

No.

PLANNING COMMITTEE

Minutes of a Remote meeting held on 25th May, 2023.

The Committee agenda is available [here](#).

The recording of the meeting is available [here](#).

Present: Councillor N.C. Thomas (Chair); Councillor S.D. Perkes (Vice-Chair); Councillors G. Bruce, I. Buckley, C.A. Cave, C.E.A. Champion, C.M. Cowpe, P. Drake, A.M. Ernest, W. Gilligan, N.P. Hodges, Dr. I.J. Johnson, H.M. Payne, I.A.N. Perry, C. Stallard, E. Williams and M.R. Wilson.

Also present: Councillors C.P. Franks and W.A. Hennessy.

65 ANNOUNCEMENT –

Prior to the commencement of the business of the Committee, the Chair read the following statement: “May I remind everyone present that the meeting will be live streamed as well as recorded via the internet and this recording archived for future viewing”.

66 MINUTES –

RESOLVED – T H A T the minutes of the meeting held on 27th April, 2023 be approved as a correct record.

67 DECLARATIONS OF INTEREST –

No declarations of interest were received.

68 PUBLIC RIGHTS OF WAY SUB-COMMITTEE (DP) –

RESOLVED – T H A T the Public Rights of Way Sub-Committee comprising five Members as set out in paragraph 2.2 of the report be re-appointed.

Reason for decision

To confirm the appointment of the Public Rights of Way Sub-Committee for 2023/24.

No.

69 BUILDING REGULATION APPLICATIONS AND OTHER BUILDING CONTROL MATTERS DETERMINED BY THE HEAD OF SUSTAINABLE DEVELOPMENT UNDER DELEGATED POWERS (HSD) –

RESOLVED –

- (1) T H A T the passed building regulation applications, as listed in Section A of the report, be noted.
- (2) T H A T the rejected building applications, as listed in Section B of the report, be noted.
- (3) T H A T the serving of Notices under Building (Approved Inspectors Etc.) Regulations 2000, as listed in Section C of the report, be noted.

70 PLANNING APPLICATIONS DETERMINED BY THE HEAD OF SUSTAINABLE DEVELOPMENT UNDER DELEGATED POWERS (HSD) –

RESOLVED – T H A T the applications as outlined within the report, on pages 9 through 19, under the above delegated powers be noted.

71 APPEALS (HSD) –

RESOLVED –

- (1) T H A T the Appeal received following the refusal of the Council to grant planning permission, as detailed in Section A of the report, be noted.
- (2) T H A T the Enforcement Appeal, as detailed in Section B of the report, be noted.
- (3) T H A T it be noted that no Planning Appeal Decisions had been received at the time of the meeting taking place.
- (4) T H A T it be noted that no Enforcement Appeal Decisions had been received at the time of the meeting taking place.
- (5) T H A T the statistics relating to appeals for the period April 2023 – March 2024, as detailed in Section E of the report, be noted.

72 TREES (HSD) –

- (i) Delegated Powers –

RESOLVED – T H A T the applications as outlined within the report on pages 22 and 23, as determined by the Head of Sustainable Development under delegated powers, be noted.

No.

73 PLANNING APPLICATION (HSD) –

RESOLVED – T H A T in pursuance of the powers delegated to the Committee, the following application be determined as indicated and any other necessary action be taken.

2022/00602/RES

Received on 12 May 2022

(P24)

APPLICANT: Wales and West Housing Association, c/o Agent,

AGENT: Gwen Thomas Unit 9, Oak Tree Court, Cardiff Gate Business Park, Cardiff, CF23 8RS

Land at Heol y Pentir, Rhoose

Proposed Reserved Matters application for residential development and associated works.

APPROVED – Subject to the conditions as contained within the report.

Reason for decision

Having regard to the content of the report and discussions at the meeting.

74 MATTER WHICH THE CHAIR HAD DECIDED WAS URGENT –

RESOLVED – T H A T the following matter which the Chair had decided was urgent for the reason given beneath the minute heading be considered.

75 REPORT OF THE APPOINTED EXTERNAL CONSULTANT RE APPLICATION 2019/00871/OUT LAND AT MODEL FARM –

(Matter which the Chair has decided is urgent by reason of the need to set out the Council's putative reasons for refusal of the Application)

This was a hybrid application comprising an outline application for the demolition of existing buildings and erection of 44.75ha Class B1/B2/B8 Business Park, car parking, landscaping, drainage infrastructure, ecological mitigation and ancillary works (all matters reserved aside from access) within Area A and a full application for change of use from agricultural land to country park (Use Class D2) within Area B.

On 18th May 2023, a special Planning Committee was held to provide Members with an update on the abovementioned planning application.

Members were informed that the Applicants had submitted an appeal to Planning and Environment Decisions Wales (PEDW), citing the reason for the Appeal (Under section F of the Appeal forms) as: 'Failure of the LPA to give its decision within the appropriate period (Usually 8 weeks) on an application for planning permission'.

No.

The submission of the Appeal against non-determination meant that any formal decision on the application had now been taken out of the Members' control, and was now within the jurisdiction of PEDW.

In line with the advice provided by external consultants at the meeting, Members discussed the specific reasons for refusal they would have provided had they had the opportunity to determine the application and subsequently voted on whether they wished to defend the Authority's position at Appeal.

