

## **PLANNING & DEVELOPMENT COMMITTEE**

**24 JUNE 2021**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 20/1336/15 (GW)  
**APPLICANT:** Transformahome  
**DEVELOPMENT:** Removal of condition 13 (Structural survey of the road bridge) from planning permission reference 19/0882/10 for a temporary farmhouse, glamping pods, storage building and associated development.  
**LOCATION:** LAND AT FERNHILL FARM, OFF CAROLINE/BROOK STREET, BLAENRHONDDA  
**DATE REGISTERED:** 30/11/2020  
**ELECTORAL DIVISION:** Treherbert

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#### **RECOMMENDATION: GRANT**

**REASONS:** The bridge is a publicly maintainable asset and the planning permission granted would not significantly increase traffic using the bridge. The Council's Structural Engineer has identified a strength assessment would be carried out by the Council and that any weight restrictions, repairs or strengthening required, as a result of that assessment, would be carried out by the Council. Therefore, it is not considered reasonable and necessary to retain a condition for the developer to undertake a structural survey of the bridge or for any works identified in that survey to be undertaken prior to the first beneficial use of the development.

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#### **REASON APPLICATION REPORTED TO COMMITTEE**

The condition, proposed to be removed, was requested by Members when they resolved to grant planning permission at the earlier Planning and Development Committee meeting.

#### **APPLICATION DETAILS**

The proposal is to remove condition 13 (Structural survey of the road bridge) from planning permission reference 19/0882/10 for a temporary farmhouse, glamping pods, storage building and associated development. Permission was granted by Committee on 16<sup>th</sup> July 2020 with the additional condition requested by Members.

The wording of condition 13 is stated below:

*Prior to any works commencing a structural survey of the road bridge, situated between Brook Street and Caroline Street in Blaenrhondda and that crosses the River Rhondda, shall be submitted to and approved in writing by the Local Planning*

*Authority. Any works identified as being required in the approved survey shall be undertaken prior to the first beneficial use of the development hereby permitted.*

*Reason: In the interests of highway and pedestrian safety in accordance with Policy AW 5 of the Rhondda Cynon Taf Local Development Plan.*

## **SITE APPRAISAL**

The site is part of the former Fernhill Colliery site and is accessed from the northern end of Blaenrhondda. The road access from Brook Street is surfaced for the first part (Caroline Street), however its condition deteriorates as it changes to a private road and its width reduces closer to the site of the house and glamping pods. The bridge relevant to the condition is located at the top of Brook Street, just beyond the bus turning circle, and is a publicly maintained asset that forms a section of adopted highway.

## **PLANNING HISTORY (Relevant to application)**

20/0029/38	Fernhill Farm, Off Caroline/Brook Street, Blaenrhondda	Discharge of conditions 7 (Drainage), 8 (Contamination Site Investigation), 9 (Contamination Validation Report), 11 (External finishes) and 12 (Habitat protection plan) of planning permission 19/0882/10.	Pending
19/0882/10	Fernhill Farm, Caroline Street, Blaenrhondda	Temporary farmhouse, glamping pods, storage building and associated development	Granted 17/07/2020
19/0147/10	Land at Fernhill Farm, Caroline Street, Blaenrhondda	New dwelling and garden curtilage including car parking.	Withdrawn 14/08/2019
18/0555/10	Land at Fernhill Farm, Off Caroline/Brook Street, Blaenrhondda	Temporary farmhouse and glamping pods.	Withdrawn 19/09/2018

## **PUBLICITY**

The application has been advertised via the erection of site notices. At the time of writing this report no comments have been received.

## **CONSULTATION**

**RCT Structural Engineer** – RCT engineers have been to inspect the bridge and review its condition, and have also reviewed the previous strength assessment

undertaken on the bridge and as such we are recommending internally that RCT need to formally commission a new strength assessment. The likelihood is that the bridge is substandard to current full highway loading. The bridge does not currently have a weight restriction, if it is confirmed to be substandard then we would implement a review in accordance with the Design Manual for Roads and Bridges and either apply monitoring or recommend that a weight restriction be applied to the bridge. Any repairs or strengthening would then be prioritised against the other competing demands for structures funding. There is no timetable for the strength assessment but given the location it will be commissioned within the next few months.

