former operator and other regulators. Celtic Energy is monitoring the water on a weekly basis and the levels are currently standing at 41.80m AOD. A platform has been prepared to accommodate pumps should the need arise to pump water from the void. The pumps would stabilize the water levels to prevent them rising beyond a level that could inflict environmental damage. Celtic Energy has however indicated that it does not intend to continue pumping over the long term given the costs associated with the operation of the pumps and the fact that it considers Oak to be the landowner and therefore the party responsible for safety including the water levels within the site. Celtic has confirmed that should the use of pumps be required and they subsequently decide to turn them off, they will give no less than 3 months notice to the LPAs.

Both Celtic and Oak have been requested to confirm the position going forward in terms of the responsibility relating to safety, primarily in the short term associated with the water levels within the void, but despite a number of prompts for a reply, they have yet to do so.

If the water levels continue to rise and the level in the void reaches or exceeds 51 metres AOD, this could result in the failure of the high wall into the void together with a potential outflow or rush of water which will overspill into the surrounding area. A flooding event is likely to be a worst-case scenario situation although there are a number of uncertainties as to how the water will flow once it leaves the site i.e. there is the possibility that it could flow into the watercourse before it reaches any public highway. Concern was also raised about the stability of the ground on the southern part of the void – any collapse will result in material entering the void and potentially increase the risk of water leaving the site via Crown Road. There is need therefore to monitor this situation carefully however, in the absence of suitable modelling data it is not possible to accurately predict what will happen in the event of any overtopping or failure of the void wall.

In terms of visual amenity and landscape impact, the overburden mounds associated with the coaling operations together with the other on-site construction work are an unnatural landscape form, which retain an industrial appearance even after a prolonged period of inactivity. As such the site has a significant visual impact on the surrounding area and further afield and is clearly visible from the settlements of Cefn Cribwr, Pyle and Kenfig as well as the local rights of way network. Over time there is the possibility that the site could be reclaimed naturally by vegetation and could potentially provide some ecological interest although without some form of intervention this process could take a considerable period of time.

The site also presents a health and safety issue to members of the public gaining access albeit on an unauthorised basis. The large perimeter of the mine poses a number of security issues and whilst the current operator provides some basic surveillance measures including regular checks, the possibility of public danger remains. Members should be aware that this issue is primarily one of health and safety and not necessarily related to land use planning. Nevertheless this situation is not helped by the lack of any meaningful restoration works.

Consultation with other agencies

While restoration discussions have been ongoing with Celtic, Oak and SLR, further discussions have also been held with other interested parties including Neath Port Talbot

CBC, representatives from Natural Resources Wales, the Coal Authority, Network Rail, and Her Majesty's Inspectorate of Mines and Quarries as described below.

Neath Port Talbot CBC

A substantial part of the site including the void are located within the administrative district of Neath Port Talbot. Any enforcement action and monitoring is therefore technically incumbent upon that authority. However, the planning history of this site is mirrored in both authorities and as the opencast mine is split between NPT and BCB any action is mutually reliant on the respective LPA area and must be taken jointly in order to be effective. Whilst, the impacts on both authority areas may not necessarily be the same, there are considerable commonalities and as such there is a joint imperative to secure restoration. As described above officers from both NPT and BCB have been working closely together in order to bring about a solution. NPT as an authority are fully appreciative of the potential impacts on the settlements of Bridgend.

A special Planning Committee Meeting was held in NPT on the 25th November 2014. After a lengthy debate, the Committee resolved to: 1) Pursue a restoration scheme without additional coaling; 2) Retain the option to take enforcement action as a last resort; 3) Arrange a public meeting early in 2015 (jointly with BCBC) and 4) Receive regular updates regarding any discussions with the owner/operator of the site. This was partially contrary to the Officer recommendation, which also recommended the option of considering restoration with additional coaling and a rejection of future enforcement action. NPT officers will now go back to Celtic/Oak (in conjunction with BCB officers) to discuss future restoration options.

In view of the above, it is considered crucial that BCB maintains the joint approach to securing the restoration of the site with NPT.

Natural Resources Wales (NRW):

Meetings and discussions including joint site visits have taken place with NRW. Further to this BCB formally wrote to NRW expressing concern regarding the potential flood risk from the water in the void. In its response NRW indicated the following.

"We note your concern regarding potential safety risks presented by the site and impacts on local watercourses and properties.

The impounded water body is largely below natural ground level and as such would not fall under the Reservoirs Act 1975, as the Act only considers reservoirs where there is 25ML of water impounded above natural ground level. As it does not fall under the Act we would not take enforcement action; that is a matter for the relevant Local Authority.

