

# Public Document Pack

## Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr

### Bridgend County Borough Council



Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB / Civic Offices, Angel Street, Bridgend, CF31 4WB

*Rydym yn croesawu gohebiaeth yn Gymraeg.  
Rhowch wybod i ni os mai Cymraeg yw eich  
dewis iaith.*

*We welcome correspondence in Welsh. Please  
let us know if your language choice is Welsh.*



#### **Cyfarwyddiaeth y Prif Weithredwr / Chief Executive's Directorate**

Deialu uniongyrchol / Direct line /: 01656 643148 / 643147 / 643694

Gofynnwch am / Ask for: Democratic Services

Ein cyf / Our ref:

Eich cyf / Your ref:

**Dyddiad/Date:** Friday, 17 July 2020

Dear Councillor,

#### **DEVELOPMENT CONTROL COMMITTEE**

A meeting of the Development Control Committee will be held Remotely via Skype for Business on **Thursday, 23 July 2020 at 14:00.**

#### **AGENDA**

1. Apologies for Absence  
To receive apologies for absence from Members.
2. Declarations of Interest  
To receive declarations of personal and prejudicial interest (if any) from Members/Officers including those who are also Town and Community Councillors, in accordance with the provisions of the Members' Code of Conduct adopted by Council from 1 September 2008. Members having such dual roles should declare a personal interest in respect of their membership of such Town/Community Council and a prejudicial interest if they have taken part in the consideration of an item at that Town/Community Council contained in the Officer's Reports below.
3. Approval of Minutes 3 - 6  
To receive for approval the minutes of the 5/6/2020
4. Public Speakers  
To advise Members of the names of the public speakers listed to speak at today's meeting (if any).
5. Amendment Sheet  
That the Chairperson accepts the Development Control Committee Amendment Sheet as an urgent item in accordance with Part 4 (paragraph 4) of the Council Procedure Rules, in order to allow for Committee to consider necessary modifications to the Committee Report, so as to take account of late representations and revisions that require to be accommodated.
6. Development Control Committee Guidance 7 - 10
7. P/19/895/RLX - Ocean Farm, off David Street, Blaengarw, Bridgend 11 - 20

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8.	<u>P/19/624/FUL - Parcel R20, Parc Derwen, Coity</u>	21 - 44
9.	<u>P/19/656/RES - Land North of Heol Stradling, Parc Derwen, Coity, CF35 6AN</u>	45 - 68
10.	<u>P/19/464/FUL - Land Adj. to Former Three Horseshoes Public House, Lamb Row, South Cornelly, CF33 4RL</u>	69 - 86
11.	<u>P/20/301/FUL - 66 Grove Road, Bridgend, CF31 3EF</u>	87 - 98
12.	<u>P/20/299/FUL - 10 Woodside Avenue, Litchard, CF31 1QF</u>	99 - 110
13.	<u>P/20/307/BCB - Land off Isfryn Industrial Estate (access from A4093), Blackmill, Bridgend, CF35 6EQ</u>	111 - 126
14.	<u>P/20/63/FUL - Rear of 20 Rest Bay Close, Porthcawl, CF36 3UN</u>	127 - 132
15.	<u>Appeals</u>	133 - 150
16.	<u>Training Log</u>	151 - 152
17.	<u>Urgent Items</u> To consider any other item(s) of business in respect of which notice has been given in accordance with Part 4 (paragraph 4) of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.	

**Note:** Please note: Due to the requirement for social distancing this meeting will not be held at its usual location. This will be a virtual meeting and Committee Members and Officers will be attending remotely. The meeting will be recorded for subsequent transmission via the Council's internet site which will be available once the meeting has concluded. If you have any queries regarding this, please contact [cabinet\\_committee@bridgend.gov.uk](mailto:cabinet_committee@bridgend.gov.uk) or tel. 01656 643147 / 643148.

Yours faithfully

**K Watson**

Chief Officer, Legal, HR & Regulatory Services

Councillors:

JPD Blundell  
NA Burnett  
RJ Collins  
SK Dendy  
DK Edwards  
RM Granville

Councillors

MJ Kearn  
DRW Lewis  
JE Lewis  
JC Radcliffe  
JC Spanswick  
RME Stirman

Councillors

G Thomas  
MC Voisey  
KJ Watts  
CA Webster  
AJ Williams

# Agenda Item 3

## DEVELOPMENT CONTROL COMMITTEE - THURSDAY, 4 JUNE 2020

### MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD IN REMOTELY VIA SKYPE FOR BUSINESS ON THURSDAY, 4 JUNE 2020 AT 14:00

#### Present

Councillor G Thomas – Chairperson

TH Beedle	JPD Blundell	NA Burnett	RJ Collins
SK Dendy	DK Edwards	RM Granville	RM James
MJ Kearn	DRW Lewis	JE Lewis	RL Penhale-Thomas
JC Radcliffe	JC Spanswick	RME Stirman	MC Voisey
KJ Watts	CA Webster	AJ Williams	

#### Officers:

Rhodri Davies	Development & Building Control Manager
Craig Flower	Planning Support Team Leader
Mark Galvin	Senior Democratic Services Officer - Committees
Rod Jones	Senior Lawyer
Robert Morgan	Senior Development Control Officer
Jonathan Parsons	Group Manager Development
Andrew Rees	Democratic Services Manager
Leigh Tuck	Senior Development Control Officer

#### 371. DECLARATIONS OF INTEREST

None.

#### 372. APPROVAL OF MINUTES

##### RESOLVED:

That the Minutes of a meeting of the Development Control Committee dated 22 February 2020, be approved as a true and accurate record, subject to the amended Condition 3 of the consent approved in respect of planning application P/19/810/FUL detailed in Minute. 366, being noted as follows:-

3. The sales suite building hereby permitted shall operate on an appointment basis only and shall be open to customers between the following times:

Thursdays, Fridays, Saturdays and Mondays between 10:00 and 17:30;  
Sundays and Bank Holidays between 10:00 and 16:30 only.

The sales suite shall not be open to customers at any time on Tuesdays  
Or Wednesdays.

Reason: In the interests of residential amenities.

#### 373. AMENDMENT SHEET

##### RESOLVED:

The Chairperson accepted the Development Control Committee Amendment Sheet as an urgent item in accordance with Part 4 (paragraph 4) of the Council Procedure Rules, in order to allow for the Committee to consider necessary modifications to the Committee

report, so as to take account of late representations and revisions that are required to be accommodated.

374. DEVELOPMENT CONTROL COMMITTEE GUIDANCE

RESOLVED: That the summary of Development Control Committee Guidance as detailed in the report of the Corporate Director - Communities be noted.

375. P/20/119/FUL - BRIDGEND PAPER MILLS, (WEPA), A4063, LLANGYNWYD, CF34 9RS

RESOLVED: That above planning application be approved, subject to the following:-

- 1) That the applicant enters into a Section 106 Agreement to provide financial contributions as follows:
  - a sum of £8,000 to fund legal traffic orders;
  - a sum of £60,000 (to be paid within 12 months from the date of consent) towards a feasibility assessment of an Active Travel route through the Llynfi Valley;
  - a sum of £20,000 to fund gateway traffic calming measures at Coytrahen.
- 2) That the Group Manager – Planning and Development Services be given delegated powers to issue a decision notice granting consent in respect of this proposal once the applicant has entered into the aforementioned Section 106 Agreement, subject to the Conditions and any Notes, contained in his report amended as set out in the Amendment Sheet and detailed below.

Proposal:

Expansion of current operation including an extension for a new paper machine and stock preparation area, new converting and warehouse facilities and ancillary buildings.

Subject to the following, in terms of the Conditions to the Officer's Report:-

**Condition 8** is not required as the details were included with the application.

Further to the receipt of additional information from the applicant, **Condition 14** should read:

14. Within 3 months of the date of this consent, an amended Description and Project Process Report shall be submitted to the Local Planning Authority to confirm that there is sufficient capacity within the existing Wastewater Treatment Plant to accept the increased levels of trade effluent and foul water flows. The report shall be approved in writing by the Local Planning Authority, in conjunction with Natural Resources Wales prior to the beneficial use of the development, including any necessary revisions to the Environmental Permit.

**Condition 17** should include specific reference to Phases 2 and 3 of the development due to the location of coal mining features and can be amended as follows:

17. Following implementation and completion of the approved remediation scheme for phases 2 and 3, (required by condition 16 above) and prior to the first beneficial use of that part of the development, a verification report shall be submitted to and

approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

**Condition 18** can be revised as follows:

18. Prior to the implementation of each Phase of the development above foundation/slab level, a detailed scheme shall be submitted to and agreed with the Local Planning Authority to demonstrate that the sound insulation values used in the noise modelling predictions within section 4.3 of the Noise Environmental Impact Assessment 57100\_0219\_Noise Assessment for the following enclosures and buildings will be achieved:

- The Department B baler will be fully enclosed. The Department B baler enclosure shall provide a sound insulation value  $R_w$  of at least 40dB(A)
- All elements of the walls and roof of Department C shall provide sound insulation value  $R_w$  of at least 50dB(A)
- The walls and roof of Department F shall provide a sound insulation value  $R_w$  of at least 40dB(A)

The agreed scheme shall be implemented in full and the sound insulation values of the enclosure and buildings referred to above shall be retained for the lifetime of the development.

**Condition 20** can be amended as follows:

20. Unless otherwise stated, prior to the development being brought into beneficial use, the following mitigation measures shall be implemented in full in accordance with section 5.2 of the Noise Environmental Impact Assessment 57100\_0219\_Noise Assessment :

- Prior to Phase 3 of the scheme (High Bay Storage Building) being brought into beneficial use, a 6m high acoustic barrier shall be installed to provide screening between the proposed Department F and Brynsiriol Farm (Receptor NSR02 in the noise report) as shown on the 'Acoustic barrier floor plan and section' Plan No: 51106-1005. The barrier shall be continuous in length, with no gaps and be rot proof. The design details of the barrier shall be submitted to and agreed with the Local Planning Authority prior to its installation to include the type of barrier, its mass and the attenuation that it will provide. The acoustic barrier shall be maintained and retained for the lifetime of the development.
- Only 'Finished Goods' and 'Pallets' HGV movements shall occur between the hours of 23.00 and 07.00 hours. There shall be a reduction of 50% in peak hour HGV movements (as shown within the 'Hourly for Model' column in Table 2-12 of the Noise Environmental Impact Assessment 57100\_0219\_Noise Assessment) between the hours of 23.00 and 07.00 hours
- Between 23.00 and 07.00 hours, external loading shall comprise of no more than one vehicle at a time, i.e. although more than one vehicle may be parked for loading, external noise sources used for the loading of multiple vehicles must not operate concurrently.

The Reason for **Condition 28** of the report should omit the words "to and from the School."

376. URGENT ITEMS

None.

The meeting closed at 15:10

I submit for your consideration the following report on Planning Applications and other Development Control matters based upon the information presently submitted to the Department. Should any additional information be submitted between the date of this report and 4.00pm on the day prior to the date of the meeting, relevant to the consideration of an item on the report, that additional information will be made available at the meeting.

For Members' assistance I have provided details on standard conditions on time limits, standard notes (attached to all consents for planning permission) and the reasons to justify site inspections.

### **STANDARD CONDITIONS**

On some applications for planning permission reference is made in the recommendation to the permission granted being subject to standard conditions. These standard conditions set time limits in which the proposed development should be commenced, and are imposed by the Planning Act 1990. Members may find the following explanation helpful:-

#### Time-limits on full permission

Grants of planning permission (apart from outline permissions) must, under section 91 of the Act, be made subject to a condition imposing a time-limit within which the development authorised must be started. The section specifies a period of five years from the date of the permission. Where planning permission is granted without a condition limiting the duration of the planning permission, it is deemed to be granted subject to the condition that the development to which it relates must be begun not later than the expiration of 5 years beginning with the grant of permission.

#### Time-limits on outline permissions

Grants of outline planning permission must, under section 92 of the Act, be made subject to conditions imposing two types time-limit, one within which applications must be made for the approval of reserved matters and a second within which the development itself must be started. The periods specified in the section are three years from the grant of outline permission for the submission of applications for approval of reserved matters, and either five years from the grant of permission, or two years from the final approval of the last of the reserved matters, whichever is the longer, for starting the development.

#### Variation from standard time-limits

If the authority consider it appropriate on planning grounds they may use longer or shorter periods than those specified in the Act, but must give their reasons for so doing.

### **STANDARD NOTES**

- a. Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developer's) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

- b. The enclosed notes which set out the rights of applicants who are aggrieved by the Council's decision.
- c. This planning permission does not convey any approval or consent required by Building Regulations or any other legislation or covenant nor permits you to build on, over or under your neighbour's land (trespass is a civil matter).

To determine whether your building work requires Building Regulation approval, or for other services

provided by the Council's Building Control Section, you should contact that Section on 01656 643408 or at:- <http://www.bridgend.gov.uk/buildingcontrol>

- d. Developers are advised to contact the statutory undertakers as to whether any of their apparatus would be affected by the development
- e. Attention is drawn to the provisions of the party wall etc. act 1996
- f. Attention is drawn to the provisions of the Wildlife and Countryside Act 1981 and in particular to the need to not disturb nesting bird and protected species and their habitats.
- g. If your proposal relates to residential development requiring street naming you need to contact 01656 643136
- h. If you are participating in the DIY House Builders and Converters scheme the resultant VAT reclaim will be dealt with at the Chester VAT office (tel: 01244 684221)
- i. Developers are advised to contact the Environment and Energy helpline (tel: 0800 585794) and/or the energy efficiency advice centre (tel: 0800 512012) for advice on the efficient use of resources. Developers are also referred to Welsh Government Practice Guidance: Renewable and Low Carbon Energy in Buildings (July 2012):-  
<http://wales.gov.uk/topics/planning/policy/guidanceandleaflets/energyinbuildings/?lang=en>
- j. Where appropriate, in order to make the development accessible for all those who might use the facility, the scheme must conform to the provisions of the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005. Your attention is also drawn to the Code of Practice relating to the Disability Discrimination Act 1995 Part iii (Rights of Access to Goods, Facilities and Services)
- k. If your development lies within a coal mining area, you should take account of any coal mining related hazards to stability in your proposals. Developers must also seek permission from the Coal Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 7626848 or [www.coal.gov.uk](http://www.coal.gov.uk)
- l. If your development lies within a limestone area you should take account of any limestone hazards to stability in your proposals. You are advised to engage a Consultant Engineer prior to commencing development in order to certify that proper site investigations have been carried out at the site sufficient to establish the ground precautions in relation to the proposed development and what precautions should be adopted in the design and construction of the proposed building(s) in order to minimise any damage which might arise as a result of the ground conditions.
- m. The Local Planning Authority will only consider minor amendments to approved development by the submission of an application under section 96A of the Town and Country Planning Act 1990. The following amendments will require a fresh application:-
  - re-siting of building(s) nearer any existing building or more than 250mm in any other direction;
  - increase in the volume of a building;
  - increase in the height of a building;
  - changes to the site area;
  - changes which conflict with a condition;
  - additional or repositioned windows / doors / openings within 21m of an existing building;
  - changes which alter the nature or description of the development;
  - new works or elements not part of the original scheme;
  - new works or elements not considered by an environmental statement submitted with the application.
- n. The developer shall notify the Planning Department on 01656 643155 / 643157 of the date of commencement of development or complete and return the Commencement Card (enclosed with this Notice).



- o. The presence of any significant unsuspected contamination, which becomes evident during the development of the site, should be brought to the attention of the Public Protection section of the Legal and Regulatory Services directorate. Developers may wish to refer to 'Land Contamination: A Guide for Developers' on the Public Protection Web Page.
- p. Any builder's debris/rubble must be disposed of in an authorised manner in accordance with the Duty of Care under the Waste Regulations.

## **THE SITE INSPECTION PROTOCOL**

The Site Inspection Protocol is as follows:-

### **Purpose**

#### **Fact Finding**

Development Control Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises, held for the benefit of Members, where a proposed development may be difficult to visualise from the plans and supporting material. They may be necessary for careful consideration of relationships to adjoining property or the general vicinity of the proposal due to its scale or effect on a listed building or conservation area.

### **Request for a Site Visit**

#### **Ward Member request for Site Visit**

Site visits can be costly and cause delays so it is important that they are only held where necessary normally on the day prior to Committee and where there is a material planning objection.

Site visits, whether Site Panel or Committee, are held pursuant to:-

1. a decision of the Chair of the Development Control Committee (or in his/her absence the Vice Chair) or
2. a request received within the prescribed consultation period from a local Ward Member or another Member consulted because the application significantly affects the other ward, and where a material planning objection has been received by the Development Department from a statutory consultee or local resident.

A request for a site visit made by the local Ward Member, or another Member in response to being consulted on the proposed development, must be submitted in writing, or electronically, within 21 days of the date they were notified of the application and shall clearly indicate the planning reasons for the visit.

Site visits can not be undertaken for inappropriate reasons (see below).

The Development Control Committee can also decide to convene a Site Panel or Committee Site Visit.

### **Inappropriate Site Visit**

Examples where a site visit would not normally be appropriate include where:-

- purely policy matters or issues of principle are an issue
- to consider boundary or neighbour disputes
- issues of competition
- loss of property values
- any other issues which are not material planning considerations
- where Councillors have already visited the site within the last 12 months, except in exceptional circumstances

### **Format and Conduct at the Site Visit**

#### **Attendance**

Members of the Development Control Committee, the local Ward Member and the relevant Town or Community Council will be notified in advance of any visit. The applicant and/or the applicant's agent will also be informed as will the first person registering an intent to speak at Committee but it will be made clear that representations cannot be made during the course of the visit.

## **Officer Advice**

The Chair will invite the Planning Officer to briefly outline the proposals and point out the key issues raised by the application and of any vantage points from which the site should be viewed. Members may ask questions and seek clarification and Officers will respond. The applicant or agent will be invited by the Chairman to clarify aspects of the development.

The local Ward Member(s), one objector who has registered a request to speak at Committee (whether a local resident or Town/Community Council representative) and a Town/Community Council representative will be allowed to clarify any points of objection, both only in respect of any features of the site, or its locality, which are relevant to the determination of the planning application.

Any statement or discussion concerning the principles and policies applicable to the development or to the merits of the proposal will not be allowed.

## **Code of Conduct**

Although site visits are not part of the formal Committee consideration of the application, the Code of Conduct still applies to site visits and Councillors should have regard to the guidance on declarations of personal interests.

## **Record Keeping**

A file record will be kept of those attending the site visit.

## **Site Visit Summary**

In summary site visits are: -

- a fact finding exercise.
- not part of the formal Committee meeting and therefore public rights of attendance do not apply.
- to enable Officers to point out relevant features.
- to enable questions to be asked on site for clarification. However, discussions on the application will only take place at the subsequent Committee.

## **Frequently Used Planning Acronyms**

AONB	Area Of Outstanding Natural Beauty	PINS	Planning Inspectorate
APN	Agricultural Prior Notification	PPW	Planning Policy Wales
BREEAM	Building Research Establishment Environmental Assessment Method	S.106	Section 106 Agreement
CA	Conservation Area	SA	Sustainability Appraisal
CAC	Conservation Area Consent	SAC	Special Area of Conservation
CIL	Community Infrastructure Levy	SEA	Strategic Environmental Assessment
DAS	Design and Access Statement	SINC	Sites of Importance for Nature Conservation
DPN	Demolition Prior Notification	SPG	Supplementary Planning Guidance
EIA	Environmental Impact Assessment	SSSI	Site of Special Scientific Interest
ES	Environmental Statement	SUDS	Sustainable Drainage Systems
FCA	Flood Consequences Assessment	TAN	Technical Advice Note
GPDO	General Permitted Development Order	TIA	Transport Impact Assessment
LB	Listed Building	TPN	Telecommunications Prior Notification
LBC	Listed Building Consent	TPO	Tree Preservation Order
LDP	Local Development Plan	UCO	Use Classes Order
LPA	Local Planning Authority	UDP	Unitary Development Plan

**REFERENCE:** P/19/895/RLX

**APPLICANT:** Mr Hughes: c/o Boyer  
Third floor, Park House, Greyfriars Road, Cardiff CF10 3AF

**LOCATION:** Ocean Farm, off David Street, Blaengarw, Bridgend

**PROPOSAL:** Remove condition 1 of P/16/989/RLX to enable permanent use for dog breeding

**RECEIVED:** 3 December 2019

## **BACKGROUND**

This application was reported to the Development Control Committee meeting on 27 February 2020 but deferred in order that Members of the Committee could be afforded an opportunity to visit the site.

Restrictions imposed under The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 currently prevents Committee site visits. Photographs and a video of the site and its surroundings will be presented at the Development Control Committee meeting. This should enable Members to better understand the context of the development.

## **APPLICATION/SITE DESCRIPTION**

Retrospective Planning permission was granted for a dog breeding operation at Ocean Farm in 2016 under consent P/15/626/FUL. It was a temporary permission to enable the Local Planning Authority to assess the impact of the use on the amenities of the area and highway safety. An application to increase the number of dogs to be kept at the site was approved in 2017. The temporary nature of the consent was however, retained.

This application seeks to relax condition 1 of consent of the latter permission above to remove the temporary nature of the use and to establish a permanent dog breeding operation on site. Consultant's acting on behalf of the applicant have provided the following comments in support of the application:

*As we understand, the temporary nature of the approvals was in order for the Local Planning Authority to assess the operation of the dog breeding kennels before being satisfied that it does not adversely affect the privacy or visual amenities nor so significantly harms neighbours amenities as to warrant refusal.*

*It is noted that during the recent Section 73 application that given the nature of the development, it is considered that, overall there will be no significant adverse residual impacts on biodiversity. Also that the countryside location was considered appropriate for the use of both in terms of forming part of an existing rural enterprise but also being distant from residential properties.*

*It is also considered that there have been no adverse complaints regarding the operation, with the Council's own Environmental Health Officer raising no previous objection.*

The dog breeding use operates from a former stable building on Ocean Farm, Blaengarw. The building which measures 9.5m x 2.4m was converted in 2015 and accommodates 13 kennels. A smaller building to the north and the adjacent yard area are also used to accommodate and to exercise the dogs.

Access to Ocean Farm is along a non-maintainable track owned by the Council which once formed part of a colliery access road. It leads from David Street and extends some

315m to the entrance of the farm.



***Extract from OS Base Map of Application Site***

#### **RELEVANT HISTORY**

**P/10/102/FUL** – Retrospective consent issued for sheep shed extension and hay shed extension on 9 April 2010.

**P/15/626/FUL** – Permission to change the use from stables to dog kennels for commercial dog breeding was approved on 15 March 2016. The consent was issued on a temporary basis expiring on 31 December 2019.

**P/16/988/FUL** – The retention of the caravan and associated buildings was refused planning permission on 15 March 2019.

**P/16/989/RLX** – Permission to vary condition 3 of P/15/626/FUL and to allow the number of breeding dogs to be increased on site was issued on 28 April 2017.

**P/19/892/FUL** – An application has been submitted for the retention of the caravan refused under P/16/988/FUL as a rural enterprise workers dwelling. This application remains undetermined but Members should be aware that the caravan is unauthorised and is the subject of an extant enforcement notice. In assessing the 2016 application for the caravan it was acknowledged that the existing small holding and dog breeding business constituted a rural enterprise but there was no evidence to justify the retention of the residential caravan. That is being reviewed again under this application.

#### **PUBLICITY**

The application has been advertised on site.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity has expired.

#### **CONSULTATION RESPONSES**

**Highway Officer:** The proposal seeks to establish the kennels as a permanent development having initially been granted temporary consent under application

P/15/626/FUL. Whilst concerns were raised in Highway observations to the aforesaid application, a temporary consent was issued with restrictions on the level of development and use of the site. Following this temporary period the Highway Authority are not aware of any significant concerns which may have been raised in respect of the use of the access which is owned by the Council. Accordingly it is suggested that subject to similar restrictions on use class and intensity of use there are no highway objections to the proposal.

**Garw Valley Community Council:** objects to this application on the following grounds:

- The community and Community Council's concerns regarding the welfare of animals kept at the site.
- The previous decision to only grant temporary consent - there have been no changes to the circumstances to warrant permanent consent.
- The highway to the site is not suitable for additional traffic.

**Councillor S K Dendy (Local Member):** has raised concerns on a number of occasions concerning the condition and treatment of the animals on the property. Reference has been made to a previous ban for keeping dogs and concerns around the means of sale of puppies currently taking place. The Local Member considers that the need for a permanent dog breeding business is unnecessary and she is uncertain whether all previous conditions have been met. Concerns have also been expressed over the implementation of Lucy's Law.

**Shared Regulatory Services (Environment (Enterprise & Specialist Services):** Ocean Farm Breeding Kennels currently operates under a licence for 8 dogs (7 female and 1 male) and a maximum capacity of 21 puppies at one time. The Animal Health & Welfare Officer has received a large number of complaints regarding breeding at the site, however whenever officers have attended both announced and unannounced, the complaints have not been substantiated.

## **REPRESENTATIONS RECEIVED**

Objections have been received from:-

- 1 Stable Lane - Pantygog
- 4 Stable Lane - Pantygog
- 31 David Street - Blaengarw
- 3 Mount Pleasant - Blaengarw
- 247 Erw Hir – Bridgend
- 125 Merthyr Mawr Road - Bridgend

Three emailed objections have also been received although no postal addresses were provided with the communications. The following is a summary of all the objections received:-

1. Application not in the interests of the well-being of the dogs – puppy farming (high volume breeding) is an unacceptable practice and needs to be abolished – concerns about the sales of puppies from site
2. Any person previously convicted of cruelty to animals should not be allowed to keep animals – is the breeding business currently licenced?
3. Appearance of the site is unkempt – the business is out of keeping with the area
4. Animals are poorly managed on site
5. The highway serving the site is not suitable for additional traffic

## **COMMENTS ON REPRESENTATIONS RECEIVED**

The main objections to this application relate to the welfare of the animals and alleged offences for animal cruelty. These are extremely sensitive and emotive issues that often arise on such applications. The lack of weight normally given to such objections has been addressed in a number of appeals and in particular in a recent case in Blaenau Gwent where the Inspector considered a weight of public objection around the issue of animal welfare. The decision letter reminded us that the planning system should not be used to secure objectives which are more appropriately achieved under other legislation. The Planning Inspector did not however, underestimate the strength of feeling felt by those who had objected and his attention was drawn to issues associated with third-party sales at 'puppy farms' which is the focus of potential legislation dubbed 'Lucy's Law'. He confirmed that such ethical and moral considerations are not material to a planning decision.

The breeding operation at Ocean Farm is fully licenced and monitored by the Animal Health & Welfare Officers of the Shared Regulatory Services Section of this Council.

A puppy farm is an intensive form of dog breeding which is controlled by other legislation and that the planning system is concerned only with material considerations of land use

## **POLICY CONTEXT**

The relevant policies relating to the proposed development from the adopted Bridgend County Borough Council Local Development Plan (LDP) (2013) are:-

- Strategic Policy SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- Strategic Policy SP4 – Conservation and Enhancement of the Natural Environment
- Policy ENV1 – Development in the Countryside
- Policy ENV4 – Local/Regional Nature Conservation Site
- Policy ENV6 – Nature Conservation
- Policy ENV7 – Natural Resource Protection and Public Health

Supplementary Planning Guidance Notes (SPG): SPG19: Biodiversity and Development

Local Development Plan Policy SP2 (Design and Sustainable Place Making) is the overarching policy which should be considered in the assessment of all Planning applications. It states:

All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located whilst having full regard to the natural, historic and built environment by:-

- 1) Complying with all relevant national policy and guidance where appropriate;
- 2) Having a design of the highest quality possible, whilst respecting and enhancing local distinctiveness and landscape character;
- 3) Being of an appropriate scale, size and prominence;
- 4) Using land efficiently by:
  - (i) Being of a density which maximises the development potential of the land whilst respecting that of the surrounding development; and
  - (ii) Having a preference for development on previously developed land over

Greenfield land;

- 5) Providing for an appropriate mix of land uses;
- 6) Having good walking, cycling, public transport and road connections within and outside the site to ensure efficient access;
- 7) Minimising opportunities for crime to be generated or increased;
- 8) Avoiding or minimising noise, air, soil and water pollution;
- 9) Incorporating methods to ensure the site is free from contamination (including invasive species).
- 10) Safeguarding and enhancing biodiversity and green infrastructure;
- 11) Ensuring equality of access by all;
- 12) Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected;
- 13) Incorporating appropriate arrangements for the disposal of foul sewage, waste and water;
- 14) Make a positive contribution towards tackling the causes of, and adapting to the impacts of Climate Change; and
- 15) Appropriately contributing towards local, physical, social and community infrastructure which is affected by the development.

The supporting text to this Policy advises that Policy SP2 demands a high quality of design incorporating equality of access in all development proposals and seeks to ensure that new built development is sensitive to its surrounding environment.

In the determination of a planning application, regard should also be given to the requirements of National Planning Policy and the appropriate Technical Advice Notes.

### **APPRAISAL**

The application is being reported to Members due to the number of objections received from residents, the Community Council and the local Ward Member.

Section 73 (S73) of the Town and Country Planning Act 1990 enables an applicant to apply to develop land without compliance with conditions attached to an extant previous planning permission. Under this Section a Local Planning Authority may amend or remove conditions but may not amend any other part of the permission. A successful S73 application results in the grant of a new planning permission and therefore the original permission remains intact. A developer may then elect between them.

When determining a S73 application, the Local Planning Authority may impose conditions beyond those proposed in the application however, the conditions imposed should only be ones which could have been imposed on the original grant. It has previously been held that the amendments permitted should not amount to a “fundamental alteration” of the proposal put forward in the original application

The main issues in the assessment of this application are:-

- i. whether relaxing condition 1 of P/16/989/RLX and permitting a permanent dog breeding operation on site would be compliant with the local and national policies that protect the countryside, safeguard the amenities of residents and the wider environment and
- ii. whether the access arrangements are acceptable to serve the proposed development.

In appraising the original application, it was recognised that all development schemes should contribute to creating high quality, attractive, sustainable places which enhance the community. The countryside, which is the location of this development, is offered special protection and development should benefit the rural economy whilst maintaining or enhancing the environment. Certain developments may be appropriate in the countryside, provided that they will encourage rural enterprise and bring wider community benefits. Given the location of the development, Policy ENV1 represents the starting point for the assessment and indicates that development may be acceptable where it is necessary for:

- Appropriate rural enterprises where a countryside location is necessary for development;
- The suitable conversion of, and limited extension to, structurally sound rural buildings where the development is modest in scale and clearly subordinate to the original structure;

The Policy further states that where development is acceptable in principle in the countryside it should where possible, utilise existing buildings and previously developed land and/or have an appropriate scale, form and details for its context.

At a local level, this countryside location is offered further protection, forming part of the Blaengarw North East Site of Importance for Nature Conservation (SINC).

From a national policy perspective, PPW states that “the countryside is seen as a multi-purpose resource that should be conserved and where possible, enhanced for the sake of its...agricultural value and for its landscape and natural resources. A strong rural economy is however essential to support sustainable and vibrant rural communities and whilst the protection of the open countryside should be maintained wherever possible, the expansion of existing businesses should be supported provided there no unacceptable impacts”.

There has always been some debate as to whether dog breeding is a rural enterprise but it is generally accepted that because of noise from barking, kennels are more appropriate in rural than urban locations. Given that the dog breeding business operates from existing rural buildings and the yard of a smallholding, the development has no significant effects on its rural setting. The condition and appearance of the kennel block that houses the breeding dogs could however be improved and this is more significant given that the application proposes a permanent use. It is therefore considered appropriate to impose a planning condition that requires a scheme of improvements to the external appearance of the building and for those works to be implemented within an established timeframe.

The Planning system should maximise its contribution to achieving the well-being goals and in particular a healthier Wales by aiming to reduce average population exposure to noise pollution. Noise and the impact on the amenities of residents is a material planning consideration. Since the issue of the temporary consent for the breeding operation, the Department is not aware of any complaints being received concerning noise. Members should be mindful that the nearest property is more than 250m from the application site. It is often cited in appeal cases that a breeding operation is far less likely to cause barking as the dogs so kept are used to each other.



A further material consideration following from the keeping of dogs is the question of smell, in particular the disposal of litter. Normally however, smell and health problems which arise from kennels are not sufficiently serious to warrant them being given much weight in the planning decision making process particularly as other legislation may be used to tackle any difficulties. There is no evidence before the Council that the operation is causing any significant harm to the amenities of residents.

In granting the temporary planning permission, the Council's Land Drainage Engineers and Dwr Cymru Welsh Water did not identify any drainage issues although the Council's Ecologist highlighted potential pollution issues associated with the washing down of kennels – the Nant Hir runs adjacent to the site. Kennels can produce both liquid and solid waste. Solid waste is collected and disposed of appropriately. The wash down from kennels is however, discharged onto the permeable yard and whilst some measure have been introduced to prevent the pollution of controlled waters, no details have been formally agreed with the Council. A condition will therefore be re-imposed on any consent granted that will require the agreement of a scheme for the disposal of the 'wash down' from the kennel building.

Safeguarding and enhancing biodiversity and green infrastructure is a requirement of Policy SP2 and follows the requirement of national legislation that requires a public authority to maintain and enhance biodiversity in the exercise of functions in relation to Wales and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions. (Section 6 of the Environment (Wales) Act 2016 refers). Section 6(2) goes on to state that "In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular:

- (a) Diversity between and within ecosystems;
- (b) The connections between and within ecosystems;
- (c) The scale of ecosystems;
- (d) The condition of ecosystems (including their structure and functioning); and
- (e) The adaptability of ecosystems."

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires Local Planning Authorities to take account of the presence of European Protected Species at development sites. If they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application. The three tests that must be satisfied are:

- (1) that the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment"
- (2) that there is "no satisfactory alternative";
- (3) that the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range".

Given the nature of the development, it is considered that overall there will be no significant adverse impacts on biodiversity. The impacts on the SINC are longstanding and are not exacerbated by the development. Therefore, the proposal is considered to comply with the requirements of the Habitats Regulations 1994 (as amended). Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP Policies (ENV4 (2), ENV5 & ENV6).

Access to the site was formed as part of the colliery reclamation scheme in the 1990s and as well as serving this registered smallholding, it provides an informal recreational route to the lakes that now form part of the restored landscape. The route is owned by the Council and varies in width from 4 to 6m and is finished in compacted stone. The Transportation

and Development Control Section on the previous applications indicated that the existing access was not suitable to cater for a significant increase in traffic without modification. The applicant indicated that no dogs would be sold from the smallholding. The applicant stated that the dogs would be sold from his property in Blaengarw. The nature of puppy sales is that purchasers will often want to inspect the kennels and the breeding dogs before being purchased. The applicant's agent maintains that the number of visits are limited and do not represent a significant increase above that associated with the existing small farming enterprise. Highway safety was one of the reasons for issuing the temporary permission and although there is an admission that customers have called to site in breach of the condition, this has not resulted in a reports of conflict in terms of highway safety. Subject to the re-imposition of the condition that prevents the sale of dogs from the application site, the access arrangements are deemed acceptable to serve a permanent dog breeding operation on site. There is no evidence to suggest that calling customers have caused any disturbance to residents on David Street who are closest to the site access. Should the situation change in the future and there is evidence that a greater number of customers are calling to the site, enforcement action in the form of a Breach of Condition Notice, could be served. It is also open to the applicant to apply to relax the requirements of the condition controlling calling customers. Such an application would be considered on its merits at that time.

The Council has always maintained that the dog breeding business can be undertaken without the need for living accommodation on site and this was considered in the refusal of application P/16/988/FUL. The dog breeding operation is however a key element of the rural enterprise and forms part of the justification to retain the caravan. That application remains under review but the grant of a permanent consent for dog breeding would count in its favour. However a number of tests need to be met to support the grant of even a temporary permission for the caravan and to date the evidence is not complete.

Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

## **CONCLUSION**

This application which seeks to relax condition 1 of consent P/16/989/RLX and establish a permanent dog breeding operation is considered an acceptable form of development in this rural location which subject to the implementation of works to improve the external appearance of the kennel building should have no significant impact on the character of its landscape. Biodiversity habitats will be unaffected and subject to conditions, the quality of its natural resources, in this case, water should be safeguarded. Furthermore, the permanent dog breeding operation should not adversely affect the living conditions and well-being of residents or be detrimental to highway safety. The objections offered to this application have been noted but where they relate to animal welfare can be afforded little

weight as such matters are dealt with under other legislation. There are no material planning grounds therefore to refuse this application.

## **RECOMMENDATION**

(R53) That permission be GRANTED subject to the following condition(s):-

1. The development shall be carried out in accordance with the plans received on 24 September 2015 and 7 January 2016 as agreed under Planning application P/16/989/RLX.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. The site shall only be used for Dog Breeding with no sales of dogs/puppies taking place at any time from the site. The total number of dogs kept on site including puppies and pets, shall not at any time exceed 50.

Reason: To ensure that the Local Planning Authority retains effective control over the use in the interests of the general amenities of the area and in the interests of highway safety.

3. Within one month of the date of this permission, a scheme for the effective disposal of dog waste and details of the means of containing and disposing kennel wash-down and surface water on site shall be submitted to the Local Planning Authority. Within three months of the approval of the scheme, the disposal of dog waste and kennel washdown shall be implemented as agreed and undertaken throughout the duration of the approved use.

