

REFERENCE: P/19/659/FUL
APPLICANT: Mr C Smith: 24 Whiteley Lane, Fulwood, Sheffield S10 4GL
LOCATION: Plot adjoining 40 Bryn Road, Ogmere Vale CF32 7DW
PROPOSAL: Construction of two pairs of semi-detached houses
RECEIVED: 29 August 2019

APPLICATION/SITE DESCRIPTION

This application proposes the development of land on the western side of Bryn Road, Ogmere Vale for four dwellings (two pairs of semi-detached units) and associated earthworks, access and car parking.

The site measures approximately 795 sq. m. and comprises part of the undeveloped western valley side which is relatively steep in nature and colonised with scrub vegetation. The plot of land has been the subject of Planning Permissions dating back to 2004 with the last consent being for four semi-detached dwellings expiring in January 2019. The site directly fronts the public highway, lies opposite a traditional row of terrace properties (6-10 Bryn Road) and shares its northern boundary with the extended side garden of 40 Bryn Road.



Fig. 1 Site when viewed from the south



Fig. 2 Site when viewed from the north

Extensive excavations will be necessary to form the plateaus that will accommodate the dwellings and garden areas. A split level house design is proposed that incorporates two floors of accommodation over a garage on the front elevation with a two storey rear overlooking the terraced garden and rising hillside. The units will be set back some 7.5m from the carriageway edge with the intervening space given to car parking (4 spaces), pathways to the front doors and a footway with cross-overs along the site frontage. Flights of stairs on the side of the properties will provide access to the rear.



Fig. 3 Proposed Site Layout

The dwellings will have a basic rectangular form with each semi-detached block measuring 10.2m x 8.7m and accommodating a garage, WC and stairs on the ground floor with lounge, kitchen/dining area and hall on the first floor. Two bedrooms and bathroom will be above. The pitched roof will reach a maximum of 8.2m from the finished elevated slab level. The eaves height will vary from 7.9m at the front to 4.8m at the rear. Materials of construction will comprise red facing brickwork on the lower storey with smooth render above. The roofs will be finished in an Eternit Slate tile.

