

CABINET – 19TH JUNE 2012

SUBJECT: LAND AT GELLIDEG, MAESYCWMMER

REPORT BY: DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To seek approval to the sale of land at Maesycwmmmer, shown edged red on the plan attached.

2. SUMMARY

- 2.1 The site marked X on the plan, owned by Newbridge Construction Limited, has outline planning consent for residential development, which was granted at appeal. The company has applied to purchase the land edged red to construct an access to the proposed development. The highway scheme has already been approved and forms part of the Section 106 agreement associated with the planning consent.

3. LINKS TO STRATEGY

- 3.1 “To encourage the development and maintenance of high quality, well designed and efficient, sustainable homes and environments which can meet all needs.” (Community Strategy: Living Environment – Objective 1).
- 3.2 “To support town and village centre and other area-based regeneration.” (Community Strategy: Regeneration - Objective 8).
- 3.3 “To protect the environment as a whole whilst balancing the need for development with the need to conserve valuable resources.” (Caerphilly County Borough Local Development plan – Aim 1)“.
- 3.4 “Encourage the re-use and / or reclamation of appropriate brownfield and contaminated land and prevent the incidence of further contamination and dereliction.” (Caerphilly County Borough Local Development Plan - Objective 7).
- 3.5 “Concentrate new development in appropriate locations along existing and proposed infrastructure networks that are accessible to pedestrians, cyclists and to public transport in order to sustain and complement the role and function of individual settlements.” (Caerphilly County Borough Local Development Plan - Objective 8).
- 3.6 “Ensure an adequate and appropriate range of housing sites are available across the County Borough in the most suitable locations to meet the housing requirements of all sections of the population.” (Caerphilly County Borough Local Development Plan - Objective 9).

4. THE REPORT

- 4.1 Newbridge Construction Limited has applied to purchase the area of land edged red on the plan for proposed highway alterations to allow the development of the company’s land to the south for residential development. The development site has outline planning consent, which was granted at appeal.

- 4.2 The applicant is required to attenuate surface water from the highway (NB this attenuation is not for the residential development site). The company wishes to acquire the freehold interest in order to ease the adoption of the drainage when the scheme is completed. The scheme drawing has already been approved by highways and forms part of the s106 agreement associated with the planning consent.
- 4.3 Any disposal will include a restrictive covenant or a claw back provision to ensure that this area is only utilised for highway improvements and associated drainage. The applicant anticipates that when the scheme is completed the land will be adopted as part of the highway under the appropriate highway agreement and passed back to the Council.
- 4.4 Relevant officers have been consulted and have commented as follows:
- 4.4.1 The site edged red lies within a green wedge designation as defined by the adopted Local Development Plan, and immediately to the north of the settlement boundary. As this parcel of land includes an area that was granted consent on appeal for a new access to serve the housing permission to the south, the proposal is suitable in planning terms.
- 4.4.2 Highways have confirmed that details of the access scheme are progressing satisfactorily. Comments regarding drainage have been submitted directly to the developer.
- 4.4.3 Countryside and Urban Renewal have no observations.
- 4.4.4 Provided that Highways and Environmental Health are satisfied in respect of the detailed arrangements concerning the provision of the new access (including drainage matters) and the impact of it upon the landfill site, there is no objection to this proposal.
- 4.5 The CCBC land in question is part of a former landfill site. Environmental Health officers have monitored the site for gas and groundwater for several years and are happy that the site presents no threat to public health if properly contained. The details of the proposed scheme will need to be agreed with the Environment Agency's landfill specialist prior to commencing work.
- 4.6 The land is currently public open space and the Council is required to advertise any intention to dispose of it, in accordance with Section 123 of the Local Government Act 1972 and to consider any objections.
- 4.7 Following the granting of outline planning in 2009, Newbridge Construction took a view that the land in question, which was acquired by the Council for highway purposes, forms part of the adopted highway i.e. there is a right to cross over the land and they threatened to establish this through the courts. At that time, Counsel's opinion was sought and based on his advice, the Council maintained its position that the land is not adopted highway and that it is in possession of a ransom strip. Newbridge Construction appears to have accepted this stance and is willing to purchase the land / access rights.
- 4.8 Given that planning permission has been granted (even though it was on appeal) and that the Council has no alternative plans for the land, advice from our Solicitor is that there would be a potential for judicial review if the Council refuses the application for access. Counsel, in the advice referred to above, advises that deliberately refusing to negotiate on Section 106 or highway agreements needed to enable a development can be an abuse of a local authority's powers, if done with a view to thwarting a permission allowed on appeal.

5. EQUALITIES IMPLICATIONS

- 5.1 An Equalities Impact Assessment (EQIA) screening has been completed in accordance with the Council's Equalities Consultation and Monitoring Guidance and no potential for unlawful discrimination and/or low level or minor negative impact have been identified, therefore a full EQIA has not been carried out.

6. FINANCIAL IMPLICATIONS

- 6.1 The sale of the land/granting of access rights to Newbridge Construction will produce a capital receipt.

7. PERSONNEL IMPLICATIONS

- 7.1 There are none.

8. CONSULTATIONS

- 8.1 Councillor Woodyatt, Maesycwmmmer Partnership and Community Council all strongly object to the proposal on the following grounds:

8.1.1 The land edged red is within the green wedge and, notwithstanding the appeal ruling over the development site, should not be sold or have a highway constructed on it.

8.1.2 At the time of the appeal, the Planning Inspector did not have full information from Highways regarding the proposals for future road alterations in Maesycwmmmer. The proposals, which are shortly to be implemented, subject to funding becoming available, will prevent right hand turns into several streets and will lead to a large increase in vehicles using the Crown roundabout; this coupled with traffic from the proposed development of 98 houses will cause a major bottleneck and hazard. Councillor Woodyatt is concerned that the Inspector was not made aware of these road alterations.

- 8.2 In response to the above, the traffic movements generated by both this proposal and the then proposed highway improvement works associated with the new hospital were analysed by Capita Symonds, the result of which was that Capita considered the Gellideg access proposal would not impact on the traffic flows.

- 8.3 There is a separate possible future scheme to improve traffic flow along the A472 through Maesycwmmmer, which envisages alterations to the signal controlled junction at Tabor Road and preventing right turns into Mount Pleasant. Traffic which needs to make a right turn into Mount Pleasant will, if this scheme goes ahead, have to continue to the Crown Roundabout and travel back to Mount Pleasant in order to turn left into it. The volume of traffic needing to do this will however be very small and is not anticipated to cause any problem.

- 8.4 No finance is currently available to implement this A472 improvement or was available either at the time the planning application for the land at Gellideg was considered or when the subsequent appeal took place. It was consequently inappropriate to mention it to the Planning Inspector.

9. RECOMMENDATIONS

- 9.1 The land edged red be sold to Newbridge Construction or access rights granted, on terms to be negotiated.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 The sale/ grant of access rights will produce a capital receipt.

- 10.2 Officers have no objection to the proposals, subject to the matters outlined in 4.4 and 4.5 being satisfactorily addressed.

10.3 A refusal of the application is likely to result in a complaint to the ombudsman and for an application for judicial review.

10.4 A refusal could result in Newbridge Construction establishing a claim through the courts.

11. STATUTORY POWER

11.1 This is a Cabinet function.

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Background Papers:
Papers filed on file 7602 in Tredomen House

Appendices:
Appendix 1 - Plan