**RCT Transportation Section:** No objection to the removal of the condition.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

The site lies in the Northern Strategy Area, is inside the settlement boundary as defined by the Rhondda Cynon Taf Local Development Plan and is unallocated.

**Policy CS1** - sets out the criteria for achieving strong sustainable communities

**Policy AW5** - sets out criteria for new development. Development must be sustainable and have safe access.

**Policy AW10** - development proposals must overcome any harm to public health, the environment or local amenity.

### **Supplementary Planning Guidance**

Access Circulation and Parking

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24<sup>th</sup> February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), WGs current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments. It is also considered the proposed development is compliant with the aims and objectives of the NDF.

Other relevant national policy guidance consulted:  
PPW Technical Advice Note 18: Transport;  
PPW Technical Advice Note 23: Economic Development; and  
Manual for Streets.  
Welsh Government Circular (WGC 016/214) The Use of Planning Conditions for Development Management

## **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

### **Principle of the proposed development**

Planning permission (Ref 19/0882/10) for the temporary farmhouse, glamping pods, storage building and associated development was granted at Planning Committee on 16<sup>th</sup> July 2020. As such the principle of development has already been established.

Condition 13 was added by Members to ensure the structural integrity of the bridge was sufficient for the proposed use. The additional condition requires the developer to carry out a structural survey of the bridge and undertake any works identified as being required in the approved survey prior to the first beneficial use of the development.

### **Proposed removal of condition 13**

This application has been submitted in an attempt to remove the condition. In the submitted Planning Statement the applicant has argued that the condition does not meet any of the tests set by Welsh Government. The main reason they highlight is that the condition is unreasonable because the, “applicant is being asked to survey a public asset that can be accessed by anyone and should be regularly surveyed and maintained by the Local Authority”.

Members are advised that Welsh Government Circular (WGC 016/214) The Use of Planning Conditions for Development Management details a condition must be necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects. These will be looked at and assessed below:

#### **1. Necessary**

The applicant states the bridge and connecting road are public assets that form part of the adopted highway here, and are open to the public at all times and in addition to serving as access to the applicant’s farm, are also accessed by many other vehicles and other stakeholders. Therefore they should be surveyed and maintained

by the Local Authority. The other users include: Welsh Water, NRW, Welcome to our Woods, Cadw, The Coal Authority and members of the public who use the road/bridge to access surrounding walks.

It is considered the planning permission granted (19/0882/10) may intensify use of the bridge with visitors to the glamping pods and the farmhouse. However, it should be noted that the site can be used for agricultural purposes and accessed by related vehicles without the need for the planning permission. Furthermore, it is currently used for access by various vehicles in relation to other organisations and the public as identified above. Therefore, the increase in use as a result of the planning permission would be relatively low in scale and unlikely, on its own, to result in a significant deterioration of the bridge.

In addition, following assessment of the scheme the Council's Transportation Section did not consider such a condition necessary as part of application 19/0882/10. In their comments for that application it was stated "The bridge structure is in a poor state of repair and lacking in width for safe two way vehicular movement as well as segregated footways for pedestrians. There is an advisory sign stating there is no access for HGV vehicles and is suitable for light vehicles only. There is no official weight restriction for the bridge structure and taking into account the bridge is publicly maintained the applicant could potentially farm the land using the bridge for access without implementation of the dwelling and glamping pods and on this basis reluctantly the proposal is acceptable".

The Council's Structural Engineer has been requested to comment on the removal of the condition and states, "RCT engineers have been to inspect the bridge and review its condition and the previous strength assessment undertaken on the bridge. As such, we are recommending internally that RCT need to formally commission a new strength assessment. The likelihood is the bridge is substandard to current full highway loading. The bridge does not currently have a weight restriction, if it is confirmed to be substandard then we would implement a review in accordance with the Design Manual for Roads and Bridges and either apply monitoring or recommend that a weight restriction be applied to the bridge. Any repairs or strengthening would then be prioritised against the other competing demands for structures funding. I do not have a timetable for the strength assessment but given the location we will commission one within the next few months".

