

PLANNING & DEVELOPMENT COMMITTEE

27 JANUARY 2022

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 21/0874/10 (KL)
APPLICANT: Brynawelon,
DEVELOPMENT: Re-grading of land to provide a flat area for the schooling of the Applicant's horses.
LOCATION: LAND TO THE REAR OF 8 BRYNDERWEN,
CILFYNYDD, PONTYPRIDD, CF37 4EX
DATE REGISTERED: 17/06/2021
ELECTORAL DIVISION: Cilfynydd

RECOMMENDATION: Approve

REASONS: The proposal would provide a large flat plateau for the schooling of horses. Whilst it would form a visible alteration to the site, some degree of landscaping has been incorporated to the western boundary with further landscaping proposed to the eastern boundary. It is considered that this would help to screen the site from the surrounding and wider area and it is considered to be acceptable in terms of the impact it would have on the character and appearance of the site and the wider special landscape area.

Furthermore, the reasons for the refusal of the previous application (ref. 18/0984) have been overcome and the application is considered to be acceptable in terms of its impact upon highway safety in the vicinity of the site, ecology and coal mining risk.

The proposal would also have no adverse impact on nearby residents in that the development would not result in any overbearing or overshadowing impact that would be detrimental to the amenity currently enjoyed by those nearest. The level of overlooking would also not be significantly increased over the current situation.

The application is therefore considered to comply with the relevant policies of the Rhondda Cynon Taf Local Development Plan.

REASON APPLICATION REPORTED TO COMMITTEE

- Three or more letters of objection have been received;

APPLICATION DETAILS

Full planning permission is sought for the re-grading of an area of land at the rear of no. 8 Brynderwen, Cilfynydd in order to provide a flat area for the schooling of horses.

The works would involve the re-profiling of the land across a depth of 19 metres. A new stockproof fence would be installed at the lower section of the site to a linear distance of 42 metres with the material from the upper section of the sloping site being cut and used to fill in the lower section adjacent to the stockproof fence. The result would be the formation of a level plateau (1 in 50 gradient) measuring 43 metres in width by 19.5 metres in depth. The area which would then sit above the flat plateau would be re-graded to provide two smaller plateau areas or 'terraces' which would incorporate buffer planting in order to soften the appearance of the resulting terraced banks. The areas to the north and south would be re-graded into the existing ground profile.

The menage (lowest) level would be raised between 1.2 and 1.9 metres above the original ground level (at the western part of the site). This would be made up from material taken from the central and eastern end of the site which would result in a reduction in the original ground levels of up to 2.7 metres (at the steepest part of the site). Further ground would be cut to create a terrace which would sit at 2.7 metres above the lower level with the material being used to create a further terrace above which would sit 2.5 metres above the terrace below (overall change in level of approximately 5.2 metres).

The applicant has indicated that the site is used to keep and exercise their own horses and whilst the sloping land is suitable for the general welfare and fitness of the horses, it is also important to have a reasonably sized flat area of land for stabling and schooling.

In addition to the standard application forms and plans, the application is accompanied by the following:

- Planning Statement;
- Coal Mining Risk Assessment

SITE APPRAISAL

The application site consists of a parcel of land that extends to approximately 0.15 hectares. The land rests in the ownership of the occupiers of no. 8 Brynderwen which, along with the access to the site, lies to the south-west. A stable block, which is also in the applicant's ownership, lies to the south (approved under planning ref. 17/0267).

The wider site is currently used for the grazing of horses and the keeping of pigs.

To the west of the site is an open area of recreational ground with a number of residential properties beyond, which front Brynderwen Road. Further residential properties are located to the south-west in Brynderwen. The application site and wider hillside forms part of a special landscape area, that being Taff Vale Eastern Slopes.

PLANNING HISTORY

The following applications are on record for the application site:

18/0984	Land rear of 8 Brynderwen, Cilfynydd	Earthworks/regrading for the provision of equine safety	Refused 18/10/18
17/0267	Land rear of 8 Brynderwen, Cilfynydd	Retention of stable block	Granted 14/06/17

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 6 letters of objection have been received and are summarised as follows:

Visual appearance

- The proposal would be more visually prominent than the 2018 application.

Drainage

- Concern is raised with regards to the disruption to water levels behind existing dwellings through the shifting of land.
- More and more water has been running off the mountain into the lane alongside no. 1 Brynderwen Road and the area at the rear of the houses has become extremely wet and boggy.
- If the drainage is sorted, there would be no objection to the provision of a flat area for horse use.
- Previous works carried out on the land have increased the amount of water coming off the mountain, which regularly filters through into gardens.
- The culvert directly behind Brynderwyn Road fills to capacity during heavy and long periods of rain.

Ecology

- The site has always been a very green area and there have been many biodiversity species present.

Coal Mining

- No risk assessment has been made of the impact of the proposals on disused mineshafts/adits that could increase flood risk to the community.