Reason: To prevent pollution of the adjacent watercourse.

4. Within one month of the date of this permission, a scheme to improve the appearance of the kennel building shall be submitted to the Local Planning Authority. The scheme shall incorporate measures to re-clad/re-render the external walls and to replace/repair the existing roof finish. The agreed scheme of improvement works shall be carried out within 6 months of the date of the details having been agreed.

Reason: To improve the appearance of the building in the interests of protecting the landscape and rural character which provide the setting for this development.

\* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS \*

The applicant is advised that effluent from kennels and the in-combination effect of the adjacent stables and its associated pollution risks can have serious pollution implications also prosecutable under the Environmental Protection Act 1990, the Groundwater Regulations 1998 and the Water Resources Act 1991 Section 85. The developer should ensure that they comply with the law and follow pollution prevention guidelines, for example Works and Maintenance in or near Water: PPG5 Environment Agency. There is a Duty of Care which requires that:-

- the land owner ensures that all waste is stored and disposed of responsibly,
- it is only handled or dealt with by individuals or companies that are authorised to deal with it and
- a record is kept of all wastes received or transferred through a system of signed Waste Transfer Notes.

The submission for condition 3 should include pollution prevention control measures to ensure that drainage is properly designed and installed and sound waste management and spillage control measures will be in place and are able to cope with extreme pollution events such as storms.

Incorporating biodiversity enhancements could help contribute to the environmental sustainability of the development and the incorporation of bat bricks, bat tiles and bat boxes into the development would provide summer roosting opportunities for bats. The developer's attention to wildlife and development and opportunities for enhancements which can be found in the Biodiversity and Development Supplementary Planning Guidance (SPG): A Green Infrastructure Approach.

**JONATHAN PARSONS  
GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

**Background Papers**

None

**REFERENCE:** P/19/624/FUL

**APPLICANT:** Persimmon Homes West Wales  
Dragon House, Parc y Ddraig, Penllergaer, Swansea SA4 9HJ

**LOCATION:** Parcel R20, Parc Derwen, Coity

**PROPOSAL:** Construction of 102 dwellings together with associated infrastructure and landscaping

**RECEIVED:** 19 August 2019

## **APPLICATION/SITE DESCRIPTION**

Persimmon Homes have submitted a full planning application for the construction of 102 dwellings on land forming Parcel R20 on the Parc Derwen development at Coity, Bridgend. The site comprises nearly 4 hectares of green field land and is the southernmost part on the development. The site is relatively flat with trees and hedgerows around the perimeter of the site which provides a strong landscape feature on part of the southern boundary with Heol West Plas. A surface water lagoon and pumping station, developed as part of the Parc Derwen infrastructure, occupy the south eastern corner.



***Fig. 1 – Aerial Photograph of the Application Site***

The site is the last phase of housing on Parc Derwen and is covered by the original Outline Planning permission P/00/288/OUT which permitted a comprehensive development including a district centre, school, community facilities and open space. The permission was subject to a number of Planning conditions and Section 106 obligations that, amongst other matters, controlled the number of housing units. 1,500 houses were permitted to be delivered in accordance with an agreed phasing plan.

A 'Deed of Variation' to the Section 106 Agreement was agreed in September 2014 and this allowed an additional 14 dwellings increasing the permitted number to 1,514.

There are currently 1460 dwellings which benefit from consent on the site, leaving 54 units remaining to be delivered under the Outline Planning permission. An application to develop the commercial centre has also been submitted by Persimmon Homes pursuant to the Outline consent and that includes 20 residential units on the upper floors.



As this application proposes a development that would exceed the remaining unit numbers, it has been submitted as a full application and the following documents have accompanied the submission:

- Design, Access and Planning Statement
- Transport Statement by Aecom – May 2019
- Preliminary Ecological Appraisal & Ecological Appraisal dated May 2019 and October 2019 by First Ecology
- Site Investigation Report – April 2016 by Integral Geotechnique
- BS58377 Tree Survey and Constraints Plan by Wye Valley Tree Services
- Construction Method Statement and Management Plan – March 2020

The Parc Derwen Detailed Design Code and Design Guidance identifies the site as being part of the 'Urban Core', a higher density area at the site entrance having a strong traditional urban core with a series of streets and squares. The Design Code suggests that the character will be made up of a network of streets each with a well-defined building line with gaps in the frontage kept to a minimum. The Urban Core will consist of predominantly terraced houses with some semi-detached and detached properties to give varied form. Materials will include render with some elements of brick and stone with slate being the dominant roof material.

The designer's response to the design code is a layout that comprises 102 residential units being a mix of 2, 3 and 4 bedroom dwellings.



**Fig. 2 - Site Layout Plan**

Existing access points on Heol Stradling and Bryn Stradling will serve a connecting internal road network including a series of private drives. A strong building line is proposed along the aforementioned highways to accord with the design guidance with a 'village square' feature incorporating hard and soft landscaping, formed around the northern access to the site.

2 storey units are predominant although 2.5 stories have been introduced to form landmark buildings at key points along the street frontages.



**Fig. 3 - Windermere Landmark Building**

Car parking will be provided either to the front of the dwelling or on the driveways alongside and, for those dwellings that will front Heol Stradling, in parking bays at the rear accessible from the estate roads. The movement framework for the proposed development ensures pedestrian, cycle and vehicular links to the existing highway network.

A feature of the development is the 'rain gardens' that will be designed into the existing highway and will form a key component of the sustainable drainage scheme to include permeable paving and a swale created between the rear boundaries of the proposed housing on the southern boundary and the retained hedgerow.

The Transport Statement (TS) by Aecom examines the existing transport and highway issues relating to the proposed development and considers the expected travel demand.

The accompanying Ecological Appraisal by First Ecology identifies ecological constraints to the proposed development works and provides recommendations, as appropriate, to enable compliance with Planning policy and wildlife legislation. The site survey identified 13 standard Phase 1 habitat types of which the species-poor hedge with trees qualifies as a Biodiversity Action Plan priority habitat and habitat of principal importance. There was evidence to suggest the site supports breeding birds and potential evidence of badgers in the form of mammal pathways. In addition, the site is considered to have the potential to support various species of foraging and commuting bats and reptiles. Bat activity surveys confirmed the presence of three species of bat foraging along the hedgerow and landscaped area in the eastern section of the site. Reptile surveys detected no evidence of grass snake, slowworm or common lizard therefore no further surveys or mitigation works in relation to reptiles are required at this time. The report recommends method of works, the provision of new landscaping, bat mitigation implementation, breeding bird checking and Arboricultural impact assessment, method statement and tree protection plan if required.

The Site Investigation Report by Integral Geotechnique confirms that the ground conditions encountered across R20 typically comprise a thin layer of topsoil/made ground over a variably thick layer soft to firm becoming firm red brown, slightly gravelly, silty clay overlying dolomitic conglomerate bedrock strata at depth. The applicant has provided specific guidance on the foundation design although this is a matter dealt with under the

Building Regulations.

An independent arborist has surveyed all individual trees and groups including hedgerows and the results are set out in the submitted Tree Survey and Constraints Plan. In the assessors view the majority of trees are categorised as low quality with some landscape value and it is noted that some will be lost as a consequence of the development. Those trees that are considered to be of moderate quality will be retained and will generally form part of the new landscaping alongside the road and drainage infrastructure. The important hedgerow feature along the southern boundary will be retained.

### **RELEVANT HISTORY**

P/00/288/OUT – Residential Development, District Centre, Primary School, Community Facilities & Open Space – Conditional Consent & S106 – 14/11/07

P/04/1715/FUL – Access road and drainage works – conditional consent – 13/11/07

P/08/52/FUL – Extension to access roads – conditional consent – 19/03/08

P/12/822/RLX – Extend period for submission of reserved matters – conditional consent – 04/01/13

P/17/686/RLX – Further extension to period for submission of reserved matters – conditional consent – 17/10/17

### **PUBLICITY**

The application has been advertised on site. Neighbours have been notified of the receipt of the application. The period allowed for response to consultations/publicity has expired.

### **CONSULTATION RESPONSES**

**Coity Higher Community Council** object on the following grounds:

- The 102 houses will exceed the overall numbers for Parc Derwen agreed many years ago.
- There are no play parks, bins or similar on the estate.
- The school bus stops are located next to the site access and therefore highly dangerous.
- Coety and Litchard Primary Schools are full so there is insufficient space for children in these houses to attend local schools and they would have to be bussed to Coychurch Primary School assuming there is space there.
- It will also put unacceptable pressure on the A4061 between Bridgend and M4 J36 and will increase the traffic avoiding this road and travelling via Coity village roads, which are not of a sufficient standard to safely accommodate a heavier traffic flow.
- There are not adequate spaces in GP practices to manage the current numbers in this area of Bridgend and there is no GP surgery in Coity, Litchard or Pendre.
- Coity Higher CC cannot see how this application can proceed until the facilities on Parc Derwen are completed (primarily play parks and bins), the bus stops are relocated and the primary school provision within safe walking distance is provided and even if all the above facilities are put in place it still makes the Parc Derwen estate larger than originally planned.

**Highways Officer** – No objection subject to conditions.

**Land Drainage** – No objections subject to conditions.



**Dwr Cymru Welsh Water** – No objections subject to conditions.

**Street Scene (Waste & Recycling)** – Private access roads can limit accessibility by the Council's waste contractor. This may result in residents having to deposit waste and recyclates for collection beside the nearest adopted footpath. The Developer should consider provision of a suitable collection point to avoid inconveniencing other residents

**South Wales Police** – Generally pleased with the site layout. A copy of these observations have been forwarded to the applicant company.

**Glamorgan Gwent Archaeological Trust** – No objection.

**Shared Regulatory Services – Environment Team** – No objections subject to conditions.

## **REPRESENTATIONS RECEIVED**

**Councillor Amanda J Williams (Local Member):** I would like to see a condition in Planning that the outstanding play parks on Parc Derwen are completed prior to commencement of this development. This development exceeds the original number of houses and so it is unfair that the existing residents are still waiting for play parks. There has never been any urgency for Persimmon to complete the play parks and if this isn't added as a condition then I would like to see it discussed at Planning Committee. I fear that without such a clause, the parks will be left until all houses are completed and there will be no safe areas of play for the children on the estate for many more years.

Objections have been received from the following addresses:

28 Heol Stradling  
33 Ffordd y Draen  
9 & 16 Trem Gwlad Yr Haf, Coity  
6 Maes Y Coed Castan, Coity,  
73 & 100 Clos Yr Eryr, Coity  
6 Heol Spencer, Coity

The following is a summary of the objections received:

- The number of planned dwellings will exceed the overall numbers agreed for Parc Derwen – the site infrastructure cannot accommodate additional housing;
- Coety and Litchard schools are full so there is insufficient space for children in these houses, they would have to be bussed to Coychurch assuming there is space. The local school in Coity has already reached capacity. These additional houses will bring with it, more children, for which they cannot attend the local school;
- The approved play parks have not been completed – the roads are unfinished and are not adopted – lots of areas across the site are unfinished.
- The on-site facilities (shops, etc.) have not been provided.
- The School bus stops are located by the proposed site. Although a traffic management plan is submitted, what other safety measure will be taken in this area. There have already been accidents.

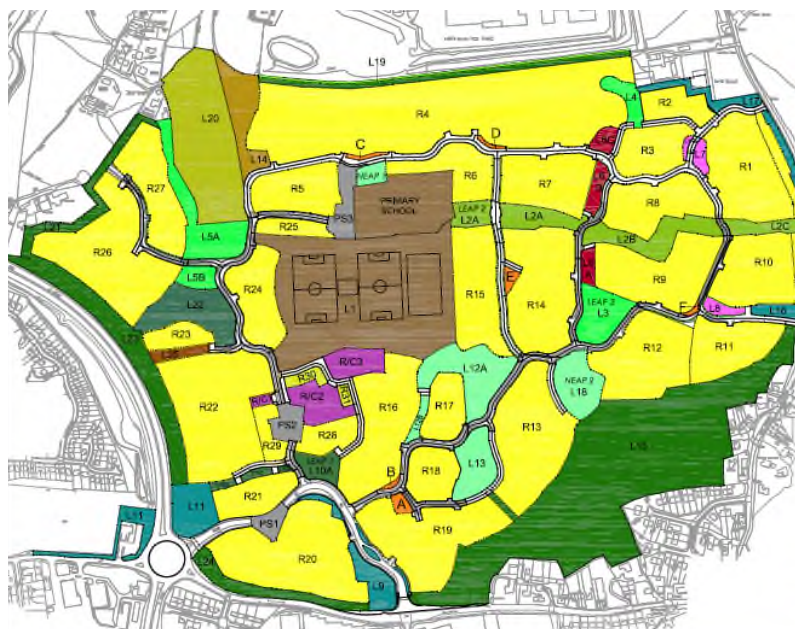
## **COMMENTS ON REPRESENTATIONS RECEIVED**

A number of the objections raised are addressed more generally in the appraisal section of the report. The following specific comments are provided in response:

As a full application, it is not bound to the numeric requirements of the Outline Planning

permission. Nevertheless, understanding whether the existing infrastructure (the road network, the site drainage, the school provision etc.) can accommodate any uplift on housing numbers is a material consideration. However, based on the consultation responses received, the road network can accommodate the development and will not require any improvements to existing roads and junctions. Capacity also exists within the foul sewage network and surface water will be disposed of in a sustainable manner. The Section 106 contributions that will be realised from this development will go towards the provision of a permanent extension to or a mobile classroom within the grounds of Coety Primary School, catering for the child places that will be generated by this development. Concerns about accessing doctors and dentists goes beyond the control of the Local Planning Authority. There was no requirement for the provision of such facilities on Parc Derwen.

The delivery of play areas across Parc Derwen is controlled by the original S106 obligation and agreed phasing schedule. Any failure on the part of the developer to comply with these agreements can be the subject of enforcement and legal action. In April of this year Persimmon Homes submitted play area designs for three locations: NEAP 1, LEAP 2, LEAP 3 and LEAP 10A which can be located on the plan below:



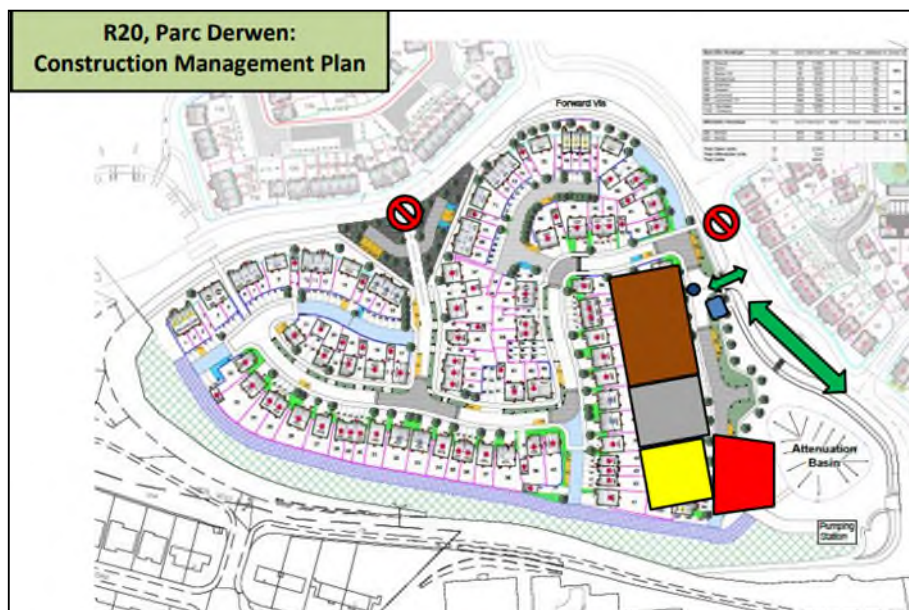
**Fig. 4 – Individual Parcels**

The designs are the subject of discussions with the Council's Parks Department but there is a clear commitment from the developers to deliver these play areas in the forthcoming months, irrespective of the decision on this Planning application. It should be noted that LEAP 10A lies immediately to the north of this application site. The Community Council and residents have also referenced a failure to provide litterbins on the estate. This is not a requirement of the Planning permission and is a matter to be discussed between the developer(s) and the Street Scene Department of the Council.

The S106 obligation did not include a timeframe for the construction of the retail units other than a requirement to construct a road to an adoptable standard to the district centre land prior to the occupation of the 750<sup>th</sup> dwelling. That obligation has been satisfied. Nevertheless, a new retail centre would have significant benefits to the community and would reduce the number of trips that are currently made off site. The Reserved Matters submission to construct the retail centre is also on the agenda for this Committee (P/19/656/RES refers). The S106 obligation for this site will include clauses relating to

affordable housing which will be delivered across both sites – 7 intermediate units on R20 and 14 social rented units in the district centre. Occupations on this housing phase will be controlled and tied to the delivery of affordable housing offering some certainty that the retail development will be commenced.

Two bus stops are located on Heol Stradling close to the proposed ‘village square’ and one of the access points to this phase of the development. The stops are currently used as a school drop off by both public school transport and private bus hires. In 2019, a road traffic accident involving a school bus and a construction vehicle took place near the stops. The incident was subject to review and it was concluded that the fault rested with the drivers. Consideration has been given to re-siting the stops but alternative locations are limited. Persimmon Homes are mindful of the situation and the concerns of the local member and community and have submitted a construction management plan that confirms that all construction vehicles during the initial phases will be from Bryn Stradling to the east of the application site – see extract plan below:



**Fig. 5 – Construction Management Plan**

## POLICY CONTEXT

The relevant policies and supplementary Planning guidance are highlighted below:

- Policy SP1           Regeneration Led Development
  - Policy PLA1        Settlement Hierarchy and Urban Management
  - Policy SP2         Design and Sustainable Place Making
  - Policy PLA11      Parking Standards
  - Policy SP12        Housing
  - Policy COM3       Residential Re-Use of a Building or Land
  - Policy COM4       Residential Density
  - Policy COM5       Affordable Housing
  - Policy COM11     Provision of Outdoor Recreation Facilities
  - Policy SP14        Infrastructure
- 
- Supplementary Planning Guidance Parc Derwen Development Brief
  - Supplementary Planning Guidance Parc Derwen Detailed Design Code and Design Guidance
  - Supplementary Planning Guidance Note 02 House Extensions
  - Supplementary Planning Guidance Note 08 Residential Development

- Supplementary Planning Guidance Note 17 Parking Standards
- Supplementary Planning Guidance Note 19 Biodiversity and Development

In the determination of a Planning application, regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan.

The following Welsh Government Planning Policy is relevant to the determination of this planning application:

Planning Policy Wales – Edition 10 – December 2018 – National Sustainable Placemaking Outcomes: Creating and Sustaining Communities; Making Best Use of Resources; Maximising Environmental Protection and Limiting Environmental Impact; Growing our Economy in a Sustainable Manner and Facilitating Accessible and Healthy Environments.

#### Planning Policy Wales TAN 12 Design

Local Development Plan Policy SP2 (Design and Sustainable Place Making) is the overarching policy which should be considered in the assessment of all Planning applications. It states:

All development should contribute to creating high quality, attractive, sustainable places, which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by:

- 1) Complying with all relevant national policy and guidance where appropriate;
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- 3) Being of an appropriate scale, size and prominence;
- 4) Using land efficiently by:
  - (i) Being of a density which maximises the development potential of the land whilst respecting that of the surrounding development; and
  - (ii) Having a preference for development on previously developed land over Greenfield land;
- 5) Providing for an appropriate mix of land uses;
- 6) Having good walking, cycling, public transport and road connections within and outside the site to ensure efficient access;
- 7) Minimising opportunities for crime to be generated or increased;
- 8) Avoiding or minimising noise, air, soil and water pollution;
- 9) Incorporating methods to ensure the site is free from contamination (including invasive species);
- 10) Safeguarding and enhancing biodiversity and green infrastructure;
- 11) Ensuring equality of access by all;
- 12) Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected;
- 13) Incorporating appropriate arrangements for the disposal of foul sewage, waste and water;
- 14) Make a positive contribution towards tackling the causes of, and adapting to the impacts of Climate Change; and
- 15) Appropriately contributing towards local, physical, social and community infrastructure, which is affected by the development.

The supporting text to this Policy advises that Policy SP2 demands a high quality of design incorporating equality of access in all development proposals and seeks to ensure that new built development is sensitive to its surrounding environment.

## **APPRAISAL**

The application is referred to Committee to consider the objections raised by the Community Council and local residents.

The Planning system manages the development and use of land in the public interest, contributing to improving the economic, social, environmental and cultural well-being of Wales, as required by the Well-being of Future Generations (Wales) Act 2015. It should reconcile the needs of development and conservation, securing economy, efficiency and amenity in the use of land and protecting natural resources and the historic environment.

A well-functioning Planning system is fundamental for sustainable development and achieving sustainable places (Paragraph 1.2 of Planning Policy Wales - Edition 10 – December 2018 refers).

Up-to-date Local Development Plans (LDPs) are a fundamental part of a plan-led Planning system and set the context for rational and consistent decision making in line with national policies. Planning applications must be determined in accordance with the adopted Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 refers).

The Well-being of Future Generations (Wales) Act 2015 places a duty on public bodies (including Welsh Ministers) to carry out sustainable development and it is accepted that a plan-led approach is the most effective way to secure sustainable development through the Planning system.

The main issues in the assessment of this application are whether:

- The principle of developing this land for housing accords with national and local Planning policy and any other material considerations;
- the existing infrastructure can accommodate the number of units proposed in relation to the highway network, site drainage, provision of education, open space and play facilities and other community facilities;
- the design of the layout and proposed housetypes achieves the high standards of design that is required by the Parc Derwen Detailed Design Code and Design Guidance;
- The development will significantly impact on the living conditions and well-being of residents that live in close by and the extent to which any impacts can be minimised by the imposition of planning conditions;
- The development adversely impacts on the site's biodiversity interests;

**Whether the principle of developing this land for housing accords with national and local planning policy and whether the existing infrastructure can accommodate the number of units proposed in relation to the highway network, site drainage, provision of education, open space and play facilities and other community facilities:**

The site is located within the primary key settlement of Bridgend as defined by Policy PLA1 Settlement Hierarchy and Urban Management of the Bridgend Local Development Plan (LDP) adopted in 2013. Policy PLA1 states that development in the County Borough will be permitted where it provides the maximum benefits to regeneration at a scale that reflects the role and function of the settlement.

The site is also located in the Bridgend Strategic Regeneration Growth Area as defined by Policy SP1 Regeneration-Led Development.

The site is allocated for regeneration and mixed use development as defined by Policy PLA3 of the LDP. Policy PLA3 states that the regeneration of brownfield and under-utilised sites within defined settlements that provide an appropriate mix of land uses will be permitted. Specifically, PLA3(1) allocates the site for up to 1,515 residential units, community and education facilities, playing fields, accessible natural greenspace and retailing.

As stated earlier in the report, the site benefits from an existing Outline consent and is subject to a detailed design code and Section 106 Agreement however, the proposal of 102 dwellings would exceed the 1,515 threshold of units allocated in the LDP and approved by the Outline Planning permission. So whilst the principle of residential development has already been established on this site, the uplift in numbers for this site proposed by this application must be considered in the light of the likely impacts on local infrastructure.

The submitted Transport Assessment (TA) assesses the impact of the development on the two site access points:

- Junction 1 - Heol Stradling/Heol West Plas/A4061 roundabout and
- Junction 2 - Bryn Stradling/Heol West Plas/Main Avenue signalised junction.

An independent third party review of the TA by a third party consultant (ARUP) states:-

*The TA states that no material change in operating conditions at Junction 1 is likely. Given that conservative roundabout geometry inputs have been used, this conclusion is acceptable.*

*The proposed development will result in increases in Degree of Saturation at Junction 2 of up to 3% on the Heol Stradling arm, which is not considered to be a material change. The impact of the development on other arms is relatively marginal.*

*The conclusions of the TA in terms of providing no mitigation at these junctions is therefore considered reasonable.*

Notwithstanding this view, it should be appreciated that the original Transport Assessment which established the development ceiling, included for the site being served by its own district centre which would have provided for some reduction in vehicular movements to/from Parc Derwen.

The district centre has yet to be developed but is the subject of application P/19/656/RES which is also being considered at this Development Control Committee meeting. Consideration has been given to the imposition of planning conditions that prevent the occupation of any unit that would be constructed on this phase above the 1514 permitted until the district centre has been completed. The evidence does not support such an approach and the Council must also be mindful that under the S106 Agreement there is no requirement to build the centre only to construct the service road which has been carried out. Later in this report, the provision of affordable housing as part of this development is considered and the applicant company are offering to deliver on this phase and as part of the district centre development. Clauses in the agreement will control its implementation and will only allow a defined number of market units to be constructed before work is commenced on the affordable housing on the district centre.



Evidence submitted with the application and the responses received from consultees suggests that the additional units can be accommodated without materially affecting traffic on the highway network and more specifically through the roads and junctions on Parc Derwen. Capacity also exists within the site drainage to serve the development.

With reference to the potential impact on local education capacity, which has been highlighted by the Community Council and local residents, the following number of pupils will be generated by the additional number of housing units above the figure agreed as part of the outline permission, namely 47 dwellings:

- 3 Nursery places
- 11 Primary School places
- 9 Secondary School Places

The site lies within the catchment of Coety Primary and Pencoed Comprehensive schools. Whilst surplus capacity currently exists at Pencoed Comprehensive School, the lack of places for nursery and primary aged children at Coety Primary School is well established.

Based on the calculations above, a contribution of £228,382 would be required in accordance with SPG16 to provide additional places at primary level which the Council's Education and Family Support Directorate has indicated will be at Coety School in the form of additional classroom(s).

Concerning open space, Policy COM11 seeks the provision of 2.4ha of outdoor recreation space per 1000 people. It should be noted that no additional formal open/play space is proposed as part of this development. Persimmon Homes in seeking to address Policy COM11, have provided the following response:

*The scheme benefits from a high number of areas of open space including informal, equipped and the playing fields. Persimmon Homes have used the Welsh Government 2014 based householder projections for the average household size for Bridgend, which was estimated in 2019 to be 2.29. Based on this figure, the population of Parc Derwen is approximately 3,677. This would therefore require an open space provision of 8.8 Ha in line with Policy COM11. The consented schemes at Parc Derwen provide an approximate area of 21.2 ha of public open space broken down into the following areas:*

- 2.6 Ha Informal Open Space
- 1.4 Ha Equipped Areas of Play
- 4.9 Ha of Playing Pitches
- 12.3 Ha Informal areas of open space including woodland that is used for walking etc. (north west/south east of the site)

*The dwellings situated within R20 would be located within the recommended benchmark 'Fields in Trust' guidelines of a walking distance of 1,200 metres from playing pitches, 400 metres walking distance from an equipped area of play, and within 100 metres of the amenity space/informal open space which is required through the SAB process along the southern boundary of the development (0.36 Ha). The development would also comply with Policy COM11 as all dwellings would be located within 300 metres of accessible natural green space...*

Based on this evidence, the level of open space across the whole of Parc Derwen accords with the Council's current policies. Concerns about the implementation of the agreed areas of play have been highlighted and it does appear that the developers have not fully adhered to the agreed delivery plan. As stated above, designs for four areas are currently under review by the Council. In the supporting communications received from Persimmon

Homes there is a firm commitment to deliver these play facilities when agreed.

The framework of local Planning policies broadly support the development of housing on this allocated site. At a national policy level the sustainable placemaking outcomes provide the framework for achieving an optimal development and in this regard, the site compares favourably to those objectives in being accessible by means of active travel and public transport and having good connections to goods and services. Biodiversity will not be significantly compromised and the introduction of sustainable drainage features will contribute to better water management and resilience to climate change. Any potential negative impacts on infrastructure, in this case school places, can be mitigated in part through contributions secured by a Section 106 Agreement. Overall, the principle of developing this land for housing is acceptable.

**Does the design of the layout (and proposed housetypes) achieve the high standards of design that is required by the Parc Derwen Detailed Design Code and Design Guidance?**

The Local Planning Authority has adopted the Parc Derwen Detailed Design Code and Design Guidance (DDC & DG) as Supplementary Planning Guidance (SPG) and its aim is to help deliver a sustainable, distinctive development of the highest quality. This SPG includes a density plan, which divides the whole estate site between high, medium and low-density areas:-



**Fig. 6 – Housing Density Plan**

From the above extract, the application site is designated as medium density. A development of 102 dwellings on a site of just under 4 hectares would achieve a density of 26 units per hectare which accords with the SPG. The Section 106 Agreement attached to the original grant of Planning permission zones the application site within a defined Development Cell which defined a maximum number of dwellings that could be accommodated. As this application is a full submission, it is not bound to accord with the requirements of the S106 in this regard.

The Detailed Design Code has also divided the whole development site into five distinct character areas which are intended to be developed to reflect changing qualities in differing sections of the development site.



**Fig. 7 – Character Areas**

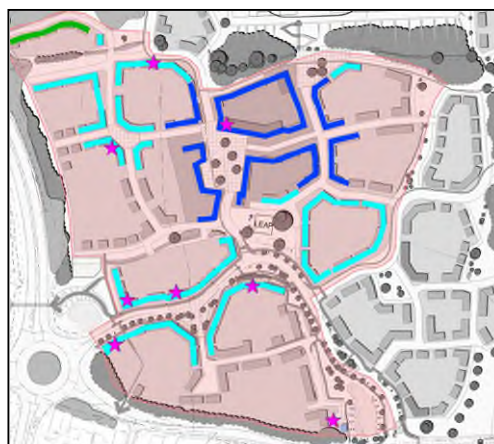


From the above extract, the application site falls within Area 1 designated as Urban Core. This area is defined within the SPG in the following manner:-



**Fig. 8 – Urban Core Designation**

Within this concept area, the guidance provides extra detail including categorising a hierarchy of highways with different forms of street frontages. The following extract shows that for the application site, the highways will be ‘Street Frontages’. All internal areas within the submitted layout carry no designation.



**Fig. 9 – Street Frontages**

The street frontage designation effectively encloses the northern boundary of the site with Heol Stradling and around the village square. The SPG clarifies that Street Frontages will be strongly defined and consist predominantly of terrace properties. Minor variations in the building line up to a maximum of 1m are encouraged. Parallel building frontages should be restricted to short length. Through negotiation, changes to the layout have been made and it now accords with this aspect of the Planning guidance. Groups of terraced properties broken up with larger detached units are proposed to form a building line that responds appropriately to the road network fronting the development. Landmark buildings have also been introduced at key locations.

In terms of the materials and architectural details, the SPG requires the street frontages to be mainly render with some elements of brick and stone. In all other areas the external walls will be a mixture of brick, stone and render. In respect of roofs, slate is expected to be the dominant material along the street frontages with grey ridge tiles with a small element of red/orange ridge tiles. In other areas plain and profiled tiles will be acceptable.

Chimneys along the street frontages should be the main feature. All chimneys should be in brick. A mixture of clipped eaves/verges and eaves with an overhang of bargeboards on verges are to be used in this area. Windows are to be sash and casement windows in white with vertical subdivision. Following negotiation the developer has amended the layout in order to achieve general compliance with the above mentioned materials requirements but it is not clear from the house type drawings whether these will accord with the architectural details particularly in respect of chimneys. It is therefore considered that an appropriately worded condition can ensure the inclusion of these features.

Overall, the proposed layout achieves the high standard of design required by the design code and by both local and national policy.

**Whether the development will significantly impact on the living conditions and well-being of residents that live close by and the extent to which any impacts can be minimised by the imposition of planning conditions**

One policy test for development is ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be affected.

The existing road network (Heol Stradling and Bryn Stradling) separates this phase of development from existing properties, minimising the impact of the new building works. Privacy standards will be achieved with the closest relationship being between the terrace block on Plots 72 and 74 with 13d to 15a Heol Stradling opposite. A distance of 19m, separated by the main access road, accords with the guidance. Similar arrangements are proposed on other parts of the layout particularly on the eastern side with properties on Bryn Stradling but here greater separation distances will be achieved. Overall, the layout will not result in significant compromises in the levels of privacy residents currently enjoy and will not cause any issues of over dominance or over-shadowing.

Any noise and disturbance experienced through the construction phases is inevitable but will be controlled through the agreed construction method statement.

To ensure compliance with the policy and the Council's guidelines, it is necessary to review the design of the layout to ensure that future occupiers of this new housing phase will also enjoy acceptable levels of privacy, light and outlook. Overall, the layout is relatively compact and whilst the housing density is medium in terms of the Parc Derwen guidance, amenity space is generally at a premium with the need to achieve the required car parking, a sustainable drainage system and the quantum of development proposed. Negotiations have secured improvements to the layout which has ensured that the required privacy standards will be achieved. Garden sizes are more modest for the smaller properties but provide acceptable levels of amenity.

**The impacts on the site's biodiversity interests**

Section 40 of the Natural Environment and Rural Communities Act 2006 states that 'every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. This "duty to conserve biodiversity" has been replaced by a "biodiversity and resilience of ecosystems duty" under Section 6 of the Environment (Wales) Act 2016 which came into force on 21st March 2016. Section 6 (1) states that "a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions." Section 6(2) goes on to state that "In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and, (e) the adaptability of ecosystems."

The Ecological Appraisal that has accompanied this application confirms that the biodiversity interests are principally found in the hedgerows on the eastern and southern boundaries of the site. They provide corridors for foraging and community activity for the local bat population. Although the eastern hedgerow will be removed, extensive planting is proposed and there are opportunities for other mitigation works (bat tiles/bat boxes) to be incorporated into the construction of the houses. As part of the proposed development, a 'green corridor' will be created along the southern boundary of the site incorporating existing hedgerows with the addition of new native species planting and the creation of wildflower margins allowed to develop as rough grassland. This will provide further potential foraging and commuting corridor for bats.

Overall, there will be no significant adverse residual impacts on the natural environment and biodiversity if conditions are attached to the recommendation. The development therefore accords with Policies SP2, SP4, ENV5 and ENV6 of the LDP and advice contained within SPG07 and SPG19, Planning Policy Wales 10 (December 2018) and TAN5

### **Section 106 Obligations;**

Policy SP14 of the Bridgend Local Development Plan requires that applications for development should include material proposals that deal with the fair and reasonable infrastructural requirements of a development and to mitigate any impacts that may arise because of the development. Contributions to education facilities have been discussed earlier in the report and the S106 obligation will secure a sum of £228,382 towards the provision of primary education. On the matter of open space provision, it is considered that the evidence presented by the developers would indicate that sufficient provision has been secured through earlier permissions and it is difficult to justify a contribution as part of this development. Local residents concerns are rightly focused on the delivery and implementation of existing commitments for the wider site, however, this is a separate Planning matter which the Council is progressing with the developer outside of the determination of this application.

Policy COM5 is triggered by this application and it requires 20% affordable housing in this location (21 units). Persimmon Homes are proposing the provision across this site (7 intermediate housing units) with the remainder as part of the district centre development, (14 social rented units – P/19/656/RES refers). This approach complies with the advice provided in SPG13 Affordable Housing but the delivery and timing of the affordable element on both sites will need to be secured through a Section 106 Agreement. Clauses to ensure that the two site developments are linked and the delivery tied to the market housing on this phase of the development will be included.

### **CONCLUSION**

Section 38(6) of the 2004 Act requires that if regard is to be had to the Development Plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

Factors to be taken into account in making Planning decisions (material considerations) must be Planning matters that is, they must be relevant to the regulation of the development and use of land in the public interest towards the goal of sustainability.

On balance and having regard to the above weighing up of all material considerations relevant to this scheme, the principle of developing this land for housing accords with national and local Planning policies. Despite the concerns offered, the current infrastructure provision is sufficient to serve the uplift in housing units on Parc Derwen with

any identified impacts being mitigated through the financial contribution secured through the S106 agreement. On matters of detail, the scheme generally achieves the high standards required by policy and guidance and where compromises are made, they are not sufficient to warrant a refusal of Planning permission. Access, parking, site drainage and biodiversity interests are appropriately addressed by the submitted layout.

Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

The application is therefore recommended for approval subject to a Section 106 Agreement, conditions and informative notes.

## **RECOMMENDATION**

(A) The applicant enters into a Section 106 Agreement to provide financial contributions as follows:

- i. Provide a financial contribution of £228,382 towards the provision of primary school places in Coety Primary School.
- ii. Provide a minimum of 20% of the units as affordable housing consisting of 7 intermediate units on the site subject of this application site and 14 social rented units as part of the development on the District Centre site (P/19/656/RES refers). The Agreement will include a timeframe for delivery that will be concomitant to the construction of the market housing on Phase R20.
- iii. The developer will be also be required to enter into a Section 106 Agreement to fund a financial contribution of £8,000.00 for a 20mph Traffic Order (within the parcel) to cover the cost of publication of the Order prior to the granting of any consent.

The Agreement will also include a Management Plan detailing a scheme for the future management and maintenance of the car parking and communal service areas on the District Centre Development (P/19/656/RES refers) to be submitted by the applicant company.

