

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: **30 MARCH, 2017**

REPORT OF THE HEAD OF REGENERATION AND PLANNING

7. ENFORCEMENT ACTION

LAND AND BUILDINGS AT LLANERCH VINEYARD, HENSOL

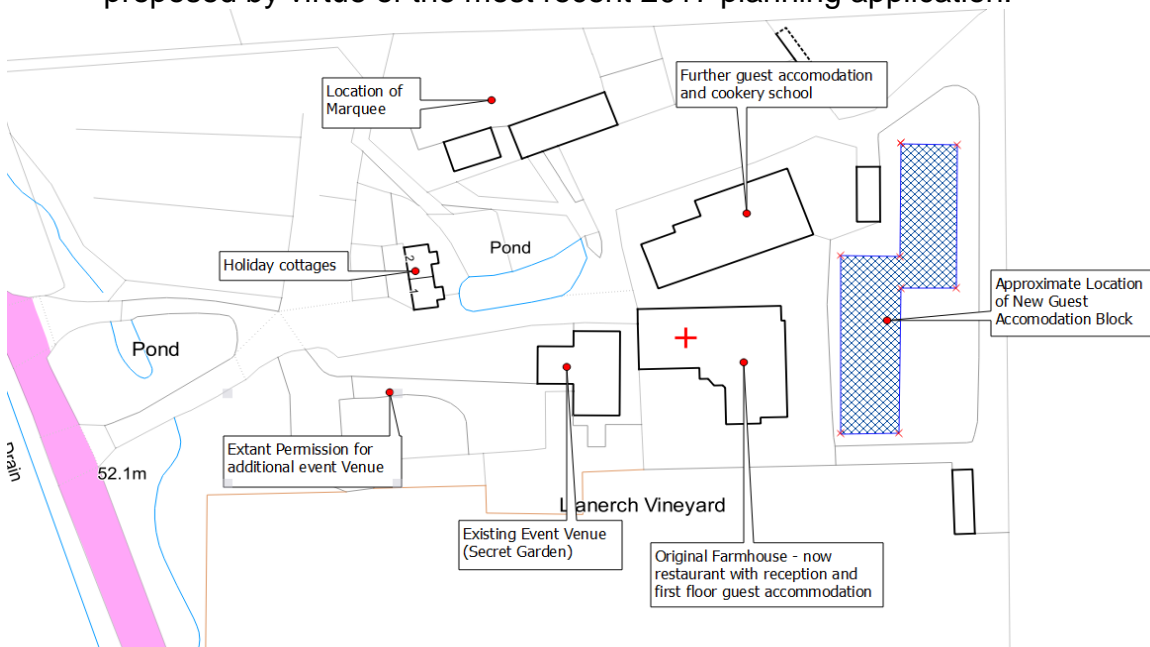
Introduction

1. This report relates to the erection of a guest accommodation block and an event venue without the benefit of planning permission at the property known as Llanerch Vineyard, Hensol.
2. Llanerch Vineyard was formerly only in agricultural use but is now a tourism and events complex that incorporates a restaurant, event venue, cookery school and hotel/holiday accommodation. The site is still used for growing grape vines, although wine production is understood to take place off site. The site is within the rural Vale, between Hensol and the M4 Motorway, with Junction 34 within a short distance to the northeast, and is accessed via a driveway that meets with the highway to the western edge of the site. The site is within the designated Special Landscape Area of the 'Ely Valley & Ridge Slopes'.
3. In terms of built development, the site is occupied by the former farmhouse building that has been converted and extended to provide the restaurant and accommodation at first floor. The event venue (known as the Secret Garden) has been recently constructed to the west of the original farmhouse and further guest accommodation and the cookery school is provided in an extended and converted farm building to the north of the farmhouse and a semi-detached pair of holiday-let cottages are within the site but to the west of the complex of buildings. Finally, a temporary marquee has been on site in the past providing a further event venue.

Background and Details of the Breach

4. On 15 January, 2015, it was resolved to grant planning permission (application reference 2013/01095/FUL) for a 19 bed guest accommodation block, subject to the satisfactory completion of a Section 106 agreement relating to necessary planning obligations. The application remains undetermined as the Section 106 agreement remains unsigned.
5. More recently two planning applications have been submitted to the Council proposing an amended version of the accommodation block (planning application reference 2017/00191/FUL and 2016/01051/FUL). The first proposes 26 bedrooms and the second 27 bedrooms. Both applications remain invalid and are not, therefore, currently being considered by the Council.

