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F.A.O Nicola Lake

Neath Port Talbot County Borough Council
The Quays
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SA11 2GG

Dear Nicola,

Section 73 application for minor amendments to extant Planning Permission no. 2010/0562 for the residential development of Land off Heol y Glyn, Glynneath.

Please find enclosed, on behalf of the Enzo Homes, an application under Section 73 of the TCPA (as amended), and this application follows on as a result of informal dialogue, and formal pre-application advice sought from NPTC in November 2019. This submission effectively seeks to vary conditions 2, 11, and 17 of planning permission reference 2010/0562.

Background / Context

Full planning permission was granted by Neath Port Talbot County Borough Council (NPTCBC) on the 12th July 2005 for the residential development of the site (planning permission no. P2003/1330).

Subsequently the following Section 73 applications have been approved:

- P2010/0260 – Permission granted on 23rd April 2010 for the variation of Condition 17 of planning permission P2003/1330 to allow the phased submission of geotechnical surveys; and
- P2010/0562 – Permission granted on 3rd June 2010 for the variation of Condition 11 of planning permission P2010/0260 to allow the provision of the 15m near level platform in accordance with Condition 20, prior to the provision of the ghost island right turn lane.

In addition, application P2016/0974 sought the variation of Conditions 11 (Ghost Island Right Turn Lane Scheme), 17 (Programme of Works for Access Road), and 27 (Cessation of Tipping Operations) of Planning Permission P2010/0562 granted on 01/07/10. Planning permission was refused in relation to this application for the following reason:

"(1) Despite numerous requests, the applicant has failed to provide sufficient information to demonstrate that the proposed variation of Conditions 11, 17 and 27 would not have a detrimental impact upon residential amenity or upon the character and appearance of the surrounding area, plus that there would be no adverse impact upon highway and pedestrian safety or drainage of the land.

Hence, the development would be contrary with Policies SP20, SC1, TR2 and BE1 of the Neath Port Talbot Local Development Plan”.

As can be seen and noted, this refusal was based on, and a product of, a failure to provide sufficient information, as opposed to the merit of what was proposed.

The site is now in new ownership, and our client is in a position to not only provide the information which was previously required to satisfy the LPA, but is now also able to offer betterment over and above the previously approved scheme - which we will explain in further detail in this submission.

Purpose of this Section 73 Application Submission

The extant planning permission, whilst lawfully implemented, necessitates further detail – both in terms of the requirements of certain conditions, but also to enable certain elements to be improved upon (the approved scheme lacks detail on matters such as levels for example).

The proposed s.73 application and scheme would seek to revise and supplement the extant planning permission by providing detail where detail was lacking elsewhere in the permission.

The thinking behind this approach and timeline is of course to allow the planning position to be updated and confirmed (as opposed to being regularised per se – given that there is an extant PP), whilst at the same time allowing a start on site under the basis and terms of the extant and lawfully implemented planning permission in place.

The purpose to the application is to ultimately provide and establish a “clean” planning position, whilst at the same time enabling the delivery of a number of units in the immediate/short term.

In terms of details of the proposals, we have discussed and agreed in our dialogue to date a levels solution that mirrors and reflects the extant permission in place on site, as opposed to any alternative. This will provide for a culverted watercourse under the highway at the lower part of the site (as opposed to an open ditch/watercourse near to the boundary). This would reflect and follow the previous dialogue had on the site (which advanced a culverted solution - as the drawings provided document and evidence). Progression in this way will be consistent with what was historically expected, and moreover not raise any issue over whether SAB approval will be required. It will also assist in achieving a better levels solution on the site, not least allowing the highways to be constructed to a gradient that will be to adoptable standards (even if not ultimately offered for adoption but retained, alongside the drainage and open space etc, under a management company).

In addition, a number of improvements to the layout of the site will be proposed, including the elimination of a number of areas of pronounced retaining wall / changes in levels (particularly at the frontage of the scheme). Other minor changes will be proposed, including the elimination of garages and replacement with car parking spaces, and any other minor design alterations etc. (proposed to reflect the new developers’ intentions for schemes).

As set out above, all of this will enable a better and improved scheme, and moreover a clearer and enforceable scheme - given that the details will be far more precise, known, and formally approved.

In summary, the application seeks to:

- (i) Implement the approved ghost island right hand turn – details of which have previously been submitted to and approved ‘in principle’ by the LPA;
- (ii) Rationalise Condition 17 to secure the submission of geotechnical surveys and removal of the requirement for bore hole testing for each individual phase of the development of the approved access road;

- (iii) Supplement detail in respect of finished levels and the provision of a greater level of detail with regard to finished levels across the site, which is lacking from the extant planning permission;
- (iv) The omission of garages to some of the proposed units, which will be replaced with parking spaces;
- (v) Amend house types to Enzo Homes house types.