B) The Group Manager – Planning and Development Services be given delegated powers to issue a decision notice granting consent in respect of this proposal once the applicant has entered into the aforementioned Section 106 Agreement, as follows:

- 1 The development shall be carried out in accordance with the following approved plans and documents:

Site Location Plan LP10

Planning Layout PL01 – Revision L  
Engineering Sheet 1 – 10257-100-01 – Revision F  
Engineering Sheet 2 – 10257-100-02 – Revision E

638 Alnwick  
761 Barton  
761 Barton Corner – received on 9/12/19  
970 Windermere – Landmark Planning Drawing received on 17/1/20  
993 Delamare  
969 Derwent  
999 Lockwood  
999 Lockwood – Corner  
1115 Burnham  
1115 Burnham – Landmark Planning Drawing received on 9/9/19  
1222 Coniston

628 WHQS  
835 WHQS

Single and Double Garages – Elevations and Floorplans

Detailed Soft Landscape Proposals – TDA – 2504.01 – Revision D  
Landscape Specification and Management Plan – TDA – received 23/2/20  
SUDS Landscape Specification and Management Plan by TDA – received 23/2/20

Recommendations and Mitigation Measures included within:

Construction Management Plan – received 23/2/20  
Construction Method Statement – received 23/2/20  
Construction Traffic Signage Plan – received 23/2/20

Site Investigation Report – 11501/JJ/16/SI/Rev A

Ecological Appraisal – First Ecology - October 2019

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

- 2 Prior to their use on site, a detailed specification for, or samples of, the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: To ensure that the proposed materials of construction are appropriate for use on the development to protect the visual amenities of the area.

- 3 No development shall take place until a scheme for the comprehensive and integrated drainage of the site showing how foul drainage, highway, surface water, including the means to prevent run off from driveways discharging onto the highway, roof and yard water will be dealt with has been submitted to and agreed in writing the Local Planning Authority. The development shall thereafter proceed in accordance with the agreed scheme prior to any dwelling being brought into beneficial occupation.

Reason: To ensure safe drainage of the site to avoid flooding.

- 4 No development shall take place until details of the proposed floor levels of the buildings in relation to existing ground levels and the finished levels of the site have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: To ensure that development relates appropriately to the topography of the site and the surrounding area.

- 5 No development shall take place until details of fencing or other protective measures around the hedgerows running along the southern boundary have been submitted to and agreed in writing by the Local Planning Authority. The protective fencing or other agreed measures shall be implemented before any equipment, machinery or materials are brought onto the site for the purposes of the development and shall be retained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced/protected in accordance with this condition and the ground levels within the fenced/protected areas shall not be altered nor shall any excavation be made.

Reason: To safeguard the hedgerows in order to maintain and improve the appearance of the area in the interests of visual amenity and biodiversity.

- 6 No development shall commence until a scheme of waiting and loading restrictions along the site frontage with Heol Stradling and Bryn Stradling has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall include details of road markings and signage. Such scheme shall be implemented as approved by the Local Planning Authority prior to the development being brought into beneficial use.

Reason: In the interests of highway safety.

- 7 No development shall commence until a scheme of waiting and loading restrictions in the village green areas fronting Plots 13-16 & 67-71 has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall include details of road markings and signage. Such scheme shall be implemented as approved by the Local Planning Authority prior to the development being brought into beneficial use.

Reason: In the interests of highway safety.

- 8 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no development shall commence in respect of the dwellings on Plots 1-15, 41-46, 68-71, 75-81, 98-102 inclusive until a scheme for the location of refuse and recycling collection points has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall detail collection points located within a maximum of 30m of each dwelling. The collection points shall thereafter be constructed in accordance with the agreed design prior to the dwellings which they serve being brought into beneficial occupation and shall be retained and maintained in perpetuity.

Reason: In the interests of highway safety.

- 9 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no development shall commence until a comprehensive scheme for traffic calming restricting 85% tile traffic speeds to 20mph has been submitted to and agreed in writing by the Local Planning Authority. The scheme as agreed shall be implemented before any dwellings are occupied and shall be retained and maintained in perpetuity.

Reason: In the interests of highway safety.

- 10 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no development shall commence in respect of the dwellings on Plots 1, 3, 4, 5, 14, 15, 16, 24, 25, 55, 56, 68, 69, 70, 72, 73, 74, 83 & 84 or the immediately adjacent plots until a scheme for vehicular parking for those plots has been submitted to and approved in writing by the Local Planning Authority. The parking areas shall be implemented as agreed in permanent materials before the unit which it serves is brought into beneficial use and shall be retained for parking purposes in perpetuity.

Reason: In the interests of highway safety

- 11 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no development shall commence until a scheme for provision of visitor parking at a ratio of 1 space per 5 units has been submitted to and approved in writing by the Local Planning Authority. The visitor parking areas shall be implemented as agreed in permanent materials before the unit which it serves is brought into beneficial use and shall be retained for parking purposes in perpetuity.

Reason: In the interests of highway safety.

- 12 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no development shall commence in respect of the dwellings on Plots 13-16 & 67-71 until a scheme for turning facilities within the village green areas fronting those plots has been submitted to and approved in writing by the Local Planning Authority. Turning areas shall be implemented as agreed in permanent materials before the units which they serve are brought into beneficial use and shall be retained for purposes of vehicle turning in perpetuity.

Reason: In the interests of highway safety.

- 13 No development shall commence until a scheme for the provision of a shared 3m wide footway/cycleway linking the district centre at the North Western corner of 16 Llys Ceirios to the frontage of 25 Heol Stradling has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall include for required margins, signage, tactile paving, and bollards to prevent vehicles mounting the facility. Such scheme shall be implemented as approved by the Local Planning Authority prior to the development being brought into beneficial use and maintained and retained in perpetuity

Reason: In the interests of highway safety.

- 14 The proposed site access junctions onto Heol Stradling and Bryn Stradling shall be laid out with vision splays of 2.4m x 43m in both directions prior to the beneficial use of any unit served by those junction and shall be retained as such thereafter in perpetuity.

Reason: In the interests of highway safety.

- 15 The proposed accesses to the village green areas fronting Plots 13-16 & 67-71 shall be laid out with vision splays of 2.4m x 25 in both directions prior to the beneficial use of any of the units served by those areas and shall be retained as such thereafter in perpetuity.

Reason: In the interests of highway safety.

- 16 The proposed private drive access immediately south of Plot 16 shall be laid out with vision splays of 2.4m x 17m in both directions prior to the beneficial use of any unit served by that junction and shall be retained as such thereafter in perpetuity.

Reason: In the interests of highway safety.

- 17 The proposed private drive access immediately south of Plot 86 shall be laid out with vision splays of 2.4m x 17m in both directions prior to the beneficial use of any unit served by that junction and shall retained as such thereafter in perpetuity.

Reason: In the interests of highway safety

- 18 The proposed private drive access fronting plot 82 shall be laid out with a westerly vision splay of 2.4m x 17m prior to the beneficial use of any unit served by that junction and shall retained as such thereafter in perpetuity.

Reason: In the interests of highway safety.

- 19 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no development of Plots 59-60 shall commence until a scheme for a revised rear boundary to Plot 59 to provide for 1m x 1m pedestrian vision splay from the driveway of Plot 60 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved before any of the units on plots 59 – 60 are brought into beneficial use.

Reason: In the interests of highway safety.

- 20 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no dwelling shall be occupied until the individual driveway until a scheme for the provision of 1m x 1m pedestrian vision splays from the driveways has been submitted to and approved in writing by the Local Planning Authority. The driveways and vision splays shall be implemented as approved before any of the units are brought into beneficial use.

Reason: In the interests of highway safety.

- 21 The proposed walls and pillars to the rear of Plots 5 & 6 shall not exceed 0.6 metres in height above adjacent carriageway level for a minimum distance of 1m from the back of footway.

Reason: In the interests of highway safety.

- 22 No structure, erection or planting exceeding 0.6 metres in height above adjacent carriageway level shall be placed within the required vision splay areas at any time.

Reason: In the interests of highway safety.

- 23 No development shall commence until a scheme for the provision of 1 secure cycle parking space per bedroom per unit has been submitted to and approved in writing by the Local Planning Authority. The spaces shall be implemented as agreed before the development is brought into beneficial use and retained as such thereafter.

Reason: In the interests of promoting sustainable means of travel to/from the site.

- 24 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no development shall commence until a scheme for a 3m wide pedestrian cycle linking the internal site road adjacent to Plot 67 to the existing crossing point fronting Plot 75 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include for tactile paving, signage and the provision of physical features preventing vehicular traffic traversing the route. The scheme shall be implemented in accordance with the agreed



scheme prior to the beneficial use of the first dwelling and shall be retained as such thereafter in perpetuity.

Reason: In the interests of promoting sustainable means of travel to/from the site.

- 25 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no development shall commence until a scheme for a connection link adjacent to Plot 82 to the existing pedestrian cycle link fronting plots 80-88 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include for a 3m wide pedestrian/cycle link within a 4m corridor, signage, tactile paving and the provision of physical features preventing vehicular traffic traversing along the pedestrian/cycle link. The scheme shall be implemented in accordance with the approved scheme prior to the beneficial use of the first dwelling and shall be retained as such thereafter in perpetuity.

Reason: In the interests of promoting sustainable means of travel to/from the site.

- 26 Notwithstanding the details submitted on Planning Layout PL01 – Revision L, no development shall commence until a scheme for a connection link adjacent to Plot 5 to the existing pedestrian cycle link fronting Plots 1-5 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include for a 3m wide pedestrian/cycle link within a 4m corridor, signage, tactile paving and the provision of physical features preventing vehicular traffic traversing along the pedestrian/cycle link. The scheme shall be implemented in accordance with the approved scheme prior to the beneficial use of the first dwelling and shall be retained as such thereafter.

Reason: In the interests of promoting sustainable means of travel to/from the site.

- 27 No development apart from site clearance and preparation shall take place until a detailed remediation scheme and verification plan to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, controlled waters, buildings, other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WG / NRW guidance document ' Land Contamination: A guide for Developers' (2017),, unless the Local Planning Authority agrees to any variation.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

- 28 The remediation scheme approved by condition 26 above must be fully undertaken in accordance with its terms prior to the occupation of any part of the development. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Within 6 months of the completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WG / NRW guidance document ' Land Contamination: A guide for Developers' (2017),, unless the Local Planning Authority agrees to any variation.

Reason : To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 29 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the Local Planning Authority within 2 weeks of the discovery of any unsuspected contamination.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 30 Any topsoil [natural or manufactured],or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes. Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the Local Planning Authority.

Reason: To ensure that the safety of future occupiers is not prejudiced.

- 31 Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes. Subject to approval of the above, sampling of the material received at the development site to verify that the imported material is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the Local Planning Authority.

Reason: To ensure that the safety of future occupiers is not prejudiced.

- 32 Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme, which shall

be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material, which meets site-specific, target values approved by the Local Planning Authority shall be reused.

Reason: To ensure that the safety of future occupiers is not prejudiced.

- 33 No dwelling shall be occupied until the access road serving the dwelling has been laid out and constructed to a minimum of binder course level of bituminous material at gradients that do not exceed 8.33% (1 in 12) in accordance with the approved layout before the dwelling is first occupied and thereafter the road shall be completed to finished course prior to the beneficial occupation of the last dwelling in such street in accordance with a programme agreed with the Local Planning Authority.

Reason: To ensure safe and satisfactory vehicular and pedestrian access to the dwellings is provided in the interests of highway safety.

- 34 No dwelling shall be occupied until the individual driveway and parking bays serving the dwelling have been laid out as approved and completed in permanent materials at gradients that do not exceed 8.33% (1 in 12) and shall be retained thereafter for parking purposes in perpetuity.

Reason: To ensure the provision and retention of sufficient off street parking in the interests of highway safety.

- 35 None of those dwellings detailed with a garage shall be occupied until the garage for the dwelling has been completed as approved.

Reason: To ensure the provision and retention of sufficient off street parking in the interests of highway safety.

- 36 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order, 1995 (or any Order revoking or re-enacting that Order), any garage within the approved layout shall be retained as such at all times and shall not be converted to living accommodation or business usage.

Reason: To ensure the retention of adequate off street parking in the interests of highway safety.

- 37 \* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS \*

- a. The submitted layout meets the Authority's privacy standards and the design of the dwellings will not adversely impact on the visual amenities of the area nor harm neighbours' amenities.
- b. Street nameplates reflecting the official street name allocated by the Council shall be erected by the developer at locations and to a specification to be agreed with the Council prior to occupation of the first dwelling house in the street that has been so allocated.
- c. An information pack containing public transport information including timetables shall be provided by the developer on occupation of each residential unit.
- d. The observations received from Dwr Cymru/Welsh Water and Designing Out Crime Officer, which are available on the Planning pages of the Council's website are highlighted for the developer's information and consideration.

- e. In order to satisfy the drainage condition, the developer must provide:-
- A Detailed foul and surface water drainage layout identifying both sewers and their connection points to the public sewerage system
  - Agreement in principle from Dwr Cymru/Welsh Water with regards to the proposed foul and surface water connections
  - Agreement from Dwr Cymru/Welsh Water for the relocation of the existing sewers.
- f. The contamination assessments and the affects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for:
- (i) determining the extent and effects of such constraints;
  - (ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates/ soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site
    - Unprocessed / unsorted demolition wastes.
    - Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
    - Japanese Knotweed stems, leaves and rhizome infested soils. In addition to Section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and
  - (iii) the safe development and secure occupancy of the site rests with the developer.
- g. Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land.
- h. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination
- i. The Highway Authority will require the Developer to enter into legally binding Section 111 Licence Agreement including an appropriate bond to secure the proper implementation of the proposed highway works and the adoption of the same as part of the maintainable highway. The commencement of the works on or abutting the existing maintainable highway will not be permitted until such time as the Agreement has been concluded.

**JONATHAN PARSONS**  
**GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

**Background Papers**  
None

**REFERENCE:** P/19/656/RES

**APPLICANT:** Persimmon Homes: West Wales Dragon House, Parc y Ddraig, Penllergaer Business Park, Swansea SA4 9HJ

**LOCATION:** Land north of Heol Stradling, Parc Derwen, Coity CF35 6AN

**PROPOSAL:** Reserved Matters for the construction of 2 blocks containing 7 retail units and 16 flats above with 4 dwellings and parking and associated infrastructure

**RECEIVED:** 28 August 2019

## **APPLICATION/SITE DESCRIPTION**

Parc Derwen was approved in Outline subject to conditions and a Section 106 Agreement in November 2007 (P/00/288/OUT refers). The development site was to provide a maximum of 1515 dwellings and included a district retail centre, primary school, playing fields and community facilities.

The Detailed Design Code and Design Guidance (2005) which is adopted supplementary Planning guidance for Parc Derwen indicated that the district centre would provide one of the natural focuses within the development and would be positioned on one of the main routes through the estate to benefit from passing trade. Community, commercial and residential premises were to be developed in the centre with the buildings being of flexible design to allow for conversion to retail and employment uses. The guidelines envisaged the Main Street Frontage having a strongly defined frontage of properties with gaps kept to a minimum. There would be a consistent building line but one which avoids parallel building lines on opposite sides of the street. A mix of 2, 2½, 3 and 4 storey buildings would reinforce the character of the Main Street Frontage. 3 and 4 storey buildings would be particularly appropriate fronting onto squares within the streetscene and may contain commercial elements. Where there are 3 and 4 storey buildings special consideration should be given to their architectural quality and richness.

The S106 obligation and Planning conditions required the development to be carried out in accordance with the Site Development Brief dated November 2001 and the Detailed Design Code and Design Guidance 2005. Condition 5 of the Outline Planning consent required that no retail unit should exceed 1200 square metres in floor area whether by initial construction or by later amalgamation.

This Reserved Matters submission is pursuant to condition 1 of P/00/288/OUT which requires the approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site of the district centre and condition 1 of P/17/686/RLX which required the submission of applications for approval of the reserved matters being made before 31 December 2019.

As originally submitted, the application proposed a development of 9 retail units and 44 flats with parking and associated infrastructure. Negotiations have resulted in a scaling-down of the development and the current plans propose 7 retail units with 16 flats and four dwellings.

The application site lies in the south western quarter of Parc Derwen and over two areas of land, either side of Ffordd y Celyn which is part of the main circulatory access road serving the estate. The eastern parcel will accommodate the Alpha Block which will comprise 3 retail units on the ground floor with residential accommodation above. The area fronts Ffordd y Celyn but shares all other boundaries with existing dwellings on a

relatively new housing phase. The southern boundary is defined by a 2.0m high close boarded fence which encloses the rear gardens of 16-21 Llys Ceirios. From the submitted drawings, the gardens of these properties range in length from 7.2m to 14m. Following the natural topography the properties are below the development site. Properties along Llys Ceirios also adjoin the eastern boundary of the site and for a number of properties this will be beyond their rear gardens which are demarcated by a 2.0m high fence. 33 and 34 Llys Ceirios are located on a small cul-de-sac of the main estate road and will share their side boundaries with the development site. No principal habitable room windows have been inserted in the side elevations of these properties. Properties along the northern boundary are the most recently constructed and include the side elevations and side gardens of 2 Ffordd y Celyn and 3 Clos y Celyn and the rear gardens and parking spaces of 1 and 2 Clos y Celyn which are set back some 12m from the development site.



**Fig. 1 - Eastern Parcel – Alpha Block**

The main building footprint is rectangular in form and will measure 41m x 18m. Traditional pitched roofs will span much of the building apart from a hipped roof construction over the northern corner of the development. Maximum heights will vary to account for the changing ground levels and a transition from a 3 to a 2 storey building. At the highest point on the northern end of the building, the eaves and ridge will measure 9.8m and 13.7m. At the southern end, the 2 storey roof will form a gable that rises to a maximum of 10.4m.

The 3 storey block will accommodate a convenience foodstore with a gross floor area of 414 square metres. Arched openings formed of coursed stonework will accommodate the shop entrance. To the rear an enclosed service yard will be constructed to serve the retail units and will accommodate trolley storage, plant and refrigeration units. Residential accommodation will be provided above over 2 floors and will consist of 10 single bedroom units and 2 two bedroom units. A central service and access core will link the 2 and 3 storey elements of the Alpha Block and will provide access to all the residential accommodation including the remaining 4 single bedroom units which will be provided at first floor level over retail units 2 and 3.

Residents will access the accommodation at the front of the retail centre but amenities including bin and cycle storage areas will be accessible via a rear access. This will also connect to the service area and dedicated retail and residential parking facilities.

25 car parking spaces will be provided for the 16 living units with 20 bays being provided for shoppers. Parking for the disabled will be provided at the front (8 spaces) with the remaining spaces arranged around the service and access road and positioned close to the northern and eastern boundaries, shared with new and existing dwellings. The parking spaces will be set back from the boundary to allow for the planting of a new hedgerow.

The service yard to the rear of the units and the residential parking will be accessed via a new road junction, formed at the northern corner of this phase and directly opposite the junction with Clos yr Eirlys. Whilst residents will access and egress through this junction, service and delivery vehicles will egress via a gated exit at the southern end of the Alpha Block. This will be controlled by the retailers and landlords and through an agreed management plan.

External finishes will comprise brindle red brick on the rear elevation overlooking the service area and car park with panels of smooth grey weather boarding on the corner of the 3 storey block and over the central service and access core. Brickwork will also be used on the southern gable of the 2 storey block and at first and second floor levels on the front elevation. Coursed stonework will be the predominant material on the 3 storey corner block and on the shop frontages. Grey interlocking tiles will be used on all roof planes with a louvered cupola crowning the high hipped roof.

The public realm areas to the front of Alpha Block will provide level access to the units although natural ground levels will result in some retaining work (finished in coursed stonework) and a raised concourse to the front of the main retail unit. Footpaths and cycleways will follow the natural change in ground levels rising from the southern to the northern site boundaries. Hard and soft landscaping will provide the setting for the cycle stands and parking areas.



**Fig. 2 - Western Parcel Beta Block**



The western parcel will accommodate the Beta Block and shares its western boundary with the rear gardens of 4-12 Bryn Eirlys, the side boundary of 1 Clos yr Eirlys and 2 Clos Coed Castan. The northern site boundary fronts the highway (Clos yr Eirlys) and the properties opposite with the southern boundary also fronting the highway and more distant properties on Clos Coed y Castan. Land levels are currently raised above the original ground levels with the site having been used for the deposition of material arising from other development sites.

The development on this area comprises a single storey block of retail units positioned centrally and a minimum of 11m and a maximum of 14m from the shared boundary with properties on Bryn Eirlys. The building footprint will measure 31m x 18.4m with a pitched roof reaching a height of 9.4m at the southern end and 8m at the northern end to reflect the natural fall in level across the site. The walls of the building will be finished in a mixture of red brick on the rear and part of the side elevations with the front and side returns finished in coursed stonework. Grey interlocking concrete tiles will be utilised on the roof with all windows, doors and ironmongery also finished in grey.

The public realm area to the front of the retail units will include pedestrian walkways, seating area, cycling bays and a landscaping zone for an avenue of trees. A 3m wide footpath/cycleway will be constructed along the site frontage connecting to the existing network. 6 car parking spaces for the retail development will be provided on the northern side of the retail units within a landscaped area. Access will be directly onto Clos yr Eirlys.

The servicing and parking area will be created to the rear and southern side of the units served from a single point of access positioned to the south of the retail block and some 36m north of the junction of Ffordd y Celyn and Clos y Coed Castan. It will connect to an extended loading bay and turning area, which will be set back, behind a 2.8m wide landscaping zone that will be formed along the boundary with 4-12 Bryn Eirlys. At the northern end of the loading bay and adjacent to the boundary with 1 Clos yr Eirlys, a small bin store will be constructed measuring 5.4m x 4.4m with a pitched roof reaching a height of 3m. A total of 16 spaces will be laid out either side of the service access road and close to the new vehicular access.

Four dwellings will be constructed on the southern part of the western parcel, accessed from Clos Coed y Castan and Ffordd y Celyn. A detached 3 bedroom dwelling will occupy Plot 1 which adjoins 2 Clos y Coed Castan. The Derwent house type which has been used on a number of phases on Parc Derwen, will be positioned forward in the plot relative to the neighbouring dwelling which is positioned behind a parking area. The siting and layout affords a relatively generous rear garden for the dwellings, the boundaries of which are shared with the proposed retail centre parking and servicing area and for Plot 1, the side garden of 2 Clos Coed y Castan. A single storey garage will be constructed in the rear gardens of both Plots 1 and 2 accessed via driveways formed to the sides of the respective dwellings. A pair of 3 storey semi-detached dwellings adapted for this corner site will occupy Plots 3 and 4. The Ullswater house type is a 3 bedroom unit with a standard pitched and gable roof reaching a maximum height of 3.5m from ground level. Pedestrian and vehicular access will be from the road frontages on Clos Coed y Castan and Ffordd y Celyn. Again relatively generous rear gardens will be provided for the dwellings which will share their rear boundary with the proposed retail centre parking and servicing area. The Derwent will be finished in red brick whilst the Ullswater corner units will be finished in natural stone cladding. The roofing material for both house types will comprise grey tiles.

Detailed soft landscaping proposals for the retail centre have formed part of this Planning submission with the key elements being the planting of a native hedgerow along the boundaries of the eastern parcel, the landscape zone at the southern end of the service

yard to the rear of the Alpha Block which will incorporate hedge planting, a grassed and wildflower area and a number of native trees. Planting, comprising shrubs, ornamental and native trees will frame the public realm areas to the front and side of the retail blocks. The shared boundary between the western parcel of land and the existing properties on Clos y Coed Castan will also be landscaped but will include a line of native trees to be planted inside the existing boundary fence.

The application has also been accompanied by a noise survey undertaken by Environoise Consulting Limited on behalf of the applicant company. The findings will be considered later in the assessment of this application.

### **RELEVANT HISTORY**

P/00/288/OUT – S106 & Conditional Consent– 14 November 2007

Residential Development, District Centre, Primary School, Community Facilities & Open Space

P/04/1715/FUL – Conditional consent – 13 November 2007

Access road and drainage works

P/08/52/FUL – Conditional consent – 19 March 2008

Extension to access roads

P/12/822/RLX – Conditional consent – 4 January 2013

Extend period for submission of reserved matters

P/17/686/RLX – Conditional consent – 17 October 2017

Further extension to period for submission of Reserved Matters

### **PUBLICITY**

The application has been advertised on site. Neighbours have also been notified of the receipt of the application and to the submission of amended plans with consultation letters sent on 19 September 2019, 18 March 2020 and 9 April 2020. A more limited consultation of properties that adjoin the eastern phase of the development was carried out on 28 May 2020. The period allowed for response to consultations/publicity has expired.

### **CONSULTATION RESPONSES**

**Highways Officer** – No objection subject to conditions.

**Land Drainage** – No objections subject to conditions.

**Dwr Cymru Welsh Water** – No objections subject to conditions.

**South Wales Police** – Generally pleased with the site layout. A copy of these observations has been forwarded to the applicant company.

**Glamorgan Gwent Archaeological Trust** – No objection.

**Shared Regulatory Services – Environment Team** – No objections subject to conditions

**Head of Street Scene (Waste & Recycling)**: There appears to be little consideration for waste management to serve a multitude of flats and retail units. Bin store capacity is limited and the locations are inaccessible for refuse and recycling vehicles.

## REPRESENTATIONS RECEIVED

**Councillor Amanda J Williams:** I still require further reassurance with a number of elements of the plans regarding parking. What will prevent cars from parking on the main road, what will prevent them having to reverse into the main road, what will prevent cars mounting the pavements to access some of the parking spaces, I'm fearful that there are not enough parking spaces for shops and residential.

Objections to the original Planning submission were received from the occupiers of the following properties:

31 Trem Gwlad yr Haf:  
9 Ffordd y Cigfran  
25 Maes y Cadno  
20, 22 & 30 LLys Ceirios  
3 & 4 Clos yr Eirlys  
10 & 12 Bryn Eirlys  
1 Ffordd y Celyn  
11 Llys y Ddraenen Wen  
12 Llys y Brwyn  
2 Gerddi'r Briallu  
6 Maes y Coed Castan

The objections can be summarised as:-

- Scale of development – too many residential units – site infrastructure cannot cope with additional traffic, the schools with the additional pupils – the pressure on the whole community is too great – high rise unaesthetically pleasing design, overbearing on surrounding homes – should be retail development alone;
- Impacts on the amenities of residents - 3 storey development will overlook adjoining properties and will limit privacy and daylight to the adjoining gardens – noise from the commercial units (customers/deliveries/waste collection) will impact living conditions; will the proposed uses be compatible with the residential uses above;
- Highway safety – the site is located on the main thoroughfare - more vehicles parking and reversing out will increase the risk of pedestrian/car collisions – scale of development would lead to congestion on the road network;
- Developer's previous failings – the developer has failed to complete other works on site – did not inform prospective purchasers of the proposed development;

In response to the re-consultations undertaken, concerns/objections were received from the following properties:

12 Bryn Eirlys  
1 Ffordd y Celyn  
6 Maes y Coed Castan  
20, 22 & 30 LLys Ceirios

The reduction in the unit numbers (flats and retail units) was broadly welcomed. A number of issues were however raised which are summarised below:

- Maintain that additional living units are unnecessary and concerns about impact in site infrastructure remain.
- Concern about noise levels around the retail units remain – deliveries could occur 24 hours a day which would have an unacceptable impact on the living conditions of

residents - the landscaping surrounding the proposed planning does not include acoustic fencing which should be in keeping with the surroundings – 3m high fencing would be unacceptable – dominate outlook from gardens and dwellinghouses.

- Object to trees being planted on areas backing on to the boundaries of existing properties as this could cause insurance and maintenance issues should they become oversized.
- Concern about the lack of a marked pedestrian crossing (Zebra or Pelican) between the 2 commercial sites, as pedestrians will be crossing the main arterial route on the estate.
- The parking spaces for the corner house (Plot 4) which appear to be on a slight bend and could result in vehicles reversing into the path of oncoming traffic – suggest this unit is removed and the area landscaped.
- Cars could mount the kerbs outside houses if the spaces are full – could the Council consider yellow line to prevent this happening.

### **COMMENTS ON REPRESENTATIONS RECEIVED**

The objections will be considered in the appraisal section of the report.

### **POLICY CONTEXT**

The most relevant policies relating to the proposed development from the adopted Bridgend County Borough Council Local Development Plan (2013) are:

Strategic Policy SP2	Design and Sustainable Place Making
Strategic Policy SP3	Strategic Transport Planning Principles
Strategic Policy SP10	Retail and Commercial Hierarchy
Policy ENV5	Green Infrastructure
Policy ENV7	Natural Resource Protection and Public Health
Policy PLA4	Climate Change and Peak Oil
Policy PLA11	Parking Standards
Policy REG5 (1)	Local Retailing and Commercial Development

SPG07: Trees and Development

SPG19: Biodiversity and Development: A Green Infrastructure Report

Policy SP2 (Design and Sustainable Place Making) in particular states:

All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by:

- 1) Complying with all relevant national policy and guidance where appropriate;
- 2) Having a design of the highest quality possible, whilst respecting and enhancing local distinctiveness and landscape character;
- 3) Being of an appropriate scale, size and prominence;
- 4) Using land efficiently by:
  - i. being of a density which maximises the development potential of the land whilst respecting that of the surrounding development; and
  - ii. having a preference for development on previously developed land over greenfield land;
- 5) Providing for an appropriate mix of land uses;
- 6) Having good walking, cycling, public transport and road connections within and

- outside the site to ensure efficient access;
- 7) Minimising opportunities for crime to be generated or increased;
  - 8) Avoiding or minimising noise, air, soil and water pollution;
  - 9) Incorporating methods to ensure the site is free from contamination (including invasive species);
  - 10) Safeguarding and enhancing biodiversity and green infrastructure;
  - 11) Ensuring equality of access by all;
  - 12) Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected;
  - 13) Incorporating appropriate arrangements for the disposal of foul sewage, waste and water;
  - 14) Make a positive contribution towards tackling the causes of, and adapting to the impacts of Climate Change; and
  - 15) Appropriately contributing towards local, physical, social and community infrastructure which is affected by the development.

The supporting text to this Policy advises that Policy SP2 demands a high quality of design incorporating equality of access in all development proposals and seeks to ensure that new built development is sensitive to its surrounding environment.

In the determination of Planning applications, regard should also be given to the requirements of National Planning Policy, which are not duplicated within the Local Development Plan.

The following Welsh Government Planning Policy will be relevant to the determination of any future planning application on this site:

Planning Policy Wales (PPW) 10 (December 2018)

TAN 5: Nature Conservation and Planning

TAN 4: Retail and Commercial Development

TAN 11: Noise

TAN 12: Design

TAN 18: Transport

TAN 23: Economic Development

The primary objective of PPW is to ensure that the Planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation.

In terms of Active Travel, Active Travel (Wales) Act 2013 makes walking and cycling the preferred option for shorter journeys particularly everyday journeys such as to and from a workplace. The Act requires local Authorities to produce Integrated Network Maps identifying the walking and cycling routes required to create fully integrated networks for walking and cycling to access work, education, services and facilities.

## **APPRAISAL**

The application is referred to Committee in response to the objections raised by the local residents.

The Planning system manages the development and use of land in the public interest contributing to improving the economic, social, environmental and cultural well-being of Wales, as required by the Well-being of Future Generations (Wales) Act 2015. It should reconcile the needs of development and conservation, securing economy, efficiency and amenity in the use of land and protecting natural resources and the historic environment.

A well-functioning Planning system is fundamental for sustainable development and achieving sustainable places (Paragraph 1.2 of Planning Policy Wales - Edition 10 – December 2018 refers).

Up-to-date Local Development Plans (LDPs) are a fundamental part of a plan-led Planning system and set the context for rational and consistent decision making in line with national policies. Planning applications must be determined in accordance with the adopted plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 refers).

The Well-being of Future Generations (Wales) Act 2015 places a duty on public bodies (including Welsh Ministers) to carry out sustainable development and it is accepted that a plan-led approach is the most effective way to secure sustainable development through the Planning system.

The main issues in the assessment of this application are considered to be whether:

- the development accords with the parameters for the district centre established by the Outline Planning permission and Section 106 Agreement;
- the design and layout achieves the high standards of design required by national and local Planning policies and guidance including the Parc Derwen Design Brief and Design Code;
- the development will safeguard the living conditions and well-being of existing and future residents;
- the proposed access and parking arrangements are acceptable in highway safety terms;

**Does the development accord with the parameters for the district centre established by the Outline Planning permission and Section 106 Agreement?**

As indicated in the introduction to this report, this is a Reserved Matters submission pursuant to the original Outline Planning permission P/00/288/OUT as amended by P/17/686/RLX. The original Outline Planning permission proposed a district centre and a condition was included that sought to control the size of the retail units. No other controls were imposed through the permission.

As the development incorporates a number of living units, residents have expressed concerns about the impact on site infrastructure (roads, schools, drainage, services etc.). As a Reserved Matters submission, such objections are not material as the approved infrastructure was designed to accommodate the district centre. The capacity issues with the primary school are well known but cannot be addressed as part of this application. The housing numbers delivered as part of the development contribute to the 1515 units approved for Parc Derwen.

Under Policy REG5 (1) of the Bridgend Local Development Plan (2013), the Parc Derwen development is identified as a location for small-scale local retail development with a mix of A1, A2, A3, D1 and D2 uses up to a maximum of 3,000 square metres.

The submission as amended, with the reduction in the retail units from 9 to 7 and residential units from 44 to 20, accords with the Outline Planning consent and will provide an opportunity to provide community based facilities and services that will minimise the need to travel. Persimmon Homes have not provided an indication of the future uses of

the proposed development other than a convenience goods retailer is likely to occupy the largest units in the Alpha Block. The assessment of this application has been on the basis of only A1 uses. Alternative uses will need to be the subject of future Planning applications.

**Does the design and layout achieve the high standards of design required by national and local Planning policies and guidance including the Parc Derwen Design Brief and Design Code?**

The national sustainable placemaking outcomes have six objectives which aim to deliver the right development in the right place. With the principle of a district centre being developed on Parc Derwen being accepted, a key assessment is whether the high standard of design required at both a national and local policy level has been achieved. In this regard, the Parc Derwen Detailed Design Code (DDC) and Design Guidance (DG) are material considerations.

The district centre is located in the Urban Core where the character should be defined by a network of streets each with a well-defined building line with gaps in the frontage kept to a minimum. Parallel frontages should be avoided with variation in the distance between frontages creating interest and variety. Changes in the direction and alignment of the street should create an evolving and varied townscape. For the district centre, it was envisaged that the Main Street Frontage would have a mix of 2, 2½, 3 and 4 storey buildings to reinforce the character. Where 3 and 4 storey buildings are used so that within their context they form minor landmarks, special consideration should be given to their architectural quality and richness.

The designers initial response failed to appropriately address the design framework set out above. The plan below is an extract of the latest site layout which demonstrates well defined frontages but with the Alpha and Beta blocks off-set to avoid parallel street forms. The space created not only adds some visual interest but it attempts to produce a village square around the parking, traffic calmed highway and public realm areas. The layout accords with the above guidance.



**Fig. 3 – General Layout**

Residents, in response to the initial submission, suggested that the scale of the development was high-rise and not aesthetically pleasing. The initial submission which proposed 2 and 3 storey blocks either side of the central access road was proportionally wrong and would have failed to meet the design code and impacted on the living conditions of existing residents. The latest plans retain the 3/4 storey tower as a landmark

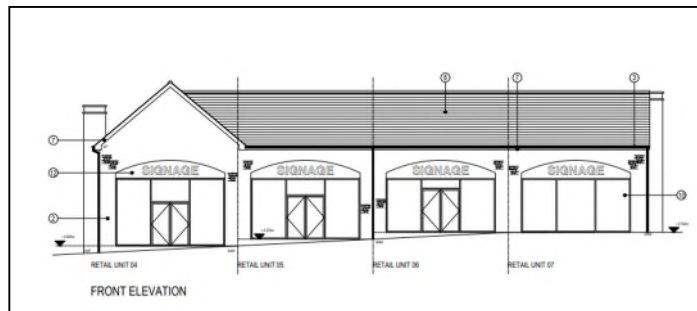


building at the northern end of the main retail parade (see extract plan below):



**Fig. 4 – Front Elevation of Alpha Block**

The mass of the Alpha Block has been reduced with the transition from 3 to 2 storey reflecting the natural fall in ground levels whilst respecting the relationship with existing properties to the south of the site. With the Beta block building also being reduced in scale, the form of development is more akin to a village street which is ultimately what the design code was seeking to achieve.



**Fig. 5 - Beta Block (Front Elevation)**

Ensuring true architectural richness on the façades of any buildings is one of the most challenging aspects of designing any structure. In this case, the designer is reliant on the use of a palette of materials that complements the surrounding housing with the introduction of weather boarding and stone detailing. The hipped 3 storey tower at the high corner of the site creates a landmark feature whilst the transition across the rest of the block from 3 to 2 storey adds some visual interest whilst also reducing the mass of the building. Appropriate hard and soft landscaping around the public realm areas should ensure that the new built environment achieves a reasonably high standard of design.

The rear facades of both blocks will be visible from the existing housing and the relationship in terms of existing living conditions will be considered later in the report. Unsurprisingly, they lack the visual interest of the front facades and are designed as the service entrances to the commercial and residential uses. The palate of materials is carried through to the rear elevations which will ensure that the visual impact of the development on the surrounding properties is acceptable. The introduction of landscaping in the form of hedge and tree planting around the eastern and western boundaries of the development will in time provide some screening of the buildings.

