

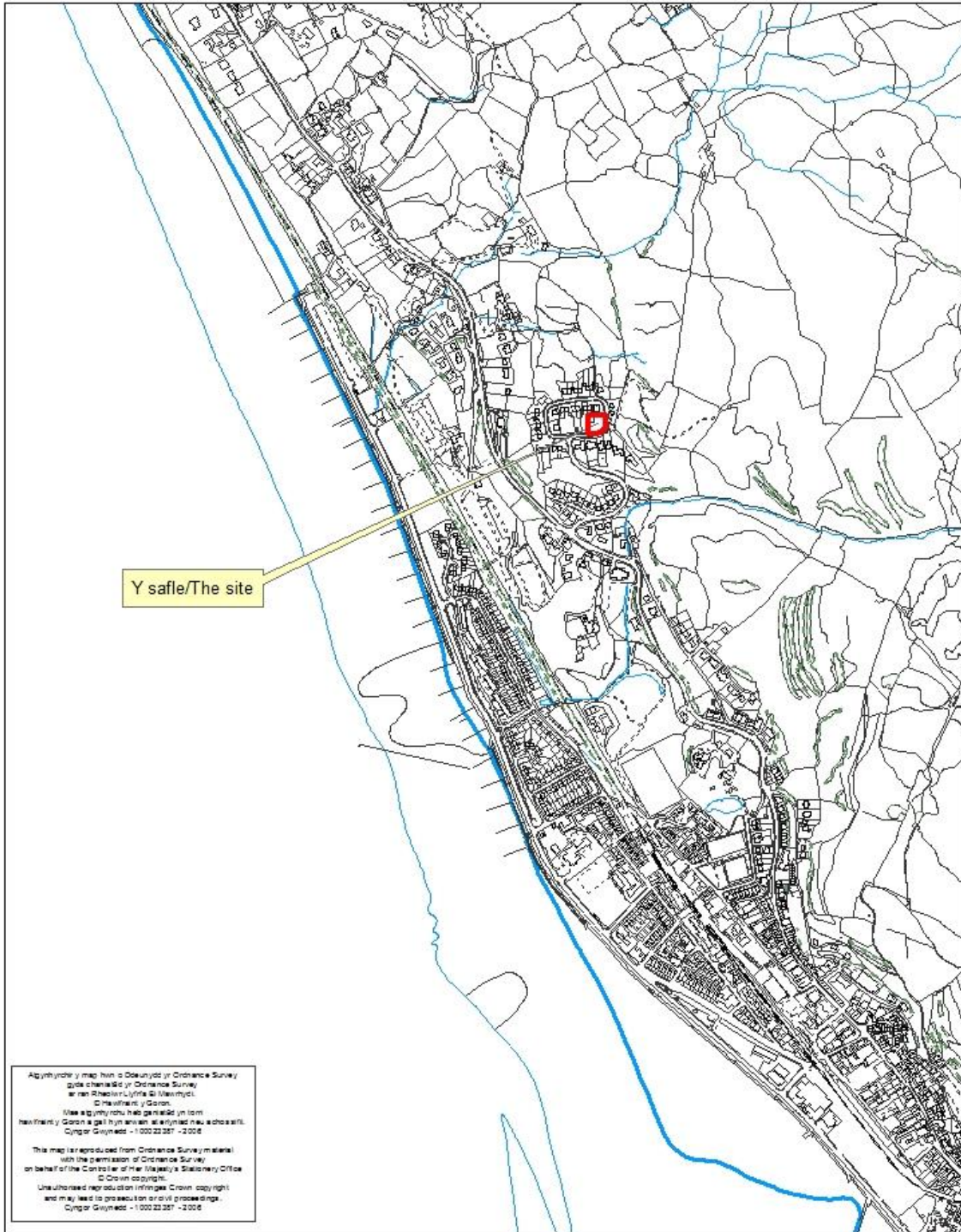
Number: 6



Rhif y Cais / Application Number :

C15-0051-00-LL

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| PLANNING COMMITTEE | DATE: 18/05/2015 |
| REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER | DOLGELLAU |

Application Number: C15/0051/00/LL
Date Registered: 03/03/2015
Application Type: Full - Planning
Community: Barmouth
Ward: Barmouth

Proposal: VARY CONDITION NUMBER 8 ON PLANNING PERMISSION REFERENCE
C09M/0060/00/LL RELATING TO THE COMPLETION OF THE ESTATE ROAD AND
LIGHTING

Location: PLOTS 31-32 FFORDD PENTRE MYNACH, BARMOUTH, LL42 1EN

**Summary of the
Recommendation:**

TO APPROVE UNCONDITIONALLY.