Each of the above matters is discussed in turn below:

(i) Condition 11: Provision of Ghost Island Right Hand Turn

Condition 11 states:

'Unless otherwise agreed in writing, no development other than the first 15m of the site access road to form a near level platform as required by Condition 20 shall be undertaken on site until the ghost island right turn lane has been provided in accordance with a scheme, which shall first be submitted to and approved in writing by the Local Planning Authority. This scheme shall include street lighting of and the approaches to the junction, anti-skid surfacing, high visibility junction signs, slow markings on road and any other requirements highlighted by the Local Planning Authority.'

Reason: In the interests of highway safety'.

The above condition requires the submission of detail of the ghost island right hand turn and the implementation of these approved drawings prior to the development of the access road exceeding the first 15 metres. The applicant was previously asked by the Local Highways Authority not to provide the ghost island right hand turn due to concerns that the kerbs would prevent exceptionally wide HGVs passing along Heol y Glyn. The applicant has engaged in discussions over the past two years endeavouring to design a ghost island without kerbs or bollards, in order to enable exceptionally large vehicles to freely pass along the public highway.

The highway improvement works have now been designed without any physical obstruction, and will be painted directly onto the highway. Detailed drawings have been submitted and agreed 'in principle' by the Council. However, the LPA has taken the view that the Condition cannot now be discharged (in its current wording) as the access road has extended past the first 15 metres, as stipulated within the Condition.

This is however the applicant's position that the road has not extended further than 15m, and as such no "breach" has occurred. Accordingly, provided the works were undertaken these would be no position to reconcile.

In light of the above, and notwithstanding the differences in position between the LPA and the applicant, a suggested re-wording of the condition is put forward such that it reads as follows:

'The ghost island right hand turn shown on drawing Nos: 3174-121 Rev Q2 and 3174-200 Rev F3 shall be provided within six months of the date of this permission, in full accordance with the approved details. This scheme shall include street lighting of and the approaches to the junction, anti-skid surfacing, high visibility junction signs, slow markings on road and any other requirements highlighted by the Local Planning Authority.'

Reason: In the interests of highway safety'.

(ii) Condition 17: Phased Construction of Access Road and Geotechnical Surveys

Condition 17 states:

'Unless otherwise agreed in writing, prior to the commencement of development, a phased programme of works for the construction of the access road shall be submitted to and approved in writing by the Local Planning Authority. The phased programme of works shall include geotechnical surveys of each of the identified phases and the works shall be carried out in accordance with the agreed details. The first phase shall include details of a minimum length of 50m of access road together with boreholes for the first 60m, taken at 10m intervals, showing the ground conditions under the proposed part of the road taken along the centre line and measures proposed to overcome deficiencies, and this shall be submitted to and approved in writing by the Local Planning Authority. Any subsequent phases shall take boreholes a minimum length of 10m beyond the part of the highway to be constructed, and no part of the highway shall be constructed in excess of the submitted and approved length.'

Reason: In the interests of highway safety and structural stability, in view of the tipped material on the site.'

A Phased programme of works and geotechnical surveys has previously been undertaken, and submitted and approved for the first 60 metres of the access road. The access road has not extended past the first 50 metres. Accordingly, it is not considered that there is a requirement to vary this Condition. In addition, and as material has since been brought on to site it has been discussed that it would now be more practical at this stage to re-distribute the material (which has been tested and proven suitable), compact in layers to highway specification and then undertake appropriate CBR testing at formation level to validate the carriageway construction.

In light of the above, there is an opportunity to amend this Condition so that the wording offers greater opportunity for compliance, and moreover to allow a more comprehensive 'site wide' discharge of the requirements of this condition.

As agreed at pre-app, the access road will have a maximum gradient of 1:25 for the first 15 metres, followed by a maximum of 1:12, and a minimum of 1:1150 for the remaining length. This is illustrated upon

In light of the above, a suggested re-wording of the condition is put forward such that it reads as follows:

'Unless otherwise agreed in writing, the construction of the access road shall be implemented in accordance with a phased programme of works to be submitted, and forming part of this application. The phased programme of works shall be supplemented by geotechnical surveys for each of the identified phases (unless provided as one singular comprehensive submission), prior to the commencement of work upon each phase of construction of the road, and the works shall be carried out in accordance with the agreed details. All subsequent phases shall be subject to appropriate CBR testing at formation level at a minimum length of 10m beyond the part of the highway to be constructed, and no part of the highway shall be constructed in excess of the submitted and approved length.'

Reason: In the interests of highway safety and structural stability, in view of the tipped material on the site.'

In any event, Enzo Homes has instructed Terrafirma to prepare the submitted Geo-technical & Geo-Environmental Report dated March 2019.