**Does the development safeguard the living conditions and well-being of existing and future residents?**

Ensuring that the viability and amenity of neighbouring occupiers will not be affected is a key policy test and for this application that relates not only to a review of the built

development but also how the retail centre will operate (calling customers/deliveries etc.) mindful that both sites immediately adjoin existing properties.

Alpha Block occupies the eastern parcel and shares its southern boundary with 16 – 21 Llys Ceirios. Beyond the 1.8m fence that defines the boundary, the ground rises following that natural topography. The southern 2 storey elevation of Alpha Block will be a minimum of 8m and a maximum of 21m from the shared boundary. To the rear elevations of the nearest dwellings the distances increase to 22m and 30m respectively. The service road and landscape zone of varying depths will occupy the intervening space. Given that these new properties currently enjoy an uninterrupted outlook the development will create an imposing structure when viewed from the habitable room windows at the rear. Residents have expressed concerns that the development will overshadow and dominate outlook. To suggest there will be no impact would be wrong and the development site certainly lies above the existing housing to the site. That said, given the separating distances recorded above which more than exceed the Council's guidelines, any domination will not be so significant as to warrant a refusal of Planning permission and is a considerable improvement on the original submission. As the development lies to the north of Llys Ceirios, overshadowing will not be a factor. Privacy could however be compromised as two window openings in the elevation facing existing properties will serve habitable rooms. A condition will be imposed requiring the window openings to be fitted with obscure glazing.

From the submitted drawings, the main Alpha Block will be between 23m and 37m from the shared boundaries with side boundaries of 33 and 34 Llys Ceirios. Over such distances, issues relating to privacy, daylighting and domination are not material even accounting for the 3 storey form of part of the development. Land to the west and north west of 34 Llys Ceirios will be developed as a parking area for the residential accommodation proposed above the retail block. A number of spaces will be relatively close to the common boundary and there is a degree of uncertainty as to the finished level of this part of the parking area. Observations received from the Highway Officer suggests an overprovision of residents parking. Potentially, a number of the spaces in this location could be omitted and the area landscaped or screened to further minimise impact.

As described earlier in this report, the relationship of existing properties to the northern boundary varies with some having parallel gardens and others rear gardens and parking spaces adjoining the site. The northern corner of Alpha Block includes the 3 storey tower which will be between 16m and 18m from the side boundary of the nearest dwelling – 2 Ffordd y Celyn. All habitable room windows in this dwelling are either rear or front facing so any impact in terms of dominating outlook and daylighting will not be significant. That said, given the scale of the development it will be a significant landmark when seen from the rear gardens of the nearest properties. The 3 storey side elevation does include habitable rooms at first and second floor levels but with some 16m and the service road separating, the loss of privacy experienced by the residents does not warrant the introduction of obscure glazing in these window openings. The built form of the development as it relates to other properties to the north of the site will be limited.

In operational terms, there is the potential for the retail development to cause some disturbance to residents given the close proximity of houses to the site. Along the respective boundaries of the site, existing properties are positioned relatively close to proposed car parking, the service yard and the gated service access road. The updated noise survey has considered the impacts and recommends that controls are imposed on delivery times. The Council's Shared Regulatory Services Section has gone further and sought controls to delivery and opening hours to prevent the living conditions of existing and future residents being unduly affected.

A number of residents highlighted a suggestion in the noise survey for a 3m high acoustic barrier to be erected along certain boundaries of the development which included the rear boundary of properties on Llys Ceirios. They maintain that such a structure would overshadow and dominate outlook, a concern that is shared. This recommendation was however offered should it have been necessary for the retail units to be serviced over a 24 hour period. Such an arrangement is not proposed and, on the basis of the current evidence, could not be supported.

Opportunities do exist to further minimise the impact of the servicing arrangements, particularly on the boundaries with 16-20 Llys Ceirios and 33 and 34 Llys Ceirios as space will be available to accommodate additional planting and screening. Space is more limited along the northern boundary where properties will be adjacent to the car parking for customers/residents and the main access to the service yard. In this case, protecting the amenities of residents will be secured through conditions that will agree a delivery and service management plan, restrict deliveries to between 07:00 hours and 20:00 hours, control the rating levels of all fixed plant on the commercial units, and permit the shops to open between 07.00 hours to 23.00 hours - Monday to Saturday and 07.00 hours to 22.00 hours on Sundays and Bank Holidays.

Beta Block and the associated parking and servicing areas immediately adjoin the rear boundaries of 4-12 Bryn Eirlys and side boundaries of 1 Clos yr Eirlys. The rear elevation of the single storey block will be between 11m and 14m from the defined boundary and more generous distances from the rear facing windows of the dwellings. The scaling back of this phase of the development has addressed previous concerns about domination, overshadowing and loss of privacy and this appears to be reflected in the responses from the most recent consultations.

Nevertheless, opportunities to minimise the built form of this phase of the development should be exploited but it is noted that a number of residents have expressed concerns about tree planting so close to the shared boundary and the potential for damage to be caused to property in the future. Revised landscaping details will need to be agreed before development on this phase commences and consideration will be given to these concerns.

The position of the bin store so close to the boundary of 1 Clos yr Eirlys remains an issue and a condition will be imposed requiring a re-design/re-location of this building. Parking spaces at the northern end of the site adjacent to Clos yr Eirlys have drawn some concerns from residents in terms of their operation but this is more a matter of highway safety and will be considered elsewhere in this report.

Like the Alpha Block, the Beta Block incorporates a service yard at the rear and parking areas to the north and south. Again, its future operation has the potential to impact on the amenities of residents. As with the arrangement for the Alpha Block, a tranche of Planning conditions will, however, be imposed to control times when the shops will be open and when servicing and deliveries will take place. Noise from the operation of the centre will not be completely diminished but the controls should ensure that an acceptable soundscape is provided and noise pollution is minimised to a reasonable level.

The proposed dwellings that will occupy the southern part of the western parcel will have shared boundaries with the existing road network, the parking/servicing area of the Beta Block and the side of 2 Clos y Coed Castan. The nearest dwelling will sit forward in the plot but will be separated by the proposed driveway. A pitched roof detached garage proposed in the rear garden will be offset from the shared boundary and sufficiently distanced as to prevent any loss of daylight or issues of domination.

In brief, this phase should have limited impact on the living conditions of existing residents given the scale and layout of dwellings proposed. The corner plot will be occupied by a 3 storey townhouse to create a landmark building at the gateway to the district centre. It will contribute positively to the street scene without having any other significant impacts given the distances from existing properties.

An assessment of living conditions would not be complete without consideration given to the future occupiers of the residential units in Alpha Block and the four dwellings on the western parcel. The level of amenity space afforded to the proposed dwelling is relatively generous albeit the rear boundary will be shared with the car park/servicing area of Beta Block. Controls imposed to safeguard existing residents will also benefit the occupiers of these new properties and the flat units. Outdoor amenity space for these social rented flats will be at the rear and will be given over to bin and cycle storage and located close to the servicing operations of the retail units. Such limited provision must however be balanced against the benefits of being close to facilities, good transport links and thereby minimising the need to travel and more broadly contributing to the national policy objective of creating sustainable communities.

An evaluation of the latest layout confirms that the impacts of the built development on existing residents are acceptable and will be minimised with obscure glazing on offending windows, minor adjustments to the layout in terms of parking and bin storage and the implementation of a comprehensive landscaping scheme around the boundaries of the site. The operational impacts are potentially more considerable but the imposition of Planning conditions to control certain aspects of the use should ensure that living conditions of existing residents will be reasonably safeguarded thus addressing the local and national policy requirements.

### **Are the proposed access and parking arrangements acceptable in highway safety terms?**

A number of residents have offered detailed objections questioning the arrangement of the centre with vehicles having to reverse onto the main thoroughfare and the potential for conflicts to occur with pedestrians. The latest arrangement proposes a limited number of spaces on-street and on only one side of the highway. Subject to minor modifications to the vision splays for the spaces, this layout is considered acceptable in highway safety terms and not dissimilar to the arrangement at the Broadlands District Centre.

A dedicated crossing area has also been included in the latest design which is likely to be incorporated into the design of a traffic calming feature – this has not raised any objections from the Highways Officer.

The Officer's detailed assessment is reproduced below for Members consideration:

*In terms of the Residential element there are 16 Flats proposed above the retail units in Alpha block on the Eastern side of the parcel. The 12 x 1 Bedroom flats and 4 x 2 bedroom units require a maximum of 23 spaces for the residential units (including for 2 visitor spaces). The proposed layout indicates 25 however, it is considered that this slight overprovision can be overcome by a suitably worded Planning condition. In addition 4 individual dwellings (4 x 3 bedroom units) are proposed to the south of Beta block (on the Western side of the parcel). Each of the 4 dwellings requires 3 parking spaces which are proposed by way of driveways and garages the provision of which will be ensured by condition.*

*The retail element is proposed by way of 7 retail units in total. Alpha block on the Eastern side of the Development Parcel provides 3 units (numbered 1 -3, 1 of 396m<sup>2</sup> and 2 at 126m<sup>2</sup>). Beta block on the Western side of the Development Parcel provides 4 units*

*(numbered 4-7 of 133m<sup>2</sup> each). No information has been provided in respect of the breakdown of the floorspace or number of units required for different retail offerings. Therefore it has been necessary to calculating parking requirement based on the use of all the units as regular A1 retails uses. This calculation indicates that a total of 33 spaces are required for retail purposes (24 spaces for Alpha block and 9 for Beta block).*

*The submission proposes 42 spaces which is considered to be an overprovision. It is understood that there is likely to be a need for a mix of use types to provide a meaningful and vibrant district centre, and in this regard additional parking may be required. Given the lack of information within the application however, it is considered that the most appropriate method to overcome the issue is to limit the use class of the retail units to Class A1 and require a scheme of parking commensurate with that use class in the knowledge that additional spaces could be provided if required in future alongside proposals for alternative uses which would be given due consideration on their own merits.*

*The proposal is also supported by vehicle swept path diagrams indicating the ability to service the rear of Alpha block with vehicles of an articulated nature and a smaller rigid vehicle to the rear of Beta blocks. There is however, concern that if these areas are used inappropriately there could be highway safety issues resulting with deliveries occurring from the highway and undertaking inappropriate manoeuvres to the detriment of highway safety. It is therefore requested that Delivery and Servicing management plans for each of these areas is requested by condition. This can cover the collection of refuse from the flatted element and the operation of any gates at the two delivery yards.*

Existing residents have expressed some concerns that when the parking spaces for shoppers are full they are likely to park across the kerbs. To ensure that customers do not park inappropriately on the local highway, waiting/loading restrictions will be necessary immediately surrounding the district centre. The funding for road traffic orders has been secured through the original S106 Agreement and the monies can be used to cover the cost of the order at this location.

From the observations received, and subject to some further adjustments to the site layout, the development is acceptable from a highway safety perspective.

On other matters of detail, the observations received from consultees indicate that site drainage is not a development constraint although it will be necessary to agree a comprehensive scheme before development commences on site. Previous site clearance works have removed any biodiversity interest on site but there is an opportunity for enhancement works to be incorporated into the build of the units such as bird and bat boxes and appropriate native species in the proposed landscaping. Overall, there will be no significant adverse residual impacts on the natural environment and biodiversity provided that conditions are attached to the recommendation. The development therefore accords with Policies SP2, SP4, ENV5 and ENV6 of the LDP and advice contained within SPG07 and SPG19, Planning Policy Wales 10 (December 2018) and TAN5.

Affordable housing delivery on Parc Derwen has been extremely limited and well below the threshold established by local policy. The proposed developers of the district centre have also submitted an application to deliver the final housing phase R20 on Parc Derwen and that application is also being reported to this Development Control Committee meeting. As a full application, there is a requirement to provide 20% affordable housing as part of application but the developers are proposing the provision across two sites - 7 Intermediate housing units on R20 with the remainder as part of this district centre development - 14 social rented units. This approach complies with the advice provided in SPG13 Affordable Housing but the delivery and timing of the affordable element on both

sites will need to be secured to ensure that the two developments are linked and the delivery tied to the market housing on the R20 phase of the development.

## **CONCLUSION**

Section 38(6) of the 2004 Act requires that if regard is to be had to the Development Plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. Factors to be taken into account in making Planning decisions (material considerations) must be Planning matters, that is they must be relevant to the regulation of the development and use of land in the public interest towards the goal of sustainability.

On balance and having regard to the above, weighing up of all material considerations relevant to this scheme, the principle of developing this land as a district centre which has previously been agreed and the submitted design, the development accords with the Outline Planning permission, related S106 Agreement and supplementary Planning guidance in the form of the Parc Derwen Development Brief and Parc Derwen Detailed Design Code.

Despite the concerns offered, the proposed development generally achieves the high standards required by policy and guidance and where compromises are made, they are not sufficient to warrant a refusal of Planning permission. Subject to the agreement of a number of Planning conditions, the amenities of both existing and future residents will not be significantly compromised and acceptable access, parking and site drainage arrangements can be provided.

Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

The application is therefore recommended for approval.

## **RECOMMENDATION**

(A) The applicant enters into a Section 106 Agreement to provide:

i a minimum of 20% of the units as affordable housing consisting of 14 social rented units on the site subject of this application site and 7 intermediate units as part of R20 (P/19/624/FUL refers). The Agreement will include a timeframe for delivery that will be concomitant to the construction of the market housing on Phase R20.

iii. a financial contribution of £8,000.00 for a 20mph Traffic Order (within the parcel) to cover the cost of publication of the Order prior to the granting of any consent.

iii a Management Plan detailing a scheme for the future management and maintenance of the car parking and communal service areas on the District Centre Development (P/19/656/RES refers) to be submitted by the applicant company.

(B) The Group Manager – Planning and Development Services be given delegated powers to issue a decision notice granting consent in respect of this proposal once the applicant has entered into the aforementioned Section 106 Agreement, as follows:

1. The development shall be carried out in accordance with the following approved plans and documents: plan numbers

Site Location Plan – CPT-281-SITE PL-02  
Proposed Layout Plan – CPT - 281 – SITE – PL-01-REV H

Ground and First Floor Plans CPT-281 – PL – ALPHA 02 Rev F  
Second Floor and Roof Plan CPT-281 – PL – ALPHA 03 Rev E  
Elevations and Sections - CPT-281 – PL – ALPHA 04 Rev F

Elevations and Sections - CPT-281 – PL – BETA 04 Rev E  
Ground and First Floor Plans CPT-281 – PL – BETA 02 – Rev E  
Ground and First Floor Plans CPT-281 – PL – BETA 02 Rev E

Ullswater GF – WD16 – Plans and Elevations – Rev C  
Ullswater Corner – GFC – WD10 – Plans and Elevations – Rev C  
Derwent – HT – WD16 – Plans and Elevations Village – Rev D  
Standard Single/Double Garage – Plans and Elevations – SGD-01

The glazing and ventilation specification shall accord with the details specified in section 6.1.2 of the noise report entitled – Proposed 7 retail units, 16 flats and 4 houses land North of Heol Stradling, Parc Derwen CF35 6AN – report ref – 21301R016DMpak. The glazing, trickle ventilation and acoustic trickle ventilation shall be installed prior to occupation of the dwellings.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. Notwithstanding the submitted plans, no development shall take place until a detailed specification for, or samples of, the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: To ensure that the proposed materials of construction are appropriate for use on the development so as to enhance and protect the visual amenity of the area.

3. Notwithstanding the details submitted on Detailed Soft Landscaping Proposals – TDA 2506.01 Rev A, no development shall take place until there has been submitted to and agreed in writing by the Local Planning Authority a revised landscaping scheme and programme of works. The landscaping works shall be carried out as agreed.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation.



4. Notwithstanding the details submitted on Engineering Layout – 10258-001 – Rev D, no development shall take place until details of the proposed floor levels of the buildings in relation to existing ground levels and the finished levels of the site have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: To ensure that the development relates appropriately to the topography of the site and the surrounding area.

5. Notwithstanding the details submitted on drawings Ground and First Floor Plans CPT-281 – PL – ALPHA 02 Rev F, Second Floor and Roof Plan CPT-281 – PL – ALPHA 03 Rev E, Elevations and Sections - CPT-281 – PL – ALPHA 04 Rev F, no development shall commence until a scheme has been submitted and agreed in writing by the Local Planning Authority for alternative window designs in the first floor on the southern elevation of Alpha Block facing Llys Ceirios. The scheme shall include a combination of fixed pane obscure glazing (minimum of level 5 on the Pilkington index of obscurity). The agreed window scheme shall be fitted prior to the development being brought into beneficial use and shall thereafter be retained in perpetuity.

Reason: In the interests of privacy and residential amenities.

6. No development shall commence until a scheme for the comprehensive and integrated drainage of the site, showing how foul, road and roof/yard water will be dealt with including future maintenance requirements, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall also include details of how ground water will be managed during the construction phase. The scheme as approved in writing by the Local Planning Authority shall be implemented throughout the period of construction, prior to the beneficial use of any property and retained in perpetuity.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that flood risk is not increased.

7. Notwithstanding the submitted Construction Management Plan, no development shall commence until a Phasing Plan and Revised Construction Management Plan has been submitted to and agreed in writing by the Local Planning Authority. The Phasing and revised Construction Management Plan shall include:-

- Phasing plan for the construction of the Alpha and Beta Blocks, the associated parking and service/delivery roads and the proposed dwellings
- Timing and routing of construction and delivery vehicles
- Provision of a temporary compound for the storage of construction materials and plant;
- Parking for contractor's vehicles throughout the construction phase;
- Parking of vehicles for site operatives and visitors;
- Wheel washing to prevent mud and debris from the construction traffic being carried out onto the existing highway network within the Parc Derwen Estate;

The construction works shall thereafter be undertaken in accordance with the agreed Construction Management Plan throughout the construction phase.

Reason: In the interests of highway safety

8. The retail premises shall be used for retail (A1) only and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development and in the interests of safeguarding the amenities of residents and in the interests of highway safety.

9. No development shall commence until a scheme of waiting and loading restrictions on the surrounding highway network has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall include details of road markings and signage. Such scheme shall be implemented as approved by the Local Planning Authority prior to the development being brought into beneficial use.

Reason: In the interests of highway safety

10. No development shall commence until a scheme of traffic calming on the approaches to and within the district centre has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall include details of road markings and signage. Such scheme shall be implemented as approved by the Local Planning Authority prior to the development being brought into beneficial use.

Reason: In the interests of highway safety

11. No development shall commence until a scheme of junction priority markings at the junctions has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall include details of road markings and signage. Such scheme shall be implemented as approved by the Local Planning Authority prior to the development being brought into beneficial use.

Reason: In the interests of highway safety

12. The proposed vision splays shown on drawing CPT-281 SITE-PL-01 Rev H received 27/5/20 shall be provided before the development is brought into beneficial use and retained as such thereafter in perpetuity.

Reason: In the interests of highway safety.

13. Before the related development is brought into beneficial use, vision splays for the following properties shall be provided:

- The means of egress from the servicing and delivery bay to the rear of Alpha Block shall be laid out with vision splays of 2.4m x 25m in both directions;
- The proposed driveway to Plot 4 shall be laid out with vision splays of 2.4m x 25m in both directions with cycle vision splays of 2.4m (measured from the back of active travel route) x 30m in both directions;

The vision splays shall be retained as such thereafter and no structure, erection or planting exceeding 0.9 metres in height above adjacent carriageway level shall be placed within the required vision splay areas at any time.

Reason: In the interests of highway safety

14. Notwithstanding the submitted drawings no development shall commence until a revised scheme for the provision of a shared 3m wide footway/cycleway fronting Beta block and linking with the existing shared facilities to the North and South has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall include for required margins, signage, tactile paving, and bollards to prevent vehicles mounting the facility. Such scheme shall be implemented as approved by the Local Planning Authority

prior to the development being brought into beneficial use and maintained and retained in perpetuity

Reason; In the interests of highway safety

15. Notwithstanding the submitted drawings no development shall commence until a revised scheme for the provision of a shared 3m wide footway/cycleway fronting Alpha block and linking with the existing shared facilities to the North has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall include for required margins, signage, tactile paving, pedestrian and cycle vision splays at the Southern egress from the servicing and delivery bay to the rear of Alpha Block (2.4m (measured from the back of active travel route) x 30m in both directions and bollards to prevent vehicles mounting the facility. Such scheme shall be implemented as approved by the Local Planning Authority prior to the development being brought into beneficial use and maintained and retained in perpetuity

Reason; In the interests of highway safety

16. No development shall commence until a scheme for the provision of a shared 3m wide footway/cycleway linking the district centre at the North Western corner of 16 Llys Ceirios to the frontage of 25 Heol Stradling has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall include for required margins, signage, tactile paving, and bollards to prevent vehicles mounting the facility. Such scheme shall be implemented as approved by the Local Planning Authority prior to the development being brought into beneficial use and maintained and retained in perpetuity

Reason: In the interests of highway safety.

17. Notwithstanding the submitted drawings there shall be no direct pedestrian/cycle access from the residential core of Alpha Block to the rear servicing yard.

Reason: In the interests of highway safety

18. Notwithstanding the submitted drawings no development shall commence until a revised parking scheme for the provision of 23 residential parking spaces for the flats within Alpha block has been submitted to and approved in writing by the Local Planning Authority. The parking area shall be completed in permanent materials with the individual spaces clearly demarcated in permanent materials in accordance with the approved layout prior to any of the flats being brought into beneficial use and shall be retained for the purposes of parking of residents and visitors vehicles only thereafter.

Reason: In the interests of highway safety

19. Notwithstanding the submitted drawings no development shall commence until a scheme for the provision of 10 cycle stands for the flats within Alpha block has been submitted to and approved in writing by the Local Planning Authority. The stands shall implemented before the development is brought into beneficial use and retained as such thereafter.

Reason: In the interests of promoting sustainable means of travel to / from the site.

20. The garages hereby approved on Plots 1-4 shall only be used as a private garages and not for any commercial purposes whatsoever and at no time shall they be converted to a room or living accommodation.

Reason: To ensure that adequate parking facilities are provided within the curtilage of the

site.

21. The driveways serving Plots 1-4 shall be completed in permanent materials in accordance with the approved layout prior to those individual units being brought into beneficial use and shall be retained for the purposes of parking thereafter in perpetuity.

Reason: In the interests of highway safety.

22. Notwithstanding the submitted drawings, no development shall commence until a revised parking scheme for the provision of 33 parking spaces (including 2 disabled bays) for the retail units within Alpha block and Beta block has been submitted to and approved in writing by the Local Planning Authority. The parking areas shall be completed in permanent materials with the individual spaces clearly demarcated in permanent materials in accordance with the approved layout prior to any of the retail units being brought into beneficial use and shall be retained for the purposes of parking thereafter in perpetuity.

Reason: In the interests of highway safety

23. Notwithstanding the submitted drawings, no development shall commence until a scheme for the provision of 9 long stay cycle parking stands and 9 short stay cycle parking stands for the retail units within Alpha block and Beta block has been submitted to and approved in writing by the Local Planning Authority. The stands shall be implemented before the development is brought into beneficial use and retained as such thereafter in perpetuity.

Reason: In the interests of promoting sustainable means of travel to/from the site

24. Notwithstanding the submitted drawings, no development shall commence until a servicing and delivery management plan for the retail and residential units within Alpha block has been submitted to and approved in writing by the Local Planning Authority. The plan shall include at least the details of demarcated delivery/servicing bays, lorry manoeuvring area together with a gate management plan. The plan will also need to demonstrate how deliveries will be managed to ensure that deliveries to the units will not coincide with each other at the same time and to ensure that noise from the deliveries from unloading operations will be kept to a minimum. The areas shall be demarcated in permanent materials prior to the beneficial use of the units and kept clear for the manoeuvring of delivery and servicing vehicles.

All deliveries to the residential and retail units shall be carried out and maintained for as long as the development continues in accordance with the approved servicing and delivery management plan.

Reason: In the interests of highway safety

25. Notwithstanding the submitted drawings no development shall commence until a servicing and delivery management plan for the retail units within Beta block has been submitted to and approved in writing by the Local Planning Authority. The plan shall include limiting the size of delivery / service vehicle details to 9.57m together with appropriate signage, the provision of demarcated delivery/servicing bays, lorry manoeuvring and turning area together with a gate management plan. The plan will also need to demonstrate how deliveries will be managed to ensure that deliveries to the units will not coincide with each other at the same time and to ensure that noise from the deliveries from unloading operations will be kept to a minimum. The areas shall be demarcated in permanent materials prior to the beneficial use of the units and kept clear for the manoeuvring of delivery and servicing vehicles with all servicing and delivery vehicles movements to the site and gate operation shall be made in accordance with the management plan thereafter.

All deliveries to the retail units shall be carried out and maintained for as long as the retail development continues in accordance with the approved retail delivery management plan

Reason: In the interests of highway safety.

26. The retail units hereby approved shall not be open to customers outside the following times:-

07.00 hours to 23.00 hours - Monday to Saturday: and  
07.00 hours to 22.00 hours - Sundays and Bank Holidays

Deliveries to Alpha Block and Beta Block shall not take place outside the following hours:

07:00 and 20:00 hours.

Reason: In the interests of safeguarding the amenities of local residents.

27. The rating level of the combined noise from all fixed plant, including air conditioning, refrigeration units and extraction systems, operating together (including the application of any tonal penalty if deemed necessary ) when assessed in accordance with BS4142 in free field conditions at any noise sensitive premises, shall not exceed the noise levels shown below:

Time Period:	Noise rating level:
Day (0700-23.00)	40 dB LAeq,1 hour
Night ( 2300-0700)	30dB LAeq, 15mins

Prior to the installation of any fixed plant and services at the retail units, the applicant shall submit a noise assessment demonstrating that the levels of the combined fixed plant stipulated above will be achieved.

Reason: In the interests of safeguarding the amenities of local residents.

28. Within two months of all plant at the development site being brought into beneficial use, a noise report shall be submitted to and agreed by the Local Planning Authority demonstrating by means of direct measurement or where this is not possible, a combination of measurement and calculation, that the rating level of the combined noise from all plant operating together (including the application of any tonal penalty if deemed necessary) when undertaken in accordance with BS4142 in free field conditions at any noise sensitive premises shall not exceed the noise levels shown below:

Time Period	Noise rating level
Day (0700-23.00)	40 dB LAeq,1 hour
Night ( 2300-0700)	30dB LAeq, 15mins

Should the report conclude that these levels are not being achieved then the report should include a scheme of mitigation required to achieve these levels which must be carried out in full within a timescale agreed with the Local Planning Authority.

Reason: In the interests of safeguarding the amenities of local residents.

29. Prior to any of the retail units being brought into beneficial use, an acoustic barrier with a minimum height of 2m shall be erected at the locations shown in figure 10.1 of the noise report entitled – Proposed 7 retail units, 16 flats and 4 houses land North of Heol Stradling,

Parc Derwen CF35 6AN – report ref – 21301R016DMpak. The barrier shall be constructed in accordance with the specifications detailed in section 10.3.2 of this report.

Details of the barrier shall be submitted to and agreed with the Local Planning Authority prior to its installation to demonstrate that these specifications have been met and to show the barrier height. The barrier shall be constructed in accordance with the submitted details and shall be retained and maintained in perpetuity to ensure the integrity of the barrier is not compromised.

Reason: In the interests of safeguarding the amenities of local residents.

30. Prior to any of the retail units being brought into beneficial use, a waste management strategy shall be submitted to and agreed with the Local Planning Authority to demonstrate how waste and litter arising from the retail units will be managed and controlled. The waste management strategy will require that all waste from the retail units shall be collected between the hours of 07.00-20.00 hours Monday- Friday and at no times on the weekend or bank holidays. The waste management strategy shall be implemented in accordance with the submitted details and be retained and maintained in perpetuity..

Reason: In the interests of safeguarding the amenities of local residents.

- 31 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the Local Planning Authority within 2 weeks of the discovery of any unsuspected contamination.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

32. Any topsoil [natural or manufactured]or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

Reason: To ensure that the safety of future occupiers is not prejudiced.

33. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local

Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported material is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

Reason: To ensure that the safety of future occupiers is not prejudiced.

34. Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material which meets site specific target values approved by the Local Planning Authority shall be reused.

Reason: To ensure that the safety of future occupiers is not prejudiced.

35. \* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS \*

Section 38(6) of the 2004 Act requires that if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Factors to be taken into account in making planning decisions (material considerations) must be planning matters, that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability.

On balance and having regard to the above, weighing up of all material considerations relevant to this scheme, the principle of developing this land as a district centre which has previously been agreed and the submitted design, the development accords with the Outline Planning permission, related S106 Agreement and supplementary Planning guidance in the form of the Parc Derwen Development Brief and Parc Derwen Detailed Design Code.

Despite the concerns offered, the proposed development generally achieves the high standards required by policy and guidance and where compromises are made, they are not sufficient to warrant a refusal of planning permission. Subject to the agreement of a number of planning conditions, the amenities of both existing and future residents will not be significantly compromised and acceptable access, parking and site drainage arrangements can be provided.

The Highway Authority will require the Developer to enter into legally binding Section 111 Licence Agreement including an appropriate bond to secure the proper implementation of the proposed highway works and the adoption of the same as part of the maintainable highway. The commencement of the works on or abutting the existing maintainable highway will not be permitted until such time as the Agreement has been concluded.

**JONATHAN PARSONS**  
**GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

**Background Papers**

None



**REFERENCE:** P/19/464/FUL

**APPLICANT:** Mr P Kinsella c/o John Matthews, Planning & Development Consultant, 47 Anglesey Way, Porthcawl CF36 3QP

**LOCATION:** Land adjacent former Three Horse Shoes Public House, Lamb Row, South Cornelly CF33 4RL

**PROPOSAL:** Erection of one detached dwelling

**RECEIVED:** 25 June 2019

**EOT AGREED:** 27 July 2020

## APPLICATION/SITE DESCRIPTION

The application seeks full planning permission for the erection of one detached residential dwelling on land adjacent to the Former Three Horseshoes Public House, Lamb Row, South Cornelly.

**Figure 1 - Site Location Plan:**

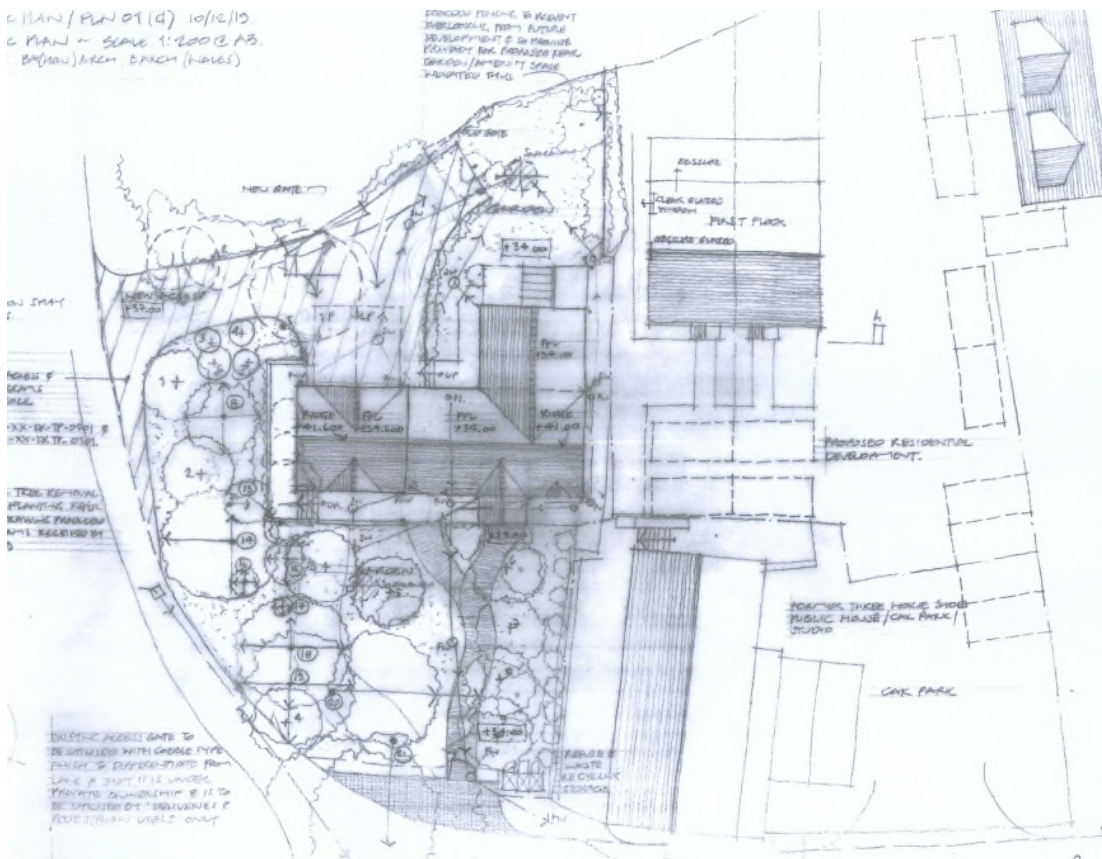


The application site currently benefits from full planning permission (P/17/260/FUL refers) for the erection of one detached dwelling which was granted on 7 July 2017. The application proposes to re-configure the overall site layout by re-siting the dwelling and proposing a new access off the eastern boundary of the site. The applicant's agent has stated in the submitted planning statement that the proposed changes are considered beneficial for the following reasons:

- Provide a safer vehicular access point with improved vision splay away from the existing bend adjacent to the northern eastern end of the site;
- The proposed re-alignment from a north/south to a greater west/east configuration will provide more sunlight/daylight for the dwelling's internal space and for the external garden/amenity space which will be more extensive and practicable;
- The removal, retention and replacement of a number of trees located along the boundary of the site.

The proposed works will also facilitate the implementation of a comprehensive tree removal and replanting programme which will include the removal of poor quality and dangerous trees along the embanked eastern section of the site, retain a number of the better quality trees within the embanked eastern section of the site which will receive beneficial crown reduction management and replacement planting of appropriate native tree species at an appropriate density within the embanked eastern section of the site and the northern (front garden) part of the site.

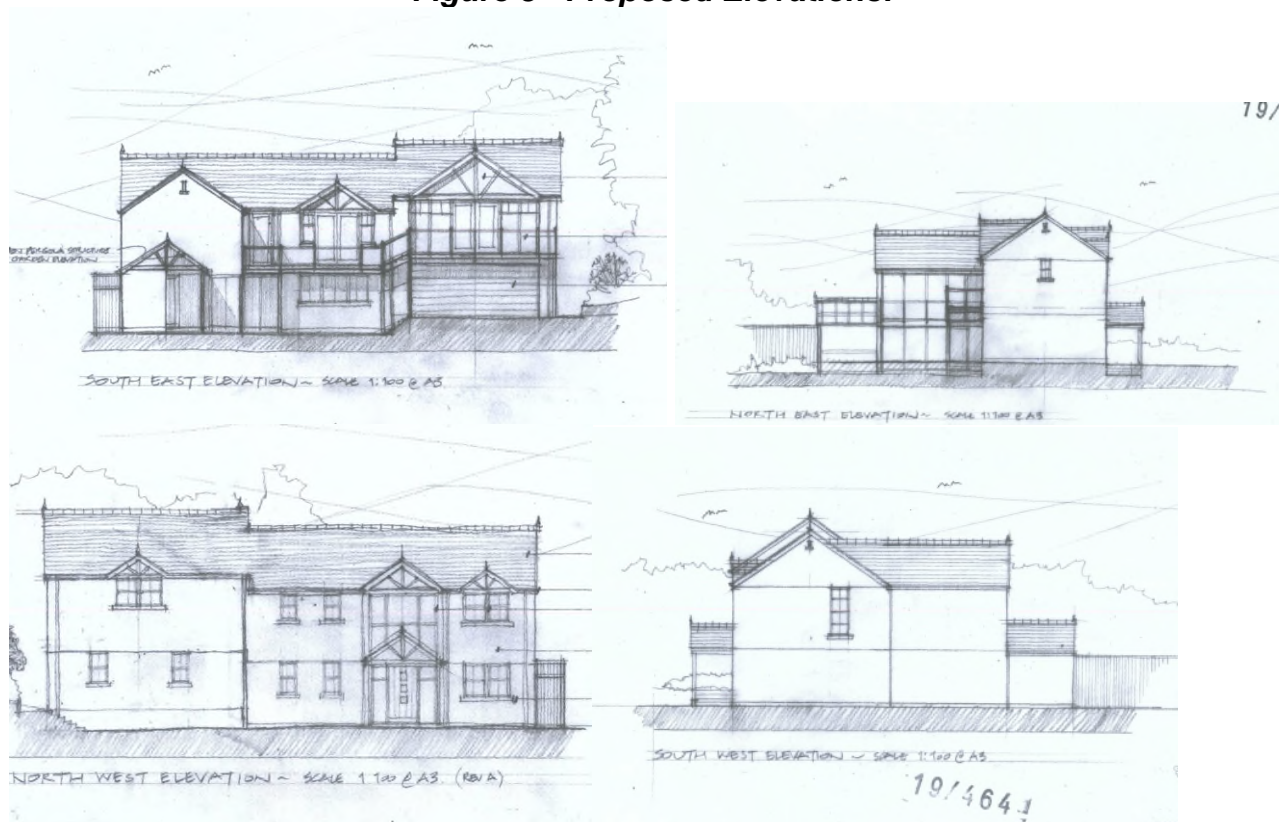
**Figure 2 - Proposed Tree Planting Scheme and Site Layout:**



Access to the site will be via Lamb Row and a driveway with a turning head is proposed within the site.