6. Following a very recent site inspection in early March 2017, it was noted that development has commenced for the erection of a guest accommodation block. Whilst it was noted that the location of the new development to the east of the existing complex (i.e. the location of the 2013 scheme), the building under construction is substantially different to the scheme resolved for approval under the 2013 planning application. A site survey has confirmed that the building under construction is in the approximate location shown in the submitted plans for planning applications reference 2016/01095/FUL and 2017/00191/FUL (both of which have the same footprint). The building has a footprint of approximately 1916sqm, in comparison with the 1208sqm (approximate) footprint of the 2013/01095/FUL scheme. The principal west facing elevation is also located some 3 – 6m to the east of the 2013 scheme. It is understood to be the developer's intention to complete the development proposed by virtue of the most recent 2017 planning application.



7. The planning history outlined above confirms that there is no extant planning permission for the erection of a guest accommodation block on this site. Whilst the 2013 application has been resolved for approval (subject to the signing of a Section 106 agreement), this permission will ultimately be subject to pre-commencement conditions and, in any event, the development on site does not accord with this scheme.
8. In addition to the above unauthorised development, the existing event venue (known as the Secret Garden) was also erected without the benefit from planning permission. As noted from the planning history above, an application for planning permission (reference 2015/00745/FUL) was submitted seeking retrospective consent for the retention of the building erected. That application was considered and it was resolved to grant permission for the proposed scheme, subject to the developer entering into a section 106 agreement requiring planning obligations for public art and sustainable transport. Despite the resolution to grant permission having been made in September 2015, the Section 106 agreement remains unsigned. As such, permission has not been granted and the development remains unauthorised.

Action Pursued to Date

9. The applicant was advised, via their agent, to cease works on 18 January when it became apparent that ground works had commenced on site.
10. A site visit was conducted on 2 March 2017 where the Director of Llanerch Vineyard was advised to cease works, which by now had consisted of a slab and the erection of a substantial timber frame and some stud walls. The Director expressed a desire to continue with construction in order to complete the development before the upcoming wedding season. The Director was advised that, whilst an application has been submitted for the scheme currently under construction, there was no certainty that permission would be granted, as such, all works should cease until such time as that application has been through the statutory process.
11. In light of the developer's intentions it was considered expedient to issue a Temporary Stop Notice under the new enforcement powers that have recently come into effect. A Temporary Stop Notice can require unauthorised development to cease for a period of up to 28 days in order to allow the Local Planning Authority to further investigate the breach and negotiate with the developer. Having regard to the fact that there is no planning permission for the development and such details as slab levels, drainage, landscaping or materials have not even been considered, let alone agreed, the Temporary Stop Notice was issued on 3 March, 2017. The Notice is due to expire on 31 March 2017.

Planning History

12. In addition to the Temporary Stop Notice that has recently been issued (under reference ENF/2017/0017/PRO), the site benefits from the following planning application history:
 - **2017/00191/FUL:** Llanerch Vineyard, Hensol – Proposed 8.no additional bedrooms to the north of approved scheme – undetermined (invalid)
 - **2016/01501/FUL:** Llanerch Vineyard, Hensol - Proposed additional guest accommodation (27 bedrooms) – undetermined (invalid)
 - **2016/00735/FUL:** Llanerch Vineyard, Hensol - Extension to the existing restaurant kitchen - Approved 19/08/2016
 - **2016/00096/FUL:** Llanerch Vineyard, Hensol - Proposed all year temporary use of marquee and ancillary building - Approved 20/04/2016
 - **2015/00745/FUL:** Retention as built - Calon Lodge formerly Secret Garden, approved ref. 2014/01137/FUL – undetermined, resolved to approve subject to Legal Agreement (outstanding)
 - **2014/01188/FUL:** Llanerch Vineyard, Hensol - Temporary kitchen, toilets, table and chair storage, bar and cellar to be used with existing marquee - Approved 17/12/2014