In summing up, the bridge is a public asset and the Council has a duty to maintain it at public expense. The planning permission granted is unlikely to increase traffic significantly to the detriment of the bridges condition. It has also been identified that a strength assessment would be completed by RCT in the near future, and that any weight restrictions or repairs and strengthening that may be required would be carried out by the Council. Therefore, in these circumstances, it is considered it would not be necessary to require the applicant to carry out the survey and finance any repairs or strengthening that may be required.

## 2. Relevant to planning

The applicant argues the condition has no relevance to planning as the bridge is the obligation of the Local Highway Authority.

Whilst the above is noted, it is considered the condition is relevant to planning as an acceptable access is an issue that needs to be considered during the determination of planning applications. The reason put forward by the applicant in this section is considered to be more related to whether the condition is necessary or reasonable. This is discussed further in sections 1 and 6.

### 3. Relevant to the development to be permitted

The applicant argues that the condition is not relevant to the development permitted, as the condition attempts to control something not created by the development permitted. It is also stated the bridge needs to be adequately maintained for the other stakeholders who use the bridge.

From the applicant's statement it is assumed that it is meant that the development permitted hasn't caused the bridge's condition. This would be agreed as the use had not commenced before the application was determined. However, it is considered the condition would be relevant to the development, as access is a matter to be assessed in planning applications and the bridge forms part of the access to the site. The reason put forward by the applicant in this section is considered to be more related to whether the condition is necessary or reasonable. This is discussed further in sections 1 and 6.

### 4. Enforceable

No argument is made against this by the applicant. The condition clearly states what information is required and when and why any repair or strengthening is required. Therefore, it is considered the condition would be enforceable.

### 5. Precise

The applicant argues the condition appears to request the applicant must carry out the survey work but does not clarify who is to manage or finance any necessary works. The condition however clearly states, "*Any works identified as being required in the approved survey shall be undertaken prior to the first beneficial use of the development hereby permitted.*" It would therefore be the responsibility of the developer to manage or arrange finance for any necessary works. Therefore, it is considered the condition is precise.

### 6. Reasonable in all other respects.

The applicant states this is a "Grampian" type condition, which should prevent development until certain works have been carried out including works on land that is not in the control of the applicant. And concludes it is not reasonable to impose the condition as the bridge is a Local Authority asset and not under the ownership of the applicant.

It is considered the condition is a "Grampian" style condition, that would prevent development until the bridge survey is carried out and any necessary repairs or strengthening works undertaken.

The question of whether the condition is reasonable is considered related to the issues in the "Necessary" section. The Council is responsible for maintenance of the bridge and it has been detailed by the Council's Structural Engineer that a strength assessment will be carried out in the next few months, and that any potential weight

restrictions, repair and strengthening works required will be prioritised against competing structure funding. Therefore, it is considered in these circumstances that it would not be reasonable for the developer to carry out the survey and any required works.

## **CONCLUSION**

The bridge is a publicly maintainable asset and the planning permission granted would not significantly increase traffic using the bridge. The Council's Structural Engineer has identified a strength assessment would be carried out by the Council in the near future and that any weight restrictions, repairs or strengthening required, as a result of that assessment, would also be carried out by the Council. Therefore, it is not considered reasonable and necessary to retain a condition for the developer to undertake a structural survey of the bridge and carry out any mitigation works required.

It is recommended however that the other conditions attached to the original planning permission should be reinstated. In addition, with regard to the date in condition 2, Members are advised this identifies when the temporary development that was granted should end. Originally this was 16<sup>th</sup> July 2023 which would allow the applicant 3 years to try and establish the farming and glamping enterprise. It is recommended that as the applicant has been unable to fully commence the development granted, that this is extended to three years from the date of the new decision.

## **RECOMMENDATION: Grant**

1. The development hereby approved shall be carried out in accordance with the approved plans nos:

- Site Location Plan (received 16th March 2020)
- hdw/ph/gp.001e - Glamping Pods Proposed floor plan & elevations and proposed block plan (received 10th March 2020)
- Landscape plan.dwg aug 2019 issue B-MDA (received 3<sup>rd</sup> September 2019)
- hdw/ph/ab.002a - Temporary Farmhouse Proposed Site Plan,
- Elevations and Floor Plan (received 13th August 2019)

and documents received by the Local Planning Authority on 6th February 2019, 13th August 2019, 6th November 2019, 7th November 2019, 14th November 2019 and 23rd January 2020 unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

2. The temporary dwelling, glamping pods, storage building and any associated paraphernalia associated with its use shall be removed from the land in its entirety and the land shall be restored to its former condition on or before 3<sup>rd</sup> June 2024.

