

REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

REPORT TO SEEK A RESOLUTION ON CONDITIONS TO BE ATTACHED TO PLANNING PERMISSION 43/2015/0315/PF

Demolition of existing structures and erection of retirement living housing, communal facilities, landscaping and car parking

Sandy Lane, Prestatyn

PURPOSE OF REPORT

- 1.1. The report seeks Members resolution on conditions to be attached to the planning permission for a redevelopment scheme at Sandy Lane, Prestatyn, which Planning Committee resolved to grant at the 20th April 2016 meeting.

2. BACKGROUND

- 2.1. The matter is being brought before Members as the grant of permission was contrary to the Planning Officer recommendation, and there were no conditions before Members for consideration at the April Committee.
- 2.2. The merits of the decision to grant permission are not for debate, solely the suitability or otherwise of the conditions to be attached to the permission, and in this case, suggested Heads of Terms for a Section 106 Obligation to deal with the affordable housing / open space commuted sum payment.

3. SUGGESTED CONDITIONS

- 3.1. For reference, the Officer report to the April Committee and the late information sheets for that meeting are appended to this item. The main report and the late information sheets refer to consultation responses which are relevant to the drafting of certain conditions.
- 3.2. The list of conditions at the end of this report contains requirements arising from consultation responses, and in particular suggested conditions from Natural Resources Wales to mitigate potential flooding and contamination impacts. It includes standard controls over the use of materials on the buildings, landscaping, construction stage operations, and a condition requiring agreement to soundproofing measures for those apartments facing the railway. Condition 18 requires submission of a revised Flood Risk Management Plan to address issues over the management of evacuation in an extreme flooding event.
- 3.3. The Officer recommendation therefore is to grant permission subject to :

- A)** The Completion of a Section 106 Obligation to secure the payment of a commuted sum of £140,000 to the Council in lieu of the provision of affordable housing and open space within the site.

The precise wording of the Section 106 would be a matter for the legal officer to finalise in negotiation with the applicant's representatives.

In the event of failure to complete the Section 106 agreement within 12 months of the date of the resolution of the planning committee, the application would be reported back to the Committee for determination against the relevant policies and guidance at that time.

B) Compliance with the following conditions:

1. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission:

- (i) Site location and context plan (Drawing No. 014187(2026)_1_01 Rev. A) received 27 October 2015
- (ii) Site plan (Drawing No. 014187(2026)_1_02 Rev. A) received 27 October 2015
- (iii) 3D views sheet 1 of 2 (Drawing No. 014187(2026)_1_03 Rev. A) received 27 October 2015
- (iv) 3D views sheet 2 of 2 (Drawing No. 014187(2026)_1_04 Rev. A) received 27 October 2015
- (v) Context elevations sheet 1 of 2 (Drawing No. 014187(2026)_1_05 Rev. A) received 27 October 2015
- (vi) Context elevations sheet 2 of 2 (Drawing No. 014187(2026)_1_06) Rev. A received 27 October 2015
- (vii) Detail elevations sheet 1 of 2 (Drawing No. 014187(2026)_1_07 Rev. A) received 27 October 2015
- (viii) Detail elevations sheet 2 of 2 (Drawing No. 014187(2026)_1_08 Rev. A) received 27 October 2015
- (ix) Floor plans (Drawing No. 014187(2026)_1_09) received 24 March 2015
- (x) Planting proposal (Drawing No. 2157.01) received 24 March 2015
- (xi) Site survey (Drawing No. 290714JC-01) received 24 March 2015
- (xii) Tree constraints plan (Drawing No. 8539/01) received 24 March 2015
- (xiii) Tree protection plan (Drawing No. 8539/02) received 24 March 2015.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development.

2. The development to which this permission relates shall be begun no later than **(Date to be inserted - 5 years from the date of the completion of the Section 106 Obligation)**

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

3. Notwithstanding the submitted details, no external wall or roof materials shall be applied on the apartment block or associated buildings until the written approval of the Local Planning Authority has been obtained to the proposed materials to be used. No materials other than those approved shall be used.

Reason: In the interests of visual amenity.

4. The landscaping scheme shall be carried out prior to the first occupation of any of the apartments. Any trees or plants which, within a period of five years of being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity

5. PRE-COMMENCEMENT CONDITION

In relation to the carrying out of the demolition, construction and highway works, no works shall be permitted to take place until the written approval of the Local Planning Authority has been obtained to details of the site compound location, traffic management scheme, hours and days of operation, the management and operation of construction vehicles and the construction vehicle routes. The works shall be carried out strictly in accordance with the approved details.

