

*Floor plans*

The external finishes are to be facing brick on the side and rear elevations of each of the units. The front elevations will be made up of brickwork on the lower half of the building with grey cladding, which incorporates integrated solar collectors. The south facing roof plane will have integrated photovoltaic panels and the north facing roof plane will be a grey metal profile roof with standing seam. Doors and windows will be aluminium clad timber frames finished in grey with grey UPVC rainwater goods etc.



*Elevations*



The application site forms part of an area of land to the west of Bryn Bragl, Brackla and is currently open space/children's play area. A tarmac area approximately the size of a basketball court/indoor football pitch lies towards the eastern end of the larger site with a further smaller irregularly shaped tarmac area lying to the west. It appears that at some point in time, this smaller area accommodated play equipment but this has since been removed.



*OS Map extract showing application site in relation to its surroundings*

Much of the area is laid to grass although there is a bank of trees in the south eastern corner of the site adjacent to the pathway that runs along the rear boundaries of the properties on the northern side of Rhiw Tremaen. A low (knee high) post and rail fence encloses the eastern site boundary onto Bryn Bragl. On the northern side of the site is an extensive wooded area, which is designated as the Coed y Morfa Site of Importance for Nature Conservation (SINC).



*2017 Aerial photograph showing current site conditions*

The land slopes gently from east to west and from north to south. It can be seen from the section drawing reproduced below that the proposed additional dwellings will be set at a slightly higher level than the existing bungalows in Rhiw Tremaen.



Section AA' View towards West

## **RELEVANT HISTORY**

P/17/393/FUL – 10 affordable housing units, car parking, access and open space –  
Conditional Consent & S106 Agreement – 10/07/18

## **PUBLICITY**

The application has been advertised in the press and on site as a development that does not accord with the Local Development Plan. In addition, neighbours have been notified of the receipt of the application. The period allowed for response to consultations/publicity expired on 27 June 2018.

## **CONSULTATION RESPONSES**

Welsh Water Developer Services - It is noted that there was a previous consultation in respect of an application for 14 units to which the response offered no objections subject to a condition and the inclusion of advisory notes. It appears that the present submission proposes 4 units as part of a revision for this residential development although the submitted application form proposes the disposal of surface water flows into the main sewer. The developer will be required to explore and fully exhaust all technical options in accordance with a hierarchy which states that discharge of a combined sewer shall only be made as a last resort. Accordingly a condition requiring a drainage scheme showing how foul, surface and land drainage will be dealt with and including an assessment of the potential to dispose of surface water by sustainable means should be imposed.

Councillor J C Spanswick - This application needs to be reported to the Development Control Committee and not a delegated powers decision. Some of the comments within the application papers in relation to play facilities and available space within Brackla are misleading and need to be challenged.

Head of Street Scene (Drainage)- No objection subject to condition

Transportation Policy and Development Section: No highway objection subject to conditions.

## **REPRESENTATIONS RECEIVED**

The occupier of 17 Rhiw Tremaen objects to the application but does not register a request to speak at Committee. The six and a half page letter considers that the development is contrary to the provisions of Policies COM3, COM13, SP13 and COM7 of the Bridgend Local Development Plan resulting in the loss of an existing unequipped play area. Consent was previously approved for a scheme for 10 affordable units on the understanding that the scheme would rectify an imbalance and provide a much needed equipped play area. Notwithstanding the energy efficiency of the design of the units, due to the loss of the children's play facility, the development cannot be considered as compatible with the Well Being of Future Generations Act contrary to criterion 1 of Policy SP2. The appearance of the proposed units does not blend in with the character of the existing dwellings. The units will be detrimental to local visual amenity contrary to criterion 2 of that Policy. Similarly for the reasons outlined above, criterion 4 is not met.

The proposed development will result in the felling of a group of trees in the south eastern corner of the site and when combined with the location of up to 10 parking spaces in close proximity to the rear boundary of 17 Rhiw Tremain, this arrangement cannot be considered as being compatible with criterion 10 of SP2.

