



PLANNING & DEVELOPMENT COMMITTEE

21 FEBRUARY 2019

REPORT OF THE SERVICE DIRECTOR, PLANNING

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below

APPLICATION NO: 18/1314/15
(GD)
APPLICANT: Maes Bach Holdings
DEVELOPMENT: Variation of Condition 7 (to the design, details of the road layout, street lighting, surface water, drainage and highway structures, as imposed on 16/1085).
LOCATION: LAND AT END OF GODREAMAN STREET,
ABERAMAN, ABERDARE, CF44 6DF
DATE REGISTERED: 27/11/2018
ELECTORAL DIVISION: Aberaman South

RECOMMENDATION: Approve

REASONS:

The principle of the proposed development has been established by the grant of Outline planning permission on appeal in October 2013 and the subsequent renewal of outline planning permission in 2017 and there have been no changes in material circumstances since that would justify an alternative decision.

REASON APPLICATION REPORTED TO COMMITTEE

- The proposal is not covered by determination powers delegated to the Service Director Planning;

APPLICATION DETAILS

Planning permission for the development of 43no. dwellings on this site was granted at appeal in October 2013 and effectively renewed under planning application 16/1085 in 2017. The current application is a further submission under Section 73 of the Town & Country Planning Act 1990 and seeks to vary the wording of condition 7 of planning application 16/1085 which was approved as follows –

7. The design details of the road layout, street lighting, surface water, drainage and highway structures, shall be carried out in accordance with the details contained in the following plans:

1. 2983-200 Rev D External Works
2. 2983-201 Rev B Drainage Layout
3. 2983-210 Rev B Long Sections Sheet 1
4. 2983-211 Rev B Long Sections Sheet 2
5. 2983-212 Drainage Sections
6. 2983-213 Site Cross Sections Sheet 1
7. 2983-214 Site Cross Sections Sheet 2
8. 2983-221 Rev B Manhole Schedules Surface Water
9. 2983-222 Rev A Manhole Schedules Foul
10. 2983-255 Rev E Street Lighting Layout

All of the above plans received 16th June 2017 and;

- a. 2983-250 Rev E S38 Site layout Received 20th June 2017

Reason: For the avoidance of doubt and in the interests of highway safety and in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

The requirement for a further Section 73 application has arisen out of the fact that the site has now changed hands and having fully evaluated the site the new owner is of the view that the proposals as previously approved are unviable and undeliverable. A further submission (18/1207) has been made seeking reserved matters approval for the development of the balance of the site (42 no. Dwellings) and this is reported elsewhere on this agenda.

SITE APPRAISAL

The application site is a rough rectangle of land of some 1.32 hectares located southwest of Godreaman Street and Forge View in Aberaman. The site is bounded by those streets and the adult education centre to the north east, Brynmair Road to the northwest, Allotment land to the southwest and the narrow road which links Forge View with The Falcon Inn to the southeast.

Topographically the site slopes downwards from northwest to southeast towards the River Aman with a shallow cross fall from northeast to southwest. The site has well defined boundaries characterised by a combination of post and wire fencing and mature hedgerow. There were previously a number of outbuildings on site close to its access on to Godreaman Street but these have recently been demolished. The field gate at this point is the only access into the site. Other than this the site was grassed, though initial engineering works undertaken by a sub-contractor to try to

establish the line of the road originally intended for the site has led to a substantial amount of ground disturbance across the site. Though there is some evidence of Japanese knotweed infestation adjacent to the northwestern boundary of the site this has substantially decreased since the original planning application was considered in 2012 due to the former owner following a programme of treatment.

PLANNING HISTORY

16/1085	Variation of conditions 1,2&3 of planning permission 12/0446 to extend time for the submission of reserved matters	Approved	01/08/17
16/0846	Discharge of conditions relating to 12/0446 conditions 7,8,10,17 & 18 discharged	Approved	28/07/17
12/0446	43 no dwellings (including affordable housing)	Refused	26/09/12
		Allowed at Appeal	24/10/13
02/1065	Stables	Approved	28/08/02

PUBLICITY

The proposals have been advertised by means of site notice and neighbour notification letters and no observations or objections have been received.

CONSULTATION

Highways – no objections subject to conditions.

Flood Risk Management – no objections subject to conditions.

Public Health & Protection – no objections.

Countryside – raise no objections to the proposed development and advise that the new developer should have regard to the recommendations of earlier ecological assessment work in respect of the site and devise a strategy to deal with any damage done to the site as a result of recent earth works.

Natural Resources Wales – no objections subject to conditions.

Dwr Cymru/Welsh Water – no objections subject to conditions.

Western Power Distribution – raise no objections to the proposed development and advise that if the applicant requires electrical supply to the proposed development they will need to contact Western Power Distribution.

Wales & West Utilities – no observations received.