1. Description:

1.1 The proposal relates to varying condition number 8 on planning permission reference C09M/0060/00/LL which relates to the completion of the estate road and lighting the estate road. It includes the recommendation as follows:

'The estate road/s shall be kerbed and the carriageway and footways finally surfaced and lighted before the last dwelling on the estate is occupied or within two years of the commencement of work on the site or such any other period as may be agreed in writing with the Local Planning Authority, whichever is the sooner'.

1.2 The condition was imposed originally on a planning permission that was granted on 6 January 2011 to erect three detached residential dwellings on plots that formed part of a housing estate of dwelling houses. The reason for imposing the condition states that it is for protecting the interests of the highway. The current application requests the deletion of the need to provide street lighting by amending this part of the condition. The site lies within the development boundary of Barmouth as designated in the Gwynedd Unitary Development Plan.

1.3 After registering the application an officer inspected the site on 23 April 2015. When visiting the site it was seen that the carriageway and the pavements had been finally surfaced with tarmac. Therefore it appears that the applicant has complied with the part of the condition that relates to surfacing the carriageway and footways.

1.4 The application is submitted to the Committee as three or more objections have been received to the proposal. Before submitting the application the developer had discussed the application with officers from the Transportation and Planning Services.

2. Relevant Policies:

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that planning decisions should be in accordance with the Development Plan, unless material planning considerations indicate otherwise. Planning considerations include National Planning Policy and the Unitary Development Plan.

2.2 Gwynedd Unitary Development Plan 2009:

POLICY B23 – AMENITIES - Safeguard the amenities of the local neighbourhood by ensuring that proposals must conform to a series of criteria aimed at safeguarding the recognised features and amenities of the local area.

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POLICY CH33 – SAFETY ON ROADS AND STREETS - Development proposals will be approved provided they can conform to specific criteria relating to the vehicular entrance, the standard of the existing roads network and traffic calming measures.

2.3 National Policies:

Technical Advice Note 18: Transport (2007)
 Planning Policy Wales (Edition 7, July 2014)

3. Relevant Planning History:

- 3.1 C98M/0015/00/AM – Outline application for two houses – Approved with conditions – 16.03.1998
- 3.2 C07M/0148/00/TC – Application for a lawful use certificate for two dwellings – Approved 23.01.2008
- 3.3 C09M/0060/00/LL – A full application to erect three dwellings (one local need affordable housing) – Approved with conditions - 06.01.2011

4. Consultations:

Barmouth Town Council: Object to deleting condition 8 from the permission until the work has been completed to an acceptable standard.

Transportation Unit: Observations submitted – In order to meet the adoption requirements in the Highways Act 1980, the Council usually requests that a road be completed to an acceptable standard, which includes installing street lighting. However, there is no statutory requirement on the developer to ensure that the road is completed to the adoption standard.

In this case, the developer has stated that it is not proposed to provide street lighting and as a result it is not possible for the Council as the local Highways Authority to adopt this section of the estate road. This does not mean that the road is unacceptable in terms of road safety and the *Manual for Streets* does not state that it is a statutory requirement to provide street lighting in any development that includes providing a new estate road. Its width meets the adoption standard for an estate road of this type, and it is intended to surface the carriageway and the pavement to a finish that meets the adoption standard and corresponds to the rest of the estate.

Consequently, it is not considered that not providing street lighting will have a harmful effect on road safety.

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- Public Consultation:
- A notice was posted on site and in the press, and nearby residents were informed. The advertising period has ended and objections were received based on relevant planning matters which relate to:
- Concern about the effect of lack of street lighting on road safety;
 - Concern about the effect of lack of street lighting leading to an increase in crime and offending;
 - The estate road should have been completed and lighted since 12 July, and the condition of the unfinished estate road is unsafe and dangerous for users;
 - No justification for the application and it would be irresponsible of the Council to approve the application. It is the Council's duty to act to ensure compliance with the condition;
 - The Council has made no effort to enforce the condition.

Observations were also received that were not relevant planning matters:

- Enquiries were made with the Council's Transportation and Highways Units previously with regard to providing street lighting on this part of the estate, and they had given the impression that street lighting would be provided.

5. Assessment of the material planning considerations:

Transport and access matters

- 5.1 The reason the condition was included on the original permission was to protect the interests of the highway. It is believed that the main planning considerations when dealing with the current application is the effect of removing the provision of street lighting on road safety and the amenities of the local neighbourhood.
- 5.2 Looking at the original planning application for three dwellings (C09M/0060/00/LL) the Transportation Unit had noted in its response to the statutory consultation that the land on which the estate road stood was not owned by the applicant, and that the road would therefore not meet adoption requirements. There was no reference to providing street lighting in this response. Confirmation was received from the applicant's agent in a letter dated 2 April 2015 that this land was not in the applicant's ownership, and that they had not been able to obtain the company's permission to provide street lighting on the site, which therefore meant that they would not be able to make an application to adopt the road. These matters were discussed at a meeting on the site between Officers from the Transportation Unit and the developer on 5 December 2014, and it was decided to make an application to vary the condition as a consequence of that meeting.
- 5.3 Having looked at the minutes of the original decision of the Planning Committee for the three dwelling houses, it is seen that the Committee's wish at the time was to impose a 'Grampian' condition on the permission. Planning authorities may approve a development subject to including a condition which states that the development should not commence or be occupied until any barrier to the development is overcome. This is the purpose of a Grampian condition. Such a condition could include carrying out work on the highway. A 'Grampian' condition is necessary where work needs to be carried out to the highway so that it can accommodate traffic generated by a development safely and efficiently. As noted above, the Transportation Unit does

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not consider that street lighting must be provided in order to accommodate traffic from the development safely and efficiently, as including such a provision would not affect road safety.

- 5.4 It is not considered that the condition that was imposed falls within the definition of a ‘Grampian’ condition, and there is doubt whether the condition was one which could be enforced anyway, because the land on which the estate road stood did not form part of the application site (or land in the applicant’s ownership). Section 72(1) of the Town and Country Planning Act 1990 and the Circular WGC 016/2014 – The Use of Planning Conditions for Development Management – make it clear that conditions meeting the six criteria noted in the circular may only be imposed in cases where the developer has control over the land.
- 5.5 Policy CH33 of the GUDP states that a development will be approved if it complies with road safety requirements. A response was received from the Transportation Unit on the application, stating that there is no statutory requirement for the developer to complete the road to an adoption standard or to provide street lighting, and that it was the Council’s wish to request the provision of street lighting if it were to adopt the road under other legislation (the Highways Act 1980). More importantly, it is confirmed that it is not considered that deleting the need for the provision of street lighting would have a harmful effect on road safety.
- 5.6 It is noted that Barmouth Town Council has stated its objection regarding the lack of compliance with the condition. However, it should be noted that the Transportation Unit does not object to the application. The site inspection completed on 23 April 2015 also confirms that the remainder of the condition has been complied with. By now, the carriageway and the pavements have been finished with a tarmac surface, and the Enforcement Unit has worked closely with the developer to ensure this. Consequently, it is considered that the proposal complies with the requirements of policy CH33 of the GUDP.

Response to the public consultation

- 5.7 Concerns have been raised about the effect of not providing street lighting on road users’ safety and an increase in cases of law-breaking as a result of not providing street lighting. A number of residential dwellings overlook the road which means that natural surveillance exists, and the estate is fairly open in nature. Therefore it is not considered that there are genuine grounds for concern in relation to an increase in law-breaking or the personal safety of users of the estate road.
- 5.8 It is noted that enquiries have been made with other services within the Council for providing street lighting, but it must be realised that the provision of street lighting was desired by the Council for the purpose of adopting the estate road under highways legislation rather than planning. The Circular WGC 016/2014 – The Use of Planning Conditions for Development Management makes it clear that conditions should not be included on a planning permission to manage or secure a provision to comply with the requirements of any other legislation. Therefore, it is considered that the proposal complies with policy B23 which relates to safeguarding the amenities of the local neighbourhood.
- 5.9 Concerns have also need noted regarding a lack of enforcement of this condition by the Planning Service, although it should be noted that the matter was not referred to the Planning Service until the beginning of January this year. Breach of the condition has existed since summer 2014. However, given that there is a fundamental question around the suitability of imposing such a condition in the first place, it is considered that the Planning Service has acted in a timely and completely appropriate manner in this case.

6. Conclusions:

- 6.1 Whilst the concerns that have been voiced in the letters of objection are realised, it is not considered that the objections submitted outweigh the basic fact that the estate road in its finished

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form is acceptable from the perspective of road safety, and that a lack of street lighting provision would not affect the amenities of the local neighbourhood. The Transportation Unit has no objection to the application, therefore there is no planning policy basis for objecting to deleting the need to provide street lighting.

6.2 In addition to this, it is not considered necessary to provide any alternative condition either since the developer has now complied with the remainder of the requirements of the condition as it was given on the original planning permission.

7. Recommendation:

7.1 To approve unconditionally.