

REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

REPORT TO SEEK A RESOLUTION ON THE HEADS OF TERMS OF A SECTION 106 OBLIGATION AND THE PLANNING CONDITIONS TO BE ATTACHED TO PLANNING PERMISSION 23/2018/0268

DEVELOPMENT OF 0.244HA OF LAND BY THE ERECTION OF THREE DWELLINGS (OUTLINE APPLICATION WITH ALL MATTERS RESERVED)

LLWYN AFON, LLANRHAEADR, DENBIGH

1. PURPOSE OF REPORT

- 1.1. To seek a resolution from Members on the Heads of Terms of a legal agreement and the planning conditions to be attached to the Certificate of Decision for planning application ref: 23/2018/0268, on which Planning Committee resolved to grant permission at the May 2018 meeting.

2. BACKGROUND

- 2.1. Planning Committee on the 23rd May resolved to grant planning permission for the development described at the head of this report, in this case contrary to the Planning Officer's recommendation.
- 2.2. For information, the Officer report to the May meeting and the late information addendum report ('late sheets') for this item follow as appendices to this report. The merits of the application are not for consideration at this point, as the resolution of the Committee following the vote to grant permission was for Officers to report back to Committee with suggested Heads of Terms of a legal agreement in connection with the development and draft a list of conditions to be included in the Certificate of Decision, for consideration and ratification by Members.
- 2.3. In respect of the legal agreement, this is a standard mechanism under Section 106 of the Planning Act to ensure a Local Planning Authority secures affordable housing provision in perpetuity and other relevant contributions. The main elements which would need to be included in a legal agreement to be negotiated with the applicant are set out in Section A of part 3 of the report. In accordance with standard practice, the legal agreement would need to be completed before the formal Certificate of Decision (the planning permission) could be released.
- 2.4. Section B of part 3 of the report sets out a schedule of planning conditions which Officers believe would be reasonable and necessary to attach to a planning permission having regard to the consultation responses, the nature and location of the proposed development, and the identified material planning considerations which were summarised in the Committee Report.

3. DRAFT HEADS OF TERMS OF A LEGAL AGREEMENT AND PLANNING CONDITIONS

- 3.1. **A. The recommended Heads of Terms of a Section 106 Obligation in relation to the affordable dwelling are:**
 - In relation to the provision of one affordable housing (AH) unit

AH Unit to be identified on plan

AH Unit to be shared equity / intermediate rental available to those in affordable need in perpetuity

AH Unit to be completed and available for occupation prior to first occupation of either of the open market units

- In relation to payment of a commuted sum in accordance with the Council's Policies and Guidance on Open Space
Payment for 3 dwellings – £3,711.65

3.2. B. The recommended Conditions for inclusion on the Certificate of Decision for 23/2018/0268 are:

1. Approval of the details of the scale and appearance of the building(s), the means of access, landscaping and the layout of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. Facilities shall be provided and retained within the site for the parking and turning of vehicles for each dwelling in accordance with a scheme to be agreed with the Local Planning Authority and shall be completed before the development is brought into use.
5. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to the detailing of the drainage scheme for the site. 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 the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.
6. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to an external lighting/internal light spillage scheme, designed to avoid negative impacts on bats, (including measures outlined in Section 5.3.2 of the ecological report document ref: 2215632, received 17-04-2018). The approved measures shall be implemented in full.
7. The development shall be carried out in strict accordance with the recommendations set out in Section 5.3.2 of the Ecological Report (document ref: 2215632, received 17-04-2018) in respect of avoidance and mitigation measures for retained trees on site.
8. No trees within the site shall be lopped, topped or removed without the prior written approval of the Local Planning Authority.
9. All trees and hedges to be retained as part of the development shall be protected during site clearance and construction work by 1 metre high fencing erected 1 metre outside the outermost limits of the branch spread, or in accordance with an alternative scheme agreed in writing by the Local Planning Authority; no construction materials or articles of any description shall be burnt or placed on the ground that lies between a tree trunk or hedgerow and such fencing, nor within these areas shall the existing ground level be raised or lowered, or any trenches or pipe runs excavated, without prior written consent of the Local Planning Authority.

The reason(s) for the condition(s) is (are):-

1. The application is for outline permission with all matters reserved for further approval.
2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. In the interest of the free and safe movement of traffic on the adjacent highway and in the interests of highway safety.

5. To ensure the development is served by a satisfactory drainage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
6. To protect ecological interests.
7. To protect ecological interests.
8. In the interests of visual amenity.
9. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.

Notes to applicant

You are advised that this permission is subject to a Section 106 Obligation relating to the affordable dwelling. The terms of this legal agreement are separate from the conditions attached to the planning consent.

Dwr Cymru Welsh Water note

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 DCWW 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. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

DCWW response is based on the information provided in the application. Should the proposal alter during the course of the application process DCWW need to be re-consulted and reserve the right to make new representation.

If you have any queries please contact 0800 917 2652 or email at developer.services@dwrcymru.com

Natural Resources Wales note

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

You will need to apply for an Environmental Permit or Exemption, if you wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. You may also need to apply for a Permit from NRW's National Permitting Team to allow certain discharges into ground. You must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step guide to registering, is available on the NRW website: www.naturalresourceswales.gov.uk / www.cyfoethnaturiolcymru.gov.uk

If use of the existing septic tank is proposed it should be ensured that the existing tank is in a good state of repair, regularly desludged and of sufficient capacity to deal with any increase in flow and loading which may occur as a result of this proposal

Highways notes

The following matters are drawn to the applicant's attention :

- i) New Roads and Street works Act 1991 – Part N Notice.
- ii) Highways Act 1980 Section 184 Consent to construct a vehicular crossing over a footway/verge.
- iii) Supplementary Note Notes, 1, 3, 4, 5, & 10.

Utilities Company note

Your attention is drawn to the attached response from Wales and West Utilities drawing attention to the mains