

ITEMS RECEIVED AFTER THE PRODUCTION OF THE REPORT
FOR THE PLANNING COMMITTEE
TO BE HELD ON 26 MAY, 2021

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MATTERS ARISING FOR COMMITTEE

COMMITTEE DATE: 26 MAY, 2021

Application No.: ENF/2020/0401/PRO	Case Officer: Mr Marcus Bayona-Martinez
Location: Hensol Cottage, Dinas Powys	
Description: Unauthorised Building	

From: Geraint John, Geraint John Planning (agent acting on behalf of site owners)

Summary of Comments:

Mr John wishes to make Members aware that it is his belief that the report is “wholly misrepresentative of the dialogue had, and the position reached as a result [in relation to the development at this site]”. Mr John goes on to state that the report is “entirely lacking and biased in its content” and suggests the report should be withdrawn and redrafted so as to be “accurate and reasonable.”

The following general comments (quoted directly) were also received from Mr John:

- No communication of the reporting of this matter to committee was given by Officers – despite being in regular dialogue in respect to a parallel application;
- The report records and represents multiple inaccurate facts and figures re the use and its dimensions etc’

As the report is not being withdrawn, Mr John wishes to bring the following to the attention of Members, in relation to specific sections of the Committee Authorisation Report (quoted directly):

- Para. 3 – it inaccurately presents the approved scheme (here and throughout). The approved development was for a ‘Stable Block’ – albeit as you are fully aware comprised a scheme that was part stable and part agricultural machinery store. I am of the view that the selected extracts from the approved plan significantly distort and mislead. If the approved scheme plans are to be reproduced in the report, then all of them have to be, not just select extracts. The extracts below set out all approved elevations and floorplans. It can be clearly seen from this that the ‘stable’ element of the building comprises 66% of the approved space, whilst 33% is designated as an ‘Agricultural Machinery Store’. No mention is made of the latter, and much is made of the term stable. In fact the observations of Officers are reported, and machinery and equipment listed out, only in the context of being different to the approved ‘stable’ use. This is highly misleading and distorting;

- Para. 13 – this simply reports that negotiations are on-going, but makes the point that this is in the context of an application that is not for the retention of the building. Again, this significantly misleads. It does not report that all of the following has been discussed, proposed and agreed (in writing): levels / scale / timber cladding finish / removal of the rooflights / removal of the log burner / removal of the low level power points / alterations to openings etc. This list is not necessarily exhaustive. The position is as such (again confirmed in writing) that all that is at odds between the applicant and Officers is the specification of the roof. To expand, Officers are not content that the slate finish of, and finishing details of, the roof is acceptable. This is the sole element that is now considered to be unacceptable. Submissions have recently been made to you to suggest and consider further changes and modifications to the building, including modification of the ridge, eaves, fascias etc. The report makes no mention of these, albeit appreciate that the report may have been completed prior to these being received by you. Nonetheless, they evidence further changes put forward by the applicants, and should be considered by Officers and reported to Members;
- Para. 28 – this lists out items and matters that are no longer at odds, and have been (subject to the above modifications) agreed (again in writing). Given this, these elements cannot be presented as being unacceptable;
- Para. 30 – it is inappropriate and unacceptable to present in the report that neither the applicant or agent have been unwilling to offer explanations for certain items and matters. This has not been necessary – as the items are proposed to be removed and modified;
- Para. 30 – again, the report distorts in setting out that there is no justification for storage purposes. The approved scheme approved storage over and above stabling – it cannot be undone;
- Para. 31 – this records that the application is undetermined, and that Officers are not satisfied that the current proposals are acceptable. Again, no mention of the long list of modifications that have been submitted and agreed is set out here. The position is distorted as such. What should be pointed out here is that “Officers are not content that the slate finish of, and finishing details of, the roof” is acceptable. Authority to take enforcement action should be sought in that light if it is deemed expedient to ask for it (as you know I do not share this view – as there are numerous schemes where slate roofs have been approved). Authority to take enforcement action should not be asked against a position that implies that the building as built is wholly unacceptable, and cannot be made to be acceptable. This is simply not the case, and is not the position discussed and agreed with Officers.

Officer Response:

Below, a general response is first made in response to Mr John’s position and then responses are made in relation to the issues Mr John has raised with specific paragraphs of the report.

General response

The report is an accurate portrayal of the Council's position in respect of this site. The Council have maintained from the outset that the development as it exists on site is not acceptable. This has been communicated in both writing and on the telephone to the site owner, Mr John and his colleagues at GJP that have previously acted as agent on this case. The enforcement action referred to within the authorisation report is the manifestation of that position.

An application is currently under consideration for the retention and significant modification of the building (ref. 2020/01504/FUL). Members can view the plans submitted and supporting documents submitted in support of that application on the planning register. That application may result in an acceptable scheme or it may be refused. An acceptable scheme would require fundamental variances from the development as it appears on site. As a result, it is not considered possible for the retention of this building to be approved, subject to compliance with conditions requiring the implementation of an approved scheme. If the application were approved, we would be reliant upon the site owner to implement the scheme. The purposes of this report, and the enforcement action it relates to, is to secure the Council's position in this regard. That is so that it can be ensured that either an acceptable scheme is implemented as soon as reasonably possible, or if no acceptable scheme is agreed, the unacceptable development that currently exists on site is removed as soon as reasonably possible.