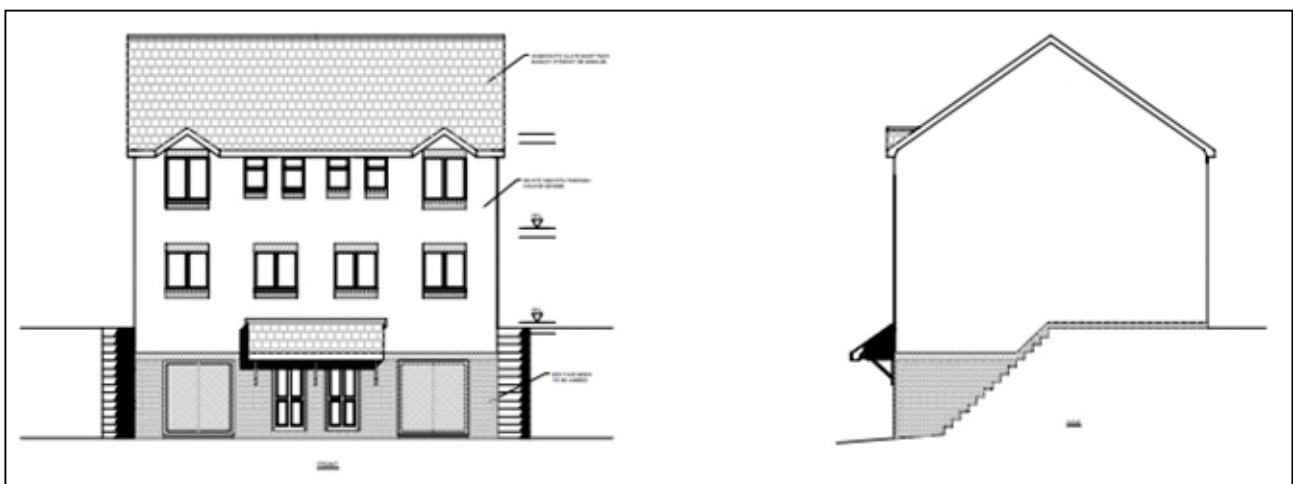


Fig. 4 Front and Side Elevations

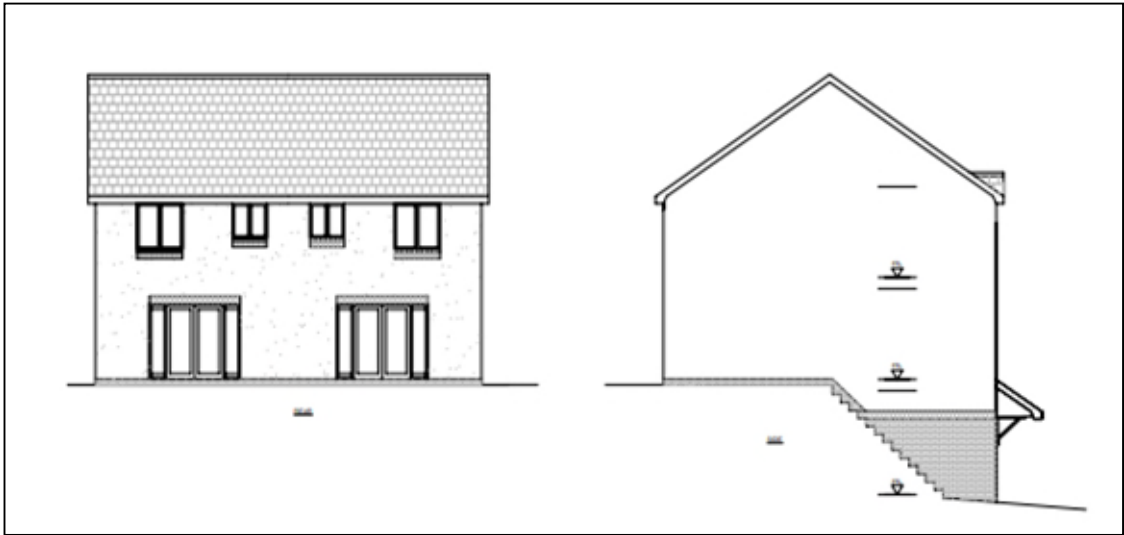


Fig. 5 Rear and Side Elevations

Amenity space for the four dwellings will comprise a series of retained terraces, each measuring 5m in depth, the highest of which is 3m above the finished floor level of the dwellings. Steps will allow access to the elevated area of the garden that is on the gradient of the existing hillside and will be enclosed by low post and rail fence.

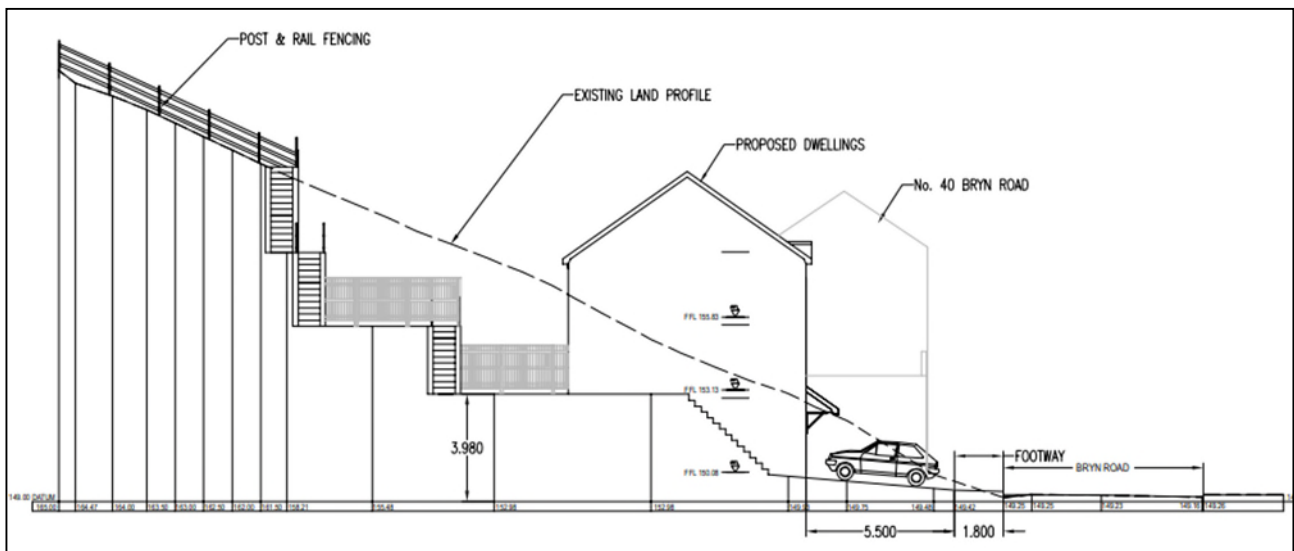


Fig. 6 Proposed Site Sections

In response to concerns raised by consultees, a drainage strategy and Coal Mining Risk assessment have been submitted.

