

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 19/1161/NMA
Grid Ref: E: 315775
N: 294250
Community Council: Abermule And Llandyssil Community
Valid Date: 16.07.2019

Applicant: Powys County Council

Location: Abermule Business Park, Abermule, Newtown, SY15 6NU

Proposal: Application for a non-material amendment to permission P/2018/0587 to alter the wording of conditions 9, 10, 13 & 14

Application Type: Non-Material Amendment

The reason for Committee determination

The application has been submitted by Powys County Council

Consultee Responses

Consultee	Received
PCC-Contaminated Land Officer	6th Aug 2019
I am satisfied that the amended proposals are appropriate and can be adopted.	
Community Council	8th Aug 2019

Other - Health and safety

In accordance with Planning Application P/2018/0587 for the Abermule Business Park/Recycling Bulking Facility, planning conditions 8(B), 9 and 10 (Full RBF) and conditions 12(B), approved by the LPA and before any development works are started. This is in order to remove unacceptable risks to human health.

These 'Precedent' conditions are included in the Planning Application for Abermule Business Park/RBF for the essential reason to avoid exposing anybody on the site, or near to it, to health and safety risks associated with contamination matter (such as asbestos) which we understand has been discovered during prior site investigations

Specifically, these conditions are to ensure that the site will not qualify as 'Contaminated Land' under:

- (i) Part 2A of the environmental Protection Act 1990 and
- (ii) The Contaminated Land (Wales) (Amendment) Regulations 2012

Once all of the planning application 'precedent' conditions have been complied with, and written approvals obtained for each of them from the LPA, then development work can start

This application (19/1161/NMA) on the face of it merely seeks to make minor. (non material) revisions to the wording of conditions 9&10 (full) and conditions 13&14 (outline) If approved it will permit workers and development to proceed on contaminated land before any recommendation to render the site safe has been carried out. Indeed it will allow development to proceed to proceed even before a proposed scheme to render the site safe has been prepared and approved in writing by the LPA

This is wholly unsatisfactory position on health and safety grounds alone and therefore this application should not be approved.

Planning History

App Ref	Description	Decision	Date
P/2018/0587	Hybrid application comprising of a full application for a proposed recycling bulking facility and associated works and an outline application for the erection of business units (B1/B2/B8) and all associated works	Approve	2nd Aug 2018
18/1019/DIS	Discharge of conditions 8 and 12 of planning approval P/2018/0587	Approve	2nd Jan 2019

Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 10, December 2018)		Local Development Plan 2011-2026

TAN21	Waste		Local Development Plan 2011-2026
DM10	Contaminated Unstable Land	and	Local Development Plan 2011-2026
DM13	Design and Resources		Local Development Plan 2011-2026

Representations

One representation has been received objecting to the amendment and is summarised as follows;

- Concerns regarding health and safety and impact on workers, neighbour and other receptors

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Officer Appraisal

Site Location and Description of Development

The application site is located partially within and outside the development boundary of Abermule as defined by the Powys Local Development Plan 2018. The application site is accessed through an existing access from the B4386 which leads from the A483 trunk road to Abermule. The site is bound to the north by the B4386, the east and south by a railway line and the west by agricultural land and the A483.

Consent was previously granted under the planning application reference number P/2018/0587 for a hybrid application comprising of a full application for a proposed recycling bulking facility and associated works and an outline application for the erection of business units (B1/B2/B8) and all associated works.

The proposed amendment relates to the amendment of the wording to conditions related to contaminated land. Conditions 9 and 10 of the full consent and conditions 13 and 14 of the outline consent are proposed to be amended. Condition 9 of the full and 13 of the outline states as follows;

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the local planning authority. 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' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

Condition 10 of the full and condition 14 of the outline states as follows;

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local 40 planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme. 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' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

It is proposed to amend the wording of condition 9 of the full and 13 of the outline to read as follows;

Within 6 weeks of the commencement of development and prior to works being undertaken on the area identified as contaminated a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the local planning authority. 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' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

It is proposed to amend the wording of condition 10 of the full and 14 of the outline to read as follows;

The approved remediation scheme must be carried out in accordance with its terms prior to occupation of the development. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme. 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' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

The applicant has stated in their submission that this amendment is required in order to enable appointed contractors to prepare appropriate documentation and undertake asbestos removal in accordance with relevant legislation and guidance.

Consideration of the Proposed Amendment

Section 96A of the Town and Country Planning Act 1990 allows an amendment to be made to an existing or extant planning permission via a simplified application procedure providing that the proposed amendment does not materially alter the consented scheme.

Paragraph 2.6 of The Planning Guidance-Approving Non Material Amendments states that when assessing and determining whether or not a proposed change would qualify as a non-material amendment, Local Planning Authorities may consider the following tests:

- *Is the scale of the proposed change great enough to cause an impact different to that caused by the original approved development scheme?*
- *Would the proposed change result in a detrimental impact either visually or in terms of local amenity?*
- *Would the interests of any third party or body be disadvantaged in planning terms?*
- *Would the proposed change conflict with national or development plan policies?*

The proposed amendment relates to the amendment of the approved conditions to provide an altered timeframe for the submission and implementation of a remediation scheme.

Is the scale of the proposed change great enough to cause an impact different to that caused by the original approved development scheme?

There is no change in scale to the proposed development; the only alteration is with regards to the wording of conditions contained within the decision notice. It is considered that the amendments do not significantly alter the previously approved scheme and it is considered that there is no change to the scale of the development and as such would not cause an impact different to that caused by the originally approved development.

Would the proposed change result in a detrimental impact either visually or in terms of local amenity?

It is considered that the proposed amendments will not have a detrimental impact on visual/local amenity. The amendment does not propose any alterations to the design of the development and only relates to the wording of conditions.

Would the interests of any third party or body be disadvantaged in planning terms?

The proposed development would not affect any third party or body. Consideration has been given to the amenities enjoyed by the occupiers of neighbouring dwellings however it is considered that the alteration to the wording of conditions 9 and 10 of the full application and 13 and 14 of the outline would not disadvantage any third party or body in planning terms.

The Contaminated Land Officer has been consulted on the proposed amendment and has offered no objection to the amended wording.

Would the proposed change conflict with national or development plan policies?

It is considered that the proposed amendments do not conflict with any national or local planning policies as the amendment relates to the alteration of the wording of conditions. The Contaminated Land Officer has been consulted on the application and has offered

no objection to the amendment. As such the proposed amendments do not conflict with national or development plan policies.

RECOMMENDATION

Whilst the comments from the third party and Community Council are noted, in light of the above and following comments from Contaminated Land Officer, Officers consider that the proposed development remains in accordance with the listed planning policies. Due to the nature of the proposed alterations, it is considered that the amendments do not materially alter the approved scheme.

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