- **2014/01137/FUL:** Llanerch Vineyard, Hensol - Proposed secret garden room – undetermined, resolution to approve 25/09/15
- **2014/00634/FUL:** Llanerch Vineyard, Hensol - Proposed retention of canopy linking main farmhouse to Visitor Centre and accommodation block - Approved 30/07/2014
- **2014/00633/FUL:** Llanerch Vineyard, Hensol - Proposed retention of wine store and ancillary side marquee to main farmhouse - Approved 31/10/2014
- **2014/00234/FUL:** Llanerch Vineyard, Hensol - Proposed marquee for use between April to September. Marquee and ancillary structures to be removed between October to March - Approved 09/05/2014
- **2013/01095/FUL:** Llanerch Vineyard, Hensol - Proposed additional 19 No bedrooms including undercover walkway with drop off point to link farmhouse, cookery school/machinery store and accommodation – undetermined, resolved to approve subject to Legal Agreement (outstanding) 15/01/2015
- **2013/00038/FUL:** Llanerch Vineyard, Hensol - Proposed extension to existing restaurant including new toilets, staffroom and first floor office accommodation. Retention of dry food store, cold store and refuse store (Constructed) - Approved 05/07/2013
- **2011/00680/FUL:** Llanerch Vineyard, Hensol - Proposed single storey events complex on the site of existing poolhouse, with associated vehicle turning space and associated works. Also proposed is an additional car park area (approximately 64 spaces). Furthermore, existing unauthorised works such as the use of the ground floor of the farmhouse as a cafe/restaurant and the cookery school are included for their retention. - Approved 19/06/2013

Policy

Unitary Development Plan

13. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18 April 2005, and within which the following policies are of relevance:

Strategic Policies:

POLICIES 1 & 2 - THE ENVIRONMENT
 POLICY 5 - BUSINESS AND INDUSTRIAL USES
 POLICY 6 – TOURISM
 POLICY 8 – TRANSPORTATION

Policy:

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE
 ENV4 - SPECIAL LANDSCAPE AREAS
 ENV10 - CONSERVATION OF THE COUNTRYSIDE

ENV11 - PROTECTION OF LANDSCAPE FEATURES
ENV27 - DESIGN OF NEW DEVELOPMENTS
ENV28 - ACCESS FOR DISABLED PEOPLE
ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY
EMP7 - FARM DIVERSIFICATION
TRAN 7 – STRATEGIC PUBLIC TRANSPORT
TRAN 9 – CYCLING DEVELOPMENT
TRAN 10 – PARKING
TOUR 1 – NEW HOTELS IN THE COUNTRYSIDE

14. Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, both chapters 2 and 4 of Planning Policy Wales (Edition 9, 2016) provide the following advice on the weight that should be given to policies contained with the adopted development plan:

‘2.14.4 It is for the decision-maker, in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted [Development Plan] are outdated for the purposes of determining a planning application. Where this is the case, local planning authorities should give the plan decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development (see section 4.2).’

‘4.2.4 A plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review (see Chapter 2). Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2). Where:

- *there is no adopted development plan or*
- *relevant development plan policies are considered outdated or superseded or*
- *where there are no relevant policies*

there is a presumption in favour of proposals in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to maximise the contribution to meeting the local well-being objectives.’

15. With the above advice in mind, the policies relevant to the consideration of the development subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

Planning Policy Wales

16. National planning guidance in the form of Planning Policy Wales (Edition 9, 2016) (PPW) is of relevance to the determination of this application.

'7.3.3 Local planning authorities should adopt a positive approach to development associated with farm diversification in rural areas, irrespective of whether farms are served by public transport. While initial consideration should be given to adapting existing farm buildings⁹, the provision of a sensitively designed new building on a working farm within existing farm complexes may be appropriate where a conversion opportunity does not exist.'

Technical Advice Notes:

17. The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:
- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010) – *“When considering planning applications for farm diversification projects, planning authorities should consider the nature and scale of activity taking a proportionate approach to the availability of public transport and the need for improvements to the local highway network. While initial consideration should be given to converting existing buildings for employment use, sensitively located and designed new buildings will also often be appropriate.”* (3.7.1)
 - TAN 9 Enforcement of Planning Control (1997)
 - Technical Advice Note 12 – Design (2009)
 - Technical Advice Note 13 – Tourism (1997)

Supplementary Planning Guidance:

18. In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:
- Amenity Standards
 - Design in the Landscape
 - Sustainable Development

The Local Development Plan:

19. The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Examination Stage having submitted the Local Development Plan to the Welsh Government for Examination. Examination in Public commenced in January 2016. Following the initial hearing sessions the Inspector gave the Council a number of Action Points to respond to. The Council has considered and responded to all Action Points and has produced a schedule of Matters Arising Changes, which are currently out to public consultation. Further hearing sessions are expected in January 2017.
20. With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.8.1 of Planning Policy Wales (Edition 9, 2016) is noted. It states as follows:

*'2.14.1 The weight to be attached to an **emerging LDP** (or revision) when determining planning applications will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector delivers the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances.'*