RELEVANT HISTORY

P/04/984/OUT – Outline planning consent for residential development granted on 26th April 2005

P/08/219/FUL – An application to construct 4 town houses on this plot was refused permission on 27 April 2008.

P/08/918/FUL was a resubmission following the previous refusal and proposed the construction of 4 no. semi-detached dwelling houses. Conditional consent was issued on 12 August 2008.

In 2013, the above permission was extended for a further five years under application P/13/870/RLX. That consent expired on 28 January 2019.

PUBLICITY

The application has been advertised on site. Neighbours have been notified of the receipt of the application and the submission of amended plans. The period allowed for response to consultations/publicity expires on 4 December 2020.

CONSULTATION RESPONSES

Highways Officer – No objection subject to conditions.

Land Drainage – No objections subject to conditions.

The Council's Principal Structural Engineer – The submitted reports (Coal Mining Risk Assessment) have been examined and I can confirm that they cover my previous concerns regarding the mining risks associated with this site.

Dwr Cymru Welsh Water – We would request that if you are minded to grant Planning Consent for the above development that the recommended advisory notes are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets. We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.

Biodiversity Policy and Management Officer – The site has been colonised by scrub vegetation which provides feeding and nesting opportunities for a range of species including bats, birds and reptiles. The applicant should consider the advice within Biodiversity and Development Supplementary Planning Guidance (SPG): A Green Infrastructure Approach. This SPG provides detailed advice in respect of protected species and the optimum timing of works so as to limit their effect on wildlife and to ensure works proceed within the law. In this respect the bird nesting season is generally considered to be from the beginning of March until August.

Rhododendron ponticum is growing on the adjacent plot. This species is listed under Part II of Schedule 9 Wildlife & Countryside Act 1981 which makes it an offence to deliberately cause (Invasive Species listed under Part II of Schedule 9 them to grow in the wild. This species of rhododendron is also subject to Section 34 of Environmental Protection Act (1990) and is classed as 'Controlled Waste'. Consequently this species should be disposed of at a licensed landfill site under the EPA (Duty of Care) Regulations (1991). There are no such licensed sites within Bridgend County Borough.

Given the above, it is recommended that the applicant submit a clearance methodology to the Local Planning Authority for approval and prior to works. This methodology should also include how the works will mitigate for the invasive species at the adjoining plot, monitoring to ensure that the invasive species doesn't spread and recolonise at the site and what remedial works will be undertaken if these species are found to be spreading

The Coal Authority – The Coal Authority is pleased to note that the applicant has now obtained appropriate and up-to-date coal mining information for the proposed development site and that this information has been used to inform a Coal Mining Risk Assessment (or equivalent) (November 2019, prepared by Enviro Solution) to accompany the Planning application. The report correctly identifies the presence of a coal seam (No 1 Rhondda Rider) outcrop within the site. Despite this coal mining legacy feature the report indicates that with due regard to the historic mining activity, coal geology and information presented within the Coal Authority report, it is considered that no further studies

(including intrusive probe drilling) are necessary relating to potential coal mine workings beneath the site.

The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment Report are sufficient for the purposes of the Planning system and meets the requirements of Planning Policy Wales in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development. However, further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent Building Regulations application.

Shared Regulatory Services – Environment Team - Historical activities at or in the vicinity of the site may have caused the land to become contaminated. This may give rise to potential risks to human health and the environment from contamination and ground gas for the proposed end use. A preliminary contamination and ground gas assessment of the site in line with current guidance is required to identify any associated risks and to determine whether further site based assessment and/or remediation is required to ensure that the site is made suitable for use. Consequently the inclusion of conditions requiring contamination and ground risk assessment and any necessary remediation and/or protection measures is requested. Should there be any importation of soils to develop the garden/landscaped areas of the development or any site won recycled material or materials imported as part of the construction of the development, then it must be demonstrated that they are suitable for the end use. This is to prevent the introduction or recycling of materials containing chemical or other potential contaminants which may give rise to potential risks to human health and the environment for the proposed end use. Consequently, the inclusion of conditions to ensure the use of suitable materials is requested.