South Wales Fire & Rescue Service – no observations received.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Policy CS1 promotes development in the north of the County Borough including residential development which provides high quality, affordable accommodation that promotes diversity in the residential market.

Policy CS4 identifies the housing requirements for the period of the Local Development Plan which is to be provided, amongst other sources, by residential allocations in the northern strategy area.

Policy AW1 identifies how land will be made available to meet the housing land requirements figure.

Policy AW5 sets a series of criteria set around amenity and accessibility that all new development should meet.

Policy AW6 sets a series of design and placemaking criteria that will be supported in new development proposals.

Policy AW10 disallows development where it would cause or result in a risk of unacceptable harm to health and/or local amenity because of (amongst other things) contamination unless it can be demonstrated that measures can be taken to overcome any significant adverse risk.

Policy NSA 9.10 allocates the site for the residential development of 40 houses.

Policy NSA10 requires that new development should be developed to a minimum density of 30 dwellings per hectare unless a deviation from that figure can be justified.

National Guidance

In the determination of planning applications regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan, particularly where National Planning Policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 10 sets out the Welsh Government's current position on planning policy which incorporates the objectives of the Wellbeing of Future Generations Act in to planning.

It is considered that the current proposals meet the seven wellbeing of future generation's goals inasmuch as they relate to the proposed development and the site is being brought forward in a manner consistent with the five ways of working.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking as defined by chapter 2 people and places: Achieving Wellbeing through Placemaking of the new policy document and that the proposal is also consistent with the following insofar as they relate to the development proposed –

Chapter 1 managing new development.

Chapter 3 strategic and spatial choices.

Chapter 4 active and social places

Other relevant policy guidance consulted:

PPW Technical Advice Note 5: Nature Conservation and Planning;

PPW Technical Advice Note 11: Noise;

PPW Technical Advice Note 12: Design;

PPW Technical Advice Note 18: Transport;

PPW Technical Advice Note 23 Economic Development

Manual for Streets

REASONS FOR REACHING THE RECOMMENDATION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

Main Issues:

The key consideration in the determination of this application is whether the variation of condition 7 which specifies the highway layout to be used in the proposed development remains compatible with planning policy considerations. It is though also appropriate to consider whether there has been any change in material circumstances affecting this development since the original grant of planning and effective subsequent renewal of consent under application 16/1085 and the officer view is that in planning terms there has not.

Applications made under Section 73 of the Town & Country Planning Act 1990 allow the Local Planning Authority to do one of two things when an applicant seeks to vary or remove conditions, it can:-

- (a) Grant consent either with or without conditions; or,
- (b) Refuse.

In this case, it is clear that allowing the removal of the approved condition 7 and replacing it with a condition that allows an alternative access arrangement to come forward is acceptable. Planning policy remains entirely supportive of the proposals and no other material considerations have arisen since the approval of planning application 16/1085 that could justify arriving at a contrary view.

Whilst it is appropriate to consider whether there has been any change in policy or any other material circumstance that might affect the proposal; it is not appropriate to challenge the heart of the consent itself unless there has been a considerable shift in policy or any other material consideration that could lead to a contrary view.

This case has not been affected by any change in policy circumstance or other form of material consideration. However, a Section 73 application also allows the Local Planning Authority to consider any other conditions imposed on the original consent and whether they remain relevant to the planning permission to be granted or whether they require revision, or if additional conditions are now necessary. It is therefore appropriate to review the conditions previously imposed.

Conditions 1 to 6 can remain as previously approved under application 16/1085. Condition 7 is the catalyst for this application and it is proposed that this be removed and replaced with the conditions now recommended by Highways Development Control which are reflected in proposed conditions 9, 10, 13 & 14 below and will allow the applicants the flexibility to bring the site forward in the manner now proposed under the most recent application for approval of reserved matters 18/1207 which is reported elsewhere. Condition no.8 will need to be reworded to better reflect the agreement of boundary treatments given the changed circumstances. Conditions 9 to 16 can remain as previously approved.

Community Infrastructure Levy (CIL) Liability

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

In respect of applications made under Section 73 of the Town and Country Planning Act 1990, Regulation 128A of the CIL Regulations provides for CIL liability to be triggered only where any additional liability (floor space) is introduced as a result of the development.

In this case, there will be no increase in floor space and therefore the chargeable amount will be £0

Section 106 Contributions / Planning Obligations

Section 106 of the Town and Country Planning Act (as amended) enables local planning authorities and developers to agree to planning obligations to require operations or activities to be carried out on land (in-kind obligations) or require payments to be made (financial contributions), to mitigate any unacceptable impacts of development proposals.

The Community Infrastructure Levy (CIL) Regulations 2010, with effect from 6 April 2010, state that a planning obligation (under S.106) may only legally constitute a reason for granting planning permission if it is:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and,
3. fairly and reasonably related in scale and kind to the development.