Specific Response

'Para. 3'

This paragraph presents background to the site history. The description of development, as provided by the agent for planning application ref. 2019/00696/FUL was for a stable block. Therefore, it is not considered a misrepresentation to refer to the approved development as such. Notwithstanding that, the building as it exists on site is not being used as a stable or for the purposes of agricultural storage, so an identification of the lesser agricultural storage element would not have resulted in any variance to the content of the report or breach identified.

'Para. 13'

As outlined above, the Council's position is that the proposals being considered, and what would be considered acceptable, cannot include the retention of the development as it exists on site. That is because fundamental changes are both proposed and would have to be made to the development as it exists on site for it to be considered acceptable. The proposals of, and current positions on, planning application ref. 2020/01504/FUL, to which Mr John correctly refers, are not relevant to the acceptability of the development as it exists on site. As a result, whilst they are relevant to the context of the report, which is why they have been referred to within it, they are not relevant to its intentions.

It is noted that amendments to the application currently under assessment have recently been proposed informally, the Council has not had the opportunity to consider these as of yet.

‘Para. 28’

The application under consideration proposes to remove the items listed within this paragraph, this is not disputed. These items add to the Council’s concerns and their exclusion in the application is welcomed. However, it remains that they exist on site and contribute to the unacceptability of the development as it exists. The proposals of planning application ref. 2020/01504/FUL are not relevant to the acceptability of the development as it exists on site.

‘Para. 30’

Notwithstanding the proposals of the application under consideration, no justification has been provided for the inclusion of these items in the development as it took place on site. This is a statement of fact, made in the consideration of the development as it exists on site. The proposals of planning application ref. 2020/01504/FUL are not relevant to the acceptability of the development as it exists on site.

‘Para. 30’

Agricultural storage was approved on site. The items stored within the building, when it was visited by the case officer and listed in paragraph 7 of the report, are not considered to be characteristic of a building being used for agricultural storage. That is why the conclusion has been made that the building is being used for general storage purposes. This use is irrevocably different to agricultural storage and is unacceptable in this location for the reasons outlined in the report.

‘Para. 31’

As part of the application under consideration, the Council and Mr John are in negotiations relating to the roof of the building. However, there are a number of other significant alterations proposed by that planning application, which would be required to be implemented to allow for the building to be considered acceptable. Those alterations are not present on site and, therefore, it is not possible to argue that action cannot be taken on these grounds. Notwithstanding that, at present the Council have significant concerns with the roof as it exists and view this as unacceptable. It is likely that this would be the case even if the alterations proposed by planning application ref. 2020/01504/FUL were implemented.

Action required:

Members to note.

MATTERS ARISING FOR COMMITTEE

COMMITTEE DATE : 26 MAY, 2021

Application No.: 2020/00434/OUT	Case Officer: Mr. I. Robinson
<p>Location: Land at Beggars Pound, Cowbridge Road, St. Athan</p> <p>Proposal: Outline planning permission for the demolition of existing buildings and erection of Class B1 floorspace (up to 3,000 sqm), revised access onto Cowbridge Road, associated internal access routes, parking areas, fencing, landscaping, building and engineering operations with all matters reserved</p>	

From: Case Officer

Summary of Comments: Amendment to condition 8 to refer to a different version of the Phase 1 Combined Geo-environmental & Geotechnical Assessment Desktop Study. The condition as published refers to a previous version and this amendment would ensure it refers to the up to date and correct version.

Officer Response: As above.

Action required: Amend condition 8 to be as follows:

Prior to the commencement of each phase of development, an assessment of the nature and extent of contamination shall be submitted to and approved in writing by the Local Planning Authority. This assessment must be carried out by or under the direction of a suitably qualified competent person * in accordance with BS10175 (2011) Code of Practice for the Investigation of Potentially Contaminated Sites and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- (i) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, as recommended by the Phase 1 Combined Geo-environmental & Geotechnical Assessment Desktop Study (~~5 August 2019~~) (13 December 2019)
- (ii) an assessment of the potential risks to:
 - human health,
 - groundwaters and surface waters
 - adjoining land,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- ecological systems,
- archaeological sites and ancient monuments; and
- any other receptors identified at (i)

(iii) an appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WG / NRW guidance document 'Land Contamination: A guide for Developers' (2017) unless the Local Planning Authority agrees to any variation.

* A 'suitably qualified competent person' would normally be expected to be a chartered member of an appropriate professional body (such as the Institution of Civil Engineers, Geological Society of London, Royal Institution of Chartered Surveyors, Institution of Environmental Management) and also have relevant experience of investigating contaminated sites.

Reason:

To ensure that information provided for the assessment of the risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems is sufficient to enable a proper assessment and to ensure compliance with Policies SP1 (Delivering the Strategy) MD7- Environmental Protection of the Adopted LDP 2011-2026