

PREFACE ITEM

APPLICATION NO. 19/0857/FULL

APPLICANT(S) NAME: Values in Care Ltd.

PROPOSAL: Convert existing garage to annexe accommodation with addition of two Velux roof windows, internal alterations to main property with addition of external door accesses

LOCATION: Saer Coed, Load Of Hay Road, Crumlin, NP11 3AY

The above planning application seeks planning permission to convert the existing garage on the site to an annexe to be used for purposes ancillary to the main dwellinghouse. By way of clarification the application description of development includes internal alterations to the main property but these works do not require the benefit of planning permission and, therefore, have not been considered further. The application relates to the physical works only and does not propose a change of use of the property or associated garage. Therefore, only the physical works to convert the garage to an annexe are considered as part of the determination of this application.

The application was reported to Planning Committee on 18th March 2020 with a recommendation for approval subject to conditions. A copy of the previous report is attached as an Appendix.

At the meeting, it was moved and seconded that the application be deferred to allow for further information in relation to the outcome of an ongoing freedom of information request and highway safety. The ongoing freedom of information related to the proposed use of the application site, and whether that use represented a material change of use from a C3 dwelling to a C2 care home.

Since the date of that Planning Committee, the applicant has lodged an appeal with the Planning Inspectorate against non-determination. The appeal against non-determination was lodged on 19th May 2020.

The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2015 introduced a 4-week period of "dual jurisdiction" between a Local Planning Authority and the Planning Inspectorate where an appeal has been lodged for non-determination. This allows a Local Planning Authority to continue to determine an application for planning permission during the first 4 weeks of an appeal being made against non-determination.

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Application No. 19/0857/FULL Continued

The appeal against non-determination was received on the 19th May 2020, and therefore the 4-week period ended on the 16th June 2020. However it was not possible to make a decision on or before the 16th June 2020 due to the dates of the relevant Planning Committee meetings. The appellant has also lodged a claim for costs on the basis that they feel the Local Planning Authority has acted in an unreasonable manner by deferring consideration at Planning Committee on 18th March 2020 and not determining the planning application in a timely manner

As the period of dual jurisdiction has expired, the Planning Committee can no longer make a formal determination of the planning application. However, the Planning Committee are invited to provide a resolution on how they would have determined the application if given the opportunity. The reasons for deferral are discussed in turn below.

Freedom of information request in relation to the proposed use of the application site

Freedom of Information requests referred to were submitted by a neighbouring resident, the local Ward Member and Assembly Members, and sought the release of the Counsel opinion provided by the applicant in support of the application. This Counsel opinion confirmed that planning permission was not required for the future use of the dwelling as a care facility for up to 6 residents. Following agreement from the applicant this Counsel opinion has been released but has not been challenged to date.

In addition, this Council has also sought independent advice from Counsel on the proposed future use of the property. Counsel was provided with all of the information in relation to the proposed operation of the care facility, i.e. number of residents, number of staff, staff shift patterns, how the household would operate, etc. Based on this information the independent Barrister also does not consider that the proposed future use represents a material change of use of the property. He considers the proposed use to fall under Use class C3(B) of the Use Classes Order. This view aligns with a separate Counsel view provided by the applicant.

One issue raised by Counsel (instructed by the Council) was the stability of the group, i.e. how long they would remain resident at the property and their subsequent ability to form a single household. This likely tenancy period was raised with the application who provided the following comments:

“With regard to the basis of our anticipated occupancy at Saer Coed I can confirm that these are projected and planned to be long-term placements where the home will provide the permanent place of residence for the people that are being supported by Values in Care.

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Application No. 19/0857/FULL Continued

While each individual will arrive with differing needs and requirements an objective for several of our residents is that they may ultimately be able to develop their own independence sufficiently to move into their own less supported accommodation but for many others a successful placement will provide their permanent future home. In any case, the very greater proportion of stays with Values in Care are numbered in (often several) multiples of years rather than weeks or months.”

On the basis of these comments it is considered that the proposed future use would not represent a material change of use of the property and would not require planning permission.

Notwithstanding the above it must be recognised that this application relates to physical works to the garage only and the future use is not a material planning issue which Members should take into account as part of its determination.

In light of the appeal on grounds of non-determination and the existing application submitted for costs against the Authority it is important to recognise that if such change of use issues are raised by the Authority as a potential reason for refusal as part of its appeal submissions then it is possible that this would be regarded, by the Inspector, as unreasonable behaviour exposing the Authority to a further potential award of costs.

Highway safety

On the basis of the above position the Highway Authority raise no objections to the application. Given that planning permission is not required for the proposed use the Highway Authority have no basis upon which to comment on such matters as part of the consideration of this application.