Whilst the development may not infringe the privacy standard of 21m between directly facing habitable room windows of neighbouring properties, no account has been taken of the oppressive nature of the 8.8m high dwellings and a visitor car park behind a row of linked bungalows. The layout does not incorporate sufficient space about the units, which will result in unreasonable domination and overshadowing of neighbouring properties. The application site is such that the primary amenity area of our property and our conservatory, which is used as the main living room, would be overlooked from the first floor windows of the new units.

The loss of the existing area of open space and children's play facilities adversely impacts on the amenities of both the existing adjoining residents and the wider community.

The final criterion (13) requires appropriate drainage and waste arrangements to be incorporated. The scheme does not comply and, in line with Welsh Water's and Land Drainage Section's comments, this requires the imposition of a condition to require an appropriate scheme.

It is therefore considered that the proposed development is a direct contravention of the Local Development Plan. The design does not afford adequate privacy for the occupants of the units or the adjacent linked bungalows in Rhiw Tremain, particular to their right to the quiet enjoyment of their garden amenities. The Council is urged to consider their responsibilities under the Human Rights Act, Protocol 1, Article 1. Article 8 states that a person has the substantive right to respect for their private and family life. The UK Courts reappraised the purpose of the law and concluded that the protection of the countryside falls within the interests of Article 8. Private and family life therefore encompasses not only the home but also the surroundings.

Good design should contribute positively to making places better for people. Design, which is inappropriate in its context or which fails to take the opportunities available for improving the character and quality of an area and the way it functions should not be accepted. The Council should encourage development that creates places, streets and spaces, which meet the needs of people, are visually attractive, safe, accessible, functional, inclusive, have their own distinctive identity and maintain and improve local character. The proposals are believed to contravene this guidance. The original 14 units were unacceptable to Planning Officers in February 2018 yet the applicant has re-introduced this proposal at the expense of the quality, character and amenity value of the area.

In respect of a number of identified conditions attached to the earlier planning permission further information has been sought. There is objection to the removal of the footpath and screening behind 17 Rhiw Tremain together with the proposal for street lighting. It is therefore requested that the Council uses its powers to control hours of construction and other restrictions that might make the duration of the works more bearable. Given the nature of the site, careful consideration should be given to the siting of construction vehicles, staff parking and access so that inconvenience to existing neighbours is minimised.

We request that these objections are taken into consideration when determining the application. An opportunity to meet with a representative of the Planning Department would be welcomed in order to illustrate our objections at first hand. In addition, it is requested that the application be brought before the Committee as per the previous application.

## COMMENTS ON REPRESENTATIONS RECEIVED

The objections raised by the local resident are addressed in the Appraisal section of the report.

### APPRAISAL

The application is referred to Committee to enable Members to consider the balance to be reached in respect of the provision of affordable housing and childrens' play space.

As indicated in the description of development, the application seeks consent for the construction of 4 affordable housing units, open space, car parking and associated works on land to the west of Bryn Bragl, Brackla and previously forming part of an earlier application for 14 dwellings that was subsequently reduced to 10 dwellings through negotiations.

The application site lies within the settlement boundary for Bridgend as designated by Policy PLA1 of the Bridgend Local Development Plan (LDP). Policy COM3 of the LDP states that residential development 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.

Policy COM5 states that where a local need is demonstrated, the Council will expect an appropriate element of affordable housing to be provided on sites capable of accommodating 5 or more dwellings or exceeding 0.15 hectares in size. In this case, the proposed development falls below both thresholds and in any event relates entirely to affordable housing. On the basis, however, that the proposed development is likely to be undertaken in conjunction with/as part of the previously approved scheme for 10 units on the immediately adjoining land, which was subject to a Section 106 Agreement to ensure the retention of a minimum of 20% (2 units) as affordable housing in perpetuity, the applicant's agent has indicated that a fresh Agreement or Deed of Variation to secure an additional unit would be acceptable to the applicant.

