

CITY AND COUNTY OF SWANSEA

MINUTES OF THE PLANNING COMMITTEE

**HELD AT COMMITTEE ROOM 3A, GUILDHALL, SWANSEA ON
TUESDAY, 12 JANUARY 2016 AT 2.00 PM**

PRESENT: Councillor P Lloyd (Chair) Presided

Councillor(s)

A C S Colburn
P Downing
I M Richard
T M White

Councillor(s)

D W Cole
E T Kirchner
M Thomas

Councillor(s)

A M Cook
C L Philpott
D W W Thomas

80 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillor M H Jones.

81 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

In accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea, the following interest was declared:

Councillor D W Cole – Minute No.84 – Planning Application 2015/1786 (Item1) – Personal as Member of Grovesend Town Council.

82 **MINUTES.**

RESOLVED that the Minutes of the Planning Committee held on 8 December 2015 be agreed as a correct record subject to Minute No.78 (Item1 – 2015/2074) being amended to add the following – Councillor D W Cole(Local Member) outlined his objections to the application on the material planning considerations of Health and Safety and Access/Traffic Issues.

83 **ITEMS FOR DEFERRAL / WITHDRAWAL.**

None.

84 **DETERMINATION OF PLANNING APPLICATIONS UNDER THE TOWN & COUNTRY PLANNING ACT 1990.**

The Head of Economic Regeneration and Planning presented a planning application.

Amendments to this schedule were reported and are indicated below by (#).

RESOLVED that:

(1) the undermentioned planning applications **BE APPROVED** subject to the conditions in the report and/or indicated below:

#(Item 1) Planning Application.2015/1786 – Land associated with Castell Ddu Farm, off Ally-y-Graban Road, Pontarddulais

Condition 12 be amended to read as follows:

The works hereby approved shall be undertaken in accordance with the recommendations listed in Section 5 of the preliminary Ecological Appraisal report prepared by Wildwood Ecology (Ref: WWE150602.PEA.2) received on 9 September 2015.

Reason: To ensure the proposal has no impact upon protected species.

A visual presentation was provided.

85 **PLANNING APPLICATION NO.2008/0912 - FORMER WALTERS YARD, PONTLLIW, SWANSEA.**

The Head of Economic Regeneration & Planning reported that this application was reported to Planning Committee on 13 October 2015 with the recommendation that planning permission be approved subject to conditions and subject to the applicant entering into a S106 planning obligation.

Following initial searches by the Council's Legal Services, it came to light that part of the application site, which includes the access from Swansea Road to the main body of the application site, is owned by the Council and is covered by a 125 year Lease to Seetall Furniture. As Seetall Furniture have a lease of more than 7 years they are an "owner" under the Town and Country Planning (Development Management Procedure) Wales Order 2012 and should have had notice served on them under Article 10 of the Order to formally notify them of the planning application. It should be noted that the correct notice had been served on the Council as the freeholder of this land.

The purpose of the notice is to make the owner aware of the applicant's intentions for the land. Seetall Furniture made several written representations objecting to the planning application and addressed the Planning Committee at the meeting. Seetall Furniture are therefore fully aware of the planning application and the applicant's intentions to develop the land.

In order to rectify this oversight, the applicant has confirmed that they have served the correct notice on Seetall Furniture as required by the above legislation. To date no further response has been received from Seetall Furniture. Following the advice of the Council's Legal Services, it is not considered that this procedural oversight would prejudice in any way the planning merits of the development that are set out in the report nor would this oversight prejudice the decision of the Planning Committee to resolve to approve the development.

RESOLVED that Legal Services be notified that the correct notice has now been served on Seetall Furniture and that the Section 106 agreement can now be progressed in accordance with the recommendation to approve the development.

86 **URGENT ITEM - PLANNING APPLICATION NO.2014/1906 - 31 HEBRON ROAD AND LAND OPPOSITE 59-63 HEBRON ROAD, CLYDACH.**

The Chair stated that pursuant to paragraph 100B(4)(b) of the Local Government Act 1972, he considered that the report from the Head of Economic Regeneration and Planning on Planning Application No.2014/1906 should be considered at this meeting as a matter of urgency.

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 26 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.

The Head of Economic Regeneration and Planning reported that the application was reported to Planning Committee on 13 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.*

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 30 March 2016. The Local Planning Authority's appeal statement has to be submitted by 26 January 2016.

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'.

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.

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.

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.

Councillor P B Smith (Local Member) addressed the Committee regarding the application and the need to protect any future residents from potential road safety issues and on the parking problems associated with the proposal.

RESOLVED 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.

87 **ADOPTION OF FFYNONE & UPLANDS CONSERVATION AREA REVIEW AS SUPPLEMENTARY PLANNING GUIDANCE & PROPOSAL TO SERVE AN ARTICLE 4(2) DIRECTION.**

The Head of Economic Regeneration & Planning presented a report which detailed the representations received during the consultation on the Ffynone & Uplands Conservation Area Review, and sought agreement for the proposed amendments to the draft guide and adopt it as Supplementary Planning Guidance (SPG).

A detailed presentation was provided to Committee which outlined the following areas:

Minutes of the Planning Committee (12.01.2016)
Cont'd

- What is a Conservation Area
- Background and reasons behind the review
- Aims of the review
- Increased protection and boundary amendment to area covered
- Public consultation undertaken and responses received
- Local Member and Cabinet Advisory Committee input
- Next steps
- Article 4(2) Direction

RESOLVED that

1) the Ffynone & Uplands Conservation Area Character Appraisal and Management Plan as set out at Appendix A to the report be adopted as Supplementary Planning Guidance to UDP policy EV9.

2) the enlarged Conservation Area Boundary as set out in Appendix D to the report be approved.

3) the serving of draft Article 4 Direction (to remove Permitted Development Rights) for selected properties as shown in Appendix E to the report and to protect all boundary walls be agreed.

The meeting ended at 3.14 pm

CHAIR