RECOMMENDATION – That Planning Committee Members provide a resolution that planning permission would be GRANTED subject to the conditions contained in the original report, if they had jurisdiction to determine the application.

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
19/0857/FULL 22.10.2019	Values In Care Ltd Tredomen Innovation Centre Tredomen Business Park Tredomen Ystrad Mynach Hengoed CF82 7FQ	Convert existing garage to annexe accommodation with addition of two Velux roof windows, internal alterations to main property with addition of external door accesses Saer Coed Load Of Hay Road Crumlin Newport NP11 3AY

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: The application site is situated on the south western side of Load of Hay Road, in open countryside one kilometre due south of the settlement boundary of Trinant.

Site description: The garage, the subject of the application is located within the generous grounds of a detached single storey property with a partially converted loft space to part of the dwelling.

Development: Conversion of existing garage to annex accommodation, with addition of two Velux roof windows. Internal alterations to main property, with addition of external door accesses.

Dimensions: Existing garage measures 6.5m x 4.5m, the height to eaves is 2.5m and height to ridge of the garage roof is 4.0m

Materials: Garage: new windows and doors, double glazed white uPVC. Where the existing up and over garage doors are to be removed and the openings reduced in size, those areas will be finished to match the existing. Main House; new door and side window combinations, double glazed uPVC.

Ancillary development, e.g. parking: None shown.

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PLANNING HISTORY 2005 TO PRESENT

None.

POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan up to 2021 adopted November 2010 (LDP).

Site Allocation: The site is located outside settlement limits.

Policies: SP5 (Settlement Boundaries), CW2 (Amenity), CW3 (Design Constraints - Highways), CW15 (General Locational Constraints), CW20 (Locational Constraints- Conversion, Extension and Replacement of Buildings in the Countryside).

NATIONAL POLICY Planning Policy Wales Edition 10 (December 2018).

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? No.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The site is located within a low risk coal mining area, however standing advice will be provided.

CONSULTATION

Head Of Public Protection - No objection.

Senior Engineer (Land Drainage) - No objection - offers the following observations:

The applicant has not indicated how they intend to dispose of surface water; no/limited information has been submitted for consideration.

The site is situated within an area susceptible to groundwater flooding.

Transportation Engineering Manager - No objection - subject to the imposition of a condition limiting the use of the annex accommodation as ancillary and incidental to the residential enjoyment of Saer Coed and for no other purpose.

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ADVERTISEMENT

Extent of advertisement: Three adjoining properties were notified together with two adjacent land owners. A site notice was also displayed at the property.

Response: Responses have been received from three adjacent properties and two adjacent landowners. The views of residents have also been relayed by a Planning Consultant, local MP, AM, and Local Members.

Summary of observations:

- 1). The proposed works are indicative of a change of use of the premises as a whole from a single dwelling to that of a care home. The introduction of commercial enterprise would have a detrimentally significant impact on the residential amenity currently enjoyed by nearby residents.
- 2). Works are being undertaken to the main house prior to the determination of any application for planning permission.
- 3). The single track access lane is inadequate as a sole means of access to the site. As well as its access onto the main Trinant Road with no visibility whatsoever. Increased traffic generation to an unacceptable degree to the detriment of highway safety.
- 4). No record of planning permission or approval under the Building Regulations for the garage at the time it was originally erected therefore there is a question over its structural integrity, and how it could be possible to approve modification to a building which apparently has no permission to exist.
- 5). The potential inappropriate use of the adjacent woodland by residents of the property.
- 6). Potential for persons from the property to injury themselves on unforeseen hazards that might be present in that woodland.
- 7). The presence of two roof windows on the roof slope facing the site boundary and the venting of flues and extractor units directly through the rear elevation of the annex onto the side boundary with the adjacent property have a detrimental affect on the residential amenity of the adjacent dwelling.

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SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?

The proposed development is unlikely to have a significant effect on crime and disorder in the local area.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? As no additional floor area is being created the development is not CIL liable.

ANALYSIS

Policies: This application has been considered in accordance with National Policy and Guidance and Local Plan Policies. The main points to consider in the determination of this application are whether the proposal would have an unacceptable impact in terms of visual amenity on the character of the surrounding area, its impact in terms of neighbouring amenity, together with highway safety implications.

The application site is an established residential property within its own substantial grounds, situated outside settlement limits in open countryside. The garage concerned is an existing building within the curtilage of that dwelling. The proposal under consideration does not involve the construction of any new buildings, or the creation of additional floor space, in the open countryside. Therefore the main issues that fall to be considered in the determination of this application relate to its impact on visual and neighbouring amenity together with Highway safety impacts.

