



Adroddiad

Ymchwiliad a gynhaliwyd ar 13 & 19/06/06
Ymweliad â safle a wnaed ar 14/06/06

Report

Inquiry held on 13 & 19/06/06
Site visit made on 14/06/06

gan/by Stuart B Wild MRTPI MCMI

**Arolygydd penodwyd gan Cynulliad
Cenedlaethol Cymru**

**an Inspector appointed by the National
Assembly for Wales**

Dyddiad/Date 02/08/06

Mixed Use Redevelopment to Provide Residential, Commercial and Leisure Facilities
Land Opposite Town Centre
Robertstown, Aberdare

File Ref: APP/L6940/X/05/514757

Site address: Land opposite town centre, Robertstown, Aberdare

- The application was called in for decision by the Assembly Government by a direction, made under section 77 of the Town and Country Planning Act 1990.
- The application is made by Aberdare Developments to Rhondda Cynon Taff County Borough Council.
- The application Ref 04/1809 is dated 14/01/05.
- The development proposed is mixed use redevelopment to provide residential, commercial and leisure facilities in five zones.
- The reason given for making the direction was that the proposed development raises planning issues of more than local importance. In particular it raises issues which may be in conflict with national planning policy.
- On the information available at the time of making the direction, the following were the matters on which the National Assembly for Wales particularly wished to be informed for the purpose of its consideration of the application: the visual and environmental implications of the proposed development on the site and surrounding areas; the relevant national policies as set out in Planning Policy Wales (March 2002) particularly those relating to retail development and Technical Advice Note (TAN) 15 – Development and Flood Risk – 2004; and policies of the Cynon Valley Local Plan 1991-2005.

Summary of Recommendation: I recommend that planning permission should not be granted.

Procedural Matters

1. I opened the inquiry on 13/06/06, I made an accompanied inspection of the site and its surroundings on 14/06/06 and concluded the inquiry on 19/06/06.

The Site and Surroundings

2. The site is described in the Statement of Common Ground (Section 9 - Doc 4). In general terms it is an area of 7.205ha of land lying to the east of the railway line opposite Aberdare town centre. The site extends north from the railway station up to the residential properties and open space in Robertstown. The established community of Robertstown contains about 120 dwellings, several community uses and a mixture of relatively modern commercial/industrial premises. It extends northwards to the point where Wellington Street turns westwards to cross the railway level crossing and join the main A4059. Wellington Street is the main road which runs generally north south through the centre of Robertstown and the application site. The River Cynon forms the eastern boundary of much of the site until it turns west and flows through the site to pass under the railway line. The site extends in a southerly direction to just north of the roundabout junction at the north end of Cwmbach Road. The site includes the unused former station building and the site of the Universal Furniture factory, most of which was destroyed by fire a few years ago. With the exception of the two remaining buildings the rest of the site appears derelict with limited amounts of young trees and shrubs. Historically most of the site was formerly occupied by the railway sidings and engine sheds. The site has the appearance of previously developed land and is in a visually prominent location close to the railway station and town centre.

The Proposals

3. The application is in outline with all matters of detail reserved for subsequent approval by the Council. Illustrative plans accompanied the application to give an indication of the possible layout and form of the buildings.
4. The proposal is divided into 5 zones which are shown as A-E on Plan A. Zone A 0.55ha would utilise the existing former station building extended to accommodate a restaurant, public house and fitness centre. Zone B 0.7ha would be developed for small industrial buildings. Zone C 1.59ha would be developed for large industrial buildings. Zone D 3.97ha would be developed for a housing scheme. Zone E 0.59ha would be developed for a warden supported housing/residential home scheme.

Planning Policy

5. The policy background is set out in the Statement of Common Ground (Annex 6 - Doc 4). Of particular relevance in this case is TAN 15 Development and Flood Risk and the Cynon Valley Local Plan Strategy (Doc 14) which seeks to secure the economic regeneration of the Cynon Valley by providing opportunities for new investment through the allocation of land and the control of new development, without prejudice to the conservation and enhancement of the built and natural environment.