The proposed dwelling will be sited in an L shaped position and will measure approximately 13m x 17m with a pitched roof reaching an approximate maximum height of 7.3m. The front elevation of the property will be positioned to the south east with a new, steep vehicle access created from the eastern boundary of the site due to the current site levels. The rear elevation of the dwelling (north west) will have a forward projecting gable measuring approximately 1.5m x3m and to height of approximately 5.9m with a large, floor to ceiling glazed window to serve a landing area at first floor level and a gallery/hallway on the ground floor with a front porch. A first floor balcony is also proposed to the front of the property with an internal garage on the ground floor and a pergola type structure located to the side of the front elevation of the property. The property will be served by a large turning/parking area located to the front of the site and amenity space to the rear. The proposed ground floor will comprise of a living room, kitchen, study, hall, utility room, WC and garage. The first floor will comprise three bedrooms with an en-suite and family bathroom.

**Figure 3 - Proposed Elevations:**



The site is located within the settlement boundary of South Cornelly as defined by Policy PLA1 of the Bridgend Local Development Plan 2013. Part of the site comprises a former railway line and is located within a mineral safeguarding area and therefore Policies PLA10 and ENV9 of the Bridgend Local Development Plan 2013 apply. There are also a number of protected trees located on the north eastern boundary of the site and the site is surrounded by similar residential dwellings.

Amended plans were received on 12 December 2019 and 14 February 2020 addressing concerns regarding the proposed tree planting scheme and the gradient of the proposed access.

**RELEVANT HISTORY**

P/17/260/FUL – Approved (with conditions) 07/07/2017.  
Erection of one detached dwelling

Land adjacent to the site:

**P/10/699/FUL** - Approved (with conditions) 19/11/2010

Pair of semi-detached 2 bed houses & detached 2 bed bungalow on site of former Public House

## **PUBLICITY**

The application has been advertised on site.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity expired on 26 July 2019.

## **CONSULTATION RESPONSES**

**Highways Officer** - no objection subject to a number of conditions regarding visibility splays and parking.

**Drainage Officer** - No objection subject to a condition regarding details of a drainage scheme to be submitted prior to the works commencing on site and advising that a SAB application will be required along with the submission of a geotechnical report regarding limestone cavity formations.

**Destination and Countryside Manager** – no objection subject to conditions regarding tree protection and the submission of a clearance methodology relating to invasive species located on the site.

**Glamorgan Gwent Archaeological Trust (GGAT)** – identifies that the proposal will require archaeological mitigation and therefore requests that a condition is attached for the submission of a detailed written investigation for a programme of archaeological work to protect the archaeological resource at the site.

**Welsh Water Developer Services** - no objection subject to standard conditions and advisory notes.

**Group Manager (Public Protection)** - no objection subject to a number of advisory notes

## **REPRESENTATIONS RECEIVED**

Four letters of objection have been received from:

Crossing Cottage, Lamb Row, South Cornelly

2 Rock Cottages, South Cornelly

17 Wordsworth Avenue, Roath

The following concerns have been raised:

- The application site is located within the quarry line;
- Concerns over the capacity of the sewerage system to cope with an additional dwelling;
- Loss of TPO trees;
- Impact on wildlife including bats and voles;
- Proposed building - out of character and too large and high for the plot;
- Increase in parking and lack of parking for visitors;
- Increase in traffic on already congested roads;
- Concern over how surface water will be disposed of - risk of flooding;
- Block off sea view and adverse effect on value of property;

## **COMMENTS ON REPRESENTATIONS RECEIVED**

The majority of the concerns raised above have been addressed within the appraisal section of this report.



A loss of view and impact on property values are not a material planning consideration.

It is also worth noting that planning permission was previously granted (P/17/260/FUL refers) for the erection of a dwelling on the land subject of this application and a number of the concerns raised were also addressed during the determination of this application.

### **Local Policies**

The Development Plan for the area comprises the Bridgend Local Development Plan (LDP) 2006-2021, which was formally adopted by the Council in September 2013, and within which the following policies are of relevance:

- Strategic Policy SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA10 – Safeguarding of Disused Railway Infrastructure
- Policy PLA11 – Parking Standards
- Policy ENV6 – Nature Conservation
- Policy ENV9 – Development in Mineral Safeguarding Areas

### **Supplementary Planning Guidance**

SPG02 - Householder Development

SPG07 – Trees and Development

SPG17 – Parking Standards

SPG19 – Biodiversity and Development

### **National Planning Policy and Guidance**

National planning guidance in the form of Planning Policy Wales (Edition 10, December 2018) (PPW) is of relevance to the determination of this application.

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. Technical Advice Note 12 – Design (2016) and Technical Advice Note 18 – Transport (2007) are relevant to the determination of this application.

### **Wellbeing of Future Generations (Wales) Act 2015**

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5).

The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

## **APPRAISAL**

The application is referred to Committee to enable consideration of the objections received from local residents.

The main issues to consider in this application are the principle of the development, its impact on the character of the area, impact on the neighbouring amenities, protected trees, drainage and highway safety.

### Principle of the Development

The application site lies within the settlement boundary for South Cornelly as designated by Policy PLA1 of the Bridgend Local Development Plan. Policy COM3 of the Local Development Plan (LDP) states that residential developments within settlement boundaries defined in Policy PLA1 on windfall and small scale sites for the conversion of existing buildings or the re-use of vacant or under-utilised land will be permitted where no other development plan policy protects the building or land for an existing or alternative use. In view of the above, the proposed dwellings are considered to comply with Policy COM3.

Also, part of the application site comprises a former railway line and therefore, Policy PLA10 of the LDP is of relevance. Whilst Policy PLA10 seeks to safeguard the use of the disused railway infrastructure, from a further assessment of the site it was evident that the wider stretch of the former railway line along the eastern side of South Cornelly is no longer realistically available or suitable for any transport related development due to the location of the new road and other developments, both residential and employment, that have taken place in the vicinity since the closure of the railway line in the mid 1960s. In view of the above, the proposed dwelling is considered to comply with Policy PLA10.



It is considered therefore that, in principle, the residential use of the site is acceptable subject to satisfying the requirements of LDP Policy SP2.

### Impact on the character and appearance of the area

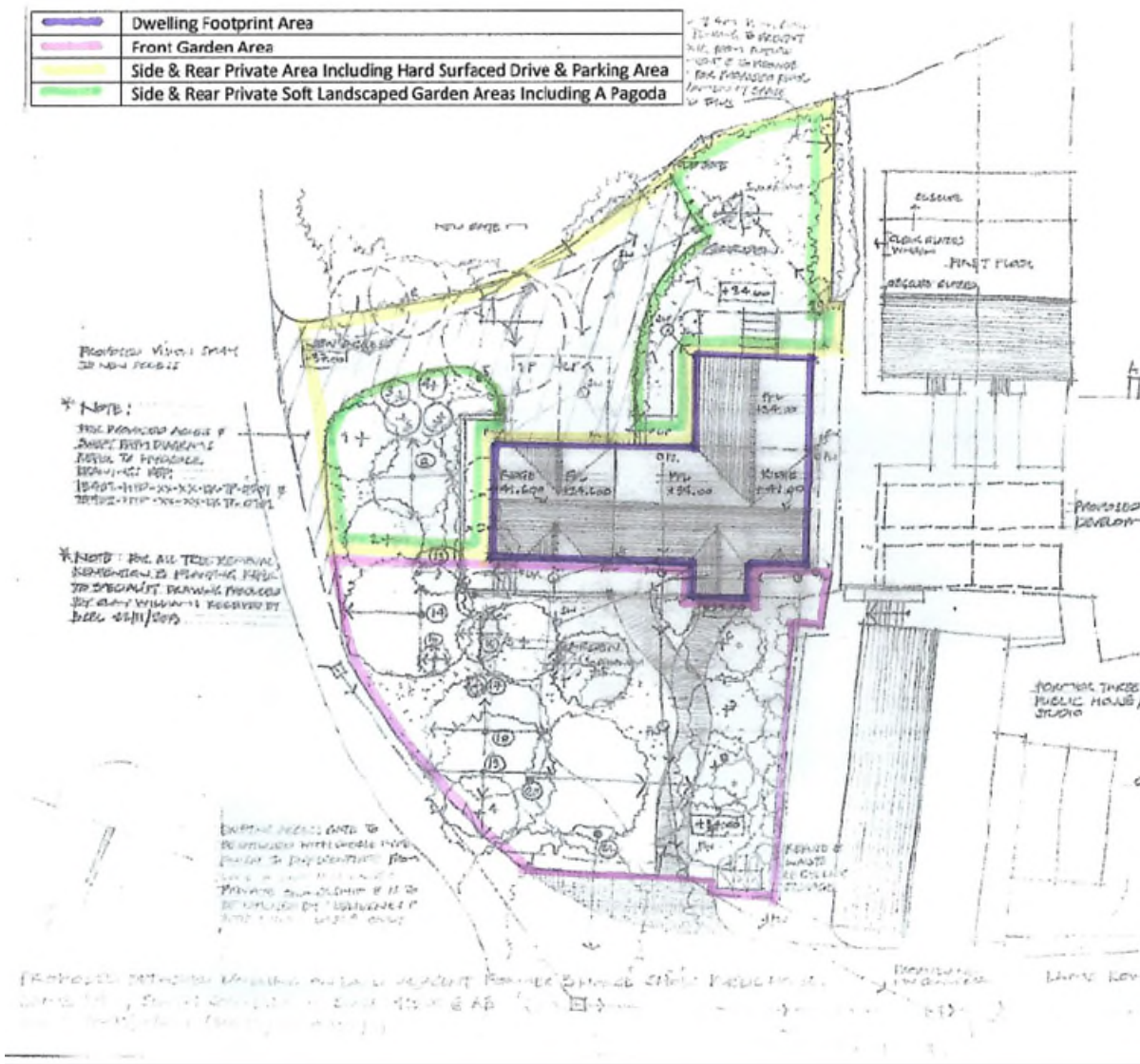
The site is currently overgrown with vegetation and is bounded to the north east by a cluster of protected trees. The site is also surrounded by a number of large detached

residential dwellings and therefore the scale of the proposed dwelling is considered to be in keeping with the character of the immediate area. It is also considered that the re-siting of the proposed dwelling, will not have an adverse impact on the character of the area, due to its set back position within the site.

Consequently, the proposed development is considered acceptable in terms of visual amenities however, in order to ensure that the materials used in the external surfaces of the proposed dwelling are suitable, it is considered necessary to attach a condition to any permission granted requiring details of the materials to be submitted to and agreed in writing by the Local Planning Authority. It is also considered that the proposed development would not have a significant adverse impact on Lamb Row or on the surrounding area due to its set back position and nature within the site and set back position from the main highway.

It is also considered that whilst the re-location of the access to the eastern boundary of the site will have an impact on the appearance of the area, due to its concealed position and the location of the trees along this boundary, it will not have a significant adverse impact on the character and appearance of the area.

**Figure 4 - Proposed Amenity Space Layout:**



Furthermore, following an assessment of the proposed tree replacement scheme, it is considered that the visual impact on the area will be minimal and the majority of the trees

will be retained and replanted to retain the existing character and appearance of the area.

With regard to the amenity space to serve the proposed dwelling, the front elevation of the dwelling will remain as previous approved under P/17/260/FUL with the front garden area and pedestrian access located to the front of the site (outlined in purple) and the private amenity space located to the side and rear of the site (outlined in green) as defined on the plan above. From assessing the submitted plan, the proposed rear private amenity space will be located to the south of the site and will be screened by a number of existing trees and shrubs. Also, due to its location to the rear of the site, there are not considered to be any overlooking issues with any neighbouring properties as a result of the proposed scheme.

Accordingly, it is considered that the proposed development accords with Policy SP2(2) and SP2 (3) of the Bridgend Local Development Plan 2013 and Supplementary Planning Guidance SPG02: Householder Development.

#### Impact on neighbouring amenities

From assessing the submitted plans, there is a vertical line of eight pane windows proposed on the south west elevation of the proposed dwelling, which serves an open staircase and is not considered to have a significant detrimental impact on the neighbouring properties or on the former Three Horseshoes Public House as they do not serve a habitable room. However, in order to protect privacy, it is considered necessary to attach a condition to any consent granted to remove permitted development rights to prevent the insertion of any further windows into the south west elevation of the proposed property.

The impact of the proposed development on the dwellings approved under planning reference P/16/313/FUL (4 new dwellings - a pair of semi-detached 2 bed houses and 2 detached 2 bed bungalows on the site of the former Public House) has been considered as part of this report although they have yet to be constructed. Due to the change in levels and the position of the proposed dwelling which is located much further forward into the plot than the approved dwellings, it is considered that the proposed development will have no adverse impact on the privacy of these properties.

The impact of the proposed development has also been assessed in relation to the residential amenities of the properties known as Clos yr Hen Eglwys and, due to the separation distance between the properties of approximately 30m and the orientation of the existing properties, the proposed development is not considered to have a significant adverse impact on the privacy and residential amenities of these neighbouring properties. The proposed development is also not considered to have an adverse impact on the occupiers of the former Three Horseshoes Public House due to the setback nature of the property within the site.

Accordingly, the proposed development is not considered to affect the current levels of privacy and residential amenities that the existing neighbouring properties currently enjoy and therefore the development accords with Policy SP2 (12) of the Bridgend Local Development Plan (2013) and SPG02: Householder Development Notes 1,2 and 6.

#### Access and Parking

The Council's Transportation Officer has noted that the site benefits from a previously consented scheme (P17/260/FUL refers) however, the proposed vehicular entrance has been relocated from the north of the site to the east of the site.



**Figure 5 - Photograph of access location:**



The previously consented access was from an existing dropped kerb gated entrance arrangement and is therefore considered an historic existing access with an accepted level of extant vehicular movements. However, this most recent submission proposes a new vehicular entrance out onto a very narrow section of lane (see photograph above).

As a result, the Highway Authority had two material concerns with the proposed new access and raised an objection to this application on the grounds that the narrow lane leading to the site is not suitable to serve as the principal means of vehicular access. In addition, it was considered that the proposed development would create traffic hazards to the detriment of highway safety out onto Railway Terrace.

As a result of that objection, the applicant has sought to overcome the concerns through extended negotiations with the Highway Authority. The applicant has now provided a revised access plan with an appropriate swept path analysis to show that delivery and emergency vehicles can access the site using the redesigned access. In addition, the applicant has provided a turning area within the site to ensure that all vehicles can access and egress the site in a forward gear.

The applicant has also shaped the access to ensure that vehicles leaving the site can only turn left into a splayed refuge area. The introduction of a vision splay and refuge area will not only assist in providing a satisfactory access from the site it will also create a passing place for existing highway users of Railway Terrace and Lamb Row. The new vision splay and refuge area should reduce the instances of vehicles having to reverse back towards Lamb Row or towards Crossing Cottages as the narrow lane will be able to accommodate two passing vehicles at the proposed new access location.

In addition, the removal of extensive vegetation and trees around the curtilage of the site will improve the forward vision for vehicles, cyclists and pedestrians using the lane and is

also considered a highway benefit. Although the existing access will no longer be used for vehicular access it will remain as the primary pedestrian access which will ensure that pedestrians from the proposed dwelling will be able to access the footway on Lamb Row. Notwithstanding the above, the removal of the current vehicular access and introduction of a new surface on the adopted highway is considered to result in calling vehicles associated with the development parking in this area to the detriment of highway and pedestrian safety. As a result, it is considered necessary to attach a condition requesting a scheme which will require the removal of the dropped kerb arrangement and re-instate the footway to promote and encourage walking as per the Active Travel Act.

It is acknowledged that the applicant has provided a plan detailing the access splay however, there was no indication of the vegetation which will be removed in order to provide a vision splay for the proposed entrance. Therefore, it is considered necessary to attach a condition for the length of vision splay to be provided.

Accordingly and subject to the imposition of appropriate conditions, the proposed development accords with Policy SP2 (6) and SP3 of the Bridgend Local Development Plan 2013 and Supplementary Planning Guidance SPG17: Parking Standards.

### Drainage

The Council's Drainage Officer has assessed the submitted drainage details which include infiltration details and these are considered acceptable subject to the imposition of a condition to any granted consent regarding a comprehensive drainage scheme to be submitted and agreed by the Local Planning Authority prior to any works commencing on the site which accords with Policy SP2 (13) of the LDP. The proposed development will also require a separate SuDS application and SAB approval.

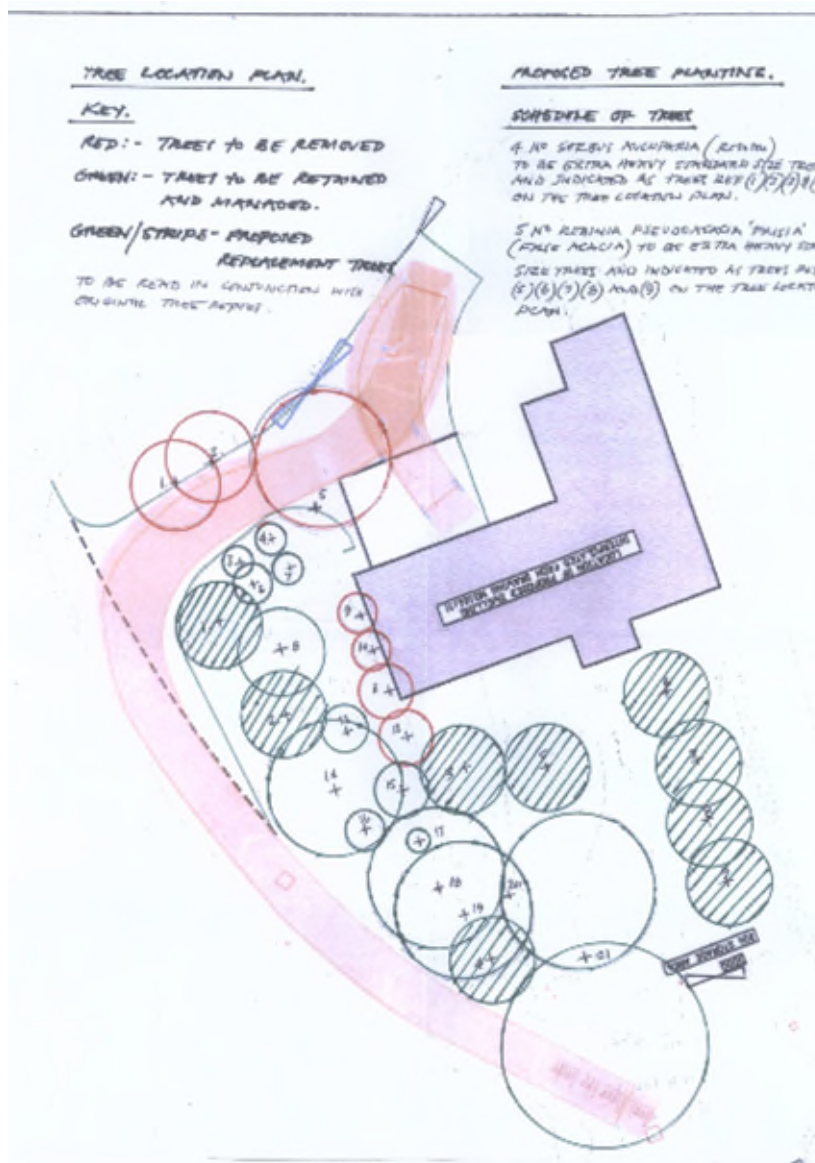
### Protected Trees

The application site comprises a cluster of protected trees that are located on the north eastern boundary of the site. The proposed works will also facilitate the implementation of comprehensive tree removal and a replanting programme which will include the removal of poor quality and dangerous trees along the embanked eastern section of the site and the retention of a number of the better quality trees within the embanked eastern section of the site. The retained trees will receive beneficial crown reduction management and replacement planting of appropriate native tree species at an appropriate density is proposed within the embanked eastern section of the site and within the northern (front garden) part of the site.

The proposed tree-planting scheme (see below) proposes the removal of 7 existing trees, the retention and management of 10 trees and the replacement of 9 trees on the site and will be subject to good management practices including:

- 1) Regular removal of ivy from trees and inspection for decay;
- 2) The removal of dead or decayed limbs as and when appropriate;
- 3) The removal of any potentially dangerous overhanging limbs as and when appropriate;
- 4) The removal of dead, decayed and/or dangerous trees and the planting of replacement trees as and when appropriate; and,
- 5) Points 2), 3) and 4) above to all be subject to first obtaining the necessary consents if and as required.

**Figure 5 - Proposed Tree Planting Scheme**



The Council's ecologist initially assessed the submitted information and requested additional information regarding the management of the trees. It was also noted that Japanese Knotweed is growing at the site and in view of this, it is recommended that a condition is attached requesting the submission of a clearance methodology for the site.

The methodology should include how the works will mitigate for the invasive species at the site, monitoring to ensure that the invasive species do not spread and recolonise at the site and what remedial works will be undertaken if these species are found to be spreading. It was also recommended that a root protection condition is attached to any consent granted in order to protect the roots of the other trees located on the boundary of the site whilst construction works are being undertaken on site.

Accordingly, it is considered that the proposed development accords with Policy SP2 (10) and ENV6 of the LDP and SPG19: Biodiversity and Development: A Green Infrastructure Approach.

Mineral Safeguarding Area

The application site is located within a Mineral Safeguarding Area and therefore Policy ENV9 of the LDP applies.

Policy ENV9 states:

*Development proposals within mineral safeguarding areas, either permanent or temporary, will need to demonstrate that:*

- 1) If permanent development, the mineral can be extracted prior to the development, and/or the mineral is present in such limited quantity or quality to make extraction of no or little value as a finite resource; and*
- 2) In the case of residential development, the scale and location of the development e.g. limited infill/house extensions, would have no significant impact on the possible working of the resource; and*
- 3) In the case of temporary development, it can be implemented and the site restored within the timescale the mineral is likely to be required.*

The purpose of safeguarding areas is to preserve mineral resource for future generations. The application site lies within close proximity to Cornelly Quarry which is currently active although it lies within the settlement surrounded by existing housing. There is limited prospect of extending the quarry towards the settlement. The Council's Public Protection section has been consulted and has raised no objections to the proposed development but has included a number of notes regarding site contamination to the applicant. In view of this, it is considered that the proposed development would have no significant impact on the possible working of the resource and will have no significant adverse impact on the occupiers of the proposed development. The proposal therefore accords with Policy ENV9 of the LDP. Quarry activities are monitored under separate conditions.

#### Archaeological Mitigation

Information in the Historic Environment Record, curated by The Glamorgan-Gwent Archaeological Trust, shows that a manorial chapel and burial ground are located in this area of South Cornelly. The application area is situated less than 50m from these remains and it is a possibility that medieval remains may be sited within the development area. It is considered that whilst the ground has been disturbed by the railway and previous dwellings, it is still likely that archaeological finds and features, especially earlier foundations associated with the dwellings, may exist within the proposed application site. Furthermore, GGAT have previously recommended archaeological mitigation for other developments located within the immediate vicinity due to the potential in particular to medieval remains.

Accordingly, it is recommended that a condition is imposed upon any consent granted to require a written scheme of investigation for a programme of archaeological work to be submitted to the Local Planning Authority prior to the commencement of development and on this basis, the Glamorgan-Gwent Archaeological Trust considers that the application is acceptable from an archaeological perspective.

#### Other Matters - Biodiversity/Ecology

Section 40 of the Natural Environment and Rural Communities Act 2006 states that 'every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. This "duty to conserve biodiversity" has been replaced by a "biodiversity and resilience of ecosystems duty" under Section 6 of the Environment (Wales) Act 2016 which came into force on 21st March, 2016.

Section 6 (1) states that "a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions." Section 6(2) goes on to state that "In complying with subsection (1), a public authority

must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and, (e) the adaptability of ecosystems.

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires LPAs to take account of the presence of European Protected Species at development sites. If they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application.

The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

Given the nature of the development and the proposed mitigation measures, it is considered that, overall, there will be no significant adverse residual impacts on biodiversity. Therefore, the proposal is considered to comply with the requirements of the Habitats Regulations 1994 (as amended), Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP policies.

## **CONCLUSION**

This application is recommended for approval because the development complies with Council policy and guidelines and would not adversely affect the character of the existing property, street scene or wider area, prejudice highway safety, ecology, protected trees, privacy or visual amenities nor so significantly harm neighbours' amenities. The concerns raised by the neighbours are acknowledged however, in this case and on balance they are not considered to outweigh the other material issues connected to the development such as to warrant refusal on those grounds.

## **RECOMMENDATION**

(R02) That permission be GRANTED subject to the following condition(s):-

1. The development shall be carried out in accordance with the following approved plans and documents:

Site Location Plan;

Proposed Elevations and Floor Plans;

Surface and foul waste drainage details and surface water soakaway test results and design;

Bat Tree Survey prepared by Sylvan Ecology received on 25 June 2019;

Tree Location Plan prepared by Clay Williams Associates received on 22 November 2019;

Amended Site/Block Plan and Tree Plan Drawing No. PLN 01 (d), Proposed swept path analysis for a fire tender and 7.5 panel van plans received on 12 December 2019.

Amended Proposed Site Access Drawing No. LAM-HYD-XX-XX-DR-C-2500 Rev P01 received on 17 February 2020.

Amenity Space Layout Plan received on the 22 June 2020.

Additional information submitted on 17 January 2020.



Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. No development shall take place until a detailed specification for, or samples of, the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: To ensure that the proposed materials of construction are appropriate for use on the development so as to enhance and protect the visual amenity of the area.

3. No development shall take place until there has been submitted to and agreed in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected and a timetable for its implementation. Development shall be carried out in accordance with the agreed plan and timetable.

Reason: To ensure that the general amenities of the area are protected.

4. No development shall commence on site until a scheme for the comprehensive and integrated drainage of the site, showing how foul, road and roof/yard water will be dealt with, including the future maintenance requirements, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to beneficial use of the dwelling commencing.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that flood risk is not increased

5. No development shall take place until full details of both hard and soft landscape works have been submitted and agreed in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include all proposed planting and landscaping such as schedule of plants/trees, species and number/densities, hard surfacing materials and implementation programme.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation

7. The access/drive/turning facility shall be completed in permanent materials in accordance with details to be submitted and agreed by the Local Planning Authority prior to the development being brought into beneficial use and thereafter retained as access/drive/turning facility in perpetuity.

Reason: In the interests of highway safety.

8. No development shall commence until a scheme for permanently stopping up the existing access and reinstating the vehicular crossing as footway has been submitted to and

agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the development being brought into beneficial use.

Reason: In the interests of highway and pedestrian safety.

9. The proposed means of access shall be laid out with vision splays of 2.4m x 28m to the north west and 2.4m x the entire red line site boundary to the south east before the development is brought into beneficial use and retained as such thereafter.

Reason: In the interests of highway safety.

10. No structure, erection or planting exceeding 0.6 metres in height above adjacent carriageway level shall be placed within the required vision splay areas at any time.

Reason: In the interests of highway and pedestrian safety.

11. Any entrance gates on the proposed vehicular access shall be set back not less than 5 metres from the nearside edge of the carriageway.

Reason: In the interests of highway safety

12. No development shall take place until a scheme for the provision of temporary traffic and pedestrian management along Railway Terrace/Lamb Row during the creation of the new access and re-instatement of the existing access has been submitted to and agreed in writing by the Local Planning Authority. The scheme as agreed shall be implemented before commencement of works and shall be retained for the duration of those works.

Reason: In the interests of highway and pedestrian safety.

13. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), no buildings shall be erected other than those expressly authorised by this permission and shown on plan number PLN 01 (d) Site/Block Plan.

Reason: To enable the Local Planning Authority future control over the scale of development as well as the installation of new windows or dormers or the extension of the property to the rear, in the interests of the residential amenities of adjacent properties and to protect the amenity space provided within the property

14. Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), no buildings shall be erected other than those expressly authorised by this permission and shown on plan number PLN 01 (d) Site/Block Plan.

Reason: To enable the Local Planning Authority to control the scale of development.

15. Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), no windows other than those as hereby approved shall be inserted into the south west elevation of the dwelling other than those expressly authorised by this permission and shown on the proposed south western elevation plan submitted on 25 June 219.

Reason: To safeguard the privacy and residential amenities of adjoining neighbouring occupiers.

16. No development shall commence until a scheme has been submitted to and agreed in writing by the Local Planning Authority for tree and root protection measures including barrier fencing for all existing trees and hedgerows on and adjacent to the site. The agreed scheme shall be implemented prior to and for the duration of the development of the site.

Reason: In the interests of biodiversity and to preserve the character and appearance open countryside.

17. No development shall take place until an invasive species management plan which includes full details of a scheme for its eradication and/or control has been submitted to and agreed by the Local Planning Authority. Works shall be carried out in accordance with the agreed details.

Reason: In the interests of controlling invasive species and safeguarding general amenities.

18. No development shall take place until the applicant or their agents or successors in title, have prepared a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the Local Planning Authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

**\*\* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS\*\***

- a) This application is recommended for approval because the development complies with Council policy and guidelines and would not adversely affect the character of the existing property, street scene or wider area, prejudice highway safety, ecology, protected trees, privacy or visual amenities nor so significantly harm neighbours' amenities. The concerns raised by the neighbours are acknowledged, however, in this case and on balance they are not considered to outweigh the other material issues connected to the development such as to warrant refusal on those grounds.
- b) Rainwater run-off shall not discharge into the highway surface-water drainage system. Failure to ensure this may result in action being taken under section 163 of the Highways Act 1980.
- c) The Developer is reminded that consent under the Town and Country Planning Act 1990 conveys no approval under the Highways Act 1980 for works to be undertaken affecting any part of the public highway including verges and footways and that before any such works are commenced the developer must:
  - i. obtain the approval of Bridgend County Borough Council as Highway Authority to the details of any works to be undertaken affecting the public highway;
  - ii. indemnify the County Borough Council against any and all claims arising from such works;
  - iii. give not less than one calendar month's notice in writing of the date that the works are to be commenced to the Policy, Development and Transport Team Leader, Bridgend County Borough Council, Civic Offices, Angel Street,



- d) The applicant should be advised that any building materials delivered to the development site shall not be deposited or stored on the highway, without the express PRIOR consent of Bridgend County Borough Council as the Highway Authority.
- e) The applicant may need to apply to Dwr Cymru Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)
- f) The applicant is also advised that some public sewers and lateral drains may not be recorded on the maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist Dwr Cymru Welsh Water in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.
- g) The Public Protection Section draws your attention to the possibility of gases (landfill gases, vapours from contaminated land sites and naturally occurring methane and carbon dioxide, but not radon gas) being generated at the site or land adjoining thereto and recommend investigation and monitoring of the area.
- h) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing within 2 days to the Public Protection Section, all associated works should stop and no further development should take place until a scheme to deal with the contamination found has been approved.
- i) Any topsoil [natural or manufactured] or subsoil, to be imported, should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants free material should be imported.
- j) Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants free material should be imported.
- k) Any site won material including soils, aggregates, recycled materials should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants material should be reused.
- l) The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for the safe development and secure occupancy of the site rests with the developer.

- m) It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site;
- Unprocessed / unsorted demolition wastes.
  - Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
  - Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed.
- n) The applicant is advised that the archaeological work must be undertaken to the appropriate standard and guidance set by the Chartered Institute for Archaeologists and it is recommended and that it is carried out either by a CIFA registered organisation or a MCIFA level accredited member.
- o) The applicant is advised that any works to be undertaken to trees protected by a Tree Preservation Order will require a formal application to be submitted to and approved by the Local Planning Authority.

**JONATHAN PARSONS**  
**GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

**Background Papers**

None

**REFERENCE:** P/20/301/FUL

**APPLICANT:** Mr & Mrs N Heard c/o John Matthews,  
Anglesey House, 47 Anglesey Way, Porthcawl CF36 3QP

**LOCATION:** 66 Grove Road, Bridgend CF31 3EF

**PROPOSAL:** Change of use from dwellinghouse (use class C3(a)) to the residential care of 2 children (use class C2)

**RECEIVED:** 24 April 2020

## **APPLICATION/SITE DESCRIPTION**

The application seeks full Planning permission for the change of use of the existing building from Class C3 - Dwellinghouse to Class C2 - Care Home providing supported living for two looked after children with two members of staff (1:1) as follows:-

The proposed use will involve the residential care of two children under 18 years of age and who are classed as vulnerable. The use will be subject to registration by the Care Inspectorate of Wales and the two children will be in full-time care with two fully trained carers looking after them throughout the day and night except if and when they are at school. The carers will work to 12-hour shifts with daily shift change-over times taking place at 07.00 and 19.00 hours respectively.

The property is well-suited for the proposed use and already benefits from adequate parking space for use by the carers. In the latter respect, there is off-street parking available at the rear of the property which is accessed via the rear lane. In addition, there is on-street parking availability along Grove Road to the front of the property. The foul and surface water drainage provision will be as already existing and no external alterations to the property are required.

On the above basis, the proposed use will have no adverse impact on the amenity and privacy of surrounding residential properties or on the general character of the area.

The Agent has further advised *the children to be cared for in the property are classed as vulnerable as they come from difficult background home circumstances. While some may have learning difficulties, they are victims of circumstances and are simply in need of proper care and attention. As such, they are not offenders and pose no potential threat to the local community.*



**Google Street View of the existing front elevation**



The application site is located within the primary key settlement boundary of Bridgend as defined by Policy PLA1 of the adopted Bridgend Local Development Plan 2013 (LDP) within an established residential street.

The existing dwelling, 66 Grove Road, appears as a traditional two-storey mid terraced dwelling house which would not be altered externally to accommodate the change of use. The building has a stone fronted front elevation with on street car parking to the front of the building on Grove Road.



**Google Satellite View of the Property**

The application plot fronts onto the street and benefits from an enclosed rear garden/amenity space that also accommodates a garden outbuilding (which it is believed has been removed to accommodate car parking facilities).

## **PUBLICITY**

The proposal has been advertised on site. Neighbours have been notified of the receipt of the application. The period allowed for response to consultations/publicity expired on 4 June 2020

## **CONSULTATION RESPONSES**

Councillor Matthew Voisey - I would like this application to be considered by full committee.

- Grove Road is a residential road, suffering from acute traffic congestion, due to issues of on street parking and as a rat run from Ewenny road to Merthyr Road. It is also due to be considered for residents only parking status.
- I believe that this change of use will result in a marked increase in nuisance and disturbance from traffic, noise, crime and disorder and attendance by Police and other services to the premises. (This is the experience near other such locations). The neighbours will be adversely effected to their detriment and wellbeing.
- At this point I would also like to request a members site visit, so members can consider this on the ground.
- Onsite parking. Google maps view does not show any open parking visible at the rear. If consented, it must be a condition that the parking is provided and must be used, rather than street parking.

Councillor Lyn Walters - I do not consider that the change of use for this property is appropriate and wish to object and request this is referred to Development Control. The local community is very close knit and changing the use from a dwelling house to a children's residential home is not appropriate. In addition, access to the property for any carers or support staff may not be as simple in the future if the long proposed residents parking scheme is introduced. I am aware that a number of residents are very concerned about this change and I share their concerns.

Bridgend Town Council has no objection to the proposal.

### **REPRESENTATIONS RECEIVED**

Representations have been received from:-

Grove Road – 18, 21, 28, 53, 57, 64(2), 68, 70(2), 76(2), 80, 84, 85(2), 88

Brynteg Avenue – 21, 28

Grove Gardens – 2

Merthyr Mawr Road – 41(2), 70

St Marie Street – 49, 51, 55, 57, 61

1 anonymous

The objections raised are summarised below:-

- The effect on vulnerable persons (children and elderly);
- Previous use of the premises as emergency accommodation for children caused problems;
- According to the SWP website there were 16 offences, 5 in Newbridge fields and 11 in the vicinity of the residential care unit for teenagers opposite Preswylfa Court, these included sexual offences & arson;
- noise and disturbance for adjacent properties;
- drug and alcohol related problems;
- anti social behaviour - including damage, violence, possession of bladed articles and threats (youth arrested);
- criminal records;
- The property is mid terrace and not suitable - a detached/semi detached property on a quieter street with less neighbours would be far more suitable for this type of care;
- consideration needs to be given to how these buildings were erected with no individual attic space and anyone who wanted to access another property could do so by moving through the attic space from property to property. As these teenagers have behavioural problems I consider this unsafe and unacceptable.
- Parking for residents is already difficult so carers coming back and forth and health visitors would add to that;
- Already two residential homes nearby plus a new one being built on the Brynteg School site;
- If this change of use is granted then there is a precedent set and nothing stopping someone buying another property in the street and doing the same;
- The proposal to utilise the rear lane access is inappropriate; the unadopted unadopted lane is particularly narrow with restricted visibility for safe access/ loading/ turning;
- Highway safety is also a concern due to the number of young families in the street, the street's/lane's role as a safe walking route to Old Castle School, the speed vehicles reach on the straight road and double lines of parked cars;
- Effect on house prices which will cause further stress and financial burden;
- These type of properties do nothing to protect the vulnerable and only serve to line the pockets of the companies whom propose such enterprises in a built up residential area;

- It will have a detrimental impact on the nearby community;
- Effect on health and wellbeing

## **COMMENTS ON REPRESENTATIONS RECEIVED**

Site visits are not currently being undertaken by Committees due to the Covid-19 restrictions. The objections raised will be addressed in the Appraisal.