Reason: In the interests of the amenities of residents and highway safety.

6. No apartments shall be occupied until the vehicular access and parking spaces, and the scooter store have been laid out/constructed in accordance with the approved plans.

Reason: To ensure the development is served by adequate parking and access arrangements.

7. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

8. No works shall be permitted to commence on the construction of the apartment building or any other buildings approved as part of the development until a drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of any of the apartments and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

9. No development shall be permitted to commence on the apartment block until the written approval of the Local Planning Authority has been obtained to proposals in the design detailing of the units for the mitigation of noise arising from the railway to the south of the site. The proposals should have regard to advice in BS8233:2014. The development shall only proceed in

accordance with the detailing approved in relation to this condition.

Reason : To safeguard the amenity of occupiers of the flats.

10. The development shall be carried out strictly in accordance with the Recommendations in Section 7 of the Environmental Services report, May and June 2015, but should bats be discovered at any stage during the works, all work shall be stopped immediately and Natural Resources Wales shall be contacted for further advice. No further works shall be carried out until the permission of Natural Resources Wales has been obtained.

Reason: In order to protect ecological interests.

11. No external lighting shall be permitted to be installed and used until the the written approval of the local Planning Authority has been obtained to the detailing thereof. The development shall only proceed in accordance with the detailing approved in relation to this condition.

Reason: In order to protect ecological interests.

12. The development hereby permitted by this planning permission shall be carried out in accordance with the approved Flood Consequences Assessment (FCA) (LK Consult Limited, FRA 14 1046a 02 - version 2, February 2016) and the following mitigation measures detailed within the FCA:

- Flood residence measures as detailed in section 6.1.3
- Finished Floor Levels are set no lower than 6.10m above Ordnance Datum (AOD).
- Car Park Levels are set at a level of 5.54m AOD.
- Flood storage voids are to be provided beneath the building, and shall not be converted or used for unauthorised uses over the lifetime of the development.
- The soffit of the suspended floor slab is to be set no lower than 5.66m AOD and finished ground level beneath the building shall be set no higher than 5.0m AOD.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason : To reduce the risk of flooding to the proposed development and future occupants, and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

13. No development shall be permitted to commence on ground disturbance work involved in the removal of existing buildings on the site, on drainage works, changes in the levels of the site, and on any excavations / foundation works on any new buildings until the written approval of the Local Planning Authority has been obtained to the following components of a scheme to deal with the risks associated with contamination of the site:

1. A preliminary risk assessment which has identified:

* all previous uses

* potential contaminants associated with those uses

* a conceptual model of the site indicating sources, pathways and receptors

* potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason : Natural Resources Wales considers that the controlled waters at this site are environmentally sensitive and contamination is known/strongly suspected at the site due to historic use of the site.

14. No ground disturbance work involved in the removal of existing buildings on the site, excavation works involved on drainage systems, changes in the levels of the site, or any excavations / foundation works on any new buildings shall be permitted to commence until a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

Reason : To demonstrate that the remediation criteria relating to controlled waters have been met, and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

15. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason : To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

16. If, during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason : Given the size/complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

17. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.

Reason : There is an increased potential for pollution of controlled waters from inappropriate methods of piling.

18. Notwithstanding the details in the submitted Flood Risk Management Plan, no development shall be permitted to take place on the construction of the apartment building and associated buildings until the written approval of the Local Planning Authority has been obtained to a fully detailed Flood Risk Management Plan containing arrangements for the management of a flooding event

including advance warning measures, on site features to assist / facilitate evacuation, and detailed arrangements for the evacuation and safe movement of residents, having regard to the potential depth and velocity of water in an extreme flooding event. The approved Flood Risk Management Plan shall be made known to all residents and the Regional Emergency Planning Service (or their successors), shall be implemented strictly as approved in a flood event, and shall remain in place at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason : In order to ensure suitable arrangements are in place at all times for the evacuation of the apartments in the event of an extreme flooding event.

19. The arrangements for the loading/unloading, parking and turning of vehicles shall be completed before the development is brought into use.

Reason: To provide for the loading/unloading, parking and turning of vehicles and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of highway safety.

20. The proposed access shall have a visibility splay of 2.4m x 43m in both directions measured along the nearside edge of the adjoining carriageway over land within the control of the Applicant and / or the Highway Authority, and there shall be no obstruction in excess of 1.05m in height within the visibility splay.

Reason : To ensure that adequate visibility is provided at the point of access to the highway.