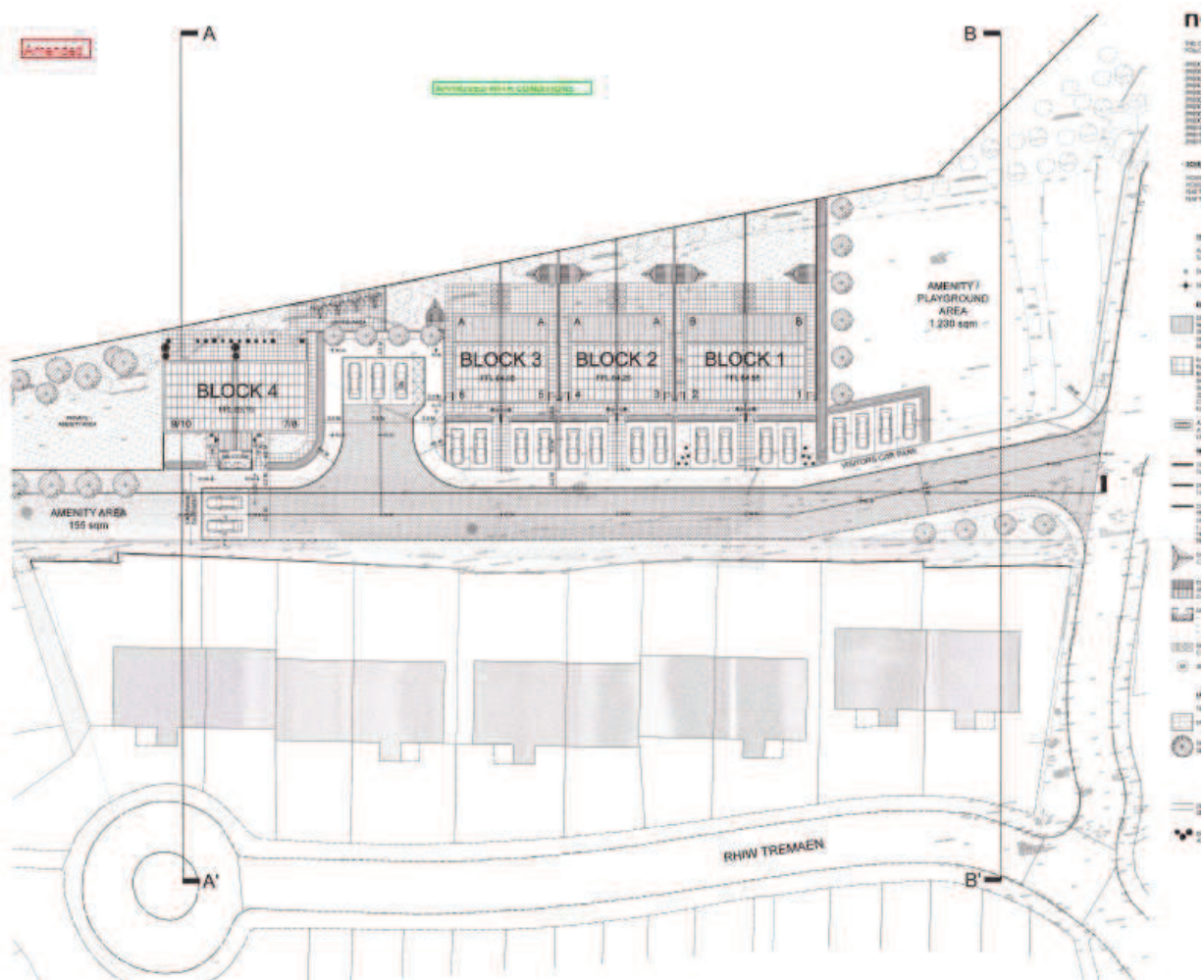
The site forms part of the Brackla Ridge Natural Greenspace as defined by Policy COM13(5) – Provision of Accessible Natural Greenspace. This Policy states that the Council will promote the provision of accessible natural greenspace (including public open space) wherever suitable opportunities arise. The Bridgend Outdoor Sports and Children's Playing Space Audit, 2017 identifies the site as informal unequipped recreational space (0.3444 hectares) which includes an all weather multi-sports ball court (0.092 hectares). The site is therefore considered to be protected by Policies SP13 and COM7 of the LDP.

Policy SP13 states that in order to maintain and improve the quality of life of residents, outdoor recreation facilities will be retained or enhanced. The accompanying paragraph 6.1.2 of the LDP clarifies that the term social and community facilities covers a broad range of activities and services, some of which are in the ownership of the Council and others that are privately owned. Local social and community facilities are important to the health and well being of local communities. Their existence is often the key determinant in creating viable and sustainable local communities if such facilities are in easy walking and cycling distance for local residents. Policy SP13 therefore seeks to retain or enhance facilities to ensure no section of the community is excluded from having access to basic services, with the overall aim of creating sustainable and inclusive communities.