Other relevant evidence or policy guidance:

21. The following guidance is also relevant:
 - Welsh Government Circular 016/2014 - The Use of Planning Conditions for Development Management
 - Welsh Office Circular 13/97 - Planning Obligations
 - Welsh Office Circular 24/97 - Enforcing Planning Control
 - Welsh Government Development Management Manual – Section 14 Annex “Enforcement Tools”

Well Being of Future Generations (Wales) Act 2015

22. The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Reasons for Serving an Enforcement Notice

23. As noted above, from the initial investigation it has been established that the unauthorised development is being erected with the intention of providing a 26 bedroom guest accommodation block in the form proposed by virtue of the most recent 2017 application. In this regard, the main issues to consider in this report are as follows:

- The Principle of the unauthorised development;
- Design;
- Landscape and visual Impact;
- Drainage, parking and highway matters; and
- Planning Obligations.

Principle of the development:

24. The principle of a 19 bedroom guest accommodation block has been accepted within the resolution to approve planning application 2013/01095/FUL. The predominant use of the site for many years was as a commercial vineyard, which is considered a form of agricultural use. It has grown significantly as a tourism attraction in recent years, with several piecemeal extensions, conversions and other development that has been granted planning consent.
25. It is noted that PPW (section 7.3.3) states that Local Planning Authorities should adopt a positive approach to farm diversification, to financially underpin existing working farm practises. However, it is no longer accurate to describe the addition of a guest accommodation block as a farm diversification proposal. The vineyard is already supported by the existing leisure and tourism uses at the site, comprising the restaurant, existing guest accommodation, wedding services and events complex / marquee and cookery school. These tourism and leisure uses have in fact become the predominant use of the site, albeit the vineyard is a key feature of its attraction to visitors.

26. Policy TOUR 1 – New Hotels in the Countryside of the Unitary Development Plan (UDP) allows for new hotels in the countryside if they are an extension to an existing building, subject to relevant criteria. The development results in a stand-alone building that, on the face of it, would not benefit from the provisions of policy TOUR 1. However, it is understood that the building is intended to provide additional guest accommodation as an expansion of the existing guest accommodation at the site. The building is within the established operational area of the tourism/recreation complex and, whilst its exact position, scale and form is a matter considered in more details below, the intention is that the accommodation is closely linked to, and part of, the existing tourism and leisure business at Llanerch Vineyard. In this regard the unauthorised development could be considered to benefit from the provisions of policy TOUR 1, providing that the development can be controlled to ensure that its use remains wholly connected with the existing tourism and recreation use at the site. It is not, however, possible to impose such controls on unauthorised development as an enforcement notice cannot impose any conditions restricting the use of the development. Accordingly, without the necessary controls on the use of the building, the principle of the development is not considered to accord with the provisions of UDP policy TOUR 1 and, as such, is considered to conflict with the Council's principle countryside protection policy ENV1 and strategic policies 1 and 2. In this regard the development would also conflict with the sustainability principles of PPW, particularly as they relate to tourism (Chapter 11).
27. In addition to the above, it should be noted that the building is situated on land that formerly comprised part of the vineyard. In relation to planning application 2013/01095/FUL, it was suggested in the original submission that part of the area would be retained for this purpose. However, it is now accepted the building would have inevitably resulted in the loss of some, if not most, of that part of the vineyard considering the disruption during the construction process, scaffolding etc. The vines have since been completely removed from this area and several trees to the eastern boundary, which offered some screening to the site, have been felled.

Design of the building:

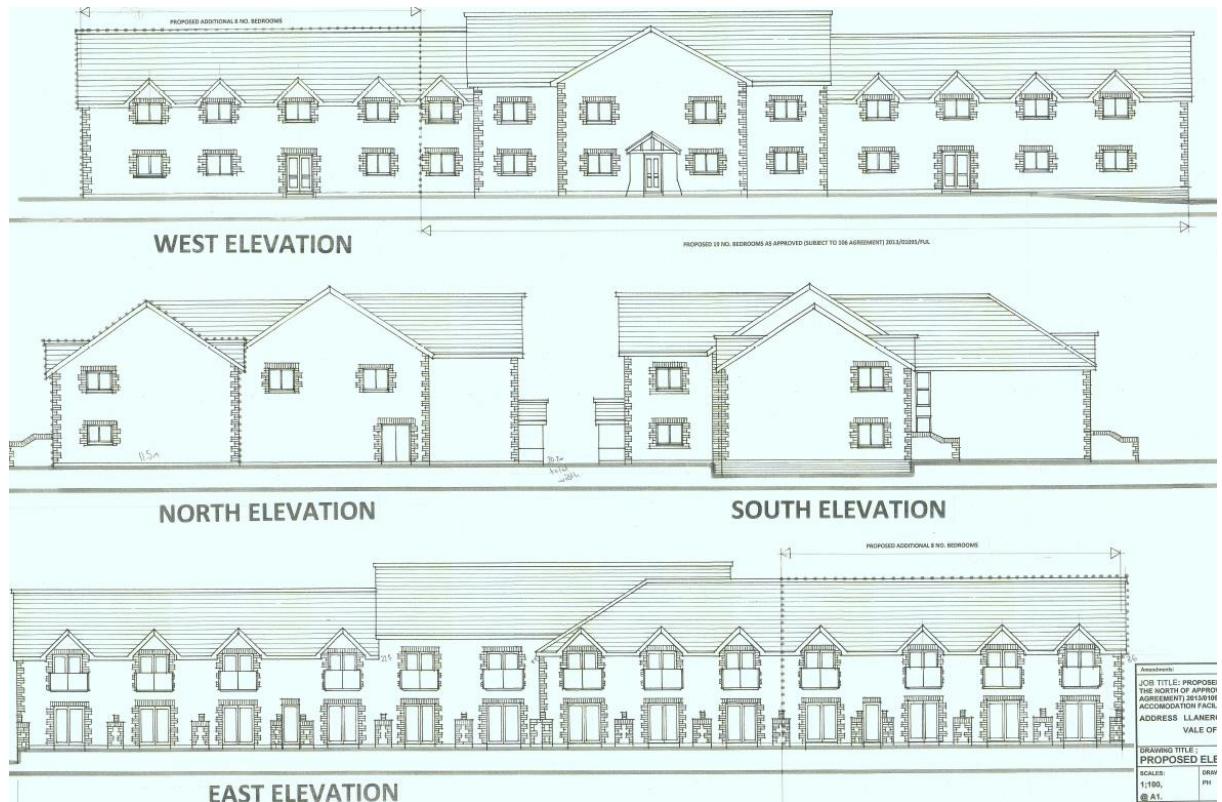
28. In recommending a resolution to approve planning application 2013/01095/FUL, it is noted within the Officer's Report that the scale and design of the building was significantly altered from the original submission. The reason for the negotiation on design was that the building did not reflect the rural setting and was not sympathetic to the character of the existing buildings within the site, which are predominantly converted farm buildings.
29. The main character of the site is derived from its agrarian origins and the more recent development on the site has consisted of conversion to existing buildings or extensions that although have altered the site, have still had regard to this character in terms of their form, layout and design. The agrarian character of the site is reinforced by the continued presence of the vineyard, which remains a significant element of the site as a whole, despite the recent expansion of tourism related development.

30. The revised scheme, with resolution for approval, had a main central section with an appearance reflective of the main farmhouse and two subservient wings, both of which had lower ridges and were narrower in width. These side sections were designed to be similar in design to the converted dairy buildings, with stone walls and low eaves. It was noted that this scheme would be comparable in size to the approved events complex, currently undeveloped, and the plans showed it being stepped broadly in line with existing site levels, albeit a condition required submission of accurate levels prior to commencement is proposed to be imposed. The site levels have not been approved. The elevations of the amended scheme are illustrated in the below plan extract:



31. As noted above, there are fundamental differences between the building under construction and the proposal resolved for approval under planning application reference 2013/01095/FUL.
32. In relation to the size and form of the building, the design approach is similar to that first proposed under the 2013 scheme, albeit larger in size. That original submission was considered unsuitable and amendments, previously referred, were subsequently made. The building under construction has two substantial accommodation blocks which give it a very bulky appearance. The sheer breadth of the elevations offers no significant visual relief, particularly to the eastern elevation which faces on to the open countryside. It is noted that the final design could still be subject to some minor alterations, such as elevation treatments, materials etc.; however there remains serious concern regarding the fundamental impact from a building of this form, bulk and size given the context of the site. It is considered that it would significantly alter the character of the site and dominate the historic buildings that form such a fundamental part of its character.