21. The detailed layout, design and construction of the vehicular access shall be submitted to and approved in writing by the Local Planning Authority before any works of construction commence on site, and the access shall be completed in accordance with the approved details before the apartments are first occupied. The approved arrangements shall be retained at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason :To ensure the formation of a safe and satisfactory access in the interest of highway safety.

22. No works shall be permitted to commence on the erection of any buildings until the written approval of the Local Planning Authority has been obtained to the details of suitable bat and bird boxes to be incorporated into the development. The boxes shall be provided in accordance with the approved details prior to occupation of any of the apartments and shall be retained at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure suitable measures are taken to enhance local biodiversity interests.

NOTES TO APPLICANT

1. Your attention is drawn to the attached advisory notes from Dwr Cymru Welsh Water:

Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer

under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

WATER SUPPLY

Dwr Cymru Welsh Water has no objection to the proposed development. The developer should contact us at the above address or on telephone 0800 9172652 for further information on this matter.

A water supply can be made available to serve this proposed development. The developer may be required to contribute, under Sections 40 - 41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site watermains and associated infrastructure. The level of contribution can be calculated upon receipt of detailed site layout plans which should be sent to the address above.

The contact telephone number is 0800 917 2652 and the email address is developer.services@dwrcymru.com

2. Your attention is drawn to the attached response from Natural Resources Wales setting out a range of matters you need to be aware of in relation to the implementation of the permission, in particular in respect of contaminated land. Natural Resources Wales also provide guidance on the principles of Sustainable Drainage schemes which you should be aware of in designing the systems for the development. Your particular attention is drawn to the Natural resources Wales Informatives and Advice with respect to the submitted Groundwater Investigation Report, which refer to :

- The phase 2 ground investigation report submitted is lacking in a number of aspects, for example: www.naturalresourceswales.gov.uk www.cyfoethnaturiolcymru.gov.uk Page 8 of 9
- There is little justification in relation to the sampling strategy i.e. is it targeted, random, grid?
- Leachate analysis and groundwater sampling is limited having been tested for metals only and being low in the sampling frequency. We therefore don't have a good understanding of whether groundwater is impacted.
- There is no reference to whether any visual or olfactory evidence of contamination was encountered during intrusive work across site
- There is little effort to infer and or understand the hydrogeological setting of the site
- We note that ground investigation works were limited due to a large proportion of the site being occupied by former buildings. We therefore welcome proposals to further investigate the site following demolition and site clearance.
- With future submissions and the supplementary investigation proposed, Natural Resources Wales strongly recommends that developers should:

Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.

Refer to Environment Agency Wales document 'Development of Land Affected by Contamination: A Guide for Developers' for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.

Refer to Groundwater protection: Principles and practice (GP3).
Refer to British Standard Investigation of Potentially Contaminated Sites. Code of Practice (BS10175:2011).

3. In relation to Protected Species, Natural Resources Wales draw attention to the fact that Bats are protected under the Wildlife and Countryside act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended).
A bat survey has been undertaken (Environmental services, May and June 2015).
The report states that the buildings or trees showed no evidence, past or present of roosting bats. The recommendations proposed within the report: Section 7. Recommendations of the report should be adhered to so as to avoid adverse impacts on bats. However, the applicant should be advised that should bats be discovered at any stage during the works, all work should stop immediately and NRW contacted for further advice.
Care should also be taken in the type and location of any external lighting within the new development, to ensure that the hedgerows and trees identified on the site are not illuminated and that a light spillage scheme from the development should be agreed to the satisfaction of the local authority.
4. In relation to condition 18, you are advised to contact the Regional Emergency Planning Service to discuss the approach to the contents of the Flood Risk Management Plan, prior to formal submission. Without prejudice to the final comments of the Service on the Plan, their original response made reference to removal of references to the Emergency Planning Service instructing evacuation, as per page 9 as this responsibility lies solely with North Wales Police, the Local Authority role is to support that evacuation with a welfare response i.e. provide a rest centre. The Service is not aware that anyone has the power to 'instruct' evacuation of a dwelling in a forecast or actual flood event, as per page 9 and suggest the terminology here and the covenant proposed for the lease could therefore possibly cause a legal issue for the developer to consider.
5. Your attention is drawn to the following Highway Supplementary Notes:
 - (i) Highway Supplementary Notes Nos. 1,3,4,5 & 10.
 - (ii) New Roads and Street Works Act 1991 – Part N Notice.
 - (iii) Highways Act 1980 Section 184 Consent to Construct a Vehicular Crossing over a Footway.

GRAHAM H.BOASE

HEAD OF PLANNING AND PUBLIC PROTECTION