Policy COM7 states that proposals which result in the loss of existing or proposed social and community facilities will not be permitted unless justified on one of the following grounds:

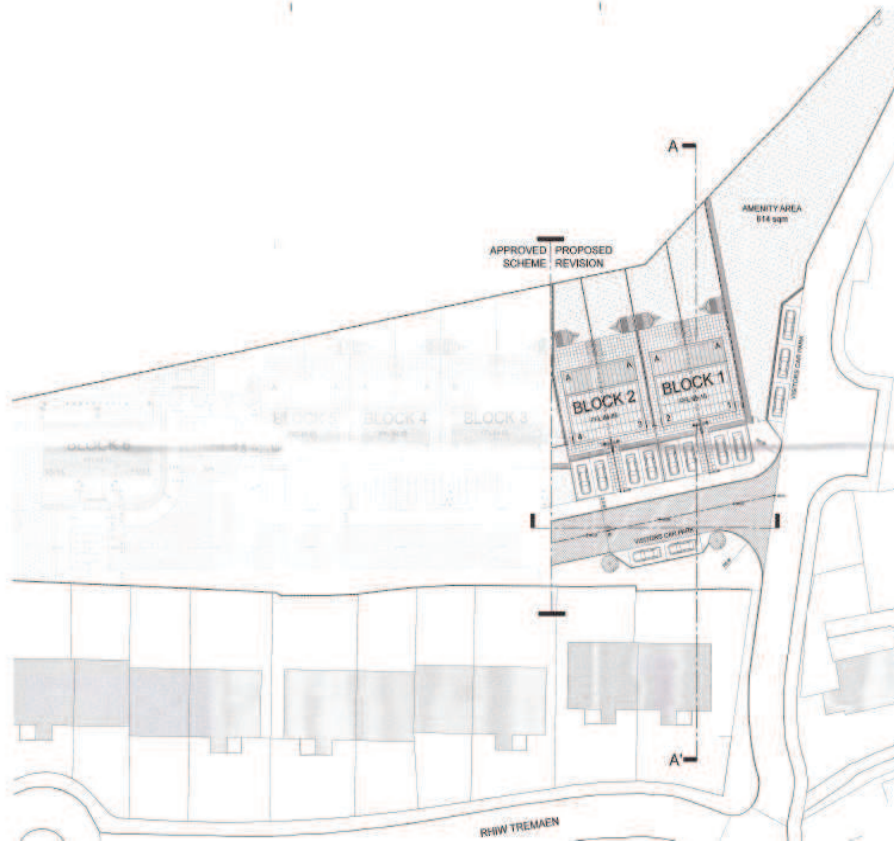
1. A suitable alternative location is available and a facility of equivalent community benefit is provided by the developer on or off the site; or
2. In the view of the Local Planning Authority, the existing facility is no longer required for the current use or any other social and community uses or there is already an excess of such provision in the area.

The Outdoor Sports and Children's Playing Space Audit 2017 indicates that Brackla Ward has a surplus of unequipped informal play spaces but has a deficit of equipped play space. In respect of the earlier application for 10 affordable housing units, which initially proposed the total loss of the unequipped play area, it was considered that the scheme could be considered compliant with the above mentioned policies subject to the incorporation of a suitable alternative facility of equivalent community benefit on the site. The planning permission issued in respect of the 10 unit development provided a significantly larger area of land for amenity and a playground and a condition attached to the consent required the submission of details of an equipped play area including a programme for its implementation and ongoing maintenance.



Layout approved for 10 dwellings (P/17/393/FUL refers)

A further condition required a revised parking scheme to provide only 2 parking spaces for each of the houses, one space for each of the apartments and two visitor spaces. This would have reconfigured the parking arrangements shown on the approved layout thereby resulting in even less intrusion into the amenity/playground area and improving the potential design of the required equipped play area. It can be seen from the currently proposed layout that the four additional units will occupy just over half of the previously approved amenity area.



