

REFERENCE: P/13/246/OUT

PROPOSAL: DEVELOPMENT OF UP TO 230 DWELLINGS & 0.3 HECTARES OF MIXED USE CENTRE (USE CLASSES A1, A3 AND C3)

LOCATION: LAND AT BRACKLA INDUSTRIAL ESTATE BRACKLA BRIDGEND

Planning permission for the above development on land to the east of Brackla Industrial Estate was granted on 7 November 2014 subject to a Section 106 agreement which required, amongst other things, the implementation of noise mitigation works on the adjacent BEI Lighting site. The agreement required that all works would be completed prior to the commencement of construction works on site but also included a clause that required the owner to undertake further noise mitigation measures that may be reasonably required by the Council.

The agent acting on behalf of the landowner, South Wales Land Development Limited, has confirmed that measures to reduce noise from the paint extract fans on the BEI site have been designed but negotiations to secure an access licence have been protracted and remain unresolved. Whilst information received from the relevant parties indicates that the works will be undertaken, the delays are preventing the commencement of a consented housing scheme on the adjoining site, (P/16/337/RES).

South Wales Land Development Limited is therefore seeking to vary paragraphs 1, 1.3 and 2 of Part 1 of the Second Schedule to the S106 obligation as follows:

(i) Re-wording paragraph 1 thus allowing the approved housing development to commence but requiring the noise mitigation works to be implemented prior to works commencing on the dwellings directly affected by the noise issues;

(ii) Paragraph 1.2 of the Second Schedule to the S106 requires the relocation of the loading bay area within the BEI site. At the time of the Section 106 Agreement it was expected that the loading bay area would be relocated to a position immediately outside the BEI offices and, as a result of that location, sound insulation would be required to the offices of BEI. Paragraph 1.3 was inserted into the S106 to ensure the sound insulation measures were carried out. It has now been agreed that the loading bay area can be relocated elsewhere on the BEI site. The omission of paragraph 1.3, has been requested as the agreed position of the relocated loading bay negates the need for sound insulation to the office building and this can be accepted if the new location of the loading bay is secured;

(iii) Modify paragraph 2 to omit the requirement on the owner to undertake further noise mitigation measures following the satisfactory implementation of the measures already required under paragraphs 1.1, 1.2 and 1.4 of the Section 106 obligation as the identified measures will be sufficient.

These proposed variations have been the subject of discussions with the Public Protection Officer who provided observations on the original application and there are no objections to these proposed variations to the S106 obligation. In terms of (i) and (iii) above, the agreed specification for the noise attenuation measures has a higher degree

of attenuation and will be implemented before works commence on those properties that would be affected. It is considered that a requirement for the owner to undertake further works, beyond the agreed measures, is not necessary and would be unreasonable.

It is considered that the variations sought are reasonable without prejudicing the amenity of the future occupiers of the approved housing development. It will be necessary to formalise the matter as a Deed of Variation to the Section 106 Agreement and it is recommended that the Corporate Director Operational and Partnership Services be authorised to prepare and complete the Deed of Variation. All other obligations will remain as agreed.

Recommendation

That the Corporate Director Operational and Partnership Services be authorised to prepare and complete the required Deed of Variation to implement the changes to the Section 106 Agreement identified in the Report and any other amendments necessary to ensure the delivery of the Obligations in the Section 106 Agreement.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers

None