The River Kenfig and Nant Iorwerth-goch at this location are not designated as main rivers where they bound the site. We would expect local authorities to lead on matters concerning non-main river watercourses.

The River Kenfig is considered to be main river where it reaches Crown Road at grid reference SS 84134 83571 and we recognise our organisation's role in providing an overview of flood risk management.

The risks associated with flooding arising from water in the void are largely governed by the underlying geology of the site and historic mining features or below ground structures in the surrounding area. We would recommend that the operator and/or landowner seek advice from a competent engineer or geologist and consideration be given to the geotechnical risks posed and potential pathways or scenarios by which water could escape from the void.

This information would be critical in order to inform any consideration of any potential downstream flooding impact.

We would be happy to have discussions with Bridgend and Neath Port Talbot councils should any engineering solutions be proposed to mitigate risks identified for the site and advise whether any permissions or consents would be required.”

NRW’s offer of a meeting is noted.

As a Lead Local Flood Authority BCBC has an oversight role to consider the management of the risks of flooding from Ordinary Watercourses, surface water and groundwater. The reference to Ordinary Watercourses includes lakes, ponds and any other area of water that flow into an Ordinary Watercourse; however it is uncertain whether the void would be classed as such

The issue of any pollutants entering the watercourse has also been raised. NRW are regularly monitoring the situation and taking samples, it is however too early to tell if the water coming from the void is any risk to watercourses and it may even be several years before there is any noticeable effect on water quality, furthermore Celtic Energy who are the licensee for the site have discharge consents from NRW already in place from when the mine was operational and these are still active and authorised. The issues of any impact on biodiversity and any protected sites was looked at when the consents were issued some time ago no adverse issues were raised at the time. In any event the responsibility for regulating the discharge consents and water quality rests with NRW and it would seem that they are monitoring the situation. At present NRW are satisfied that there is no risk to the surrounding environment

In flood risk terms, NRW are clearly indicating that this remains the responsibility of the respective local authorities although it is noted that they have indicated a willingness to discuss the matter further in a meeting. NRW could also be approached regarding the possibility of assistance in providing some independent flood risk modelling data, which is critical in predicting what may happen in the event of a flooding event and what mitigation may be available. In the absence of such data and in order to fully assess the risk it may be the case that BCBC (or in conjunction with NPT) have to procure its own modelling exercise, which is likely to incur some considerable cost and take time.

It is considered that the Council should pursue this matter in further discussions with NRW, although it may ultimately be the case that NRW are not able to intervene in any meaningful way.

The Coal Authority (CA)

Discussions have taken place with CA where they have confirmed that they are an interested party in this site given that they issued the license to the operators. As an organisation CA also hold the ownership rights associated with the coal seams, albeit

these have been transferred to Celtic via a license, but they retain overall freehold responsibility for the seams. CA has indicated that there is little action it can take in relation to non-compliance with the planning conditions and associated legal agreements relating to the restoration of the site, given that the lease associated with the site has not yet expired. CA's action extends only to removing the licence from Celtic and this would have the result of absolving them of many of the planning responsibilities. In view of this consequence it may be prudent to maintain Celtic's interest in the site albeit as operator rather than landowner.

Her Majesty's Inspectorate of Mines

HM Inspectorate of Mines is responsible for the correct implementation and inspection of safe working procedures within all UK mine workings. The Inspectorate confirmed that it only has responsibility for the operations undertaken on site when the site is operational and have no responsibility associated with the risk to the public following the cessation of an activity involving coaling operations. The responsibility does not extend to de-watering or restoration works.

Network Rail

A Railway line runs immediately adjacent to the application site although it is not a main line railway and as such is not used on a frequent basis. However when works are taking place or there is an incident on the main railway line, it is used as an alternative route by both passenger and freight operators. As a result if the line becomes unusable for any reason, Network Rail can be fined up to £1000 per minute in delay costs by the train operating companies.

Network Rail has therefore expressed serious concerns in relation to the potential for flooding associated with the increasing water levels within the Margam opencast void, and the possibility of water outbursts from the excavation affecting the operation of the railway. In the event of a breach they may seek legal action although it is not clear in which direction this action will be pursued.

Planning enforcement position

In terms of the intervention of Regulators, for the reasons specified above, none of the Regulators are able to take any preventative action or are able to assist in the enforcement of the planning conditions in order to secure the restoration of the site.

