

PREFACE ITEM

APPLICATION NO. 14/0422/NCC

APPLICANT(S) NAME: Mr A Price

PROPOSAL: Vary condition 6 of planning permission P/04/1912 to extend the hours of operation on Saturdays until 16:00 and on Bank Holidays from 07.30 to 13.00

LOCATION: Gelliargwellt Uchaf Farm Gelligaer Road Gelligaer Hengoed CF82 8FY

This application was reported to Planning Committee on 14 January 2015 at which a decision was deferred to allow officers to draft a condition that would allow the extension of hours on a temporary basis. A copy of the original report is attached as an appendix, as is the subsequent report that addressed the drafting of reasons for refusal.

Welsh Government (WG) has recently issued Circular 16/2014 - *The Use of Planning Conditions for Development Management*, which sets out tests that apply to all conditions, and gives guidance on the use of temporary consents. All conditions must be:

- (i) necessary;
- (ii) relevant to planning;
- (iii) relevant to the development to be permitted;
- (iv) enforceable;
- (v) precise; and
- (vi) reasonable in all other respects.

In deciding whether conditions on a temporary permission are appropriate, the guidance advises that the following should be taken into account:

- it will rarely be necessary to grant temporary permission for development which conforms with the provisions of the development plan;
- it is undesirable to impose a condition requiring the demolition, after a stated period, of a building that is clearly intended to be permanent, and
- the material considerations to which regard must be had in granting permission are not limited or made different by a decision to make the permission a temporary one. The reason for granting a temporary permission should never be that a time limit is necessary because of the effect of the development on the amenity of the area.

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Preface Item 14/0422/NCC Continued.

According to the circular those considerations will mean that a temporary permission will normally only be appropriate, either where the applicant proposes temporary development, or when a trial run is needed in order to assess the effect of the development on the area. Where objections to a development arise in response to its effect on, for example, the quality of life of the occupants of nearby residential properties, they should, if necessary, be met by conditions whose requirements will safeguard that amenity. If it is not possible to devise such conditions, and if the damage to amenity cannot be accepted, then the only course open is to refuse permission.

Members were concerned about the impact of the current proposal on odour levels, and residential amenity including the effect of traffic. The officers' consideration of those concerns presented to the last committee outlined why it may be difficult to support reasons for refusal based on those matters. A temporary permission would be a reasonable way of assessing whether odour and residential amenity problems would arise. A period of three years would be adequate to allow those matters to be properly assessed.

A temporary condition in this case would pass the tests set out above. It would be 'necessary' because it would allow a proper assessment of the impacts of the additional hours of operation; it would also be relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

The applicant's agent has pointed out that condition 3 recommended by officers limits the delivery of food waste to local authorities only whereas councils also use contractors to deliver waste. Therefore it is recommended that the condition be amended to read: 'The site may be open for the receipt of food waste from a local authority or its contractors between the following hours ...'

Recommendation: That planning permission is GRANTED subject to the conditions on the attached report, with condition 3 amended as set out above, and with the following additional condition.

12. The hours of operation hereby approved shall apply for a temporary period only expiring on 28 February 2018, after which the hours of operation shall revert to those granted permission by Caerphilly County Borough Council consent number P/04/1912.
REASON: To allow the impact of extended hours of operation to be assessed.