## **PLANNING POLICIES**

### **Local Policies**

The Development Plan for the area comprises the Bridgend Local Development Plan 2006-2021, which was formally adopted by the Council in September 2013, and within which the following policies are of relevance:

- Strategic Policy SP1 – Regeneration-Led Development
- Strategic Policy SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- Policy SP12 – Housing
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA11 – Parking Standards
- Policy COM3 – Residential Re-Use of a Building or Land

### **Supplementary Planning Guidance**

SPG02 – Householder Development  
SPG17 – Parking Standards

### **National Planning Policy and Guidance**

National planning guidance in the form of Planning Policy Wales (Edition 10, December 2018) (PPW) is of relevance to the determination of this application.

### **Technical Advice Notes:**

Technical Advice Note 12: Design (2016):  
Technical Advice Note 18: Transport (2007)

### **Other Relevant Policies:**

#### Biodiversity/Ecology

Section 40 of the Natural Environment and Rural Communities Act 2006 states that ‘every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity’. This “duty to conserve biodiversity” has been replaced by a “biodiversity and resilience of ecosystems duty” under Section 6 of the Environment (Wales) Act 2016 which came into force on 21st March, 2016.

Section 6 (1) states that “a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.” Section 6(2) goes on to state that “In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and, (e) the adaptability of ecosystems.

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires LPAs to take account of the presence of European Protected Species at development sites. If

they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application. The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

Given the nature of the development in this instance (change of use proposal of an existing building), it is considered that there will be no significant adverse residual impacts on biodiversity. Therefore, the proposal is considered to comply with the requirements of the Habitats Regulations 1994 (as amended), Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP policies.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5).

The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

#### **APPRAISAL**

The application is referred to Committee to consider the representations made by Councillor Lyn Walters, Councillor Matthew Voisey and local residents.

The application seeks full Planning permission for the change of use of the existing residential unit (dwelling) to a care home for 2 children and 2 carers.

The following main issues will be considered as part of this report:

- The principle of development – use class
- The impact on the amenities of neighbouring residents
- Perception/fear of crime and antisocial behaviour
- Parking and Highways Safety
- Impact on visual amenities.

## **The Principle of development – Use Class**

The proposal seeks to change the use of the existing dwelling from Class C3 - Dwellinghouse to Class C2 - Care Home providing supported living for two looked after children with two members of staff (1:1).

The C2 use class encompasses a number of different uses, including other types of residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

The C2 use class is distinct from the C2a use class, which groups together secure residential institutions, such as prisons, young offenders' institutions and secure hospitals.

Some local residents have raised concerns that the use could be changed to a C2a use, such as a young offenders institute at a later date, without Planning permission. It should be noted that C2a is a different use class and a separate grant of Planning permission would be required to change a C2 use (residential institution) into a C2a use (Secure Residential Institution).

In some circumstances, residential dwellinghouses can be converted into children's care homes without the need for Planning permission. Each proposal has to be assessed on its merits taking account of various factors, such as level of and operational aspects of care. The C3 use class, which encompasses residential dwellinghouses, is split into the following three categories:-

- A dwelling house lived in by a single person or family. This category would include foster families.
- Up to 6 people living as a single household and receiving care. This includes supported housing schemes, such as for people with mental health issues or learning disabilities.
- Up to 6 people living as a single household, which do not fall within a C4 use (small house in multiple occupation), such as religious communities.

A recent Court judgement concluded that although adult carers will be present at all times they would not be living permanently at the property as part of a 'household' and a group of young people containing individuals under eighteen could not reasonably be regarded as being capable of living together as a single household.

In addition, the level of daily activity at the site would be more intensive and constant than might reasonably be expected to be generated by even a large dwellinghouse and as such, the overall character of the use would differ materially from that of a dwellinghouse.

It was considered that such a proposal represents a material change of use and therefore, the use would fall within Use Class C2.

In this case however, the property is to accommodate 2 children and 2 adult carers in a residential area which would display many similar features associated with a family dwelling. The changeover of carers would occur every 12 hours at 7pm and 7am.

The application site is located within the settlement boundary of Bridgend, as defined by Policy PLA1 of the Bridgend Local Development Plan (LDP) 2006-2021 and, as such, the conversion of this existing building into a small scale care home of the nature proposed is considered to accord with the criteria set out in Policy COM3 of the LDP and Planning Policy Wales (2018) which supports the use of suitable previously developed land for



residential purposes as it can assist regeneration and at the same time relieve pressure for development on greenfield sites.

Furthermore, Strategic Policy SP1 seeks to encourage regeneration led development within the settlement hierarchy and it is considered that the proposed change of use of the existing building to another form of residential use in such a locality is compatible with surrounding land uses and is acceptable. It is considered that the proposed development is located within a sustainable location being located close to public transport links and local amenities which would be of benefit to potential future occupiers and staff at the premises.

In view of this, the proposed development is considered to accord with Strategic Policy SP1 and Policies PLA1, COM3 and SP10 of the Bridgend Local Development Plan (2006-2021) and can be supported in principle.

As detailed, the terraced property is situated within the settlement boundary of Bridgend and it is considered that the conversion of an existing dwelling to a care home of the nature proposed, with no major external or internal works proposed and the visual character of the property being retained, would provide a valuable alternative type of living accommodation in the locality without harmfully or significantly eroding the character and appearance of the existing area.

The essential character of the area is derived from single households and the introduction of a small scale care home of the nature proposed, which is appropriate in a residential setting, can be supported. Furthermore, the proposal is for a small two-person care home which is residential in nature and as such, it would not result in an undue concentration of incompatible uses in this location.

Notwithstanding the above, whilst the principle of a residential use, such as a care home, within a residential area is accepted and common place, it is necessary to consider the aspects of this proposed use which may have the potential to adversely affect the residential amenities of the area.

### **Impact on the amenities of neighbouring residents**

Planning applications must be determined in accordance with the adopted Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 refers).

Policy SP2 (Design and Sustainable Place Making) in particular states:

All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by:

1. *Complying with all relevant national policy and guidance where appropriate;*
2. *Having a design of the highest quality possible, whilst respecting and enhancing local*
3. *distinctiveness and landscape character;*
4. *Being of an appropriate scale, size and prominence;*
5. *Using land efficiently by:*
  - (i) *being of a density which maximises the development potential of the land*
  - (ii) *whilst respecting that of the surrounding development; and*
  - (iii) *having a preference for development on previously developed land over*
  - (iv) *greenfield land;*
6. *Providing for an appropriate mix of land uses;*

7. *Having good walking, cycling, public transport and road connections within and outside the site to ensure efficient access;*
8. *Minimising opportunities for crime to be generated or increased;*
9. *Avoiding or minimising noise, air, soil and water pollution;*
10. *Incorporating methods to ensure the site is free from contamination (including invasive species);*
11. *Safeguarding and enhancing biodiversity and green infrastructure;*
12. *Ensuring equality of access by all;*
13. *Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected;*
14. *Incorporating appropriate arrangements for the disposal of foul sewage, waste and water;*
15. *Make a positive contribution towards tackling the causes of, and adapting to the impacts of Climate Change; and*
16. *Appropriately contributing towards local, physical, social and community infrastructure which is affected by the development.*

The Local Member and local residents have raised a number of concerns regarding the impact that the care home would have on the residential amenities of neighbouring properties. There are two main strands to these concerns:-

- the potential noise and disturbance caused by additional comings and goings, relating to the institutional use of the site;
- the potential disturbance, resulting from the children's behaviour.

The supporting statement advises that the home would accommodate up to two children between the ages of 0 and 18. The applicant has confirmed that the home would be registered with the Care Inspectorate of Wales if Planning permission is granted. It should be noted that registration with the overseeing body is not a requirement to grant planning permission but is a separate regulatory process.

There would be a maximum of two carers on the premises at any one time, providing one to one supervision for the children during waking hours. Overnight there would be two carers on the site. The staff handover would take place at 7am and 7pm. Parking will be provided for vehicles at the rear of the property, however, at handover time, there would be a maximum of 4 members of staff at the premises. On the basis that the staff could all arrive and leave individually, that would result in a minimum of 8 staff movements to and from the property per day.

The times of the handover, 7am and 7pm, are at quieter times of the day, where comings and goings are more likely to be noticeable and disruptive to nearby residents. However, the property is located on a road that links Merthyr Mawr Road and Ewenny Road where traffic is likely to be quite busy at those times.

In terms of the level of amenity, the plot benefits from an enclosed rear garden that would provide a form of external amenity area and waste/recycling bin storage space for the potential future residents of the premises.

No details have been provided of any regular visitors to the property however, it would not be reasonable or enforceable in Planning terms to restrict, by use of a Planning condition, who could visit the property and when, as well as the number of visitors present on the site at any one time. Such a condition would go beyond the remit of the Planning system as it could potentially interfere with the operational functioning of the home, affecting how and when key visitors, such as social workers and health visitors,

could attend the property. It would also be impossible to monitor.

In terms of the likely impact on the residential amenities of the neighbouring properties, with particular reference to the immediate residents of Grove Road, it is considered the proposed use would not unreasonably compromise the level of amenity that is currently enjoyed and can be reasonably expected in such a locality. It is considered that the level of activity and other likely effects of the use would not significantly exceed what might be expected from its occupation as a family dwelling. Given the relatively small scale nature of the use, the level of movement to and from the property may not intensify to such an extent that it would be incompatible in this residential area

Whilst the maximum number of children placed at the home is limited to two (and this can be controlled by a Planning condition), the precise operational requirements of the use are not fully known and will ultimately be controlled by the requirements of the Care Inspectorate of Wales. These requirements could result in additional staff, visitors or vehicles movements over the estimates given by the applicant and different shift patterns at times of day which could be more disruptive for nearby residents.

In some circumstances a temporary Planning permission may be appropriate. This includes where a "trial run" is needed in order to assess the effect of the development on the area. In this case the precise day to day functioning of the care home is not known and there are limited existing examples within the vicinity. The information provided by the applicant indicates that the use could function without materially harming the amenities of nearby residents in terms of noise and disturbance from comings and goings. However, given the proximity of the site to nearby properties, in the event of any significant increase in comings and goings caused by the actual operational requirements of the care home could potentially result in unacceptable levels of noise and disturbance to nearby residents. There are no conditions, except for a cap on the maximum number of children, which could reasonably be imposed to ensure that the information submitted by the applicant is adhered to.

Taking into consideration the above, a two year temporary permission would enable the Local Planning Authority to fully assess how the care home functions in practice and whether it operates in a manner compatible with the surrounding residential area. Given that the home is not yet registered with the Care Inspectorate for Wales, the precise impact of the use is not fully known and cannot be assessed, a full permanent Planning permission cannot be justified in this particular case. A temporary consent is therefore considered appropriate to allow the impact of the proposal to be fully assessed over a period of time.

### **Residents' perception/fear of crime and antisocial behaviour**

Many of the objectors raise concerns that the proposed use will result in antisocial behaviour from the children and from potential visitors to the property. The risk of crime and disorder and the perception of it arising from the proposed use is, in some instances, a material Planning consideration.

In order to carry weight in the determination of a Planning proposal, fear of crime must be based on sound reasons and there needs to be reasonable evidential basis for that fear. A number of the representations refer to children's care homes nearby and they have raised concerns that these care homes have resulted in higher levels of crime and antisocial behaviour and increased police visits to the site and area.

Objectors' concerns and anxieties about the proposed use are acknowledged but there is no solid evidence to demonstrate that the change of use of the dwelling to a small

children's care home would result in a spike in antisocial behaviour in the neighbourhood. Proposals for care homes are not an uncommon occurrence nationally and Planning appeal decisions relating to similar proposals have concluded that it cannot be assumed that children living in care would be more likely to behave antisocially or create levels of noise over and above children living in a 'traditional' family unit.

Inspectors seem to take note that in a care home children would be cared for by specialist supervising staff and care workers who are able to deal with any situations that might arise.

It is the case that in addition to holding the relevant Planning permissions, residential children's homes which accommodate children under 18 years old must be registered with the Care Inspectorate for Wales and it is a criminal offence to run a children's home which is not registered with this body. As part of this registration process, the applicant must demonstrate that they meet certain legal requirements set out within The Care Standards Act 2000 (Notification) (Wales) Regulations 2011, The Regulation and Inspection of Social Care (Wales) Act 2016 and The Children's Homes (Wales) (Amendment) Regulations 2017. The Care Inspectorate for Wales can take enforcement action where care homes have been shown to fall short of the legal requirements set out within the Acts and can remove a care home's licence.

How the care home would function is a process that would need to be agreed as part of the registration process and as this is controlled by other legislation, it is not within the remit of the Planning system to seek to control the day to day functioning of the care home.

No evidence is available to demonstrate that the children living at this care home would create disturbances or cause an increase in other forms of antisocial behaviour. As such, whilst the fear and perception of crime is a material Planning consideration, there is no reasonable evidence base for the fear in this instance. A refusal cannot be justified on the grounds of residents' fear of crime in this case.

### **Parking and Highways safety**

Criterion (6) of Policy SP2 states that developments should have good walking, cycling, public transport and road connections to ensure efficient access to the site and this is supplemented by Supplementary Planning Guidance 17 which requires 1 space per resident staff, 1 space per non-resident staff and 1 visitor's space per 4 beds.

A garage/outbuilding has recently been removed at the rear of this property and the width of the area remaining could accommodate 2 cars. Subject to a condition requiring the proposed off-street parking areas to be laid out prior to first use, it is considered that the parking provision would comply with the standards for staff with visitor parking being accommodated on-street.

### **Visual amenities**

No material changes are proposed to the exterior of the building however, concern was expressed at the removal of the garage/outbuilding at the rear of the property. Provided the hardstanding is laid such that 2 vehicles can park off-street it is considered that there would be no material harm to the character and appearance of the area.

### **Other Matters**

Some of the other objections have raised concerns regarding the impact of the proposal on local house prices/devaluation of property. This is not a material planning consideration and has not been assessed as part of the application.

The need for further care home spaces in Bridgend is for the developer to assess and not a material consideration in the determination of this application and as such, no weight can be attached to this matter in terms of decision making.

## **CONCLUSION**

The proposed children's care home would be a residential type use in a residential area.

There is no objection in principle to this use in this location.

Given the relatively small scale nature of the use and on the basis of the information provided by the applicant, the proposal may not result in any comings and goings in excess of those which could reasonably be expected in a residential area. However, given the extent of local concerns about activity and that the operational functioning of the business has not been confirmed, as it is not yet Care Inspectorate of Wales registered, the extent of any noise and disturbance resulting from the movements associated with the use cannot be fully assessed. With this in mind a two year temporary permission is recommended to enable the impact of the proposal to be fully assessed.

There is no tangible evidence to demonstrate that the creation of a children's care home in this location would result in anti-social behaviour or crime. Whilst the perception and fear of crime can be a material Planning consideration it must be based on sound evidence rather than anecdotal evidence.

It is not within the remit of the Planning system to manage the operation of the care home, as this is covered by other legislation and managed by the Care Inspectorate of Wales. The care home would have to be registered with the Care Inspectorate of Wales and comply with all the necessary legislation that ensures the care home is run to an appropriate standard.

The proposed parking arrangement would meet the standards set out within Supplementary Planning Guidance 17 and the Highway Authority has not raised any highway safety concerns.

In addition to the Planning condition limiting permission to two years, conditions are also suggested restricting the use to a children's care home only; requiring the parking area to be installed prior to first use of the home and limiting the number of children living in the home to a maximum of two at any one time.

Accordingly, it is considered that the proposed development is acceptable in terms of the likely impact on neighbouring amenity levels and, therefore, accords with Policy SP2 (12) of the Local Development Plan and the Council's Supplementary Planning Guidance SPG02: Householder Development.

## **RECOMMENDATION**

(R11) That permission be GRANTED subject to the following condition(s):-

1. The use hereby permitted shall be discontinued on or before 31 December 2022.

Reason: To enable the Local Planning Authority to assess the impact the development has on the amenities of the area and to enable the matter to be reviewed at the end of the period of the temporary consent.

2. The premises shall be used as a residential care home for a maximum of two children as specified in the application details and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or

in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: To enable the Local Planning Authority to retain effective control over the use of the premises in the interests of safeguarding the general amenities of the area.

3. The use hereby approved shall not operate until space has been laid out in permanent materials at the rear of/within the curtilage of the site for two cars to be parked. This area shall be retained for parking purposes for two cars in perpetuity.

Reason: To ensure adequate off street parking is provided in the interests of highway safety.

4. An up to date register shall be kept at the residential care home (use class C2) premises from the first beneficial C2 occupation of the property. The register shall be made available for inspection by the Local Planning Authority upon request. The register shall contain details of the names and occupations of all visitors to the property, the date, the time of arrival and the time of departure from the property.

Reason: To inform the Local Planning Authority of the use of the property at the end of the temporary period.

**JONATHAN PARSONS**  
**GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

**Background Papers**

None

**REFERENCE:** P/20/299/FUL

**APPLICANT:** Mr & Mrs N Heard c/o John Matthews,  
Anglesey House, 47 Anglesey Way, Porthcawl CF36 3QP

**LOCATION:** 10 Woodside Avenue, Litchard CF31 1QF

**PROPOSAL:** Change of use from dwellinghouse (use class C3(a)) to the residential care of 2 children (use class C2)

**RECEIVED:** 24 April 2020

## **APPLICATION/SITE DESCRIPTION**

The application seeks full planning permission for the change of use of the existing building from Class C3(a) - Dwellinghouse to Class C2 - Care Home providing supported living for two looked after children with two members of staff (1:1 basis) as follows:-

*The proposed use will involve the residential care of two children under 18 years of age and who are classed as vulnerable. The use will be subject to registration by the Care Inspectorate of Wales and the two children will be in full-time care with two fully trained carers looking after them throughout the day and night except if and when they are at school. The carers will work to 12-hour shifts with daily shift change-over times taking place at 07.00 and 19.00 hours respectively.*

*The property is well-suited for the proposed use and already benefits from a garage and driveway which provide adequate off-street parking space for use by the carers. The foul and surface water drainage provision will be as already existing and no external alterations to the property are required.*

*On the above basis, the proposed use will have no adverse impact on the amenity and privacy of surrounding residential properties or on the general character of the area.*

*The Agent has further advised the children to be cared for in the property are classed as vulnerable as they come from difficult background home circumstances. While some may have learning difficulties, they are victims of circumstances and are simply in need of proper care and attention. As such, they are not offenders and pose no potential threat to the local community.*

The application site is located within the primary key settlement boundary of Bridgend as defined by Policy PLA 1 of the adopted Bridgend Local Development Plan 2013 (LDP) within an established residential street.





The existing dwelling, 10 Woodside Avenue, appears as a traditional semi-detached dwelling that would not be altered externally to accommodate the change of use.

The building has a rendered/stone finish front elevation with off-street car parking taking place on the driveway to the side of the dwelling.



The application plot is located at the head of the cul de sac and benefits from an enclosed rear garden/amenity space and a garage to the side of the dwelling.

### **PUBLICITY**

The proposal has been advertised on site. Neighbours have been notified of the receipt of the application. The period allowed for response to consultations/publicity expired on 4 June 2020

### **CONSULTATION RESPONSES**

None

### **REPRESENTATIONS RECEIVED**

Representations have been received from:-  
Woodside Avenue – Nos. 3, 4, 5, 8, 9, 11, 13 & 14  
Glenview Nos. 23 & 24

The objections are summarised below:-

- The change of use is totally out of keeping with the area, especially in such a quiet cul-de-sac;
- Very limited off road parking to meet the requirements of the home and ability to manoeuvre regular flow of transport resulting in increased on street parking to the detriment of highway safety;
- Visitors to the house, staff, social workers, home tutors would need to park on the highway;
- Impact of noise in such a quiet cul-de-sac as it will be a 24-hour operation in a quiet residential area with additional comings and goings from staff and visitors in the



mornings and evenings would result in unacceptable levels of disturbance to nearby residents;

- No public transport available;
- Property would damage community cohesion - there is no proven need for this facility;
- Concerns about the successful integration of the occupants of Care Home - children would be from a variety of environments some of which do not seem conducive to a quiet residential area;
- Proposals do not appear to safeguard amenities to the occupiers of nearby properties - elderly people nearby could result in intimidation;
- Depending on the age of the children and the reason for care for them (children who are sometimes placed in residential children's homes can be the most challenging of children), there could be an increase in noise, levels of crime, vandalism and anti-social behaviour and this would have a detrimental impact on the character of the area and the community;
- There is a lack of details with regards the type of children who will occupy the property. We can only assume they will be the very worst level of problems without any information, which will affect how secure I feel in my own house/garden and result in anxiety levels and would affect my mental health;
- What current area are these young people being brought from, if outside of BCBC then we could assume they had to leave for reasons which are negative. They obviously need support, but we cannot put our own young granddaughters and the community at risk;
- Concerned about the potential behaviour of the children, especially if the children had mental health issues. Children are likely to have challenging behaviour and likely to abscond, especially if in need of one to one supervision;
- Would result in far heavier year round use of the property than normally would be the case, and as such would substantially conflict with its residential surroundings;
- Lack of appropriate recreational facilities within surrounding area - is there adequate recreation area to the rear of the property. Our garden backs onto the garden of 10 Woodside and I wouldn't have the expertise to deal with difficult situations, if one did occur, with the children who will be placed into care;
- Is the Care Home registered with OFSTED? To comply with all the necessary legislative requirements of OFSTED would result in significant comings and goings generating unacceptable levels of noise and disturbance to nearby residents;
- Have the following been consulted - South Wales Police Authority, Fire and Rescue, Social Services, Highways, Public Health and Protection?
- No Secondary schools nearby therefore children aged 11yrs plus would need transport to school;
- Have the applicants any experience and links with Social Services and the local community?
- The owners had previously let the property to what we all considered a dysfunctional family whose behaviour necessitated callouts by the police on a number of occasions – a situation none of us would like to see a recurrence of;
- Risk that if approved the property could change use to other more problematic types of residential care within the same use class without the need for planning permission;
- The proposal would have a negative impact on property values and one resident will sell his house to the Council for £195,000 cash or whatever the Council are paying the applicants;
- Covenant on house restricting change of use.

#### **COMMENTS ON REPRESENTATIONS RECEIVED**

The objections raised are addressed in the Appraisal section of the report.

## **PLANNING POLICIES**

### **Local Policies**

The Development Plan for the area comprises the Bridgend Local Development Plan 2006-2021, which was formally adopted by the Council in September 2013, and within which the following policies are of relevance:

- Strategic Policy SP1 – Regeneration-Led Development
- Strategic Policy SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- Policy SP12 – Housing
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA11 – Parking Standards
- Policy COM3 – Residential Re-Use of a Building or Land

### **Supplementary Planning Guidance**

SPG02 – Householder Development

SPG17 – Parking Standards

### **National Planning Policy and Guidance**

National planning guidance in the form of Planning Policy Wales (Edition 10, December 2018) (PPW) is of relevance to the determination of this application.

### **Technical Advice Notes:**

Technical Advice Note 12: Design (2016)

Technical Advice Note 18: Transport (2007)

### **Other Relevant Policies:**

#### Biodiversity/Ecology

Section 40 of the Natural Environment and Rural Communities Act 2006 states that 'every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. This "duty to conserve biodiversity" has been replaced by a "biodiversity and resilience of ecosystems duty" under Section 6 of the Environment (Wales) Act 2016 which came into force on 21st March, 2016.

Section 6 (1) states that "a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions." Section 6(2) goes on to state that "In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and, (e) the adaptability of ecosystems.

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires LPAs to take account of the presence of European Protected Species at development sites. If they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application. The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".

2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

Given the nature of the development in this instance (change of use proposal of an existing building), it is considered that there will be no significant adverse residual impacts on biodiversity. Therefore, the proposal is considered to comply with the requirements of the Habitats Regulations 1994 (as amended), Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP policies.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5).

The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

#### **APPRAISAL**

The application is referred to Committee to consider the representations made by local residents.

The application seeks full Planning permission for the change of use of the existing residential unit (dwelling) to a care home for 2 children and 2 carers.

The following main issues will be considered as part of this report:

- The principle of development – use class
- The impact on the amenities of neighbouring residents
- Perception/fear of crime and antisocial behaviour
- Parking and Highways Safety
- Impact on visual amenities.

#### **The Principle of development – Use Class**

The proposal seeks to change the use of the existing dwelling from Class C3 - Dwellinghouse to Class C2 - Care Home providing supported living for two looked after children with two members of staff (1:1).

The C2 use class encompasses a number of different uses, including other types of residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

The C2 use class is distinct from the C2a use class, which groups together secure residential institutions, such as prisons, young offenders' institutions and secure hospitals. Some local residents have raised concerns that the use could be changed to a C2a use, such as a young offenders institute at a later date, without Planning permission.

It should be noted that C2a is a different use class and a separate grant of Planning permission would be required to change a C2 use (residential institution) into a C2a use (Secure Residential Institution).

In some circumstances, residential dwellinghouses can be converted into children's care homes without the need for Planning permission. Each proposal has to be assessed on its own merits taking account of various factors, such as level of and operational aspects of care. The C3 use class, which encompasses residential dwellinghouses, is split into the following three categories:-

- A dwelling house lived in by a single person or family. This category would include foster families.
- Up to 6 people living as a single household and receiving care. This includes supported housing schemes, such as for people with mental health issues or learning disabilities.
- Up to 6 people living as a single household, which do not fall within a C4 use (small house in multiple occupation), such as religious communities.

A recent Court judgement concluded that, although adult carers will be present at all times, they would not be living permanently at the property as part of the household and a group of young people containing individuals under eighteen could not reasonably be regarded as being capable of living together as a single household.

In addition, the level of daily activity at the site would be more intensive and constant than what might reasonably be expected by even a large dwellinghouse and as such, the overall character of the use would differ materially from that of a dwellinghouse and such a proposal represents a material change of use. Therefore, the use would fall within Class C2.

In this case however, the property is to accommodate 2 children and 2 adult carers in a residential area which would display many features associated with a family dwelling. The changeover of carers would occur every 12 hours at 7pm and 7am.

The application site is located within the settlement boundary of Bridgend, as defined by Policy PLA1 of the Bridgend Local Development Plan (LDP) 2006-2021 and, as such, the conversion of this existing building into a small scale care home of the nature proposed is considered to accord with the criteria set out in Policy COM3 of the LDP and Planning Policy Wales (2018) which supports the use of suitable previously developed land for residential purposes as it can assist regeneration and at the same time relieve pressure for development on greenfield sites.

Furthermore, Strategic Policy SP1 seeks to encourage regeneration led development within the settlement hierarchy and it is considered that the proposed change of use of the existing building to another form of residential use in such a locality is compatible with surrounding land uses and is acceptable. It is considered that the proposed development is located within a sustainable location being located close to public transport links (400m at Osborne Close) and local amenities which would be of benefit to potential future occupiers and staff at the premises.

In view of this, the proposed development is considered to accord with Strategic Policy

SP1 and Policies PLA1, COM3 and SP10 of the Bridgend Local Development Plan (2006-2021) and can be supported in principle.

As detailed, the application building is situated within the settlement boundary of Bridgend and it is considered that the conversion of an existing semi-detached property to a care home, with no major external or internal works and the retention of the visual character of the property, would provide a valuable and additional/alternative type of living accommodation to the locality whilst not harmfully or significantly eroding the character and appearance of the existing area as a whole.

The essential character of the area is derived from single households and the introduction of a small scale care home of the nature proposed is appropriate in a residential area and therefore, there is no objection in principle to this use. Furthermore, the proposal is for a small two person care home which is residential in nature and as such, it would not result in an undue concentration of incompatible uses in this location.

Notwithstanding the above, whilst the principle of a residential use, such as a care home, within a residential area is accepted and common place, it is necessary to consider the aspects of this proposed use which may have the potential to adversely affect the amenities of the area.

### **Impact on the amenities of neighbouring residents**

Planning applications must be determined in accordance with the adopted Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 refers).

Policy SP2 (Design and Sustainable Place Making) in particular states:

*All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by:*

- 1. Complying with all relevant national policy and guidance where appropriate;*
- 2. Having a design of the highest quality possible, whilst respecting and enhancing local*
- 3. distinctiveness and landscape character;*
- 4. Being of an appropriate scale, size and prominence;*
- 5. Using land efficiently by:*
  - (i) being of a density which maximises the development potential of the land*
  - (ii) whilst respecting that of the surrounding development; and*
  - (iii) having a preference for development on previously developed land over*
  - (iv) greenfield land;*
- 6. Providing for an appropriate mix of land uses;*
- 7. Having good walking, cycling, public transport and road connections within and outside the site to ensure efficient access;*
- 8. Minimising opportunities for crime to be generated or increased;*
- 9. Avoiding or minimising noise, air, soil and water pollution;*
- 10. Incorporating methods to ensure the site is free from contamination (including invasive species);*
- 11. Safeguarding and enhancing biodiversity and green infrastructure;*
- 12. Ensuring equality of access by all;*
- 13. Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected;*
- 14. Incorporating appropriate arrangements for the disposal of foul sewage, waste and water;*

*15. Make a positive contribution towards tackling the causes of, and adapting to the impacts of Climate Change; and*

*16. Appropriately contributing towards local, physical, social and community infrastructure which is affected by the development.*

The local residents have raised a number of concerns regarding the impact that the care home would have on the residential amenities of neighbouring properties. There are three main strands to these concerns:-

- the potential noise and disturbance caused by additional comings and goings, relating to the institutional use of the site;
- the potential disturbance, resulting from the children's behaviour; and,
- the age group of existing residents.

The supporting statement advises that the home would accommodate up to two children between the ages of 0 and 18. The applicant has confirmed that the home would be registered with the Care Inspectorate of Wales if Planning permission is granted. It should be noted that registration with the overseeing body is not a requirement to grant planning permission but is a separate regulatory process.

There would be a maximum of two carers on the premises at any one time, providing one to one supervision for the children during waking hours. Overnight there would be two carers on the site. The staff handover would take place at 7am and 7pm. Parking will be provided for vehicles at the side of the property however, at handover time, there would be a maximum of 4 members of staff at the premises. On the basis that the staff could all arrive and leave individually, that would result in a minimum of 8 staff movements to and from the property per day.

The handover times (7am and 7pm) are at the quieter times of the day, where comings and goings could be more noticeable and disruptive to nearby residents. However, the property is located at the head of a cul-de-sac with its own off-street parking and the hand over will take place at times when residents are likely to be leaving for or returning to work. These changeover hours are, therefore, considered to be reasonable.

In terms of the level of amenity, the plot benefits from an enclosed rear garden that would provide a form of external amenity area and waste/recycling bin storage areas to potential future residents of the premises.

No details have been provided of any regular visitors to the property however, it would not be reasonable or enforceable in Planning terms to restrict, by use of a Planning condition, who could visit the property and when, as well as the number of visitors present on the site at any one time. Such a condition would go beyond the remit of the Planning system as it could potentially interfere with the operational functioning of the home, affecting how and when key visitors, such as social workers and health visitors could attend the property. It would also be impossible to monitor.

In terms of the likely impact on the residential amenities of the neighbouring properties with particular reference to the immediate residents of Woodside Avenue, it is considered the proposed use, by virtue of the low number of residents, would not unreasonably compromise the level of amenity that is currently enjoyed and can be reasonably expected in such a locality. It is considered the level of activity and other likely effects of the use would not significantly exceed what might be expected from the occupation of the existing house by a normal family. Given the relatively small scale nature of the use, the level of movement to and from the property may not intensify the use to the extent that it would be incompatible in this a residential area

Whilst the maximum number of children placed at the home is limited to two (and this can be controlled by a Planning condition), the precise operational requirements of the use are not known and will ultimately be controlled by the requirements of the Care Inspectorate of Wales. These requirements could result in additional staff, visitors or vehicles movements over the estimates given by the applicant and different shift patterns at times of day which could be more disruptive for nearby residents.

In some circumstances a temporary Planning permission may be appropriate. This includes where a "trial run" is needed in order to assess the effect of the development on the area. In this case the precise day to day functioning of the care home is not known and there are limited existing examples within the vicinity. The information provided by the applicant indicates that the use could function without materially harming the amenities of nearby residents in terms of noise and disturbance from comings and goings. However, given the proximity of the site to nearby properties, in the event of any significant increase in comings and goings caused by the actual operational requirements of the care home could potentially result in unacceptable levels of noise and disturbance to nearby residents. There are no conditions, except for a cap on the maximum number of children, which could reasonably be imposed to ensure that the information submitted by the applicant is adhered to.

Taking into consideration the above, a two year temporary permission would enable the Local Planning Authority to fully assess how the care home functions in practice and whether it operates in a manner compatible with the surrounding residential area. Given that the home is not yet registered with the Care Inspectorate for Wales, the precise impact of the use is not fully known and cannot be assessed, a full permanent Planning permission cannot be justified in this particular case. A temporary consent is therefore considered appropriate to allow the impact of the proposal to be fully assessed over a period of time.

### **Residents' perception/fear of crime and antisocial behaviour**

Many of the objections raise concerns that the proposed use will result in antisocial behaviour from the children and from potential visitors to the property. The risk of crime and disorder and the perception of it arising from the proposed use is a material Planning consideration.

In order to carry weight in the determination of a Planning proposal, fear of crime must be based on sound reasons and there needs to be reasonable evidential basis for that fear. Objectors' concerns and anxiety about the proposed use are acknowledged but there is no solid evidence to demonstrate that the change of use of the dwelling to a children's care home would result in a spike in antisocial behaviour in the neighbourhood. Proposals for care homes are not uncommon nationally and Planning appeal decisions relating to similar proposals have concluded that it cannot be assumed that children living in care would be more likely to behave antisocially or create levels of noise over and above children living in a 'traditional' family unit. Inspectors seem to take note that in a care home children would be cared for by specialist supervising staff and care workers who are able to deal with any situations that might arise.

It is the case that in addition to holding the relevant Planning permissions, residential children's homes, which accommodate children under 18 years old must be registered with the Care Inspectorate for Wales and it is a criminal offence to run a children's home which is not registered with this body. As part of this registration process, the applicant must demonstrate that they meet certain legal requirements set out within The Care Standards Act 2000 (Notification) (Wales) Regulations 2011, The Regulation and Inspection of Social Care (Wales) Act 2016 and The Children's Homes (Wales) (Amendment) Regulations 2017. The Care Inspectorate for Wales can take enforcement



action where care homes have been shown to not meet the legal requirements set out within the Acts and can remove a care home's licence.

How the care home would function is a process which would need to be agreed as part of the registration process and as this is controlled by other legislation, it is not within the remit of the Planning system to seek to control the day to day functioning of the care home.

No evidence is available to demonstrate that the children living at this care home would create disturbances or cause antisocial behaviour. As such, whilst the fear and perception of crime is a material Planning consideration, there is no reasonable evidence base for the fear in this instance. A refusal reason cannot be justified on the grounds of residents' fear of crime in this case.

### **Parking and Highways safety**

Criterion (6) of Policy SP2 states that developments should have good walking, cycling, public transport and road connections to ensure efficient access to the site and this is supplemented by Supplementary Planning Guidance 17 which requires 1 space per resident staff, 1 space per non-resident staff and 1 visitor's space per 4 beds. As the existing driveway/garage could accommodate 2 vehicles, it is considered that the requirements in respect of parking can be met.

Concern has also be raised with respect to secondary school children not having access to public transport, however, there is a bus stop at Osborne Close some 400m away which is not an unreasonable walk for children aged 11+.

### **Visual amenities**

No material changes are proposed to the exterior of the building, and as such, it is considered that there would be no material harm to the character and appearance of the area.

### **Other Matters**

Some of the other objections have raised concerns regarding the impact of the proposal on local house prices/devaluation of property. This is not a planning consideration and has not been assessed as part of the application.

The suitability of the location of the care home in respect of the current age group of the residents and access/transport to education facilities is for the developer to assess and not a material consideration in the determination of this application. Similarly the involvement of OFSTED is a separate issue and the all necessary statutory consultations have been carried out in accordance with regulations. This is a residential area and the Local Planning Authority cannot control who purchases a property. As such, no weight can be attached to this matter in terms of decision making.

Reference has also been made to a covenant on the Deeds preventing business use from the property. Covenants are not part of the Planning process and are a private legal matter.

### **CONCLUSION**

The proposed children's care home would be a residential type use in a residential area. There is no objection in principle to this use in this location.

Given the relatively small scale nature of the use and on the basis of the information provided by the applicant, the proposal may not result in any comings and goings in excess of the levels which could reasonably be expected in a residential area. However, given the extent of local concerns about activity and that the operation of the business has not been confirmed, as it has not been registered with the Care Inspectorate of Wales, the extent of any noise and disturbance resulting from the movements associated with the use cannot be fully assessed. With this in mind a two year temporary permission is suggested to enable the impact of the proposal to be fully assessed.

There is no tangible evidence to demonstrate that the creation of a children's care home in this location would result in anti-social behaviour or crime. Whilst the perception, and fear, of crime can be a material Planning consideration it must be based on sound evidence.

It is not within the remit of the Planning system to manage the operational running of the care home, as this is covered by other legislation and managed by the Care Inspectorate of Wales. The care home would have to be registered with the Care Inspectorate of Wales and comply with all the necessary legislation that ensures the care home is managed to an appropriate standard.