The remaining amenity area is further reduced by the inclusion of visitor parking facilities and due to its shape and location would be limited in terms of its ability to provide an equipped play area as that would not be as readily accessible. It was also noted during the processing of the earlier application that this area is overgrown and informally being used by the occupiers of the properties at the northern end of Bryn Bragl.



In addition to the loss of the children's play facility, it can be seen from the map extract reproduced below that the addition of the four affordable homes will significantly constrain access to the natural greenspace designated by Policy COM13(5) as Brackla Ridge and Associated Areas, Bridgend as the residential curtilages will prevent access.



Therefore, the proposal to redevelop the site will result in the loss of an unequipped play area which would be contrary to Local Development Plan Policy as a suitable alternative location is not available to provide a facility of equivalent community benefit and the Local Planning Authority considers that the Outdoor Sports and Children's Playing Space Audit 2017 demonstrates that the Brackla Ward has a deficit of equipped play space.

The applicant's agent has become aware of the Council's assessment of the proposal's compatibility with the adopted Local Development Plan and has requested that the matter be considered by Committee on the basis that the earlier application for the 10 units had been determined by Committee and during the debate on that submission, it appeared that some Members supported the provision of additional unit. The Authority lost four houses for a play area as part of the previous application.

In light of the foregoing, the agent contends that the current submission directly responds to the comments. It has also been emphasised that a community's need for affordable housing is a significant material planning consideration and the need to approve the scheme is supported by recent Welsh Government Ministerial statements regarding housing delivery. It has been pointed out that the maintenance of the open space will be a service charge on the existing tenants, who have indicated that they do not wish to pay for the maintenance of the open space and do not have major concerns if it is lost in its entirety.



The agent has also highlighted an appeal decision relating to the construction of affordable housing units on an area of open space in Neath, which they consider to be relevant to this case. The main issue in the appeal also revolved around whether the loss of open space would be outweighed by the provision of affordable housing. In his appeal decision, the Inspector noted that both the appellants and the Local Planning Authority acknowledged that there was an overprovision of informal open space within the Ward in which the appeal site was located. On that basis, the Inspector concluded that the proposal would be consistent with the general thrust of the development plan policy which stated that proposals that would result in the loss of an existing area of open space will only be permitted where it can be demonstrated that:-

1. The space is no longer needed;
2. There is no shortfall of provision of that category of open space; and
3. The site would not be suitable to provide an alternative type of open space for which there is a shortfall.

The Inspector acknowledged that affordable housing has been identified as a ministerial priority for the Welsh Government and therefore concluded that in that instance, the need for affordable housing outweighed the modest loss of informal open space.

Whilst the applicant's agent clearly believes that there was Member support for a scheme for these additional affordable housing units, it is considered that comments made during the course of the debate may have been taken out of context and do not necessarily accurately represent the wider views of these individual Members or the resolution reached by the Committee. Similarly, the agent, fails to acknowledge that Officers considered that the development resulting in the loss of an informal unequipped play area was only considered to be compliant with the Development Plan subject to the provision of a suitable alternative facility of equivalent community benefit and recommended a condition to secure this.

In light of the foregoing, it is considered that the previously approved scheme was an wholly appropriate compromise that provided affordable housing but also a smaller but enhanced children's play facility. The current proposal seeks to construct four additional units on the area previously designated for children's play with a significantly smaller unequipped area that due to its scale, shape and location, would not be readily usable for local children and would provide little amenity for both existing residents, the wider community and future occupiers of the affordable housing units already approved.

With regard to the issues raised by the objector in respect of the proposed development's impact on the residential amenities of the neighbouring bungalows in Rhiw Tremaen, it is considered that, given the separation distance of approximately 28m between the front elevations of the proposed units and the rear elevation of the objector's property, there will be no infringement of the Authority's privacy standards nor will the proposed development dominate or overshadow this neighbour to an unacceptable degree.

In respect of concerns regarding loss of trees on the site, it is highlighted that, in granting planning permission for the 10 affordable housing units, it has already been accepted that the group of trees and shrubs in the south eastern corner of the site will be removed to facilitate the new access road serving that development. Members will also recall when they inspected the site, prior to considering the earlier application, that this area contains a number of ash trees together with shrubs that have grown so that they appear like small trees. The loss of this small area was accepted subject to the

developer being mindful of their responsibilities to nesting birds prior to their removal. Although not referred to by the objector, northern boundaries of the proposed units about the Coed y Morfa SINC, in the event that Members are minded to approve the proposed development, a condition requiring protective fencing during the construction phase would be necessary.