33. The latest plans received under planning application reference 2017/00191/FUL are illustrated in the below plan extract. These drawings offer an indication as to the intended final form and design of the building under construction:



34. The building has been laid on a level slab and the site that has a sloping ground that declines to the south-east. It is noted that the built level is to allow for functional access from the western elevation; however it does result in the building requiring a plinth that is raised above ground level to the southern and part of the eastern elevations. Planning application 2013/01095/FUL proposed a building that occupied multiple levels, and notwithstanding the requirement for the submission of detailed levels, was nonetheless indicative of how the building could be designed to minimise the height and thus the relative visual impact to the site and its surroundings. The slab level and design results in a tall ridgeline that would also fail to complement the existing buildings and character of the site.
35. The building is considered to be of a poor design that does not sympathetic to its context. In this regard the development is considered contrary to UDP policy ENV27 and, even if applicable, would conflict with the design criteria of policy TOUR1 as well as Strategic policy 1. The development is also in conflict with the good design and sustainable development principles in PPW and TAN 12 on Design. Furthermore, even if this were considered a farm diversification proposal that is generally supported by chapter 7 of PPW, the development would still conflict with UDP Policy EMP 7 – Farm diversification as well as the guidance contained in chapter 7 of PPW, in particular section 7.3.3, which states such buildings, must be sensitively designed.

Landscape and Visual Impact:

36. Llanerch Vineyard is positioned within the open countryside and the designated Special Landscape Area of the 'Ely Valley and Ridge Slopes' and in such highly sensitive landscape areas the visual and landscape impact of the proposals is of significant importance. It is considered that the detrimental impact of the building on the character of the site identified above would also result in detrimental impact on the wider rural setting, particularly as the development results in a further encroachment of the complex into the undeveloped landscape setting to the site by approximately 14 metres (not including any terrace/ balcony) compared to the east facing elevation of the scheme that has been resolved to approve. Whilst there will only be a localised impact on the landscape setting to the site (as a result of limited views of the building) that impact is nevertheless significant when considered against the context of the existing built development on the site. In this regard the development conflicts with policy ENV4 and ENV10, as supported by PPW.
37. With regard to visual impact, there are limited public vantage points surrounding the site, but views of the building can nevertheless be gained from the southern approach on Hensol Road. The details of landscaping for 2013/01095/FUL were reserved by condition. The removal of trees to the east of the site has also resulted in the loss of screening from the wider countryside and is another reason that the building would fail to sensitively integrate with its surroundings.
38. The proposed development fails to integrate with its surroundings to a degree that would be significantly detrimental to the character of the site and the surrounding landscape, in conflict with Policy ENV27 as supported by PPW.

Drainage, Highways, Transport and Parking:

39. In terms of drainage, the resolution to approve the 2013 application was subject to a condition requiring the submission of a scheme of foul and surface water drainage. It is not possible to impose such a condition via an Enforcement notice. As such, there is no certainty that the unauthorised development will be adequately drained. As such, the development would conflict with the provisions of UDP policy ENV27 which requires that development does not have an unacceptable impact on adjoining areas.
40. In the assessment of planning application 2013/01095/FUL the application was considered acceptable in relation to parking provision and highway safety, noting the sizeable car park serving Llanerch Vineyard. A car park was proposed under the application for the undeveloped events complex, but the constructed car park has been constructed to a different configuration. Whilst the application was not accompanied by a Transport Assessment, paragraph 8.7.2 of Planning Policy Wales (2016) states that The Welsh Government expect all applications for hotels of over 1000sqm gross floor area to be accompanied by a Transport Assessment.

41. The development under construction is now over 1900sqm in floor area and would contain an additional 7 bedrooms above the 2013 scheme. It is therefore significantly above the threshold identified in paragraph 8.7.2 of PPW (2016) and it is considered necessary that a Transport Assessment be undertaken to assess the impacts on travel demands, travel modes etc. to ensure that travel to and from the development for visitors and guests are adequately catered for and to inform the requirements for any Section 106 agreement. It should also include an assessment of parking capacity, traffic generation and the impact to the local highway network. Having commenced in the absence of such information, it has not been demonstrated that the highways and transport impacts of the development is acceptable, and as such it does not accord with the aforementioned national planning policy.

Planning Obligation (Section 106) Matters:

42. The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. It sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to any material circumstances.
43. The need for planning obligations was established on the 2013/01095/FUL planning applications based on the type of development proposed, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies. They consisted of contributions in lieu of sustainable transport, training and development and public art.
44. Such obligations would also be sought in respect of the unauthorised building and may in fact be greater than required under the 2013 scheme. There is no mechanism for requiring the developer enter into a section 106 agreement with the Council via an enforcement notice. Accordingly, the development on site is not considered to adequately mitigate its impact in accordance with both local and national policy and guidance. In this regard the unauthorised development is considered to be contrary to the aims of Strategic Policies 1 & 2 and policies ENV27; the Council's Supplementary Planning Guidance on Planning Obligations and Public Art; and National Planning guidance contained in Planning Policy Wales, 12 - Design and 18 - Transport.