REPRESENTATIONS RECEIVED

Letters of objection have been received from the occupiers of 8, 10, 12 and 40 Bryn Road* both in respect of the original submission and revised drawings. Their concerns are summarised as follows:

- The development will result in the removal of road side parking – exacerbating on street parking problems along Bryn Road
- The development will result in significant excavation works and the transportation of material to and from site – lorries will obstruct the movement of vehicles and would be a danger to pedestrians
- No details provided as to how the excavations works and development site will be retained on the northern boundary which is shared with no 40 Bryn Road – concerns that this will result in land slippage of neighbouring ground
- During construction surface water is likely to run off site into adjoining properties – similar problems elsewhere on Bryn Road
- Noise from a lengthy period of construction
- The development will overlook properties opposite and dominate outlook

*The occupier of 40 Bryn Road had originally requested to speak at the Committee meeting.

COMMENTS ON REPRESENTATIONS RECEIVED

The following comments are provided in response to the representations received from residents:

The development will result in the removal of road side parking – exacerbating on street parking problems along Bryn Road

The Principal Officer Highways Development Control has confirmed that the parking arrangements for the development accord with the Council's guidelines and policy. The aim of the guidance is to ensure that new development is accompanied by sufficient parking space for private cars and service vehicles to avoid the need for vehicles to park on street and thereby cause congestion, danger and visual intrusion.

Residents have indicated that parking along Bryn Road is limited particularly in the evening with many of the properties not benefitting from off-street provision. In creating a new footway and vehicular cross-over along the development frontage approximately 5 to 6 on-street spaces will be removed.

Consequently, parking currently used by residents will be displaced further along Bryn Road which, although inconvenient, does not raise any highway safety concerns. Sustaining such an objection at appeal would be challenging given the current policy objective of reducing the reliance on the private car.

The development will result in significant excavation works and the transportation of material to and from site – lorries will obstruct the movement of vehicles and would be a danger to pedestrians

It is evident from the proposed site cross section drawings that a significant quantity of earthworks will be required and in this regard a construction method statement will be required to ensure that the site is developed in a considered manner and does not unduly affect the highway.

No details provided as to how the excavations works and development site will be retained on the northern boundary which is shared with 40 Bryn Road

The applicant's agent has indicated that all necessary measures will be taken to safeguard the neighbour's land. It is understood that the relationship between neighbouring owners during construction operations is governed primarily by common law. The law of tort limits the extent to which a landowner can undertake construction works that either directly or indirectly impinge on adjoining land. Section 6 of the Party Wall Act requires the developer to serve notice on the occupiers of 40 Bryn Road stating what measures are proposed to strengthen or safeguard the adjoining land. This process lies outside the Planning legislation but should offer sufficient safeguards. In this specific case however, a Planning condition will be imposed requiring the details of the measures to retain the land and for those to be agreed before any works commence on site.

During construction surface water is likely to run off site into adjoining properties – similar problems elsewhere on Bryn Road

A Drainage Strategy has been submitted in response to the original objection received from the Council's Land Drainage Section. The means of disposing surface water has been explored in the hierarchical order dictated by Welsh Government advice. Whilst the strategy establishes the broad principles, the detailed design work which includes measures to control the discharge of surface water is still to be undertaken. A Planning condition will be imposed as requested by the Land Drainage Section requiring the agreement of a comprehensive scheme before the commencement of any works including site clearance. Such a scheme will include measures to control run-off during the construction period.

Noise from a lengthy period of construction

Construction noise would be inevitable but noise during anti-social hours could be controlled by other legislation. In these circumstances, it is considered that the disturbance caused by construction noise would not be sufficient to warrant refusing Planning permission

The development will overlook properties (loss of privacy) opposite and dominate outlook

These objections are considered in the appraisal section of this report.

PLANNING POLICIES

Local Policies

The Bridgend Local Development Plan 2006-2021 (LDP) 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
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA11 – Parking Standards

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.

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;
- 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.

APPRAISAL

This application is reported to the Development Control Committee in view of the objections received from local residents.

The main issues to consider in the determination of this application are the principle of the development, its impact on the character and appearance of the street scene and neighbouring properties, the adequacy of the road network to accommodate the development, the acceptability of the proposed access/parking arrangement and whether any biodiversity interests will be compromised by the proposed works. Considerations of coal mining legacy and the possible impacts on biodiversity interests have been addressed. Site drainage has been considered in the previous section of the report.

Principle of the Development

The application site lies within the residential settlement boundary of Ogmores Vale as defined by Policy PLA1 of the LDP 2013. Policy COM3 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 policy protects the building or land for an existing or alternative use. The proposed site would be classed as a vacant site under Policy COM3. As the site is not allocated for a specific use, residential development would be acceptable in principle subject to compliance with other LDP Policies and detailed design criteria.

