



**RHONDDA CYNON TAF**

**CYNGOR BWRDEISTREF SIROL**  
**RHONDDA CYNON TAF**  
**COUNTY BOROUGH COUNCIL**

**COMMITTEE SUMMONS**

C Hanagan  
Service Director of Democratic Services & Communication  
Rhondda Cynon Taf County Borough Council  
The Pavilions  
Cambrian Park  
Clydach Vale CF40 2XX

Jess Daniel- Council Business Unit, Democratic Services (07385401877)

A meeting of the **Planning and Development Committee** will be held **ON SITE** on **TUESDAY, 18TH MAY, 2021** as detailed hereunder.

**AGENDA**

**DECLARATION OF INTEREST** - To receive disclosures of personal interests from Members in accordance with the Code of Conduct.

**Note:**

1. Members are requested to identify the item number and subject matter that their interest relates to and signify the nature of the personal interest and
2. Where Members withdraw from a meeting as a consequence of the disclosure of a prejudicial interest, they **must** notify the Chairman when they leave.

<b><u>TIME</u></b>	<b><u>VENUE</u></b>	<b><u>PURPOSE</u></b>
<u>10:00</u>	Former Miskin Primary School, School Road, Miskin, Pont-y-clun, CF72 8PG	<b>APPLICATION NO: 20/1342</b> - 11 affordable dwellings and associated works. Revised site layout plan (repositioned bin store and shared amenity space) and additional section/elevation drawings re plot 6, received 9th March 2021.

<b><u>TIME</u></b>	<b><u>VENUE</u></b>	<b><u>PURPOSE</u></b>
<u>11:30</u>	Tirfounder Fields, Cwmbach, CF44 0AH	<b>APPLICATION NO: 20/1345</b> Variation of condition 7 (sales of goods) of planning permission 98/4284/15,  <b>APPLICATION NO: 20/1346</b> Variation of condition 1 approved plans of planning permission 18/0366/39,

## **Service Director of Democratic Services & Communication**

### **Circulation:-**

#### **Members of the Planning & Development Committee**

The Chair and Vice-Chair of the Planning & Development Committee  
(County Borough Councillor S Rees and County Borough Councillor G Caple  
respectively)

County Borough Councillors: Councillor J Bonetto, Councillor D Grehan,  
Councillor G Hughes, Councillor P Jarman, Councillor W Owen,  
Councillor J Williams, Councillor R Yeo, Councillor D Williams and  
Councillor S Powderhill

Service Director of Democratic Services & Communication  
Director of Prosperity & Development  
Head of Major Development and Investment  
Head of Planning  
Senior Engineer

#### **Site 1**

Non Committee/ Local Members – Margaret Griffiths and Kate Libby Jones

#### **Site 2**

Non Committee/ Local Member – Jeffrey Elliott



## **PLANNING & DEVELOPMENT COMMITTEE**

**29 APRIL 2021**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 20/1342/10 (GH)  
**APPLICANT:** Trivallis  
**DEVELOPMENT:** 11 affordable dwellings and associated works. Revised site layout plan (repositioned bin store and shared amenity space) and additional section/elevation drawings re plot 6, received 9th March 2021.  
**LOCATION:** **FORMER MISKIN PRIMARY SCHOOL, SCHOOL ROAD, MISKIN, PONTYCLUN**  
**DATE REGISTERED:** 09/03/2021  
**ELECTORAL DIVISION:** Pontyclun

---

**RECOMMENDATION:** GRANT SUBJECT TO THE CONDITIONS BELOW AND A SECTION 106 AGREEMENT:

**REASONS:** The site is located within the settlement boundary, where the principle of residential development is acceptable and would accord with Policies CS2, AW1, AW2 and SSA13 of the Rhondda Cynon Taf Local Development Plan.

The development would result in the beneficial re-use of a redundant and vacant building, the refurbishment of which would benefit the appearance of the site and surrounding area.

In addition, the new affordable dwellings would provide a valuable contribution towards addressing local housing needs as identified by the Council's Local Housing Market Assessment 2017/23.

---

#### **REASON APPLICATION REPORTED TO COMMITTEE**

The proposal is not covered by determination powers delegated to the Director of Prosperity & Development due to the number of dwellings proposed.

#### **APPLICATION DETAILS**

Full planning consent is sought for the conversion the former Miskin Primary School, School Road, Miskin, to 11 affordable dwellings.

The proposed development would provide the following accommodation:

- 5 one-bedroom ground floor apartments
- 5 one-bedroom first floor apartments
- 1 two-bedroom duplex apartment over both floors

The main entrance would be at the front of the building facing School Road, although there would be an additional access leading to the rear car park and shared amenity area.

The conversion would involve the creation of a two storey front extension, which would be constructed within the void between the two prominent gable ends. To the rear the development would involve significant remodelling to remove the centrally located gable end and create another, together with a two storey extension of comparable form to that at the front.

The extensions are proposed to be enclosed with flat roofs, both of which would be either at or below, the existing roof lines. To provide additional natural light to the first floor rooms, the north and south-facing roof planes would incorporate a total of eight Velux style roof lights.

In terms of external finishes, the submitted plans and details state that the materials of the proposed extensions are designed to be sympathetic to the existing building with stone proposed to the ground floor walls and cladding to the first. Window detail would be retained to the front elevation of the property to help tie-in and maintain its Victorian character.

A total of 11 off-street car parking spaces and a cycle store would be provided within the site, located behind the main building. The parking area would be accessed via the existing site access alongside the north-eastern side boundary.

As a result of concerns raised during the initial consultation period, revised plans were received. These seek to set the bin store further back from the front of the site and reallocate space to the rear of the building as a shared amenity space.

Furthermore, a revision to the southern side elevation, including the removal of a gable window, are proposed to address the potential overlooking of the neighbouring house from the flat identified as Plot 6.

In addition to the plans and elevation drawings accompanying the application, the following supporting documents have been submitted:

- Bat Scoping Survey
- Bat Activity Survey
- Transport Statement
- Design and Access Statement
- Drainage Strategy
- Ground Investigation Report
- Pre-Application Consultation Report

## **SITE APPRAISAL**

The application property is the former Miskin Primary School building, located on the south-eastern side of School Road in the village of Miskin. The School closed at this site in around 1994 and the premises were sold by the predecessor authority.

The building, which is of later 19th Century origin, occupies a rectangular site extending to an area of approximately 0.11ha. Although the accommodation is single-storey it is comparable in height to a two-storey building and features two prominent gable ends to the principal elevation.

Elevations are of a dressed stone construction with limestone detailing, which are enclosed by a slate pitched roof. The site is bounded by a low stone wall set below a wooden fence and hedge to the north, east and south however the hardstand area to the front of the building is open and allows for some off-street parking provision. It is understood that the site was previously used as a training centre and by a builder's merchant.

The surrounding area is largely characterised by residential properties of varying scale and design. There are two-storey, detached properties located immediately to the north-east and south-west of the building with more recent two-storey detached properties being located on the north-western side of the road, opposite the site. A number of mature trees and associated vegetation align the south-eastern rear boundary.

## **PLANNING HISTORY**

The most recent or relevant applications on record associated with this site are:

- 19/5136/41:** Change of use of existing building to provide 13 affordable dwellings and associated works. Decision: 07/01/2020, Raise Objections.
- 97/2419/10:** Conversion to wine bar and restaurant. Decision: 01/08/1997, Withdrawn.
- 94/0640/10:** Alterations to form a self-contained dwelling. Decision: 31/10/1994, Granted.

## **PUBLICITY**

The application has been advertised by direct notification to thirty-four neighbouring properties and notices were displayed on site. A further consultation was undertaken on receipt of the amended details referred to above.

The initial consultation generated twenty-four letters of objection from residents, raising a range of concerns that can be summarised as follows:

Scale/Design of development/Character

- Overdevelopment of the site
- The form of the existing building should be preserved to maintain its character
- Refuse storage will take up parking space
- The development would not be in-keeping and would affect the 'sense of place' the building offers and have a major effect on neighbouring properties. The loss of chimneys and addition of a large cladded front would affect its appearance
- The current building is large; however, it fits into the street as the frontage has a large recess in the centre, which makes it less imposing.
- If the recess was to remain, it would reduce the number of dwellings by two, but the impact on the neighbourhood would be substantially less and allow for an entrance to be made within the current footprint of the building, not the extra porch and steps. It would also allow for some greenery to be planted along the front of the building, helping it to fit into the rest of the street
- Density of development is not consistent with the surrounding area
- There are five Grade II Listed structures 300m from the site
- The revised frontage would be overbearing and out of scale and character
- Not in-keeping with other executive properties in the road and in general, properties in the area
- We suggest that the owners should be asked to resubmit a scaled down development in terms of dwellings including appropriately designed outdoor space
- I fully support social housing and the re-development of a historic building in the village but feel that many people on such a small site would be overcrowded and may impact the mental welfare of the residents

### Sustainability

- There are no facilities in the village except for a bus service
- The proposed development does not upgrade the environment and does not take into consideration a low carbon Wales. The proposals do not address any environmental issues
- Poor connectivity to cycle and walking networks; a car is the only way of accessing social infrastructure and shops, (increasing noise and air pollution); public transport is expensive and inaccessible (Pontyclun station is 25 minute walk); site is not accessible for the old or disabled; there are no play areas in Lower Miskin; there are no outdoor areas/gardens or areas for local food growing
- Current Trivallis developments in the locality suggest that 60% of the residents have a permanent disability, so it is highly unlikely that the residents will walk the 2km to the shops in Pontyclun. The local bus schedules are limited and the nearest bus-stops around 1/2 mile from the Old School, so with no local taxi firms, the new residents will need to have a car to get their weekly groceries
- The site is 2km from local shops and the health centre, and 2.5km to the library and school
- Tenants of these dwellings would have no outdoor space other than the parking spaces, there seems to be no provision for drying clothes outside
- Without outdoor space, there is no room for any children living there to play and neither is there any room for elderly residents to sit outdoors. This does not

bode well for the mental health and well-being of any residents and may well cause problems further down the line

- No outside space available to residents. I believe this will not provide a healthy environment for those people who will live there. The current pandemic has highlighted the need for outside space and this proposal offers none to its residents
- The 11 dwellings will potentially leave 24 people living on top of each other with no communal space either indoors or out. The pandemic has shown us the importance of outdoor space in individual health and well-being, particularly mental health.
- The back of the property is to be a car park with 11 car parking spaces. There will be no balconies and there are no nearby parks

#### Highways:

- Traffic congestion
- Poor junction visibility
- Insufficient on-site parking
- No parking provision for visitors meaning further on road parking
- The road is very busy since the driving test centre is close by
- Cars regularly mount pavements to let speeding motorists through from the north using the road as an alternative route to the M4 and the Vale of Glamorgan
- The amount of traffic that is coming down School Road and the other road into the village has increased tremendously as motorists are trying to avoid the congestion on the A4119 to Junction 34 of the M4. This will get worse when the houses are all built on the old Cardiff Road.

#### Affordable Housing:

- The 400 houses at Cefn Yr Hendy will have a high proportion of affordable dwellings, and would be better located for access to services
- Development has been proposed and granted for up to 900 houses within one mile of the proposed development, which will provide up to 180 affordable homes.