Other Agreed Facts

6. The Statement of Common Ground (Doc 4) contains the details of matters agreed between the applicant and the Council. The Environment Agency for Wales (EA) pointed out that there was a history of flooding in this area in 1979 (Doc 21, Doc 23 and plan attached to Doc 19).

The Case for Aberdare Developments

7. Generally the scheme is in accord with local and national policy and provides for the regeneration of this largely derelict area of land close to Aberdare town centre. It would result in significant levels of investment and provide of the order of 680 jobs during the construction phase and 410 jobs on completion (Doc 11). The new housing would be close to the town centre and public transport links providing a sustainable form of development.
8. The redevelopment of this prominent and derelict brownfield site would result in a significant benefit to the visual amenity of the area. There are no significant environmental or ecological problems despite the extensive surveys carried out (Doc 6). All normal concerns can be covered by conditions or agreements.
9. The only significant unresolved objection relates to the flooding issue. The EA's position that no highly vulnerable development could be allowed in a zone C2 flood plain would prevent the redevelopment of this brownfield site. The provision of the flood defences upstream of the site would enable the site to move from zone C2 to zone C1. In addition it would enable the provision of the flood defences for the whole of Robertstown (Fig 3 -Doc 8 and Doc 21) which would otherwise not be provided. That would result in protection for the existing dwellings in Robertstown for a 100 year flood although it was accepted that in the

event of 1000 year flood the flood water would reach slightly higher levels. The provision of flood defences could be made the subject of a Grampian condition.

10. In answer to my questions the applicant made it clear that the overall proposal was only economic if it contained all aspects on the 5 zones, particularly the housing development on Zone D. A split decision in respect of separate zones would not be appropriate since any part of the overall package would not be economically viable.

The Case for RCTCBC

11. The officers' report to Committee (Doc 13) carefully sets out all the important aspects of this case. It refers to matters raised by statutory consultees and local residents. The variations in the zoning shown in the Local Plan to that in this proposal are justified by the overall benefits. In particular the loss of Zone D to industry can be justified on the basis of sufficient land elsewhere and the provision of some industrial development on Zones B and C.
12. Turning to the aspect of flood risk the Council took the view that the proposal satisfied the tests for development in a flood plain subject to a section 106 agreement covering the provision of flood defences being provided prior to the housing being built and provision made for the long term maintenance of those defences.
13. The Council resolved that they were minded to grant permission subject to conditions and subject to a section 106 agreement to cover phasing, provision of flood defence infrastructure, provision of a contribution for education, highways improvements and play area provision.

The Case for the Environment Agency Wales

14. The objection only related to residential development on Zone D. This would be highly vulnerable development in a C2 flood plain which would be contrary to advice in Planning Policy Wales and Tan 15. There is a history of flooding of this area, particularly in 1979 (Doc 21, Doc 23 and plan attached to Doc 19). In answer to my question it was confirmed that the 1979 flood represented a one in 54 year flood event. There is no provision in the guidance for a site to move from zone C2 to zone C1 if flood defences are provided (4.1-Doc18). Even if flood defences were provided to protect Robertstown from a 100 year flood the defences could be overtopped in a 1000 year flood. In such circumstances the water levels would rise more rapidly and the raising of the land in Zone D would restrict the flow of flood water from around the existing Robertstown properties and away to the south. This could result in higher levels of flood water.
15. The EA confirmed that the proposals for leisure and industrial development on Zones A, B and C did not represent highly vulnerable development, and that the specialised housing development of Zone E was in flood plain zone B and therefore acceptable. The EA's main conclusion was that it is Assembly policy to move away from flood defence and mitigation and that highly vulnerable development should not be permitted within zone C2.

The Case for Interested Persons

16. In evidence at the inquiry local residents generally welcomed the new residential development which would add life and vigour to the local community. They welcomed the

provision of flood relief measures even if there was the prospect of a greater depth of water during a 1000 year flood event. Their main concern was that of additional traffic. Robertstown and Cwmbach Road are used as access routes for all main development on the east side of the railway line. The low bridge by the station and the congestion at the roundabout junction immediately to the west of the bridge means that large volumes of traffic and all large vehicles pass along Cwmbach Road and through Robertstown. Any new industrial development would add significantly to these problems. The other matters raised, including the need for the provision of an additional new public house and the proximity of industrial units to the existing houses, were as set out in the officers' report (Doc 13).