The proposed parking arrangements would meet the standards set out within Supplementary Planning Guidance 17 and the Highway Authority has not raised any highway safety concerns.

In addition to the Planning condition limiting permission to two years, a condition is also suggested restricting the use to a children's care home only and limiting the number of children living in the home to a maximum of two at any one time.

Accordingly, it is considered that the proposed development is acceptable in terms of the likely impact on neighbouring amenity levels and therefore accords with Policy SP2 (12) of the LDP and the Council's Supplementary Planning Guidance SPG02: Householder Development.

## **RECOMMENDATION**

(R11) That permission be GRANTED subject to the following condition(s):-

1. The use hereby permitted shall be discontinued on or before 31 December 2022.

Reason: To enable the Local Planning Authority to assess the impact the development has on the amenities of the area and to enable the matter to be reviewed at the end of the period of the temporary consent.

2. The premises shall be used as a residential care home for a maximum of two children as specified in the application details and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: To enable the Local Planning Authority to retain effective control over the use of the premises in the interests of safeguarding the general amenities of the area.

3. An up to date register shall be kept at the residential care home (use class C2) premises from the first beneficial C2 occupation of the property. The register shall be made available for inspection by the Local Planning Authority upon request. The register shall contain details of the names and occupations of all visitors to the property, the date, the

time of arrival and the time of departure from the property.

Reason: To inform the Local Planning Authority of the use of the property at the end of the temporary period.

**JONATHAN PARSONS**  
**GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

**Background Papers**

None

**REFERENCE:** P/20/307/BCB

**APPLICANT:** BCBC Education & Family Support  
Level 2 Civic Offices, Angel Street, Bridgend CF31 4WB

**LOCATION:** Land off Isfryn Industrial Estate (access from A4093),  
Blackmill, Bridgend CF35 6EQ

**PROPOSAL:** Construction of a new Welsh Medium Childcare Facility

**RECEIVED:** 28 April 2020

## APPLICATION/SITE DESCRIPTION

The Education and Family Support Section of Bridgend County Borough Council has submitted this application that seeks consent to construct a single storey building that will accommodate a 'Welsh-Medium' Childcare Facility on land at the junction of the A4093 – Ebenezer Terrace and the access to Isfryn Industrial Estate in the community of Blackmill.



**Fig. 1 – Location Plan**

Levels change significantly across the site with the high point being along the northern boundary with the A4093, to a level some 5m below along the Isfryn Industrial Estate road. Site boundaries are also shared with the side and rear gardens of properties on Ebenezer Court and alongside an access track that serves the rear of Glasynys House and Glenview House. The site was covered with dense scrub with scattered immature trees but vegetation was cleared prior to the submission of the application.

The new single storey building will occupy the lower parts of the site, positioned at an angle to the respective boundaries and orientated to face a south westerly direction. The footprint of the building will measure 21m x 10m with a pitched roof reaching 5.2m from the finished ground levels. Accommodation will comprise areas of play space, quiet rooms, storage rooms, offices and ancillary facilities designed to cater for up to 34 children ranging from 0-5 years and 8 members of staff.



**Fig. 2 – Proposed Elevations**

The reception area of the building will be accessed at the south eastern corner of the site from a new section of footway on the Isfryn Industrial Estate road. The area to the front and side of the building will be either grassed, turfed or finished with a rubber crumb soft-play surface. A small canopy will be erected over part of the soft play area to provide shade and shelter. A car parking area for 7 vehicles will be provided forward of the building accessed at the south western corner of the estate road.



**Fig. 3 – Proposed Access and Parking Layout**

Retaining walls will be required around the northern corner of the new building which projects into the rising ground. The site will be enclosed by 2.3m high security perimeter fence. Areas of new tree planting are also incorporated into the layout with the main concentrations being on the elevated ground to the rear of the new building. An extract of the site layout plan is re-produced below:



**Fig. 4 – Proposed Landscaping**

The Design and Access Statement suggests that the choice of materials has been carefully considered to fit in with the local vernacular. A white/light grey acrylic render will be used on the external walls with feature panels of Cedar timber cladding. The roof will be finished in Marley Anthracite Grey interlocking tiles. Door and windows will be PVCu and grey in colour.

The facility will be open for childcare purposes between the hours of 07:00 and 19:00. As yet it is not known whether the facility will provide activities beyond these hours for adult learning. External lighting is provided to allow a safe means of access. This will not extend to the external play areas. The day to day operation of the building will be carried out by a third party provider – it will not be run by Bridgend Council Childcare Team.

## **RELEVANT HISTORY**

**P/07/340/FUL** – Residential development of 32 dwellings and associated works and community centre – Refused permission on 5 November 2007.

**P/08/591/FUL** – Residential development of 32 dwellings and associated works and community centre – Refused permission on 27 November 2009. An appeal against the refusal of permission was dismissed (1633 refers).

**P/09/691/OUT** – Mixed use development comprising 43 units, community centre and employment units – Application withdrawn.

## **PUBLICITY**

The application has been advertised on site.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity has expired.

## **CONSULTATION RESPONSES**

**Highway Officer-** No objection subject to conditions.

**Countryside Management Officer** - The presence of Japanese Knotweed in the immediate area of the application site is noted. This species is listed under Part II of Schedule 9 of the Wildlife & Countryside Act 1981 which makes it an offence to deliberately cause (Invasive Species listed under Part II of Schedule 9) to grow in the wild. These species are also subject to Section 34 of the Environmental Protection Act (1990) and are classed as 'Controlled Waste'. Consequently they should be disposed of at a licensed landfill site under the EPA (Duty of Care) Regulations (1991) and by a licensed carrier. There are no such licensed sites within Bridgend County Borough. Given the above, and particularly if spoil material may be moved around and/or off site, it is recommended that the applicant submit an invasive species management methodology for approval by the Local Planning authority before being implemented. This methodology should also include: how the works will mitigate for the invasive species at the site, monitoring to ensure that the invasive species do not spread and recolonise at the site and what remedial works will be undertaken if these species are found to be spreading. Similarly if spoil material is to be retained on site, a protocol should be prepared to stop the potential spread of knotweed around the site and neighbouring areas.

The findings of the Bat Tree Survey Report are agreed. It is recommended that the recommendations in Section 5 of the report are included within the conditions of approval. The applicant should be aware that features such as floor slabs and partial walls at the site provide potential habitat for reptiles and amphibians. Should the application be granted, it is recommended that consideration be given to the provision of nest boxes within the development for bat and bird species. Suitable bird species include house sparrow, swift and house martin, species which are declining in number due to a reduction

in suitable nest sites.

The incorporation of bat bricks, bat tiles and bat boxes into the development, would provide summer roosting opportunities for bats and would contribute to the environmental sustainability of the development. Such enhancements will demonstrate local authority compliance with Section 6 of the Environment (Wales) Act 2016 that places a duty on public authorities to 'seek to maintain and enhance biodiversity' so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to 'promote the resilience of ecosystems'. Similarly Policy ENV5 and ENV6 of the Bridgend LDP, PPW 5.2.8 and guidance in TAN 12, encourage and favour development opportunities that enhance biodiversity.

**Dwr Cymru Welsh Water** - has no objection to the proposed development. We would request that if you are minded to grant planning permission for the above development that the recommended conditions and advisory notes are included within the consent to ensure no detriment to existing residents or the environment and to the Dwr Cymru Welsh Water's assets.

**Drainage Officer** - No objection subject to conditions. The surface water drainage systems must be designed and built in accordance with standards for sustainable drainage. These systems must be approved by the SuDS Approving Body (SAB) before any construction works begins.

**Shared Regulatory Services – Land Contamination** - No objection subject to conditions.

**South Wales Police** - Designing out Crime Officer – Comments have been forwarded to the architect for consideration.

## **REPRESENTATIONS RECEIVED**

Letters offering objections and concerns have been received from the following:

1, 2 & 4 Ebenezer Court  
5 & 6 Ebenezer Terrace  
34 Cwmfelin  
Glasynys House

The principal objections can be summarised as follows:

- Inappropriate use of land – does not contribute to any wider regeneration benefits to the community
- Removal of trees and vegetation resulted in damage to properties, a loss of habitat and extensive screening that minimised the pollution impacts of nearby industrial uses – privacy in the rear gardens of houses has been affected
- Site clearance was undertaken without permission and impacts on ecology were not fully considered – developer should be required to re-plant – all other existing trees should be retained
- Proposed use will generate additional traffic on a busy road network – exacerbate existing problems that are caused by traffic speeds, on-road parking and HGVs accessing the industrial estate
- Safety concerns about the conflict of uses – traffic associated with the child care facility and industrial estate



- Car parking provision is deficient – will result in on-street parking that will affect other road users and could restrict movements – yellow lines will not be enforced.

## **COMMENTS ON REPRESENTATIONS RECEIVED**

The objections raised are material Planning considerations which will be addressed in the appraisal section of this report.

## **POLICY CONTEXT**

The relevant policies relating to the proposed development from the adopted Bridgend County Borough Council Local Development Plan (LDP) (2013) are:

Strategic Policy SP2 – Design and Sustainable Place Making  
 Strategic Policy SP3 – Strategic Transport Planning Principles  
 Strategic Policy SP4 – Conservation and Enhancement of the Natural Environment  
 Strategic Policy SP13 – Social and Community Facilities  
 Policy PLA4 – Climate Change and Peak Oil  
 Policy PLA11 – Parking Standards  
 Policy ENV5 – Green Infrastructure  
 Policy ENV6 – Nature Conservation  
 Policy ENV7 – Natural Resource Protection and Public Health

Supplementary Planning Guidance Notes (SPG):

SPG07: Trees and Development  
 SPG12: Sustainable Energy  
 SPG17: Parking Standards  
 SPG19: Biodiversity and Development

In the determination of a Planning application, regard should also be given to the requirements of National Planning Policy and the appropriate Technical Advice Notes

Local Development Plan Policy SP2 (Design and Sustainable Place Making) is the overarching policy which should be considered in the assessment of all Planning applications. It states:

All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by:

- 1) Complying with all relevant national policy and guidance where appropriate;
- 2) Having a design of the highest quality possible, whilst respecting and enhancing local distinctiveness and landscape character;
- 3) Being of an appropriate scale, size and prominence;
- 4) Using land efficiently by:
  - i. Being of a density which maximises the development potential of the land whilst respecting that of the surrounding development; and
  - ii. Having a preference for development on previously developed land over Greenfield land;
- 5) Providing for an appropriate mix of land uses;
- 6) Having good walking, cycling, public transport and road connections within and outside the site to ensure efficient access;
- 7) Minimising opportunities for crime to be generated or increased;
- 8) Avoiding or minimising noise, air, soil and water pollution;

- 9) Incorporating methods to ensure the site is free from contamination (including invasive
- 10) Safeguarding and enhancing biodiversity and green infrastructure;
- 11) Ensuring equality of access by all;
- 12) Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected;
- 13) Incorporating appropriate arrangements for the disposal of foul sewage, waste and water;
- 14) Make a positive contribution towards tackling the causes of, and adapting to the impacts of Climate Change; and
- 15) Appropriately contributing towards local, physical, social and community infrastructure which is affected by the development.

The supporting text to this Policy advises that Policy SP2 demands a high quality of design incorporating equality of access in all development proposals and seeks to ensure that new built development is sensitive to its surrounding environment.

## **APPRAISAL**

The main issues in the assessment of this application are whether:

- The principle of developing this site for a childcare facility accords with local and national planning policies;
- The development adversely impacts on the site's biodiversity interests;
- The proposed highway network serving the site can accommodate the traffic that will be generated and whether adequate car parking facilities are proposed as part of the development;
- The development will significantly impact on the living conditions and well-being of residents and uses that live in close proximity to the proposed childcare facility and the extent to which any impacts can be minimised by the imposition of planning conditions.

### **The Principle of the Development**

The site is located within the small settlement of Blackmill as defined by Policy PLA1 Settlement Hierarchy and Urban Management of the Bridgend Local Development Plan (LDP) adopted in 2013. As a small settlement, Blackmill provides limited retail and community functions for their respective residents. Development should provide the maximum benefits to regeneration at a scale that reflects the role and function of the settlement. The application site is allocated for regeneration and mixed use development under Policy PLA3 (17) and more specifically for a community building, employment site and up to 43 residential units. In principle, the development of a Welsh Medium Childcare Facility on this land is compatible with the policy and is part of a wider programme to deliver Welsh Medium Childcare throughout the County Borough with other facilities being considered in Bettws, Bridgend and Porthcawl. The supporting statement suggests that the building could be used outside the proposed hours by the community but that would be subject to negotiations with the future operators.

Policies SP2 and SP3 require all development proposals to be of high quality which promote safe, sustainable and healthy forms of transport. The following sections of this report will consider the proposal against the relevant criteria with reference to the objections and concerns received from local residents.

### **The impact of the development on highway safety**

The transportation implications of the proposal have been assessed and it is noted that the proposal seeks to develop land which is considered not to have previously generated any vehicular and pedestrian traffic. As a result all traffic is considered to be new, being additional movements on the network. Although the applicant has not provided a specific

transport statement, the design and access statement has indicated how the development can be accessed by sustainable modes of transport, which is commensurate with the transport hierarchy found in TAN18. In addition, a rigorous site selection process was undertaken in order to determine the best location for the proposal which included consultation with Officers in the Highways Section.

The proposal will provide 'wraparound' childcare in the medium of the Welsh Language and the proposed opening hours of the site of 7:00am to 7:00pm reflect the nature of the proposed service. As such, working parents are expected to require childcare earlier than the peak traffic hours of 8:30am until 9:30am and likewise in the evening when the peak hours are between 4:30pm and 6:00pm. This has also been the historic experience of the Highway Authority for similar sites of this nature. As a result, not all traffic associated with development will be on the network during the peak network hours and any traffic which is on the network is considered not to materially impact the highway to the detriment of highway safety. In addition, the measures to promote walking and cycling for staff and local parents will result in a further reduction of vehicular traffic associated with this development.

The design and access statement indicates that parking will be provided for staff within the site boundary. It is also noted that there are concerns raised by local residents at the perceived lack of off-street parking for the development. However, it should be noted that the parking standards found in SPG 17 (which are also the national standard) requires this proposal to provide 1 off-street parking space per 2 full time members of staff, which is calculated as follows:

6 full time staff - 3 spaces  
4 part time staff – 1 space  
Total of 4 spaces.

On the basis of the above, 7 off-street parking spaces would constitute an overprovision and contrary to the thrust of Welsh Government policy in reducing the reliance on the private motor vehicle. As this proposed facility will cater for children from beyond the local area, it is considered that the parking area should be reconfigured to allow a drop/off area and also a reversing area to allow all vehicles to enter and leave in a forward gear. Revised arrangements will be secured through a suitably worded Planning condition. This will hopefully address some of the residents' concerns.

In order for this proposal to meet the requirements of the current legislation (Active Travel Act and the Wellbeing of Future Generations Act) the scheme incorporates an extension of the footway on the southern side of the A4093 and along the eastern boundary of the proposal site to the pedestrian access into the site. Whilst this measure is welcomed, it is considered that the proposed footway should be widened beyond that proposed to create a more conducive active travel environment and remove perceived barriers to walking and cycling to the site.

Parking restrictions in the form of double yellow lines are proposed along the eastern and southern kerbside boundaries of the site. Although not opposed, such measures are not sufficient as they allow vehicles to drop off on double yellow lines without penalty. To ensure that any drop off/parking on the highway does not conflict with the vehicle movements associated with the wider commercial uses in the area and to address concerns of local residents, double yellow lines and double kerb lines will need to be provided. Monies to pay for the associated traffic order would normally be secured through a S106 obligation but as the Council is landowner and Local Planning Authority that route is not permissible. Arrangements for payment will need to be made between the respective departments.

## **The impact of the development on the living conditions and well-being of local residents**

One policy test for development is ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be affected. Residents have referenced the site clearance works and the loss of trees that screened the properties from the industrial units on Isfryn Industrial Estate. The ecological impacts of these works will be considered later in this report but, although regrettable, the actions did not constitute a planning breach. The trees were not the subject of a preservation order and site clearance does not constitute development. Furthermore, a significant copse of trees on land between the northern boundary of the application site and the A4093 have been retained and there are no proposals, as part of this application to undertake any further tree works. Nevertheless, the rear gardens of properties on Ebenezer Court are more open and exposed to the noise and light pollution associated with the Coppice Alupack operation and, in the case of 3 and 4 Ebenezer Court, will be relatively close to the child care facility.

Site levels and the relative position of the new single storey building will address any issues relating to overshadowing or loss of outlook. Privacy in terms of a window to window relationship will also not be compromised. The day to day activities associated with the child care facility such as the *'toing and froing'* of parents, children and staff and the use of the outdoor play facility will generate a degree of noise and disturbance and although the gardens of the neighbouring properties are raised there may also be a sense that the levels of privacy have been reduced.

However, given the noise levels associated with the industrial units on Isfryn, it is unlikely that the aforementioned activities, which will be principally over the normal working day, will cause a significant noise impact on the residents living conditions. Consideration should be given to mitigating any impact and investigating opportunities to enhance the boundary with the properties and new fencing and landscaping will be secured by condition as will controls on the operational hours of the proposed childcare facility. Any new planting will not necessarily fully compensate for the trees that have been removed but ultimately those works could have been undertaken at any time irrespective of this proposed development. The application, at least, offers the opportunity to secure some mitigation works.

Concerns about noise and disturbance generated through construction of the building are noted but are also unavoidable. They will be short term and managed through the agreement of a construction method statement.

A resident has expressed some concerns that the development may infringe on the private right of access that lies to the south west of the site. The submitted layout plan clearly indicates its retention although contractors should be mindful not to obstruct this access during construction. This is a matter that could be addressed in the agreed construction method statement.

Overall, and subject to the imposition of planning conditions, the development should not significantly affect the amenities of residents to warrant a refusal of Planning permission. The development is compliant with Policy SP2 (10&12).

## **Ecology and Tree Loss**

The site clearance works has been considered earlier in the report. A number of residents were concerned that the ecological impacts of such work had not been fully considered. The application has however been accompanied by a Bat Tree Survey Report carried out by Sylvan Ecology and undertaken prior to the site clearance. The Council's Ecologist concurs with its findings which noted that of all the trees inspected, only one was found

with bat roosting potential. A subsequent endoscope examination confirmed no evidence of bats. The clearance works were then undertaken in accordance with the assessor's recommendations and outside the nesting season for birds.

Section 40 of the Natural Environment and Rural Communities Act 2006 does however state that 'every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. This "duty to conserve biodiversity" has been replaced by a "biodiversity and resilience of ecosystems duty" under Section 6 of the Environment (Wales) Act 2016 which came into force on 21st March, 2016. Section 6 (1) states that "a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions." Section 6(2) goes on to state that "In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and, (e) the adaptability of ecosystems."

On the basis of the submitted survey, the biodiversity interests on this site were minimal. The Council's Ecologist does however recommend that consideration be given to the provision of nest boxes within the development for bat and bird species. Such enhancements in addition to the new tree planting will demonstrate local authority compliance with Section 6 of the Environment (Wales) Act 2016 and local and national policies.

Overall, there will be no significant adverse residual impacts on the natural environment and biodiversity provided that the suggested conditions are attached to the recommendation. The development therefore accords with Policies SP2, SP4, ENV5 and ENV6 of the LDP and advice contained within SPG07 and SPG19, Planning Policy Wales 10 (December 2018) and TAN5

## **CONCLUSION**

The principle of developing a Welsh Medium Childcare Facility at this location is broadly supported by national and local Planning policy which promotes a mix of uses and community based facilities and services in the interests of the health and well-being of residents of the County Borough.

All other matters of detail concerning the impact on highway safety and the amenities of residents are suitably addressed by the proposal. The comments received from local residents have been taken into consideration during the determination of the application however, they do not outweigh the merits of the proposal and, on balance, the development is considered to be acceptable.

Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

## **RECOMMENDATION**

(R28) That for the purposes of Regulation 4 of the Town and Country Planning Regulations 1992 that permission be deemed to be GRANTED subject to the following conditions:-

1. The development shall be carried out in accordance with the following approved plans and documents:

BCB0073139: A001, A002, A003, A100, A101 and the recommendations in the Bat and Tree Survey Report (K035) by Sylvan Ecology dated 22nd January 2020.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. The premises shall be used for a Welsh Medium Childcare Facility and for no other purpose including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: For the avoidance of doubt as to the extent of the permission granted and to prevent the use as a stand-alone D1 office use which would be detrimental to highway safety and could detract from the amenities of the nearby residents.

3. The Childcare Facility hereby permitted shall not be open to staff and visitors outside the following times: -

07:00 hours to 19:00 hours Monday to Friday and at no times on weekends or Bank Holidays.

Reason: In the interests of residential amenities

4. Notwithstanding the submitted plans, no development shall commence on site until a scheme to enhance the rear and side boundaries of 3 and 4 Ebenezer Court has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details of the position, design and materials of a new boundary treatment, specifications of new tree/hedge planting and a timetable for its implementation. The enhancement scheme shall be implemented as agreed.

Reason: To safeguard the amenities of the adjacent residents.

5. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased with five years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species until the Local Planning Authority gives written consent to any variation.

Reason: To ensure the continued well being of the trees in the interests of the amenity and environmental quality of the locality.

6. Within three months of the date of development commencing, a scheme providing for the following bio-diversity features, including a timetable of the works shall be submitted to and agreed in writing by the Local Planning Authority:

- Nest boxes for bat and bird species
- Bat bricks and/or bat tiles

The agreed scheme shall be implemented prior to the building being brought into beneficial use and shall be retained in perpetuity.

Reason: To increase the biodiversity interest of the environment and to demonstrate compliance with Section 6 of the Environment (Wales) Act 2016

7. No development shall commence on site until a scheme for the comprehensive and integrated drainage of the site, showing how foul, road and roof/yard water will be dealt with, including future maintenance requirements, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the beneficial use of the new facility commencing and retained in perpetuity.

Reason: To ensure that effective drainage facilities are provided for the proposed development, to prevent hydraulic overloading of the public sewerage system and that flood risk is not increased.

8. No development shall take place, until a revised Construction Environmental and Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the routeing of HGV construction traffic to/from the site
- ii. the parking of vehicles of site operatives and visitors
- iii. loading and unloading of plant and materials
- iv. storage of plant and materials used in demolition and construction of the development wheel washing facilities
- v. measures to control the emission of dust and dirt during demolition and construction
- vi. the provision of temporary traffic and pedestrian management at and in the vicinity of the site construction access
- vii. hours of construction (8am-6pm Monday- Friday, 8am-1pm Saturdays with no working Sundays or Bank Holidays and any piling operations from 9am only)

Reason: In the interests of highway and pedestrian safety in the vicinity of the site.

9. No development shall commence until a scheme for the provision of staff and parent off street parking/drop off spaces has been submitted to and agreed in writing by the Local Planning Authority. The parking/drop off area shall be completed in permanent materials with the individual spaces clearly demarcated in permanent materials in accordance with the approved layout prior to the development being brought into beneficial use and retained for parking purposes in perpetuity.

Reason: In the interests of highway and pedestrian safety.

10. No development shall commence until a scheme for the provision of a widened footway and relocation of highway signage commencing from the tactile paving on the A4093 along the eastern boundary of the site through to the proposed pedestrian entrance has been



submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in permanent materials before the development is brought into beneficial use.

Reason: In the interests of highway and pedestrian safety and promoting sustainable means of travel to/from the site and meet the requirement of the Active Travel (Wales) Act 2013.

11. No works shall commence on site until design details, duly certified by a professional engineer, including full engineering details and structural calculations of any retaining wall abutting or having an influence on the highway have been submitted to and approved in writing by the local planning authority. The retaining structures shall be constructed in accordance with the approved design and construction details prior to the occupation of any of the units and shall be retained and maintained in perpetuity.

Reason: In the interests of highway safety.

12. No development shall commence until a scheme for the provision of 2 cycle parking stands (4 spaces) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into beneficial use and retained thereafter in perpetuity.

Reason: In the interests of promoting sustainable means of travel to/from the site and meeting the requirement of the Active Travel (Wales) Act 2013

13. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA within 2 weeks of the discovery of any unsuspected contamination.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14. Any topsoil [natural or manufactured], or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the Local Planning Authority.

Reason: To ensure that the safety of future occupiers is not prejudiced.

15. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported material is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the Local Planning Authority.

Reason: To ensure that the safety of future occupiers is not prejudiced.

16. Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material which meets site specific target values approved by the Local Planning Authority shall be reused.

Reason: To ensure that the safety of future occupiers is not prejudiced.

17. The development shall not be brought into beneficial use until the necessary road traffic order(s), road markings (double yellow lines and double kerb lines) and signage have been implemented.

Reason: In the interests of highway safety.

18. \* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS \*

This application is recommended for approval because the development complies with Council's policy and guidelines and does not adversely affect privacy or visual amenities nor so significantly harms neighbours' amenities as to warrant refusal.

The contamination assessments and the affects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for

- i. determining the extent and effects of such constraints;
- ii. ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates/ soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site;
  - o Unprocessed/unsorted demolition wastes.
  - o Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
  - o Japanese Knotweed stems, leaves and rhizome infested soils. In addition to

section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and

- iii. the safe development and secure occupancy of the site rests with the developer.

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination

The applicant may need to apply to Dwr Cymru/Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times

The developer will be required to enter into an agreement with the Highway Authority to fund a Traffic Order for the implementation of parking restrictions and road markings. The agreement should be agreed on consent being granted and the required funding will be in the sum of £9000.00 to cover the cost of publication of the order, signing and lining etc. Failure to enter into the agreement or provide the funding will result in a reversion to a highway objection on the basis of highway safety concerns and impact on the surrounding properties.

The Developer is reminded that consent under the Town and Country Planning Act 1990 conveys no approval under the Highways Act 1980 for works to be undertaken affecting any part of the public highway including verges and footways and that before any such works are commenced the developer must:

- obtain the approval of Bridgend County Borough Council as Highway Authority to the details of any works to be undertaken affecting the public highway;
- indemnify the County Borough Council against any and all claims arising from such works;
- give not less than one calendar month's notice in writing of the date that the works are to be commenced to the Policy, Development and Transport Team Leader, Bridgend County Borough Council, Civic Offices, Angel Street, Bridgend. Telephone No. (01656) 642541.

It is a requirement under Section 153 of the Highways Act 1980 that any gates must be located and fitted so as not to open out over the highway.

**JONATHAN PARSONS**  
**GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

**Background Papers**

None

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**REFERENCE:** P/20/63/FUL

**APPLICANT:** Mr & Mrs Pagan: 20 Rest Bay Close, Porthcawl CF36 3UN

**LOCATION:** 20 Rest Bay Close, Porthcawl CF36 3UN

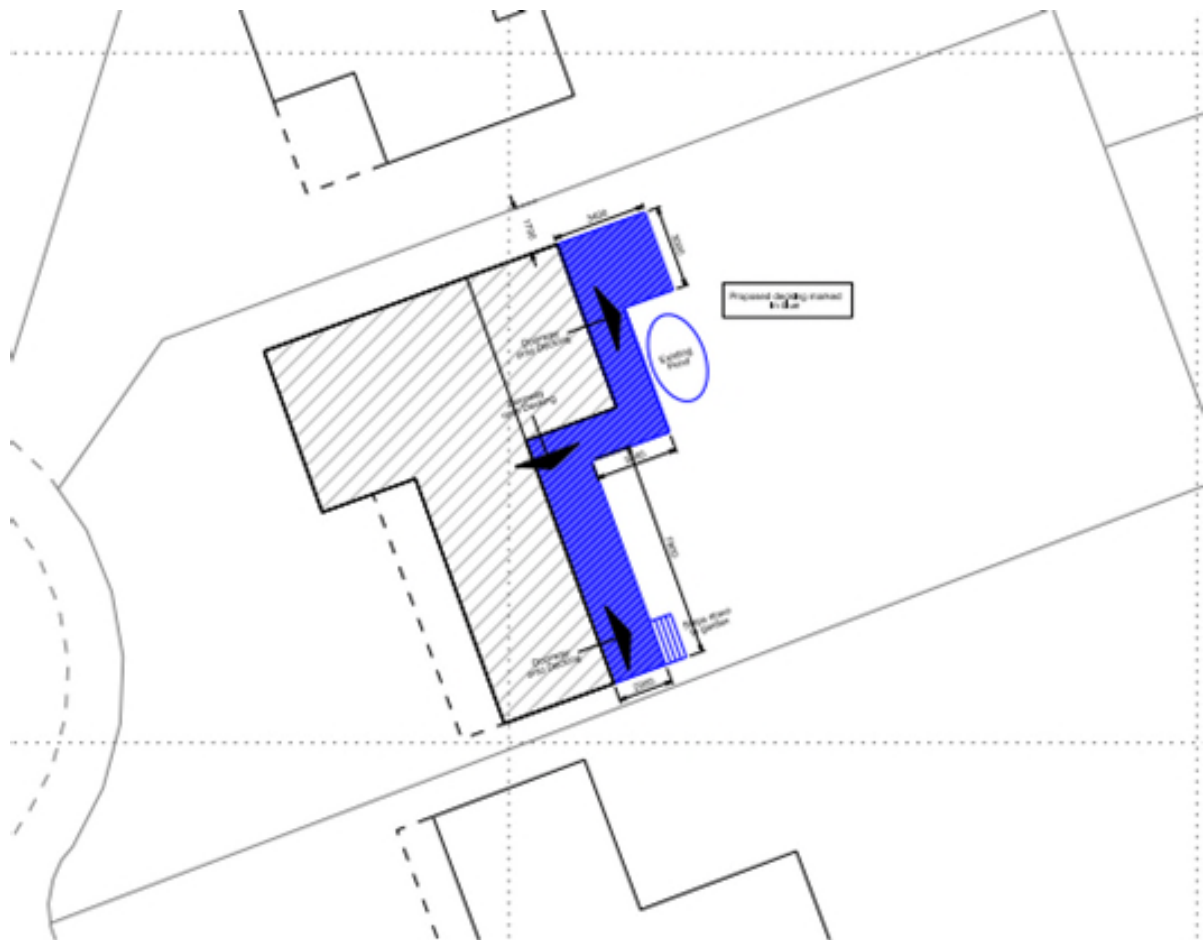
**PROPOSAL:** Construction of new elevated deck area to rear

**RECEIVED:** 20 January 2020

**SITE INSPECTED:** 12 February 2020

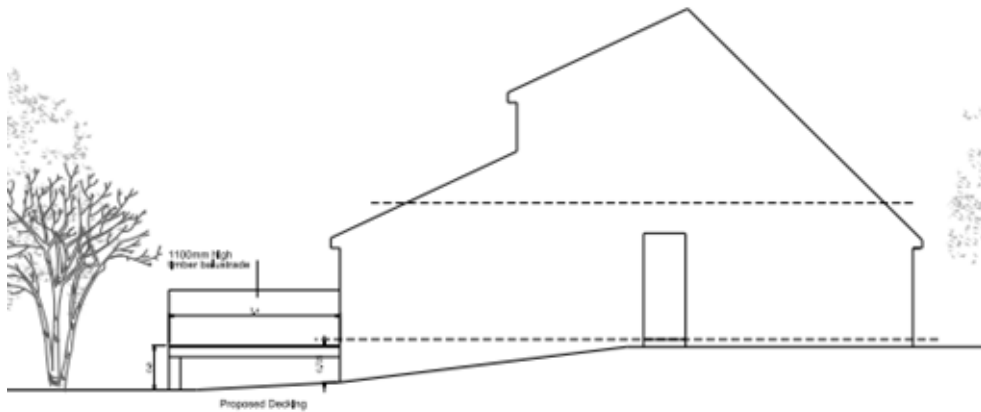
## APPLICATION/SITE DESCRIPTION

The application proposes the construction of a decked area projecting from the rear of the dwelling which is elevated above its rear garden and cover the entire rear elevation of the property.



***Proposed Block Plan***

The submitted block plan demonstrates that the northern section of the proposed deck will be flush with the side of the property and project 3.4m from the rear wall of the existing single storey annex and measure 3m wide before stepping in to 1.5m as it wraps around the single storey structure. Across the remainder of the rear elevation the deck will project 2m from the rear wall of the dwelling with steps installed at its southern end to enable access to the lower garden level. A balustrade 1100mm high is proposed to enclose the decked area but details have not been submitted with the application. Due to the topography of the site, the proposed decking ranges between 0.725m and 0.9m above the rear garden level.



***Proposed Side Elevation***

At the time of the site inspection it was evident that construction work to create the proposed deck had already commenced.



***Photograph supplied by applicant's agent***

The applicant has explained that a builder was employed to construct a decked area at the rear of the house to facilitate safe access to the lower rear garden for the then elderly resident. It had not been appreciated at that time that the structure required planning permission and as soon as it was realised that consent was necessary, works ceased. It also became evident that there had been a misunderstanding by the builder as to the extent of the decking as supporting timbers were attached to the side of the property and to the boundary wall with the neighbouring property, 19 Rest Bay Close, to create a deck that wrapped around the side of the building.





***Photograph showing earlier aborted works***

The applicant has confirmed in writing that these timbers together with the section of supporting wall will be removed and if approved, the decking will be constructed strictly in accordance with the submitted plans, flush with the side elevation of the property.

### **SITE CONTEXT**

The application site is a detached dwelling located on the eastern side of Rest Bay Close and adjacent to the turning head of the cul-de-sac. The dwellings in this area vary in size and design and due to the curvature of the road fronting the application site, the front building line on this side of Rest Bay Close is not uniform.



***OS Map Extract showing application site flagged***

As indicated in the description of development the land levels slope from west to east and also from south to north which results in the application site being elevated above its rear garden but also at a higher level than the neighbouring property, 19 Rest Bay Close.



***Photograph showing land levels***



***Photograph showing deck in relation to Boundary & No 19 Rest Bay Close***

## **RELEVANT HISTORY**

None

## **PUBLICITY**

Neighbours have been notified of the receipt of the application and the period for consultation response expired on 21 February 2020.

A letter of objection has been received from the occupier of 19 Rest Bay Close and the grounds of objection relate to the impact the raised deck would have on the privacy of the entire rear garden of the objector's home. It is highlighted that there is a difference in land level of between 0.4 and 0.5m between the two properties with 20 set at the higher level. It is suggested that if the deck were to be set at a slightly lower level combined with an increase to the height of the boundary wall, it should be possible to create a decked area that would not infringe the privacy of the neighbour's garden. The existing boundary wall is however, unsuitable to be increased in height and therefore the relevant section of the boundary would need to be rebuilt in order to increase its height.

## **CONSULTATION RESPONSES**

Porthcawl Town Council has objected to the application on the grounds that it is an unneighbourly development and results in a loss of privacy to the neighbouring property.

## **COMMENTS ON REPRESENTATIONS RECEIVED**

The following comments are provided in respect of the concerns raised by the occupier of the neighbouring property regarding the impact of the development on the privacy of the rear garden:-

Privacy – As indicated in the description of the development, building works to create the deck area were commenced without realising the need to obtain planning permission. The original scheme for the decking proposed that it would wrap from the northern side of the property around to the eastern (rear) elevation to create a platform level with the internal ground floor level.

As soon as the need to seek formal consent for the structure was understood, works to create the decking ceased and an application for planning permission to regularise the development submitted.

Having been made aware of the concern relating to the impact of the structure on the neighbouring property's rear garden, the scheme was amended so that now the decking will be flush with the side elevation of the property and set 1.7m away from the common boundary with 19 Rest Bay Close.

It is considered that a condition requiring the provision of a screen a minimum of 1.7m in height, erected along the northern boundary of the decking combined with this separation distance, will safeguard the privacy of the neighbour sufficiently to prevent unreasonable overlooking of the rear garden of the adjoining property notwithstanding the difference in land levels and the elevation of the decked area.

## **APPRAISAL**

This application is referred to Committee to enable Members to consider the objections raised by the adjoining occupier and Porthcawl Town Council.

## **RELEVANT POLICIES**

The relevant policies and supplementary planning guidance are highlighted below:

<b>Policy PLA1</b>	Settlement Hierarchy and Urban Management
<b>Policy SP2</b>	Design and Sustainable Place Making

<b>Supplementary Planning Guidance (SPG) 02</b>	Householder Development
-------------------------------------------------	-------------------------

In the determination of a planning application regard should also be given to the local requirements of National Planning Policy which are not duplicated in the Local Development Plan. The following Welsh Government Planning Policy is relevant to the determination of this planning application:

<b>Planning Policy Wales Edition 10</b>	
<b>Planning Policy Wales TAN 12</b>	Design

## **DESIGN**

Policy SP2 of the Local Development Plan (2013) states "*all development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment*". Design should be of the highest quality possible, and should be appropriate in scale, size and prominence".

The Policy establishes fifteen criteria against which development proposals can be assessed and, in respect of this rear two storey domestic extension, it is considered that only criteria 2, 3 and 12 are relevant.

Criteria 2 and 3 require development proposals to have a high quality design that respects and enhances local character and distinctiveness and is of an appropriate scale, size and prominence. In this case, as the deck is attached to the rear elevation of the property, it will not be readily visible from public vantage points and will not therefore adversely impact the visual amenities of the area or the street scene.

The final relevant criterion (12) seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected by development proposals.