The principle of residential redevelopment of this site therefore accords with Policies PLA1 and COM3 of the LDP and is therefore considered acceptable.

Impact on the character and appearance of the street scene

Bryn Road is characterised by a mix of house types comprising stone faced traditional terrace properties, rendered semi-detached units and bungalows on the eastern side. A similar mix is apparent on the opposite side but, in general, the units are well above road level reflecting the rising topography of the valley side. That is most noticeable for the more recent self-build units which have incorporated access and parking facilities along

their frontages but also more established properties to the north of the application site. As the extract photo below illustrates, the units rise well above the properties opposite and are more apparent in the street scene.



A similar relationship is proposed for the development of the site with the proposed dwellings set back 7.5m from the carriageway edge but rising to a height of 11m from road level in a split level design. In granting the original Outline consent, it was acknowledged that the green valley side would be urbanised with an elevated form of development which would alter the character and appearance of the street scene. The development of this site follows a similar form and will not be so incongruous as to warrant a refusal of Planning permission. Accordingly, it is considered that the proposed development accords with Policy SP2 (2) and SP2 (3) of the LDP.

Impact on neighbouring amenities and amenities of future occupiers

The requirements of Policy SP2 and the supplementary Planning guidance for householder development provide the framework for an assessment of the development's impact on the living conditions of the nearest neighbours. In this case that relates to the properties to the north of the site (40 Bryn Road) and the dwellings on the opposite side of the road.

The semi-detached dwelling to the north has a similar elevated position facing Bryn Road with its rear elevation enjoying views of the rising valley side. Its principal window openings are on the front and rear but also in the side of a rear two storey annex. From the OS base maps and submitted plans, the aforementioned windows are some 12m from the shared boundary with the application site and currently enjoy a southerly aspect with generous levels of sunlight and daylight although this is partially affected by a line of existing trees in the grounds of the neighbouring property. Given the relative position of the dwellings and the space between, any loss of light or outlook would not be significant even accounting for the elevated form of the dwellings. The levels of privacy afforded to the occupiers of 40 Bryn Road should also not be compromised as no side facing windows looking toward the neighbour are proposed. Furthermore, the terraced gardens in the new dwelling will be formed at a lower level with the existing steep topography offering screening to the neighbour.

It should be noted that whilst the occupiers have objected to the development it was not on the basis of the issues raised above. Concerns about the depth of the excavations and the possibility of the neighbouring ground being undermined have been considered in previous sections of this report.

The dwellings opposite the application site are level with Bryn Road and are traditional stone faced terraced units which have habitable room windows that directly front the highway. Residents have offered objections on the basis that the development would dominate outlook and affect existing levels of privacy. As indicated above, a number of dwellings on the western side of Bryn Road have been constructed well above road level, reflecting the rising topography of the valley side. Whilst this is principally for the more recent development, it is the case for 40 Bryn Road which is a much older property. Such an arrangement does present possible concerns with regard to domination of outlook, mindful that many of these properties have enjoyed longstanding views of the rising valley side.

Fig.7 below is based on the cross-section drawing that accompanied the application and highlights the relative position of the proposed dwellings, 40 Bryn Road in the background and the eaves height of a dwelling opposite the application site. The Council's Supplementary Planning Guidance for House Extensions offers some guidance on unreasonable domination. This would be demonstrable where:-

- (i) the development would be higher than a line, perpendicular to the window wall, rising at 25 degrees to the horizontal from the mid-point of the affected windows, or
- (ii) closer than 10.5 metres to the window.

Measured from the ground floor window in the nearest dwellings opposite, the 25 degree line appears to cross the recessing roof line of the proposed dwellings. A distance of some 16m will however separate the front elevations of the respective properties. To suggest that the development would have no impact on the outlook from a number of the properties opposite would be unreasonable. It is considered however, that the proposed relationship should not be so dominant and overbearing to warrant a refusal of Planning permission on this ground alone. In reaching this view, some weight has been afforded to the similar relationship between other properties on Bryn Road.