17. The concerns of the Aberdare and District Chamber of Trade and Commerce largely reiterated concerns expressed by local residents. One matter which was specific to their area of interest was the possibility of large units being converted to retail warehouse type units which could compete with the retail elements of the town centre.

Written Representations

18. The significant points raised in the written representations were either covered by the points mentioned above or are covered in the Committee report (Doc 13).

Conditions and Obligations

19. Suggested conditions are included in the Statement of Common ground (Doc 4) and in Documents 24 and 25. A S106 agreement signed by the applicant and the Council was presented to me at the inquiry (Doc 5). This covers matters of phasing to ensure that the applicant could not carry out only the most financially beneficial parts of the proposal without the remainder, sports and recreation facilities, a highway contribution and an education contribution. My understanding from answers to my questions at the inquiry is that the highway contribution would be used to improve the capacity of the roundabout junction at the southern end of the site.

Conclusions

The references in brackets are to paragraph numbers in my report or to documents which are the source of information on which my conclusions are based.

flooding

20. In my view it is clear that a development advice map (DAM) is an integral part of the advice in TAN 15. In this case the residential development of Zone D would lie within zone C2 on the DAM (14). Residential development falls within the category of highly vulnerable development. Figure 1 (Paragraph 4.2) of TAN 15 states that zone C2 is used to indicate that only less vulnerable development should be considered subject to the application of a justification test, including the acceptability of consequences. Emergency services and highly vulnerable development should not be considered. Section 6 of TAN 15 goes on to describe the criteria for justifying development in zones C1 and C2, and states that highly vulnerable development in zone C2 should not be permitted. This advice appears consistent with the decision made in the Llandovery Case (Doc 18 App2).
21. I observed that there are some features along the river banks upstream of the site which could be considered as flood defences. These include substantial banks where the new houses have been built adjacent to the open space and a large bank along most of the edge of the industrial unit car park east of Wellington Street. However in some cases there are significant gaps in these banks. The rear boundaries of gardens at the north end of Wellington Street consist of a single skin of blockwork. Whilst these measures may provide some localised protection from flood water I do not consider that they can be described as existing flood defences in the terms of zone C1 in TAN 15. In my view the policy guidance is clear in that it is Assembly policy to move away from flood defence and mitigation and that highly vulnerable development should not be permitted within zone C2. Both the applicant and the Council appear to have placed weight on the considerations of the application of the justification test, including acceptability of the consequences. My understanding of the up to date National policy is that these considerations do not apply to highly vulnerable development in a C2 flood plain. Therefore this proposal would conflict with the National policy advice.
22. Even if this is not the case and the view is taken that the flood risk is only one of a number of factors to be placed in the planning balance, I still have a number of concerns about this proposal. Firstly the specialised housing on Zone E is said to be in flood plain zone B and therefore acceptable to the EA (15). However the plan showing the 1979 flood (Doc 19), which was a 54 year flood event (14), covered this site. The photograph taken of that flood (Doc 23) shows the extent of flooding immediately to the south of Zone E. Given this evidence I am far from convinced that Zone E is not within flood plain zone C2.
23. Secondly the applicant relies heavily on the provision of flood defences for the whole of Robertstown as a major benefit of the scheme. This would benefit local residents by reducing the likelihood of flooding to a 1000 year flood event. However the scale of works shown on Fig 3 of Document 8 involves significant work on land outside the control of the applicant. For such flood defences to be effective in the long term they would need to be of substantial scale and subject to permanent maintenance. On the basis of the evidence before me I am not satisfied that these works could be provided to the necessary standard. In particular the houses at the north end of Wellington Street have very small back gardens with little room for extensive earthworks or substantial walls. Without effective flood defences for the whole length of the western bank of the river through Robertstown, then the claimed benefits would

not accrue. In the absence of a fully detailed scheme which has the complete agreement of all the landowners I do not consider that the provision of these flood defences could be covered by a Grampian type condition on any permission (9). The provision of flood defences is not part of the S106 agreement provided at the inquiry as required by the Council (13).

