



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
2 Llys Cadwyn
Taff Street
Pontypridd
CF37 4TH

Meeting Contact: Jess Daniel - Democratic Services (07385401877)

A hybrid meeting of the **PLANNING AND DEVELOPMENT COMMITTEE** will be held at the **Council Chamber, 2 Llys Cadwyn, Taff Street, Pontypridd, CF37 4TH** on **THURSDAY, 11TH APRIL, 2024** at **3.00 PM**.

NON-COMMITTEE MEMBERS AND MEMBERS OF THE PUBLIC MAY [REQUEST THE FACILITY TO ADDRESS THE COMMITTEE](#) AT THEIR MEETING ON THE BUSINESS LISTED. IT IS KINDLY ASKED THAT SUCH NOTIFICATION IS MADE TO PLANNINGSERVICES@RCTCBC.GOV.UK BY 5PM ON TUESDAY, 9 APRIL 2024, INCLUDING STIPULATING WHETHER THE ADDRESS WILL BE IN WELSH OR ENGLISH.

THE ORDER OF THE AGENDA MAY BE SUBJECT TO AMENDMENT TO BEST FACILITATE THE BUSINESS OF THE COMMITTEE

AGENDA

1. DECLARATION OF INTEREST

To receive disclosures of personal interest 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.

2. HUMAN RIGHTS ACT 1998 AND DEVELOPMENT CONTROL DECISIONS

To note, that when Committee Members determine the development control matters before them, they should have regard to the Development Plan and, so far as material to applications, to any other material considerations and when taking decisions, Members have to ensure they do not act in a manner that is incompatible with the Convention on Human Rights as incorporated into legislation by the Human Rights Act 1998.

3. WELLBEING OF FUTURE GENERATIONS (WALES) ACT 2015

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

4. MINUTES 07.03.24

To approve as an accurate record, the minutes of the meeting of the Planning and Development Committee held on 07.03.24.

5 - 8

APPLICATIONS RECOMMENDED FOR APPROVAL BY THE DIRECTOR OF PROSPERITY & DEVELOPMENT

5. APPLICATION NO: 22/0357

The proposed change of use of vacant land to the north of Earthmovers House for the creation of an area of hardstanding for vehicle parking and storage, including the diversion of Public Right of Way Llantrisant 223, and associated works (amended plans and documents received 29/06/22).

UNIT 16 EARTHMOVERS HOUSE, LLANTRISANT BUSINESS PARK, LLANTRISANT, PONT-Y-CLUN, PONTYCLUN, CF72 8LF (PHASE 2)

9 - 40

6. APPLICATION NO: 23/1207

Change of use from dwellinghouse (Class C3) to residential care home (Class C2) for up to 4 children and reinstatement of car parking.

GWYNFRYN, BRYNBEDW ROAD, TYLORSTOWN, FERNDAL, CF43 3AE

41 - 50

7. APPLICATION NO: 23/1276

Outline Application with all matters reserved for 4 detached dwelling with double garages (Resubmission of planning ref. 23/0143/13) (Amended Plan Rec. 25/01/24)

LAND AT MOSS PLACE, ABER-NANT, ABERDARE

51 - 74

8. APPLICATION NO: 23/1428

Change of use from a C3 dwelling house to a C4 house in multiple occupancy (HMO) (5 bedrooms) and demolish old porch area at rear.
35 GYNOR PLACE, YNYS-HIR, PORTH, CF39 0NR

75 - 84

DEFERRED APPLICATIONS

9. APPLICATION NO: 23/1318/09

Certificate of Lawfulness for a proposed change of use of a dwelling C3(a) to a Children's Residential Home C2 for up to 2 children, along with 2 no. support staff 24 hours a day, operating in shifts, and a registered manager. **142 KENRY STREET, TONYPANDY, CF40 1DD.**

85 - 96

10. APPLICATION NO: 23/1277

Discharge of conditions 7 (traffic Management) and 8 (drainage details) imposed on planning permission 23/0575/15 for the construction of 3no. three

Bedroom houses on
LAND ADJACENT TO 15 GROVER STREET, GRAIG, PONTYPRIDD.

97 - 108

INFORMATION REPORT

11. INFORMATION FOR MEMBERS, PERTAINING TO ACTION TAKEN UNDER DELEGATED POWERS

To inform Members of the following, for the period 11/03/2024 – 29/03/2024

Planning and Enforcement Appeals Decisions Received
Delegated Decisions Approvals and Refusals with reasons.
Overview of Enforcement Cases.
Enforcement Delegated Decisions.

109 - 120

12. URGENT BUSINESS

To consider any items which the Chair by reason of special circumstances is of the opinion should be considered at the Meeting as a matter of urgency.

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 W Lewis respectively)

County Borough Councillors: Councillor J Bonetto, Councillor A Dennis,
Councillor S Emanuel, Councillor D Grehan, Councillor G Hughes, Councillor M Powell,
Councillor J Smith, Councillor L A Tomkinson and Councillor R Williams

Head of Planning
Head of Legal Services
Head of Major Development and Investment
Senior Engineer

**RHONDDA CYNON TAF COUNCIL
Planning and Development Committee**

Minutes of the meeting of the Planning and Development Committee held on Thursday, 7 March 2024 at 3.00 pm at Council Chamber, 2 Llys Cadwyn, Taff Street, Pontypridd, CF37 4TH.

This meeting was live streamed, details of which can be accessed [here](#).

County Borough Councillors – The following Planning and Development Committee Members were present in the Council Chamber: -

Councillor S Rees (Chair)

Councillor W Lewis Councillor S Emanuel
Councillor D Grehan Councillor R Williams
Councillor M Powell
Councillor L A Tomkinson

The following Planning and Development Committee Members were present online: -

Councillor J Bonetto Councillor A Dennis
Councillor G Hughes
Councillor J Smith

County Borough Councillors in attendance: -

Councillor M Norris Councillor J Barton
Councillor R Bevan Councillor R Yeo

Officers in attendance: -

Mr J Bailey, Head of Planning
Mr C Jones, Head of Major Development and Investment
Ms L Coughlan, Solicitor

218 DECLARATION OF INTEREST

In accordance with the Council's Code of Conduct, there were no declarations made pertaining to the agenda.

219 HUMAN RIGHTS ACT 1998 AND DEVELOPMENT CONTROL DECISIONS

It was **RESOLVED** to note that when Committee Members determine the development control matters before them, they should have regard to the Development Plan and, so far as material to applications, to any other material considerations and when taking decisions, Members have to ensure they do not act in a manner that is incompatible with the

convention on Human Rights as incorporated into legislation by the Human Rights Act 1998.

220 WELLBEING OF FUTURE GENERATIONS (WALES) ACT 2015

It was **RESOLVED** to note that the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle and to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

221 MINUTES 08.02.24

It was **RESOLVED** to approve as an accurate record, the minutes of the meeting of the Planning and Development Committee held on the 08.02.24.

222 CHANGE TO THE AGENDA

The Committee agreed that the agenda would be considered out of sequence and as detailed in the minutes set out hereunder.

223 APPLICATION NO: 23/1169

Detached dwelling and upgrade works to access lane. (Coal Mining Risk Assessment received 21/11/23) (amended red line boundary and plans received 15/12/23) LAND TO THE REAR OF MILDRED STREET, BEDDAU

Members **RESOLVED** to defer the Application for a Site Inspection to be undertaken by the Planning and Development Committee to view the potential widening of highways access.

In view of the above decision, the Chair informed the persons present to address the Committee on the application that if they wished to speak when the matter was next reported to Committee, they would have to submit requests to do so.

224 APPLICATION NO: 23/1125

Reinstatement of existing living accommodation to first floor, upgrade, alteration and extension of building (Amended plans and description received 14/11/2023) (Amended plans received 05/12/2023 and 16/02/2024) OLD YNYSYBWL INN, MILL ROAD, YNYS-Y-BWL, PONTYPRIDD, CF37 3LS

The Head of Major Development and Investment outlined the content of a 'late' letter received from a neighbour in objection of the application.

The Head of Major Development and Investment presented the application to Committee and following consideration it was **RESOLVED** to approve the application in accordance with the recommendation of the Director, Prosperity and Development and to the amendment of Condition 2 to require the permanent retention of the screen, as approved, thereafter and to an additional Condition No.3 restricting use of the balcony area to residential only and not for

use in connection with the public house.

(**Note:** County Borough Councillor A Dennis joined the meeting during this item and therefore abstained from the vote.)

225 APPLICATION NO: 23/1244

Development of 18 affordable dwellings, car parking, landscaping, sustainable drainage and associated works (Revised plans, to include solar panels on dwellings, received 13th December 2023. Revised Site Layout Plan, Soft Landscaping Details and Green Infrastructure Statement, Landscape Specification and Management Plan received 14th February 2023) LAND TO THE EAST OF EAST STREET, TYLORSTOWN, FERNDALE

Non-Committee, Local Member County Borough Councillor R Bevan spoke on the application and put forward his support in respect of the proposed Development whilst also outlining some concerns regarding the development.

The Head of Planning presented the application to Committee and following consideration it was **RESOLVED** to approve the application in accordance with the recommendation of the Director, Prosperity and Development subject to the completion of a section 106 agreement requiring:

- i) To ensure that the dwellings are established and maintained as affordable units, for the continued purpose of meeting identified local housing needs. Additionally, the reduced off-street parking provision, compared with the Council's SPG for Access, Circulation and Parking, has been considered acceptable on the basis that residents of social housing demonstrate lower levels of car ownership. ii) to secure an off-site recreation contribution of £18,000 (£1,000 per dwelling) to the upgrading of the existing play area at Edmond's Street, in accordance with the Council's SPG for Planning Obligations.

(**Note:** County Borough Councillor A Dennis left the meeting during this item due to technical difficulties and therefore did not take part in the vote or in any other items of business for this meeting.)

226 APPLICATION NO: 23/1277

Discharge of conditions 7 (Traffic management) and 8 (full drainage) of previously approved 23/0575/15 (Variation of condition 1 of application 18/0617/15 (original application: 13/0758/10 - Residential development, construction of 3 no. 3 bedroom linked housing units) LAND ADJ TO 15 GROVER STREET, GRAIG, PONTYPRIDD

The Head of Planning presented the application to Committee and following consideration it was **RESOLVED** to defer the determination of the application to a future meeting of the Planning & Development Committee to allow Planning Officers further time to consider the contents of a late letter of objection that had been received from Dwr Cymru / Welsh Water.

227 APPLICATION NO: 23/1318

Certificate of Lawfulness for a proposed change of use of a dwelling C3(a) to a Children's Residential Home C2 for up to 2 children. 142 KENRY

STREET, TONYPANDY, CF40 1DD

The Head of Major Development and Investment presented the application which was originally reported to Committee on 22nd February 2024 where Members were minded to refuse the grant of a certificate of lawfulness, contrary to the officer recommendation of the Director, Prosperity and Development.

Members gave consideration to the further report, highlighting the potential strengths and weaknesses of refusing contrary to officer recommendation and following discussions, it was **RESOLVED** to refuse the certificate of lawfulness contrary to the recommendation of the Director, Prosperity and Development for the reasons set out in pages 4 and 5 of the further report.

228 APPLICATION NO: 23/1335/09

Certificate of Lawfulness for a proposed change of use of a dwelling C3(a) to a Children's Residential Home C2 for up to 2 children, along with 2 no. support staff 24 hours a day, operating in shifts, and a registered manager. 134 TURBERVILLE ROAD, PORTH, CF39 0ND

The Head of Major Development and Investment presented the application to Committee and following consideration Members were minded to refuse the grant of a certificate of lawfulness as Members were of the view that the change proposed would amount to a material change of use and that the nature of the proposed operation would result in additional comings and goings to the property, and a level of activity and disturbance over and above that which would be considered characteristic of a dwelling of this kind; thus, the change of use would be a material one.

Therefore, the matter would be deferred to the next appropriate meeting of the Planning & Development Committee for a report of the Director, Prosperity & Development, if necessary in consultation with the Director, Legal Services, highlighting the potential strengths and weaknesses of making a decision contrary to the recommendation of an officer or any proposed or possible planning reason for such a decision prior to determining a matter.

229 INFORMATION FOR MEMBERS, PERTAINING TO ACTION TAKEN UNDER DELEGATED POWERS

Members **RESOLVED** to receive the report of the Service Director, Planning in relation to Planning and Enforcement Appeal Decisions received, Delegated Decisions Approvals and Refusals with reasons, Overview of Enforcement Cases and Enforcement Delegated Decisions received for the period 12/02/2024 – 23/02/2024.

This meeting closed at 4.00 pm

**Councillor S Rees
Chair.**

PLANNING & DEVELOPMENT COMMITTEE

11 April 2024

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 22/0357/10 (MF)
APPLICANT: Tom Prichard (Holdings) Ltd
DEVELOPMENT: The proposed change of use of vacant land to the north of Earthmovers House for the creation of an area of hardstanding for vehicle parking and storage, including the diversion of Public Right of Way Llantrisant 223, and associated works (amended plans and documents received 29/06/22)
LOCATION: UNIT 16 EARTHMOVERS HOUSE, LLANTRISANT BUSINESS PARK, LLANTRISANT, PONT-Y-CLUN, PONTYCLUN, CF72 8LF (PHASE 2)
DATE REGISTERED: 29/06/2022
ELECTORAL DIVISION: Llantrisant and Talbot Green

RECOMMENDATION: Approve, subject to Section 106 and conditions.

REASONS: While greenfield in nature, the application site lies within settlement limits and the employment land bank for Llantrisant Business Park industrial estate. It also has a long history of planning permissions for employment use, benefiting from extant consent. The proposed works would improve facilities at an existing commercial site allowing the business to continue to operate within the County Borough, generating economic growth and a number of employment opportunities in the local area. The principle of development is therefore considered acceptable.

It is accepted the proposed use will inevitably result in a degree of impact to the amenity standards currently enjoyed by occupiers of the closest neighbouring properties, but, on balance, it is not considered any potential impact would be significant enough to warrant refusal of the application.

While the works would result in a considerable alteration to the current character and appearance of the greenfield site, the development would be suitably contained from the open countryside to the north/east and would form an appropriate rounding-off of the industrial estate in this location.

It is also considered the impact of the scheme upon biodiversity and land drainage can be properly mitigated, and an appropriate diversion for the existing public right of way that crosses the site can be accommodated.

It is therefore considered the application complies with the relevant policies set out in the Local Development Plan and national guidance, and is subsequently recommended for approval.

REASON APPLICATION REPORTED TO COMMITTEE

The proposal is not covered by determination powers delegated to the Director of Prosperity and Development.

APPLICATION DETAILS

Full planning permission is sought for the change of use of this open field to a hardstand area. The resulting development would be used for the parking/storage of vehicles/plant associated with the Applicant's existing business at the adjacent Earthmovers House depot (south). Essentially, the application seeks an extension of the existing depot site into the area of undeveloped land immediately to the north-east, but only for vehicle parking / plant storage and not for any of the other operations permitted at the existing depot site.

Members will note that this proposed yard extension originally formed an element of a recent planning application granted by Committee at the existing depot (20/0932/10, granted 21/03/22). However, the applicant removed this element of the scheme from the earlier application due to issues of potential noise/disturbance to the nearest residents to the east/north-east. Following the granting of the earlier '*Phase 1*' application and the discharge of conditions attached to it, which included subsequent further noise monitoring, the applicant has now undertaken further relevant noise survey work associated with this extension site and has submitted this '*Phase 2*' application.

The proposed works would involve the levelling (cutting) and hard-surfacing of the land, and the setting out of 29 no. HGV parking spaces along with associated access/turning areas (resulting in 68 no. HGV spaces in total across the existing depot and proposed extension sites). Landscaping would be introduced to the northern and eastern boundaries of the extension area and a Sustainable Drainage System (SuDS) feature along the western boundary, which would also include landscaping. A fence with access gates would be sited roughly centrally across the site, in effect splitting it in half to provide an enclosed, secure area to the rear (north).

The above works would require the removal of an earth bund at the north-eastern corner of the existing depot yard that was conditioned to remain as part of the earlier Phase 1 planning permission at that site (Condition 18 of planning permission 20/0932/10). The bund would have to be removed to allow for the proposed

access/turning/parking facilities to be implemented on this Phase 2 site and has subsequently been included within the current application site boundary (within the red line). If approved, this application would effectively see Condition 18 of the earlier planning permission become redundant. It is noted however that any proposal to remove that condition from the earlier consent would be subject of a separate planning application.

The bund and associated landscaping above were conditioned to remain in perpetuity to protect the amenities of residents to the east/north-east by way of a visual and sound barrier. However, the Applicant details that all relevant noise assessments submitted with this current application have been undertaken on the basis that the bund has been removed and a 5m high acoustic fence has been erected along the eastern boundary of the site, between the site and the nearest residential properties beyond; and that the assessments include the cumulative impact from both the existing depot site and proposed extension area. The acoustic fence was also required by the earlier Phase 1 consent and has recently been completed. Further noise monitoring was required following completion of the fence via Condition 15 of that permission. The noise levels were considered acceptable and the condition discharged (22/1311/38, granted 14/12/23). The fence is included within the blue line (adjacent land under the ownership of the Applicant) of this application because while it already has planning permission, this this proposed scheme relies upon it (for noise mitigation).

Members are advised that the inclusion of the bund within the application site boundary is one of two reasons amended plans were received on 29/06/22. It was originally outside of the application site boundary.

No details in respect of the proposed hours of operation have been submitted. It is noted however that the recent planning permission at the existing depot site restricted operational activities (re-fuelling/watering of, the un-loading and re-loading of, the washing of, and the repair of vehicles and plant equipment stored at the site, etc.) to 08:00am to 19:00pm on any given day; and outside of that time the use of the site shall solely be restricted to the parking and movement (to and from) of either staff vehicles or the vehicles being stored at the site. It is therefore on this basis the application has been considered.

In addition to the above, it is proposed Public Right of Way (PRoW) Llantrisant 223, which currently crosses through the centre of the site, would be diverted along the northern/eastern boundaries. This proposal is subject to a separate, concurrent Public Path Diversion Order to the Council's Countryside section.

Members are advised that the proposed diversion of the PRoW is the second reason amended plans were received on 29/06/22. The proposed altered route of PRoW has been included within the application site boundary.

The Applicant has detailed that the additional parking/storage facilities would alleviate current on-site congestion issues without the need to relocate to a larger site elsewhere; and secondly, that the proposed extension of the yard will reduce the pressure on existing infrastructure, enabling the business to operate in a more efficient manner going forward.

The Applicant has also advised that 60 no. HGVs, as well as other various plant equipment, are already stored at the existing site at any one time. But that it is not envisaged there would be a significant increase in the number of vehicles/equipment stored at the resulting site following development, with only 68 no. HGV spaces proposed in total. The extension would simply allow for the entire site to be laid out in a more formal/efficient manner, and any increase in vehicle/plant numbers would be contained by the constraints of the site.

Finally, the Applicant has also detailed that it is not envisaged the works would result in a significant increase in the number of staff working at the site going forward, but that the extension of the depot would allow for growth in future, providing further jobs within the County Borough for RCT residents.

As well as all relevant plans, the application is also supported by:

- Planning Statement
- Noise Impact Assessment
- Site Investigations Report
- Drainage Strategy Report (amended survey received 29/06/22)
- Preliminary Ecological Appraisal (amended survey received 29/06/22)
- Transport Statement (amended survey received 29/06/22)

SITE APPRAISAL

The application site is a roughly rectangular shaped parcel of land located at the north-eastern extent of Llantrisant Business Park industrial estate. It amounts to approximately 0.64ha and forms an area of undeveloped land immediately to the rear (north-east) of the Applicant's existing vehicle/plant depot. The existing depot provides construction / waste recycling vehicles/plant and associated support across England and Wales.

The site forms an element of a broader development plot that has outline planning permission for the extension of the wider industrial estate. The wider development plot has been split in to two separate parcels, the section subject of this application (easternmost element); and a further plot immediately to the west which recently gained full planning permission for 8 industrial units (19/0840/10). Both plots are under the ownership of the applicant and groundworks at the adjacent site are currently underway.

The application site was historically used for grazing, but the applicant has recently cleared and partially levelled the area in preparation for development. The land gently rises from front to back (south-west to north-east) but the very northern extent falls steeply away to the Nant Castellau below. The Stream and its banks form part of the Nant Muchudd Site of Importance for Nature Conservation (SINC) and are located within a C2 flood zone. Open countryside is located beyond the Stream (north).

Primary access to the site was historically gained via a dirt track at the south-western corner of the wider development parcel and a field access at the north-eastern corner. However, as the adjoining development plot is now under construction access from this area has been removed. A further access has instead been created from within the Applicant's existing depot yard, at north-eastern corner of that site through the earth bund that is proposed to be removed as part of this scheme.

The northern and eastern boundaries of the site are defined by mature trees and well-established hedgerows, although it is noted the Applicant has recently erected a 5m high timber acoustic fence along the eastern boundary in accordance with a condition of the earlier Phase 1 planning permission at the existing depot site. The western boundary of the site is open and defined by a post and wire fence. PRow Llantrisant 223 crosses through the centre of the plot (to be diverted).

Whilst open countryside is located to the north and east of the site, it is noted that several scattered residential dwellings are located in this area, the nearest being Tal-y-Fedw Farm and Ty Carreg Glas approximately 50m to the north-east, and Bryn-y-Fedw approximately 130m to the east.

Land to the south and south-west of the application site forms part of the wider Llantrisant Business Park industrial estate. The estate is comprised of numerous industrial units of varying design and scale and has been the subject of significant commercial development over the past few decades.

PLANNING HISTORY

The site is subject to a substantial planning history, some of which is associated with the nearby Tal-y-Fedw Farm to which the plot formally belonged. As such, only the previous planning applications that are considered relevant to this development are detailed below. For clarity, the site's planning history is also separated into the current application site (the undeveloped field to the rear of the existing depot) and the existing Earthmovers House site to which this development would be associated:

Application site (undeveloped field)

19/0012/10 (current application site only) – Change of use to allow the extension of the existing plant and vehicle depot on to adjoining farmland, remodelling of the land to create a flat plateau, landscaping works and diversion of Public Right of Way (Llantrisant 223).

Decision: Withdrawn by applicant, 02/03/21

17/0582/15 (wider development plot to rear of existing depot – includes both the current application site and the adjoining plot to the west subject of the recent planning permission for the extension of the industrial estate – 8 new units) – Variation of Condition 1(c) of application 14/0284/15 for the approval of reserved matters shall be made before the expiration of six years from 11 June 2014 and removal of Conditions 25 (Code for Sustainable Homes), 26 (BREEAM) and 27 (BREEAM) as they no longer accord with Welsh Government policy as to sustainable building.

Decision: Granted, 20/09/17

14/0284/15 (wider development plot) – Variation of Condition 1 of planning application no. 10/1285/15 to extend by three years the period within which reserved matters applications may be submitted.

Decision: Granted, 31/01/11

10/1285/15 (wider development plot) – Application to vary condition 1(c) imposed on planning permission no. 07/0364/13.

Decision: Granted, 31/01/11

07/0364/13 (wider development plot) – Employment development (outline) including all associated building, engineering operations and landscaping.

Decision: Granted, 22/04/08

Earthmovers House

23/1119/10 – Part retention, part proposed construction of a retaining wall, additional yard space, repositioning of fuel tanks, drainage, landscaping and associated works.

Decision: Granted, 16/01/24

22/1311/38 – Discharge of condition 15 (noise impact assessment) of 20/0932/10.

Decision: Granted, 14/12/23

22/1127/38 – Partial discharge of condition 6 (site investigations) of 20/0932/10 insofar that it relates to the ground gas monitoring element of the condition only.

Decision: Granted, 23/06/23

22/0804/39 – Non-material amendment to 20/0932/10 – revise the description of development by removing reference to amended plans/documents.

Decision: Granted, 01/08/22

22/0538/38 – Discharge of condition 3 (biodiversity mitigation/enhancement measures) of 20/0932/10.

Decision: Granted, 26/07/22

22/0435/38 – Discharge of condition 14 (acoustic fence colour) of 20/0932/10

Decision: Granted, 20/04/22

22/0430/38 – Discharge of condition 9 (highway tie-ins and yard surfacing) of 20/0932/10.

Decision: Granted, 17/05/22

20/0932/10 – The proposed retention and extension of the existing workshop building, retrospective extension of the existing office building, relocate covered vehicle washdown area, fuel pumps and water tanks, an extension of the existing staff/customer car park, a new gatehouse, erection of acoustic fence and associated works.

Decision: Granted, 21/03/22

18/1156/15 – Variation of Conditions 2, 7 and 8 of 14/0979/10.

Decision: Withdrawn by applicant, 02/03/21

18/0006/10 – Proposed additional bays to previously approved vehicle repair and maintenance workshop.

Decision: Granted, 28/02/18

18/0004/15 – Variation of Condition 2 (approved plans and documents) of previously approved planning application 16/1251/10 to vary the position and details of the proposed workshop and fuelling station.

Decision: Granted, 28/02/18

17/1241/10 – Retention and modification of existing gates and provision of additional fencing.

Decision: Granted, 11/01/18

16/1251/10 – Construction of new vehicle repair and maintenance workshop, fuelling station and associated concrete slab areas.

Decision: Granted, 22/11/17

16/1226/10 – Retention of offices, associated car park, new vehicular access and boundary fencing. Construction of new gatehouse.

Decision: Granted, 22/11/17

16/1222/38 – Discharge of Conditions 3 (drainage arrangements), 4 (details of hardcore materials and tie in details), 5 (wheel washing), 6 (hedgerow and wildlife protection plan) and 7 (scheme of landscaping) of 14/0979/10.

Decision: Withdrawn by applicant, 25/10/17

16/1220/15 – Removal / variation of conditions of planning permission 14/0979/10.

Decision: Granted, 09/11/17

14/0979/15 – Change of use of undeveloped land to a depot for the parking and storage of vehicles and construction plant. Works include erection of security fencing and security cameras.

Decision: Granted, 07/01/15

PUBLICITY

The statutory consultation process involved 28 properties being individually notified of the proposal by letter, 5 notices being placed on and within the vicinity of the application site, and a notice being placed in the local press (Western Mail).

One letter of objection has been received from a nearby resident, and a letter on behalf of the same resident and a further neighbour has been received from a planning consultant on their behalf. The points raised are summarised below:

Nosie/disturbance

- The existing depot site results in severe noise disturbance to the nearest residential properties, both internally and within garden spaces. These impacts will be increased by the removal of the earth bund at the rear of that site and the extension of that site into the adjacent field beyond, which will increase the intensity of operations at the depot.
- The earth bund at the rear of the existing depot site was conditioned to remain in perpetuity as part of the Phase 1 planning permission to act as a noise buffer between the site and the nearest residential properties to the east / north-east. There has been no change in circumstance at the site since the granting of that permission and therefore the bund should remain. Its removal will only exacerbate existing issues of noise and disturbance.
- An earlier noise survey undertaken by the Objector's consultant during the Phase 1 planning application advised that an 8m high acoustic fence would be required to mitigate any potential unacceptable noise impact; and even then, a degree off impact would still occur. With only a 5m high barrier erected any increase in activity at this site will have a further detrimental impact to the nearest residents. The applicant has not demonstrated that the 5m high fence is appropriate and consequently determination of this application should be delayed until such a time that it has been. The development of a 10m high earth bund along the eastern boundary of the site should be considered instead.
- If approved, operational activities should be restricted to the same times as that at the existing depot during weekdays, 8am to 7pm, and to Saturday mornings only with no operations on Sundays or Bank Holidays. It would also seem reasonable that the extension area is enclosed and locked outside of these times to ensure the use is properly restricted.

- If approved, appropriate restrictive conditions should be attached in respect of the proposed use/operations at the site.
- Concerns with the methodology and results of the noise surveys/report.
- The historic outline planning permissions at the site set out a number of restrictive noise level conditions including no external storage and all plant and machinery shall be enclosed within appropriate soundproofed housing. We would expect these conditions to be reimposed on any permissions at this site going forward to protect the amenities of the closest residents.
- The Planning and Development Committee cannot make decisions in contravention of the Human Rights Act 1998. Protocol 1, Article 1 of the Act states that people are entitled to the peaceful enjoyment of their property. The current noise conditions and levels included in the conditions for the existing depot site are already being exceeded. If any extension occurs, based upon current knowledge/experience, there will likely be further breaches.
- The Applicant does not comply with the hours of operation restrictions on the existing depot site. It is therefore unlikely that any restrictions on this extension site will be complied with either, resulting in further noise and disturbance to the closest residents. The acoustic fence only adds to this by providing a shield for the Applicant to hide behind and undertake unauthorised operations.

Other Issues

- The historic outline planning permissions at the site set out a number of landscaping proposals along the eastern boundary, adjacent to the nearest residential properties. We would expect these conditions to be reimposed on any permissions at this site going forward to mask the visual impact of the site.
- No details of external lighting have been provided with the application. Since development has begun at this site the removal of landscaping that masked neighbouring units on the wider industrial estate has introduced unnecessary glare at the nearest residential properties. In addition, the regular use of portable lighting within the site adds to the unsightliness of the environment at night. Concerns that any external lighting at the site will exacerbate this issue and consequently none should be installed, or least properly controlled if approved.
- The Council appear to be incapable of taking enforcement action at this site and others owned/operated by the Applicant. There is no faith that appropriate enforcement action will be taken at this site if the application is approved and the inevitable breaches occur.

- The Definitive Map details that the current route of PRow Llantrisant 223 passes through our garden, although that route has not been used during our occupancy of the property or for many years before we lived here. If a diversion to the Footpath is to occur as part of this application, it would be prudent to update the Map to reflect the route that is actively used.

CONSULTATION

Public Health and Protection – No objection subject to conditions. The supporting information demonstrates that, providing the acoustic barrier remains in place, any noise and disturbance from the site would not result in an impact significant enough to warrant an objection. Conditions are however suggested to ensure the noise barrier is retained; to restrict the hours of operation; to restrict vehicle movements and the use of the site to that set out in the noise modelling assessments; regarding noise monitoring and future complaints; and a condition requiring a fence be erected around the site clearly separating it from the existing depot. Further conditions are also suggested in respect of dust suppression and hours of operation during construction, and lighting both during construction and future operation.

Countryside, Landscape and Ecology – No objection subject to conditions and Section 106 agreement (S106) for long-term habitat management / water quality monitoring. As the undeveloped plot has already been cleared it does not have any significant ecological value. However, the adjacent Nant Castellau and its banks form part of the Nant Muchudd SINC and there is potential for contamination given the site's surface water would discharge into the stream. As such, long-term compensatory management/monitoring of that area would be required through a S106. The ecology mitigation/enhancement measures set out in the Preliminary Ecological Appraisal and Drainage Strategy reports should also be conditioned to ensure they are implemented and retained.

Natural Resources Wales – No objection subject to conditions and informative notes. While there is some concern with the proposed development, the supporting information demonstrates that there would be no detrimental impact to the adjacent Nant Muchudd SINC or any European protected species, subject to the mitigation measures set out in the Preliminary Ecological Appraisal being implemented. Further, there is no objection to the site's surface water discharging into the adjacent stream, providing it is first treated in compliance with the statutory SuDS guidance, as indicated in the Drainage Strategy Report.

While an area of the application site is located within a C2 flood zone, as no development works are proposed in this small area of the site and the development proposed is classed as 'less vulnerable development' within the TAN, no objections are raised in this respect.

Flood Risk Management – No objection, standard advice and informative notes offered. A detailed surface water drainage strategy has been provided that is generally

acceptable in most respects. It is considered that any potential issues could be overcome during the necessary, separate SuDS application that would have to be submitted to and approved by the Council as SuDS Approving Body (SAB) prior to any development works commencing on site.

Dwr Cymru Welsh Water – No objection subject to condition. Foul flows would be disposed of via the existing public sewerage system and surface water via a SuDS which are acceptable. A condition is however requested to restrict surface water from entering the public sewerage system. Several standard informative notes are also offered.

Highways and Transportation – No objection or conditions suggested. Post development the site would provide for safe and adequate off-street parking provision, internal circulation and site access/egress arrangements.

The Coal Authority – No objection, standard advice offered. Whilst a coal seam of workable thickness infers to outcrop across the northern part of the site, as the proposal would not require any significant ground works the risk of subsidence in the area of development is considered to be low.

Public Rights of Way Officer – No objection, standard advice offered. An appropriate alternative route for PRoW Llantrisant 223 has already been agreed with the Applicant which will enable the development to be satisfactorily accommodated and the PRoW to remain.

Health and Safety Executive – No objection. The operation of the nearby major hazard site, The Royal Mint, would not impact upon the proposed development, and vice-versa.

Llantrisant Community Council – No comments received.

POLICY CONTEXT

Members will be aware that the current LDP's lifespan was 2011 to 2021, that it has been reviewed and a replacement is in the process of being produced. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 04 January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 04 January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24 September 2020.

The existing LDP therefore remains the development plan for consideration when determining this planning application.

Rhondda Cynon Taf Local Development Plan

The application site is located within the settlement boundary for Llantrisant and also the Llantrisant Business Park employment land bank.

Policy CS2 – sets out criteria for development in the Southern Strategy Area.

Policy AW2 – supports development in sustainable locations which includes sites that are within the defined settlement boundaries, are accessible by a range of sustainable transport modes, have good access to key services and facilities, and would not unacceptably conflict with surrounding uses.

Policy AW4 – details the criteria for planning obligations including Section 106 agreements and the Community Infrastructure Levy.

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 placemaking, including landscaping.

Policy AW7 – identifies that proposals which affect PRoWs will only be permitted where it can be demonstrated the proposal would preserve or enhance the public facilities.

Policy AW8 – sets out the criteria for the protection and enhancement of the natural environment.

Policy AW10 – does not permit proposals where they would cause or result in a risk of unacceptable harm to health and/or local amenity.

Policy SSA3 – sets out criteria for residential and commercial development within the Principle Town of Llantrisant / Talbot Green.

Supplementary Planning Guidance

- Design and Placemaking
- Nature Conservation
- Planning Obligations
- Access, Circulation and Parking Requirements

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 12) (PPW) was issued on 07 February 2024. It incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out the Welsh Government's (WG) current policy position on planning issues relevant to the determination of all planning applications. Future Wales: The National Plan 2040 (FW2040) sets out the National Development Framework for Wales (NDF), WGs current position on planning policy at regional and

national level, although it should form the basis of all decisions. The thrust and general context of each of the policy documents are aimed at sustainable development.

It is considered 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 and Regeneration – Strategic Placemaking
- Policy 33 – National Growth Areas – Cardiff, Newport and the Valleys

Other relevant national planning policy guidance consulted:

- PPW Technical Advice Note 5: Nature Conservation and Planning
- PPW Technical Advice Note 11: Noise
- PPW Technical Advice Note 12: Design
- PPW Technical Advice Note 15: Development and Flood Risk
- PPW Technical Advice Note 23: Economic Development

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.

Principle of the Proposed Development

The application seeks full planning permission for the extension of an existing vehicle/plant depot into an area of undeveloped land directly to the rear for use as vehicle/plant storage in association with the existing business.

The application site forms a vacant parcel of land that is located entirely within the settlement boundary of Llantrisant and the established employment land bank for Llantrisant Business Park, constituting possibly the last available site to be developed for employment purposes within the industrial estate. In view of its relationship with other existing similar developments in the immediate locality, the proposal is unlikely

to unacceptably conflict with surrounding uses to the west/south. It is accepted however that there would be a degree of impact to the closest residential properties to the east/north-east, but it is not considered any impact would be so significant as to warrant refusal of the application (as set out in detail below).

The site is subsequently considered acceptable in relation to the general sustainable development requirements of Policy AW2; the key principles and requirements for placemaking set out in PPW and FW2040; and is also considered consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles.

It is also considered that the site's development would support the objectives of core strategy Policy CS2 of the LDP, by providing opportunities for inward investment within a sustainable location inside the settlement boundary; and by bringing a vacant area of the industrial estate into beneficial use, in turn contributing to the vitality and viability of the local economy and jobs market.

Finally, while this plot has remained undeveloped through the years, it has been subject to several planning permissions for employment purposes since 2007, still benefiting from an extant consent (see planning history above). Consequently, the principle of developing the site for employment purposes is long established.

It is therefore considered the proposed development is acceptable, in principle, subject to compliance with the other relevant material considerations set out below.

Neighbour Amenity

The application site is bound by a variety of industrial/commercial uses to the south/south-west located within the established Llantrisant Business Park industrial estate. Therefore, while it is accepted the scheme would result in a considerable alteration to the character of what is currently a greenfield site, given that the proposed scheme would result in a use comparable to that at the existing, adjacent units, it is not considered the proposal would have any undue impact upon the amenities or operation of the neighbouring properties in those areas.

Furthermore, given the separation distance and change in levels between the application site and the nearest residential dwellings to the east/north-east, and the general nature of the works proposed, i.e. a vehicle/plant storage facility, it is not considered the development works would result in any physical detriment to those properties such as overbearing, overshadowing or loss of privacy. It is acknowledged however that there would inevitably be a degree of impact to the amenity standards currently enjoyed by the occupiers of those properties by way of noise/disturbance through operation of the site. This is the main concern of the objectors (as set out in detail above) and has been the subject of numerous complaints over the last few years from neighbouring residents in respect of the existing Phase 1 depot site, and also other sites in the area under the ownership of the Applicant.

The Applicant has acknowledged that impacts of noise and disturbance would occur and has subsequently undertaken a noise survey to identify any potential impacts and necessary mitigation measures. The survey has been undertaken on the basis that the acoustic barrier constructed as part of the Phase 1 planning permission would remain and the earth bund to the rear of the existing depot would be removed (the proposed final layout of the existing depot and this extension site). The survey is also on the basis that the hours of operation approved at the existing depot would be adhered to at this Phase 2 extension site.

Public Health and Protection (PHP) have considered the Noise Impact Assessment report and are content with its methodology and findings. It was commented that while there is some concern with regard noise and it is accepted that a degree of noise / general disturbance will inevitably occur to the closest residents, the report demonstrates, with the retention of the acoustic barrier, that any impact would not be so intrusive as to result in unacceptable levels at the closest residential properties. This is however providing the use of the site and vehicle movements do not vary from that set out in the report, and the hours of operation are restricted.

Subsequently, subject to appropriate mitigation and restrictions, PHP do not consider any potential impact would be over and above that which residents living adjacent to an industrial estate could expect, and any potential impact would not be significantly over and above the existing noise levels that the closest residents in this area are already exposed to. As such, any potential impacts in these respects would not be significant enough to warrant a PHP objection to the application.

PHP did however suggest a number of conditions be attached to any consent to ensure the noise barrier is retained in perpetuity; relevant noise testing/monitoring is carried out from this site once developed; to restrict the hours of operation and use; and to restrict vehicle movements to that set out in the noise modelling assessment. A further condition was suggested requiring this Phase 2 area to be enclosed and separated from the main depot area to further restrict its use.

The conditions in respect of the use of the site and vehicle movements are considered reasonable and necessary to ensure the Applicant does not deviate from any consent and to allow effective enforcement action to be taken should this happen.

PHP suggest the hours of operation are restricted to 8am to 6pm Monday to Friday, 8am to 1pm on Saturdays, and not at all on Sundays or Bank Holidays. While this suggestion is noted, the existing Phase 1 area is permitted to operate between 8am and 7pm on any given day. Given the Phase 2 area is directly adjacent to the existing depot and the use would be restricted to 'only the parking of vehicles and storage of plant', it is considered unlikely the Phase 2 area would result in significantly more disturbance to the closest residents than the existing Phase 1 area. It would also be almost impossible to enforce two different sets of operational hours on what will essentially be one site; and it is considered the conditions restricting the use and vehicle movements at the Phase 2 area would be sufficient to ensure any potential

noise impact is at acceptable levels, ensuring that appropriate and effective enforcement action can be taken if any deviation is made.

Therefore, while the suggested hours of operation from PHP are acknowledged, it is considered that it would be unreasonable and impractical to apply different operational hours to this Phase 2 area from that at Phase 1, i.e. 8am to 7pm on any given day.

The alteration of the operational hours suggested in the condition has been discussed with PHP. PHP commented that they would still suggest any consent is restricted to the hours set out within their initial comments to ensure any potential impact to the nearest residents is minimised. However, they also noted that, on balance, replication of hours of operation already approved at the Phase 1 area at the Phase 2 site would not warrant an objection to the application, based on the results on the submitted acoustic surveys. The condition suggested below therefore matches that of the already approved Phase 1 site.

Members are advised however that this is an 'on balance' conclusion and it could just as easily be considered the initial hours suggested by PHP are reasonable given the history of unauthorised works at this site and the number of complaints received over the years. But it must be highlighted that it would be extremely difficult to prove any breach due to the combined use of both sites and to then take effective enforcement action.

While the acoustic barrier does not technically form part of this application and its construction, timeframes for construction and retention form an element of the earlier Phase 1 planning permission at the existing depot site, this application relies heavily upon it – without the acoustic fence noise levels at this site may not be acceptable in residential amenity terms. Therefore, should Members be minded to approve the application, with the fence included within the 'blue line' it would be considered both reasonable and necessary to include PHP's suggested condition for its retention as part of this development. It would also be considered appropriate to add the conditions suggested in respect of further noise surveys/monitoring from this site once developed to ensure the new yard extension does not exceed the relevant noise levels.

With regard the condition requesting the site be enclosed and separated from the existing main depot area to further restrict its use, it is considered the other conditions relating to hours of operation, use and vehicle movements would sufficiently restrict/control the use of the site and would provide adequate control for the LPA to take effective enforcement action if necessary. While both sites will effectively form one use, there is a clear distinction between the rear of the existing depot site and this extension area – the extension site is located behind the workshop building at the existing site which will allow any interested parties to differentiate between the two Phases. Further, any enclosure along the southern boundary of the site would restrict access and remove parking/storage areas which this application seeks consent for. This would effectively grant consent for a different development to that proposed. It is therefore considered this condition is unnecessary and unreasonable.

The above point has been discussed with PHP who commented that while they would still suggest the Phase 2 area is separated from Phase 1 by a clear enclosure to ensure any potential impact to the nearest residents is minimised, again, on balance and based on the results on the submitted acoustic surveys, the lack of any enclosure would not warrant an objection to the application. The suggested condition is therefore omitted from the list below.

A further point raised by PHP was that the proposed vehicle parking area could result in a degree of light pollution to the nearest properties. As such, a condition requiring full details of any external lighting be submitted to and approved by the LPA before it is installed is suggested. This condition is considered necessary to ensure the amenities of the closest residents are protected and so the Council has control over this matter going forward.

Finally, as well as the comments set out above, PHP also suggested conditions be attached to any consent in relation construction activities and dust suppression. Given the history of complaints at this site it would be considered prudent to attach the construction hours condition in this instance, but that dust suppression can be more efficiently controlled by other legislation available to the Council. An informative note in respect of dust during construction is considered sufficient.

Subsequently, whilst the concerns of the neighbours are fully acknowledged and have been taken into account by both the Planning and Public Health Officers during the lengthy consideration of this application, and it is accepted that a degree of impact would inevitably occur to the amenity standards currently enjoyed by existing surrounding residents; subject to appropriate mitigation and restrictive conditions, on balance, it is not considered any potential impact upon the amenities of neighbours would be so detrimental as to warrant refusal of the application.

Character and Appearance

The works would involve the levelling and hard-surfacing of the land, the introduction of landscaping to the eastern and northern boundaries, and a SuDS feature along the western boundary which would also include landscaping.

The site is currently an open greenfield parcel that previously formed an element of the adjacent Tal-y-Fedw Farm. Although it has recently been cleared for development and is bound by industrial uses to the south/west, a stream runs adjacent to the northern boundary which along with the eastern boundary, is defined by mature trees and hedgerows. The site therefore retains a semi-rural character and appearance.

Notwithstanding the above, the land has been allocated for an extension of the adjacent Llantrisant Business Park industrial estate for a number of years, benefiting from a continuous history of planning consents for employment use since 2007. It has

therefore been long-accepted as inevitable that there would be a significant change to its character and appearance in future.

The majority of the adjoining land to the south and south-west has already been developed for commercial purposes and is characterised by large, industrial buildings with associated parking/delivery areas and infrastructure. Additionally, the land immediately to the west of the site also forms part of the industrial estate's employment land bank and is currently under construction for 8 new industrial units. It is therefore considered the proposed development, simply comprising the levelling of the ground and laying out of a vehicle/plant parking area as an extension of the existing depot yard, would not result in a change that would be out of context with its immediate surroundings. And furthermore, it is not considered the activities associated with the proposed use would be out of character in this context either.

Further to the above, the well-established tree and hedgerow screens along the northern and north-eastern boundaries of the site are to be retained and additional landscaping is proposed throughout these areas. The existing 5m high acoustic fence here, which must remain for the lifetime of the existing depot development, provides a further degree of screening in this area. Additionally, native grasses, trees, wildflowers and shrubs would be planted along the western boundary of the site to soften this area. It is therefore considered the proposed development will be self-contained and suitably screened from the open countryside to the north/north-east/north-west, and there would be a clear separation between the wider industrial estate and the land beyond. It is therefore considered the development works would not be overly prominent from these areas.

It is noted however that full details of the proposed landscaping scheme have not been submitted with the application. It is therefore considered a condition should be added to any consent requiring the details, including long-term future management, be submitted to and approved by the Local Planning Authority (LPA) prior to any works commencing on site to ensure an appropriate scheme is implemented. A condition to this effect is set out below.

Finally, the development works would require removal of an earth bund at the north-eastern corner of the existing depot yard that was conditioned to remain as part of the earlier Phase 1 planning permission to protect the visual amenities of residents to the north/north-east. This is a key area of concern for the objectors. While its removal would result in the existing depot site and wider industrial estate being more visible from the nearest properties to the north/north-east, given the scale of the wider industrial estate and the elevated nature of the closest residential properties, considerably above that of the neighbouring industrial area, in reality the bund only restricts views from these properties to rear of the existing depot site and the remainder of the industrial estate is still in clear view from these properties. Consequently, while it is accepted the outlook from the closest properties to the north/north-east would be altered following removal of the bund, it is not considered

any change in outlook would be detrimental, or significant enough to warrant refusal of the application.

In light of the above, whilst it is accepted the proposed development would inevitably result in a considerable alteration to the current character and appearance of the site and would alter the outlook from the closest residential properties, the site's use for employment purposes has long been established and the development works would be appropriately contained from the surrounding countryside. It is therefore considered the development would appear as an appropriate rounding-off of the wider industrial estate in this location and the scheme is generally considered acceptable in respect of its potential visual impact.

Ecology

The submitted Preliminary Ecological Appraisal report found evidence of otters adjacent to the northern boundary of the application site along the Nant Castellau. The report also details that the Nant Castellau wooded river corridor is a likely corridor for commuting and foraging bats and contains several trees that have been identified as having bat roost potential.

Following assessment of the scheme and the ecology surveys the Council's Ecologist commented that as the undeveloped plot has already been cleared, it has very little ecological value. However, there is potential for the proposed development to impact upon the Nant Castellau and its riverbank directly to the north of the site, both of which form part of the Nant Muchudd SINC. The Nant Castellau feeds into the Nant Muchudd nearby which is an important salmonid river with otter usage and good water quality. As such, it is vulnerable to pollution from this site. While the Drainage Strategy Report submitted references various pollution control measures, there is some concern with the proposal to discharge surface water into the stream and the adequacy of the proposed mitigation measures.

Natural Resources Wales (NRW) commented that they also have some concerns with the proposal, but that the information submitted is generally sufficient to demonstrate the proposed development would not result in a detrimental impact to protected species. This is however subject to the mitigation and enhancement measures set out in the ecology report being implemented on site and an appropriate external lighting scheme being installed. Conditions to these effects are suggested.

NRW also commented that they have no objection to the site's surface water discharging into the stream, providing it is first treated in compliance with the statutory SuDS guidance, as indicated in the Drainage Strategy Report that supports the application.

The Council's Ecologist commented that he generally agrees with NRW's observations but considers that further conditions should be added to any permission, the first

requiring submission of a Habitat and Species Mitigation Plan; and the second requiring full landscaping details.

The Ecologist also considers that given the sensitive nature of the stream and surrounding SINC, conditions alone would not be sufficient to control the long-term habitat management of the area, or the surface water discharge to and long-term water quality monitoring of the outfall to the stream; and that both would require the level of control only provided through a S106.

Given the history of unauthorised works at the site and the sensitive nature of the adjacent SINC, it is considered the above conditions and S106 are necessary in this instance. The Applicant has confirmed that he is willing to enter a S106 with the Council for the above.

Therefore, subject to the imposition of suitable conditions and a S106 to secure the implementation and long-term maintenance of the ecological mitigation measures put forward as part of the application, it is considered the proposal is acceptable in ecology/biodiversity terms.

Land Drainage and Flood Risk

The application is accompanied by a Drainage Strategy Report that identifies the Applicant's proposed intentions for the site's surface and foul water drainage arrangements, which would consist of a SuDS surface water management strategy and use of the existing sewerage network respectively.

No objections have been raised by the Flood Risk Management team following assessment of the proposed drainage scheme. They commented that the Applicant has provided a detailed surface water drainage strategy that is generally acceptable in most respects, and that any potential issues could be overcome during the necessary, separate SuDS application that would have to be submitted to and approved by the Council as SAB prior to any development works commencing on site. Further, when reviewing the application in relation to the relevant guidance set out in TAN 15: Development and Flood Risk, the applicant has demonstrated that the development does not propose to increase the risk of surface water flooding. Subsequently, no objections are raised or conditions suggested.

It is noted that the very northern element of the application site (the bank of the Nant Castellau) is located within a C2 flood zone. However, no development works are proposed in this small area of the site and in any case the development proposed is classed as 'less vulnerable development' within the TAN, i.e. development that can be considered acceptable in such locations providing suitable mitigation is proposed. Following consultation NRW confirmed that as no development would take place within the element of the site that is located inside of the flood outlines and the limited extent of the C2 Zone into the application site, they have no objection to the scheme.

They do however suggest an informative note be added to any consent advising the developer of the potential risks.

It is also noted that no objections were received from Dwr Cymru Welsh Water in respect of foul water drainage, subject to standard conditions and advice.

Highway Safety

No objections have been raised or conditions suggested by the Council's Highways and Transportation section following consideration of the scheme. In their assessment it was commented that the application site would be served via the existing means of access from Llantrisant Business Park which is acceptable in terms of geometry and vision, and that the plans indicate expected vehicles at the site would be able to access/egress safely in forward gear. Furthermore, the proposed works would not result in a significant intensification of use of the existing depot and would provide additional off-street parking for the existing use, which is acceptable.

In light of the above, it is not considered the proposed development would have any undue impact upon pedestrian or highway safety in the vicinity of the site.

Historic Mining Activities

The application site lies within a defined Development High Risk Area and consequently there is a potential for historic mining activities to have an impact upon any future development at the site. In light of this issue a Site Investigations report has been submitted in support of the application and consultation with the Coal Authority (CA) undertaken.

The CA commented that a coal seam of workable thickness infers to outcrop across the northern part of the site that it may have historically been worked at shallow depths beneath the site. However, as the proposal would not require any significant ground works, the risk of ground subsidence in the area of development is considered to be low, and it is therefore considered the application site is safe and stable for development. Consequently, no objection is raised or conditions suggested.

Public Right of Way

PRoW Llantrisant 223 currently runs through the centre of the site and would have to be diverted to allow the development to progress. The PRoW is subject to a separate Public Path Diversion Order in association with the current development being undertaken at the adjacent site (west). The Council's PRoW Officer has commented that an appropriate alternative route for the PRoW along the northern/eastern boundaries of the site has been identified which will enable the PRoW to remain and as such, there does not appear to be any reason why an alternative route could not be agreed.

Neighbour Consultation Responses

Where the issues raised by the objectors are not addressed above, the following additional comments are offered:

- *Removal of earth bund at rear of existing depot site that was conditioned to remain in place as a noise and visual barrier as part of the earlier, Phase 1 planning permission.*

As set out in detail above, it is not considered removal of the bund would have a significant impact upon the outlook from the nearest residential properties to the east / north-east. Further, while it was considered necessary during the earlier, Phase 1 application to reduce any potential noise impact, appropriate information has been provided with this current application to demonstrate that it is no longer required, mainly due to the erection of the acoustic fence. The supporting information has been assessed by PHP who consider it acceptable, and there is subsequently no justification to require the bund be retained.

- *Noise survey undertaken by the objector's consultant during the Phase 1 planning application advised that an 8m high acoustic fence would be required to mitigate any potential unacceptable noise impact. Only a 5m high barrier has been erected and the Applicant has not demonstrated that it is appropriate. The determination of this application should consequently be delayed until such a time that the noise barrier has been proved to be acceptable. The development of a 10m high earth bund along the eastern boundary of the site should be considered instead.*

The content of both the Applicant's and the objector's consultant's noise surveys were assessed by PHP during the earlier, Phase 1 application. PHP considered that a 5m high acoustic fence was acceptable and subsequent testing has been undertaken since its erection as required by conditions of that consent, which found the noise levels to be acceptable.

While the Objector may feel that a 10m high earth bund along their boundary would be a more appropriate option, the LPA can only consider what is submitted as part of any application. In this case that is reliance on the existing 5m high acoustic fence, which is considered acceptable.

- *The historic outline planning permissions at the site set out a number of restrictive conditions in respect to noise and landscaping. These should be reimposed.*

While it is noted the historic outline permissions at the site included several restrictive conditions relating to various issues associated with those proposed developments, this current application is submitted in full and is therefore independent of the earlier outline consents. This application must therefore be considered on its own individual

merits and the conditions set out below are considered sufficient in respect the development now proposed.

- *The Planning and Development Committee cannot make decisions in contravention of the Human Rights Act 1998. Protocol 1, Article 1 of the Act states that people are entitled to the peaceful enjoyment of their property.*

As set out in detail further above, it is not considered any potential noise impact would be significant enough to warrant refusal of the application. As such, it is not considered any breach of the Act would occur.

- *Concerns that appropriate enforcement action has not been undertaken to date and that the Applicant will continue to breach conditions going forward.*

It is acknowledged that many complaints have been received at this site over the years and that several breaches / various unauthorised developments have occurred. However, while the objectors may not agree, Members can be assured that all complaints have been properly investigated. It has not yet however been considered expedient to take any formal enforcement action due to ongoing, mainly retrospective, planning applications at the site. However, going forward, should this application be approved, it will set clear restrictions for the Applicant and will allow the Council to be able to take effective enforcement action if necessary.

- *The Definitive Map details that the current route of the PRow passes through our garden, although that route has not been used during our occupancy of the property or for many years before we lived here. If a diversion to the Footpath is to occur as part of this application, it would be prudent to update the Map to reflect the route that is actively used.*

This section of the PRow is outside of the application site and therefore cannot be considered as part of this planning application. Any proposal to formally divert this section of the PRow would be a private matter for the landowner to take up with the Council's Countryside section.

National Sustainable Placemaking Outcomes

Chapter 2 of PPW emphasises that development proposals should demonstrate sustainable placemaking to ensure that the right development is achieved in the right place, and states that development proposals should be assessed against the national sustainable placemaking outcomes to ensure this is the case.

PPW 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 detail and context of the proposal and the application site, and in the planning balance, that greater material weight may be given to some attributes rather than others.

Therefore, in addition to consideration of the placemaking merits of the scheme within the sections of the report further above, a brief outline of how the proposed development is considered to align particularly well with the national sustainable placemaking outcomes is set out below:

- **Creating and Sustaining Communities:** The development would allow an existing business to expand and continue to operate within the County Borough, generating economic growth and a number of employment opportunities in the local area into the future.
- **Growing Our Economy in a Sustainable Manner:** The development would have a small but positive effect in terms of construction jobs and employment at the site.
- **Making Best Use of Resources:** The development accords with the aim to prioritise the use of sustainable building practices/materials.
- **Maximising Environmental Protection and Limiting Environmental Impact:** The development would include suitable landscape planting and biodiversity enhancement measures.
- **Facilitating Accessible and Healthy Environments:** The application site is in a sustainable location within a long-established industrial estate where such uses are best placed.

In respect of the other national outcomes listed, the development would be considered to have a neutral impact.

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 Regulations 2010, with effect from 06 April 2010, states that a planning obligation, under S106, 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.
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. PPW advises that contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits which will make development more sustainable. Further guidance regarding what types of obligations developers may be expected to contribute towards is also contained within Policy AW4 of the LDP and the Council's SPG: Planning Obligations, however it is made clear that this is only intended to form the basis of negotiations between all parties.

In this case the developer would be required to enter a S106 Agreement with the Council for the following:

- Ecology/Landscape – the delivery of long-term habitat management of the SINC area under the ownership of the applicant; and a scheme of long-term outfall water quality monitoring to the Nant Castellau.

It is considered that these requirements meet all of the above tests and are compliant with the relevant legislation (as set out in detail within the Ecology section of the report above). Members are also advised that the applicant has agreed to these terms.

Community Infrastructure Levy 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 not CIL liable under the CIL Regulations 2010 (as amended).

Conclusion

Having taken account of all issues identified above, while it is accepted the proposed use will inevitably result in a degree of impact to the amenity standards currently enjoyed by occupiers of the closest residential properties, and the concerns of the objectors are fully acknowledged, on balance, it is not considered any potential impact would be significant enough to warrant refusal of the application.

Furthermore, while the works would result in a significant alteration to the current character and appearance of the greenfield site, the site would be suitably contained from the open countryside to the north/east and would form an appropriate rounding-off of the industrial estate in this location.

Finally, it is considered the impact of the scheme upon ecology and land drainage can be properly mitigated, and an appropriate diversion for the PRoW that crosses the site can be accommodated.

It is therefore considered the proposed development complies with the relevant local and national planning policies and is acceptable, subject to the S106 set out above and the conditions detailed below.

RECOMMENDATION: Approve, subject to S106 above and conditions below.

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 ref:

- PR 100 Rev. M – Site Location Plan
- PR 101 Rev. B – Existing Site Plan
- PR 110 Rev. DD – Proposed Site Plan
- 7206 / ASP3 / P2 Rev. A – Landscaping Strategy Plan - Phase 2

and documents received by the Local Planning Authority on 21/03/22, 24/03/22 and 29/06/22, 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. The development hereby approved shall be carried out in accordance with methods, recommendations and mitigation/enhancement measures set out in:

- Nosie Impact Assessment (Hunter Acoustics, March 2022)
- Site Investigations Report (Integral Geotechnique, May 2020)
- Drainage Strategy Report (Grays Consulting Engineers Ltd, May 2022)
- Preliminary Ecological Appraisal (Soltys Brewster Ecology, May 2022)
- Transport Statement (Corun, May 2022)

Unless otherwise agreed in writing by the Local Planning Authority or 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.

4. No development shall commence on site until a comprehensive scheme of landscaping, which includes only native species, has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding season following approval of the landscaping scheme. Any trees or plants which within a period of five years from planting 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 reduce the visual impact of the site, to protect the amenities of surrounding residents and to afford protection to local wildlife species, in accordance with Policies AW5, AW6 and AW8 of the Rhondda Cynon Taf Local Development Plan.

5. No development shall commence on site until a Habitat and Species Mitigation Plan, including full details of the proposed biodiversity mitigation/enhancement measures set out in the submitted Preliminary Ecological Appraisal (Soltys Brewster Ecology, May 2022), has been submitted to and approved in writing by the Local Planning Authority. The biodiversity mitigation/enhancement measures shall include, but not be limited to:

- i. Tree and hedgerow protection/management.
- ii. Bird nesting enhancement measures.
- iii. Design of site lighting to minimise light levels along retained habitat boundaries.
- iv. A long-term aftercare plan.

The approved mitigation/enhancement measures shall be implemented on site prior to beneficial use and shall be retained thereafter.

Reason: In the interests of ecology and to afford protection to local wildlife species in accordance with Policy AW8 of the Rhondda Cynon Taf Local Development Plan.

6. All surface water runoff intended to be disposed to ground or any watercourse must first be treated in compliance with the Sustainable Drainage Systems Statutory Guidance, as indicated in the Drainage Strategy Report (Grays Consulting Engineers Ltd, May 2022) submitted in support of the application. No direct infiltration of surface water drainage into the ground or any watercourse is permitted.

Reason: To prevent the development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of

water pollution, in accordance with Policies AW8 and AW10 of the Rhonda Cynon Taf Local Development Plan.

7. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

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

8. No external lighting shall be installed on site without the express permission of the Local Planning Authority. Prior to the installation of any external lighting on site, full details of the type, position and angle of glare of any artificial lighting (temporary or permanent) including measures for ensuring that light does not shine directly towards the nearest residential properties or the retained vegetation along the Nant Castellau, as well as details of future monitoring measures, shall first be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: To safeguard the levels of amenity enjoyed by neighbouring residential properties and to afford protection to local wildlife species, in accordance with Policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan.

9. 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 development shall cease and revised contamination proposals, carried out by a competent person, shall be submitted to and approved in writing by the Local Planning Authority prior to works recommencing. The development shall comply with the approved, revised scheme thereafter.

Reason: In the interests of health and safety and environmental amenity, in accordance with Policies AW8 and AW10 of the Rhondda Cynon Taf Local Development Plan.

10. The use of the site hereby approved shall be limited to the parking/storage of and movement (to and from) of vehicles/plant associated with the adjacent, existing Earthmover's House depot only. At no time shall the site be used for other operations associated with the existing depot such as re-fuelling/watering of, un-loading/re-loading of, washing/cleaning of, and repair/maintenance of vehicles/plant etc. The approved operational activities at the site shall be restricted to between 08:00 and 19:00 hours on any given day.

Reason: To safeguard the levels of amenity enjoyed by neighbouring residential properties, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

11. The Noise Impact Assessment (Ph2) (6131/NIA1_Rev1, 01 March 22, Hunter Acoustics Ltd) in Section 7.2 outlines the conditions under which the noise modelling was carried out in respect of activities happening per hour at the site. At no time shall vehicle movements and activities on the site exceed the specified number of movements and speeds set out in the report.

Reason: To safeguard the levels of amenity enjoyed by neighbouring residential properties, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

12. Within 2 months of the first beneficial use of the parking/storage area hereby approved, the developer shall submit to the Local Planning Authority for approval a noise assessment undertaken by an independent acoustic consultant to demonstrate compliance with the noise levels set out in the Noise Impact Assessment (Ph2) (6131/NIA1_Rev1, 01 March 2022, Hunter Acoustics Ltd), the methodology of which shall first be agreed in writing with the Local Planning Authority.

Should noise levels not be in compliance with the details set out in Noise Impact Assessment (Ph2) (6131/NIA1_Rev1, 01 March 2022, Hunter Acoustics Ltd), then further mitigation measures shall be submitted to the Local Planning Authority for approval within 1 month of the noise survey being undertaken.

Any additional mitigation required as a result of the above shall be installed on site within 1 month of the date of agreement by the Local Planning Authority and a further noise assessment, using the agreed methodology, shall be undertaken and submitted to the Local Planning Authority for approval.

Reason: To safeguard the levels of amenity enjoyed by neighbouring residential properties, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

13. The acoustic barrier, as approved by planning permission ref. 20/0932/10 and subsequent discharge of conditions applications ref. 22/0435/38 and 22/1311/38, shall remain in place and be maintained in good order in perpetuity. Should any part of the barrier become seriously damaged it shall be repaired in good time with like-for-like materials, unless the Local Planning Authority gives written consent to any variation.

Reason: To safeguard the levels of amenity enjoyed by neighbouring residential properties, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

14. Within 21 days from receipt of a written request of the Local Planning Authority, and following a validated complaint to the Local Planning Authority relating to noise emissions arising from the operation of any part of the application site, the site operator shall provide a written protocol for the assessment of the noise levels to the Local Planning Authority for approval. The written protocol shall be produced by an independent acoustic consultant.

Within 2 months of the protocol being approved by the Local Planning Authority the site operator shall provide to the Local Planning Authority the independent noise consultant's assessment, unless the Local Planning Authority gives written consent to any variation. The assessment shall include all data collected for the purposes of undertaking the compliance measurements and analysis and certificates of calibration of the equipment. Such data is to be provided in a format to be first agreed with the Local Planning Authority.

The assessment shall propose further noise mitigation measures should there not be compliance with the noise levels set out in Noise Impact Assessment (Ph2) (6131/NIA1_Rev1, 01 March 2022, Hunter Acoustics Ltd); and any additional mitigation required as a result of the above shall be installed on site within 1 month of the date of agreement by the Local Planning Authority and a further noise assessment, using the agreed methodology, shall be undertaken and submitted to the Local Planning Authority for approval.

Reason: To safeguard the levels of amenity enjoyed by neighbouring residential properties, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

15. Construction works on the development hereby approved shall not take place other than between the following times:

- Monday to Friday – 08:00 to 18:00 hours
- Saturdays – 08:00 to 13:00 hours
- Sundays and Bank Holidays – not at all

Reason: To safeguard the levels of amenity enjoyed by neighbouring residential properties, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

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PLANNING & DEVELOPMENT COMMITTEE

11 April 2024

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 23/1207/10 (JE)
APPLICANT: Aropa Care Group Ltd
DEVELOPMENT: Change of use from dwellinghouse (Class C3) to residential care home (Class C2) for up to 4 children and reinstatement of car parking
LOCATION: GWYNFRYN, BRYNBEDW ROAD, TYLORSTOWN, FERNDALE, CF43 3AE
DATE REGISTERED: 25/10/2023
ELECTORAL DIVISION: Tylorstown and Ynyshir

RECOMMENDATION: APPROVE

REASONS: The application site is in a predominantly residential area, within settlement boundary limits and in a sustainable location with good access to public transport and key services and facilities, which is considered acceptable. The site also relates to an existing residential property and, other than an element of care and the presence of a small number of staff, the proposed use would continue to be residential in nature.

Furthermore, the proposal would not impact upon the character and appearance of the application property or upon the amenity and privacy of surrounding properties, nor would it have any adverse impact upon highway safety in the vicinity of the site.

REASON APPLICATION REPORTED TO COMMITTEE

- A written request has been received from Councillor Robert Bevan for the application to be reported to Committee so that Members can consider the key impacts of the development.

APPLICATION DETAILS

Full planning permission is sought for the conversion of an existing residential dwelling (Use Class C3) to a residential Children's Home (Use Class C2).

The proposed change of use would be facilitated through internal conversion of the property. The proposed children's home would provide a living room, dining room, kitchen and staff welfare room at ground floor level along with a store and WC. To first

floor, the property would provide five bedrooms, a bathroom and office. The property benefits from outdoor amenity space to the front, rear and side with a driveway provided to the rear.

In addition to the internal changes proposed, the application also seeks to establish a formal parking area for 6no. spaces to the rear of the dwelling. Due to the sloping nature of this area this would require the construction of a new retaining wall that would raise ground levels by approximately 1.3 metres and would include a 1.1 metre high wall above for safety.

A Planning Statement has been submitted with the application, which notes the following:

The applicant operates several homes throughout South Wales and the proposed use would operate in a similar manner to other homes under their care. Up to four children, aged between 8 and 18 years, would live at the property. They would usually be long-term residents and typically, the reason for the children needing care is that they are not old enough to live independently or require additional support that cannot be provided within their current setting. The maximum number of care staff at any one time would be 4 persons. The care staff and manager would live elsewhere, and the dwelling is not their permanent residence.

The application is supported by:

- Planning Statement

SITE APPRAISAL

The application property relates to an existing two-storey detached property located within a modest plot in Tylorstown. The property is located on the corner of Brynbedw Road and Vivian Street. The property benefits from garden space to front (south) and side (east) elevations with an additional amenity area to the rear utilised for off street parking with an existing access onto Brynbedw Road. The property occupies an elevated valley side position with ground levels to the east decreasing away from the property.

The property is bound to the south by 64 Vivian Street, wooded hillside to the east, 51 Brynbedw Road to the north and the highway at Brynbedw Road/Vivian Street to the west.

The surrounding area is predominantly residential with a mix of terraced, detached and semi-detached properties visible from the application site.

PLANNING HISTORY

There are no recent planning applications on record associated with this site.

PUBLICITY

The application has been advertised by direct notification to neighbouring properties as well as notices displayed at the site.

1no. letter of objection has been received following consultation. Members are advised that the objection does not identify any specific concerns and just notes a general objection to the proposal for a children's home at the property.

CONSULTATION

Transportation Section: No objection, conditions recommended.

Public Health and Protection: No objection raised.

South Wales Police: Objection raised.

Welsh Water/Dwr Cymru: No objection, advice provided in respect of foul water drainage.

Community and Childcare Services: No objection raised.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Members will be aware that the current LDP's lifespan was 2011 to 2021, that it has been reviewed and a replacement is in the process of being produced. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 4th January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 4th January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24th September 2020. Subsequently, Members are advised that the existing Plan remains the development plan for consideration when determining this planning application.

The application site lies within the settlement boundary for Tylorstown but is not allocated for any specific purpose.

Policy CS1 – Sets out the criteria for development in the Northern Strategy Area.

Policy AW2 – Supports development in sustainable locations and includes sites that are accessible by a range of sustainable transport modes and would not unacceptably conflict with surrounding uses.

Policy AW5 – Sets out the criteria for new development in relation to amenity and accessibility.

Policy AW6 – Requires development to involve a high quality design and make a positive contribution to placemaking, including landscaping.

Policy AW8 – Sets out the criteria for the protection and enhancement of the natural environment.

Policy AW10 – Does not permit proposals where they could cause or result in a risk of unacceptable harm to health and/or amenity.

Policy NSA12 – Identifies the criteria for assessment of development proposals within and adjacent to settlement boundaries in the Northern Strategy Area.

Supplementary Planning Guidance

- Design and Placemaking
- Nature Conservation
- Planning Obligations
- Access Circulation and Parking

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 12) (PPW) sets out the Welsh Government's (WG) current position on planning policy. The document incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out the WG's policy on planning issues relevant to the determination of all planning applications. Future Wales: The National Plan 2040 (FW2040) sets out guidance for development at both regional and national level within Wales, with the thrust and general context also aimed at sustainable development.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is 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.

Given the minor scale of the proposed development and its relationship with only the immediate surrounding area, there are limitations to the extent such a scheme can have in promoting planning objectives at a national scale. As such, whilst the scheme

aligns with the overarching sustainable development aims of FW2040, it is not considered the policies set out in the document are specifically relevant to this application.

Other national policy guidance considered:

PPW Technical Advice Note 12 - Design

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

The application relates to the change of use of an existing residential dwelling (Use Class C3) to a residential care home for up to 4 children (Use Class C2).

The site is situated within the settlement boundary limits of Tylorstown, in a predominantly residential area of the village where it would not conflict with surrounding uses. Further, the site has good access to key services and facilities being within walking distance. As such, the site can therefore be considered a sustainable location.

The principle of providing a care home at this location is therefore considered acceptable, subject to other normal planning considerations which are discussed in the following sections.

Community and Children's Services:

Consultation was undertaken with the Council's Community and Childcare Services Department (CCS), who have raised no objection to the proposal, noting that the proposal is promising in its potential to increase capacity of such facilities.

In their consultation response it was also noted that best practice in terms of establishing new care homes strongly supports that a location assessment and engagement with CCS is carried out ahead of establishing a new children's home, which has not occurred in this instance. However, that all social care homes in Wales

must comply with the Regulations and Inspection of Social Care Act (Wales) (RISCA) to be able to be registered with Care Inspectorate Wales (CIW) and to provide residential care provision. As part of this process applicants would need to provide a location assessment, Statement of Purpose, and policies in relation to the provision of care and support, along with other relevant information; and that this process applies to all homes seeking registration in Wales.

Consequently, while early discussion with CCS has not occurred, any potential issues would be appropriately addressed under the registration process.

South Wales Police

In their consultation response South Wales Police raise an objection to the application as it is their view that any child placed at this premise could be put at risk of harm or exploitation due to the identified high incidence of certain crimes in the vicinity of the proposed care home.

Whilst the comments of South Wales Police are noted with regard the suitability of the location of the proposed care home due to high crime figures in the area, it is not considered that this would warrant refusal of the application alone given the existing use of the property as a residential dwelling that could be occupied as a family home.

Impact on the character and appearance of the area

External works would be limited to the creation of a new raised hardstanding that will allow for level access and egress from the highway to serve the new parking spaces. Given the limited scale and nature of these works they are not considered to result in any impact upon the character and appearance of the area.

In addition, the proposal would not result in any external alterations or enlargement of the dwelling on the site. The character and appearance of the property would therefore remain as existing.

Furthermore, the provision of a children's care home in a predominantly residential area would not be considered to alter or harm the general character of the area. As such, it is considered that the proposals are considered acceptable in this regard.

Impact on residential amenity and privacy

With regard to the works associated with the creation of the parking area and associated retaining wall, whilst these works are located towards the boundary with 51 Brynbedw Road, it is not considered that the scale of the works proposed would result in any adverse impact upon the amenity or privacy of the occupiers of that property.

Other than the element of care and the presence of staff, it is considered that the proposed care home, with a maximum number of 4 children, would be of a limited scale and would generally exhibit similar residential characteristics as that of the existing 4-bedroom residential dwelling. Consequently, it is not considered that the use would result in harmful levels of noise and disturbance. As such, any potential impact upon surrounding properties would be limited in this regard.

The application dwelling also relates to a detached property bound to the west by the adjacent highway and hillside to the east. As such, the property is set away from neighbouring residential properties, thus lessening any potential impact on neighbouring amenities. The provision of a care home for children in a sustainable and predominantly residential area is therefore considered acceptable and appropriate in terms of its impact on residential amenity.

The application site is also considered of a sufficient scale, with reasonable levels of outlook provided from the dwelling, and an area of outdoor amenity space provided to the front and side of the property. Consequently, it is considered that the development proposal would provide adequate space for future occupiers, both inside and out.

Highway Safety and Parking Provision

The Council's Transportation Section were notified during the consultation process in order to provide comments on the suitability of the proposal with regard to highway safety. The following response was received:

Location

The property is located on a road bend between Brynbedw Road and Vivian Street. Fronting the property is a continuous footway link however there is no footway on the opposite side of the carriageway along the bend.

Access

Vehicular access to the property is gained via Brynbedw Road opposite its road junction with Cynllwyndu with an existing vehicular crossover in place. The property provides a separate pedestrian access which is served off Vivian Street.

The applicant proposes additional off-street parking as part of the development however no detail of the proposed surfacing of the off-street parking has been submitted and therefore, a condition has been suggested for the parking spaces/driveway to be surfaced in permanent materials and retained for the purposes of off-street parking only.

It is noted that the existing driveway is gated and although the proposed site plan does not indicate a gate, a note has been added to prevent any gates opening out over the highway.

Parking

The existing 5-bedroom dwelling has a parking requirement of 3 spaces in accordance with SPG: Access, Circulation & Parking Requirements (March 2011) with a minimum of 3 provided on the existing hardstanding/driveway.

The proposed change of use to a residential children's home has a parking requirement of 1 space per resident staff, 1 space per 3 non-resident staff and 1 space per 4 bedrooms in accordance with the Council's SPG: Access, Circulation & Parking Requirements (March 2011).

The applicant has submitted information within the application form that there will be 4 part-time staff and no resident staff, therefore, there will be a continuous rotation of staff working shifts within the residential home. Therefore, the proposed residential children's home has a parking requirement of 3 spaces with 6 spaces proposed, which is in excess of the maximum requirement set out within the adopted SPG. The layout of parking as tandem bays is not an ideal layout, as cars would be blocked in, however, it is not unreasonable for the small number of staff to manage utilisation of the parking spaces provided.

Drainage

No water run-off from the proposed driveway shall discharge onto the public highway and therefore a condition has been suggested accordingly.

Conclusion

The proposed development is in excess of the maximum parking standards set out within SPG which will cater for additional visitors and changeover of staff. The proposed is therefore considered acceptable in highway safety terms.

Public Health and Protection

The Council's Public Health and Protection Section have raised no objections to the proposal, however, a number of conditions have been suggested in relation to construction hours of operation, noise, waste and dust. Whilst these comments are appreciated, it is considered that issues relating to construction hours of operation, noise, dust and waste can be more efficiently controlled by other legislation and the suggested conditions are not necessary. An appropriate informative note is considered to be sufficient in this instance.

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 not CIL liable under the CIL Regulations 2010 (as amended).

Conclusion

The application site is in a predominantly residential area, within settlement boundary limits, and in a sustainable location with good access to public transport and key services and facilities, which is considered acceptable. The site also relates to an existing residential property and, other than an element of care and the presence of a small number of staff, the proposed use would continue to be residential in nature.

Furthermore, the proposal would not impact upon the character and appearance of the application property or upon the amenity and privacy of surrounding properties, nor would it have any adverse impact upon highway safety in the vicinity of the site.

RECOMMENDATION: GRANT SUBJECT TO THE BELOW CONDITIONS:

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 plan numbers:-

- AL(90)01 (Location Plan)
- AL(00)03 (Proposed Plans)
- AL(00)04 (Proposed Elevations)
- AL(00)05 (Proposed Site Plan)

and documents received by the Local Planning Authority on 24/10/2023, 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. The premises shall only be used as a regulated residential care home for children and for no other purpose; including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order. When the use hereby approved ceases, the premise shall revert back to its original Class C3 use.

Reason: In the interest of residential amenity and highway safety in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

4. Prior to commencement of the use hereby approved, a scheme for biodiversity enhancement measures shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: Future Wales requires all development to maintain and enhance biodiversity.

5. Prior to the commencement of the use hereby approved, the operator shall submit a management plan for the premises to be agreed in writing by the Local Planning Authority. The premises shall operate in accordance with the agreed details for as long as the use is carried out at the property.

Reason: In order protect the amenities of neighbouring properties, in accordance with Policies AW5, AW6 and AW10 of the Rhondda Cynon Taf Local Development Plan.

6. The parking area shall be constructed in permanent materials and retained for the purposes of parking only.

Reason: To ensure that vehicles are parked off the highway, in the interests of road safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

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

Reason: In the interests of highway safety and to prevent overcapacity of the existing highway drainage system and potential flooding in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

PLANNING & DEVELOPMENT COMMITTEE

11 April 2024

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 23/1276/13 (KL)
APPLICANT: Mrs R Friel
DEVELOPMENT: Outline Application with all matters reserved for 4 detached dwellings with double garages (Resubmission of planning ref. 23/0143/13) (Amended Plan Rec. 25/01/24)
LOCATION: LAND AT MOSS PLACE, ABER-NANT, ABERDARE
DATE REGISTERED: 09/11/2023
ELECTORAL DIVISION: Aberdare East

RECOMMENDATION: Approve, subject to conditions

REASONS: The application site is situated in a sustainable location and within an area which is predominantly residential in character. As such, the principle of developing the site for residential purposes is considered acceptable. Furthermore, the application demonstrates that the proposed development (within the parameters presented) could be accommodated within the site without resulting in an adverse impact upon the character and appearance of the surrounding area or upon the amenity and privacy of neighbouring properties. The application further demonstrates that acceptable access arrangements could be provided to ensure no adverse impact upon highway safety in the vicinity of the site.

REASON APPLICATION REPORTED TO COMMITTEE

- Three or more letters of objection have been received;
- A request has been received from Councillor Bradwick for the matter to come to Committee to enable the scale of the development to be considered.

APPLICATION DETAILS

Outline planning permission is sought for the construction of 4 no. detached dwellings with garages, associated access and parking on a vacant parcel of land at Moss Place, Abernant, Aberdare. All matters are reserved for future consideration.

The application is accompanied by an indicative site layout plan which indicates that the dwellings would be constructed around the perimeter of the site, each being served by private driveways off the main shared driveway and turning head, with access being served off Moss Place to the east. The dwellings would each have off-street parking on their respective driveways and in double garages. All of the dwellings would have private gardens to the rear and side elevations.

As scale is a matter reserved for future consideration, a range of minimum and maximum scale parameters are provided for the proposed dwellings:

Dwellings

	Minimum	Maximum
Width	7.5m	14.0m
Depth	6.5m	10.0m
Height to eaves	4.2m	5.5m
Height to ridge	6.5m	8.5m

Garages

	Minimum	Maximum
Width	5.0m	6.5m
Depth	5.0m	7.0m
Height to eaves	2.1m	3.5m
Height to ridge	2.5m	5.5m

The application is accompanied by the following:

- Coal Mining Risk Assessment

SITE APPRAISAL

The application site consists of an irregular shaped parcel of land, measuring approximately 2100sqm in area. It is relatively flat in ground profile, although it is noted that there are level differences between the site and neighbouring properties to the south, north-west and north-east. Access to the site is from Moss Place to the east, which is a Public Right of Way (ABD/41/1).

The site is bound by an unmade track to the north-western boundary which is also a Public Right of Way (ABD/42/2). Two residential properties are situated on the other side of the track (Glen Roy and Sunnybank) whilst a further residential property (Glas-Fry) is situated at the north-eastern corner of the site. Richmond Gardens, a residential cul-de-sac of 6 no. large, detached properties, is situated to the south of the site.

Sunnybank, Glen-Roy and Richmond Gardens are all situated at a lower ground level to the site, whilst Glas-Fry is situated at a higher ground level.

PLANNING HISTORY

The following planning applications are on record for the adjacent site, which in part extend to the current application site:

23/0143	Land at Moss Place, Abernant	5 detached dwelling with double garages	Refused 20/07/23
15/0544	Land at River Level Tips, Abernant	Variation of condition 1(C) of permission 10/0309/15 to extend the period for the submission of reserved matters for a further 3 years	Granted 19/12/16
10/0309	Land at River Level Tips, Abernant	Variation of condition 1b of outline permission 05/0134 (for residential development) (as varied by 08/1193) to extend period for submission or reserved matters and to allow phased implementation of development.	Granted 15/02/12
09/0721	Plot 2, Abernant River Levels Site, Abernant	Construction of a new dwelling	Granted 21/01/10
08/1193	Land at River Level Tips, Abernant	Variation of condition 1 on outline application 05/0134/13. Vary condition so that reserved matters can be made before the expiration of 5 years and that development will begin before the expiration of 7 years from the date of the outline permission.	Granted 13/10/08

08/0507	Land at River Level Tips, Abernant	Provision of new access (reserved matters).	Granted 23/06/08
08/0305	River Levels Site, Abernant	Erection of 7 No. detached dwellings	Granted 11/04/07
07/1288	River Levels Site, Abernant	Erection of 7 No. detached dwellings.	Refused 22/01/08 Appeal: Withdrawn 04/09/08
07/0018	Land at Lower River Level Tips, Abernant	Erection of 7 no. dwellings (reserved matters)	Granted 11/04/07
05/0134	Land at River Level Tips, Abernant	Proposed residential development (Outline)	Granted 18/10/06
04/0418	Land at Lower River Level Tips, Abernant	Residential Development (Outline)	Refused 28/04/04

PUBLICITY

The application has been advertised by means of direct neighbour notification and through the erection of site notices in the vicinity of the site. A total of 4 no. letters of objection have been received, which are summarised as follows:

Character and Appearance

- The development is inappropriate for the relatively small site and in the context of the local housing.
- The development presents overdevelopment of the site.
- This is a semi-rural area where properties are generally detached houses or bungalows with sizeable gardens.
- The development is just as high-density and congested as the previously refused application.
- Insufficient information is provided to enable the impact of the development to be properly assessed.
- This application is in addition to an application for 2 further dwellings to the south (by the same applicant), taking the total number of dwellings up to 6.

Residential Amenity and Privacy

- The plans lack specific details which makes it difficult to visualise the possible impact upon surrounding properties.
- The development will likely consist of two or three storey dwellings which will result in overshadowing and overlooking as well as impacting on light and views.
- Neighbouring properties to the north-west of the site are situated at a lower level to the site and given the orientation, the morning and much of the afternoon light will be blocked from the house and gardens.
- The dwellings will be in excess of 5 plus metres higher than properties to the north-west which is unacceptable, particularly given their proximity.
- The survey data is inaccurate and misleading as the developer has cleared and further levelled the site.
- Approval of the development will negate the point of development works currently taking place at Glen-Roy (ref. 22/0198) which is undergoing roof alterations to accommodate an attic conversion, including a floor to ceiling dormer.
- The development would mean that the approved dormer at Glen Roy would have a view of garages and a house relatively close.

Highways

- The lane access to the site is narrow with two passing places which is in a poor state of repair.
- The road is well used by walkers, cyclists and horse riders.
- The road has no footpaths or segregated active travel facilities.
- The development would significantly increase traffic numbers and result in congestion and dangerous situations for walkers and cyclists.
- Adding both construction traffic and additional residents' traffic will contribute to further deterioration of the only traffic route in this area.
- The development will increase congestion at the junction with Abernant Road.
- The junction does not meet highway design standards.
- The development will increase the houses from 7 to 13 without the junction or road improvement.

Drainage

- The existing drainage system already has periodic issues with blockages and without significant improvements to the system, another 4 properties, plus others in the pipeline, will create more problems.
- Concern is also raised with regards to the intention to use a soakaway.
- The ground is old tip and the soil extremely permeable and loose.
- A soakaway system cannot be good or safe and if located too close to boundary slopes, could have a detrimental effect on stability.

Ecology and Wildlife

- The developer has systematically cleared the waste ground over the last year, with no regard for the environment, and no environmental survey has been carried out.
- To state that there are no rare or protected species there is at best optimistic.
- There were a number of reptiles and innumerable birds living on the site.

Land stability

- The retaining wall overlooking Richmond Gardens was engineered in the context of the site being an old tip with no building weight.
- The gabion wall to the northern boundary has been poorly constructed.
- The boundary features are inadequate to support the proposed dwellings.
- There is history of mining subsidence on the site.

Other

- The area experiences relatively low water pressure which will not be helped by these properties.
- The site was most definitely not used for grazing – it has been a tip for many decades.
- There is Japanese Knotweed present on the site which has not yet been treated.
- The delay in neighbour letters reaching residents is disappointing.
- Concern is raised that objections (as those raised in this application) were raised in the previous application, which were not addressed.
- Concern is raised with regards to the impact of construction works and construction traffic.

Further consultation was undertaken with residents (direct neighbour notification and site notices) upon receipt of an amended plan. A further letter of objection has been received from the author of a previous letter, **which reiterates their previous objections.**

CONSULTATION

The following consultation responses have been received:

Ecology: No objection, condition recommended in respect of biodiversity enhancement measure in the form of bird nesting bricks in the new buildings.

Flood Risk Management: No objection, condition recommended.

Glamorgan Gwent Archaeological Trust: No objection.

Highways and Transportation: No objection, condition recommended.

National Grid: Advises that a separate application will need to be made to National Grid if a new connection or service alteration is required.

Natural Resources Wales: No objection. Advice provided in respect of foul drainage.

Public Health and Protection: No objection, conditions recommended in respect of contaminated land.

Welsh Water: No objection, condition and advisory notes recommended.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Members will be aware that the current LDP's lifespan was 2011 to 2021 and that it is in the process of being reviewed. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 4th January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 4th January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24th September 2020. Subsequently, Members are advised that the existing Plan remains the development plan for consideration when determining this planning application.

The application site is unallocated and located inside the defined settlement boundary for Aberdare. The following policies are considered relevant in the determination of this application:

Policy CS1 (Development in the North): sets out criteria for achieving strong, sustainable communities.

Policy AW2 (Sustainable Development): advises that development proposals on non-allocated sites will only be supported in sustainable locations.

Policy AW5 (New Development): sets out criteria for new development in relation to amenity and accessibility.

Policy AW6 (Design and Placemaking): requires development to involve a high quality design and to make a positive contribution to place making, including landscaping.

Policy AW8 (Protection and enhancement of the Natural Environment): seeks to preserve and enhance RCTs natural heritage by protecting it from inappropriate development.

Policy AW10 (Environmental Protection and Public Health): development proposals must overcome any harm to public health, the environment or local amenity.

Policy NSA10 (Housing Density): requires residential development in the Northern Strategy Area to have a minimum residential density of 30 dwellings per hectare.

Policy NSA12 (Housing Development within and adjacent to Settlement Boundaries): permits residential development within defined settlement boundaries.

Supplementary Planning Guidance

Design and Placemaking
Access Circulation and Parking

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 12 (PPW) was issued on 7th February 2024 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

Other relevant policy guidance consulted:

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.

Application Background and Main Issues

The application has been submitted following the refusal of a previous application (planning ref. 23/0143), which proposed 5 no. detached dwellings with double garages at the site. The application was refused on 20th July 2023 for the following reason:

At the maximum parameter range, the proposed development by reason of its siting, scale and orientation to the neighbouring property to the north west (Glen-Roy), would result in an overbearing form of development, to the detriment of the level of residential amenity currently enjoyed by those occupiers. As such, the proposal is considered to be contrary to policy AW5 of the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales.

This current application therefore seeks to overcome the previous reason for refusal with amendments being made to reduce the number of dwellings proposed.

The key consideration in the determination of the application is whether the principle of residential development is acceptable upon the site. In addition, it will also be necessary to consider whether the site is capable of accommodating the proposed dwellings, associated means of access and parking facilities, without resulting in a detrimental impact upon both the amenity and privacy of neighbouring dwellings, and the character and appearance of the area. The implications of the development upon highway safety in the vicinity of the site is a further consideration.

Principle of the proposed development

The application site is located inside the defined settlement boundary for Aberdare. The site is also located within an established village setting, albeit at the periphery of the settlement, where the surrounding area is predominantly residential in character. As such, the general principle of developing the site for residential purposes is considered acceptable. However, this is only the case if all other matters, relating to amenity impacts, character impacts and highway safety can also be satisfied. These matters will be considered in detail in the following sections.

Character and Appearance

The application seeks outline planning permission for the construction of 4 no. detached dwellings with double garages and their associated access, on a vacant parcel of land situated to the north of the existing Richmond Gardens development.

The site extends to approximately 2100sqm which is considered physically large enough to accommodate 4 no. dwellings and associated amenity space and parking. However, consideration must also be given to how the development of the site would relate to the character and existing pattern of development in the vicinity of the application site.

It is noted that following the publicity of the planning application, a number of objections have been raised on the grounds that there is a lack of detail provided with the application to enable a full assessment of the potential impact of the proposed development, and also that the increased density of the development presented would be at odds with the character of development in the area.

In terms of the lack of detail, it must first be noted that the application is made in outline with matters relating to layout, scale and appearance being reserved for future consideration. As such, the applicant is not obliged to provide detailed drawings to demonstrate the detailed layout, design or elevation details of the dwellings at this stage. Notwithstanding this, the submission is accompanied by an illustrative site layout plan and minimum and maximum dimensions for the dwellings, as required in any application for outline planning permission. The final details of any final scheme would be agreed as part of a subsequent reserved matters application in which the scale of any dwelling will be required to be within the parameters set out outline stage. The Local Planning Authority would still retain the power to refuse any reserved matters application which was considered unacceptable in this or any other regard.

With regard to the matter of density, it is noted that the previously refused planning application for 5 no. dwellings was considered acceptable in terms of the impact it would have upon the character and appearance of the site and surrounding area. The report for that application indicated that although surrounding properties appeared to be set within more generous plots than those presented in that scheme, due to the variation in character of the surrounding area, it was not considered that the subdivision of the plot to form 5 no. development plots would result in a form of development that would be harmful to the character and appearance of the site. Furthermore, it was noted that whilst each plot was somewhat smaller than those visible in the adjacent Richmond Gardens (around 350sqm as opposed to around 600sqm), the proposal was in accordance with the housing density requirements of Policy NSA10, which states that residential development will be permitted where the net residential density is a minimum of 30 dwellings per hectare.

In the case of this application, the net residential density is below that specified in Policy NSA10 with a density of around 20 dwellings per hectare; however, it must be noted that that policy also allows for a lower density where it can be demonstrated that a lower density is necessary to protect the character of the site or the surrounding area. The reduction in the number of houses in this scheme has resulted in the area for each plot being increased to, on average, around 500sqm which is closer to that of the Richmond Gardens development. As such, it is not considered that the density of the proposed development is significantly out of keeping with the surrounding area,

nor is it considered that it would adversely impact upon the character of the surrounding area.

Furthermore, there is some variation in terms of the character of the surrounding area with existing properties varying in scale, design and overall visual appearance. Whilst properties on Richmond Gardens are undoubtedly substantial properties with a more modern appearance, there are numerous properties to the north and west of the site which are more traditional and of a more modest scale. As such, it is not considered that 4 dwellings of the scale parameters proposed would be out of character with the surrounding area. Additionally, and as indicated above, the detailed design of the proposal is not for consideration in the determination of this application and any future reserved matters scheme would be considered in the context of the surrounding area.

As such, it is not considered that the division of the site to form four development plots, would result in a form of development which would be so harmful to the character and appearance of the area that would warrant refusal of the planning application on these grounds. Therefore, the proposal is considered to comply with the requirements of polices NSA12, AW5 and AW6 of the Local Development Plan.

Residential Amenity and Privacy

As set out above, a number of residential properties are located adjacent to the site, therefore, it is important that the privacy and amenity of existing neighbouring residents is safeguarded.

It is noted that the application is made in outline, with all matters reserved for future consideration and, as such, the final layout of the site would not be approved as part of this planning application. However, the application is accompanied by an illustrative layout, which is intended to provide an indication of the way in which four detached dwellings and their associated garages may be developed on the site.

Whilst the previous application provided for 5 no. dwellings which were shown to be 'pushed' towards the rear of their respective plots, this current application for 4 no. dwellings has enabled more room within each plot to allow the dwellings to be brought in from their respective outer boundaries and for plots 2 & 3 to be positioned at the north-eastern and western corners of the site respectively with the garages being positioned in the area of the previously proposed plot 3. This would reduce the overall impact previously identified in the refused application by some degree with the dwellings being positioned approximately 17.5m and 14m away to the east (plot 2) and south-east (plot 3) respectively. As a result of this, plot 2 would result in some overshadowing to Glen Roy during the early morning period only, whilst plot 3 would result in some overshadowing to the front boundary of Glen Roy around midday. This would also result in the potential for any overlooking towards Glen Roy to be removed with habitable windows in the proposed dwellings being positioned away from the neighbouring dwelling.

Furthermore, the garages are of a much-reduced scale in comparison to the previously proposed plot 3, with these being brought in from the boundary by 2m, resulting in a separation distance of approximately 10.5m between the garages and Glen Roy. With a finished floor level of 172.00 AOD, the garages would sit approximately 2m below the eaves height of Glen Roy (174.38 AOD) and, with a maximum scale parameter of 3.5m in height to the eaves and a pitched roof design measuring to a maximum of 5.5m, it is not considered that they would result in an overbearing or overshadowing impact that would be so significant that it would warrant the refusal of this outline application. Furthermore, in order to fully demonstrate that the development would not have any adverse impact on neighbouring properties to the north-east, it is considered necessary to impose a condition on any grant of outline planning consent for details of existing and proposed ground levels and cross sections which illustrate the relationship of the proposed dwellings and respective garages of plots 2 & 3 with the existing properties to the north-west (Glen Roy and Sunnybank).

Plots 1 and 2 would also be located in close proximity to the boundary of Glas-Fryn, which is located at the north-eastern corner of the site. Glas Fryn is positioned in an elevated position above the site and, as such, the development would not give rise to any overbearing impact to this property or its sizeable outbuilding, which would be sited to the rear of plot 1. Furthermore, it is considered that sufficient separation distances could be maintained to ensure that there would be no significant loss of privacy.

Plots 3 and 4 would be located in some proximity of the side boundary of no. 5 Richmond Gardens. Whilst the proposed dwellings would be positioned at a higher ground level, the dwellings would primarily impact upon the side elevation of the neighbouring property and, as such, it is not considered that the development would have such a significant impact upon the amenity of that property that it would warrant the refusal of the application. Indeed, suitable separation distances could be maintained to ensure no adverse impact in this regard.

Overall, it is considered that the illustrative plans demonstrate that it would be possible to develop four dwellings on the site, without resulting in such an impact upon the levels of amenity or privacy, currently enjoyed by neighbouring occupiers, that would warrant the refusal of the planning application.

Access and Highway Safety

The application has been assessed by the Council's Highways and Transportation section and no objection has been received in respect of the potential impact of the proposed development upon highway safety in the vicinity of the site. The comments received are summarised as follows:

Access

The proposed is located along a narrow private access track (2.8m) which lacks in width for safe two-way vehicular movement, visibility at the junction of Abernant Road

with un-named lane, drainage and segregated pedestrian facilities to serve the increase in traffic generated by the proposed dwelling.

There are 5 no passing bays located from the junction of Abernant Road to the site entrance for vehicles to pass one another. 3 of the passing bays are sufficient for 2 large vehicles to pass one another with the remaining 2 only sufficient for a large vehicle and private motor car to pass.

There is concern the proposal will lead to potential reversing movements by all types of vehicles including delivery and emergency service vehicles with no segregated footways to the detriment of safety of all highway users.

The applicant has proposed limited mitigation measures by setting the first 6.0m of the access back and widening the carriageway to provide for turning of delivery vehicles to access / egress Moss Place in forward gear.

Visibility

The required visibility at the junction of Abernant Road with un-named lane is 2.4m x 22m in accordance with Table B TAN 18. The achievable visibility to the left is well below the recommendation 2.4m x 10m left. There is concern that any intensification of vehicular movements at this junction would increase the risk to all highway users.

Turning Area

There is no dedicated turning area along this section of highway which could potentially lead to vehicles especially delivery vehicles having to reverse considerable distance down a narrow lane with no segregated footway facilities and sub-standard vision splays to the detriment of safety of all highway users.

The applicant has proposed mitigation measures by setting the first 6.0m of the private access back and widening the carriageway to 5.5m to provide for turning of delivery vehicles to access / egress Moss Place in forward gear which is acceptable.

Pedestrian Footway/cycleway

There are no continuous pedestrian links leading to the proposed from Abernant Road which in turn results in vehicles and pedestrians sharing the same surface as moving motor vehicles. This is of concern to the Highway Authority due to the narrow width of carriageway, lack of positive drainage and increase in vehicular and pedestrian movements generated by the proposed development leading to an increase in potential conflict.

Therefore, the site location is not in compliance with PPW11 and Active Travel in terms of sustainable transport hierarch and safe and satisfactory provision of pedestrian and cycle route linking to the local highway network.

Drainage

There is no positive drainage system for Moss Place where-by in winter times the surface water freezes on the carriageway surface resulting in hazardous driving, walking and cycling conditions to the detriment of safety of all highway users.

Parking

The proposal requires up-to a maximum of 3 off-street car parking spaces in accordance with the SPG Access, Circulation & Parking 2011. The submitted indicative site plan 2913 NB 02 shows a minimum of 3 off-street car parking spaces within double garages for each plot and driveways which is acceptable.

Piecemeal

The proposed is considered piecemeal with outline planning permission granted for development of River Tips which included the dwellings currently built Known as Richmond Gardens.

TRICS (Trip Rate Information Computer System)

Highways Development Control undertook a TRICS assessment of 4 privately owned dwellings to assess the impact on the existing highway network after construction. The results of which are an additional 2 Peak AM trips between 8:00-9:00am and 2 additional peak PM trips between 17:00-18:00pm.

There would be a total of 25 additional vehicular trips over a 12-hour period between 07:00am-21:00pm which equates to 2 additional vehicular trips per hour.

Taking into account the limited additional traffic generated by the proposed addition of 4 dwellings and the recent appeal decisions in the vicinity of the site on-balance the proposed is acceptable.

Highways Summary

The proposed access leading to the proposed development site is sub-standard in terms of carriageway width that is lacking in segregated pedestrian footway facilities, adequate visibility sub-standard horizontal and vertical alignment which will create additional hazards to the detriment of the safety of all highway users. This coupled with the additional vehicular reversing movements that would be taking place along the highway to allow vehicles to pass is cause for concern and contrary to PPW11 and Active Travel.

However, taking into consideration the Inspector's comment to an application further north along the sub-standard lane application number 20/0353/10, which states "*The*

road network leading to the site is substandard insofar as it is narrow in places, has poor visibility at the junction with Abernant Road, lacks footpaths and is generally poorly drained. Nonetheless it serves a number of dwellings including a recent development at Richmond Gardens. Its geometry and alignment encourage slow speeds and I have no evidence of any serious highway safety issues with its use such as congestion or traffic incidents. In my view, the development of a single dwelling would not materially add to existing traffic movements in the area to the extent that it would exacerbate or cause any significant risk to highway safety. I therefore find no material conflict with LDP Policy AW 5 2) c). However, this would not outweigh the harm in relation to the other main issues which are compelling reasons for dismissing the appeal", reluctantly no objection is raised to the proposal.

As such, and in light of the comments received from the Council's Highways Officer, the proposal would not have a detrimental impact upon highway safety in the vicinity of the site and the application would therefore comply with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

Other Issues:

The following other material considerations have been taken into account in considering the application, though were not the key determining factors in reaching the recommendation.

Ecology

At the point of the submission of the planning application, the site had already been cleared and was free from any trees or vegetation. Having reviewed the application, the Council's Ecologist has confirmed that no ecological survey is required to support the application and no objection is raised to the scheme. A planning condition is recommended to secure ecological enhancement in the form of bird nesting bricks in the construction.

As such, the development is considered acceptable in terms of nature conservation and therefore accords with policy AW8 of the Rhondda Cynon Taf Local Development Plan.

Public Rights of Way

It has been established that the wider Richmond gardens development is bordered on three sides by lanes, which are all Public Rights of Way (Aberdare 41, 42, and 43). It is apparent that the bottom end of Aberdare 41 (which is the road access for Richmond Gardens) has already been improved as a road access; therefore, whilst the proposed access would connect with this, it appears that the submission does not propose any alterations to the road/ PROW itself. Nevertheless, it would be necessary that an informative note be attached to any permission granted, which reminds the applicant of their responsibilities in relation to the public rights of way network.

Historic Coal Mining Risks

The application site lies in a high-risk coal mining area and the application is accompanied by a Coal Mining Risk Assessment. Consultation has been undertaken with the Coal Authority with the response received confirming that there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

They comment that the accompanying Coal Mining Risk Assessment (BC/MB/05.22.04) dated 19 May 2022 and produced by Blandford Consulting, has been informed by a range of historical, geological and coal mining information. The report author acknowledges the presence of recorded mine workings at shallow depth within the location of the development site that pose a risk to surface stability.

The report author concludes that intrusive ground investigations are required to establish the exact situation in respect of the coal mining features present. The Coal Authority comment that the intrusive site investigations should be designed and undertaken by competent persons and should be appropriate to assess the ground conditions on the site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any remedial works and/or mitigation measures that may be necessary. As such, their observations conclude by raising no objection to the planning application, subject to the imposition of a condition which requires the afore mentioned site investigations.

Surface Water Drainage and Flood Risk

The application has been reviewed by the Council's Flood Risk Management team who note that, under Schedule 3 of the Flood and Water Management Act 2010, the applicant will be required to submit a separate application to the Sustainable Drainage Systems (SuDs) Approval Body (SAB). It is further noted that the application will need to comply with Part H of the Building Regulations.

The Flood Risk Management Officer has reviewed the Natural Resources Wales Surface Water Flood Risk Maps and notes that there are areas of high, medium and low surface water flood risk identified in the vicinity of the site however, the primary source of flooding is via the conveyance of flows along the highway network. The surface water flood risk associated with this highway has minimal impact within the application site however, there is a risk of surface water flooding identified downstream of the site.

Details submitted with the application indicates that surface water will be disposed of using a soakaway however, no surface water drainage proposals have been provided. As such, a standard drainage condition is recommended to ensure such details are submitted prior to works commencing on site.

Contaminated Land

The Council's Public Health and Protection team have advised that river level tips (ironworks slag) formerly occupied the application site. As such, it is advised that there is potential for contamination to exist on site and a series of standard contaminated land conditions are recommended.

Foul Drainage

The application is not accompanied by any information in respect of foul drainage. Advice provided by Natural Resources Wales confirms that the site is within a publicly sewered area and the first presumption must be to provide foul drainage discharging into the public sewer. This issue can be controlled by a suitably worded condition.

Other Issues Raised by Objectors

Land Stability and SUDS

It is noted that a number of objections have been received which raise concern with regards to the stability of the site, with further concern raised regarding the use of a sustainable drainage system (SuDs). The Coal Authority advise that the developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications that this may have for any mine workings which may be present beneath the site. Furthermore, as indicated above, the Coal Authority has recommended a condition for site investigations to be undertaken to ensure the safety and stability of the proposed development.

Japanese Knotweed

It is noted that one objector refers to the presence of Japanese Knotweed on the site. This is an issue that is controlled by separate legislation (Wildlife and Countryside Act 1981), and it is the legal responsibility of the landowner to eradicate/control it.

Construction Works and Traffic

It is noted that construction works will cause some degree of noise and disturbance to local residents however, this would be for a temporary period only and would not be reason to refuse planning permission. Furthermore, there is separate environmental health legislation available if such activities became a statutory nuisance.

Previous Application

It is noted that one resident raises concern that the objections they submitted for the previously refused application were not adequately addressed. The report for that

application clearly sets out the objections raised during the course of that application and it comprehensively addresses them in the context of the report.

Water Pressure

It is noted that one resident suggests that the area suffers from low water pressure and concern is raised that the development would further impact on this. Welsh Water have not raised any concern in this regard, nor would it be a material planning consideration.

Community Infrastructure Levy (CIL) Liability

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

As planning permission first permits development on the day of the final approval of the last of the reserved matters CIL is not payable at outline stage, but will be calculated for any reserved matters or full applications. However, the application site lies within zone 1 of Rhondda Cynon Taf's residential charging zones, where a nil charge is applicable and therefore no CIL will be payable.

Conclusion

Due to its location within the defined settlement boundary and within an established residential area, the principle of sub-dividing the plot for additional residential dwellings is considered acceptable. Furthermore, the submitted illustrative site layout plan demonstrates that the site is physically large enough to accommodate the number of dwellings proposed along with their associated garages, driveways, outdoor amenity space and access, without adversely impacting upon the character and appearance of the surrounding area, the amenity and privacy of neighbouring properties or upon highway safety in the vicinity of the site.

RECOMMENDATION: Approve, subject to conditions

1. (a) Details of the layout, access, scale, appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

(b) Any applications for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

(c) The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To comply with Sections 92 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 information received by the Local Planning Authority on 25/01/24 unless otherwise to be approved and superseded by details required by any other condition attached to this consent:

- Drawing No.2913 NB 02: Proposed Plans

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

3. Prior to the construction of the dwellings hereby approved details of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. 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 in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

4. Notwithstanding the illustrative site layout plan, the reserved matters application shall be accompanied by details of existing and proposed ground levels and cross sections which illustrate the relationship of the proposed dwellings with the existing neighbouring properties to the north-west (Glen Roy and Sunnybank).

Reason: To protect residential and visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

5. Before the development is brought into use the means of access, shall be laid out in accordance with the submitted plan 2913 NB 02 and approved by the Local Planning Authority. The private shared access and turning shall remain thereafter for use of all residents as a shared use access.

Reason: In the interests of highway safety.

6. Off-street parking shall be in compliance with RCT's Supplementary Planning Guidance on Delivering Design and Placemaking: Access, Circulation & Parking Requirements (March 2011).

Reason: To ensure that adequate parking facilities are provided within the curtilage of the site, in the interests of highway safety, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

7. HGV's used during construction shall be restricted to 09:00am to 16:00pm weekdays, 09:00am to 13:00pm Saturdays with no deliveries on Sundays and Bank Holidays unless otherwise agreed in writing with 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.

8. No development shall take place, including any works of site clearance, until a Construction Method Statement has been submitted 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 the safety and free flow of traffic, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

9. Prior to the commencement of the development, a report indicating a methodology for undertaking a conditions survey of local roads (that could be affected by the proposed development) shall be submitted to and approved in writing by the Local Planning Authority. The report should include: the timescales for undertaking the surveys and the method(s) of reporting the findings to the Local Planning Authority; comprehensive photographs; and potential compensation arrangements. The development shall not be brought into use until the final survey (on completion of the development hereby approved) and any compensation arrangements have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the extraordinary traffic use arising from the proposed development does not have an adverse impact on highway safety, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

10. No development shall commence until;

- a) a scheme of intrusive site investigations must be carried out on site to establish the risks posed to the development by past coal mining activity and;
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authorities UK guidance.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

11. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is or has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

12. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall include:

- i) A drainage strategy with associated calculations demonstrating the pre and post-development surface water discharge rates from the site and a general arrangement of the catchment and proposed drainage system.
- ii) How the development is to comply with the requirements of Section 8.3 of PPW Technical Advice Note 15.
- iii) Details of foul drainage arrangements.

The scheme shall be implemented in accordance with the approved details prior to the residential use of the development and retained in perpetuity.

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

13. No development shall commence until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: Future Wales requires all development to maintain and enhance biodiversity.

14. No development shall take place until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the dwellings hereby permitted has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To support the roll-out of digital communications infrastructure across Wales in accordance with Policy 13 of Future Wales.

15. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the new development will in keeping with the surrounding area and to protect residential amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

16. The details of landscaping required to be submitted to and approved by the Local Planning Authority in accordance with Condition 1 above shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection during the course of development.

Reason: To ensure that the new development will be visually attractive in the interests of amenity in accordance with Policies AW5 & AW6 of the Rhondda Cynon Taf Local Development Plan.

17. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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 otherwise agreed in writing by the Local Planning Authority.

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.

18. The development hereby permitted shall not be commenced until a scheme to deal with contamination has been submitted and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:
1. 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.
 2. 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 (1) above.
 3. 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 and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

19. The development hereby permitted shall not be occupied and/or operated until the measures approved in the scheme (referred to in condition 10 above) have been implemented and a suitable validation report of the proposed scheme has been submitted to and approved in writing by the Local Planning Authority. Any validation report shall be carried out by a competent person.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

20. 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 and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

PLANNING & DEVELOPMENT COMMITTEE

11 April 2024

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 23/1428/10 (JE)
APPLICANT: Mr Ford
DEVELOPMENT: Change of use from a C3 dwelling house to a C4 house in multiple occupancy (HMO) (5 bedrooms) and demolish old porch area at rear.
LOCATION: 35 GYNOR PLACE, YNYS-HIR, PORTH, CF39 0NR
DATE REGISTERED: 19/12/2023
ELECTORAL DIVISION: Tylorstown and Ynyshir

RECOMMENDATION: APPROVE

REASONS: The proposal is in keeping with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan and National Policy in that, the proposed residential use would be compatible with the surrounding land uses and would not result in an adverse impact upon either the character of the site, the amenity of neighbouring occupiers or highway safety.

REASON APPLICATION REPORTED TO COMMITTEE

- Three or more objections have been received.

APPLICATION DETAILS

Full planning permission is sought for the change of use of an existing residential dwelling (Use Class C3) to a 5-bedroom house in multiple occupation (Use Class C4) at 35 Gynor Place, Ynyshir, Porth.

The conversion would be undertaken mainly through a number of internal alterations with no major external works to the property required or proposed, just the demolition of a porch to the rear of the property. The resulting house in multiple occupation (HMO) would accommodate 1no. bedroom, living/dining room, kitchen, bathroom, W.C. and entrance hallway at ground floor level, and 4no. bedrooms at first floor level. No off-street parking provision is proposed.

Primary access would be gained off Gynor Place to the front with additional secondary access from the service lane to the rear. The garden areas to the front and rear of the property would be retained for use as amenity space.

SITE APPRAISAL

The application property is a traditional mid terrace dwelling located within a residential area of Ynyshir. It occupies a valley side position set above the majority of Ynyshir to the east. The property is significantly elevated above, and set back from the highway to the front by a large garden area. To the rear is an enclosed, smaller amenity space bounded on both sides by neighbouring properties. A service lane is located to the rear which is elevated above the property, at approximately eaves level.

The surrounding area is predominantly residential in nature comprising a mix of terrace, semi-detached and detached dwellings.

PLANNING HISTORY

There are no recent planning applications on record associated with this site.

PUBLICITY

The application has been advertised by direct notification to neighbouring properties as well as a notice displayed at the site.

5no. letters of objection have been received from neighbouring occupiers following consultation. The points raised have been summarised below:

- Nuisance or disturbance.
- Rear lane access to car driveways.
- There would be a conveyor belt of different characters moving into the property, year in, year out. Living completely different lifestyles to everybody in the street and the surrounding community. This would not be harmonious in any sense of the word and would be to extreme detriment to existing resident's current peaceful and safe ways of life.
- This proposal offers no car parking spaces. The end result could be an additional 5+ more cars added to the street. This is unacceptable due to the fact that on street parking in this area is already full and the road fronting the property is extremely narrow.
- Concern associated with the proposed layout which has been noted by the Council's Public Health team as not meeting the required floorspace to attain a licence from them.
- The street has a history of rodent infestations and by converting 35 Gynor Place into a HMO there would be a significant increase in waste produced in comparison to an traditional family household, exacerbating the existing rodent situation.
- Concerns that the property owner does not live locally and therefore will not be readily available to deal with any situations as they arise such as boiler problems, fire alarm system malfunctions or noise disturbance, etc.

- To allow an application that would exacerbate highway safety problems in the area would be irresponsible and contrary to the requirements of Local Development Plan Policy AW5.
- Contrary to the requirements of Local Development Plan Policy CS1.2, which requires a high quality of affordable housing.
- Supplementary Planning Guidance: HMOs sets out that applications would be refused where living rooms or kitchens would be located directly adjacent to upstairs bedrooms of neighbouring houses. As the application provides a ground floor bedroom adjacent to the living room or kitchen of the neighbouring home it would be logical to assume this would certainly not comply with the guidance.

CONSULTATION

Transportation Section: No objection raised.

Public Health and Protection: No objection raised although conditions recommended in relation to construction hours, noise, dust and waste. It is also noted that the proposed HMO would need to be licensed in accordance with the Council's separate Additional Licensing Scheme.

Flood Risk Management (Drainage): No objection.

Dwr Cymru/ Welsh Water: No objection although condition recommended in relation to surface water drainage.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Members will be aware that the current LDP's lifespan was 2011 to 2021, that it has been reviewed and a replacement is in the process of being produced. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 4th January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 4th January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24th September 2020. Subsequently, Members are advised that the existing Plan remains the development plan for consideration when determining this planning application.

The application site lies within the settlement boundary for Ynyshir but is not allocated for any specific purpose.

Policy CS1 - sets out criteria for achieving sustainable growth including: providing high quality, affordable accommodation that promotes diversity in the residential market and encouraging a strong, diverse economy.

Policy AW1 - sets out the criteria for new housing proposals.

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 placemaking, including landscaping.

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

Policy NSA12 - permits housing development within the defined settlement boundaries where it can be demonstrated that the proposal meets set amenity, highway, design and contamination standards.

Supplementary Planning Guidance

- Design and Placemaking
- Access, Circulation and Parking
- Houses in Multiple Occupation

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 12) (PPW) sets out the Welsh Government's (WG) current position on planning policy. The document incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out the WG's policy on planning issues relevant to the determination of planning applications. Future Wales: The National Plan 2040 (FW2040) sets out guidance for development at both regional and national level within Wales, with the thrust and general context also aimed at sustainable development.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is 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.

Given the minor scale of the proposed development and its relationship with only the immediate surrounding area, there are limitations to the extent such a scheme can have in promoting planning objectives at a national scale. As such, whilst the scheme aligns with the overarching sustainable development aims of FW2040, it is not

considered the policies set out in the document are specifically relevant to this application.

Other national policy guidance considered:

PPW Technical Advice Note 12 - Design

PPW Technical Advice Note 18 - Transport

Welsh Government: Houses in Multiple Occupation - Practice Guidance.

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

Full planning permission is sought for the change of use of the application property from a residential dwelling (Use Class C3) to a 5-bedroom house in multiple occupation (Use Class C4). This would provide living accommodation for up to 5 individuals to live together independently with shared basic facilities. It should also be noted that separate Building Regulations approval and a HMO Licence from the Council's Public Health and Protection Department would be required.

The application property is located within the settlement boundary and within an established residential area of Ynyshir, Porth. The property is located within close proximity to the local and neighbourhood centre of the village and Ynyshir Road which is a main bus route with services up and down the Valley. As such, the site is located within a sustainable location and is considered to comply with Policy AW2 of the Rhondda Cynon Taf Local Development Plan.

It is noted that national planning policy details that the use of a property as a HMO could contribute to a change in the character of the surrounding neighbourhood. This is especially likely if the use of significant numbers of other dwellings in the area have been subject to similar conversions, leading to an over concentration of HMOs. The Welsh Government's Practice Guidance on HMOs acknowledges that over-concentrations in particular areas can lead to a loss of social cohesion, with higher levels of transient residents and fewer long-term households and established families, leading in the long term to a community, which is no longer balanced and self-

sustaining. Other consequences of over-concentrations include increased house prices and competition from landlords with a reduction in the number of family homes; increased litter, refuse and fly-tipping; disrepair; and on-street parking problems, amongst other issues.

With the above in mind, to secure mixed balanced communities, the Council has sought to limit HMOs to a certain percentage of all dwellings within specific areas. Supplementary Planning Guidance: Houses in Multiple Occupation includes a policy to limit HMOs in a 50m radius from an application site to 10%, other than in the Treforest ward where a limit of 20% is applied due to the high student population in that area. The SPG also seeks to restrict clusters of three or more HMOs adjacent to one another, the 'sandwiching' of traditional residential dwellings between HMOs, and details relevant standards a HMO should comply with in order to ensure its occupiers have an appropriate standard of living. In this instance, a review of the Council's list of registered HMOs reveals that there are no other HMOs within a 50m radius of the application site, and therefore, on the basis of the Council's records, there is no evidence to suggest that the granting of this planning application would lead to an over-concentration of HMOs in the locality or would be directly harmful to the social cohesion of the neighbourhood.

Further, turning to particular issues associated with HMOs, such as persistent anti-social behaviour, it is considered that these issues are able to be satisfactorily controlled by the Council's separate HMO licensing regime and the behaviour of occupiers of HMOs in other areas has no bearing on the behaviour of potential future occupiers of this property. Finally, whilst acknowledging other concerns that are commonly raised with HMOs such as waste and other visual blight, there is ample space within both the front and rear garden areas for the storage of refuse bins.

Taking the above into account, while the concerns of the objectors are noted, the principle of the proposal to convert the existing dwelling to a HMO is considered acceptable, subject to an assessment of the criteria set out below.

Impact on the character and appearance of the area

The proposal does not include any significant alterations to the external appearance of the property, just the removal of a porch, nor does it involve any construction work to increase the footprint. Consequently, the proposal would not have any impact upon the character and appearance of the application property or the wider area. The application is therefore considered acceptable in this regard.

Impact on residential amenity and privacy

The proposed conversion would not involve any extensions or physical alterations to the external appearance of the property. As such, it is not considered the change of use would result in any physical detriment to the nearest residential properties.

Whilst it is noted that the use of the property as a HMO for up to 5 individuals would result in the intensification of the use of the property, which is likely to result in some additional noise and disturbance, it is not considered that this would be to such an extent that it would be significantly above that which could occur if the dwelling was to remain as a single household. Furthermore, the application property is located on the main road through the village where it is considered a degree of noise and disturbance already occurs.

As such, while the comments raised by the objectors are acknowledged, it is not considered that the use of the property as a HMO would result in an unacceptable impact upon the residents of surrounding properties and the application complies with Policy AW5 of the Rhondda Cynon Taf Local Development Plan in this regard.

Highway Safety

The Council's Highways and Transportation Section were notified during the consultation process in order to assess the impact of the development upon highway safety and parking provision. The below response was received:

Access

Access to the property would remain as existing via Gynor Place via a number of steps with the dwelling located at an elevated level to the carriageway. Gynor Place is a residential street with the majority of dwellings terraced with limited off-street car parking facilities served off the rear adopted service lane.

The carriageway fronting the proposed has a width which varies between 5m-6.5m. On-street car parking at this location narrows the available width of carriageway to single file traffic.

Parking

The submitted information indicates 4 bedrooms in the existing dwelling. In accordance with the Council's SPG governing off-street parking requirements, a 3+ bedroom dwelling within Parking Zone 3 has an off-street parking requirement of 3 spaces. There are currently no off-street parking spaces serving the dwelling, resulting in a shortfall of 3 spaces.

House conversions to HMOs have a requirement of 1 space per bedroom (maximum requirement of 3 spaces). As such, the proposed 5 no. bedroom HMO would have a maximum requirement of 5 spaces.

The proposed increases the off-street car parking demand from 3 to 5 spaces with none provided. However, the Council's adopted SPG advises that consideration will be given to the fact that residents of HMOs / flats often have lower car ownership than other types of households. There are also numerous local amenities and public

transport provision available within easy walking distance placing less reliance on the private motor vehicle as the primary mode of transport. As such, on-street demand would be similar to that of a private 3-bedroom residential dwelling.

Conclusion

The proposed HMO is located within easy walking distance of public transport and local amenities placing less reliance on the private motor vehicle as the primary mode of transport. In addition, it is not anticipated that the proposed 5 bedroom HMO would generate additional vehicular movements and on-street car parking to that of the existing 4-bedroom private dwelling. It is therefore considered the proposal is acceptable in highway safety terms.

Public Health and Protection

Members are advised that whilst the Public Health and Protection section did raise initial concern with regard the bedroom size and bathroom layout as noted by the objectors, following additional consultation, they confirmed that the layout actually meets the required, separate licence standards and that they have no objection to the proposed layout of the HMO and the level and size of the accommodation proposed within it. It was noted however that should permission be granted, there will be ancillary issues that will need to be considered as part of the separate licensing process.

Public Health and Protection also suggested a number of conditions in relation to construction hours of operation, noise, waste and dust. Whilst these comments are appreciated, it is considered that issues relating to construction can be more efficiently controlled by other legislation and the suggested conditions are not necessary. An appropriate informative note is considered to be sufficient in this instance.

Drainage

Dwr Cymru Welsh Water raised no objection to the proposal, but requested a condition be attached to any consent with regard to surface water drainage. However, in this instance the proposal would see no increase in the external footprint of the property or any works that would impact upon the current drainage arrangements. As such, it is considered that such a condition would be unreasonable and unnecessary.

Other points raised by the objectors not covered above

The objectors have raised concern that as the application proposes a ground floor bedroom within the HMO adjacent to the living room of the adjoining property the layout would not comply with the guidance set out within the Houses of Multiple Occupation Supplementary Planning Guidance. However the SPG advises that the subdivision of existing houses to HMOs will not be appropriate where living rooms or kitchens would be located directly adjacent to *upstairs bedrooms* of neighbouring houses, unless mitigating measures can be provided. As such, in this instance, the

proposed layout would comply with the guidance set out within the SPG with regard to neighbouring dwellings. Further, when considering the internal layout of the HMO itself with a bedroom adjacent to the living room, this is considered typical of such properties and as set out above, no objection has been raised by the Public Health and Protection team in this respect.

The nature of future occupiers was also raised within the objector's comments, however, this matter does not form material planning considerations and cannot be taken into account during the consideration of this application.

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 not CIL liable under the CIL Regulations 2010 (as amended).

Conclusion

The proposal is in keeping with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan and National Policy in that, the proposed residential use would be compatible with the surrounding land uses and would not result in an adverse impact upon either the character of the site, the amenity of neighbouring occupiers or highway safety.

RECOMMENDATION: GRANT SUBJECT TO THE BELOW CONDITIONS:

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 plan numbers

- R854-03 A1 (Proposes GAs)
- R854-01 A4 (Location Plan)

and documents received by the Local Planning Authority on 20.12.23, 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.

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2023-2024:

**PLANNING AND
DEVELOPMENT COMMITTEE
11th APRIL 2024**

**REPORT OF: DIRECTOR
PROSPERITY AND
DEVELOPMENT**

Agenda Item No.

**APPLICATION NO:23/1318/09 –
Certificate of Lawfulness for a proposed
change of use of a dwelling C3(a) to a
Children’s Residential Home C2 for up to 2
children, along with 2 no. support staff 24
hours a day, operating in shifts, and a
registered manager. 142 KENRY STREET,
TONYPANDY, CF40 1DD.**

1. PURPOSE OF THE REPORT

Members are asked to consider the determination of the above planning application.

2. RECOMMENDATION

That Members consider the report in respect of the application and determine the application having regard to the advice given.

3. BACKGROUND

This application was originally reported to the Planning and Development Committee meeting of 7th March 2024. A copy of the original report is attached below as Appendix A.

At that meeting Members resolved to refuse granting a certificate of lawfulness for a proposed use (hereafter ‘certificate’), contrary to the recommendation of the Director of Prosperity and Development, on the basis that the proposed use would represent a material change from Use Class C3(a) to Use Class C2.

As a consequence, it was resolved to defer determination of the application for a further report to highlight the potential strengths and weaknesses of taking a decision contrary to officer recommendation.

4. PLANNING ASSESSMENT

Members will note that the description of the proposed use set out above reflects the amendment reported to them prior to their debate. As agreed

with the Applicant's Agent, the revised description included reference to staffing levels to better reflect the scope of the proposal and to avoid any doubt as to the extent of any certificate granted, or not.

During the Committee debate Members recognised that a children's home would fall within Use Class C2, as established by case law, i.e., *North Devon District Council v First Secretary of State and Southern Childcare [2003]*.

In addition, it was noted that the scope of consideration could not include the planning merits of the development; hence, whether or not a certificate should be issued would rest on whether the new use would be considered to be a material or non-material change of use.

If the former, then a certificate would not be issued and, notwithstanding the Applicant's right to an appeal, an application for planning permission would be required for a change of use.

Whilst the North Devon case and previous appeal decisions provide helpful background for informing a decision, it is clear that no two proposals are the same and what might be considered material or non-material for one property will not be the same at another.

In exercising their judgement Members considered that the nature of the proposed operation would result in additional comings and goings to the property, and a level of activity and disturbance over and above that which would be considered characteristic of a dwelling of this kind; thus, the change of use would be a material one.

Of particular relevance is that the application property is a terraced dwelling which, like its immediate neighbours, is set back from the highway, in a prominent raised position, by a short front garden.

Therefore, unlike a detached or semi-detached house that might enjoy a degree of seclusion and privacy created by a driveway, mature landscaping or greater physical separation from its neighbours, any activity at the front door would be very conspicuous and in close proximity to other residents.

Furthermore, the development would result in additional traffic to the property, from the staff and manager employed there and at shift changeover time, as well as that generated by professional visitors.

This type of occupation, carers on duty all night, comings and goings more numerous than usual and patterns of life and different to those of most family homes would not reflect that of other dwellings in this location, which would be exacerbated by the absence of any off-street parking. The new use would therefore evidence a different character.

In addition, having two carers and a manager present during the daytime, in addition to the two children, if not at school, Members highlighted concerns about the capacity of the property to accommodate the proposed use.

Being of modest size and with three bedrooms, it would have to provide separate space for three adults for office use, work breaks and a bed for the sleep-in carer, as well as separate bedrooms for the two children.

There is also concern, given the number of unrelated individuals who would be present in the house, that they would have to share limited kitchen and bathroom facilities, all of which indicates that the intensity of use would likely be less comparable to other dwellings in the local area.

Whilst the numerous appeal examples referenced within Development Control Practice tend to indicate that small scale proposals to operate children's homes from dwellings will be more likely to be considered non-material changes of use, it is for the decision maker to determine the relevant factors in each unique case.

Therefore, should Members be minded to maintain their position that the change of use at 142 Kenry Street from C3 to C2 would be a material one, the following reason for refusal is recommended:

The operation of a children's home would not be reflective of the prevailing character of the neighbouring dwellings and surrounding area and would therefore be considered to constitute a material change of use for the following reasons:

- **the additional comings and goings to the property and the level and pattern of activity and disturbance would be over and above that considered characteristic of a dwelling of this kind;**
- **the type of occupation, carers on duty all night, comings and goings more numerous than usual and patterns of life would be different to those of most family homes;**
- **the additional traffic to the property, from the staff and managers employed there and at shift changeover time, as well as that generated by professional visitors, would be exacerbated by the absence of off-street parking facilities;**
- **the capacity of the property to accommodate the proposed intensive use, due to the need to provide separate space for three adults for office use, work breaks and a bed for the sleep-in carer, as well as separate bedrooms for the two children, with limited bathroom facilities.**

Consequently, the development would not be lawful for planning purposes, and the Local Planning Authority refuses to grant a certificate of lawfulness for the proposed use and planning permission would be required.

PLANNING & DEVELOPMENT COMMITTEE

07 March 2024

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 23/1318/09 (JE)
APPLICANT: Lolly Support Services Ltd
DEVELOPMENT: Certificate of Lawfulness for a proposed change of use of a dwelling C3(a) to a Children's Residential Home C2 for up to 2 children, along with 2 no. support staff 24 hours a day, operating in shifts, and a registered manager.
LOCATION: 142 KENRY STREET, TONYPANDY, CF40 1DD
DATE REGISTERED: 22/11/2023
ELECTORAL DIVISION: Tonypandy

RECOMMENDATION: APPROVE

REASONS: The proposal to utilise the existing residential dwelling for the provision of residential accommodation and care for up to 2 no. children between the ages of 8 – 17, along with support staff providing care 24 hours a day, operating in shifts is considered to result in a prima facie change of use, Class C3 to Class C2.

However, based on the evidence and supporting information submitted by the applicant, as a matter of fact and degree, the change of use would not be considered material. Consequently, the development is lawful for planning purposes and planning permission is not required. Therefore, a Certificate of Lawfulness can be issued.

REASON APPLICATION REPORTED TO COMMITTEE

- A request has been received from Councillor Gareth Hughes for the matter to come to Committee for members to consider the application.

APPLICATION DETAILS

This is an application for a Certificate of Lawfulness for a Proposed Development under Section 192 of the 1990 Act ('CLOPUD') that seeks to establish whether the proposed use of a residential dwelling, 142 Kenry Street, Tonypany as a residential children's home (as detailed in the description, submitted plans and associated documents), would be lawful for planning purposes. In effect the application seeks to establish whether the proposal would result in a material change of use of the property or if it is capable of being carried out without the need for planning permission.

The proposal seeks to utilise the existing house for the provision of residential accommodation and care for up to two children between the ages of 8 – 18 years old. The children would be supported by up to three staff during the day and two at night.

The supporting information submitted with the application sets out that the registration of the home would be with for a maximum of two children on a staff ratio of 1:1, operating on the following basis:

- A registered manager would work Monday to Friday, between 8am and 5pm.
- Care staff would work shifts from 8am to 8pm, with two on a day shift and one working night duty and another one on a sleep-in basis.

The application details also outline that the existing residential setting would be maintained, which comprises three bedrooms, a lounge/diner, kitchen/breakfast room and a bathroom.

SITE APPRAISAL

The application property relates to a traditional mid terrace dwelling located within a residential area of Tonpandy. To the front the property is set back and elevated from the highway at Kenry Street with a small area of amenity space and steps providing access to the property. To the rear of the property is area of amenity space which is enclosed on both side elevations by neighbouring properties and an access lane to the rear. The amenity space increases in level to the rear with the access lane at approximately first floor level of the property.

The area surrounding the site is residential in nature and is characterised by traditional terraced properties.

PLANNING HISTORY

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

23/0712/10: 142 KENRY STREET, TONYPANDY, CF40 1DD

Proposed change the use of the property into a children's residential home.

Decision: 05/12/2023, Refuse

PUBLICITY

The application seeks the determination of whether the proposed use is lawful and as such no consultation with nearby properties is therefore required to be or has been undertaken.

CONSULTATION

The application seeks the determination of whether the proposed use is lawful and as such no internal/external consultation is required to be undertaken. However, despite this fact, given the nature of the proposed determination, consultation has been undertaken with the Council's Legal and Democratic Services section in order to gain a legal opinion in respect of the proposed use from the Council's solicitors.

The Council's solicitor commented that having assessed the information submitted and the nature of the proposed use described, the Council could properly issue a Certificate of Lawfulness on the basis that the proposal does not constitute a material change of use and therefore planning permission is not required.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The determination of this application does not include any consideration of the planning merits of the case. Therefore, there are no Local Development Plan policies that need to be taken into account.

National Guidance

Welsh Office Circular 24/97: Enforcing Planning Control, Annex 8, deals with 'Lawfulness and the Lawful Development Certificate.'

Paragraph 8.26 states that if the LPA are supplied with information satisfying them that the use or operations described in the application would be lawful, they shall issue a certificate to that effect and, in any other case, they shall refuse the application. The burden of proof is firmly on the applicant.

Paragraph 8.28 advises that a LDC granted under Section 192 shall specify the land to which it relates, describe the use or operations in question (identifying the relevant 'use class' where appropriate), and give the reason why the proposal would be lawful.

REASONS FOR REACHING THE RECOMMENDATION

This is an application for a Certificate of Lawfulness for a Proposed Development under Section 192 of the 1990 Act ('CLOPUD') that seeks to establish whether the proposed use of the existing residential dwelling as a residential children's home, as detailed in the description, the submitted plans and associated documents, would be lawful for

planning purposes. In effect the application seeks to establish whether the proposal would result in a material change of use of the property or is capable of being carried out without the need for planning permission. As such the application should be determined on the facts submitted and the law rather than on planning policy/merits.

As noted further above, the property is a three-bedroomed, mid terraced dwelling house located within a residential area of Tonypany. The property is intended to be used for the provision of residential accommodation and care for up to 2 no. children between the ages of 8 – 18, with up to 2 no. support staff at the property 24 hours a day, operating in shifts through a sleep in service, and with a manager present during daytime working hours.

The new use would not result in any external alteration and the application does not include proposals to change the internal layout of the property. Consequently, the children and staff would share the kitchen, bathrooms and communal facilities and the children would each have their own bedroom. Furthermore, the children would be expected to attend education during the week and the support staff would assist the children with recreational activities after school and on the weekends.

As such, in this case, the main question for determination is whether the proposed use would fall within the current use class of the property, Class C3 (dwelling house), or Class C2 (residential institutions). However, there is also the subsidiary question of, if the proposed use falls within Class C2, would a material change from the current Class C3 use occur?

Section 55(1) of the Town and Country Planning Act 1990 defines the term 'development' which includes the making of any change of use of any buildings. Section 55(2) (f) explains in the case of buildings used for a purpose of any class specified by the Welsh Government the use of the building for any purpose within the same class shall not be taken for the purpose of the Act as amounting to 'development'.

On 25 February 2016 the Town and Country Planning (Use Classes) Order 1987 was amended in Wales by the Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2016 whereby Part C of the Schedule now states:

'Class C3. Dwelling Houses

Use as a dwelling house (whether or not as a sole or main residence) by –

(a) A single person or by people to be regarded as forming a single household;

(b) Not more than six residents living together as a single household where care is provided for residents; or

(c) Not more than six residents living together as a single household where no care is provided to residents (other than a use within C4)' (Class C4 relates to the use of dwelling house by not more than six residents as a house in multiple occupation).

In light of the above, the proposed use of the property would clearly not fall within Class C3(a) as it would not be occupied by people living together as a family. Further, it would not fall within Class C3(c) as an element of care would be involved. Consequently, unless the proposed use falls within Class C3(b), it would fall within Class C2.

Whilst the definition of Class C3 was altered in the amendment Order 2016, the definition of 'care' was not, and therefore remains as stated in the original 1987 Order:

'In this Order, unless the context otherwise requires:

'care' means the personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment;

The Order however does not define the term 'personal care' but the term is defined in the Cambridge Dictionary as:

'the job of helping people who cannot take care of themselves, for example because they are disabled'

Alternately, the Department of Work and Pensions defines the term 'personal care' as:

'personal care includes: assistance with dressing, feeding, washing and toileting, as well as advice, encouragement and emotional and psychological support.'

It is noted that the definition of 'care' within the Order appears to exclude the personal care of children, except in Class C2. In class C3 there is reference (in the parenthesis to C3(b)) to care provided for residents, but that care does not by the definition clause include the care of children.

The supporting information submitted with application details that the property would not be occupied by more than six residents in total at any one time and that an element of care would be provided. However, it does not detail that the children would be disabled, suffer from mental disorder, or any of the other factors or similar detailed within the Order's definition of 'care'. As such it is not considered that the care of the children in the context of this case would fall within that prescribed under Class C3(b). Instead, the occupiers would be children who, for whatever reason, have been put into the care of the Local Authority and the Local Authority is required to find somewhere for them to live and to be cared for during their minority, i.e. the property would provide residential accommodation and care to people in need of care because of their age (under 18s). The children residing at the property need to be looked after as they could not run a

house or be expected to deal with all the matters that go in to running a home without the full time care of an adult and further, they need adult supervision to ensure the household operates as it should. Additionally, in the context of this case, whilst providing care on a continuous 24 hour basis, the care would not necessarily be provided by the same person as the support staff would not reside at the property permanently, operating in shifts. Consequently, there is no doubt in this instance that the proposed use would fall within Class C2.

Notwithstanding the above, whilst the proposed use clearly falls within Class C2, the applicant, through the supporting information, contends that the residents would occupy the property as a single household and therefore a material change of use of the property would not occur. With regard to this point and the consideration of this application, the following court of appeal decision is relevant: 'North Devon District Council v First Secretary of State (2003)'.

It was determined that children, on their own, cannot be considered to form a single household and carers who did not live there all the time meant that the use fell within Class C2. This has become the established case law position.

Moving onto the second issue and whether the proposal would constitute a material change of use is a matter of fact and degree. Development Control Practice contains numerous examples of past appeals where Inspectors have based their judgment on the level of occupation and intensity of use; any changes to the appearance of the property; any alterations to internal layout; the nature of the comings and goings associated with the use; the scale and location of the proposed use and any impact on local amenity.

These considerations are not an exhaustive list, but in judging whether the overall character of the proposed use at 142 Kenry Street would differ materially from that of a dwellinghouse or the existing residential use and context of the surrounding area, the following points are noted:

- The North Devon case operated on the basis of non-resident carers working a shift pattern but it was found that this would not result in a material change of use. Therefore, that the dwelling would effectively act as a place of employment for the relevant staff is not a concern.
- The proposed times of the shift changeover at 08:00 and 20:00 hours would not be at unsocial times or likely vary from, or be at odds with, the patterns of movement caused by other local residents returning to and from their homes either due to work, shopping, school or other social activities.
- No changes are proposed to the appearance of the property or its internal layout.
- Regarding intensity of use and the level of occupation, this is limited by the scope of the application and the physical size of the property and would therefore be comparable to other neighbouring dwellings.
- The proposed parking requirements would not be considered to be materially different from those associated with other residential uses in the locality, where

the number of vehicles associated with a family, or the number of comings and goings can vary.

- The two children would be accommodated and cared for in a manner that would be as close as possible to that of any other family occupied unit.

On the basis of the foregoing and having reviewed the outcomes of comparable appeal decisions at Fenland (re. 2155849), Poulton Le Fylde (ref. 3277997), Rochdale (ref. 3145074), Brecon (ref. 2205394), it is considered that the proposed children's home would not represent a material change of use and thus the issuing of a Certificate of Lawfulness would be appropriate.

Conclusion

The proposal to utilise the existing residential dwelling for the provision of residential accommodation and care for up to 2 no. children between the ages of 8 – 18, along with support staff providing care 24 hours a day, operating in shifts is considered to result in a prima facie change of use, Class C3 to Class C2. However, based on the evidence and supporting information submitted by the applicant, as a matter of fact and degree, the change of use would not be considered material. Consequently, the development is lawful for planning purposes and planning permission is not required. Therefore, a Certificate of Lawfulness can be issued.

RECOMMENDATION: Approve:

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RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2023-2024:

**PLANNING AND
DEVELOPMENT COMMITTEE
11th APRIL 2024**

**REPORT OF: DIRECTOR
PROSPERITY AND
DEVELOPMENT**

Agenda Item No.

APPLICATION NO:23/1277/38 – Discharge of conditions 7 (traffic Management) and 8 (drainage details) imposed on planning permission 23/0575/15 for the construction of 3no. three bedroom houses on land adjacent to 15 Grover Street Graig, Pontypridd.

PUROPOSE OF THE REPORT

Members are asked to determine the above planning application

RECOMMENDATION

That Member consider this report and determine the application having regard to the advice given.

BACKGROUND

Planning application 23/0575/15 approved on 8th November 2023 is a renewal of planning permission for the construction of 3no. three bedroom link houses adjacent to 15 Grover Street, Graig, Pontypridd. Following the renewal of consent the developer submitted application 23/1277 aiming to discharge the requirements of condition 7 relating to traffic management proposals and condition 8 drainage details. A report in respect of the second application was prepared for the meeting of the Planning and Development Committee held on 7th March 2024 (a copy of the original report to Members forms appendix A to this report). Following receipt of a last minute objection from Dwr Cymru Welsh Water to the proposed drainage arrangements Members resolved to defer determination of the application to allow officers further time to consider the contents of the late letter received from Dwr Cymru Welsh Water (minute no 226 refers).

Following deferral of the application, the applicant submitted revised drainage plans to the Council and to Dwr Cymru Welsh Water. The revised plans have been subject to scrutiny by Dwr Cymru Welsh Water and they have now confirmed that they find the details acceptable in principle though the sewer diversion will need to be managed through legislation m overseen by themselves (Section 185 of the Water Industry Act). Flood Risk Management

were supportive of the original submissions and the approach adopted to the overall drainage of the site and remain so.

Following the deferral a further objection was received from a local resident raising the following additional issues: -

- Whilst it is accepted attenuation cells can be placed closer to houses than soakaways Building regulations require a geologist report to confirm ground stability.
- The proposed attenuation cells are uphill and guidance requires them to be on level ground at the lowest point of the build
- The attenuation cells are close to the retaining wall supporting a house in Kirkhouse Street.
- It is requested that Building Control be invited to comment before the drainage condition is discharged.
- The ownership of the land around the building plot is in dispute as neighbours are trying to claim adverse possession – if successful, they have stated they will not allow drainage over or through their land should they prove successful.
- The revised sewer plans and the associated diversion, involves excavations close to the foundations of existing properties and they may be deeper and residents are concerned that it might lead to subsidence and object on that basis.

With regard to the first three points these are matters that will be governed by Building Regulations at the time that such a submission is made and they do not need to be proven now to discharge planning conditions which are establishing the principle that the approach is acceptable. The Building Regulations operate under a separate stream of legislation and it is not appropriate to seek their implementation through planning legislation. The fourth point would be unnecessary in the circumstances. The fifth point lies entirely outside the scope of proposals when considering the discharge of planning conditions and this submission should not be the subject of delay while this issue is resolved. The final point is no basis for an objection to the discharge of conditions as it would also be governed under other legislation and it would not in any event be appropriate to object to or prevent development on the basis that something might or might not happen

In light of the above and the fact that the details submitted in respect of traffic management at the site remains acceptable it is recommended that Members authorise the discharge of conditions 7 and 8 of planning permission 23/0575/15.

PLANNING & DEVELOPMENT COMMITTEE

07 March 2024

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 23/1277/38 (GD)
APPLICANT: Brickcraft Construction Ltd
DEVELOPMENT: Discharge of conditions 7 (Traffic management details) and 8 (drainage details) as imposed on permission 23/0575/15 for the construction of 3 no. 3 bedroom linked housing units
LOCATION: LAND ADJ TO 15 GROVER STREET, GRAIG, PONTYPRIDD
DATE REGISTERED: 07/12/2023
ELECTORAL DIVISION: Graig and Pontypridd West

RECOMMENDATION: Approve

REASONS: The relevant consultee departments have both confirmed that the submitted details sufficiently address the requirements of the relevant conditions and that they can now be discharged.

REASON APPLICATION REPORTED TO COMMITTEE

- Three or more letters of objection have been received.

BACKGROUND

A renewal of planning permission for the construction of 3no. 3 bedroom link houses was considered at the Planning and Development Committee on 19th October 2023 and permission granted subject to conditions.

APPLICATION DETAILS

Consent is sought for the discharge of conditions 7 and 8 of planning permission 23/0575/15 relating to the construction of 3no. 3 bedroom link houses adjacent to 15 Grover Street.

Condition 7 states

Prior to the commencement of development, details of traffic management and wheel washing facilities shall be provided on site in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained throughout the construction period unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that mud and debris are not deposited from the construction site onto the public highway, in the interests of highway safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

Condition 8 states

No development shall take place until drainage arrangements 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.

The application is supported with plans relevant to the details the developer is attempting to agree.

SITE APPRAISAL

The application site is approximately 650sqm in area and lies at the north-western end of Grover Street, adjacent to number 15. The site is a cleared, vacant parcel of land. Adjoining the northwest of the site the land slopes away down to meet Sardis Road public car park. A footpath which connects Grover Street with the car park also lies within the redline boundary of the application site. An access path serving the rear of terraced properties in Grover Street and Kirkhouse Street runs adjacent to the eastern boundary of the site between the application site and 15 Grover Street. The southwestern site boundary is defined by the rear boundary wall of a neighbouring residential property known as Ger-Y Nant (which is served off Kirkhouse Street). The adjacent residential properties mainly consist of traditional terraced properties of a mixed external finish of render and stone, with a scattering of new larger properties in brick and render along Kirkhouse Street.

PLANNING HISTORY

23/0575	Land adj. 15 Grover Steet, Graig, Pontypridd	Variation of condition 1 of application 18/0617/15 to extend the current consent by a further 5 years (original application 13/0758/10 –	Granted with conditions 19/10/23
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		residential development, construction of 3no. 3 bedroom link houses)	
18/0617	Land adj. 15 Grover Steet, Graig, Pontypridd	Variation of Condition 1 of previous application 13/0758/10 to extend the approval for a further 5 years.	Granted with conditions 05/07/18
13/0758	Land adj. 15 Grover Steet, Graig, Pontypridd	Residential development, construction of 3 no. 3 bedroom linked housing units (Amended Plans Received)	Granted with conditions 28/20/13
08/1292	Land North/West Limit, Grover Street, Graig, Pontypridd.	Renewal of consent 05/1561/15 - Erection of a two storey block of residential flats.	Granted with conditions 13/10/08
05/1567	Land North/West Limit Grover Street, Graig, Pontypridd.	Renewal of consent 02/1027/15 - Erection of a two storey block of residential flats.	Granted with conditions 28/10/05
02/1027	Land North/West Limit Grover Street, Graig, Pontypridd.	Renewal of consent 99/2420/15 - erection of a two storey block of residential flats	Granted with conditions 09/09/02
99/2420	Land North/West Limit Grover Street, Graig, Pontypridd	Renewal of consent 95/0786 - Erection of a two storey block of residential flats.	Granted with conditions 27/07/99
95/0786	Land North/West Limit Grover St, Graig Pontypridd	Erection of a 2 storey block of residential flats (renewal of outline permission ref: 56/92/0925).	Granted with conditions 31/05/96
92/0925	Land North/West Limit Grover St, Graig, Pontypridd	Erection of a 2 storey block of residential flats (renewal of outline permission ref: 89/1062)	Granted with conditions 02/02/93
89/1062	Land to North West limit of Grover Street, Graig, Pontypridd	Residential flats (2 storey)	Granted with conditions 10/01/90
89/0788	Site of existing garages at North western limit of Grover Street,	Erection of block of flats (3 storey)	Refused 23/10/89

PUBLICITY

No publicity is required to be undertaken in respect of discharge of conditions applications however, in this instance eight letters of objection from 4 different sources have been submitted raising the following issues

Traffic Issues

- The submitted plan prevents vehicles from turning safely at the bottom of the street, the suggested image shows the turning circle is not big enough and will prevent vehicles from entering and leaving the street in a forward gear.
- If the proposals are allowed it will remove up to 12 parking spaces from general use.
- It is suggested that the width of the brown area is halved to allow turning for residents.
- The street is heavily parked and to block this area off to manage traffic is selfish.
- It is suggested that the width of the brown area is halved to allow a parking area for residents.
- The condition was set in place to manage traffic safely the proposals do not achieve that and creates a danger for residents.
- Condition 7 states that the developer needs to inform the residents of such intentions, this has not happened therefore condition 7 cannot be discharged.
- The site plan states that the area at the front of the house is a “drive way”, planning application 13/0758 states the area is labelled as on street parking.
- If the proposed scheme is approved it would restrict emergency vehicle and large vehicle deliveries access to the wider area and 1 & 2 Birdsfield Cottages in particular.
- Even with the revisions submitted there is still no room for residents to park. Will specific provision be made for residents to park and particularly disabled parking?
- There is insufficient parking to serve the street.
- The Council has rejected the request for resident only parking.
- Why does the new development not provide private parking inside the plot owned.
- When the pavement and parking are completed who will own the land.
- The traffic management plans show there would be no space for established residents to park.
- Why were residents not permitted to attend the site visit held on 11th January?

Drainage issues

- Building Regulation 5.3.11 states that underfloor crates and soakaways should be 5 metres from any wall or foundation and 2.5m within the land boundary. It also states that they cannot be used within 5 metres of a road. The intended plans do not fulfil these criteria.
- SUDs guidance B1.3 states “where land ownership is an issue the local authority will need evidence that any necessary easements are in place before agreeing drainage proposals.
- Residents understand that any development larger than 1 house is subject to a full SuDS application and query if this is the case with this application.
- Residents currently experience flooding at the bottom of the street every time it rains. The drain overflows with back pressure and any additional load on the stretched system will be horrendous.
- Welsh Water state that no operational development shall be carried out within 3 metres either side of the centreline of a public sewer – the sewer map provided by Welsh Water shows 2 sewers running through the site and the plans clearly show construction within that easement.
- Birdsfield Cottages lie at a lower level and at the end of the drainage line and any proposals that exacerbate water related issues offer a greater potential for flooding.
- The applicant is installing attenuation cells and these are close to other properties – the Building Regulations state that a geologists report is required to confirm ground stability and no such report has been provided
- There is no provision on the drainage plans for septic tanks can you provide information on where the septic tanks will be located in relation to existing property?
- One objector references the requirements of drainage related conditions associated with earlier permissions on this site pointing out that the current submissions could not meet the requirements of those conditions as they require that no surface water or land drainage would be allowed to connect to the public sewer

Other issues

- Document D01 does not accurately reflect the land ownership boundary. The developer owns around 1/3 of the land they claim on the drainage files.
- This also invalidates the calculations on pre development and post development calculations and areas.
- The land surrounding the building plot is in dispute, neighbours are aiming to register the land under adverse possession. Neighbours claim to have used and maintained the land for over 20 years. If they are successful with their application they will not be allowing soakaway usage on their land – the developer needs to manage their surface water inside of their legal boundary.
- The plans used are not Land Registry documents.

- The applicant has no right to erect heras fencing and restrict access to the public footpath in the manner shown.
- The applicant has physically threatened locals when they have complained and refuses to engage in reasonable discussions.
- It is claimed the proposed vehicular parking bay was obtained fraudulently and is built over a claimed vehicular right of way and is currently subject of court action. Whilst such action is ongoing it cannot be used for parking and it is an offence to obstruct a legal right of way.
- The Local Development Plan states development should maintain existing off road parking.
- It is alleged that the certification on the original renewal application did not allow the specified period for advertisement before the application was submitted.

CONSULTATION

Highways and Transportation – the details submitted are acceptable to discharge condition 7 in part prior to implementation on site. The approved details shall remain in operation throughout the construction phase.

Flood Risk Management – Have reviewed the documentation provided by the applicant – they propose to discharge from the site at a rate of 1.2l/s, this does provide a small betterment and is acceptable from a flood risk perspective subject to SAB approval.

Natural Resources Wales – have no comment to make on the proposed development.

Dwr Cymru Welsh Water – no response received.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Members will be aware that the current LDP's lifespan was 2011 to 2021 and that it is in the process of being reviewed. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 4th January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 4th January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24th September 2020. Subsequently, Members are advised that the existing Plan remains the development plan for consideration when determining this planning application.

Indicates that the site is within the defined settlement limits of Pontypridd.

CS 2 sets out that in the Southern Strategy Area the emphasis will be on sustainable growth that benefits Rhondda Cynon Taf as a whole. CS2 (1) promotes residential development with a sense of place which respects the character and context of the Principal Towns and Key Settlements of the Southern Strategy Area.

AW 1 sets out the criteria for new housing proposals, commenting that the provision of new dwellings will be met by a number of methods, including the development of unallocated land within the defined settlement boundaries.

AW2 promotes development in sustainable locations.

AW 5 sets out criteria for new development in relation to amenity and accessibility.

AW6 sets out the criteria for new development in terms of design and place-making.

AW8 sets out the criteria for the protection and enhancement of the natural environment.

AW10 sets out the criteria for environmental protection and public health.

SSA11 requires residential developments to provide a density of 35 dwellings per hectare.

SSA13 sets out the criteria for new development within Settlement Boundaries.

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 12 (PPW) operates 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

Other relevant national policy guidance consulted:

PPW Technical Advice Note 18: Transport

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

The application relates to the approval of details reserved by a condition of an existing planning permission. The principle is therefore considered acceptable. However, in this case the relevant consultees have to be satisfied that the details submitted are sufficient to discharge the requirements of the conditions referenced.

Condition 7 Traffic Management

The Highways and Transportation Section have given full consideration to the details submitted in respect of this condition. They have also been made aware of the nature of the objections submitted by the objectors to the proposals. They have though concluded that in this instance the detail submitted is sufficient to discharge the requirements of the condition.

Much of the objection relating to highway matters either suggests alternatives which the applicant is not obliged to consider or suggests that the proposed arrangement is in some way inconvenient or unsafe. Highways and Transportation in arriving at the conclusion they have on the submitted details do not agree with these assertions. Further, the proposed arrangements and the agreement of a Traffic Regulation Order will secure an adequate turning facility to the benefit of the development and existing residents.

A number of traffic related issues raised also lie outside the scope of the adequacy or otherwise of the detail submitted to support the application. The current state of parking on Grover Street, the fact that the Council might have rejected requests for resident only parking, who will own the land on completion of the development and whether or not residents can attend and inform site meetings are not relevant to the consideration of the detail submitted to discharge the condition. It is noted however that when the

pavement and other works are completed the applicant's intention is that it will be adopted by the Highway Authority.

Condition 8 Drainage

The Council's Flood Risk Management (FRM) Section have considered the details submitted in support of the drainage of the site. At the time of preparation of this report no response had been received from Dwr Cymru Welsh Water. FRM have indicated that they are satisfied with the land drainage proposals to serve the development and that if implemented there will be slight benefit inasmuch as runoff rates from the site will be properly controlled. Though Dwr Cymru Welsh Water have not so far commented on the proposals there is sufficient provision under the Water Industries Act that would ultimately enable them to secure an appropriate connection.

Much of the objection raised to the details submitted references other legislation that the proposals may or may not be able to comply with, or the fact that it relies on the control of land that is currently the subject of legal dispute. It is not the purpose of planning legislation and requirements to enforce what can be enforced through other legislation. Some residents raise the issue of compliance with SuDS, however, as the original grant of planning permission pre dates the introduction of SuDS this development is not subject to that regime. Whilst residents reference SuDS and the Building Regulations in relation to soakaways in particular, it should be noted that the scheme proposed is a lined attenuation system.

The sewer map supplied by the objectors does not concur with that provided by Dwr Cymru when application 23/0575 was under consideration. In any event it is common practice to seek an easement from them in such circumstances. Again this lies outside the scope of what can reasonably be considered when an application of this nature is being considered.

The requirement to provide a geologists report relates to the Building Regulations. There is no such requirement with regard to the discharge of planning conditions and it would not be appropriate to attempt to enforce the requirements of other legislation through the planning process.

Grover Street lies within a sewered area and the developer is expected to provide an appropriate foul drainage solution that connect with the public sewerage infrastructure. The need for septic tanks should not arise – this though is fundamentally an issue to be resolved between the Developer and Dwr Cymru Welsh Water.

Notwithstanding what conditions associated with earlier iterations of this permission might have required the condition currently under consideration does not make the same requirements and it is against this that the current submission needs to be assessed. The current drainage condition does not prevent the attenuated land drainage connection promoted in this application.

Other Issues

Residents have also raised a number of issues that lie outside the scope of the proposals which require some further commentary.

The fact that some of the land required to implement both the highways and drainage schemes is the subject of dispute does not affect consideration of the technical adequacy (or otherwise) of the scheme itself. If the developer cannot secure the land required then they would have to develop an alternative solution. Similarly so the claims relating to land ownership and encroachment on to land owned by others lie outside the scope of what this application can or should consider.

The applicants are not obliged to use Land Registry plans to define the extent of the site, Ordnance Survey is more than adequate. The key issue for the determination of this submission is that it reflects the site boundary approved under the earlier application.

The herras fencing does not restrict access to the public footpath and the developer has the right to secure the site in advance of development occurring

The comments in respect of the Local Development Plan and what it requires in respect of off road parking are not relevant.

The certification concerns relate back to the original renewal of planning permission and any action in respect of that (if it can be proved to be the case) would be out of time.

Conclusion

The application is considered to comply with the requirements of the conditions subject of the application and as such these conditions can and should be discharged.

RECOMMENDATION: Approve

PLANNING & DEVELOPMENT COMMITTEE

11 APRIL 2024

INFORMATION FOR MEMBERS, PERTAINING TO ACTION TAKEN

UNDER DELEGATED POWERS

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

1. PURPOSE OF THE REPORT

To inform Members of the following, for the period 11/03/2024 – 29/03/2024

Planning Appeals Decisions Received.
Delegated Decisions Approvals and Refusals with reasons.

2. RECOMMENDATION

That Members note the information.

LOCAL GOVERNMENT ACT 1972

as amended by

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LIST OF BACKGROUND PAPERS

PLANNING & DEVELOPMENT COMMITTEE

11 APRIL 2024

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

REPORT

**INFORMATION FOR MEMBERS,
PERTAINING TO ACTION TAKEN
UNDER DELEGATED POWERS**

OFFICER TO CONTACT

**Mr. J. Bailey
(Tel: 01443 281132)**

See Relevant Application File

APPEALS RECEIVED

APPLICATION NO: 23/0398
APPEAL REF: CAS-03314-S2B9D0
APPLICANT: Mason and Young Property Investments Limited.
DEVELOPMENT: Change of use from a HMO (C4 use) to a Children's Home and associated works. (Amended Site Location Plan received 08/06/2023)
LOCATION: 37 ELIZABETH STREET, ABERDARE, CF44 7LN
APPEAL RECEIVED: 07/03/2024
APPEAL START DATE: 22/03/2024

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RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
Development Control : Delegated Decisions (Permissions) between:

Report for Development Control Planning Committee

11/03/2024 and 29/03/2024

Tonypandy

23/1388/10 Decision Date: 20/03/2024
Proposal: Change of use from Tattoo Parlor (Sui Generis) to Convenience Store (A1 use)
Location: HEALTHCARE, 87A DUNRAVEN STREET, TONYPANDY, CF40 1AP

Aberdare East

24/0070/10 Decision Date: 14/03/2024
Proposal: Change of use from A3 Nightclub (Cardiff Street) and A3 Restaurant (Duke Street) to mixed use A2 (Estate Agents) and B8 locked storage facility.
Location: 22-22A CARDIFF STREET, ABERDARE, CF44 7DP

Aberdare West and Llwydcoed

23/1452/10 Decision Date: 19/03/2024
Proposal: Proposed two storey side and rear extension and adjoining single storey extension to existing dwelling Awelon Also an attic conversion with dormers and proposed double detached garage which will incorporate a space
Location: AWELON, HIRWAUN ROAD, PEN-Y-WAUN, ABERDARE, CF44 9AF

Bryнна and Llanharan

24/0089/15 Decision Date: 13/03/2024
Proposal: Variation / removal of condition 2 - convert the garage into a home office, garden room & small gym (05/1988/10)
Location: THE BARNS, LANELAY LANE, TALBOT GREEN, PONTYCLUN, CF72 9LU

Cymer

23/0050/13 Decision Date: 14/03/2024
Proposal: Outline planning permission for the construction of 5no. split level properties with access off Gwaun Bedw (Preliminary Ecological Appraisal received 19/3/23)
Location: LAND OPPOSITE AND NORTH OF 4 - 7 GWAUN BEDW, CYMMER, PORTH

24/0093/10 Decision Date: 22/03/2024
Proposal: Double storey side extension, refurbishment and new garage
Location: 11 BELMONT TERRACE, GLYNFACH, PORTH, CF39 9LB

Ferndale and Maerdy

24/0113/10 Decision Date: 28/03/2024
Proposal: Two storey rear extension
Location: 28 THOMAS STREET, MAERDY, FERNDALE, CF43 4DL

Glyn-coch

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
Development Control : Delegated Decisions (Permissions) between:

Report for Development Control Planning Committee

11/03/2024 and 29/03/2024

Glyn-coch

24/0074/19

Decision Date: 14/03/2024

Proposal:

30% crown reduction to 1no Lime Tree (T1) and 1no. Horse Chestnut Tree (T2).

Location:

CEDARS, THE GROVE, GLYN-COCH, PONTYPRIDD, CF37 3BQ

Graig and Pontypridd West

23/1347/10

Decision Date: 13/03/2024

Proposal:

Change of use from A1 to Massage Therapy (Sui Generis)

Location:

SHOP, 2 MASONIC BUILDINGS, HIGH STREET, PONTYPRIDD, CF37 1QJ

Hawthorn and Lower Rhydfelen

23/1264/10

Decision Date: 11/03/2024

Proposal:

Part-retention and refurbishment of Unit C including new glazed shopfront, ancillary customer café and internal garden centre; reconfiguration of external display area and holding area to rear of Units A and B including

Location:

HOME BARGAINS, MIDWAY PARK, UPPER BOAT, PONTYPRIDD, CF37 5BL

Hirwaun, Penderyn and Rhigos

23/0517/10

Decision Date: 14/03/2024

Proposal:

Proposed two bedroom bungalow

Location:

BUILDING PLOT TO THE REAR OF GLANCYNON INN, SWANSEA ROAD, HIRWAUN, ABERDARE, CF44 9PE

Llantrisant and Talbot Green

24/0030/10

Decision Date: 20/03/2024

Proposal:

Temporary MRI facility and staff welfare unit with associated infrastructure.

Location:

Former British Airways Avionics Engineering, Ely Meadow, Talbot Green, Llantrisant, CF72 8XL

Llantwit Fardre

24/0145/10

Decision Date: 22/03/2024

Proposal:

Single storey rear extension

Location:

BRODAWEL, 44 HEOL DOWLAIS, EFAILISAF, PONTYPRIDD, CF38 1BE

Llwyn-y-pia

23/1337/10

Decision Date: 19/03/2024

Proposal:

Change of use from 3 bedroom dwelling in to 4 bedroom HMO. (Revised description and plans received 23/02/24)

Location:

88 TYNTYLA ROAD, LLWYNYPIA, TONYPANDY, CF40 2SR

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
Development Control : Delegated Decisions (Permissions) between:

Report for Development Control Planning Committee

11/03/2024 and 29/03/2024

Pontyclun West

24/0081/10 Decision Date: 28/03/2024
Proposal: Single storey rear extension and raised patio area
Location: 18 CASTAN ROAD, PONT-Y-CLUN, PONTYCLUN, CF72 9EH

Pontypridd Town

23/1326/10 Decision Date: 28/03/2024
Proposal: Removal of chimney stack, replace with reclaimed welsh slate to match existing roof.
Location: 4 TYFICA ROAD, PONTYPRIDD, CF37 2DA

23/1393/12 Decision Date: 14/03/2024
Proposal: Internal works which include; Remove non-original internal signage, marketing and manifestation, fixtures and fittings, racking, I.T equipment, furniture, safe units, equipment relating to the operation of this retail bank and
Location: NATWEST, 1-3 TAFF STREET, PONTYPRIDD, CF37 4UU

23/1395/10 Decision Date: 14/03/2024
Proposal: Internal works which include; Remove non-original internal signage, marketing and manifestation, fixtures and fittings, racking, I.T equipment, furniture, safe units, equipment relating to the operation of this retail bank and
Location: NATWEST, 1-3 TAFF STREET, PONTYPRIDD, CF37 4UU

24/0072/10 Decision Date: 22/03/2024
Proposal: Proposed single storey rear extension & front dormer.
Location: 4 NUNS CRESCENT, GRAIG-WEN, PONTYPRIDD, CF37 2EW

Taff's Well

23/0500/10 Decision Date: 28/03/2024
Proposal: Construction of new end of terrace three bedroom house with rear parking spaces (Revised Flood Consequences Assessment and Proposed Sectional Plan received 30/08/2023) (Amended Site Location Plan
Location: CECIL HOMES LTD, 28A CARDIFF ROAD, TAFF'S WELL, CF15 7RF

Ton-teg

24/0161/10 Decision Date: 22/03/2024
Proposal: Change of use of garage into a bedroom/shower room
Location: 11 DENBIGH CLOSE, TON-TEG, PONTYPRIDD, CF38 1HB

Tonyrefail East

24/0160/10 Decision Date: 12/03/2024
Proposal: Two storey side and single storey rear extension
Location: 43 CELYN ISAF, TONYREFAIL, PORTH, CF39 8AN

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
Development Control : Delegated Decisions (Permissions) between:

Report for Development Control Planning Committee

11/03/2024 and 29/03/2024

Tonyrefail West

23/1400/10

Decision Date: 14/03/2024

Proposal: Erection of a high paladin fence, with pedestrian access gate, manual vehicular access gate and retaining wall.

Location: UNIT A WALDRON UK LTD, PARC EIRIN, TONYREFAIL, PORTH, CF39 8WA

Trallwng

24/0106/10

Decision Date: 22/03/2024

Proposal: Construction of a hard standing and retaining wall.

Location: MERTHYR ROAD ALLOTMENT, MERTHYR ROAD, PONTYPRIDD

Trealaw

24/0016/10

Decision Date: 22/03/2024

Proposal: Change of use from children's charity to single residential dwelling with associated parking for 3 vehicles on land to the rear.

Location: RHONDDA YOUNG CARERS, 293 BRITHWEUNYDD ROAD, TREALAW, TONYPANDY, CF40 2NZ

Treherbert

22/1303/10

Decision Date: 28/03/2024

Proposal: Glamping pods, yurts, a health and well-being area (Updated PEA received 09/10/23, Green Infrastructure Statement received 17/01/24, foul water drainage details received 30/01/24 and 07/03/24)

Location: FERNHILL VALLEY FARM, BROOK STREET, BLAENRHONDDA, CF42 5SA

Tylorstown and Ynyshir

24/0076/10

Decision Date: 19/03/2024

Proposal: Demolish existing single domestic garage, construct new single domestic garage

Location: LAND ADJ TO 1 BAILEY STREET, WATTSTOWN, PORTH

Upper Rhydfelen and Glyn-taf

24/0098/10

Decision Date: 22/03/2024

Proposal: First floor rear extension, installation of rooflights on side elevation.

Location: 27 ELM STREET, RHYDYFELIN, PONTYPRIDD, CF37 5DF

Ystrad

23/0450/10

Decision Date: 14/03/2024

Proposal: New Dwelling.(Flood Consequence Assessment received 09/01/24)

Location: 26 LLOYD STREET, GELLI, PENTRE, CF41 7NQ

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
Development Control : Delegated Decisions (Permissions) between:

Report for Development Control Planning Committee

11/03/2024 and 29/03/2024

Ystrad

24/0085/10

Decision Date: 14/03/2024

Proposal:

Double storey rear extension, sun room and detached double garage.

Location:

6 MILL STREET, YSTRAD, PENTRE, CF41 7SQ

24/0139/10

Decision Date: 22/03/2024

Proposal:

Single storey rear extension, detached garage

Location:

TOPYDERI, PRIMROSE HILL, PENTRE, CF41 7PZ

Total Number of Delegated decisions is 31

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Report for Development Control Planning Committee

Aberaman

24/0119/10

Decision Date: 28/03/2024

Proposal: Retention of as built fence and gate enclosing extension of garden into rear lane at 13 Abergwawr Place and proposed fencing and gate enclosing extension of gardens into rear lane at 15 and 17 Abergwawr Place.

Location: 13, 15 AND 17 ABERGWAWR PLACE, ABERAMAN, ABERDARE, CF44 6YR

Reason: 1 The resulting character and use of the land, by forming part of the residential curtilage of 13, 15 and 17 Abergwawr Place, together with the erection of the fencing required to enclose the land, would have a detrimental impact upon the visual qualities of the area. Furthermore, the approval of the application would likely lead to further similar proposals, the effect of which could result in a cumulatively detrimental impact on the character and appearance of the wider area. As such, the development would not comply with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan

Pentre

24/0034/10

Decision Date: 14/03/2024

Proposal: Change of use from a C3 dwelling to a C4 house in multiple occupancy (HMO) (6 bedrooms), internal work and demolish rear porch.

Location: 2 GORDON STREET, TONPENTRE, PENTRE, CF41 7HH

Reason: 1 Whilst the introduction of a HMO use at the site could generally be considered acceptable in principle, it is considered that the proposed number of bedrooms would place significant pressure on the plot, representing an over intensive use of the property and overdevelopment of the site; and furthermore, in trying to accommodate as many bedrooms as possible within such a small building, would result in the creation of cramped and poor quality living accommodation for future occupiers to the detriment of their health and wellbeing. Consequently, it is not considered that the use of the property for a 6no. bedroom HMO would be appropriate.

The proposed change of use is therefore contrary to Policy AW5 of the Rhondda Cynon Taf Local Development Plan and the Council's adopted Supplementary Planning Guidance: Houses in Multiple Occupation.

Report for Development Control Planning Committee

Pontypridd Town

24/0149/19 Decision Date: 22/03/2024

Proposal: Removal of 1 Copper Beech

Location: 10 TYFICA CRESCENT, PONTYPRIDD, CF37 2BU

Reason: 1 The limited evidence submitted does not support the felling of the tree and therefore its removal would not be reasonable or appropriate. Consequently, the application is contrary to Policy AW 8 of the Rhondda Cynon Taf Local Development Plan and Technical Advice Note (TAN) 10 of Planning Policy Wales.

Reason: 2 Insufficient information has been submitted to enable a full assessment of the impact of the proposal on protected species. As such the development would be contrary to Policy AW 8 of the Rhondda Cynon Taf Local Development Plan.

Treforest

24/0031/10 Decision Date: 18/03/2024

Proposal: Change of Use to Class C4 five bedroom HMO with associated internal refurbishment and alterations

Location: 12 HILDA STREET, TREFOREST, PONTYPRIDD, CF37 1TT

Reason: 1 The proposal will further exacerbate the unacceptable cumulative adverse impact on the amenities of the area as a consequence of a higher number of transient residents leading towards less community cohesion and undermining the objectives of securing a sustainable mixed use community, contrary to Policies CS2 and AW5 of the Rhondda Cynon Taf Local Development Plan and the Houses in Multiple Occupation (HMO) Supplementary Planning Guidance (2018).

Total Number of Delegated decisions is 4