#### Amenity

- The houses opposite, at The Grange, would be overlooked from any flats in the first floor
- The flats look directly into the back of my house from the side (proposed flats 6 and 7). Vegetation does not buffer this.
- Increase in noise and disturbance due to the development particularly the change of use to parking in garden/school yard area. There will be an increase in light and noise pollution affecting residents
- At night, the headlights from cars exiting the Old School car rear park will point directly into the bedroom windows of the houses opposite.
- More residents are working from home in the pandemic which is likely to continue for the next nine to twelve months. Any building work to the Old School

will present those home workers with much noise and dirt from the proposed works and make telephone and zoom type meetings difficult. In addition, the workers are likely to park in the road and the deliveries are going to cause noise and obstructions.

- The bin store is located adjacent to a neighbouring property which would be likely to cause smells and insect/rodent nuisance

#### Ecology/Biodiversity

- Bats forage and fly over the back gardens of Beechlea Close and School Road at dusk every night. The car park will affect protected species since artificial lighting of bat roosts, access points and foraging pathways can be extremely disturbing to bats and should be avoided
- Little or no carbon offset planting or greenery evident
- The proposal will interfere with bats and birds around the building

#### Other matters

- The site has not been publicly marketed since it was sold to the last owners in 2018. Policy AW11 requires a marketing period of 12 months for an alternative use of an existing employment site
- The site lies within the buffer zone for the Hendy Quarry, and Policy AW14 requires further safeguarding from development
- The style of development always leads to lack of ownership and personal responsibility for waste, e.g. overflowing bins and burst recycling bags
- The bin store is too small and routes to it for residents are not convenient. There is little space for sorting or storing recyclables or bulk items. The size of the development should be constrained by what essential support facilities are possible, i.e. waste management, parking and amenity space, and not the other way around

#### Non-planning matters

- Likely devaluation of adjacent and surrounding existing properties due to proximity of social housing
- Timing of this planning application is despicable; the developers have had since August to proceed and have decided on the middle of December as a good time
- The responses to the concerns raised during the PAC are disappointingly glib and dismissive
- It would be lovely to see a nursery with some sustainable shops for example
- A proposed redevelopment of this nature, as a minimum, deserves a public hearing
- The building could be utilised in many more beneficial ways to the community and be a good location for a care home for the aged or a Community Hall to benefit local residents
- This Community has not been given the opportunity to consider what potential use could be made of the facility on a cooperative basis



At the time of writing, the second neighbour consultation had resulted in the receipt of further correspondence, including eleven objections, of which eight were new representations. Whilst some of these reconfirmed the matters listed above, the following was noted:

- The minor changes made to the bin storage do not address issues with waste management, are close to the neighbouring property, have no access from the rear of the premises and are inadequate in size
- Inadequate access for fire appliances
- Absence of electric car charging points
- The provision of a tiny square labelled as a shared communal space next to a car park is inadequate for 11 dwellings
- The revised site layout does not in any way solve the problems of parking
- Very disappointing that no changes have been made to the proposed scale of the development
- Concerns about residents congregating to smoke in the small amenity area
- Mitigation from dust will be required during construction

## **CONSULTATION**

### Pontyclun Community Council

The Council supports the redevelopment of the site and the need for additional affordable dwellings in the area, but objects to the overdevelopment of the site. It is considered that conversion to 11 dwellings would be too great a density and the external space would be insufficient for quality of life. Subsequently, the Council reviewed the amended plans, but felt that the changes were insufficient to warrant altering its objection.

### Highways and Transportation

No objection, subject to conditions in respect of site access and parking, and informative notes relating to street naming and consent for works in the public highway.

### Flood Risk Management

From the perspective of the Flood Authority the key element required to satisfy TAN 15 will be the surface water discharge rate. The applicant will be required to demonstrate the pre and post catchment discharge rates and as a Brownfield site a - 30% discharge rate will be required.

Since the proposed development will encompass works with drainage implications for an area over 100m<sup>2</sup>, Schedule 3 of the Flood and Water Management Act 2010 will apply. No objection or recommendation for condition in relation to surface water flood risk is recommended for this application as this will be adequately managed by both the separate Building Regulations process and Sustainable Drainage Approval.

### Public Health and Protection

Conditions are recommended in respect of noise, dust, demolition, hours of operation and waste. It is considered that these can be considered within the scope of a construction method/management statement. In addition, a condition for the submission of a site investigation is required.

#### Natural Resources Wales

Notes that the site overlies a principle bedrock aquifer and therefore the controlled waters at the site are environmentally sensitive. Conditions are therefore recommended in respect of unidentified contamination and surface water infiltration. NRW also advises that a European Protected Species Licence will be required due to the presence of a roost on site.

#### Dwr Cymru Welsh Water

A condition, relating to the regulation of surface water flows is recommended, together with advisory notes in respect of foul and mains water services.

#### Western Power Distribution

A new connection or service alteration will require a separate application to WPD.

#### South Wales Fire and Rescue Service

The developer should consider the need for the provision of adequate water supplies on site for firefighting purposes and access for firefighting appliances, together with an appendix of standard guidance notes for various types of development.

#### Countryside, Landscape and Ecology – Ecologist

The bat survey report records a small common pipistrelle bat roost in the building, identifies the need for a NRW EPS Licence, and proposes mitigation by way of two replacement bat roosts. Although the bat usage is of a low level NRW should be consulted to ensure this is the case and confirm they are happy with the level of mitigation offered.

No other consultation responses have been received within the statutory period.

### **POLICY CONTEXT**

#### **Rhondda Cynon Taf Local Development Plan**

The application site lies within the settlement boundary for Miskin.

**Policy CS2** - The policy emphasis in the Southern Strategy Area (SSA) is on sustainable growth that protects the culture and identity of communities by focusing development within defined settlement boundaries.

**Policy CS5** - The policy identifies that there is a need to provide 1770 affordable housing units over the plan period.

**Policy AW1** - This policy is concerned with the supply of new housing within the County Borough. It stipulates that the supply will be met by the development of unallocated land within the defined settlement boundaries of the Principal Towns, Key Settlements and Smaller Settlements, including the conversion of suitable structures.

**Policy AW2** - The policy provides for development in sustainable locations which are within the settlement boundary; would not unacceptably conflict with surrounding uses; and have good accessibility by a range of sustainable transport options.

**Policy AW4** - details the types of planning obligations that may be sought in order to make the proposal acceptable in land use planning terms and that Community Infrastructure Levy contributions might apply.

**Policy AW5** - The policy identifies the appropriate amenity and accessibility criteria for new development proposals. It expressly states that the scale, form and design of the development should have no unacceptable effect on the character and appearance of the site and the surrounding area. There should also be no significant impact upon the amenities of neighbouring occupiers and should, where appropriate, retain existing features of natural environmental value. Additionally, the development would require safe access to the highway network and provide parking in accordance with the Council's SPG.

**Policy AW6** - The policy supports development proposals that are of a high standard of design that reinforce attractive qualities and local distinctiveness. Proposals must also be designed to protect and enhance landscape and biodiversity.

**Policy AW8** - Seeks to protect and enhance the natural environment from inappropriate development.

**Policy AW10** - Development proposals must overcome any harm to public health, the environment or local amenity.

**Policy AW11** - Identifies criteria for consideration when alternative uses are proposed for employment sites.

**Policy AW14** - Seeks to safeguard mineral resources from sterilisation by development, including the nearby Hendy Quarry.

**Policy SSA11** - The policy stipulates that residential development will only be permitted where the net residential density meets a minimum of 35 dwellings per hectare.

**Policy SSA12** - The provision of 20% affordable housing will be sought on sites of 5 units or more.

**Policy SSA13** - The settlements in the Southern Strategy Area have absorbed a significant amount of new development during the last decade. In order to protect the identity of these settlements, ensure the efficient use of land and protect the countryside from urbanisation and incremental loss; the policy stipulates that development will not be permitted outside the defined settlement boundary.

### **Supplementary Planning Guidance**

- Design and Place-making
- Access, Circulation and Parking Requirements
- Affordable Housing
- Planning Obligations
- Nature Conservation
- Development of Flats

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24th February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), WG's current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

It is also considered the proposed development is compliant with the NDF, with the following policies being relevant to the development proposed:

- Policy 1 – Where Wales will grow
- Policy 2 – Shaping Urban Growth
- Policy 7 – Delivering Affordable Homes

#### SE Wales Policies

- Policy 33 – National Growth Areas Cardiff Newport & the Valleys

Other relevant national policy guidance consulted:

PPW Technical Advice Note 2: Planning and Affordable Housing

PPW Technical Advice Note 12: Design

PPW Technical Advice Note 18: Transport

Manual for Streets.

### **REASONS FOR REACHING THE RECOMMENDATION**

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

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

#### **Main Issues:**

## **Principle of the proposed development**

LDP Policies AW1, AW2 and SSA13 seek to promote development in sustainable locations in order to protect the countryside from incremental loss and urbanisation.

In this case the site is located inside the defined settlement boundary and within an established residential area which is accessible by sustainable transport options; primarily a local bus service offering travel to the nearby retail area of Talbot Green, to Cardiff City Centre and onward travel to the wider area.

These bus stops are located approximately 340m to the north of the site and 380m to the south. By way of comparison, the latter is comparable to the walking distance between the new Llys Cadwyn library and Boots store in Pontypridd town centre.

Policy CS2 also seeks to protect the culture and identity of communities by focusing development within defined settlement boundaries and promotes the reuse of under and previously developed land and buildings.

With regard to the last point, the relevance of Policy AW11 was also considered. For buildings that have been employment sites and where a change of use is proposed, the policy requires evidence of marketing to demonstrate a lack of demand for retention for employment purposes.

Nevertheless, since the closure of the school, there have been no subsequent planning applications for a Use Class A or B development. Therefore, the established lawful use is considered to remain as Class D1 which incorporates a range of uses such as clinics, health centres, creches, day nurseries, schools, non-residential education and training centres, museums, public libraries, public halls etc.

Whilst planning consent was granted for conversion of part of the building to a dwelling in 1994, it appears that this consent was never implemented. However, the building has been used more recently as a training centre by HCC, which Members will note is a Class D1 use. In light of the planning history, it is considered that Policy AW11 is not applicable.

Also considered to be inapplicable, despite the proximity of Hendy Quarry, is Policy AW14, which aims to protect mineral resources. The reason for this view is that the School site is already developed, and the proposal would not extend its curtilage or cause such mineral resources to be further sterilised, or their extraction prevented.

A further policy consideration is SSA11 where a minimum density of 35 dwellings per hectare is sought. The application site is approximately 0.11 hectares, and the proposal would result in a net residential density of roughly 118 dwellings per hectare, which is well in excess of the requirements of Policy SSA11.

Lastly, the Council's Housing Strategy Team has advised that this social rented scheme has been designed by Trivallis in dialogue with them, in order to help address the need for additional affordable housing within Miskin, and that the unit mix and

tenure proposed are in accord with the Local Housing Market Assessment 2017/23. As such, this proposal satisfies Policy SSA12.