Planning Policy Wales (Chapter 3) advises that contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits which will make development more sustainable. Further guidance regarding what types of obligations developers may be expected to contribute towards is also contained within Policy AW4 of the Local Development Plan and the Council's SPG on Planning Obligations, however it is made clear that this is intended to form the basis of negotiations between all parties.

The Section 106 requirements in this case

Members will be aware that previous approvals in respect of this site have sought to deliver affordable housing on the site and a transport tariff payment as per the original consent granted in 2013. However, as part of the current suite of applications the applicants have also provided viability evidence that the site is financially incapable of providing either. This is consistent with evidence independently prepared for the Council by GVA Grimley and as such, it is recommended that Section 106 contributions no longer be pursued. However, as development of the wider site has technically commenced as there is now one house on the site, there is a need to appropriately address the issue and formally discharge the earlier agreement.

Conclusion

The application is continues to comply with the relevant policies of the Local Development Plan in respect of the provision of new housing and there have been no alterations or variations in circumstances material to the determination of the

application that would warrant any other decision than the granting of planning permission in this case.

APPROVE SUBJECT TO THE FOLLOWING CONDITIONS AND THE SUCCESSFUL DISCHARGE OF THE PREVIOUS SECTION 106 AGREEMENT.

1. Details of the access, appearance, landscaping, layout and scale (hereinafter called the “reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason: In order to comply with the requirements of Sections 91/92 of the Town & Country Planning Act 1990.

2. Application for the approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

Reason: In order to comply with the requirements of Sections 91/92 of the Town & Country Planning Act 1990.

3. The development hereby permitted shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: In order to comply with the requirements of Sections 91/92 of the Town & Country Planning Act 1990.

4. No dwelling shall be built until samples of the materials to be used in the construction of the external surfaces of the building permitted have been submitted to and approved in writing by the Local Planning Authority. Any development shall be carried out in accordance with the approved details.

Reason in the interests of visual amenity and to comply with policies AW5 & AW6 of the Rhondda Cynon Taf Local Development Plan.

5. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in appendix 4 of TAN 15 (or subsequent version) , and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided the submitted details shall:

- provide information about the design storm period and intensity , the method employed to delay and control the surface water discharged from the site and measures taken to prevent pollution of the receiving ground water and/or surface waters;
- include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker or any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure adequate disposal of foul and surface waters in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

6. No dwelling shall be occupied until parking space to serve that dwelling has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that adequate parking provision is made to serve the proposed development in accordance with policy AW5 of the Rhondda Cynon Taf Local development Plan.

7. All planting seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and to comply with the requirements of policies AW5 & AW6 of the Rhondda Cynon Taf Local Development Plan.

8. Construction Works on the development hereby approved shall not take place other than during the following times, unless otherwise approved by the Local Planning Authority:

- Monday to Friday 0800 to 1800 hours
- Saturday 0800 to 1300 hours
- Not at any time on Sundays, Bank or Public Holidays

Reason: in the interests of residential amenity and to comply with the

requirements of policy AW5 of the Rhondda Cynon Taf Local Development Plan.

9. No Lorries shall access or egress the site outside the hours of 0900 to 1600 Hours.

Reason: in the interests of residential amenity and highway safety and to comply with the requirements of policy AW5 of the Rhondda Cynon Taf Local Development Plan.

10. The development of the site shall be undertaken in accordance with the details of the Construction Management Plan approved under application 16/0846/38.

Reason: in the interests of residential amenity and highway safety and to comply with the requirements of policy AW5 of the Rhondda Cynon Taf Local Development Plan.

11. All works of development at the site shall be undertaken in accordance with the ecological report for the site prepared by David Clements Ecology and dated September 2016.

Reason: To enhance and afford protection to animal and plant species in accordance with policies AW5 & AW8 of the Rhondda Cynon Taf Local Development Plan.

12. Prior to the commencement of building of any housing on the site , details for the provision of bat and barn owl boxes shall be submitted to and approved in writing by the Local Planning Authority. The provision shall be implemented in accordance with the approved details and maintained as such thereafter unless otherwise approved in writing by the Local Planning Authority.

Reason: To enhance and afford protection to animal and plant species in accordance with policies AW5 & AW8 of the Rhondda Cynon Taf Local Development Plan.

13. Notwithstanding the submitted plans, no further work shall commence on site until full engineering design and details of the road layout, street lighting, surface water drainage, and highway structures, including longitudinal and cross sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved scheme prior to the occupation of any further dwelling on the site or as may otherwise be approved in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of highway safety and in accordance with Policy AW5 of the Rhondda Cynon Taf Local development Plan.

14. Prior to the commencement of any additional works on the site details of the provision of a footway fronting Godreaman Street and of on site parking provision for residents of Godreaman Street shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented in accordance with a written scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with Policy AW5 of the Rhondda Cynon Taf Local development Plan.

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