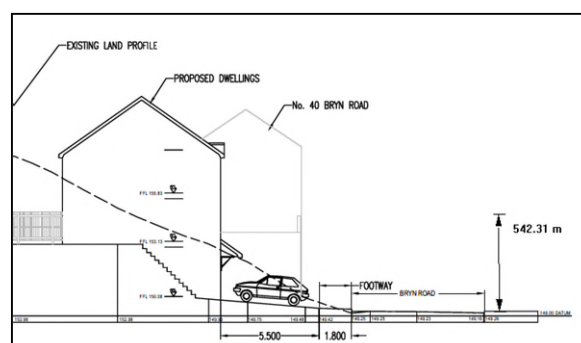


Fig.7 – Cross section showing relationship of development to properties on Bryn Road

The level of privacy that is currently enjoyed by the occupiers of the properties on Bryn Road will be reduced by virtue of the position and elevation of the proposed dwellings. As indicated above, a separating distance of 16m is recorded on the submitted plans. The Council believes that the minimum distance between directly facing habitable room windows in adjacent properties should normally be 21 metres. There are a number of situations where reductions may be acceptable with one being where the overlooking is between windows fronting on to a highway where established building lines are less than 21 metres apart. That relationship is very much a characteristic of Bryn Road as is the elevated nature of a number of units on the western side. For these reasons, it would be difficult to sustain an objection.

In almost all cases, development will have some impact on the living conditions of the occupants of adjacent properties. Here the residents of Bryn Road have enjoyed uninterrupted views and reasonable levels of privacy. That will change as a consequence of this development and the levels of amenity will be reduced but not to a degree that would represent a clear conflict with the Council's policies and guidelines. On balance, the proposed relationships in terms of privacy and outlook are considered acceptable.

For completeness, consideration must also be given to the amenities of the future occupiers of the dwellings which in this case relates to the quantity and quality of the garden space and the outlook particularly from the rear facing windows.

The latest drawings have reduced the number of terraced areas at the rear but have increased the dimensions to provide more useable space – a depth of 10m over two levels. This has two benefits, firstly in improving the outlook by setting back the retaining structures (that on an earlier iteration of the plan would have dominated outlook) and secondly by creating more useable space for these two bedroom units.

The garden areas will not be entirely private and in their elevated form users will be able to look back toward the windows in the adjoining units (proposed). This arrangement is not however uncommon in a valley setting. Overall, the proposed development would provide acceptable living conditions for future occupiers of the properties and there is no direct conflict with the aims of Policy SP2.

The adequacy of the road network to accommodate the development and the proposed access/parking arrangements

The Principal Officer Highways Development Control has not opposed the development subject to certain conditions being imposed but notes that the southern end of Bryn Road, between the site and the junction with Cemetery Road, is of a lesser standard than nearer the site with no pedestrian footways and lacking in frontage development which has led to increased vehicle speeds. As with previous development applications, it is considered necessary to provide a scheme of signing and road markings to highlight the potential presence of pedestrians and to reduce vehicle speeds.

The site is adjacent to an existing footway which is to be extended along the site frontage to provide for safe pedestrian refuge from vehicular traffic. Unfortunately the proposed footway will need to be widened to a minimum of 1.8m which will marginally set back the proposed parking but this does not impact on the proposed location of the dwellings given the acceptability of the parking. This can be overcome by the imposition of a Planning condition.

An opportunity exists to access facilities at the southern end of Ogmores Vale by utilising the lane adjacent to 1 Bryn Road. This can also provide access to the Ogmores Valley Community Route which links to the National Cycle Network but cycle parking will need to be provided for each of the dwellings in accordance with the Active Travel Act Design Guidance at a ratio of 1 space per bedroom.

The proposed dwellings have two bedrooms each and accordingly the parking requirement is two spaces each. Given the localised width of Bryn Road it is considered that the visitor parking requirement of one space can be provided on-street in this particular situation. The provision of one forecourt space and one garage space per dwelling is therefore considered acceptable. The internal dimensions of the garages are also suitable to accommodate the required cycle parking.

Subject to compliance with the proposed conditions this development should be acceptable from a highway safety perspective and compliant with Policies SP2 (6) and PLA11 of the LDP and Supplementary Planning Guidance SPG17: Parking Standards.

Whether any biodiversity interests will be compromised by the proposed works

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 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"

The site has been colonised by scrub vegetation, which provides feeding and nesting opportunities for a range of species including bats, birds, and reptiles. The applicant should consider the advice contained in the SPG as the development may encounter nesting birds and or reptiles when undertaking the scrub clearance. In addition, it was

noted that Rhododendron Ponticum was growing on the adjacent plot. This species is listed under Part II of Schedule 9 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. This species of rhododendron is also subject to Section 34 of Environmental Protection Act (1990) and is classed as 'Controlled Waste'. Consequently this species should be disposed of at a licensed landfill site under the EPA (Duty of Care) Regulations (1991). There are no such licensed sites within Bridgend County Borough.