24. Thirdly there was no agreement between the parties as to the likely depth of flood water if the defences were over topped. The raising of part of Zone D (Plan J) would be likely to have some effect on the depth of water further to the north in the existing residential area. I am not satisfied that this has been subject to sufficient detailed study to accurately predict the likely consequences in these circumstances in terms of the depth of water and rates of flow before and after the development.
25. In my view serious problems of flood risk and conflict with national policy remain with this proposal. These are so significant that the other benefits of the scheme would not outweigh the harm I have identified under this single issue.

visual and environmental

26. No objections were raised at the inquiry in respect of the visual and environmental implications of the proposal. The evidence of Mr Baker (Doc 9) was taken as read and his conclusions were not challenged. Based on this undisputed evidence I am satisfied that the proposal would result in significant benefits to the appearance of the site and its immediate locality. In particular these include the bringing back into economic use of this brownfield site with modern mixed development and associated landscaping, the re-use and extension of the derelict former railway station building and the removal of the appearance of dereliction on such a prominent and centrally located site (8). Extensive surveys of possible environmental and ecological effects were included in the supporting information including noise, air quality, potential contamination, ecology and bats (Doc 6). In my view there is no evidence to suggest that the proposal would result in any significant harm to these aspects.

retail

27. As no retail development is proposed (4) Chapter 10 of Planning Policy Wales does not appear relevant. Any subsequent changes to such uses as retail warehouses would be governed by the planning legislation in force at that time (17). This proposal would not result in any harm to the retail interests in Aberdare town centre.

traffic

28. I observed that the area of Aberdare to the east of the railway line has restricted access owing to the very low bridge adjacent to the railway station. My observations supported the views of local residents that large vehicles and commuter traffic use Cwmbach Road and Robertstown as a rat run. In addition, the presence of a number of large employment uses in Robertstown itself (2) means that large vehicles must use the roads for access to these premises. In these circumstances it would be difficult to prevent large vehicles and employees cars generated by the new development from using the route through Robertstown or Cwmbach Road. I note that there is no outstanding highway objection to the proposal (Doc 12) and that an agreed financial sum is included in the S106 Agreement (Doc 5) to improve the capacity of the roundabout junction at the southern end of the site (19).
29. To some extent new traffic generated by the employment part of this proposal could be seen as no more than replacing that which was lost by the destruction of the furniture factory (2).

Given that the railway line effectively blocks direct access from this site to the main road immediately to the west of the railway there appears no practical alternative to serve this area until such time as the freight line to Tower Colliery ceases to be used. Whilst I have some sympathy with the concerns raised by local residents I do not consider that the traffic problems are sufficiently serious to justify withholding consent for this proposal.

affordable housing

30. The absence of an element of affordable housing is addressed in the Committee report (Doc 13). The applicant provided figures at the inquiry (Doc 11) in support of the point that the costs of developing this site will be unusually high. These abnormal costs include flood relief works and dealing with contaminated land. Also I note that Zone E would be for some form of sheltered housing which caters for persons outside the normal housing market. In the circumstances of this case and having regard to the advice in Tan 2, I consider that provision for additional affordable housing is not necessary.

other matters

31. The other matters raised at the time of the application are contained in the Committee Report (Doc 13). I have considered the points raised, some of which were repeated at the inquiry. I see no reason to disagree with the planning officers' comments on those matters and none of these other matters would justify withholding consent.

Conditions and Obligations

32. The S106 Agreement (Doc 5) is signed by both the applicant and the Council. It covers matters of phasing to ensure that the applicant could not carry out only the most financially beneficial parts of the proposal without the remainder, sports and recreation facilities, a highway contribution and an education contribution. These appear appropriate in the circumstances of this case. As mentioned in paragraph 23 above the provision of flood defences is not part of the S106 agreement as required by the Council (13) or as requested by the EA (Doc 25).
33. Turning to the suggested conditions. The Statement of Common Ground (Doc 4) contains a list of agreed conditions. In my view all these are necessary for the reasons given except No 2. That condition is not necessary and condition 16 makes clear the two plans to which the permission relates. All other plans are clearly for illustrative purposes only. Document 24 contains a similar list of conditions plus section 7.0. Condition 7.1-1 is necessary to ensure the provision of flood defence works. I do not consider that condition 7.1-2 or 2 to 5 suggested by the Transportation section are necessary on an outline permission. The EA list of conditions in Document 25 contains a large number which are either not appropriate for a planning condition or are covered by other legislation. In so far as they cover necessary matters these are covered by equivalent conditions already included above.