The garage is located adjacent to the side boundary to the southern edge of the curtilage of the dwelling, with the ridge line running parallel to that boundary. It is generally well screened from the highway, with the gable end of the structure visible from the site access. The ridged roof of the building is visible above the existing 1.8m high, timber, vertical lapboard fence, which forms the boundary between the host property and the neighbouring residential property to the south. Residents have queried whether the garage building referred to in the application is authorised. It would appear from the planning history of the site, that the previous owner of the property, sought planning permission to incorporate a detached garage building that had existed in very close proximity to the main dwelling, into that building to form extended living accommodation. The garage the subject of this application first appears in the aerial photographs of the area in 2010.

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The garage as erected at that time does not appear to project beyond the forward most part of the dwelling fronting onto the highway, it would therefore appear to be permitted development in accordance with the Town and Country Planning (General Permitted Development Order) 1995, as amended, which would have been the legislation which applied at that time. Permitted Development rights for householders were changed in 2013. Notwithstanding this fact the structure has been in position for more than four years and therefore on the balance of probability, in planning terms, it would now be Lawful and immune from any enforcement action under the planning legislation. Any works to the building to convert it into an annex would require approval under the Building Regulations. Therefore if any significant structural faults were to exist, they would become exposed during these works. However, there is no evidence to suggest that any such faults to the building currently exist.

The works to the exterior of the garage building, involve the removal of the two existing up and over garage doors, from the front elevation of the garage and their replacement to the left hand side with a pedestrian door and side window and to the right hand side with a single window. A new pedestrian door is to be installed in the gable end of the building facing the site access and an additional door is shown as being installed to the opposite gable end. Two velux roof windows measuring 500mm x 980mm are indicated on the rear roof slope of the annex facing the joint side boundary. On the original plans that were submitted showing the rear elevation of the annex, three flues were shown exiting the building through this wall. The Agent has now submitted amended plans which show two vents exiting the building through the south western gable end and two extractors exiting through the roof by means of tile vents. The velux roof windows are shown as being fixed pane and non openable. Internally the annex is shown as comprising one bedroom with ensuite bathroom, a living room, Staff bedroom/dining room, a kitchen and separate WC. The structure will be dry lined and internal partitons creating the new rooms.

The works to the interior of the main house shown on the submitted plans, comprise of the re-positioning of a number of internal walls, to re-configure and create additional shower room/WC's, the removal of one staircase, and the blocking up and or replacement of door openings. The works which affect the exterior of the main building relate to an alteration to an existing window to the southern elevation, the insertion of obscure glazing in a window to the right hand side of the front elevation, replacement of the existing window opening with a door and double glazed uPVC side window to the northern side elevation and the replacement of an existing window with a door and uPVC side window to the rear elevation. None of which materially affect the external appearance of the building. By virtue of Section 55 of the Town and Country Planning Act 1990 as amended, the carrying out for the maintenance, improvement or other alteration of any building of works which affect only the interior of the building, and do not materially affect the external appearance of the building, shall not be taken to involve the development of land. Section 56 of the Planning Act 1990 states that the development of land shall be taken to be initiated, if the development consists of a change of use, at the time when the new use is instituted. To date a use such as that described by residents has not yet been initiated at these premises.

This application relates solely to the conversion of the existing garage to an annex, in that regard Policy CW2 of the Local Development Plan (LDP) sets out criteria relating to amenity. In terms of that Policy, development proposals should not have an unacceptable impact on the amenity of adjacent land or properties. These will be addressed in turn.

In terms of its impact upon the character of the surrounding area, the garage building is an existing structure within the mature grounds of an established residential property. The proposed changes to the structure are cosmetic in nature, in that the building is not being extended and no additional floor space is being created. It is therefore considered that the proposed use of the garage as an annex will not result in an unacceptable impact on the visual amenity of the surrounding area.

In terms of its impact upon neighbouring amenity, it is considered that the amendments that have been made to re-position the external flues to the rear elevation of the building and the proposed use of velux roof windows that are fixed panes and non opening has overcome any adverse impact in this regard. The imposition of a condition to ensure that they remain as such in perpetuity would be appropriate, together with a condition to prevent any further alterations or extensions to the annex without having first obtained the written consent of the Local Planning Authority would also be reasonable. Consequently, subject to the imposition of appropriate conditions the development is in accordance with Policy CW2 of the LDP.

Policy CW3 sets out criteria in terms of highway design considerations. In that regard it is not considered that the proposed works will have any detrimental impact on the safe, effective and efficient use of the transportation network subject to the imposition of a conditions attached to any consent to limit the use of the annex to ancillary accommodation and incidental to the residential enjoyment of Saer Coed. On this basis, no objection is raised by the Transportation Engineering Manager.

