

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **WEDNESDAY, 3 OCTOBER 2018**

**REPORT BY:** **CHIEF OFFICER (PLANNING, ENVIRONMENT AND ECONOMY)**

**SUBJECT:** **APPLICATION TO DISCHARGE A SECTION 52 AGREEMENT RELATING TO PLANNING PERMISSION REF: 190/86 RESTRICTING OCCUPANCY OF PROPOSED DWELLING AT PLAS HAFOD HOTEL, HAFOD ROAD, GWERNYMYNYDD**

**1.00 APPLICATION NUMBER**

1.01 048128

**2.00 APPLICANT**

2.01 Mr. S. Buckley

**3.00 SITE**

3.01 Plas Hafod Hotel, Hafod Road, Gwernymynydd.

**4.00 APPLICATION VALID DATE**

4.01 23<sup>rd</sup> November 2010

**5.00 PURPOSE OF REPORT**

5.01 To seek a resolution following a request by owners of the Plas Hafod Hotel, a Grade II Listed Building, that the existing Section 52 Legal Agreement controlling occupancy of a dwelling known as 'Crud yr Hafod' which retains links to the existing hotel be discharged. This is proposed to enable investment in the historic fabric of the hotel building and implement future expansion plans for additional bedroom facilities, recently granted planning permission and Listed Building Consent under Code Nos 057882 and 057883 respectively.

5.02 For Members' information a previous request to replace the Section

52 Legal Agreement with a Section 106 Obligation to control occupancy of the dwelling and prevent further applications for a new dwelling at this location was considered by the Planning and Development Control Committee in June 2011. It was resolved by Members at that time to support the request although the legal agreement was not completed.

## **6.00 REPORT**

- 6.01 This proposal is to discharge the Section 52 Agreement in respect of the dwelling approved in 1987 adjacent to the Plas Hafod, Gwernymynydd. The dwelling is currently occupied by the owner's son who is employed at the Plas Hafod.
- 6.02 When deciding whether to discharge a Section 52 Agreement members should consider whether that agreement still serves a useful purpose. This is the requisite test for discharging a Section 106 obligation, and as Section 52 Agreements are the statutory predecessor to Section 106 Agreements it is reasonable to adopt this test.
- 6.03 The Section 52 Agreement was required to ensure that the proposed dwelling, which is outside the settlement boundary, was occupied by a person solely employed at the Plas Hafod. This was to meet the occupation criteria required by planning policy at that time.
- 6.04 It is considered that the restriction on occupancy now fails to serve a useful purpose, as staff are now required for insurance purposes to be within the building at all times and the attic has been converted to provide self-contained manager's accommodation.
- 6.05 The owners of the hotel are seeking to discharge the Section 52 Agreement attached to the dwelling, to enable them to use the dwelling to raise finance to carry out improvement works to the hotel. In terms of protecting the Listed Building asset the Council welcome and support the recently approved works. However, this is not a material consideration in determining whether the Section 52 agreement should be discharged. This provides context for members on why the application is before them.
- 6.06 Without the restriction of the Section 52 Agreement, the Council is accepting the creation of a dwelling in the open Countryside which would conflict with Policy HSG4. The purpose of HSG4 is protect the countryside from physical impact of new dwellings. This is required in order to limit the impact of such development on the rural character of the area. In this unusual case the dwelling has been built over 30 years ago so there is no new harm to the open countryside location from the built form of the dwelling. The dwelling is now an established part of the countryside landscape and any significant alterations to that dwelling would require a separate planning

application. The key purpose of HSG4 is therefore not breached. Allowing general occupation of the dwelling by discharging the Section 52 Agreement in this particular case would have no material harm on the rural character of this landscape. Therefore it is considered that the Section 52 Agreement has no useful purpose in this regard and should be discharged.

- 6.07 This is not a planning application and therefore a normal publicity and consultation has not been undertaken although the views of the Local Member and Gwernymynydd Community Council have been sought. At the time of preparing this report no formal responses have been received.

## **7.00 RECOMMENDATIONS**

- 7.01 That the existing Section 52 Agreement be discharged as the agreement serves no useful purpose in requiring limited occupation by employees of the hotel only.

### **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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