Consequently, the site is considered to be in a sustainable location and the development would result in the refurbishment and reuse of a currently vacant building. The proposal would therefore comply with the primary objectives of the aforementioned policies and the principle of the proposed development in this location is considered to be acceptable.

### **National Sustainable Placemaking Outcomes**

PPW11 has placed great emphasis on the need for development proposals to demonstrate sustainable placemaking, and to ensure that the right development is achieved in the right place; furthermore, that these outcomes, which are contained within Chapter 2, are used to assess development proposals.

National Policy acknowledges that not every development proposal will be able to demonstrate that they can meet all of the outcomes, or that it can be proved that an attribute of a proposal will necessarily result in a particular outcome.

It is also recognised that the interpretation of the relevant criteria will depend upon the specific proposal and the context of a site, and in the planning balance, that greater material weight may be given to some attributes rather than others.

In addition to consideration of the placemaking merits of the scheme within the other sections of the report, the proposed development is considered to align particularly well with the following national sustainable placemaking outcomes:

- **Creating and Sustaining Communities:** The development density exceeds that prescribed by Policy SSA11 and would help to provide much-needed affordable homes in an area of unmet demand.
- **Making Best Use of Resources:** The development would result in the re-use and regeneration of an existing building, and would be of sufficient quality given the need for it to meet affordable housing DQR standards
- **Facilitating Accessible and Healthy Environments:** The Transport Statement demonstrates that the property would not be car dependant, would benefit from public transport links and would have access to a range of goods and services within a reasonable travelling distance.
- **Maximising Environmental Protection:** A sustainable drainage scheme will provide betterment to existing surface water flow, and the development will introduce a small areas of planting and soft landscaping, where currently there is none.
- **Growing Our Economy in a Sustainable Manner:** The development would have a positive effect in terms of construction jobs.

No negative impacts, upon any of the other national outcomes, were identified.

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

The proposed development seeks to retain the existing school building, although the shell of the structure would be subject to extension and modification in order to enable the level of accommodation required by the Applicant.

Although the development would cause a marked change to the appearance of the rear of the building, the proposed extension to the front is that which would have the greater impact on the street scene, and which has been a concern of objectors.

Whilst the character of the building would undoubtedly be altered and the contemporary extensions would add substantially to its mass, it should be recognised that the property is not listed, and the site is not within or adjacent to the Miskin Conservation area.

Whilst the appropriateness of design of the development may be subject to differing opinions and individual interpretation, it is considered preferable that the Applicant has sought to convert the property rather than demolish it and replace with a modern alternative.

LDP Policies AW5 and AW6 identify the most relevant design criteria that should be considered, including that the scale, form, and design of the development would have no unacceptable effect on the character of the site and surrounding area, and that elevational treatment, materials and detailing are appropriate to the local context.

As noted during the site visit, the surrounding development in this part of the village is mostly of later 20<sup>th</sup> century construction. This includes all of the properties on the western side of School Road from the large, modern All Hallows Church at its northernmost end, and to the south, beyond its junction with The Chestnuts.

On this basis it is considered it would not be reasonable to argue that the development would be out of keeping with, or cause detriment to, the local character. Consequently, whilst the design approach of aiming to blend traditional finishes with modern elements may not suit all tastes, for the purposes of planning policy the scheme is not considered to be visually harmful or introduce any degree of incongruity sufficient to warrant a recommendation of refusal on these grounds.

## **Impact on amenity**

### Neighbouring occupiers

The conversion of the school building would not affect its physical relationship with neighbouring properties, and the development would not therefore cause harm by detriment to outlook or by overshadowing.

In this regard particular attention was given to any impact upon the two residential properties adjacent to the site boundary, and also as to whether any overlooking opportunities would be likely from the conversion.

Whilst the modifications to the rear of the school building would alter the northern side elevation facing towards Old School House, its height would not exceed that of the existing roof. Furthermore, this neighbouring house occupies a slightly higher plot,

thus the outlook from its first floor side window would not be considered to be compromised, compared with the current situation.

In respect of the adjacent house to the south, Crud yr Awel, the overall scale of the side elevation would be unchanged. As noted within the application details section further above, a revision was submitted to remove a small gable window, since it was considered possible that it might enable intrusive views towards Crud yr Awel.

Subsequently, the only first floor windows of concern - namely those neither looking towards blank elevations nor screened by existing boundary treatments - would now be roof lights. Due to their position in the relevant roof planes, both in terms of their internal/external height and set back from the eaves, it is considered they would not affect the residential privacy of either Crud yr Awel or Old School House.

Other than those matters mentioned, a condition for a construction method statement is recommended for the purposes of minimising disruption and dust issues. A further issue of concern to immediate neighbours was highlighted in respect of whether the communal amenity area would cause future residents to congregate there to smoke and cause a pollution nuisance.

The Applicant has confirmed that while smoking is not permitted in internal communal areas, such as corridors and staircases, residents are able to smoke in their flats and would not have to go outside. Otherwise, the situation would not be very different from any other residential arrangement where back gardens share a boundaries, so although the concern is appreciated, it would not provide a sustainable reason for a planning objection.

The nearest other properties to the application site are located on the opposite side of School Road. Due to the topography and distance between windows of habitable rooms in opposing elevations being no less than 24m, the conversion of the school would not cause detriment to the amenity from reciprocal intrusive views.

#### Future occupiers of development

The main considerations relating to the quality of life and amenity standards of future residents of the former school building are incorporated within the Council's SPG for the Development of Flats.

The SPG does not stipulate internal space requirements, but in this case the Welsh Government's Delivering Quality Requirements (DQR) sets minimum standards of floorspace for social housing developments built by housing associations. These standards must be met for such schemes to receive the housing grant necessary to enable their construction.

Therefore, although a number of objectors have raised concerns about the density of the scheme and the desirability of having 11 units within the extended school building, it is considered that this would not provide a sustainable planning reason for a refusal of consent.



In terms of any external amenity space, the DQR only sets a standard for houses and bungalows, requiring 40m<sup>2</sup> and 30m<sup>2</sup> respectively, although means for the drying of clothes and storage of waste are specified for flats.

Nonetheless, the Council's SPG does address this matter and states that residents of flats "should be provided with access to either private or communal outdoor space, such as a balcony or garden, unless the possibility of this is restricted by other factors. Flats without outdoor space are more likely to be acceptable where high quality public open space is located close by".

Initially, the proposed conversion did not include any communal 'garden' area, as that now allocated was identified for the benefit of the duplex apartment only. However, following representations to the Applicant's Agent, as the report previously advises, the current alteration was made.

Representations, regarding whether the amount of amenity space to be provided will be sufficient for the wellbeing of residents, have been eloquently made by a number of objectors, given the density of the scheme and the potential number of residents.

It is noted that Miskin is well-placed to access links for longer countryside walks and the village is a pleasant area in which to walk around, and although there is a large public open space further to the north west (426m as the crow flies), there are no immediately accessible formal recreation or park areas for those who may be less mobile.

The last year of lockdowns and restrictions on movement caused by Covid has highlighted the value of immediate access to quality outdoor space, and these matters have been well-covered in the media, where residents of flats have been badly hit, particularly in urban areas and inner cities.

The need to ensure such access in the future has been recognised by public and professional bodies and the Welsh Government published Building Better Places in July 2020, setting out priorities and actions for placemaking, in response to the effects of the pandemic.

Building Better Places recognises the value of green infrastructure, health and well-being and ecological resilience in general terms, as well as protecting and improving access to recreation and natural green spaces - already a national sustainable placemaking outcome. Understandably, it does not qualify or quantify what might be acceptable for a small housing scheme in an established settlement, and the judgement remains one for the decision maker.

The Applicant was asked to consider options for reducing the scale of the scheme and number of dwellings to enable more communal external space on site, and it is disappointing that the development is to be considered more or less on the same basis as originally submitted. However, the Applicant's position is also appreciated in that such requests have to be considered along with the overall viability of the scheme and the desire to deliver as many affordable homes as possible to address unmet needs.

On balance and set against the other material matters that weigh in favour of the scheme, any shortfall in communal external amenity space provision is not considered to be of sufficient detriment to warrant a recommendation of refusal in this instance.

## **Access and highway safety**

### Access

The application property is served from School Road, Miskin which has a carriageway width of 5.9m and footways to a width of 1.5m. The latter is of slight concern since the current standard footway width recommended for safe pedestrian movement is 2m.

As part of the development the vehicular access to the rear car parking area is proposed to be widened to 5.5m for a short distance to assist vehicle turning manoeuvres into and out of the access, then continuing at 3.5m in width for the remainder of its length, which is acceptable. The submitted floor plans indicate that primary access to the eleven dwellings would be via a communal entrance directly from School Road, which is considered acceptable.

The submitted plans also indicate that the kerb line on the development side of School Road is to be 'built-out' to improve available vision for vehicles exiting the parking area. Full engineering design and details of the proposed alterations to the kerb line can be secured by the recommended condition.

### Vision splays

In the vicinity of the site School Road has a speed limit of 30Mph. TAN 18 states that a visibility splay of 2.4m x 40m is required, however due to the boundary wall of the adjacent properties the visibility splay is totally obscured to the right.

As noted above, the proposed site plan incorporates a localised narrowing of School Road to 5.5m, which would allow the kerb line on the development side to be 'built-out' to improve the available vision splays. As such, the proposal offers betterment to the existing situation and given that the access is to serve off-street parking only no highway objection is raised.

### Vehicle Parking

The proposal comprises of 10 one-bed and 1 two-bed apartments. The Council's adopted SPG for Access, Circulation and Parking states that 1-2 bedroom dwellings have a maximum off-street parking requirement of 2 spaces per dwelling plus 1 space per 5 dwellings for visitors, which in this case equates to a total maximum requirement 25 spaces (22 for residents and 3 for visitors).

The submitted information indicates that 11 spaces are to be provided, resulting in a shortfall of 12 spaces, which gives cause for concern. However, considering that the majority of the dwellings would be 1 bedroom apartments, which tend to demonstrate lower car ownership rates, the Council's Highways and Transport Section considers that the provision of 11 spaces is, on balance, acceptable in this instance.

## Cycle Parking

The aforementioned SPG identifies that the development would have a cycle parking requirement of 1 stand per 5 bedrooms. There are a total number of 12 bedrooms proposed, equating to a requirement of 3 stands. The submitted information indicates provision of 6 stands. Therefore, the proposal provides acceptable cycle parking provision.

## **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is liable for a charge under the CIL Regulations 2010 as amended. The application lies within Zone 3 of Rhondda Cynon Taf's Residential Charging Zones, where there is a liability of £85m<sup>2</sup> for residential development (including extensions to dwellings over 100m<sup>2</sup>).

The CIL (including indexation) for this development is expected to be £52,642.56.

However, social housing relief may be claimed on the social housing element of the development.

## **Section 106 Contributions / Planning Obligations**

Section 106 of the Town and Country Planning Act (as amended) enables Local Planning Authorities and developers to agree to planning obligations to require operations or activities to be carried out on land (in-kind obligations) or require payments to be made (financial contributions), to mitigate any unacceptable impacts of development proposals.

The Community Infrastructure Levy (CIL) Regulations 2010, with effect from 6 April 2010, state that a planning obligation (under S.106) may only legally constitute a reason for granting planning permission if it is:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and,
3. fairly and reasonably related in scale and kind to the development.

Welsh Office Circular 13/97 Planning Obligations provides procedural guidance on the role of planning obligations in mitigating the site-specific impacts of unacceptable development to make it acceptable in planning terms. The Welsh Government Development Management Manual also advises planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition and when it meets the three tests above. Further guidance regarding what types of obligations developers may be expected to contribute towards is also contained within Policy AW4 of the Local Development Plan and the Council's SPG on Planning Obligations, however it is made clear that this is only intended to form the basis of negotiations between all parties.

## **The Section 106 requirements in this case**

In this case the proposed development, on behalf of the Registered Social Landlord Trivallis, would provide 100% affordable housing for social rent.

Therefore, a S106 agreement will be required to ensure that the dwellings are established and maintained as affordable units, for the continued purpose of meeting identified local housing needs.

## **Conclusion**

For the reasons given above the proposed conversion of the school for residential use is considered to be acceptable in principle and would be compatible with neighbouring land uses.

Both the design of the scheme and reuse of this vacant building would represent a considerable improvement to the appearance of the site and immediate street scene and would retain key features of the original Victorian building.

Although concerns remain about the limited amenity space that would be afforded to new residents, the acceptability of the scheme in all other planning respects, together with its contribution towards meeting affordable housing needs, weigh more heavily in its favour.

Therefore, subject to the conditions suggested below and the Section 106 agreement to secure the tenure of the scheme, the recommendation to Members is that the proposed development is acceptable.

## **RECOMMENDATION: GRANT SUBJECT TO THE CONDITIONS BELOW AND A SECTION 106 AGREEMENT:**

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plans and drawings:
  - A006 Rev E Proposed Site Layout
  - A007 Rev B proposed Ground Floor Plan
  - A008 Rev B Proposed First Floor Plan
  - A009 Rev B Proposed Roof Plan
  - A010 Rev A Proposed Front and Rear Elevations
  - A011 Rev B Proposed Side Elevations
  - A015 Plot 6 – Section and Elevation

and documents received by the Local Planning Authority on 25<sup>th</sup> November 2020 and 10<sup>th</sup> March 2021, unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

3. No development shall commence until full engineering design and details of the proposed alterations to the kerb line on School Road have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented on site prior of beneficial occupation of any dwelling.

Reason: To ensure the adequacy of the proposed highway improvement works, in the interests of highway safety and the free flow of traffic, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

4. No development shall commence, including any works of site clearance or demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority to provide for:
  - a) The means of access into the site for all construction traffic,
  - b) The parking of vehicles of site operatives and visitors,
  - c) The management of vehicular and pedestrian traffic,
  - d) Loading and unloading of plant and materials,
  - e) Storage of plant and materials used in constructing the development,
  - f) Wheel cleansing facilities,
  - g) The sheeting of lorries leaving the site.
  - h) Means of protecting neighbouring properties from dust and debris from demolition and construction activities.

The approved Construction Method Statement shall be adhered to throughout the development process unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interests of the safety and free flow of traffic, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

5. No development shall commence until a scheme to deal with contamination has been submitted to and approved in writing by the LPA. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically and in writing:
  - (a) A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of contamination relevant to the site. The desk top study should contain a conceptual site model.
  - (b) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any

contamination and its implications. The site investigation shall not be commenced until a desk-top study has been completed satisfying the requirements of paragraph (a) above.

(c) A written method statement for the remediation of contamination affecting the site shall be agreed in writing with the LPA prior to commencement and all requirements shall be implemented and completed to the satisfaction of the LPA by a competent person. No deviation shall be made from this scheme without the express written agreement of the LPA.

Reason: In the interest of health and safety and environmental amenity in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

6. The development hereby permitted shall not be occupied and/or operated until the measures approved in the scheme (referred to in condition 5) have been implemented and a suitable validation report of the proposed scheme has been submitted to and approved in writing by the LPA. Any validation report shall be carried out by a competent person.

Reason: In the interest of health and safety and environmental amenity in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

7. If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then work shall cease and revised contamination proposals shall be submitted to and approved in writing by the LPA prior to the work recommencing. Any revised contamination proposals shall be carried out by a competent person.

Reason: In the interest of health and safety and environmental amenity in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

8. No infiltration of surface water into the ground is permitted other than with the express written consent of the LPA, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: In the interest of health and safety and environmental amenity in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

9. No development shall commence until details of the external materials and finishes proposed to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings and in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

10. The off-street parking area at the rear of the development together with its means of access shall be laid out and constructed on site in permanent materials in accordance with submitted drawing no. A006 Rev E. The parking spaces and access shall remain for their intended purposes only.

Reason: To ensure vehicles are parked off the public highway, in the interests of highway safety and the free flow of traffic, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

11. Surface water flows from the development shall only communicate with the public surface water sewer through an attenuation device that discharges at a rate not exceeding 7.5 l/s.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

=====

This page is intentionally left blank





## PLANNING & DEVELOPMENT COMMITTEE

29 APRIL 2021

### REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

#### PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 20/1345/15 (GD)  
**APPLICANT:** Lidl Great Britain Ltd  
**DEVELOPMENT:** Variation of condition 7 (sales of goods) of planning permission 98/4284/15.  
**LOCATION:** FFORDD TIRWAUN, CWMBACH, ABERDARE  
**DATE REGISTERED:** 09/12/2020  
**ELECTORAL DIVISION:** Cwmbach

---

**RECOMMENDATION:** Approve

**REASONS:** The principle of the proposed development is well established in the initial grant of outline planning permission and the subsequent planning applications and approval of reserved matters in relation to the development of this site.

---

#### REASON APPLICATION REPORTED TO COMMITTEE

- Three or more letters of objection have been received.

#### APPLICATION DETAILS

This application seeks to vary the terms of condition 7 applied to planning permission 98/4284 relating to the range of goods that can be sold from the Tirfounder fields site. Condition 7 currently states the following –

*Save with the consent of the Local Planning Authority in writing the following goods only shall be sold from any further retail units to be erected on the retail park subject of this consent: DIY and garden related goods, caravans, boats, tool hire, building goods and products, furniture and furnishings, electrical and gas goods and products, carpets, floor coverings, cars/cycles and their accessories, office goods and equipment, pets and pet supplies. Any application for consent under the terms of this condition shall be accompanied by evidence or justification (including retail impact assessment where necessary) demonstrating the effect on retail trading in Aberdare and Mountain Ash town centres.*

*Reason: To define the extent of the consent granted and to ensure that no adverse impact is generated on the vitality, attractiveness and viability on the nearby town centres of Mountain Ash and Aberdare.*

The applicants aim to have the wording of condition 7 altered to read as follows –

*7. Save with the consent of the LPA in writing, with the exception of the food store unit described in the plans accompanying this application, the following goods shall only be sold from any further retail units to be erected on the retail park subject of this consent: DIY and garden related goods, caravans, boats, tool hire, building goods and products, furniture and furnishings, electrical and gas goods and products, carpets, floor coverings, cars/cycles and their accessories, office goods and equipment, pets and pet supplies. Any application for consent under the terms of this condition shall be accompanied by evidence or justification (including retail impact assessment where necessary) demonstrating the effect on retail trading in Aberdare and Mountain Ash town centres.*

*Reason: To define the extent of the consent granted and to ensure that no adverse impact is generated on the vitality, attractiveness and viability on the nearby town centres of Mountain Ash and Aberdare.*

In essence if Members allow this proposal along with that submitted under application 20/1346 it would result in the construction of a Lidl food store on the southern part of this site and the reconfiguration of the southernmost unit of the formerly approved block B.

The application is accompanied by the following:

- Retail Impact Assessment
- Approved and proposed plans...
- Application forms and certificates
- CIL forms.

## **SITE APPRAISAL**

The application site in this instance comprises the largely undeveloped area of land located between the established retail outlets and the railway line at Cwmbach. The site comprises the vacant land to the east of the Asda store and is the only part of the wider retail site initially granted planning permission in 1989 that is yet to be developed. The site occupies a substantial portion of the valley floor between Aberaman and Cwmbach and lies immediately south of a Persimmon housing development.

## **PLANNING HISTORY**

20/1346	Variation of condition 1 approved plans of NMA	Not Yet Determined
	18/0366	

18/0366	NMA to insert a condition into ARM 98/4647 to identify approved plans	Approved 8 <sup>th</sup> May 2018
98/4647	Reserved Matters retail (all except Asda) restaurant and hotel pursuant to 51/87/0244	Approved 17 <sup>th</sup> March 2008
98/4284	Variation of conditions 15 & 16 of planning permission 51/87/0244	Approved 10 <sup>th</sup> December 2007
98/4283	Variation of condition 18 of 51/87/0244 (minimum unit size)	Approved 16 <sup>th</sup> December 1998
98/4223	Variation of condition 17 of 51/87/0244 (maximum retail floorspace)	Approved 16 <sup>th</sup> December 1998
98/4120	Variation of condition 2 of 51/87/0244	Approved 3 <sup>rd</sup> June 1998
97/4289	Vary condition 3 of 51/87/0244 and condition 1 of 51/93/0428	Approved 30 <sup>th</sup> December 1997
51/96/0022	Access reserved matters under 51/87/0244	Approved 18 <sup>th</sup> March 1996
51/93/0428	Reserved matters retail park, hotel and bowls hall	Approved 19 <sup>th</sup> February 1996
51/92/0362	Vary conditions 2 & 3 of 51/87/0244	Approved 23 <sup>rd</sup> September 1992
51/87/0244	Retail park, hotel and bowls hall (outline application)	Approved 18 <sup>th</sup> December 1989

## PUBLICITY

The application has been advertised by means of site notices and neighbour notification letters and four objections have been received raising the following issues

—

- The application is submitted under Section 73 which means that the Local Planning Authority can reconsider whether planning permission should be refused or what conditions should be imposed.
- Concerns over flooding have increased significantly and residential development has been completed nearby, sustainable drainage systems are now a priority to be addressed in development and there is nothing in the current application to suggest the proposals are supported by a Flood Consequences assessment.
- The site does not adjoin the river Cynon but a flood overflow channel that rose significantly during wet periods over the last year. The application does not

appear to acknowledge that a watercourse lies within the site nor does it address the consequences of building over it.

- The plans indicate that the level of the site would be raised which could affect any flood storage capacity that the site currently provides making vulnerable property even more vulnerable.
- The views of NRW should be sought before any decision is made in respect of this application.
- No evidence is available on the public file that indicates the development would not adversely affect the surrounding area.
- The proposals fail to demonstrate compliance with Local Development Plan Policy AW5(6) which requires compliance with national policy in respect of development within flood zone C (TAN 15).
- Policy AW6(16) requires new development to demonstrate good water management and there is nothing in the proposals to indicate this.
- There is nothing in the proposals to indicate that policy AW10(8) - flooding has been addressed.
- The application is not supported by any kind of transport assessment that takes into account traffic movements in the construction or operational phase, compared to the terms of the original consent
- Currently traffic can be queuing on the A4059 past the Asda roundabout and residents of Tirfounder Fields experience difficulty exiting on to the road. The application is not supported by any evidence that the development would not exacerbate this situation. One resident suggest that a traffic light solution is needed
- The Asda roundabout is dangerous as it is not used properly by drivers, accessing the housing development is ignored by drivers using the bypass road leading to near misses. Similarly, illegal parking on the access road is also a problem that causes difficulties and additional development will make this worse.
- Asda lorries park up on the estate road adjacent to the play area making it unsafe for the children of the area to use.
- There is no evidence that LDP policy AW5.2(c) will be complied with or that traffic congestion will not occur or be exacerbated by these proposals.
- The loss of landscaping on the original scheme fronting the highway is opposed there is no softening of the development from public views or a green barrier to separate vehicle fumes in the adjoining car park from pedestrians using the pavement.
- The proposed layout and lack of detail submitted do not demonstrate the development accords with the requirements of LDP policy AW6 (7)
- The developer has not addressed the requirements of the Environment Wales Act 2016 relating to the obligation to maintain and enhance biodiversity in development. The scrubland has recently been obliterated and its biodiversity lost with no ecological studies having been carried out within the last 2 years. Nothing is submitted with the scheme to indicate any compensatory or enhancement measures on site as a consequence of the proposed development.
- LDP policy AW6(14) promotes development that protects and enhances landscape and biodiversity, whilst policy AW8(2) requires development to have

no unacceptable impact on features of importance to landscape or nature conservation and neither requirement appears to have been met.

- The site is not allocated for retail development in the LDP so presumably the development is being treated as a departure from the Local Development Plan.
- Confusion over approved plans is expressed given the difference between the plans approved under non material amendment 18/0366 and those approved for highways under 98/4647
- Compliance with conditions of 51/87/0244 is also questioned.
- Gardens will be overlooked by delivery vehicles and the proposed buildings. Invading the fundamental human right to privacy and family life and the peaceful enjoyment of possessions.
- The completion of the service road immediately adjacent to properties which has the potential to cause damage to property and outbuildings.
- Delivery vehicles and the proposed buildings will create disruption and pollution having a negative impact on air quality
- The proposals have little or no regard to their potential to cause or worsen flood risk to existing dwellings either through the removal of the natural flood storage pond that has developed adjacent to the housing development or through the lack of details relating to proposals for the drainage infrastructure that ends in the site.
- Residents of Tirfounder Fields pay a maintenance charge to manage the flood relief channel and it is not clear how this would be affected if this site is developed.
- Developing so close to homes on a mass of water opposite where the Council have identified a need for flood prevention works (Canal Road) is not a good idea and would counteract the Council's priorities.
- The play area adjacent to the access road is now operational and the area already suffers with cars parking along the access road to visit the shops the additional access road and more vehicular traffic will have an adverse impact on road safety, making the playground too dangerous to for Children to access. This again conflicts with the Council's priorities for future generations.
- The development will have a negative impact on the value of the homes that sit adjacent to its boundary.
- The long term environmental and climate impacts of the proposed development on future generations needs to be properly considered.
- Further development will result in increased littering.
- Homeowners should have a separate access/egress for the estate.

## **CONSULTATION**

Transportation Section – There would be no objection to the variation of condition 7 subject to the proposed use complying with the Council's SPG Access, Circulation & Parking with no detrimental impact on the public highway.

Natural Resources Wales – Indicate that the consideration of this application lies outside of their remit

## **POLICY CONTEXT**

## **Rhondda Cynon Taf Local Development Plan**

**Policy CS1** – places an emphasis on building strong and sustainable communities in the northern strategy area

**Policy AW2** - advises that development proposals on non-allocated sites will only be supported in sustainable locations.

**Policy AW5** - sets out criteria for new development in relation to amenity and accessibility.

**Policy AW6** - requires development to involve a high quality design and to make a positive contribution to place making, including landscaping.

**Policy AW8** – sets out criteria for the protection of the natural environment that new development should meet.

**Policy AW10** - development proposals must overcome any harm to public health, the environment or local amenity as a result of flooding.

### **Supplementary Planning Guidance**

Design and Placemaking

Design in Town Centres

Access Circulation and Parking

Shopfront Design

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24<sup>th</sup> February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), WG's current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

It is also considered the proposed development is compliant with the NDF, with the following policies being relevant to the development proposed:

- Policy 1 – Where Wales will grow – Employment/Housing/Infrastructure
- Policy 2 – Shaping Urban Growth – Sustainability/Placemaking

- Policy 3 – Supporting Urban Growth – Council land/Placemaking/developers/regeneration/sustainable communities'/exemplar developments.
- Policy 6 - Town Centre First – commercial/retail/education/health/public services

Other relevant policy guidance consulted:

PPW Technical Advice Note 4: Retailing and Town Centres;  
 PPW Technical Advice Note 12: Design;  
 PPW Technical Advice Note 15: Development and Flood Risk;  
 PPW Technical Advice Note 18: Transport;  
 PPW Technical Advice Note 23: Economic Development;  
 Manual for Streets

## **REASONS FOR REACHING THE RECOMMENDATION**

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

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

In this instance, the applicants have submitted an application under s.73 Town and Country Planning Act 1990 to amend condition 7 of Planning Permission 98/4284 (see above) relating to the range of goods that can be sold from the balance of the consented retail development. In such circumstances the Local Planning Authority are required to consider only the conditions subject to which the planning permission should be granted and in doing so the Local Planning Authority must consider whether there has been any change in policy or any other material circumstance that might affect the proposal. If the application is successful, this results in the grant of a new permission.

The Local Planning Authority may grant the permission subject to conditions differing from those to which the previous permission was granted or refuse the application. The Local Planning Authority however do not have the power to impose conditions which could not have been imposed on the original permission nor impose conditions that would result in a fundamental alteration to the development approved by the original application. Whether the application is granted or refused the original grant of planning permission would remain.

The key determinants in the consideration of this application are that the site benefits from an extant planning permission for retail development, albeit that is with a higher degree of restriction in terms of the range of goods that can be sold, the planning policy position, and the impact that proposed changes would have on adjacent town centres. The site benefits from detailed reserved matters consent for retail development initially

approved under application 98/4647 with the approved plans subsequently specified under the non-material amendment 18/0366. The consent remains extant as a result of the partial implementation of the approved service access. In planning policy terms, the site lies within the settlement limits as defined by the Rhondda Cynon Taff Local Development Plan and within the Cynon Valley River Park designation. The site is not allocated for any specific use. The presence of the site within the designation does not prevent its redevelopment but it does place a requirement on the developer to visually enhance the site through the development process, and this the current proposals would achieve. The development would take place within defined settlement limits and it would not, as one objector has suggested, represent a departure from the plan. Because the proposed broadening of the range of goods to be sold could have an adverse impact on the retail centres of Aberdare and Mountain Ash, the applicants have supported the current applications with a retail impact assessment. The assessment has been the subject of independent scrutiny by Lichfields on behalf of the Council and the findings have been found to be robust. The reports establish that the impacts on Aberdare and Mountain Ash will not be sufficiently substantive so as to have an adverse impact.

Applications made under Section 73 of the Town & Country Planning Act 1990 allow the Local Planning Authority to do one of two things when an applicant seeks to vary the condition, it can: -

- (a) Grant consent either with or without conditions; or,
- (b) Refuse.

In that the Council can approve with or without conditions, it is also appropriate to consider the extent and nature of all the previous conditions attached and if the application is to be granted amend them to reflect current circumstances and requirements

Members will note that the objections raised in respect of the current applications covering a variety of topic areas. Keeping in mind the nature of the current application and the process that has to be followed in its determination as described above, the following comments are offered.

***Planning policy, procedural and legal issues*** – Policy AW5(6) does require compliance with Technical Advice Note 15 Development & Flood Risk and this would have been the case when retail development was proposed and approved for this part of the site.

Policy AW6(16) does require the developer to demonstrate good water management, but it does not oblige them to do so before permission is granted. On this point Members are referred to the comments on drainage below.

With regard to Policy AW10(8) relating to flooding see below.

Policy AW5.2(c) and the impact on congestion – see below.



Policy AW6(7) relates to making landscaping an integral part of the development which in the context of a commercial development the revised proposals achieve – also see below.

Policy AW6(14) aims to protect and enhance landscape and biodiversity and these issues are addressed below. Similarly concerns expressed in respect of policy AW8(2) are noted but objectors have not identified specifically what their concerns are in this regard and these issues are again addressed below

**Highways and transportation issues** – The application is not accompanied by any kind of transport assessment or statement but it does not need to be. Members should note that the Transportation section has not requested one and have raised no objections to the current proposals. Furthermore, the objector has failed to recognise the reduced nature of the development now proposed reflected in the overall reduction in approved floorspace that the new proposals would involve (circa 1280 square metres gross less) or the fact that a food store will drive the number of linked trips.

The accusation that the proposals will increase congestion on the A4059 is not supported with any evidence and reflects an existing problem that there is no evidence the current proposals will make any worse particularly when the fall back of an extant consent that could still be implemented is taken into account.

The behaviour of a small minority of motorists on the Asda roundabout is not a sustainable reason to resist the current proposals and neither is the behaviour of delivery lorries serving the same store nor the illegal parking of motorists on the access road.

The presence of the play area and the parking around it is of little consequence to the current proposals as the foodstore would be accessed from a roundabout located further south

**Amenity issues** – In comparison to the original approved details for the site that could still be implemented there is no loss of landscaping, in fact there is a slight improvement with thicker planting bunds to the fringes of the site. Furthermore, whilst the objectors don't indicate what aspects of the landscape they consider important or worthy of protection historically this part of the valley floor has been considered of low landscape value which is probably a result of the fact that historically it was a tipping site.

**Physical and social infrastructure issues** – On the issue of drainage, Members should note that because of the age of the initial permissions the obligation to pursue a SUDS approach to drainage does not apply and the principles that apply to flooding (including the issues relating to the flood relief channel) and indeed any flood consequences assessment issues would have been dealt with previously and the applicants have every right to rely on their findings.

**Ecology** – the site has a long history of consent for retail development that dates back some 30 years and what objectors describe as scrubland has no recognised ecological value and the owner has every right to undertake clearance and maintenance as they

see fit. This could have been undertaken in any event as a consequence of the extant planning permission. As such the fact they have done so cannot be held against the current proposals. The requirements of the Environment Wales Act 2016 are reflected in Planning Policy Wales 11 as is the obligation to maintain and enhance biodiversity as introduced through the Wellbeing of Future Generations Act but it cannot be applied retrospectively.

**Other issues** – The developer has acknowledged an initial error in that the site does not lie adjacent to the River Cynon but the flood relief channel.

The objector is unclear as to the watercourse within the site referred to in the objection. The initial intention of creating the flood relief channel amongst other things was to allow the replacement of the Cwmbach ditch which previously crossed the site. In any event the development of the site will need to develop a drainage system that is acceptable to Flood Risk Management.

It is well established that for the purposes of TAN 15 Development and Flood Risk the falls within zone C2. However, Members should keep in mind that for the purposes of TAN15 retail development is considered a less vulnerable form of development and that in this case under previous approvals the raising of the site levels to the satisfaction of Natural Resources Wales and their predecessors has been previously agreed, and as part of that the applicants or their predecessor would have demonstrated that there would be no adverse impact on flood storage or adverse impacts elsewhere.

To suggest there is no evidence on file that the proposed development would not adversely affect the surrounding area, ignores the fact that these issues would have been fully addressed in the course of the initial approval for retail development on this site.

The service road already has the benefit of planning permission to run behind the houses to the immediate north of the site and has already been partially implemented. In this case it worth noting that the proposed arrangement has the effect of potentially reducing its impact as the food store if allowed would service from its own car park rather than via the service road. In any event the arrangement has already been deemed acceptable in amenity terms in the earlier grant of reserved matters approval.

A number of residents have made reference to various other bodies of legislation, claiming that allowing the proposals would be contrary to their requirements. The legislation and documents cited are as follows -

- The Human Rights Act 1998
- The Wellbeing of Future Generations (Wales) Act 2015.
- The Environment (Wales) Act 2016.

The planning system by its very nature respects all legislation that influences it and the rights of the individual whilst acting in the interest of the wider community. It is an intrinsic part of the decision-making process for the Council to assess the effects that

a proposal will have on individuals, and weigh these against the wider public interest in determining whether a development should be allowed to proceed. In carrying out this balancing exercise the Council will of course wish to be satisfied that it has acted proportionately. In the present case, as detailed in this report, officers have considered and balanced those material considerations relevant to the application in making the recommendation to Committee.

How the management and maintenance of the flood relief channel happens or who contributes to it has no bearing on the acceptability or otherwise of the current proposals in planning terms.

The impact of the proposed development on house prices is not a material planning consideration and cannot influence the decision to be made in respect of this application.

Whilst home owners on the estate might desire a separate access and as something of itself it might be regarded as an improvement its presence or absence cannot influence a decision in this reserved matters submission.

Members will note the comments from highways and transportation above, and are advised that if they are minded to approve this planning application then in order to secure the required highway arrangements to serve the development the conditions applied to application 20/1346 are also applied here

### **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is CIL liable under the CIL Regulations 2010 (as amended). In this instance, due to the nature of the application being a Section 73 application and the proposals involving the creation of less floor space than was previously approved, under Regulation 128A the CIL charge is nil, £0.

### **Conclusion**

The application is considered to comply with the relevant policies of the Local Development Plan insofar as it relates to the condition that it is proposed to alter. The applicants have supported the proposals with a retail impact assessment that demonstrates that the impact of the proposed development on the nearby town centres are acceptable.

### **RECOMMENDATION: Grant**

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the following approved plans/drawings/documents --

- P101 Rev B proposed floor plan
- P102 Rev B proposed floor plan areas
- P103 proposed roof plan
- P201 Rev B phase 1 & 2 elevations
- P202 Rev B proposed elevations
- P400 Rev D proposed site plan
- P401 Rev D phase 1 & 2
- P402 Rev B phases elevation plan
- P403 location plan
- LIAS design notes & luminaire schedule DWG00;
- proposed lighting layout DWG 01

unless otherwise to be approved and superseded by details required by any other condition attached to this consent

Reason In order to define the extent by the permission hereby granted and to ensure that the development is carried out in accordance with the approved plans.

3. Save with the written consent of the Local Planning Authority, with the exception of the foodstore unit described in the approved plans, only the following goods shall be sold from any other retail units to be erected on the retail park subject of this consent: DIY and garden related goods, caravans, boats, tool hire, building goods and products, furniture and furnishings, electrical and gas goods and products, carpets, floor coverings, cars/cycles and their accessories, office goods and equipment, pets and pet supplies. Any application for consent under the terms of this condition shall be accompanied by evidence or justification (including retail impact assessment where necessary) demonstrating the effect on retail trading in Aberdare and Mountain Ash town centres.

Reason: To define the extent of the consent granted and to ensure that no adverse impact is generated on the vitality, attractiveness and viability on the nearby town centres of Mountain Ash and Aberdare.

4. No development shall take place until the drainage arrangements to serve that phase of development have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate disposal of foul and surface water drainage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan

5. No retail unit shall be occupied until the drainage works to serve that phase of development have been completed in accordance with the approved plans.

Reason: To ensure adequate disposal of foul and surface water drainage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

6. The gross retail floorspace for the scale of electrical goods in phase 2 of the revised layout shall not exceed 1673 square metres (18000 sq ft) and for furniture and carpets shall not exceed 5576 square metres (60000 sq ft).

Reason: Any further change to a more comprehensive form of retailing would result in a larger unacceptable volume of trade being drawn away from the town centres of Aberdare and Mountain Ash.

7. Save with the consent of the Local Planning Authority, the size of any individual retail unit shall not be less than 929 square metres (gross). Any application for consent under the terms of this condition shall be accompanied by evidence or justification (including retail impact assessment where necessary) demonstrating that the effect on retailing in Aberdare and Mountain Ash town centres respectively.

Reason: Any further change to more comprehensive form of retailing would result in a larger and unacceptable volume of trade being drawn away from the town centres of Aberdare and Mountain Ash.

8. The threshold levels of all new proposed buildings shall be set a minimum of 600mm above the Q100 level for the site as agreed with Natural Resources Wales.

Reason: The site is liable to flooding during extreme weather conditions and to ensure that the risk and consequences of flooding have been fully taken into account.

9. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order (as amended), or any order revoking or re-enacting that order, no unit within the development hereby approved shall be provided with a mezzanine level to increase the net sales area of the unit.

Reason: To protect the vitality, viability and attractiveness of the town centres at Aberdare and Mountain Ash.

10. Before the development is brought into beneficial use the means of access together with the parking and turning facilities shall be laid out in accordance with the submitted Corun amended access plan Drawing no: 20-00724 03

received 3<sup>rd</sup> January 2021. The approved details shall be implemented prior to the first occupation of the approved food store unit.

Reason: In the interests of highway safety.

11. Notwithstanding the submitted plans, no works whatsoever, other than site clearance, remediation and preparation works, shall commence on site until full engineering design and details of the new road layout, sept path analysis, footpath links, street signage, removal of existing signage, street lighting, surface water drainage and highway structures, including longitudinal and cross sections have been submitted to and approved in writing by the Local Planning Authority. The highway works shall be fully implemented in accordance with the approved details prior to the first occupation of the food store hereby approved.

Reason: To ensure the adequacy of the proposed development in the interests of highway safety.

12. Prior to the substantive completion of the food store hereby approved a delivery management plan for the servicing of the proposed store has been submitted to and approved in writing by the Local Planning Authority. The approved details shall remain in operation thereafter.

Reason: In the interests of highway safety to ensure the adequacy of the proposed access and circulation.

13. The vehicular access to the site shall be laid out constructed and retained thereafter with 2.4m x 40m vision splays.

Reason: To ensure that adequate visibility is provided in the interests of highway safety.

14. Surface water run off from the proposed development shall not discharge on to the public highway or be connected to any highway drainage system unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety and to prevent over capacity of the existing highway drainage system and potential flooding.

15. No development shall take place, including any works of site clearance, until a construction method statement has been submitted to and approved in writing by the Local Planning Authority to provide for -

- a) the means of access into the site for all construction traffic.
- b) the parking of vehicles of site operatives and visitors
- c) the management of vehicular and pedestrian traffic.
- d) loading and unloading of plant and materials.
- e) storage of plant and materials used in constructing the development.
- f) wheel cleansing facilities,
- g) the sheeting of lorries leaving the site.

The approved construction method statement shall be adhered to throughout the development process unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interests of safety and the free flow of traffic.

16. All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or 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 ensure that the new development will be visually attractive in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

17. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that order) no extensions or alterations which increase gross floor space shall be erected or carried out.

Reason: To restrict the usable floor space of the premises in accordance with policy CS1 of the Rhondda Cynon Taf Local Development Plan.

18. Building operations shall not be commenced until samples of the external finishes proposed to be used have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the sample(s) so approved.

Reason: To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

This page is intentionally left blank





## **PLANNING & DEVELOPMENT COMMITTEE**

**29 APRIL 2021**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 20/1346/15 (GD)  
**APPLICANT:** Lidl Great Britain Ltd  
**DEVELOPMENT:** Variation of condition 1 approved plans of planning permission 18/0366/39.  
**LOCATION:** TIRFOUNDER FIELDS, CWMBACH  
**DATE REGISTERED:** 09/12/2020  
**ELECTORAL DIVISION:** Cwmbach

---

**RECOMMENDATION: Approve**

**REASONS:** The principle of the proposed development is well established in the initial grant of outline planning permission and the subsequent planning applications and approval of reserved matters in relation to the development of this site.

---

#### **REASON APPLICATION REPORTED TO COMMITTEE**

- Three or more letters of objection have been received.

#### **APPLICATION DETAILS**

The application seeks to vary the approved plans condition for the reserved matters approval 98/4647 which was approved pursuant to outline planning permission 98/4284. The approved plans condition was inserted into the reserved matters consent under non material amendment 18/0366. All associated pre commencement conditions have been discharged and the previously approved details commenced on site in the partial construction of the site service road. The approved plans condition is as follows –

- 1 The consent hereby granted relates to the following plans -
  - Location Plan (Ref: AL8282(S)1(2500)
  - Layout Plan (Ref: AL8282(S)500)1G)

- Elevations (Ref: AL8282(D200)1A)
- Landscape Layout Plan (Ref: AL8282(L)5A)
- Lighting Layout (Ref: AL8282(L)11)

Reason: For the avoidance of doubt as to the approved plans.

The applicants aim is to have the wording of the approved plans condition altered to read as follows –

1. The consent hereby granted relates to the following plans -
  - P101 Rev B proposed floor plan.
  - P102 Rev B proposed floor plan areas
  - P103 proposed roof plans
  - P201 Rev B phase 1 & 2 elevations
  - P202 Rev B proposed elevations
  - P400 Rev D proposed site plan
  - P401 Rev D phase 1 & 2
  - P402 Rev B phase elevation plan
  - P403 location plan
  - Proposed lighting layout DWG01

Reason: For the avoidance of doubt as to the approved plans

In essence, if Members allow this proposal along with that submitted under application 20/1345 it would result in the construction of a Lidl food store on the southern part of this site and the reconfiguration of the southernmost unit of the formerly approved block B.

The application is accompanied by the following:

- Retail Impact Assessment
- Approved and proposed plans...
- Application forms and certificates
- CIL forms.

## **SITE APPRAISAL**

The application site in this instance comprises the largely undeveloped area of land located between the established retail outlets and the railway line at Cwmbach. The site comprises the vacant land to the east of the Asda store and is the only part of the wider retail site initially granted planning permission in 1989 that is yet to be developed. The site occupies a substantial portion of the valley floor between Aberaman and Cwmbach and lies immediately south of a Persimmon housing development.

## **PLANNING HISTORY**

20/1345	Variation of condition 7 (sales of goods) of planning permission 98/4284	Not Yet Determined
18/0366	NMA to insert a condition into ARM 98/4647 to identify approved plans	Approved 8 <sup>th</sup> May 2018
98/4647	Reserved Matters retail (all except Asda) restaurant and hotel pursuant to 51/87/0244	Approved 17 <sup>th</sup> March 2008
98/4284	Variation of conditions 15 & 16 of planning permission 51/87/0244	Approved 10 <sup>th</sup> December 2007
98/4283	Variation of condition 18 of 51/87/0244 (minimum unit size)	Approved 16 <sup>th</sup> December 1998
98/4223	Variation of condition 17 of 51/87/0244 (maximum retail floorspace)	Approved 16 <sup>th</sup> December 1998
98/4120	Variation of condition 2 of 51/87/0244	Approved 3 <sup>rd</sup> June 1998
97/4289	Vary condition 3 of 51/87/0244 and condition 1 of 51/93/0428	Approved 30 <sup>th</sup> December 1997
51/96/0022	Access reserved matters under 51/87/0244	Approved 18 <sup>th</sup> March 1996
51/93/0428	Reserved matters retail park, hotel and bowls hall	Approved 19 <sup>th</sup> February 1996
51/92/0362	Vary conditions 2 & 3 of 51/87/0244	Approved 23 <sup>rd</sup> September 1992
51/87/0244	Retail park, hotel and bowls hall (outline application)	Approved 18 <sup>th</sup> December 1989

## **PUBLICITY**

The application has been advertised by means of site notices and neighbour notification letters and four objections have been received raising the following issues

—

- The application is submitted under Section 73 which means that the Local Planning Authority can reconsider whether planning permission should be refused or what conditions should be imposed.
- Concerns over flooding have increased significantly and residential development has been completed nearby, sustainable drainage systems are now a priority to be addressed in development and there is nothing in the current application to suggest the proposals are supported by a Flood Consequences Assessment.
- The site does not adjoin the river Cynon but a flood overflow channel that rose significantly during wet periods over the last year. The application does not appear to acknowledge that a watercourse lies within the site nor does it address the consequences of building over it.
- The plans indicate that the level of the site would be raised which could affect any flood storage capacity that the site currently provides making vulnerable property even more vulnerable.
- The views of NRW should be sought before any decision is made in respect of this application.
- No evidence is available on the public file that indicates the development would not adversely affect the surrounding area.
- The proposals fail to demonstrate compliance with Local Development Plan Policy AW5(6) which requires compliance with national policy in respect of development within flood zone C (TAN 15).
- Policy AW6(16) requires new development to demonstrate good water management and there is nothing in the proposals to indicate this.
- There is nothing in the proposals to indicate that policy AW10(8) - flooding has been addressed.
- The application is not supported by any kind of transport assessment that takes into account traffic movements in the construction or operational phase, compared to the terms of the original consent
- Currently traffic can be queuing on the A4059 past the Asda roundabout and residents of Tirfounder Fields experience difficulty exiting on to the road. The application is not supported by any evidence that the development would not exacerbate this situation. One resident suggest that a traffic light solution is needed
- The Asda roundabout is dangerous as it is not used properly by drivers, accessing the housing development is ignored by drivers using the bypass road leading to near misses. Similarly, illegal parking on the access road is also a problem that causes difficulties and additional development will make this worse.
- Asda lorries park up on the estate road adjacent to the play area making it unsafe for the children of the area to use.
- There is no evidence that LDP policy AW5.2(c) will be complied with or that traffic congestion will not occur or be exacerbated by these proposals.
- The loss of landscaping on the original scheme fronting the highway is opposed there is no softening of the development from public views or a green barrier to

separate vehicle fumes in the adjoining car park from pedestrians using the pavement.

- The proposed layout and lack of detail submitted do not demonstrate the development accords with the requirements of LDP policy AW6(7)
- The developer has not addressed the requirements of the Environment Wales Act 2016 relating to the obligation to maintain and enhance biodiversity in development. The scrubland has recently been obliterated and its biodiversity lost with no ecological studies having been carried out within the last 2 years. Nothing is submitted with the scheme to indicate any compensatory or enhancement measures on site as a consequence of the proposed development.
- LDP policy AW6(14) promotes development that protects and enhances landscape and biodiversity, whilst policy AW8(2) requires development to have no unacceptable impact on features of importance to landscape or nature conservation and neither requirement appears to have been met.
- The site is not allocated for retail development in the LDP so presumably the development is being treated as a departure from the Local Development Plan.
- Confusion over approved plans is expressed given the difference between the plans approved under non material amendment 18/0366 and those approved for highways under 98/4647.
- Compliance with conditions of 51/87/0244 is also questioned.
- Gardens will be overlooked by delivery vehicles and the proposed buildings. Invading the fundamental human right to privacy and family life and the peaceful enjoyment of possessions.
- The completion of the service road immediately adjacent to properties which has the potential to cause damage to property and outbuildings.
- Delivery vehicles and the proposed buildings will create disruption and pollution having a negative impact on air quality
- The proposals have little or no regard to their potential to cause or worsen flood risk to existing dwellings either through the removal of the natural flood storage pond that has developed adjacent to the housing development or through the lack of details relating to proposals for the drainage infrastructure that ends in the site.
- Residents of Tirfounder Fields pay a maintenance charge to manage the flood relief channel and it is not clear how this would be affected if this site is developed.
- Developing so close to homes on a mass of water opposite where the Council have identified a need for flood prevention works (Canal Road) is not a good idea and would counteract the Council's priorities.
- The play area adjacent to the access road is now operational and the area already suffers with cars parking along the access road to visit the shops the additional access road and more vehicular traffic will have an adverse impact on road safety, making the playground too dangerous for Children to access. This again conflicts with the Council's priorities for future generations.
- The development will have a negative impact on the value of the homes that sit adjacent to its boundary.

- The long term environmental and climate impacts of the proposed development on future generations needs to be properly considered.
- Further development will result in increased littering.
- Homeowners should have a separate access/egress for the estate.

## **CONSULTATION**

Transportation Section – No objections subject to conditions

Natural Resources Wales – raise no objection to the current proposal and advise that previous advice relating to the finished floor levels for the site and the need to maintain access to the flood relief channel for maintenance purposes be carried forward.

Aberdare Chamber of Trade - No response received

Mountain Ash & Penrhiwceiber Chamber of Trade – No response received

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

**Policy CS1** – places an emphasis on building strong and sustainable communities in the northern strategy area

**Policy AW2** - advises that development proposals on non-allocated sites will only be supported in sustainable locations.

**Policy AW5** - sets out criteria for new development in relation to amenity and accessibility.

**Policy AW6** - requires development to involve a high quality design and to make a positive contribution to place making, including landscaping.

**Policy AW8** – sets out criteria for the protection of the natural environment that new development should meet.

**Policy AW10** - development proposals must overcome any harm to public health, the environment or local amenity as a result of flooding.

### **Supplementary Planning Guidance**

Design and Placemaking

Design in Town Centres

Access Circulation and Parking

Shopfront Design

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24<sup>th</sup> February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), WGs current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

It is also considered the proposed development is compliant with the NDF, with the following policies being relevant to the development proposed:

- Policy 1 – Where Wales will grow – Employment/Housing/Infrastructure
- Policy 2 – Shaping Urban Growth – Sustainability/Placemaking
- Policy 3 – Supporting Urban Growth – Council land/Placemaking/developers/regeneration/sustainable communities'/exemplar developments.
- Policy 6 - Town Centre First – commercial/retail/education/health/public services

Other relevant policy guidance consulted:

PPW Technical Advice Note 4: Retailing and Town Centres;  
PPW Technical Advice Note 12: Design;  
PPW Technical Advice Note 15: Development and Flood Risk;  
PPW Technical Advice Note 18: Transport;  
PPW Technical Advice Note 23: Economic Development;  
Manual for Streets

## **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless – material considerations indicate otherwise. Furthermore, applications

that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

In this instance the applicants are submitting an application under Section 73 of the Town & Country Planning Act 1990 to vary the approved plans condition introduced into reserved matters approval 98/4647 by the Non Material Amendment 18/0386. In such circumstances the Local Planning Authority are required to consider only the conditions subject to which the planning permission should be granted and in doing so the Local Planning Authority must consider whether there has been any change in policy or any other material circumstance that might affect the proposal. If the application is successful, this results in the grant of a new permission.

The Local Planning Authority may grant the permission subject to conditions differing from those to which the previous permission was granted or refuse the application. The Local Planning Authority however do not have the power to impose conditions which could not have been imposed on the original permission nor impose conditions that would result in a fundamental alteration to the development approved by the original application. Whether the application is granted or refused the original grant of planning permission would remain.

The key determinants in the consideration of this application are that the site benefits from an extant planning permission for retail development, albeit that is with a higher degree of restriction in terms of the range of goods that can be sold, the planning policy position, and the impact that proposed changes would have on adjacent town centres. The site benefits from consent for retail development initially approved under reserved matters 98/4647 with the approved plans subsequently specified under the non-material amendment 18/0366. The consent remains extant as a result of the partial implementation of the approved service access. In planning policy terms, the site lies within the settlement limits as defined by the Rhondda Cynon Taff Local Development Plan and within the Cynon Valley River Park designation. The site is not allocated for any specific use. The presence of the site within the designation does not prevent its redevelopment but it does place a requirement on the developer to visually enhance the site through the development process, and this the current proposals would achieve. The development would take place within defined settlement limits and it would not, as one objector has suggested, represent a departure from the plan.

Because the proposed broadening of the range of goods to be sold could have an adverse impact on the retail centres of Aberdare and Mountain Ash, the applicants have supported the current applications with a retail impact assessment. The assessment has been the subject of independent scrutiny by Lichfields on behalf of the Council and the findings have been found to be robust. The reports establish that the impacts on Aberdare and Mountain Ash will not be sufficiently substantive so as to have an adverse impact.



Applications made under Section 73 of the Town & Country Planning Act 1990 allow the Local Planning Authority to do one of two things when an applicant seeks to vary the condition, it can: -

- (a) Grant consent either with or without conditions; or,
- (b) Refuse.

In that the Council can approve with or without conditions, it is also appropriate to consider the extent and nature of all the previous conditions attached and if the application is to be granted amend them to reflect current circumstances and requirements

Members will note that the objections raised in respect of the current applications covering a variety of topic areas. Keeping in mind the nature of the current application and the process that has to be followed in its determination as described above, the following comments are offered.

**Planning policy, procedural and legal issues** – Policy AW5(6) does require compliance with Technical Advice Note 15 Development & Flood Risk and this would have been the case when retail development was proposed and approved for this part of the site.

Policy AW6(16) does require the developer to demonstrate good water management, but it does not oblige them to do so before permission is granted. On this point Members are referred to the comments on drainage below.

With regard to Policy AW10(8) relating to flooding see below.

Policy AW5.2(c) and the impact on congestion – see below.

Policy AW6(7) relates to making landscaping an integral part of the development which in the context of a commercial development the revised proposals achieve – also see below.

Policy AW6(14) aims to protect and enhance landscape and biodiversity and these issues are addressed below. Similarly concerns expressed in respect of policy AW8(2) are noted but objectors have not identified specifically what their concerns are in this regard and these issues are again addressed below

Compliance with conditions of the original planning permission 51/87/0244 is questioned. This is misplaced as the granting of application 98/4284 effectively makes that the outline planning permission the balance of the development of the site has to respond to.

The approval of the non-material amendment defining the approved plans supersedes previous approvals. In any event this is something of a moot point as details of the

proposed means of access will have to be updated and referenced should Members choose to support the current proposals.

**Highways and transportation issues** – The application is not accompanied by any kind of transport assessment or statement but it does not need to be. Members should note that the Transportation section has not requested one and have raised no objections to the current proposals. Furthermore, the objector has failed to recognise the reduced nature of the development now proposed reflected in the overall reduction in approved floorspace that the new proposals would involve (circa 1280 square metres gross less) or the fact that a food store will drive up the number of linked trips.

The accusation that the proposals will increase congestion on the A4059 is not supported with any evidence and reflects an existing problem that there is no evidence the current proposals will make any worse particularly when the fall back of an extant consent that could still be implemented is taken into account.

The behaviour of a small minority of motorists on the Asda roundabout is not a sustainable reason to resist the current proposals and neither is the behaviour of delivery lorries serving the Asda store nor the illegal parking of motorists on the access road.

The presence of the play area and the parking around it is of little consequence to the current proposals as the foodstore would be accessed from a roundabout further south

**Amenity issues** – In comparison to the original approved details for the site that could still be implemented there is no loss of landscaping, in fact there is a slight improvement with thicker planting bunds to the fringes of the site. Furthermore, whilst the objectors don't indicate what aspects of the landscape they consider important or worthy of protection historically this part of the valley floor has been considered of low landscape value which is probably a result of the fact that historically it was a tipping site

**Physical and social infrastructure issues** – On the issue of drainage, Members should note that because of the age of the initial permissions the obligation to pursue a SUDS approach to drainage does not apply and the principles that apply to flooding (including the flood relief channel) and indeed any flood consequences assessment issues, would have been dealt with previously and the applicants have every right to rely on their findings.

**Ecology** – the site has a long history of consent for retail development that dates back some 30+ years and what objectors describe as scrubland has no recognised ecological value and the owner has every right to undertake clearance and maintenance as they see fit. This could have been undertaken in any event as a consequence of the extant planning permission. As such the fact they have done so cannot be held against the current proposals. The requirements of the Environment Wales Act 2016 are reflected in Planning Policy Wales 11 as is the obligation to

maintain and enhance biodiversity as introduced through the Wellbeing of Future Generations Act but it cannot be applied retrospectively.

**Other issues** - The developer has acknowledged an initial error in that the site does not lie adjacent to the River Cynon but the flood relief channel.

The objector is unclear as to the watercourse within the site referred to in the objection. The initial intention of creating the flood relief channel amongst other things was to allow the replacement of the Cwmbach ditch which previously crossed the site. In any event the development of the site will need to develop a drainage system that is acceptable to Flood Risk Management.

It is well established that for the purposes of TAN 15 Development and Flood Risk the site falls within zone C2. However, Members should keep in mind that for the purposes of TAN15 retail development is considered a less vulnerable form of development and that in this case under previous approvals the raising of the site levels to the satisfaction of Natural Resources Wales and their predecessors has been previously agreed, and as part of that the applicants or their predecessor would have demonstrated that there would be no adverse impact on flood storage or adverse consequences elsewhere.

To suggest there is no evidence on file that the proposed development would not adversely affect the surrounding area, ignores the fact that these issues would have been fully addressed in the course of the initial approval for retail development on this site.

The service road already has the benefit of planning permission to run behind the houses to the immediate north of the site and has already been partially implemented. In this case it is worth noting that the proposed arrangement has the effect of potentially reducing its impact as the food store if allowed would service from its own car park rather than via the service road. In any event the arrangement has already been deemed acceptable in amenity terms in the earlier grant of reserved matters approval.

A number of residents have made reference to various other bodies of legislation, claiming that allowing the proposals would be contrary to their requirements. The legislation and documents cited are as follows -

- The Human Rights Act 1998
- The Wellbeing of Future Generations (Wales) Act 2015.
- The Environment (Wales) Act 2016.

The planning system by its very nature respects all legislation that influences it and the rights of the individual whilst acting in the interest of the wider community. It is an intrinsic part of the decision-making process for the Council to assess the effects that a proposal will have on individuals, and weigh these against the wider public interest in determining whether a development should be allowed to proceed. In carrying out this balancing exercise the Council will of course wish to be satisfied that it has acted proportionately. In the present case, as detailed in this report, officers have considered and balanced those material considerations relevant to the application in making the recommendation to Committee.

How the management and maintenance of the flood relief channel happens or who contributes to it has no bearing on the acceptability or otherwise of the current proposals in planning terms.

The impact of the proposed development on house prices is not a material planning consideration and cannot influence the decision to be made in respect of this application.

Whilst home owners on the estate might desire a separate access and as something of itself it might be regarded as an improvement its presence or absence cannot influence a decision in this submission.

### **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is CIL liable under the CIL Regulations 2010 (as amended). In this instance, due to the nature of the application being a Section 73 application and the proposals involving the creation of less floor space than was previously approved, under Regulation 128A the CIL charge is nil, £0.

### **Conclusion**

The application is considered to comply with the relevant policies of the Local Development Plan in respect of the variation of conditions sought. The differences between the previously approved layout and that currently proposed with the variation of conditions though substantial remain acceptable. The proposed food store is a typical Lidl custom build and the balance of retail units meet all previously stated conditional requirements and in terms of appearance and finishes are the same.

### **RECOMMENDATION: Grant**

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the following approved plans/drawings/documents --

- P101 Rev B proposed floor plan
- P102 Rev B proposed floor plan areas
- P103 proposed roof plan
- P201 Rev B phase 1 & 2 elevations
- P202 Rev B proposed elevations
- P400 Rev D proposed site plan
- P401 Rev D phase 1 & 2
- P402 Rev B phases elevation plan
- P403 location plan
- LIAS design notes & luminaire schedule DWG00;
- proposed lighting layout DWG 01

unless otherwise to be approved and superseded by details required by any other condition attached to this consent

Reason In order to define the extent by the permission hereby granted and to ensure that the development is carried out in accordance with the approved

3. Save with the written consent of the Local Planning Authority, with the exception of the food store unit described in the approved plans, only the following goods shall be sold from any other retail units to be erected on the retail park subject of this consent: DIY and garden related goods, caravans, boats, tool hire, building goods and products, furniture and furnishings, electrical and gas goods and products, carpets, floor coverings, cars/cycles and their accessories, office goods and equipment, pets and pet supplies. Any application for consent under the terms of this condition shall be accompanied by evidence or justification (including retail impact assessment where necessary) demonstrating the effect on retail trading in Aberdare and Mountain Ash town centres.

Reason: To define the extent of the consent granted and to ensure that no adverse impact is generated on the vitality, attractiveness and viability on the nearby town centres of Mountain Ash and Aberdare.

4. All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or 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 ensure that the new development will be visually attractive in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

5. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking or re-enacting that order) no unit within the development hereby approved shall be provided with a mezzanine level to increase the net sales, storage or office area of the unit.

Reason: In order to protect the vitality, attractiveness and viability of nearby town centres.

6. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that order) no extensions or alterations which increase gross floorspace shall be erected or carried out.

Reason: to restrict the usable floorspace of the premises in accordance with policy CS1 of the Rhondda Cynon Taf Local Development Plan

7. Building operations shall not be commenced until samples of the external finishes proposed to be used have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the sample(s) so approved.

Reason: To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

8. The application for approval of reserved matters shall include plans at the scale of 1:200 showing the existing contours of the land and any existing physical features (buildings, structures, etc) and existing natural features (trees, hedges, streams, etc) and indicating which features are to be retained together with their relationship to the proposed development.

Reason : To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

9. No unit shall be occupied until the drainage works have been completed in accordance with the approved plans.

Reason: To ensure adequate disposal of foul and surface water drainage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan

10. Before the development is brought into beneficial use the means of access together with the parking and turning facilities shall be laid out in accordance with the submitted Corun amended access plan Drawing no: 20-00724 03 received 3<sup>rd</sup> January 2021 The approved details shall be implemented prior to the first occupation of the approved food store unit.

Reason: In the interests of highway safety

11. Notwithstanding the submitted plans, no works whatsoever, other than site clearance, remediation and preparation works, shall commence on site until full engineering design and details of the new road layout, sept path analysis, footpath links, street signage, removal of existing signage, street lighting, surface water drainage and highway structures, including longitudinal and cross sections have been submitted to and approved in writing by the Local Planning Authority. The highway works shall be fully implemented in accordance with the approved details prior to the first occupation of the food store hereby approved.

Reason: To ensure the adequacy of the proposed development in the interests of highway safety.

12. Prior to the substantive completion of the food store hereby approved a delivery management plan for the servicing of the proposed store has been submitted to and approved in writing by the Local Planning Authority. The approved details shall remain in operation thereafter.

Reason: In the interests of highway safety to ensure the adequacy of the proposed access and circulation.

13. The vehicular access to the site shall be laid out constructed and retained thereafter with 2.4m x 40m vision splays.

Reason: To ensure that adequate visibility is provided in the interests of highway safety.

14. Surface water run off from the proposed development shall not discharge on to the public highway or be connected to any highway drainage system unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety and to prevent over capacity of the existing highway drainage system and potential flooding.

15. No development shall take place, including any works of site clearance, until a construction method statement has been submitted to and approved in writing by the Local Planning Authority to provide for -
- a) the means of access into the site for all construction traffic.
  - b) the parking of vehicles of site operatives and visitors
  - c) the management of vehicular and pedestrian traffic.
  - d) loading and unloading of plant and materials.
  - e) storage of plant and materials used in constructing the development.
  - f) wheel cleansing facilities,
  - g) the sheeting of lorries leaving the site.

The approved construction method statement shall be adhered to throughout the development process unless agreed otherwise in writing by the Local Planning Authority.

Reason: in the interests of safety and the free flow of traffic.

16. The gross retail floor space for the scale of electrical goods in phase 2 of the revised layout shall not exceed 1673 square metres (18000 sq. ft.) and for furniture and carpets shall not exceed 5576 square metres (60000 sq. ft.).

Reason: Any further change to a more comprehensive form of retailing would result in a larger unacceptable volume of trade being drawn away from the town centres of Aberdare and Mountain Ash.

17. Save with the consent of the Local Planning Authority, the size of any individual retail unit shall not be less than 929 square metres (gross). Any application for consent under the terms of this condition shall be accompanied by evidence or justification (including retail impact assessment where necessary) demonstrating that the effect on retailing in Aberdare and Mountain Ash town centres respectively.

Reason: Any further change to more comprehensive form of retailing would result in a larger and unacceptable volume of trade being drawn away from the town centres of Aberdare and Mountain Ash.

18. The threshold levels of all new proposed buildings shall be set a minimum of 600mm above the Q100 level for the site as agreed with Natural Resources Wales.



Reason: The site is liable to flooding during extreme weather conditions and to ensure that the risk and consequences of flooding have been fully taken into account.

This page is intentionally left blank