In conclusion the proposed development complies with policies CW2 and CW3 of the Caerphilly County Borough Local Development Plan up to 2021 - adopted November 2010.

Comments from consultees: Head of Public Protection - No objection.

Senior Engineer (Land Drainage) - No objection.

Transportation Engineering Manager (Highways) - No objection - subject to a condition restricting the use of the annex to purposes incidental and ancillary to the residential enjoyment of Saer Coed and for no other purpose.

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Comments from public:

- 1) The proposed works are indicative of a change of use of the premises as a whole from a single dwelling to that of a care home. The introduction of commercial enterprise would have a detrimentally significant impact on the residential amenity currently enjoyed by nearby residents - The application seeks permission to convert the existing garage to an annex, and does not propose a change of use at the property. If and when such a use is implemented, the matter will be fully investigated by the planning enforcement section, however, this application must be determined based on what is currently proposed. In that regard neighbouring amenity has been addressed in the report above.
- 2) Works are being undertaken to the main house prior to the determination of any application for planning permission - This application relates to the conversion of the existing garage to an annex only, and internal works relating to the dwelling have been addressed in the report above.
- 3) The single track access lane is inadequate as a sole means of access to the site. As well as its access onto the main Trinant Road with no visibility whatsoever. Increase traffic generation to an unacceptable degree to the detriment of highway safety - The Transportation and Engineering Manager raises no objection to the proposal on the basis of what is being considered under this application, i.e. conversion of a garage to an annex.
- 4) No record of planning permission or approval under the Building Regulations for the garage at the time it was originally erected therefore there is a question over its structural integrity, and how it could be possible to approve modification to a building which apparently has no permission to exist - Building Regulations approval is a separate matter and are not material to the consideration of this planning application. As outlined above, the garage onsite was likely constructed under householder permitted development rights at the time. Notwithstanding this the structure would now be classed as lawful development given the passage of time since it was constructed.
- 5) The potential inappropriate use of the adjacent woodland by residents of the property - This is not a material planning consideration.
- 6) Potential for persons from the property to injury themselves on unforeseen hazards that might be present in that woodland - This is not a material planning consideration.

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7) The presence of two roof windows on the roof slope facing the site boundary and the venting of flues and extractor units directly through the rear elevation of the annex onto the side boundary with the adjacent property have a detrimental effect on the residential amenity of the adjacent dwelling - Amended plans have been submitted to ensure there is no impact upon neighbouring amenity. This has been addressed in the report above.

Other material considerations: None.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by Section 8 of that Act.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 02) The development shall be carried out in accordance with the following approved plans and documents:
Site Location Plan, Drwg No.100 Rev. PO; received on 18th October 2019;
Proposed Site Block Plan, Drwg No. 201 Rev. PO; Received on 18th October;
Proposed Garage Plan, Drwg. No. 250 Rev P5; Received on 14th February 2020;
Proposed Front and Side Elevation - Garage, Drwg.No. 255 Rev. P5; Received on 14th February 2020;
Proposed Rear and Side 2 Elevation - Garage, Drwg. No. 256 Rev. P5; Received on 14th February 2020;
Proposed Front and Side Elevation - House, Drwg No. 205 Rev. P1, Received 18th October 2019;
Proposed Rear and Side 2 Elevation - House, Drwg. No. 206 Rev. P3, Received 18th October 2019;
Proposed Ground Floor Plan - House, Drwg. No. 203 Rev. P4, Received 18th October 2019; and
Proposed Loft Floor Plans - House Drwg. No. 204 Rev. P3, Received 18th October 2019.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

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- 03) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building.
REASON: In the interests of the visual amenities of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 04) The development hereby permitted shall not be occupied at any time other than for purposes ancillary and incidental to the C3 residential use of the existing dwelling known as Saer Coed at the site subject of this consent.
REASON: For the avoidance of doubt as to the nature of the approved development and to ensure that the development is not occupied as a separate unit of accommodation.
- 05) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) with or without modification, no enlargement of the annex hereby approved shall be constructed without the approval of the Local Planning Authority.
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 06) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) with or without modification, no windows, other than those expressly authorised by this permission, shall be constructed without the approval of the Local Planning Authority.
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 07) Notwithstanding the plans hereby approved the roof lights on the rear roof plane of the annex shall be fixed and non-opening and shall be retained as such in perpetuity.
REASON: In the interests of residential amenity in accordance with Policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2 and CW3.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority.

Planning Committee 18.03.2020 – Deferred for further information.

