

Urgent Item

Electoral Division:
Clydach

Reason for Urgency

An appeal has been submitted against the refusal of the planning application detailed below. The deadline for submission of the appeal statement is 26th January 2016. Due to this timescale and the possible costs implications associated with the appeal, an urgent decision is required so that if the recommendation is accepted, the relevant interested parties can be informed of the Council's position.

Report of the Head of Economic Regeneration and Planning

Planning Committee - 12 January 2016

Planning Application Ref: 2014/1906

Change of use of public house (Class A3) to an 8 bed care home (Class C2), demolition of part of building at land opposite 59-63 Hebron Road and creation of separate car parking area to be used in association with the care home.

31 Hebron Road and land opposite 59-63 Hebron Road, Clydach

1.0 Background

1.1 This application was reported to Planning Committee on 13th October 2015 with the recommendation that planning permission be approved subject to conditions. Committee did not accept the recommendation for approval and the application was refused for the following reasons:

1. The application provides insufficient amenity space within the curtilage of the site for future residents of the proposed care home to the detriment of the residential amenity they can reasonably be expected to enjoy. The development is therefore contrary to Policy EV1 of the City and County of Swansea Unitary Development Plan (2008).

2. The provision of inadequate car parking may lead to users of the premises parking on the highway in close proximity to the proposed care home to the detriment of the safety of highway users. The development is therefore contrary to the criteria set out in Policies AS6 and HC15 of the City and County of Swansea Unitary Development Plan 2008.

2.0 Main Issues

2.1 An appeal has been submitted against the Local Planning Authority's decision to refuse the planning application. The appeal is to be considered by way of a Hearing, the provisional date for which is 30th March 2016. The Local Planning Authority's appeal statement has to be submitted by 26th January 2016.

2.2 The appellant has indicated in the appeal documents that an application for an award of costs is to be made against the Local Planning Authority's decision to refuse the application. The claim is to be made on the grounds that the Council's unreasonable conduct on refusing the application has resulted in the appellant's wasting and/or incurring expense unnecessarily. Advice on the award of costs in

planning appeals is included in Welsh Office Circular 23/93 : 'Award of Costs incurred in Planning and other (including Compulsory Purchase Order) Proceedings'.

- 2.3 The circular states that Planning Authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers, or received from statutory bodies or consultees. However, they will be expected to show they had reasonable planning grounds for taking a decision contrary to such advice, and be able to produce relevant evidence to support the decision. If they fail to do so, costs may be awarded against the Authority.
- 2.4 In terms of reason 1, the 'National Minimum Standards for Care Homes for Younger Adults', prepared as a statement of national minimum standards applicable to care homes for younger adults made by the Minister for Health and Social Services of the Welsh Assembly Government under the powers conferred by section 23(1) of the Care Standards Act 2000, does not prescribe any minimum external amenity space requirement. However, it requires outdoor space to be proportionate to the number of service users and staff on duty. The national minimum standards for older people requires at least 4.1 square metres of communal space for each service user, amounting to a requirement of 32.8 square metres for eight residents. The rear garden area of the appeal site amounts to some 164 square metres of private amenity space. It is considered that this amount of space is proportionate for the number of service users and on this basis, it is not considered that relevant evidence to support reason 1 of for refusal can be produced.
- 2.5 The costs circular advises that the Local Planning Authority can minimise the risk of an award of costs against them in an appeal, or the extent of any award of costs, by notifying PINS and the appellant immediately if they conclude, on re-examination of their case, that any of their reason for refusal cannot be supported by substantial evidence and they confirm that they will not be contesting the appeal in those respect. It is considered that in the absence of sufficient evidence to support reason 1 of the refusal, the Local Planning Authority should not contest this issue at appeal. The appeal would then concentrate on the highway reason for refusal, for which it is considered relevant evidence can be produced to support the decision to refuse the application.

3.0 Recommendation

- 3.1 It is recommended that:
- 3.2 the Local Planning Authority should not contest reason 1 of the refusal of planning application 2014/1906 at appeal, and that the Planning Inspectorate and the appellant be informed accordingly.

BACKGROUND PAPERS

Local Government Act 1972 (Section 100) (As Amended)

The following documents were used in the preparation of this report:

Application file and appeal documents

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