Stop Notice:

45. The Temporary Stop Notice is due to expire on 31st March 2017, at which time it would no longer constitute an offence to progress with the construction of the building subject of this report. It is considered that the development, for the reasons outlined above, is of a particularly poor design that is harmful to the context within which it is set. There has been a series of unauthorised developments at the site, some of which remain unresolved. The actions of the developer in this regard add weight to the expediency of issuing a full Stop Notice in order to continue to prohibit building operations on the site pending the outcome of any valid application for an amended scheme that may come forward to the authority or the appeal of an enforcement notice.

46. The developer's agent has forwarded a suite of proposed immediate works they wish to undertake prior to the determination of the application in the interest of site safety. The works include cross bracing the timber frame, installation of crash decks and fire doors and boarding. They also wish to weatherproof the structure via the installation of a roof and temporary covering, along with weatherproofing the window openings. This approach would also require the installation of pre-manufactured bathroom pods.
47. It is noted the timber frame and flooring is not suitable to prolonged exposure. However, this approach to weatherproofing effectively leads to a further progression in the erection of a building that has been constructed without planning permission. It is considered, as outlined above, that the building in its proposed form would be harmful and that the developer should seek alternative means of securing the site and that, in these circumstances, the deconstruction of the frame would be the more appropriate method of securing the site and salvaging the construction materials.

Existing Events Venue:

48. As noted in the background and details section above, the existing events venue remains unauthorised development despite a resolution to grant permission for its approval subject to a drainage conditions and appropriate mitigation in terms of public art and sustainable transport. The event venue has been completed and has been in use for a period of some 3 years. The building will become immune from enforcement action if it remains unauthorised for a further year. As there has been no recent progress in agreeing and signing a Section 106 agreement in order to allow for the 2015/00745/FUL permission to be granted, it is considered expedient to pursue formal action in order to ensure that the development does not become immune from action and cannot be adequately controlled. In its current form, without the necessary planning agreement in place, the development is not considered acceptable. There is no certainty that the development is adequately drained and the development fails to mitigate its impact in terms of public art and sustainable transport, in conflict with Strategic Policies 1 & 2 and policies ENV27; the Council's Supplementary Planning Guidance on Planning Obligations and Public Art; and National Planning guidance contained in Planning Policy Wales, 12 - Design and 18 - Transport.
49. As the Council is unable to require the developer to enter into a Section 106 agreement via an enforcement notice, the only option available to the Council via its enforcement powers is to issue an enforcement Notice requiring the removal of the building from the land. It is, however, hoped that this enforcement action will provide the necessary prompt for the developer to finally resolve and sign the planning agreement allowing for the formal approval of the building, bringing the development under planning control.

Conclusions

50. The unauthorised guest accommodation building, if completed as proposed, would have a poor design that harms the visual amenities of the area and the special landscape character of the buildings setting.

51. Both the guest accommodation building, if completed, and the event venue building fail to mitigate their impact in terms of sustainable transport, training and development and public art.
52. In view of the issues identified in the paragraphs above, it is considered expedient to pursue enforcement action requiring all works on site to cease and the removal of both buildings.

Resource Implications (Financial and Employment)

53. Any costs involved in drafting and issuing Notices, attending inquiries and undertaking monitoring work can be met within the departmental budget. There are no employment issues.

Legal Implications (to include Human Rights Implications)

54. If an Enforcement Notice is served, the recipient has a right of appeal under Section 174 of the Town and Country Planning Act 1990 (as amended).
55. For information, it should be noted that the issuing of a Stop Notice must be preceded by an Enforcement Notice, although they may be served concurrently. In issuing a Stop Notice, the Council must ensure all details contained therein are precise, clear and enforceable. Compensation may be payable only where the notice is flawed in some respect, subsequently altered, varied or withdrawn. Compensation is not payable if a subsequent appeal under ground (a) is allowed to the benefit of the appellant. In view of the intentions of the developer and the harm caused by the development it is considered that the Stop Notice is warranted.
56. I would confirm my officers have undertaken a risk assessment in respect of the service of such a Notice. It has been concluded that the operator has no legitimate reason to be undertaking the development specified above and that accordingly the possibility for compensation would be extremely low.
57. It is considered that the only grounds on which any appeal may successful would be in respect of ground (a), that planning permission should be granted, and in this respect no compensation would be payable by the Authority.
58. The Action is founded in law and would not be considered to breach any of the rights referred to in the Human Rights Act.