In this regard the Authority has also adopted Supplementary Planning Guidance (SPG) 02 which provides more detailed guidance on the manner in which the impact on the

residential amenity of neighbours is assessed. Notes 1 and 2 state that no extension should unreasonably dominate or overshadow adjoining property. It is evident from site photographs supplied by the applicant's agent that there are no windows in the side elevation of the adjoining property and therefore the decking and screen will not dominate or overshadow habitable room windows at this neighbouring property.

Note 6 of the SPG stipulates that an extension should respect the privacy of neighbouring houses. In this case, provided the decked area is constructed flush with the northern elevation of the dwelling thereby leaving a 1.7m separation from the boundary with the neighbouring property combined with a screen fence a minimum of 1.7m in height erected along the northern perimeter of the decked platform, it is considered that it will not so significantly impact the privacy of the rear garden at 19 Rest Bay Close as to warrant refusal for this reason.

Overall, the scheme is considered to be compatible with both the SPG and the identified criterion of Policy SP2.

## **CONCLUSION**

This application is recommended for approval because the development complies with Council policy and guidelines and will not adversely affect visual amenities nor so significantly harm privacy and neighbours' amenities as to warrant refusal.

## **RECOMMENDATION**

(R02) That permission be GRANTED subject to the following conditions:-

1. The development shall be carried out in accordance with the following approved plan: plan number 20\_220 PLo1 Rev 2 received 4th June, 2020.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. A solid screen fence/enclosure a minimum of 1.7m in height shall be erected along the northern perimeter of the decked area prior to the beneficial use of the decking commencing and be so maintained in perpetuity.

Reason: To safeguard the privacy of the adjoining property in the interests of residential amenity.

3. \* THE FOLLOWING IS AN ADVISORY NOTE NOT A CONDITION \*

This application is recommended for approval because the development complies with Council's policy and guidelines and does not adversely affect visual amenities nor so significantly harms the privacy or neighbours' amenities as to warrant refusal.

**JONATHAN PARSONS**  
**GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

## **Background Papers**

None

## APPEALS

### The following appeals have been received since my last report to Committee:

<b>CODE NO.</b>	A/20/3249036 (1888)
<b>APPLICATION NO.</b>	P/19/342/FUL
<b>APPELLANT</b>	MR S TALBOT
<b>SUBJECT OF APPEAL</b>	RETENTION OF CHANGE OF USE TO A GYM UNIT 11 QUEENS COURT, BRIDGEND INDUSTRIAL ESTATE
<b>PROCEDURE</b>	WRITTEN REPS
<b>DECISION LEVEL</b>	DELEGATED OFFICER

The application was refused for the following reason:

1. The retention of the gym facility, by reason of the nature and type of operation and the lack of a sufficient dedicated parking area, is contrary to the guidance contained within Supplementary Planning Guidance 17 Parking Standards (2011) and Policy PLA11 of the Local Development Plan (2013) and will continue to generate increased demand for on-street parking, to the detriment of the safety and free flow of traffic on the adjoining highway network.

<b>CODE NO.</b>	C/20/3250570 (1889)
<b>APPLICATION NO.</b>	ENF/182/19/ACK
<b>APPELLANT</b>	MISS E ROBERTS
<b>SUBJECT OF APPEAL</b>	UNAUTHORISED USE AS A HOLIDAY LET IVY COTTAGE, COURT COLMAN, BRIDGEND
<b>PROCEDURE</b>	WRITTEN REPS
<b>DECISION LEVEL</b>	ENFORCEMENT NOTICE

<b>CODE NO.</b>	A/20/3250766 (1890)
<b>APPLICATION NO.</b>	P/19/628/FUL (APPEAL AGAINST CONDITIONS)
<b>APPELLANT</b>	MR G GIRLETZ
<b>SUBJECT OF APPEAL</b>	RETENTION OF LAND INCLUDED INTO CURTILAGE AND NEW STORAGE SHED IN REAR GARDEN 87 SKYLARK ROAD, NORTH CORNELLY
<b>PROCEDURE</b>	WRITTEN REPS
<b>DECISION LEVEL</b>	DELEGATED OFFICER <b>The Appeal has been withdrawn</b>



**CODE NO.** A/20/3246041 (1891)  
**APPLICATION NO.** P/20/11/OUT

**APPELLANT** MR P EVANS

**SUBJECT OF APPEAL** OUTLINE APPLICATION FOR UP TO 9 DWELLINGS AND ASSOCIATED WORKS  
LAND OFF TONDU ROAD, NORTH OF PASCOES AVENUE  
BRIDGEND

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** COMMITTEE

The application was refused for the following reasons:

1. The proposed development, by reason of its location, scale, siting and design, fails to provide a satisfactory means of access to serve the traffic generated by the proposed development to the detriment of highway safety along the adjoining A4063 Tondy Road contrary to the provisions of Policy SP2 of the Bridgend Local Development Plan and advice contained in Planning Policy Wales (Edition 10 December, 2018).
2. The proposed development, by reason of its location, scale, siting and design, fails to provide a satisfactory means of continuous pedestrian footway to serve pedestrian movements generated by the proposed development, to the detriment of highway safety along and crossing the A4063 Tondy Road contrary to the provisions of Policy SP2 of the Bridgend Local Development Plan and advice contained in Planning Policy Wales (Edition 10 Dec 2018).
3. The proposed access arrangement will likely generate vehicular 'U' turn movements at the junction access to the Trews Field Industrial Estate and/or at the point where Tondy Road changes from a single to a dual carriageway creating traffic hazards to the detriment of highway safety contrary to Policies SP3 and PLA5 of the Bridgend Local Development Plan and advice contained in Planning Policy Wales (Edition 10 Dec 2018).
4. The proposed development, by reason of its scale, siting and design, would constitute overdevelopment of the site as it is too restricted to accommodate the number of dwellings of the scale parameters identified in the application consistent with generally accepted standards of space about new residential development contrary to Policy SP2 of the Bridgend Local Development Plan and advice contained within Planning Policy Wales (Edition 10 Dec 2018).
5. The proposed development, by reason of its scale, siting and design, would constitute an undesirable intrusion of built development into an area of considerable landscape value to the detriment of the conservation and enhancement of the Cefn Glas Wood Site of Importance for Nature Conservation, the existing woodland and its habitats and to the detriment of the visual amenities of the area, contrary to Policies SP2, SP4, ENV4, ENV5 and ENV6 of the Bridgend Local Development Plan and SPG19 Biodiversity & Development: A Green Infrastructure Approach and advice contained within Planning Policy Wales (Edition 10 Dec 2018) and TAN5 : Planning and Nature Conservation.

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**CODE NO.** A/20/3246041 (1892)  
**APPLICATION NO.** P/20/11/OUT

**APPELLANT** MR S JOHN  
**SUBJECT OF APPEAL** ERECTION OF ONE SINGLE STOREY DWELLING (BUNGALOW)  
31 FELINDRE ROAD, PENCOED  
**PROCEDURE** WRITTEN REPS  
**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. Insufficient details have been submitted to demonstrate that the risks and consequences of flooding can be managed to an acceptable level contrary to advice contained in Planning Policy Wales (Ed10), Technical Advice Note 15: Development & Flood Risk and Policy SP2 of the Bridgend Local Development Plan (2013).

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**CODE NO.** D/20/3253435 (1893)  
**APPLICATION NO.** P/20/194/FUL

**APPELLANT** MR W HOPKINS  
**SUBJECT OF APPEAL** FIRST FLOOR EXTENSION ABOVE EXISTING SIDE ANNEX  
7 PARK AVENUE, PORTHCAWL  
**PROCEDURE** WRITTEN REPS  
**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. The dormer extension, by reason of its siting, scale and design, constitutes an inappropriate, unsympathetic and incongruous form of development to the detriment of the visual amenities of the existing property, the street scene and the surrounding area, contrary to Policy SP2 of the Bridgend Local Development Plan (2013) and advice contained within Supplementary Planning Guidance Note 2: Householder Development (2008) and Technical Advice Note (TAN) 12: Design (2016).

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**CODE NO.** A/20/3253366 (1894)  
**APPLICATION NO.** P/19/219/OUT

**APPELLANT** MR P A BETHEL  
**SUBJECT OF APPEAL** OUTLINE APPLICATION FOR 2 DETACHED DWELLINGS  
FORMER BT REPEATER STATION, ISLAND FARM ROAD,  
BRIDGEND  
**PROCEDURE** WRITTEN REPS  
**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:



1. A satisfactory means of access cannot be achieved to serve traffic generated by the proposed development contrary to Policies SP2 and PLA5 of the Bridgend Local Development Plan.
2. The proposed development will generate additional vehicular turning movements to or from the public highway, creating further traffic hazards to the detriment of highway safety contrary to Policies PLA5 and SP2 of the Bridgend Local Development Plan.
3. Insufficient details in respect of noise has been submitted to enable the implications of the proposed scheme to be properly evaluated by the Local Planning Authority, contrary to criteria (8) of Policy SP2 of the Local Development Plan (2013), Technical Advice Note 11 Noise, and guidance contained within Planning Policy Wales (Edition 10, December 2018).
4. Insufficient details in respect of drainage arrangements and ecological impacts have been submitted to enable the implications of the proposal to be properly evaluated by the Local Planning Authority contrary to Policies SP2, ENV4 and ENV6 of the Bridgend Local Development Plan.

**The following appeals have been decided since my last report to Committee:**

<b>CODE NO.</b>	A/19/3239745 (1877)
<b>APPLICATION NO.</b>	P/19/216/FUL
<b>APPELLANT</b>	MR W CARROLL & FAMILY
<b>SUBJECT OF APPEAL</b>	RETENTION OF THE USE OF LAND FOR THE STATIONING OF ONE STATIC RESIDENTIAL GYPSY CARAVAN TOGETHER WITH THE ERECTION OF A DAY/UTILITY ROOM, ONE TOURING CARAVAN AND CAR PARKING: THE YARD, ROGERS LANE, CEFN CRIBWR
<b>PROCEDURE</b>	HEARING
<b>DECISION LEVEL</b>	DELEGATED OFFICER
<b>DECISION</b>	THE APPEAL HAS BEEN WITHDRAWN

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<b>CODE NO.</b>	A/19/3239745 (1878)
<b>APPLICATION NO.</b>	P/19/216/FUL
<b>APPELLANT</b>	MR W CARROLL & FAMILY
<b>SUBJECT OF APPEAL</b>	UNAUTHORISED USE FOR CARAVAN STORAGE THE YARD, ROGERS LANE, CEFN CRIBWR
<b>PROCEDURE</b>	HEARING
<b>DECISION LEVEL</b>	ENFORCEMENT NOTICE
<b>DECISION</b>	THE APPEAL HAS BEEN WITHDRAWN

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**CODE NO.** A/19/3240278 (1881)  
**APPLICATION NO.** P/19/137/FUL

**APPELLANT** MR D LLOYD

**SUBJECT OF APPEAL** RETENTION OF STEEL CONTAINER (USED FOR A FOOD DELIVERY BUSINESS) FOR A TEMPORARY PERIOD  
WEST WINDS, PRIORY OAK, BRACKLA

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** **DELEGATED OFFICER**

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED.

A copy of the appeal decision is attached as **APPENDIX A**

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**CODE NO.** C/20/3244105 (1883)  
**APPLICATION NO.** ENF/193/19/A21

**APPELLANT** MR P JENKINS

**SUBJECT OF APPEAL** PROPERTY IN STATE OF DISREPAIR  
2 EWENNY ROAD, BRIDGEND

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** ENFORCEMENT NOTICE

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE ENFORCEMENT NOTICE BE QUASHED.

A copy of the appeal decision is attached as **APPENDIX B**

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**CODE NO.** E/20/3244575 (1884)  
**APPLICATION NO.** P/19/799/CAC

**APPELLANT** MR N CAREY

**SUBJECT OF APPEAL** CONSERVATION AREA CONSENT FOR THE REMOVAL OF A 1.5M HIGH WALL  
TAN Y BRYN, DINAM STREET, NANTYMOEL

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** **DELEGATED OFFICER**

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED.

<b>CODE NO.</b>	E/20/3245217 (1885)
<b>APPLICATION NO.</b>	P/19/798/FUL
<b>APPELLANT</b>	MR N CAREY
<b>SUBJECT OF APPEAL</b>	REMOVAL OF A 1.5M HIGH WALL, CREATE PARKING AREA WITH 2M HIGH WOODEN GATES AND DROP KERB TAN Y BRYN, DINAM STREET, NANTYMOEL
<b>PROCEDURE</b>	WRITTEN REPS
<b>DECISION LEVEL</b>	<b>DELEGATED OFFICER</b>
<b>DECISION</b>	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED.

A copy of the joint appeal decision is attached as **APPENDIX C**

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**RECOMMENDATION**

That the report of the Group Manager Planning & Development Services be noted.

**JONATHAN PARSONS**  
**GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

**Background Papers** (see application reference number)



## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 11/06/20

gan H C Davies BA (Hons) Dip UP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 30.06.2020

## Appeal Decision

Site visit made on 11/06/20

by H C Davies BA (Hons) Dip UP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 30.06.2020

**Appeal Ref: APP/F6915/A/19/3240278**

**Site address: West Winds, Priory Oak, Brackla, Bridgend CF31 2HY**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr David Lloyd against the decision of Bridgend County Borough Council.
- The application Ref P/19/137/FUL, dated 25 February 2019, was refused by notice dated 31 July 2019.
- The development is described as 'We require the granting of a temporary change of use to A3 for part of our land (rectangle outlined in red on proposed drawing) so that we may continue running a small Thai food delivery business. The business is run out of a 30ft steel site office which has been sited on the property and running for 1 year. We will be submitting planning shortly to build some retail units on another site we own and once built we will move into one of these new units. We require temporary planning to be able to carry on our operations at West Winds until the new units are ready. A period of 18-24 months would be sufficient.'

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. I have dealt with the application on the basis that it seeks permission in retrospect given that the container is already in situ and the associated food delivery business is already operating from this location.

### Main Issues

3. These are the effect of the proposal on the character and appearance of the area and residents' living conditions.

### Reasons

#### *Character and appearance*

4. The appeal relates to a container sited within an extensive residential curtilage at the end of a cul-de-sac at Priory Oak, which forms part of the wider, established Brackla housing estate. Priory Oak is a quiet and pleasant cul-de-sac which comprises largely detached properties set back from the road with open grassed frontages and hard surfaced driveways. The appeal site is enclosed by mature vegetation along the majority of its boundaries. The steel container is of a substantial size and occupies a

position close to the front and side of the dwelling, immediately adjacent to the drive and can be seen from the property's gated entrance.

5. Owing to the mature vegetation around the majority of the site's curtilage, views into the appeal site from the wider area are largely restricted. Nonetheless, the container is open to public view when approaching along Priory Oak. Furthermore, despite the boundary treatments and intervening separation distance, the container is also partially visible from the upper floor windows of dwellings fronting onto Gwaun Close, to the north. Whilst only intended to be temporary, it has a harsh utilitarian appearance, largely on account of its box-like form and steel profile construction and is an incongruous feature in this domestic setting. I concur with the Council's assessment that it would represent an insensitive and poor standard of design that would be out of keeping with both its immediate and wider context.
6. The appellant has indicated a willingness to clad or paint the container, however, I do not find that such measures would be sufficient to mitigate its boxy industrial appearance or make it any less intrusive.
7. I conclude that the container causes unacceptable harm to the character and appearance of the area. Therefore, it fails to accord with Policy SP2 of the Bridgend Local Development Plan (LDP), which, amongst other things, states that development should have a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness.

#### *Living Conditions*

8. The container is located within close proximity to existing residential properties along Priory Oak. As such, the use for food preparation and delivery, particularly if it would intensify, would have a potential to cause significant adverse effects on the living conditions of the occupiers of nearby residential properties in terms of increased levels of noise and disturbance.
9. As part of the home delivery service, the appellant maintains there would be two or three deliveries on various nights of the week and an additional number of deliveries on Friday and Saturday nights. Whilst the additional number of journeys is not specified by the appellant, the Council claim on the busiest evenings there would be up to 10 deliveries. Noise associated with deliveries from the site, including engine noise, closing of vehicle doors, as well as from brakes being applied, is likely to be noticeable and disruptive, particularly in the evenings when local residents can reasonably expect a quiet environment within which to relax or sleep. In the event that the use intensifies at this location and given the lack of control over deliveries, this would result in further disturbance for longer periods, particularly if those deliveries were made late into the evening.
10. Although the appellant indicates that deliveries are combined to reduce the number of additional trips to/from the property, it would be difficult to monitor and enforce conditions that limit or restrict the number of deliveries. Furthermore, the appellant has no control over what times in the evening delivery orders are placed. Customers placing orders would expect a hot food delivery within a reasonable time, as such, deliveries are likely to be more sporadic than that indicated by the appellant. The appellant submits that the business has operated without detriment to date and no objections were submitted by neighbouring occupiers in respect of noise and disturbance at the time of the planning application. I do not dispute this, but it would not justify allowing the proposed delivery service in a location where such uses are incompatible with the residential nature of the area.

11. The Council also raises concern regarding potential cooking odours emanating from the kitchen. Whilst I agree that care needs to be taken, the container is a sufficient distance away from the nearest residential property on Priory Oak not to cause material harm in this respect. A modern, properly maintained odour control system would also reduce the impact of kitchen odours on local residents, subject to the imposition of appropriate conditions.
12. The appellant submits that the container is only required for 18-24 months, until a more permanent unit can be built on an alternative site. However, 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. In this instance, even for a temporary period the effects of the development would be unacceptable.
13. I conclude that the additional noise and general disturbance generated by a hot food preparation and delivery use in this residential location would be harmful to the living conditions of neighbouring occupiers. Consequently, it would conflict with LDP Policy SP2, which states, amongst other things, that development should have full regard to the built environment by avoiding or minimising noise pollution.

### **Conclusions**

14. In reaching my decision, I have taken account of the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WCFG Act.
15. For the reasons given above I conclude that the appeal should be dismissed.

*H C Davies*

INSPECTOR

**Penderfyniad ar yr Apêl**

Ymweliad â safle a wnaed ar 10/03/20

gan Alwyn B Nixon BSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 01.05.2020

**Appeal Decision**

Site visit made on 10/03/20

by Alwyn B Nixon BSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 01.05.2020

**Appeal Ref: APP/F6915/C/20/3244105**

**Site address: 2 Ewenny Road, Bridgend CF31 3HL**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 217 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Paul Jenkins against a proper maintenance of land notice issued by Bridgend County Borough Council under section 215 of the above Act.
- The notice was issued on 10 December 2019.
- The steps required to be taken for remedying the condition of the land are:
  - a. Remove the side lean-to extension leaving the original boundary wall in place.
  - b. Replace the roof on the front lean-to.
  - c. Replace the roof on the rear single storey extension.
  - d. Remove and replace all windows and external doors with double glazed white upvc.
  - e. Remove and replace the rain water goods with black upvc rain water goods.
  - f. Remove the rusted railings along the front boundary and replace with black railings.
  - g. Clear all the rubbish and vegetation from the front garden.
  - h. Clear the vegetation above fence level in the rear garden.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 217(1)(b), (c) and (d) of the Town and Country Planning Act 1990 as amended.

**Decision**

1. It is directed that the notice be corrected by the substitution of the plan annexed to this decision for the plan attached to the notice. Subject to this correction the appeal is allowed and the notice is quashed.

**Procedural matter**

2. During the course of the appeal it emerged that the red line area identified on the plan attached to the section 215 notice incorrectly included a building in different ownership and use located to the rear of 2 Ewenny Road. The Council has confirmed that it was not its intention to include these other premises as part of the land to which the notice relates, and has provided a new plan identifying the correct, smaller land area. I shall correct the notice by substituting this plan; I am satisfied that no injustice is caused to any party by doing so.

**Reasons**

**Ground (b)**

3. The basis of an appeal on ground (b) is that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events



from, the carrying on of operations or a use of land which is not in contravention of Part III of the Act (control over development).

4. I note the appellant's explanation of the circumstances which have led to the property deteriorating to its current state. Nonetheless, it is clear that the condition of the land has resulted from a lack of maintenance of the property during the prolonged period of non-use which has now persisted for more than 10 years. Although limited steps such as clearance of vegetation and rubbish have been taken from time to time, this has only temporarily relieved the situation. The neglected state of the land is attributable to a lack of active use and upkeep rather than to the ordinary course of events which might reasonably be expected to arise from use for its lawful residential purpose. Consequently, the appeal on ground (b) fails.

### **Ground (c)**

5. The basis of ground (c) is that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area.
6. No. 2 Ewenny Road is a vacant residential building comprising a semi-detached four storey dwelling with a ground floor flat. It occupies a corner plot adjacent to a busy road junction on the periphery of the town centre. The appearance of the property has suffered due to it being vacant and poorly maintained for a prolonged period, resulting in a neglected appearance and the attraction of litter. The building's ground floor openings have been boarded up, in an effort to deter illegal entry and vandalism.
7. I agree that the condition of the land at 2 Ewenny Road adversely affects the amenity of its surroundings and it is apparent that an unsatisfactory situation has persisted without proper resolution for a considerable time. I am sympathetic to the Council's position that a solution needs to be found. However, I consider that the requirements of the section 215 notice issued by the Council go far beyond what is necessary to remedy the harm to amenity arising from the land's condition. The side extension referred to in requirement a. of the notice is an established and integral part of the building and evidently comprises the entrance porch access arrangement to the main dwelling unit. There is nothing in the Council's submissions which leads me to conclude that the removal of this part of the building is necessary to prevent the condition of the land from adversely affecting local amenity. The Council now accepts that the side extension can be retained, subject to measures to improve its condition.
8. Requirements b. and c. of the notice require the replacement of roofs on the front lean-to and rear single storey extensions. The appellant accepts that the front lean-to extension roof, which has a covering of corrugated sheets some with large holes in them, needs attention. However, the flat roof on the single storey rear extension is not generally visible from the public domain and there is no evidence that its condition affects the amenity of the area. Moreover, the Council's appeal submissions indicate that it does not know whether this roof is in good condition or not. I therefore conclude that whilst requirement b. is justified in order to prevent the land's condition from adversely affecting amenity, requirement c. of the notice is excessive.
9. Turning to requirement d., the ground floor window and door openings are predominantly boarded up, to prevent vandalism and/or unauthorised access. This is a sensible practical measure, given the building's current lack of use. The Council's submissions indicate that it considers that the boarding should be removed; however, this would make the building susceptible to further unauthorised entry and vandalism,

so long as it remains unoccupied. Whilst the boarded-up openings do not help the building's appearance, and the exposed windows appear in need of cleaning, repainting and/or repair, I consider nonetheless that the requirement to remove and replace all windows and external doors with double glazed white upvc units goes beyond what is necessary and warranted in order to alleviate the harm to amenity caused by the condition of the land.

10. Requirement e. is to remove and replace the rain water goods with black upvc rain water goods; requirement f. is to remove the rusted railings along the front boundary and replace with black railings. In relation to requirement e. the appellant states that whilst the existing rainwater goods require painting, they are functioning correctly. The Council now states that it would have no objection to the existing rainwater goods being retained and painted black, provided that they are of good condition and in working order. There is no evidence before me that the existing rain water goods are not functioning adequately. I conclude that requirement e. of the notice is excessive, and that it is evident that the Council, on reflection, accepts this. As regards requirement f., I share the appellant's view that the ornamental railings along the front boundary, whilst rusted, are still serviceable, and that rust-proofing and repainting would satisfactorily address the harm to amenity caused by their current condition. On this basis I conclude that requirement f. to remove the existing railings and replace them with new railings exceeds what is necessary to remedy the harm to amenity caused by their current condition.
11. In relation to requirements g. and h., the appellant states that rubbish was cleared from the garden on 23 October 2019, shortly before the notice was issued. However, at my visit I observed some accumulated items of rubbish within the front garden area, and the presence of overgrowing ivy and weeds, including in the guttering of the front lean-to extension. These matters contribute to the neglected and unsightly appearance of the land. Although the appellant asserts that on 23 October there was no vegetation in the rear garden appearing above the height of the fence, at the date of my visit scrubby vegetation was clearly visible over the fence from the street, which contributed materially to the neglected appearance of the land. I conclude that requirements g. and h. of the notice are justified in the interests of amenity.
12. In summary, therefore, I conclude in relation to the appeal on ground (c) that requirements a., c., d., e. and f. of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of its surroundings. The appeal on ground therefore succeeds in these terms.
13. I have considered whether, in the light of the appeal submissions and my findings, I should attempt to vary the terms of the notice in favour of the appellant, thereby allowing the notice to stand but with less onerous requirements. However, I have decided not to do this, for two reasons. First, although the parties are evidently in agreement that the roof on the front lean-to extension needs to be replaced (requirement b.), I am concerned that the notice does not specify the manner in which this must be done. As it stands, the notice leaves it open to interpretation (either by the appellant, if complying with the notice, or by the Council, if carrying out works in default and subsequently reclaiming the expenditure) as to the extent of the works undertaken, including the materials chosen, and so as to their cost. I consider that for me to attempt to impose more specific requirements in this respect would risk causing injustice to one party or the other.
14. Second, whilst there appears to be agreement between the parties as to appropriate lesser works in relation to requirement e., as outlined above, and it would be possible for me to substitute a requirement to rust-proof and repaint the existing railings in

relation to requirement f., I consider that there is insufficient evidence in relation to the matters within requirement d. to enable me to reach a conclusion with precision as to the lesser steps necessary to remedy the harm to amenity. Indeed, there may be more than one acceptable way forward. In my view the precise form of any lesser steps is a matter best reached through constructive discussion between the parties. My view that further discussion between the parties in the light of my decision is desirable is reinforced by the fact that the section 215 notice and the correspondence preceding it was directed at the appellant's brother, who apparently has not historically been the primary party with whom the Council has conducted discussions concerning the land.

15. Notwithstanding my overall decision that the current section 215 notice should be quashed, it is of course open to the Council to consider issuing a fresh notice, having taken account of the findings in this decision, if it considers it appropriate to do so.

#### **Ground (d)**

16. Ground (d) is that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed. In the light of my decision that the appeal succeeds on ground (c) and that the notice should be quashed, there is no need for me to consider the matters raised on ground (d).

#### **Overall conclusion**

17. Having regard to all matters raised, I conclude for the reasons given above that the appeal should succeed on ground (c) and that the notice should accordingly be quashed. In reaching my decision I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. The Council's wish to remedy the harm to amenity caused by the land's unsatisfactory condition is consistent with the Act's sustainable development principle, having regard to the Welsh Ministers' well-being objectives of building healthier and resilient communities and better environments. However, notwithstanding this, for the reasons given above the notice must be quashed.
18. I therefore quash the notice as corrected in paragraph 2 above.

*Alwyn B Nixon*

**Inspector**



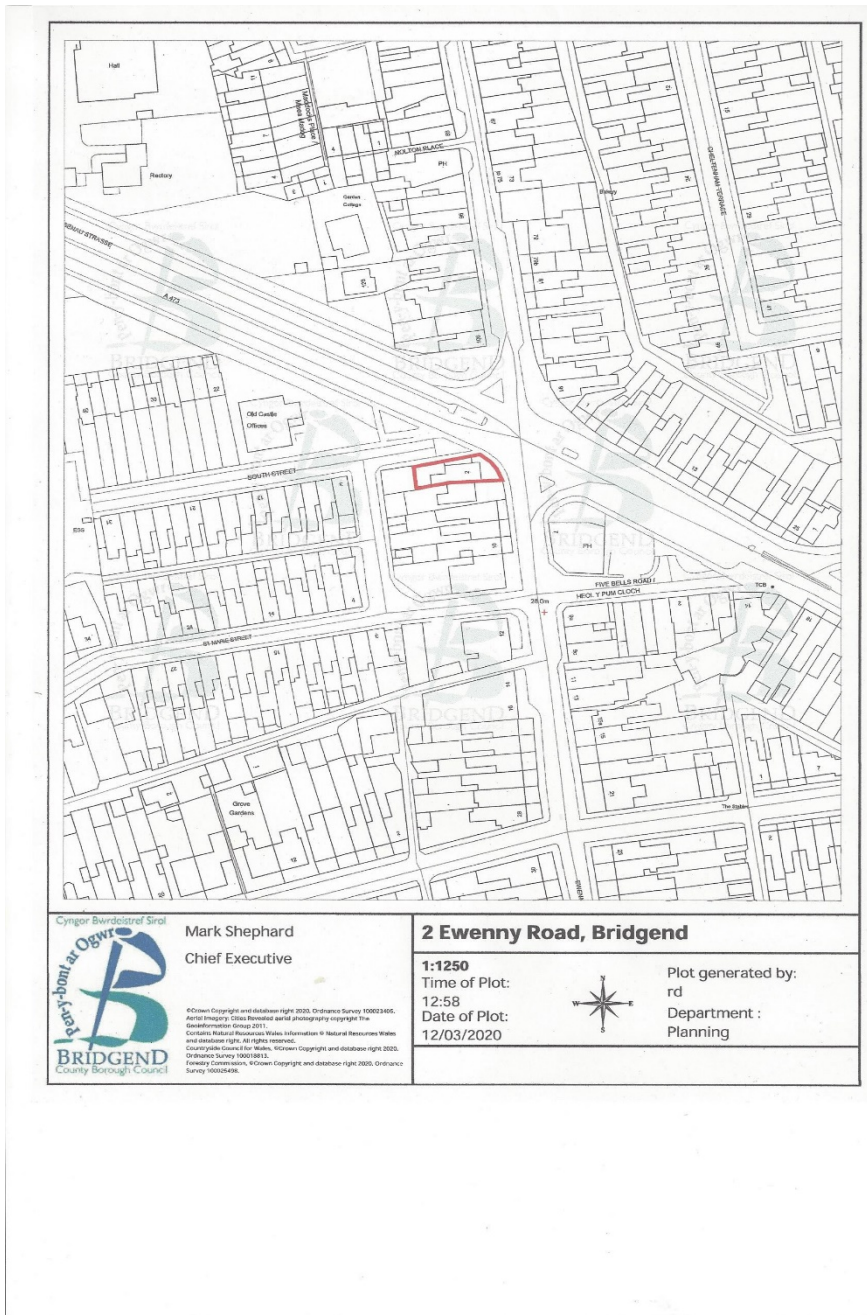
# Plan

This is the plan referred to in my decision dated:

by **Alwyn B Nixon BSc MRTPI**

Land at: **2 Ewenny Road, Bridgend CF31 3HL**

Reference: **APP/F6915/C/20/3244105**





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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 10/03/20

gan Alwyn B Nixon BSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 24.04.2020

## Appeal Decision

Site visit made on 10/03/20

by Alwyn B Nixon BSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 24.04.2020

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**Appeal Ref: APP/F6915/E/20/3244575**

**Site address: Tanybryn, Dinam Street, Nantymoel, Bridgend CF32 7NN**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
  - The appeal is made by Mr Norman Carey against Bridgend County Borough Council.
  - The application, Ref P/19/799/CAC, is dated 16 October 2019.
  - The demolition proposed is demolition of a 1.5 metre high boundary wall.
- 

**Appeal Ref: APP/F6915/A/20/3245217**

**Site address: Tanybryn, Dinam Street, Nantymoel, Bridgend CF32 7NN**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Norman Carey against Bridgend County Borough Council.
  - The application, Ref P/19/798/FUL, is dated 16 October 2019.
  - The development proposed is demolition of a 1.5m high wall and construction of a block-paved parking area and vehicular access together with installation of 2 metre high wooden gates.
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### Decision

1. Appeal **APP/F6915/E/20/3244575**: The appeal is dismissed.
2. Appeal **APP/F6915/A/20/3245217**: The appeal is dismissed.

### Procedural Matters

3. The development was carried out before the applications were made to the Council. I have considered the appeals on the basis that planning permission and conservation area consent is sought retrospectively for the development as carried out.
4. The appeals were made following the Council's failure to determine the submitted applications within the relevant statutory period. However, the Council subsequently issued decisions, dated 23 January 2020, refusing planning permission and conservation area consent within the period of dual jurisdiction applicable after the

appeals were lodged. Notwithstanding the fact that the applications were undetermined at the time the appeals were made I have therefore dealt with the appeals as being against the Council's subsequent decisions.

## Reasons

5. The main issue in both appeals is whether the development preserves or enhances the character or appearance of the Nantymoel Conservation Area.
6. The appeal property is situated within a cohesive and compact layout of nineteenth century terraced housing in the former mining community of Nantymoel. Tanybryn is located at the apex of Dinam Street and Ogmore Terrace, with the gable end of Tanybryn running alongside the footway of Dinam Street. Photographic images submitted by the Council show that prior to the development taking place the curtilage area on the south side of the dwelling was a small garden separated from Dinam Street by a wall of traditional character built of local stone, about 1.5m high and continuing southwards from the appeal site along the back of the footway. The boundary wall stopped just short of the gable end of Tanybryn, leaving a pedestrian-only access on this side of the dwelling. The development carried out has involved the demolition of the northernmost 2.7m (9 feet) or so of the wall and replacement with a pair of vertical-boarded timber wooden gates, providing vehicular access to paved parking created within the garden area.
7. The Nantymoel Conservation Area was designated in 1973. There is a statutory duty, when considering development proposals in conservation areas, to pay special attention to the desirability of preserving or enhancing the conservation area's character or appearance. The Council's leaflet "Nantymoel Conservation Area Article 4 (2) Direction and Conservation Area Guide" describes the significance of the built form at Nantymoel Conservation Area and refers to the authority's recent decision to introduce additional control over boundary treatments within the Conservation Area. It notes that the terraced houses are built of pennant sandstone, and that the matching stone boundary walls are an important feature of the environment. The walls link together with the stone terraces, providing a consistent setting and creating a coherent and harmonious heritage environment. The leaflet goes on to say that where the stone boundary walls have been replaced by other materials the character of the streetscape has changed, causing a threat to the character of the area, particularly when gardens are replaced with tarmacked car parking areas. It concludes that it is important, therefore, to preserve, or even reinstate where possible, the natural stone walls that provide such an important cohesive role.
8. The appeal development has resulted in the loss of part of a section of traditional boundary stone walling on a principal street frontage within the conservation area and its replacement by prominent timber boarded gates. As noted above, the traditional stone walling contributes to the cohesion and setting of the terraces within the conservation area and thus to its heritage significance. I consider that the resulting change to the streetscape has harmed, and thereby fails to preserve or enhance, the appearance and the character of the conservation area.
9. The development plan for the area is the Bridgend Local Development Plan (LDP). Strategic policy SP2 Design and Sustainable Place Making seeks that all development contributes to creating places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment. Policy SP5 Conservation of the Built and Historic Environment underlines that development proposals should take full account of the statutory protection afforded to heritage assets such as conservation areas. In this regard the development plan is consistent

with the placemaking outcomes sought by Welsh Government guidance in Planning Policy Wales. I conclude that the demolition of the section of stone boundary wall and its replacement by the timber gated vehicular access conflicts with LDP policies SP2 and SP5, and that the development to which the appeals relate thus does not accord with the development plan.

10. I have considered all other matters raised. I recognise that the appellant was unaware that the property was a conservation area, as this was not revealed by a local land search prior to purchase due to the date of its designation. Moreover, I accept that it is not always easy to understand the complexities of the different permissions and consents required and that the appellant has not deliberately acted in contravention of planning legislation. However, I have determined the appeals purely on the planning merits of the development concerned, irrespective of the fact that it has already been carried out. I have noted the reference to other developments carried out nearby; however, there is no evidence that the Council has granted permission for comparable development in the conservation area. Even if this were the case, this would not alter the primary requirement to determine the case on its own merits.
11. I recognise also that the Article 4(2) Direction concerning boundary walls was not introduced until after the development was carried out and the applications subsequently made. However, it remains the case that planning permission and conservation area consent were necessary at the time the development was carried out and that the relevant policy context has not changed. Moreover, the making of the Article 4(2) Direction confirms the importance of traditional stone wall features to the character and appearance of the Nantymoel Conservation Area and its heritage significance. The fact that no other residents have objected does not alter the weight I must give to the importance of preserving or enhancing the conservation area's character or appearance.
12. I note that the Council's notice of refusal of planning permission refers in reason for refusal 2 to fences in addition to the gates which have been installed. The appellant maintains that he has not erected any fences, stating that they were erected by the owner of the adjoining site. Moreover, the planning application details submitted for the Council's consideration did not include the erection of a fence. I have disregarded the fencing in arriving at my decision; however, this does not alter the harm I have identified arising from the loss of the section of stone wall and its replacement with wooden gates.
13. The points raised in support of the appeal, therefore, are insufficient to outweigh the harm caused to the character and appearance of the conservation area that I have identified. Material considerations do not exist which point to a determination otherwise than in accordance with the development plan.
14. In reaching my conclusions, I have taken account of the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of building better environments.
15. Accordingly, and having taken account of all matters raised, I dismiss both appeals.

*Alwyn B Nixon*

**Inspector**



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## **TRAINING LOG**

*All training sessions are to be held online until further notice.*

<b><u>Facilitator</u></b>	<b><u>Subject</u></b>	<b><u>Date</u></b>	<b><u>Time</u></b>
Jonathan Parsons, <i>Group Manager Planning &amp; Development Services</i>	"Wellbeing & Future Generations Act 2016 and Planning Policy Wales 10 – A Direction of Travel"	September 2020	To be confirmed

### **Recommendation:**

That the report of the Corporate Director Communities be noted.

**JONATHAN PARSONS  
GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

### **Background Papers**

None.

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