It is recommended that the applicant submit a clearance methodology to the Local Planning Authority for approval and prior to works. 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.

Location in a mining area

The Coal Mining Risk Assessment confirms that the majority of the application site lies outside of the Development High Risk Area. A small section of the south-western extent of the site (garden area) falls within the Development High Risk Area, corresponding to the presence of a coal seam (No 1 Rhondda Rider) outcrop. The proposed mitigation strategy considers the following:

- It is recommended that the risks posed by coal mining related hazards can be mitigated by the recognition of a 'no build zone' affecting the south-western section of the site in close proximity to the identified coal seam outcrop. This would not prevent this strip of land being used for landscaping.
- It should be noted that structural foundations should not be formed within, or within 0.50m of a coal seam.
- With due regard to the historic mining activity, coal geology and information presented within the Coal Authority report, it is considered that no further studies (including intrusive probe drilling) are necessary relating to potential coal mine workings beneath the site.
- The possibility of unrecorded mine shafts has been highlighted in the Coal Authority report. Historical maps do not show evidence of shafts within the site boundary. The potential risk can be dealt with through vigilance during the earthworks stage of construction

The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment Report are sufficient for the purposes of the Planning system and meet the requirements of Planning Policy Wales in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The proposed development is considered to comply with Policy ENV13 of the LDP.

CONCLUSION

This application is recommended for approval on the basis that the development of this underutilised land within the settlement of Ogmere Vale accords with both national and local Planning policy. Proposals within settlements should however only be supported where they accord with national and local sustainable placemaking outcomes, as set out in Planning Policy Wales 10 (December 2018) and Policy SP2 of the Bridgend Local Development Plan 2013.

On the basis of the scale and siting of dwellings proposed they will be prominent in the street scene but in line with more recent developments on the western side of Bryn Road

and will affect the living conditions and amenities of the nearest residents but not to a degree that would warrant a refusal of planning permission. Other considerations that are material to the assessment of this application, such as access and parking, site drainage, ecology and coal mining risk, are acceptable and can be controlled by planning conditions.

Overall, the broad support for new housing in the settlements of the County Borough offered by Policies PLA1 and COM3 and the opportunity for this site to be developed in a manner that will achieve a high quality which enhances the community leads to the conclusion that this development is acceptable.

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.

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: plan numbers:

Dwg. 19/798/02 – Revision A – Proposed Site Layout

Dwg. 19/798/03 – Revision A – First Floor Layout

Dwg. 19/798/04 – Revision A – Second Floor Layout

Dwg. 19/798/05 – Revision A – Elevations

Dwg. 19/798/07 – Revision A – Proposed Site Cross Sections

Dwg. 19/798/08 – Ground Floor Layout

Recommendations and Mitigation Measures included within:

Coal Mining Risk Assessment by Enviro Solution Ltd – dated November 2019

Drainage Strategy by Castell Bach Engineering dated January 2020

Reason: For the avoidance of doubt as to the extent of the permission granted and to prevent the overdevelopment of the site in the interest of visual and residential amenity and highway safety.

2. No development shall take place, including any works of demolition/site clearance, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. The routing of HGV construction traffic to/from the site in order to avoid Bryn Road North of 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 constructing the development
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. the provision of temporary traffic management along the Bryn Road

Reason: In the interests of highway safety.

3. No works whatsoever shall commence on site until a scheme has been submitted to and approved in writing by the Local Planning Authority, showing a scheme of traffic calming on Bryn Road between the site and the junction of Bryn Road with Cemetery Road. Such a scheme shall include 30mph roundels, carriageway markings, bilingual 'SLOW' carriageway markings, Pedestrians in road warning signs with appropriate illumination and shall be fully implemented before the development is brought into beneficial use.

Reason: In the interests of highway safety.

4. The site boundary fronting Bryn Road shall be set back and a 1.8m footway provided along the frontage before the development is brought into beneficial use.

Reason: In the interests of highway safety.

5. The proposed parking forecourt areas shall be implemented in permanent materials before the development is brought into beneficial use and retained for parking purposes in perpetuity.

Reason: In the interests of highway safety.