Overall Conclusions

34. The development of this site would generally be in accord with all significant national and local land use policies with the exception of those relating to flood risk. The advantages of making full use of a brownfield site in a sustainable location together with the regeneration benefits of bringing forward this derelict site with its visual and employment benefits carry significant weight (7 & 8). However, on balance, I consider that the flood risk to the housing area in Zone D is such that permission should not be granted. Given that the remainder of the development would not be viable without this residential development (10) then permission

for the whole development should be refused. If my recommendation is not accepted and it is considered that the benefits of the proposal outweigh the flood risk in this case, then permission should be granted subject to conditions as discussed above.

Recommendation

35. I recommend that planning permission should not be granted.

Stuart B Wild

Inspector

APPEARANCES

FOR THE APPLICANT:

Robert Fookes	Of Counsel: instructed by Over Taylor Biggs Solicitors
He called	
Mr D Bassett BSc MSc CEnv MCIWEM	Divisional Manager jba Consulting
Mr L Baker BA(Hons)	Landscape Architecture Director, Reckless Orchard Landscape Consultants Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Geoffrey Stephenson	Of Counsel: instructed by RCTCBC
He called	
Mr G Davies MA MRTPI	Team Leader Development Control RCTCBC

FOR THE ENVIRONMENT AGENCY WALES:

David Lintott	Of Counsel: instructed by EA Wales
He called	
Mr A Wilkes	Policy Advisor Development Planning EA Wales
Mr T England	Area Flood Risk Manager EA Wales

INTERESTED PERSONS:

Mrs J Toms	Hon Sec Aberdare and District Chamber of Trade and Commerce, Broniestyn House, Trecynon, Aberdare CF44 8EF
Mrs T Thomas	Hafan, Cwmbach Road, Aberdare CF44 ONL
Mr J Lewis	18 Gladys Gardens, Aberdare CF44 7BU
Mr A James	14 & 15 Thomas Street, Robertstown, Aberdare
Mr M Owen	6 Bridge Street, Robertstown, Aberdare CF44 8EU

DOCUMENTS

- Document 1 Lists of persons present at the inquiry
- Document 2 Council's letter of notification of the inquiry
- Document 3 The planning application
- Document 4 Statement of Common Ground
- Document 5 S106 Agreement
- Document 6 Copies of reports etc supporting the application
- Document 7 Flooding Consequences Assessment May 2006
- Document 8 Proof of Evidence (POE) of Mr Bassett
- Document 9 POE of Mr Baker (He was not called to give evidence, his proof was taken as written evidence)
- Document 10 Bundle of photos handed in by applicants
- Document 11 Details of developer's costings for the overall scheme
- Document 12 POE of Mr Davies
- Document 13 Cttee Report dated 22/09/05
- Document 14 Extract from Local Plan strategy
- Document 15 LP Affordable Housing policy
- Document 16 Written Statement of evidence from Environment Agency of Wales (EA)
- Document 17 Appendices to Doc 16
- Document 18 POE of Mr Wilkes
- Document 19 POE of Mr England
- Document 20 EA Policy and Practice for the protection of Flood Plains
- Document 21 Robertstown Flood Study WSAtkins Jan 02
- Document 22 Letter and statement of Mrs Toms on behalf of Chamber of Trade
- Document 23 Photo of 1979 flood taken at southern end of site adjacent to position of roundabout at north end of Cwmbach Road, handed in by Mrs Thomas
- Document 24 List of conditions suggested by Council
- Document 25 List of conditions suggested by EA

PLANS

Plans	A-G	The application plans
Plan	H	WWD survey plan
Plan	I	jba spot levels plan
Plan	J	jba existing ground levels plan