Since the cessation of coaling operations in 2008, there has been considerable pressure from local residents and elected representatives requiring immediate action to enforce restoration. It is clear from the correspondence received that there is a perception from the public that the LPAs need only to serve an enforcement notice, which will in turn force the responsible party whether it is Celtic or Oak Regeneration to complete the restoration of the site. Whilst, this expectation is quite understandable, the planning enforcement process is not always straight forward particularly with regard to complicated sites. The process also relies to a certain degree on the understanding that enforcement action will bring about sanctions on the landowner. If that landowner subsequently defaults on its responsibilities then the only recourse is through the courts.

Earlier this year BCBC obtained further advice from Counsel regarding the feasibility of enforcement. The advice concluded that any enforcement from a BCBC perspective would likely to be unsuccessful.

The reasons for this are twofold:-

1. The relevant conditions controlling the restoration of the site relevant to BCBC relate to the planning consent granted in 2001 and in particular condition 28 of application P/98/377/FUL. This was effectively superseded by a further application to extend the time period for coaling operations (P/06/1478/RLX) approved in December 2007. Unfortunately as was the custom and practice at the time, all relevant conditions attached to the parent consent were not replicated on the latter decision instead a "catch-all" planning condition was added referring back to the earlier application. However, case law has subsequently established that an application under Section 73 of the Town and Country Planning Act 1990 to relax a condition is tantamount to a fresh application for the development as a whole. The latest consent does not therefore include the relevant restoration condition i.e. No. 28 of P/98/377/MIN.

2. As enforcement will be taken against all interested parties and the ultimate sanction would be against the landowner, the likelihood of pursuing a successful action against an off-shore landowner is low.

The situation is slightly different within NPT as the relevant consent issued in 2008 included all the necessary conditions required for restoration. The void area is located within NPT although all the other elements of the mine including the surcharge and overburden mounds are within Bridgend. Any enforcement action will require a joint approach due to the critical interrelationship between the various parts of the site.

Given the concerns regarding the enforceability of the conditions associated with the planning permission granted by BCBC, the responsibility for serving an enforcement notice would rest solely with NPTCBC. The enforcement notice would require a restoration scheme to be appended to the enforcement notice. As stated above this restoration scheme has been completed. The Enforcement Notice would specify the steps required at the site i.e. complete restoration of the site in accordance with the restoration scheme appended to the notice and it would also specify the time frame in which to do so. As stated above, both Celtic and Oak Regeneration have indicated that should such a notice be served then they may not be able to comply as they do not have the funds available to complete such restoration. They have also suggested that the company or companies could fold if the LPA serves an enforcement notice requiring such restoration. It is also likely that any enforcement notice will be appealed and will result in a further prolonged period in which no further action can be taken.

As a result, the serving of an enforcement notice would not secure the outcomes required by the LPAs, or members of the public. In straightforward enforcement cases, the LPA has the opportunity to take direct action utilising any funds available within an escrow account. Unfortunately the fund only contains £5.7 million which will not cover the cost of the full restoration of the site.

The question has been asked as to why the restoration fund is inadequate to cover restoration of the site. The ownership of this site together with a large number of other sites in the Country were transferred from British Coal to private companies following the privatisation of the Coal Industry in 1994. The planning permissions that were held by

British Coal in relation to Margam (Parc Slip West) site did not require any financial guarantee or bond. Given that the planning permission related to the land rather than the operator, this planning permission, without any financial guarantees for restoration, transferred to Celtic. As a result, financial guarantees were only sought in relation to subsequent applications which are subject to a legal agreement which included a restoration fund, which as previously stated amounts to a total sum of £5.7 million. The Bond as it stood was subsequently transferred to the 2006 consent.

The consequence of this is that there are insufficient funds available to both LPAs to enable them to secure restoration in default of the operator. Unfortunately this is not a unique situation and may be the case for other sites outside the area.

In Scotland, the main coal operator went bankrupt leaving a number of opencast sites unrestored. The Scottish Government set up a restoration trust (The Scottish Abandoned Mines Restoration Trust) to assist however, it does not have much financial capacity and its role is mainly advisory. The Scottish sites are unlikely to be fully restored rather they will be made safe and tidied up. The situation in Scotland is slightly different than in Wales as the main mine operator (Scottish Coal) went into administration and left a large number of sites in various states. In the case of Margam OCCS the operator is still in business and running a number of sites nationwide.

A recent Welsh Government publication entitled "Research into the failure to restore opencast coal sites in South Wales" discusses the problem of opencast restoration (Margam OCCS is actually one of the case studies). This research published in April 2014, considers the barriers to obtaining successful restoration, including consideration of methods of financing restoration schemes and planning policies and structures. The report provides the Welsh Government with estimates of restoration risks and costs at currently working opencast coal sites. The report recognises that enforcement of restoration conditions is proving particularly ineffective not just at Margam but across Wales.

The report offers a number of recommendations that may be implemented through the planning system, by local planning authorities and/or the Welsh Government. These include the alternative restoration of site through alternative after uses and even additional coaling operations or a radical review of the restoration plans.

As a result, it is clearly evident that the serving of an enforcement notice is unlikely to secure restoration of the site nor do either of the Councils have the financial means behind them to secure the restoration of the site in default.

Notwithstanding the research report referred to above there is no indication from Welsh Government as to their current position on the matter.

Whilst the local communities are quite clearly concerned about the lack of restoration taking place at the site and the perceived inactivity of both LPAs, the options going forward are unfortunately limited but are as follows:

Option 1 - Do nothing

The implications for this scenario have been discussed above. When both Celtic and Oak Regeneration have been asked to clarify their responsibilities for this site, Oak Regeneration have been silent on the matter. Celtic have indicated that they are of the opinion that the land transaction was successful and that Oak are the owners of the site

and as such will be responsible for the longer term site security and safety. Nevertheless they have indicated that should it be necessary they will commence pumping of the void on a temporary basis. Oak Regeneration have not confirmed their long term intentions with regard to the site and have only attended meetings held with the LPAs when it involves the discussion on alternative restoration schemes put forward by their consultants. As a result the 'Do Nothing Scenario' is likely to result in the void continuing to fill and the potential for a breach of the void into the surrounding area. Oak Regeneration may fold and the public will be left to cover the costs associated with such a breach. Such costs are likely to be beyond the means of both LPAs and will also result in the site remaining unrestored.

This approach could have serious consequences for settlements within the BCBC area.

Option 2 - Serve an Enforcement Notice

Both LPAs have spent a considerable amount of time discussing the need for a restoration scheme with Celtic and Oak Regeneration unfortunately to no avail. Effective enforcement action would rely on a joint approach by NPT and BCBC although only NPT has the technical authority to pursue such an action. Any enforcement notice will likely be appealed thus creating further delay.

Also, the service of a notice could result in the companies being folded. As a result the responsibility for site security and safety in the short term and restoration in the long term could be further jeopardised. Should the water levels continue to rise in the void beyond 52.0m AOD, there is potential for a flow or rush of water and consequential flooding to the surrounding areas. The cost of any remedial action associated with such an event would have to be met from public funds, which may be difficult given the challenging financial situation faced by local authorities.

For the reasons specified above it is considered that pursuing Option 2 will not result in the restoration of the site and may result in further legal difficulties.

Option 3 - Alternative restoration scheme including extraction of further coal.

Celtic and Oak Regeneration have suggested a restoration scheme that involves additional coaling (approximately 800,000 tonnes over a three year period) to the west of the site, the profit from which would be used to restore the site with a number of alternative after uses. The alternative restoration scheme is likely to retain the over burden mound and a lake albeit to a shallower depth. The additional coaling will result in progressive restoration of the void to ensure that one void isn't replaced with another and to ensure that the existing void area is either wholly or partially refilled. Whilst a leisure led regeneration scheme similar to that outlined within Option K as referred to above may be appropriate as an after use at this location, a residential scheme of this magnitude is considered to be unacceptable.

It should be acknowledged that since the previous refusals were determined, the coal industry has experienced a change in economic circumstances. This has already had a massive impact upon Scotland following the collapse of Scottish Coal which left behind a large number of un-restored sites together with insufficient restoration funds to address the matter. It is not unreasonable to assume that the economic position is getting worse rather than better with a further declining price in coal. This further decline is making the

coal industry less viable, as the price of coal may not be sufficient to cover the cost of extraction. If the price of coal continues to fall, there is a risk that an extension of the extraction area will also not release the profits required to pay for the required restoration.

It should be noted that further planning permission will be required for the additional extraction and the amended restoration. Given the proximity of the site to the Kenfig Special Area of Conservation (SAC) an Appropriate Assessment (AA) may also be required.

However, further coal extraction will inevitably have a significant impact on the local area albeit for a limited time and far less than originally proposed. This would need to be balanced against the desirability or likelihood of securing any meaningful restoration for the site. Notwithstanding the restoration issues and given the reasons for refusal for the last proposal for additional coaling, which involved a prolonged appeal process, it is difficult to envisage any situation that would justify support for any operations for further coal extraction in either policy or amenity terms. There is also likely to be considerable public and political opposition to such a proposal on material planning grounds from both sides of the County Borough border.

As noted above NPT Planning Committee voted against pursuing schemes that involved additional coal extraction in a special meeting in November 2014.

In view of the above this option is not considered to be acceptable.