Equal Opportunities Implications (to include Welsh Language Issues)

59. None.

Wellbeing of Future Generations (Wales) Act 2015

60. Under the 2015 Act the Council not only have a duty to carry out sustainable development, but must also take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act, in recommending the service of an Enforcement Notice, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
61. In recommending the service of an Enforcement Notice and Stop Notice to remedy this breach of planning control, the Council considers that the action is expedient and in the public interest to pursue. It proposed action is therefore considered consistent with the Council's duty under the aforementioned 2015 Act.

RECOMMENDATION

- (1) That the Head of Legal Services be authorised to issue Enforcement Notices under Section 172 of the Town and Country Planning Act 1990 (as amended) to require:
 - (i) The cessation of all works on site to construct the guest accommodation building subject of this report.
 - (ii) The removal of the unauthorised guest accommodation building and event venue building, including their slab and all associated materials from the land in their entirety and restore the land to its former condition prior to the commencement of the unauthorised works.
- (2) That the Head of Legal Services be authorised to issue a Stop Notice under Section 183 of the Town and Country Planning Act 1990 (as amended) to require the cessation of:
 - (i) The cessation of all works on site to construct the guest accommodation building subject of this report.
- (3) In the event of non-compliance with the Notices, authorisation is also sought to take such legal proceedings as may be required.

Reason for Recommendation

Guest Accommodation:

- (1) The principle of the stand-alone guest accommodation without adequate controls connecting its use to the existing tourism and recreational use of the site results in an unjustified form of development within a countryside location. Furthermore, the building, if completed, would have a bulky appearance owing to its size, height and form with broad and unrelieved elevations. It is of a design that has little regard to the character of the existing historic buildings within the site and as such would be discordant with the site's predominantly agrarian character. The unauthorised development, if completed, would also cause harm to the special landscape setting and would fail to sensitively integrate with its surroundings resulting in a visually harmful form of development. There is also no certainty that the development can be adequately drained. In this regard the unauthorised development is contrary to Strategic policies 1 and 2, Policies ENV1 – Development in the Countryside, ENV4 – Special landscape Areas, ENV10 – Conservation of the Countryside, ENV27 – Design of New Developments, TOUR 1 – New Hotels in the Countryside and EMP7 – Farm Diversification of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011. It is also contrary to the national advice and guidance contained within Planning Policy Wales (2016), Technical Advice Note 6 Planning for Sustainable Rural Communities, Technical Advice Note 12 Design and Technical Advice Note 13 - Tourism.
- (2) The absence of an appropriate Section 106 agreement for the provision of sustainable transport, training and development and public art results in a form of development the impact of which has not been adequately mitigated. Accordingly, the development is in conflict with the aims of Strategic Policies 1 & 2, policy ENV27 – Design of New Developments of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, the Council's Supplementary Planning Guidance on Planning Obligations and Public Art; and National Planning Guidance contained in Planning Policy Wales (2016), Technical Advice Notes 12 - Design and 18 - Transport.
- (3) The construction of the guest accommodation block without having undertaken a prior Transport Assessment results in an unacceptable form of development, as it has not been adequately demonstrated that the site provides adequate access, provision made for all modes of transport and means of travel, including parking, or that the impact to the local highway network in terms of traffic generation is acceptable. The development therefore fails to accord with Policy TRAN10 – Parking of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, national planning policy contained within Planning Policy Wales (2016) and Technical Advice Note 18 - Transport.

Event Venue:

- (1) There is no certainty that the development can be adequately drained. Furthermore, the absence of an appropriate Section 106 agreement for the provision of sustainable transport and public art results in a form of development the impact of which has not been adequately mitigated. Accordingly, the development is in conflict with the aims of Strategic Policies 1 & 2, and policy ENV27 – Design of New Developments of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, the Council's Supplementary Planning Guidance on Planning Obligations and Public Art; and National Planning Guidance contained in Planning Policy Wales (2016), Technical Advice Notes 12 - Design and 18 - Transport.

Background Papers

Enforcement File Ref: ENF/2017/0017/PRO

Contact Officer – Mr Ceiri Rowlands, Tel: 01446 704654

Officers Consulted:

All relevant Chief Officers have been consulted on the contents of this report.

MARCUS GOLDSWORTHY
HEAD OF REGENERATION AND PLANNING