The Motion in support of defending the Authority's was passed and in consultation with the external professional advisors, the following putative reasons for refusal were agreed:

1. In the absence of an up to date preliminary ecological appraisal, the proposed development fails to appraise the biodiversity interests at this site. Therefore, the proposed development fails to incorporate, conserve or enhance biodiversity interests, as those biodiversity interests have not been quantified in the first instance. As a result, the development is contrary to the requirements of Policies SP1 (Delivering the Strategy), MD2 (Design of new development) Criterion 10, MD9 (Promoting Biodiversity) and MG19 (Sites and Species of European importance) of the Vale of Glamorgan Local Development Plan 2011 – 2026, guidance within the Biodiversity and Development SPG; and National guidance contained within Planning Policy Wales (Edition 11, 2021).
2. The proposed development by virtue of its layout, scale and massing would have a harmful impact on the setting of historic assets. The benefits of the scheme are not considered to outweigh the identified harm to the designated heritage assets. The proposed development is therefore contrary to Policies SP10 (Built and Natural Environment) and MD8 (Historic Environment) of the Vale of Glamorgan Local Development Plan 2011 – 2026, guidance within the Porthkerry Conservation Area Appraisal and Management Plan SPG, National guidance contained within Planning Policy Wales (Edition 11, 2021) and Technical advice note (TAN) 24 (the historic environment).

Notwithstanding the above, Members raised an additional objection to the proposed development on climate emergency grounds, citing the Authority's declaration to adhere to the Climate Emergency Charter with the Vale Public Services Board and Project Zero Challenge Plan.

On review of the published document, the external professional advisor did not consider the Project Zero Challenge Plan would constitute adopted Planning Policy or Guidance, as such an objection based on these grounds would be extremely hard to defend at Appeal.

The Project Zero Challenge Plan was however based on and references the Well-being of Future Generations Act, Future Wales National Plan 2040 and adopted Local Development Plan.

No.

The Well-being of Future Generations (Wales) Act 2015 imposed a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives.

When considering the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015, it could be reasonably argued that the development fails to support sustainable principle No.2, which states:

2. A resilient Wales. A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).

Future Wales – The National Plan 2040 states that it was a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

On review of the overriding key national priorities and policies of the Nation Plan, it could be reasonably argued that the development failed to develop strong ecosystems.

Considering the above, it was the external professional advisors' recommendation that the first reason of refusal be amended to state;

1. In the absence of an up to date preliminary ecological appraisal, the proposed development fails to appraise the biodiversity interests at this site. Therefore, the proposed development fails to incorporate, conserve or enhance biodiversity interests, as those biodiversity interests have not been quantified in the first instance. As a result, the development is contrary to the requirements of Policies SP1 (Delivering the Strategy), MD2 (Design of new development) Criterion 10, MD9 (Promoting Biodiversity) and MG19 (Sites and Species of European importance) of the Vale of Glamorgan Local Development Plan 2011 – 2026, guidance within the Biodiversity and Development SPG; National guidance contained within Planning Policy Wales (Edition 11, 2021), Policy 9 of the Future Wales National Plan 2040 and the Sustainable Development Principle No.2 of the Well-being of Future Generations (Wales) Act 2015.

Having considered the report of the appointed external consultant, it was

RESOLVED –

(1) T H A T further to discussion of the matter at Planning Committee meetings on 1st March, 2023 and 18th May, 2023 and the content of this report, the following putative reasons for refusal be approved:

No.

- (i) In the absence of an up to date preliminary ecological appraisal, the proposed development fails to appraise the biodiversity interests at this site. Therefore, the proposed development fails to incorporate, conserve or enhance biodiversity interests, as those biodiversity interests have not been quantified in the first instance. As a result, the development is contrary to the requirements of Policies SP1 (Delivering the Strategy), MD2 (Design of new development) Criterion 10, MD9 (Promoting Biodiversity) and MG19 (Sites and Species of European importance) of the Vale of Glamorgan Local Development Plan 2011 – 2026, guidance within the Biodiversity and Development SPG; National guidance contained within Planning Policy Wales (Edition 11, 2021), Policy 9 of the Future Wales National Plan 2040 and the Sustainable Development Principle No.2 of the Well-being of Future Generations (Wales) Act 2015;

AND

- (ii) The proposed development by virtue of its layout, scale and massing would have a harmful impact on the setting of historic assets. The benefits of the scheme are not considered to outweigh the identified harm to the designated heritage assets. The proposed development is therefore contrary to Policies SP10 (Built and Natural Environment) and MD8 (Historic Environment) of the Vale of Glamorgan Local Development Plan 2011 – 2026, guidance within the Porthkerry Conservation Area Appraisal and Management Plan SPG, National guidance contained within Planning Policy Wales (Edition 11, 2021) and Technical advice note (TAN) 24 (the historic environment).

(2) T H A T the Head of Legal and Democratic Services / Operational Manager Legal Services be authorised to appoint external consultants to conduct the appeal on behalf of the Council.

Reasons for decisions

- (1) Having regard to the contents of the report and discussions at the meeting.
- (2) To provide for the appointment of external consultants to prepare the Council's defence to the non-determination appeal.