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 21 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 application site and for the reasons outlined above, it is considered that there will be no overall significant residual impacts on biodiversity and appropriate protection measures can safeguard the adjoining SINC. 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.

The objector has also expressed concern with regard to the proximity of proposed parking spaces to the rear boundary of their property. The submitted layout indicates that the closest extent of the parking spaces in the forecourt of the proposed units will be approximately 14m away from the rear boundary fence of the objector's home. The scheme also proposes two visitor parking spaces in a layby type arrangement which will be between 3m and 4.75m away from this boundary. It is considered that in view of the screening provided by the objector's existing close boarded fence, the impact will not be so significant as to warrant refusal for this reason.

Whilst the neighbour considers that the submitted proposals will contravene their rights under the Human Rights Act, it is considered for the reasons set out above that the

Local Planning Authority has properly considered the impact of the proposed development on the amenities of this neighbour and conclude that it has acted proportionately, paying due respect to the rights of the individual whilst acting in the interest of the wider community. National Government appears to be satisfied that provided that, as an inherent part of the decision making process, the Authority has assessed the effects of a proposal on individuals and weighed these against the wider public interest, such practice would be compatible with the European Convention on Human Rights which has been incorporated into UK law through the Human Rights Act, 1988.

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. Whilst it could be argued that there would be no significant or unacceptable impacts upon the achievement of the majority of the above mentioned wellbeing goals/objectives as a result of the proposed development, the Council believes that the omission of an equipped children's play facility would not contribute to the aim for a healthier future generation.

During the processing of this application Policies PLA1, COM3, COM5, COM7, COM13, ENV4, SP2 & SP13 of the Bridgend Local Development Plan and Supplementary Planning Guidance 17 : Parking Standards were considered.

## **CONCLUSION**

This application cannot be recommended for approval because the development conflicts with Council policy and guidelines in that the proposed development would result in the loss of an identified area of natural greenspace and a children's play facility without making provision for a replacement facility of equivalent community benefit given that the Outdoor Sports and Children's Playing Space Audit identifies a deficit of equipped play space. Notwithstanding that the application proposes four affordable housing units, the Local Planning Authority considers that the arrangement approved under P/17/393/FUL provides the optimum balance between the provision of affordable housing and play space. The omission of an equipped play space would conflict with both the Bridgend Local Development Plan and the goals identified in the Well Being of Future Generations Act to the detriment of the wider community and the provision of four additional units of affordable housing does not outweigh this harm.

In other regards, the Council is satisfied that, in terms of access and parking, subject to the imposition of appropriately worded conditions, the proposal would not be detrimental to highway safety. Notwithstanding the objections raised by a local resident, the scheme will not so significantly impact on the amenities of existing neighbouring properties as to warrant refusal on those grounds alone.

Planning Law dictates that planning decisions must be taken in accordance with the development plan unless material considerations suggest otherwise. In this case, the provision of additional affordable housing is a material consideration, however, so is the loss of open space and the provision of an equipped play area.

The information submitted by the applicant has been carefully taken into account in the consideration of this application. Nevertheless, it is considered that the arguments put forward do not outweigh the provisions of the Local Development Plan or justify the further loss of open space and recreation facilities, notwithstanding the benefit of additional housing. In this regard in view of the above, it is considered that the proposal cannot be supported.

### **RECOMMENDATION**

(R30) That permission be REFUSED for the following reason(s):-

1. The proposed development, by reason of its siting, scale and extent, would result in the loss of an identified area of natural greenspace and children's play facility without making sufficient provision for a replacement facility of equivalent community benefit contrary to Policies SP13 and COM7 of the Bridgend Local Development Plan, the goals established by the Well Being of Future Generations Act 2015 and advice contained in Planning Policy Wales (Ed 9).

**MARK SHEPHARD**  
**CORPORATE DIRECTOR COMMUNITIES**

### **Background Papers**

None