Option 4 - Alternative restoration scheme without further coaling

As stated above, the cost of full restoration exceeds the funds available, and as such the only potential form of restoration that may be acceptable, and which does not involve further extraction, with the cooperation of Celtic and Oak Regeneration, is to partially backfill the void area with material held within the surcharge mound to create a slightly shallower lake. Where possible, the former highways and rights of way which ran through the site prior to the creation of the open cast coal site should be reinstated. This option is less likely to secure a site which bears any resemblance to the land prior to its operation as an Open Cast Coal Site.

It should be noted that further planning permission will be required for the amended restoration. Given the proximity of the site to the Kenfig Special Area of Conservation (SAC) an Appropriate Assessment (AA) may also be required.

This option would result in a light restoration of the site where the landscape form remains but may be softened with additional landscaping. Any after uses would likely be recreation or energy related rather than commercial. It will also be necessary to make the site safe and to secure any unstable land and remove the flood risk. Whilst, this option has been discussed with Celtic and Oak Regeneration it is not clear to what extent they would be prepared to put forward firm proposals.

Option 5 – Use of the existing restoration fund

This option will involve using the limited monies available in the current restoration fund to explore options for making the site safe. As mentioned above the current fund will only

likely provide the de-watering of the void, which will then fill up again over time. However, there may be an engineering solution that could maintain the water at a safe level and remove the flood risk. This will require research, investigation, design and implementation and at present there is no indication of what this will cost. Any use of the fund will require the co-operation and consent of NPT as well as other agencies including NRW.

Conclusion

The Margam Opencast Coaling Site ceased operation in 2008 and since this time both NPTCBC and BCBC have been seeking full restoration in accordance with the conditions attached to the planning consents.

At present the site poses a significant risk to public safety and has a detrimental impact in landscape and visual terms.

The matter has been confounded by a lengthy planning appeal process and the land transfer issue. To date both authorities have been unsuccessful in securing restoration through the planning process and it is unlikely for the reasons outlined above that this course of action will yield any positive results.

The other statutory agencies, for various reasons are unable to assist the Councils in this aim. The Welsh Government has not offered any position statement.

To date the discussions with the operator and landowner have largely revolved around schemes that involve after uses that for land use planning reasons are unlikely to be acceptable to either authority.

The current restoration fund for reasons explained above is insufficient in order to secure any meaningful restoration.

The options for BCBC are therefore limited although it is considered that the priority is to make the site safe, to reduce any risk in the short term and ultimately achieve some form of acceptable and permanent solution.

It is likely that BCBC will be invited to participate in a joint public meeting some time during the early part of 2015. Whilst this is not a land use planning matter, Members may also wish to give this some consideration.

Recommendation

It is recommended that Bridgend County Borough Council pursue the action outlined under options 4 & 5 i.e. to consider alternative restoration schemes that do not involve further coaling operations and to investigate potential solutions utilising the existing restoration fund.

DEVELOPMENT CONTROL COMMITTEE MEETING – 8 JANUARY 2015

ITEM: 4

TRAINING LOG

All training sessions are held in the Council Chamber unless otherwise stated.

<u>Facilitator</u>	<u>Subject</u>	<u>Date</u>	<u>Time</u>
Tony Thickett - Director for the Planning Inspectorate Wales	The Planning Inspectorate	5 Feb 2015	12.45pm

Dates for other topics and speakers to be arranged including the following:

Subject

- Planning enforcement

Recommendation:

That the report of the Corporate Director - Communities be noted.

**MARK SHEPHARD
CORPORATE DIRECTOR - COMMUNITIES
31 DECEMBER 2014**

BRIDGEND COUNTY BOROUGH COUNCIL

LOCAL GOVERNMENT ACT, 1972 - SECTION 100 LIST OF BACKGROUND PAPERS

MEETING: Development Control Committee

DATE OF MEETING: 8 JANUARY 2015

REPORT OF THE CORPORATE DIRECTOR - COMMUNITIES

<u>ITEM</u>	<u>FILE NO.</u>	<u>LOCATION</u>
Where the application / appeal / enforcement number is quoted, please refer to the file of that number		Corporate Director - Communities - (Planning Dept)
Training Log		Corporate Director - Communities - (Planning Dept)

For further details on the above please contact Craig Flower on 01656 643157 or email planning@bridgend.gov.uk

DEVELOPMENT CONTROL COMMITTEE : 08-JAN-15

P/14/695/OUT/NG

Town/Community Council :

PORTHCAWL

GROUNDS OF WEST WINDS 2 LOCKS LANE PORTHCAWL

P/14/714/FUL/NG

Town/Community Council :

LALESTON

LAND ADJACENT 11 CARN WEN BROADLANDS

BRIDGEND

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