

DEVELOPMENT MANAGEMENT COMMITTEE

21st October 2009

Present: Councillor M Williams (Chairman)

Messrs JS Allen-Mirehouse, JA Brinsden, JL Davies, RR Evans, HM George, RN Hancock, SL Hancock, R Howells, RM Lewis, P Morgan and WL Raymond.

(It was noted that Mr T Giles would be late as he had a hospital appointment, and he arrived prior to consideration of item 6(c))

(NPA Offices, Llanion Park, Pembroke Dock: 10.00a.m. – 12.15p.m.)

1. Apologies

Apologies for absence were received from Ms C Gwyther and Mrs F Lanc, Mr D Ellis and Councillor ML Evans

Deleted all items up to no 7 below.

7. Enforcement and other planning matters

Deleted items (a) – (d).

(e) EC09/118 Bettws Newydd

Members were reminded that at the meeting of the Committee in June 2009, it had been resolved to refuse the application submitted under Section 73A of the 1990 Act which sought retrospective permission for the above-mentioned dwelling by varying condition 2 and discharging conditions 5, 6 and 7 thereby seeking to retain the building as then built. At the date of the meeting, the site owner had not appealed against that refusal, the deadline for appeal being 2nd January 2010. Having refused the application, however, it was appropriate for the Authority to determine whether or not to take enforcement action in respect of the building as constructed and if it was, what steps were to be taken.

The report before the Committee set out the site history and then provided a detailed comparison between the development as largely completed and the fall-back scheme approved in 2006, and between the original pre-2006 situation and that present today; it then assessed the legal planning status of the current development and addressed whether the development was in accordance with national and local policy guidance. It then evaluated if enforcement action was justified and considered the options open to the Authority in that respect.

The key question Members were asked to consider was whether the scheme as implemented unacceptably harmed 'public amenity or the existing use of land and buildings meriting protection in the public interest' in the light of all the information now available and the relevant tests set out in the report. However it was also



pointed out that TAN 9 (Wales) made it clear that enforcement action should be commensurate and that it should remedy the effects of the breach, not punish the developer. The initial aim therefore was to explore with the owner what steps, if any, could be taken to reduce the adverse effects on public amenity to an acceptable level. While the report doubted that the dwelling as built could simply be modified to bring it into line with the approved scheme or so as to remedy the harm sufficient to render the development acceptable, it was recommended that the prospect should first be explored formally with the applicant/owner before the option was finally dismissed. However it was considered that enforcement action and the issuing of an Enforcement Notice would be necessary.

The report then went on to set out what steps should be required to be implemented by an Enforcement Notice, and a draft Enforcement Notice was appended to the report.

At the meeting the Head of Development Management reported that several e-mails had been received supporting the recommendations in the report, but also one from an objector expressing concern that reinstatement was not adequately covered, however officers were happy with the wording set out in the report. Concern had also been expressed over the figures regarding the height in the 2006 permission and the siting of the 2006 unit and the 2008 unit. The Head of Development Management assured Members that although the consultant was currently unavailable, these figures would be checked carefully on his return, and the objector advised of the findings. It was intended to give the applicant one month in which to advise the Authority of their views as to whether there was any way in which the development could be modified and it was hoped that a further report would be brought to the December meeting of the Committee.

Members commended the report, and considered that the recommendations provided a sensible way forward.

It was **RESOLVED** that:

- i) in the first instance, an approach be made to the owner to invite him to explore whether the development could be modified to bring it into line with the 2006 permission and/or to remedy the harm to amenity to an acceptable extent.
- ii) If this can not be achieved to the reasonable satisfaction of the Authority then an Enforcement Notice should be issued which seeks to remedy the breach by:
 - Removing the building, hardstanding and driveway.
 - Removing from the land all building materials and rubble arising from compliance with the first requirement.
 - Restoring the land to its condition before the breach took place by levelling and resurfacing that part of the land disturbed by the unauthorised works, consistent with the contours and features shown on the submitted 2005 Existing Survey drawing.