(iii) Amendments to Finished Levels

The revised proposed site plan, which is supplied with this application, sets out amendments to finished levels of the proposed units, and a greater level of detail with regard to finished levels across the site (which is lacking from the extant planning permission). This is provided through CD Gray's levels model information submitted as part of this application.

The extant scheme lacked comprehensive detailed information on finished levels throughout the site. Furthermore, the approved scheme provided levels and relationships between dwellings which were stark and pronounced, and which could capably be improved. The current proposals seek to address some of the areas of the scheme which would benefit from re-profiling, and to provide a comprehensive detailed drawing which identifies finished floor levels throughout the site.

In addition, a number of improvements to the layout of the site will be proposed, including the elimination of a number of areas of pronounced retaining wall / changes in levels (particularly at the frontage of the scheme). The revised scheme, which is appended to this submission (with an extract provided below), uses (as approved) split level houses to achieve changes in levels, whilst also (as previously proposed) culverts the watercourse through the highway in the bottom of the site. Both of these measures allow for more manageable changes in levels through the site, and more responsive and sympathetic end form.

(iv) The Replacement of Garages with Off Street Parking

The extant scheme includes private garages to serve a number of dwellings. There are two Conditions upon the planning permission which relate to the provision of the garages:

6. "The integral and attached garages shall not be converted to residential use unless a scheme for replacement car parking has been submitted to and approve in writing by the Local Planning Authority. The scheme shall be implemented prior to the commencement of any conversion works and shall provide for one additional car parking space for each lost by any conversion works.

Reason: To ensure that adequate car parking provision is maintained within the curtilage of the dwelling in the interests of highway safety.

7. The use of separate garages shall be restricted to the garaging of private motor vehicles and uses incidental to the use of the associated dwellinghouse only and for no industrial, commercial or business use.

Reason: In the interests of amenity and to clarify the extent of this consent".

The intention is not to proceed with the construction of many of the approved garages – not least as many are positioned such that they are not compatible with the unit to which they relate and / or neighbouring units. Notwithstanding this, where garages are to be omitted they will be replaced with (on plot) off street parking. Accordingly, there will be no adverse impact upon the levels of parking provision provided.

(v) House Type / Urban Design Changes

In addition, the following other minor (mainly design based) revisions to the scheme will be sought (albeit this list is not exhaustive or detailed to house type / plot location):

- The omission of Plot 36 in the south-eastern corner of the site;
- The omission of the pedestrian foot-link in the south-western corner of the site;
- House type substitutions which include the following subtle design changes:

- Loss of all dormer windows;
- Slight increase in eave height; and
- Internal layout re-organisation of each house type.

A series of CGI images are provided of the house types which illustrate the high-quality design of the finish of the dwellings.





The proposed materials to be discussed with the LPA during the course of the application.

These changes would suggest an amendment or Condition 2 to take account for the submitted drawings and to 'approve' these under the wording of Condition 2.

Other Matters

It should be noted that our client does not require the variation of Condition 27 – as was previously sought (as part of application P2016/0974). This condition required importation of material to site to cease within 12 months of commencement. A topographical survey of the site has been undertaken, and this has informed how the levels will be formed (as per the submitted levels plan etc).

Ecology

A phase 1 habitat survey has been prepared by I&G ecology and supports the application.

Trees

A tree survey has been undertaken of the site, and supports the application. This has been agreed with the LPA at pre-app stage.

CEMP

A draft CEMP has been submitted for consideration, in the attempt to reduce pre-commencement conditions. We'd welcome highways comments on this draft.

Drainage

CD Gray have prepared a suite of supporting drainage information and this has been sent directly to NPTC's technical services team.

Site Investigation

An updated report prepared by Terrafirma has been undertaken and supports this application.

Justification of this Application

We consider that the planning application meets the eligibility criteria as set out by Section 73 of the Town and Country Planning Act 1990 given that:

- (i) the application is for the same development; and
- (ii) the time limit to commence development has not expired.

The proposed changes to the conditions set out clear and detailed reasoning for their revision - reasoning which reflects, and is a product of, a number of factors.

This submission, and its associated assessment documentation, evidences that there have been no material changes in circumstance (technically, environmentally and/or in planning policy terms) since the initial grant of planning permission. Accordingly, it is contended that the application is acceptable in all respects, and ought to be approved - not least given its role and importance in delivering much needed new housing.

Conclusion

We trust that the enclosed documentation and application fee cheque is sufficient, and we look forward to receiving confirmation that the application has been registered and validated initially, and to progression of its consideration and determination in due course.

Should you require further information, please do not hesitate to contact me.

Yours faithfully,



Geraint John
Director
Geraint John Planning Ltd

Enc: As above