6. No development including site clearance 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 any of the dwellings being brought into beneficial use and maintained 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. No development shall commence on site until there has been deposited with the Local Planning Authority a Certificate from a Consulting Engineer certifying that proper site investigations have been carried out at the site sufficient to establish what ground precautions are necessary in relation to the proposed development and what precautions should be adopted in the design and construction of the proposed buildings in order to minimise any impact which might arise as a result of the excavations on the neighbouring land. The Certificate shall include details of such precautions and these precautions shall be adopted in full in the carrying out of the development for which planning permission is hereby granted.

Reason: In the interests of safety.

8. No development shall commence until there has been submitted to and agreed in writing

by the Local Planning Authority an Ecological Working Method Statement (EWMS) incorporating a methodology for the clearance of vegetation and the eradication of invasive species on site. The agreed working Method Statement shall be followed throughout any clearance works on site.

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

9. No development shall commence until there has been submitted to and agreed in writing by the Local Planning Authority a scheme to investigate and monitor the site for the presence of gases* being generated at the site or land adjoining thereto including a plan of the area to be monitored. Following completion of an approved monitoring scheme and in the event that gases are being generated, the proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing to the Local Planning Authority.

All required gas protection measures shall be implemented as approved and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained and maintained until such time as the Local Planning Authority agrees in writing that the measures are no longer required. A copy of the verification certificate should be submitted to the Local Planning Authority prior to the first beneficial use of the site.

Reason: In the interests of safety.

* 'Gases' include landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide, but does not include radon gas. Gas monitoring programmes should be designed in line with current best practice as detailed in CIRIA 665 (Construction Industry Research and Information Association) and/or BS8485 2007 Code of Practice for the Characterization and Remediation from Ground Gas in Affected Developments.

10. No development shall commence until an assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the Local Planning Authority. This assessment must be carried out by or under the direction of a suitably qualified competent person *in accordance with BS10175 (2011) Investigation of Potentially Contaminated Sites Code of Practice and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- (i) a desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and assesses all identified potential source, pathway, and receptor linkages;
- (ii) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
- (iii) an assessment of the potential risks to:
 - human health,
 - groundwater and surface waters
 - adjoining land,
 - property (existing or proposed) including buildings, crops, livestock, pets,

- woodland and service lines and pipes,
 - ecological systems,
 - archaeological sites and ancient monuments; and
 - any other receptors identified at (i)
- (iv) an appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition must be conducted in accordance with Welsh Local Government Association and the Environment Agency Wales' 'Development of Land Affected by Contamination: A guide for Developers' (2012) and implemented prior to any of the dwellings being brought into beneficial use.

Reason: In the interests of safety.

11. No development shall commence until there has been submitted to and agreed in writing by the Local Planning Authority 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. 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).

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.

12. The remediation scheme approved by condition 11 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).

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.

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 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.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no development shall be carried out which comes within Parts 1 (Classes A, B and C) of Schedule 2 of this Order.

Reason: To enable the Local Planning Authority to exercise 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.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no building, structure or enclosure required for a purpose incidental to the enjoyment of a dwelling-house shall be constructed, erected or placed within the curtilage of the dwelling.

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

16. * THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS *

- a. This application is recommended for approval on the basis that the development of this underutilised land within the settlement of Ogmores Vale accords with both national and local planning policy. Proposals within settlements should however only be supported where they accord with national and local sustainable placemaking outcomes, set out in Planning Policy Wales 10 (December 2018) and Policy SP2 of the Bridgend Local Development Plan 2013.

On the basis of the scale and siting of dwellings proposed, they will be prominent in the street scene but in line with more recent developments on the western side of Bryn Road and will affect the living conditions and amenities of the nearest residents but not to a degree that would warrant a refusal of planning permission. Other considerations that would material to the assessment of this application such as access and parking, site drainage, ecology and coal mining risk are acceptable and can be controlled by planning conditions.

Overall, the broad support for new housing in the settlements of the County Borough offered by Policies PLA1 and COM3 and the opportunity for this site to be developed in a manner that will achieve a high quality which enhances the community leads to the conclusion that this development is acceptable.

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.

- b. The proposed stopping-up of highway should be dealt with under the appropriate Section of the Town and Country Planning Act 1990.
- 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 months' 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.
- d. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.
- e. In order to satisfy the drainage condition the following supplementary information is required:
 - Provide an agreement in principle from DCWW for the foul and surface water connections to the public sewer;
 - Provide a construction management plan to confirm how surface water runoff will be managed during the construction phase;
 - Submit a sustainable drainage application form to the BCBC SAB

JONATHAN PARSONS
GROUP MANAGER PLANNING & DEVELOPMENT SERVICES

Background Papers
None