Reason: This planning permission is for a temporary period only in order to enable the establishment of a rural enterprise and in the interests of visual amenity in accordance with Planning Policy Wales TAN 6: Planning for Sustainable Rural Communities and Policy AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

3. The occupancy of the farmhouse dwelling shall be restricted to those:
  - a. solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;
  - b. who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either (a) and (b);
  - c. widows, widowers or civil partners of the above and any resident dependants.

Reason: The site is not in an area intended for general development. Permission is granted solely because the dwelling is required to house a person or persons employed or last employed in a rural enterprise. A dwelling in this location would normally be contrary to Policy AW2 of the Rhondda Cynon Taf Local Development Plan.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), no private car garages, extensions, garden sheds, gates, fences, walls, other means of enclosure, or structures of any kind (other than any hereby permitted) shall be erected or constructed on this site without the prior express permission of the Local Planning Authority.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

5. The glamping pods hereby approved shall only be occupied as holiday units and no unit shall be occupied by any individual, family or group for more than a continuous period of two months in any calendar year. An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the Local Planning Authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.

Reason: The site is unacceptable for general residential use by reason of its unsustainable location, in accordance with Policy AW 2 of the Rhondda Cynon Taf Local Development Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order) no external lighting equipment shall be erected or installed on the site unless details including its location, size, design and intensity have been submitted to and approved in writing by the Local Planning Authority. The lighting installed shall be carried out and retained in accordance with the approved details.

Reason: To prevent light pollution and to afford protection to animal species in accordance with policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan.

7. No development shall commence until all relevant matters outlined on the attached Planning Requirements Relating to Flood Risk Management including full drainage details have been submitted to and approved in writing by the Planning Authority. These details shall indicate how the development is to comply with the requirements of Section 8.3 of Technical Advice Note 15. The development hereby approved shall not be brought in to beneficial use until approved drainage arrangements have been implemented on site.

Reason: To ensure that drainage from the proposed development does not cause or exacerbate any adverse condition on the development site, adjoining properties, environment and existing infrastructure arising from inadequate drainage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

8. The development hereby permitted shall not begin until a scheme to deal with contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures unless otherwise agreed in writing by the Local Planning Authority:

1. A desk-top study to identify and evaluate all potential sources and impacts of contamination relevant to the site. The desk top study should contain a conceptual site model.
2. A site investigation shall be carried out to fully and effectively characterise the nature and extent of any contamination and its implications. The site investigation shall not be commenced until a desk-top study has been agreed in writing with the Local Planning Authority.
3. A written method statement for the remediation of contamination affecting the site.

Reason: In the interest of Health and Safety in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

9. No dwelling, hereby permitted, shall be occupied until the measures approved in the scheme set out in condition 8 have been implemented and a suitable validation report of the proposed scheme has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

10. If during development works any contamination is encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then work shall cease and revised contamination proposals shall be submitted to the Local Planning Authority. The development shall not re-commence until the additional proposals have been agreed in writing by the Local Planning Authority.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

11. Notwithstanding the submitted details, building operations shall not be commenced until samples of the finishing materials proposed to be used for the temporary farmhouse, glamping pods and storage building (including colour) have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the sample(s) so approved.

Reason: To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

12. Notwithstanding the submitted details no development shall take place until a wildlife / habitat protection plan has been submitted to and approved in writing by the local planning authority. The wildlife / habitat protection plan shall include:

- i. The creation/translocation of a minimum of 1200m<sup>2</sup> of compensatory dry heath habitat to a suitable nearby location.
- ii. A mitigation strategy for reptiles.
- iii. A method statement related to nesting bird habitat or if clearance is undertaken in the period March 1st to August 31st a nesting bird survey shall be carried out and submitted.
- iv. A site lighting scheme

The protection plan shall then be implemented in accordance with the timings detailed in the approved wildlife / habitat protection plan.

Reason: To afford protection to animal and plant species in accordance with Policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan