

REFERENCE: P/20/888/RLX

APPLICANT: Mr M Mordecai C/c/o John Matthews, Anglesey House, 47 Anglesey Way, Porthcawl, CF36 3QP

LOCATION: Land off All Saints Way Penyfai CF31 4BX

PROPOSAL: Variation of condition 1 of P/17/77/FUL (as amended by P/17/855/NMA) to reflect Plots 1 and 4 as built and revised details (siting and design) for Plots 2 and 3

RECEIVED: 10 November 2020

SITE INSPECTED: 21 July 2021 and 19 January 2021.

APPLICATION/SITE DESCRIPTION

Permission is sought to vary condition 1, in relation to revised plans, in respect of approved planning application P/17/77/FUL (as amended by P/17/855/NMA) to reflect the 'as built' plots 1 and 4 of the development and to revise the details, in terms of both the siting and design, of plots 2 and 3 in respect of the construction of 4 dwellings and associated works at land off All Saints Way, Penyfai.



Fig. 1 - Site Location Plan

Planning consent P/17/77/FUL for the erection of four detached dwellings at land off All Saints Way, Penyfai was granted subject to conditions and a Section 106 Legal Agreement by the Council on 11 September 2017.

All pre commencement conditions were then agreed and discharged by the Council on 26 September 2017 (P/17/541/DOC refers), with a non-material minor amendment being agreed for the development on the 03 November 2011 (P/17/855/NMA refers) that related to the submission of details in relation to the retaining wall to the northern boundary of the site.

The applicant, however, now intends to revise the design and siting of plots two and three on the site and has modified the siting of the "as built" plots (Plots 1 and 4). Condition 1 of the previously approved consent at the site, (P/17/77/FUL refers) required the development to be carried out in accordance with the approved plans received in 2017 (as indicated in Figure 2 below) . The development has however been revised in line with the amended plans received 23 June 2021 (Figure 3 below).

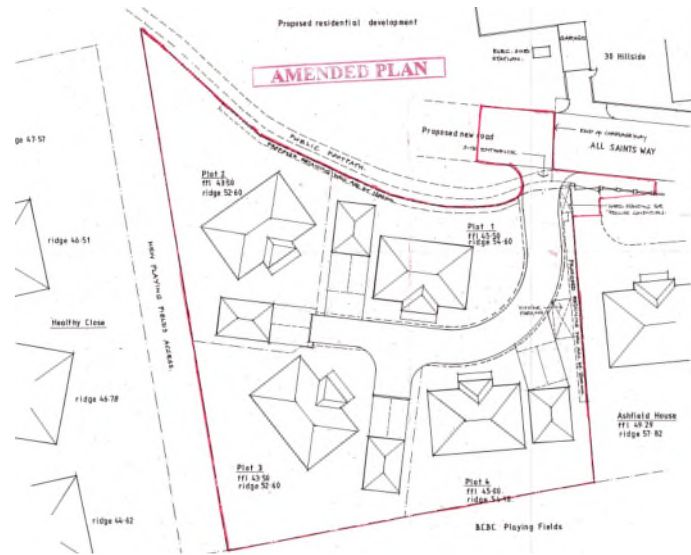


Fig. 2 – Previously Approved plans (P/17/77/FUL & P/17/855/NMA refer)



Fig. 3 – Proposed revised layout that consent is now sought – (hatched areas indicate siting of previously approved dwellings on the site)

Whilst 4 large dwellings of a detached nature with 5 bedrooms each are still being proposed, key differences between the previously consented development and the proposed scheme, include:

- The slight re-siting of the two plots built on site, including the repositioning of the side garages.
- The removal of the detached garages associated with plots 2 and 3 (yet to be built on site).
- The reorientation of plot 2 and the re-design of the house style (split level type design to integrate with the slope of the site). The revised plot two dwelling measuring 14.4m by 8.6m (with additional front porch structure) and approximately 10.1m in height.
- The enlargement of the plot 3 dwelling and the re-design of the house type to integrate with the sloping topography of the application site. The overall ridge height of plot 3 as viewed on the site reducing by approximately 1.37m. The previously approved dwelling measured 12.3m by 9.4m by 9.3m in height with the proposed dwelling measuring 14.4m by 9.7m by 10.1m in height (facing rear).

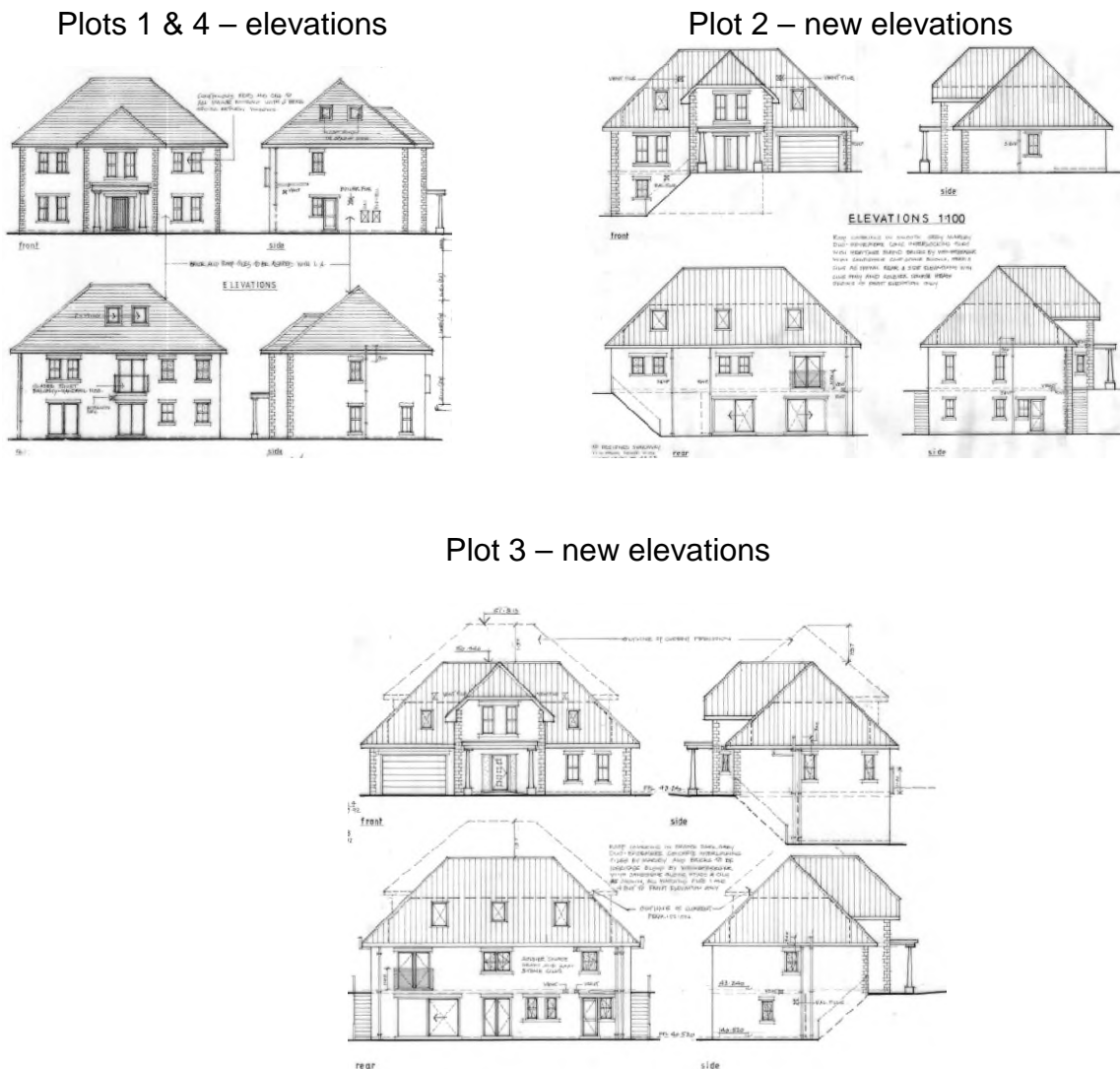


Fig. 4 – New house styles being proposed for plots 1 & 4 (identical) and plots 2 and 3 at the development site

This Section 73 application therefore seeks to amend condition 1 of consent P/17/77/FUL (as amended under P/17/855/NMA) to substitute the approved plans for the development

and reconcile changes to the site layout, of both the two 'as built' dwellings on the site and design changes to the two additional dwellings previously approved.

SITE DESCRIPTION

The site is located towards the north of Clos Iechyd (Healthy Close) and the south of All Saints Way, within the built up area of Penyfai. At the time of the site inspections (undertaken 19 January 2021 and 21 July 2021) two of the dwelling plots had been developed on the site with the remaining, southern aspect of the site being undeveloped. The site is generally sloping in nature, noticeably rising from south to north.

There is a playing field located directly to the east of the site with the area of land towards the west of the site currently being significantly developed for residential purposes (Morganstone Development). A Public Footpath No 29 Newcastle Higher linking All Saints way to the Cavendish Parc estate lies directly to the west of the application site. Immediately to the south of the site an access route to the playing fields (currently secured off and overgrown) offsets the boundaries of the site from the rear gardens and rear elevations of detached properties situated along Healthy Close.



Fig. 5 – Photographs of the application site

RELEVANT HISTORY

P/17/855/NMA - Non material amendment to P/17/77/FUL - retaining wall height plus additional retaining wall section – Agreed 03 November 2017

P/17/541/DOC - Approval of details for conditions 2, 3, 4, 5, 6, 8, 10, 11, 15 & 16 of P/17/77/FUL - Agreed 26 September 2017

P/17/77/FUL - Residential development comprising 4no. detached dwellings – Granted 11 September 2017.

P/14/388/FUL – Residential Development Comprising 4 No. Detached Dwellings & Associated Services – Resolution to grant although signing of S106 never undertaken.

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 14 July 2021 (second consultation period).

CONSULTATION RESPONSES

Welsh Water Developer Services - No objection (advisory notes recommended).

Transportation Officer (Highways) - No objection.

Drainage Officer - No objection.

Newcastle Higher Community Council - No comments received on the application.

Rights of Way Team - No objection.

REPRESENTATIONS RECEIVED

The owner/occupiers of properties within Cwrt Penyfai the development site itself (the applicant) supports the scheme.

The owners/occupiers of 2, 3, 4, 5 and 6 Clos Iechyd/Healthy Close have objected to the scheme. The objections raised are summarised as follows:

Condition of the ongoing build site

Poor condition of site with no regard to health and safety - the building materials have been left to rot in the area when unused and the site has become not only a hazard to all living around them but unsightly and unkempt.

Broken fencing allows access to the building site.

Vermin/rats in the area as a result of the development.

Residential Amenity Impact

Negative impact on houses below – the scheme will overlook the existing properties that will be left with no privacy (Healthy Close).

The buildings should not be built any higher.

The height of the proposed development will significantly impact on the day light into the existing neighbouring plots along Healthy Close.

The applicant intends to raise the ground levels for these properties to be built on.

Unreasonable development that is very imposing on existing properties along Healthy Close.

Health and safety implications should the structure become faulty due to the severity of the elevated position.

Ongoing concerns of the safety of the site as there is nothing stopping any vehicle tipping over the edge as the developer only has a temporary mesh there.

Visual Impact

The height of the proposed development is not in keeping with all other developments on

the same hill as they are built at a gradient in the hill not built up on top of the land.

Clearly this proposed development has been badly designed on a hillside that should never have been built on at all, moreover it was never intended to be built on when it was sold to the applicant in 2008.

Drainage

The land in neighbouring gardens is continually soaked/flooded due to the poor drainage the developer has used and this is causing damage to neighbouring properties. Everyone lives on a gradient in the area but nothing like the one proposed for the new development.

Other Matters

Loss of wildlife

People viewing the plots cannot manoeuvre their vehicles.

When purchasing a neighbouring plot, it was advised the land was under covenant and would never be built on. This appears to be misleading which is so disappointing. The need for new housing is recognised but this should not be at the detriment to the existing houses in Healthy Close (Clos lechyd).

COMMENTS ON REPRESENTATIONS RECEIVED

Condition of the ongoing build site

The condition and status of the development site has been acknowledged and with any development site a degree of general disruption and noticeable workings is inevitable although this is not a material reason to refuse the planning application.

Residential Amenity Impact

The impact of the scheme on the residential properties to the south of the site along Healthy Close does require careful consideration in this instance. However, with due regard to the planning history of the site whereby similar schemes have been previously granted at the site, the retained offset from the most southerly plots to the rear garden spaces and rear elevations of properties along Healthy Close, and the fact the new development is sited to the north of the objector's properties and would not seriously impact light levels currently being received by these existing properties, on balance, the revised proposal is considered acceptable in respect of the impact on residential amenity levels currently enjoyed in the area.

The revised scheme does mark the enlargement in width of plots 2 and 3 at the site (most southerly plots) although the ridge height of the properties as viewed from below has been reduced with the properties now better relating and integrating with the sloping topography of the site. The side elevation of the new plot 2 dwelling (the closest building to Healthy Close) would be in excess of 19.5 – 20m from the main rear elevations of the existing properties and is therefore unlikely to unreasonably dominate the outlook of the existing properties. There are a number of narrow side windows proposed within the south facing elevation of plot 2 but a recommended condition would ensure these are obscurely glazed to prevent any direct overlooking from the dwelling. Plot 3 would be sited in excess of 21m from the nearest neighbouring dwelling along Healthy Close and, therefore, is unlikely to dominate the outlook or adversely overlook this property, particularly when compared to the previously approved scheme at the site that would have a comparable relationship to the existing properties as the development now being proposed.

Visual Impact

The design and appearance of the development is not considered so obtrusive or alien to the locality to warrant a recommendation to refuse the scheme in this respect. Large detached dwellings built on sloping sites are a characteristic feature of the area and the scheme is not so significantly different to the earlier approved development to have an adverse impact on the character and appearance of the area.

Drainage

The Council's Drainage Officer has carefully assessed the proposal and raised no objection against the application advising the submitted information is satisfactory for the development.

Other Matters

The applicant has erected two dwellings at the site and given the current characteristics of the development site the revised proposal raises no serious loss of wildlife concerns.

In terms of parking and highway safety, the Council's Highway Officer, has raised no objections against the application.

Restrictive covenants are a private matter outside of the planning process.

PLANNING POLICIES

Local Policies

The Development Plan for the area comprises of 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:

- Policy SP1 – Regeneration Led Development
- Policy SP2 – Design and Sustainable Place Making
- Policy COM3 – Residential Re-Use of a Building or Land
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA11 – Parking Standards
- Policy ENV6 – Nature Conservation
- Policy ENV7 – Natural Resource Protection and Public Health

Supplementary Planning Guidance

- SPG02: Householder Development
- SPG08: Residential Development
- SPG17: Parking Standards
- SPG19: Biodiversity and Development: A Green Infrastructure Approach

National Planning Policy

National planning guidance in the form of Future Wales – the National Plan 2040 (February 2021) and Planning Policy Wales (Edition 11, February 2021) (PPW) are of relevance to the determination of this application.

Paragraph 1.30 of PPW confirms that... *'Development management is the positive and proactive approach to shaping, considering, determining and delivering development proposals through the process of deciding planning applications'*.

All development decisions...should seek to contribute towards the making of sustainable

places and improved well-being. (Paragraph 2.2 of PPW refers)

The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well-being, creating prosperity for all. (Paragraph 2.3 of PPW refers)

Placemaking in development decisions happens at all levels and involves considerations at a global scale, including climate change, down to the very local level, such as considering the amenity impact on neighbouring properties and people. (Paragraph 2.7 of PPW refers)

PPW states at paragraphs 2.22 and 2.23 that the Planning system should *ensure that a post-Covid world has people's well-being at its heart and that Planners play a pivotal role...in shaping our society for the future, prioritising placemaking, decarbonisation and well-being. As society emerges from the pandemic the needs of communities must be recognised and the Planning system has a role to play in ensuring development is appropriately located to provide both physical and mental health benefits, improve well-being and help to reduce inequality.*

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 5 – Nature Conservation and Planning (2009).
- Technical Advice Note 12 - Design (2016)

Well-being of Future Generations Act 2015

The Well-being of Future Generations 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 comprising 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 well-being goals/objectives as a result of the proposed development.

The Socio Economic Duty

The Socio Economic Duty (under Part 1, Section 1 of the Equality Act 2010) which came in to force on 31 March 2021, has the overall aim of delivering better outcomes for those who experience socio-economic disadvantage and whilst this is not a strategic decision, the duty has been considered in the assessment of this application.

APPRAISAL

The application is referred to the Development Control Committee to consider the objections raised by local residents.

The current Section 73 application seeks to vary condition 1 of planning permission P/17/77/FUL to amend the previously approved permission in the form of design revisions to the development. The revisions primarily relate to the slight re-siting of the “as built” plots (Plots 1 and 4) and changes to the style and position of the two plots yet to be developed at the site (plots 2 and 3).

Whilst it is regrettable that the developers have not fully built the development (in part) strictly in accordance with the earlier approved plans, this has been done at their own risk with the planning system allowing the submission of retrospective applications to regularise unauthorised developments.

Section 73 of the Town and Country Planning Act 1990 in particular allows applications to be made for planning permission to develop land without complying with conditions previously imposed on a planning permission i.e. to vary or remove a condition. The current application now needs to be carefully considered with due regard to all the material planning considerations raised including the planning history of the site and the approved application to develop the site (P/17/77/FUL refers).

The application must also be assessed against all relevant policies and guidance. At a local level there has been no major changes in Planning Policy, but since the original decision the Welsh Government has published Planning Policy Wales – Edition 11 which generally requires the Planning system to adopt a placemaking approach to decision making. A plan led approach is still the most effective way to secure sustainable development through the Planning system. Legislation secures a presumption in favour of sustainable development in accordance with the adopted Development Plan which in this case remains the Bridgend Local Development Plan 2013, unless material considerations indicate otherwise.

The current Section 73 application seeks to vary condition 1 of planning permission P/17/77/FUL to amend the previously approved permission in the form of design revisions to the dwelling buildings. Section 73 of the Town and Country Planning Act 1990 provides for applications to be made for planning permission to develop land without complying with conditions previously imposed on a planning permission i.e. to vary or remove a condition.

The Circular on planning conditions (WGC 016/2014) confirms that the Local Planning Authority can grant such permission unconditionally or subject to conditions. The Council can also, however, refuse the application if they decide the original condition(s) should continue. In dealing with applications for the removal/variation of a condition under Section 73, a condition should not be retained unless there are sound and clear reasons for doing so. Where a Section 73 application is granted, it takes effect as a new planning permission.

Condition 1 of the approved consent relates to the list of approved plans for the development. The applicant is seeking to substitute the approved plans for the development with a new set of drawings to reflect the design changes undertaken to the new dwelling buildings.

As highlighted above, the key changes to the scheme now proposed, in comparison to the earlier approved scheme (P/17/77/FUL refers), include:

- The slight re-siting of the two plots built on site, including the repositioning of the side garages.
- The removal of the detached garages associated with plots 2 and 3 (yet to built on site).
- A lowering of the finished floor level of the more southerly plots to better integrate the new dwellings with the sloping topography of the site – resulting in a ridge height reduction as viewed on site by approximately 1.37m.
- The reorientation of plot 2 and the re-design of the house style.
- The enlargement of the plot 3 dwelling and the re-design of the house type to integrate with the sloping topography of the application site.

Principle of the Development

Planning permission was granted in 2017 (P/17/77/FUL refers) for the erection of four dwellings at the site. This application was considered to comply with Council policy and guidelines and did not raise any in principle objections. Whilst careful regard has been given to the revised design of the development and also to the objector's comments, the scheme is still considered to represent an appropriate and compatible form of development that raises no serious 'in-principle' concerns.

The application site is located within the designated settlement boundary of Penyfai as defined by Policy PLA1 of the Bridgend Local Development Plan (LDP). Policy COM3 of the LDP supports the re-use of land within the urban area for small-scale residential development where no other LDP Policy protects the building or land for an existing or alternative use. There is no specific or restrictive LDP policy associated with the application site. Residential properties largely surround the site, with the residential use of the site already being established given the planning history of the plot. The use of the site for residential purposes does represent a sustainable and compatible use, and therefore residential development is again supported in principle on the site

Visual impact of the scheme

In terms of the visual impact of the development proposal, it is acknowledged that a number of external alterations are proposed/have been undertaken to the design and siting of the dwellings although the general visual impact of the scheme remains largely consistent with the earlier approved scheme with four, large detached dwellings still being proposed at the site.

The site is bounded by large detached properties to the north and south and therefore the scale of the proposed dwellings is considered to be in keeping with the character of the immediate area. It is also considered that the design of the dwellings largely reflects the design of the existing dwelling located to the north of the site known as Ashfield House and that the proposed development would not have a significant adverse impact on the street scene of All Saints Way and the surrounding area due to its lower level location. Arguably, the cul-de-sac style development would appear as a development in its own right and the changes between the earlier approved scheme and the current submission are not so material or visually harmful to warrant the refusal of the planning application in this respect.

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

Impact on privacy and residential amenities

In terms of the impact on residential amenity and noting the objections received against the planning application as earlier detailed, when taking a balanced approach and noting the differences in the approved scheme to the current submission, which would arguably reduce the dominance and impact of the new dwellings on properties along Healthy Close to the south of the site, the proposal, on balance, is considered acceptable in this respect.

Plots 1 and 4 (towards the north of the site) have already been erected at the site and have no significant, adverse overbearing, overshadowing or direct overlooking impact on the neighbouring plots including Ashfield House to the North that is set on an elevated level compared to the application site.

Careful regard has been given to the likely impact and relationship of the revised plots proposed to the south of the site (plots 2 & 3) on the neighbouring plots, particularly those situated at a lower level, along Healthy Close. A strip of land/playing field access approximately 6m wide offsets the development site from the rear gardens of properties situated along Healthy Close. Whilst several objections to the scheme have been raised by the occupiers of the properties along Healthy Close, and whilst it is accepted that the scheme would change the general outlook from the rear of these properties, given the separation distances involved, the already approved consent to develop this site, and the amendments undertaken to lower the finishing floor levels of the two unbuilt dwellings, on balance, the revised proposal is considered acceptable in this respect.

Plot 2 has been re-orientated at the site with the side elevation of this property now facing the rear elevation of properties along Healthy Close (primarily numbers 2 and 3 Healthy Close). The building would be situated approximately 19.5 - 20 metres from the rear elevation of properties along Healthy Close. Whilst a small number of narrow windows are proposed within the south facing side elevation of the new plot 2 building, these are largely secondary windows that a condition would ensure are obscurely glazed in nature to fully prevent any form of overlooking from plot 2 occurring.

The revised plot 3 dwelling would now be set at a lower within the site to reduce the dominance of the building when viewed from Healthy Close with the rear of this building sited in excess of 21 metres from the rear of properties along Healthy Close (numbers 4 and 5) - between 22 and 23 metres and over 10.5 metres from the rear boundaries of the existing properties. In view of this, it is considered that there are no habitable room windows that would directly overlook any neighbouring properties or directly face any habitable room windows in existing properties at a distance less than 21 metres.

Rear visualisation of development as approved

Rear visualisation of development as proposed

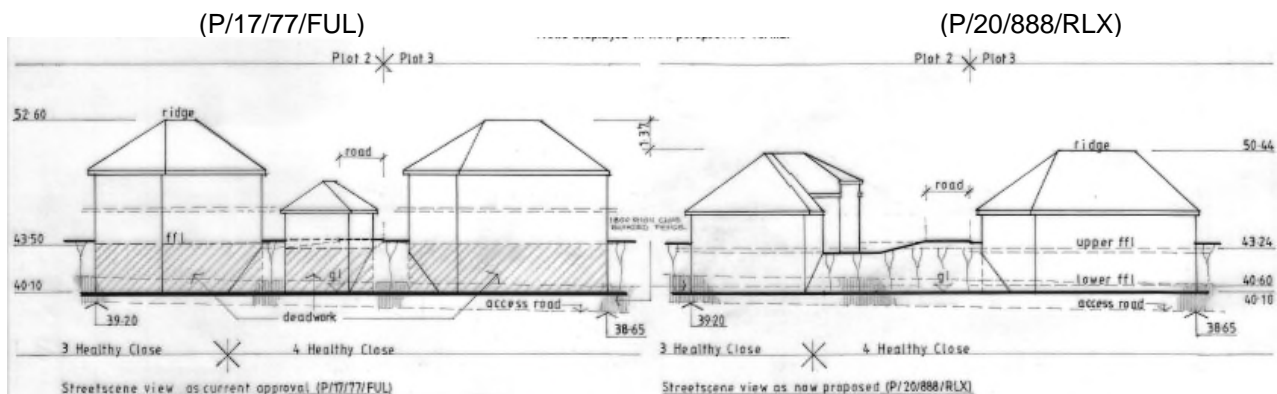


Fig. 6 – Comparison of approved scheme to revised proposal as viewed from the South (from Healthy Close)

Whilst mutual overlooking would arguably be possible between the rear gardens of the new dwellings and the existing properties on Healthy Close, the distances between the properties is considered acceptable and is of a similar layout to many other housing developments found within the County Borough that have been developed on sloping sites. A scheme of boundary treatments and landscaping could further screen and prevent any adverse overlooking occurring between the development site and the existing properties. Relevant conditions are therefore recommended (it is also noted that some properties along Healthy Close already benefit from a level of rear boundary treatments that would further screen the development site when viewed from the rear of these neighbouring plots).

Consequently, when considering the planning history of the site and the amendments undertaken, the proposed development is unlikely to have such a substantial negative impact on the current level of privacy and residential amenities enjoyed by neighbouring occupiers to warrant the refusal of the revised application. The submission is considered to accord with Policy SP2 (12) of the Bridgend Local Development Plan 2013 and Supplementary Planning Guidance (SPG) 02: Householder Development.

Highway Safety

The Council's Highway Officer has assessed the submitted scheme and raises no objections against the proposal. It is noted that the application seeks to regularise the position of two dwellings and revise the position and design of the two dwellings yet to be constructed.

It is considered that the relocation of the dwellings has not affected the off-street parking for the site and access remains the same. Therefore, the proposal does not raise any concerns with regards to highway safety.

Notwithstanding the above, it is noted that the plans submitted as part of this application will supersede one of the previously consented plans which detailed the required vision splays from the newly created access into the site. To resolve this, the applicant has submitted an additional plan detailing the required vision splays and the relocation of the gate pillars for the adjoining property to the site which the applicant owns. A condition in this respect is therefore recommended to ensure the vision splays are retained in perpetuity. A further condition is required to ensure the first 10 metres of the highway are completed in permanent materials and the layout of the pedestrian crossing arrangement from All Saints Way to Footpath 29 Newcastle Higher shall be implemented before the whole development is brought into beneficial use and retained in perpetuity, as previously agreed.

Public Right of Way (PROW)

Public Footpath 29 Newcastle Higher abuts the site and runs along the western boundary of the site which connects All Saints Way with the Cavendish Parc residential development. The footpath will also provide the main access to the proposed new playing field access which is identified on the submitted plans but does not form part of this application.

The Council's Public Rights of Way Officer has considered and commented on the Section 73 application and raised no objection against the scheme. It is advised that Footpath 29 Newcastle Higher, was dedicated by Cabinet at a meeting held on 25 March 2008. Unfortunately, since that date, the Definitive Map has not been updated and therefore the route is not currently shown on the Council's Definitive Map. The approximate alignment of the footpath is, however, indicated as being towards the western boundaries of the site. It is pleasing to note that the applicant is aware of the public footpath and has made reference to its existence in the different plans associated with the application. On closer inspection of the plans submitted with the application, it would seem that none of the works associated with the proposed development would adversely affect the public footpath.

It is however difficult to establish if the applicant is intending to erect scaffolding on the footpath whilst construction works are undertaken if permission is granted. An advisory note will therefore be used to advise the applicant that the erection of scaffolding on the footpath will only be possible if access is maintained along the footpath at all times for members of the public.

Having taken into account all the points outlined above, the Rights of Way Section does not object to application P/20/888/RLX provided that the applicant keeps the footpath clear of any scaffolding whilst works are being carried out unless access can be maintained.

Land Drainage

The Council's Drainage Officer is satisfied with the revised scheme and the applicant has submitted appropriate information in respect of the drainage of the development.

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 LPA's 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 existing characteristics of the application site, 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.

Section 106 Obligations

The application proposes a site in excess of 0.15 hectares which triggers the affordable housing requirement as outlined in Policy COM5 of the LDP. The affordable housing target for the Bridgend market area is 20%. Given the low quantum of dwellings proposed, it is considered that a financial contribution in lieu of on-site affordable provision would be considered more appropriate which was indeed the case in the processing of the original application to develop the site. The previous application at the site, P/17/77/FUL refers, required a financial contribution of £73,428 for affordable housing and given these contributions have yet to be paid by the developer, it is again considered reasonable to ensure a Section 106 Agreement (or deed of variation) is imposed to the new consent to secure the unpaid sums in this instance. No contributions are required or were previously requested for Public Open Space as a previous land transfer providing new access to the adjacent playing field was considered to be of equal benefit in comparison to the provision of new Public Open Space (there is a large area of public open space to the east of the application site).

The existing Section 106 Agreement will therefore need to now relate to the new planning permission (S.73 application). On this basis, the existing S106 Agreement attached to consent P/17/77/FUL is recommended to be attached to the Section 73 consent by means of a deed of variation to confirm that the obligations secured under the original application are applied to the new Section 73 consent.

CONCLUSION

Having regard to the above, whilst noting the objections lodged by neighbouring occupiers and assessing the changes undertaken to the scheme in comparison to application P/17/77/FUL, it is still considered that the revised proposal which is the subject of this S73 application, on balance, accords with the Council's Planning Policies and Guidance and would still achieve an acceptable form of development at the site.

The application is recommended for approval because the development would not adversely affect the character of the existing street scene or wider area, prejudice highway safety, 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, with due regard to the planning history of the site and the amendments undertaken that arguably aim to lessen the impact of the development on the nearest neighbouring residents, they are not considered to outweigh the other material issues connected to the development as to warrant refusal on those grounds.

RECOMMENDATION

(A) The applicant enters into a Deed of Variation or supplemental S106 Planning Obligation to secure the obligations in the original Section 106 Agreement as part of this Section 73 consent.

(B) The Corporate Director Communities 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 and subject to the following conditions:-

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

PYF/PC/03 (detached garage detail) received 31 January 2017
PYF/PC/09 REV.B (site plan) received 20th February 2017,
PYF/PC/05 REV.A (cross sections) received 10 November 2020
PYF/PC/02/Rev G (working drawings plots 1 & 4) received 23 June 2021
PYF/PC/08 Rev B (as built drainage longitudinal sections) received 23 June 2021
PYF/PC/2-3/12 (foul and surface water sewer longitudinal sections serving plots 2 and 3) received 23 June 2021
PYF/PC/2 3/03 Rev A (re-design of house types on plots 2 & 3 - drainage details) received 23 June 2021
PYF/PC/2-3/01 Rev K (revised house positions and existing drainage) received 23 June 2021
PYF/PC/2-3/011 (working drawing plot 2) received 23 June 2021
PYF/PCV/2-3/02 Rev E (working drawing plot 3) received 23 June 2021
PYF/PC/10 Rev A (superimposed site plan) received 23 June 2021
PYF/PC/2 3/09a (street scene views) received 23 June 2021
PYF/PC/A (retention of vision splays) received 04 August 2021

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

2. Notwithstanding the requirements of condition 1, within 3 months of the date of this consent a scheme indicating the positions, design, materials and type of boundary treatment to be erected and a timetable for its implementation shall be submitted in writing for the agreement of the Local Planning Authority. All boundary treatments shall be carried out in accordance with the agreed plan and timetable and shall thereafter be maintained in perpetuity.

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

3. Notwithstanding the requirements of condition no.1, within 3 months of the date of this consent a scheme indicating both hard and soft landscape works to be implemented and a time table for its implementation shall be submitted in writing for the agreement of the Local Planning Authority. These details shall include all proposed planting and landscaping such as the schedule of plants/trees, species and number/densities, hard surfacing materials and an implementation programme. All landscaping works shall be carried out in accordance with the agreed plan and timetable and maintained thereafter in perpetuity.

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

4. 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 all the buildings 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, unless the Local Planning Authority gives written consent to any variation.

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

5. Prior to the construction of the plots 2 and 3, there shall be deposited with the Local Planning Authority a Certificate from a Consulting Engineer certifying that any retaining wall/structure will be designed and constructed so as to prevent any subsequent ground movement. Any retaining wall/structure shall be constructed in accordance with the details so certified and retained thereafter in perpetuity.

Reason: In the interests of public safety.

6. Notwithstanding the requirements of condition 1, the materials to be used in the construction of the external surfaces of the dwellings at plots 2 and 3 hereby permitted, shall match the 'as built' dwellings at plots 1 and 4 on the site.

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.

7. The drainage details for the development shall be undertaken and maintained in full accordance with the drainage layouts and management details received 08 January 2021 and plan PYF/PC/2-3/01 Rev K received 23 June 2021. The scheme must be implemented prior to the beneficial use of the plot 3 and 4 dwellings commencing.

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

8. The previously submitted and agreed scheme (details received 22 June 2017 and 22 September 2017) for the provision of the first 10 metres of the proposed access to be completed in permanent materials and the layout of the pedestrian crossing arrangement from All Saints Way to Footpath 29 Newcastle Higher shall be implemented before plots 2 and 3 are brought into beneficial use and shall thereafter be retained in perpetuity.

Reason: In the interests of highway and pedestrian safety.

9. No structure, erection or planting exceeding 0.6 metres in height above adjacent carriageway level shall be placed within the required vision splay areas, as detailed on drawing number PYF/PC/A submitted on the 4th August 2021, at any time.

Reason: In the interests of highway and pedestrian safety.

10. Notwithstanding the requirements of condition 1, the window openings positioned within the south facing, side elevation of the dwelling building known as plot 2 (facing Healthy Close) shall be fitted with obscure glazing to a minimum of level 5 on the Pilkington index of obscurity. The windows shall be fitted prior to the beneficial use of the dwelling hereby approved (plot 2) and shall thereafter be retained in perpetuity.

Reason: In the interests of privacy and neighbouring residential amenity.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted

Development) (Amendment) (Wales) Order 2013 (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, without the prior permission of the Local Planning Authority.

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 properties to the rear, in the interests of the residential amenities of adjacent properties and to protect the amenity space provided within the properties.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (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 the dwelling-houses shall be constructed, erected, or placed within the curtilage.

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

13. THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

a) The S73 application is recommended for approval because the development complies with Council policy and guidelines and does not adversely affect the character of the area or adversely affect the privacy or visual amenities nor so significantly harms neighbours' amenities and highway safety to warrant refusal.

b) The applicant may need to apply to Dwr Cymru / Welsh Water (DCWW) 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

c) 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 DCWW 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.

d) The proposed development is crossed by a public sewer. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access their apparatus at all times. It may be possible for this sewer to be diverted although the developer must consult Dwr Cymru Welsh Water with respect of the development.

e) Before creating, altering or reinstating any vehicular crossover, constructional details must be agreed with the Highway Maintenance Manager. The applicant should contact the highway maintenance inspector for the area, Bridgend County Borough Council, Civic Offices, Angel Street, Bridgend. Telephone No. (01656) 642541.

f) The Rights of Way Section does not object to the application (P/20/888/RLX)

provided that the applicant keeps the footpath clear of any scaffolding whilst works are being carried out unless access can be maintained if it is erected.

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 affects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive.

Janine Nightingale
CORPORATE DIRECTOR COMMUNITUES

Background Papers
None