Stability

- The impact on slope stability has not been assessed, neither has the suitability of excavated material for re-use been determined.

Other

- Creating a flat area is practically impossible.
- The owner has previously been refused planning permission but has continued to work on the land, attempting to level part of the ground which is changing the topography.
- The owner has been working on the land at all times of the day and on the weekend which has caused major disturbance to residents.
- A pigsty has been erected right behind nos. 1 & 6 Brynderwen, approximately 100m away from their gardens. This causes awful smells.
- The owner also burns materials on site which means we are unable to sit in our gardens, hang washing out or keep windows open.
- The applicant has created an access onto the adjacent playing field where they school their horse which is causing damage.
- It is requested that works be carried out within reasonable working hours.
- It would be better suited to find grazing land elsewhere that is already flat and suitable for horses.

CONSULTATION

The following consultation responses have been received:

Coal Authority: No objection, subject to condition.

Countryside and Ecology: No objection or ecological assessment requested.

Flood Risk Management: No objection.

Highways and Transportation: No objection or condition recommended.

Public Health and Protection: No objection, subject to conditions

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The application site is located outside of the defined settlement boundary and forms part of a Special Landscape Area. The following policies are considered to be relevant in the determination of this application:

Policy AW2 (Sustainable Locations): promotes development in sustainable locations.

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

Policy AW6 (Design and Placemaking): sets out the criteria for new development in terms of design and placemaking.

Policy AW10 (Environmental Protection and Public Health): states that developments will not be permitted where they would cause or result in a risk of unacceptable harm to health and/or local amenity.

Policy SSA13 (Development within Settlement Boundaries): sets out the criteria for development within settlement boundaries.

Policy SSA23 (Special Landscape Areas): identifies a number of special landscape area and identifies the site as being within the Taff Vale Eastern Slopes.

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

Furthermore, 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 relevant policy guidance consulted:

PPW Technical Advice Note 12: Design;
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:

The application proposes a series of engineering operations on a parcel of land to the rear of 8 Brynderwen, Cilfynydd. The aim of the works is to enable the creation of a plateau to be used for keeping/grazing horses. The applicant states that the works are required 'in the interests of equine safety'.

Background

As indicated previously in this report, an application for a similar development at the site has previously been refused (planning ref. 18/0984). The refused application proposed the re-grading of the land to provide a flat area measuring 19.5 metres deep and 53.0 metres wide, resulting in a plateau of over 1000m². The application was refused for the following reasons:

1. The proposed works would result in the formation of a visually prominent engineered plateau at the foot of the hillside that would be out of keeping with the immediate character of the site and harmful to setting of the wider special landscape area. As such the proposal is contrary to the provisions of Policies

AW5 and SSA23 of the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales.

2. The proposal is contrary to the provisions of Policies AW5 of the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales as there is insufficient information and detail of the proposed development to enable an accurate assessment of highway safety considerations to be made.
3. Insufficient information has been submitted to demonstrate that the proposed development would not be impacted by historic mining activities on and around the site. As such the proposal is contrary to the provisions of Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales.
4. Insufficient information has been provided to accurately assess the potential impacts of the development upon matters of ecology at the site. As such, the proposals are contrary to the requirements of policy AW8 of the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales.

The current application has been submitted in an attempt to overcome the previous reasons for refusal. Each of the issues will be considered in subsequent sections below.

Principle of Development

The application site is located outside of the defined settlement boundary where development would usually be restricted however, equestrian uses and activities are typically located in rural locations. The proposal would result in the re-grading of the land to provide a flat plateau for the schooling of the applicant's own horses. It would not be used for business purposes.

As such, the principle of the proposed development is considered to be acceptable.

Impact on the character and appearance of the area

The application site is located outside settlement and also forms part of the wider special landscape area defined as Taff Vale Eastern Slopes. Policy SSA23 states that Special Landscape Areas (SLAs) have been designated to protect areas of fine landscape quality within Rhondda Cynon Taf. It is noted that in the Southern Strategy Area SLAs have been identified to protect the distinctive landscape of the area. Particular consideration has been given to the protection of the unspoilt low lying farmland, common land and gentle valley slopes which form a visual backdrop to the settlements of the area. As such policy SSA23 requires that in order to protect the visual qualities of each SLA, development proposals within these areas are required to conform to the highest possible design standards.

The previous application was refused as it was considered that the development would result in the provision of a visually prominent engineered plateau at the foot of a hillside which would be out of keeping with the character and appearance of the site and harmful to the setting of the wider special landscape area. The scheme has been revised since the refusal of the previous application in that the plateau has been reduced in width and the gabion baskets removed. Some degree of planting has already been introduced at the western boundary of the site and further planting is also proposed to the proposed terraces at the eastern boundary. Whilst the proposal would still provide a large and engineered platform at the foot of a hillside, the removal of the gabion baskets and the introduction of a planting scheme would help to screen the development and, on balance, it is considered that the previous reason for refusal in this regard has been overcome.

Whilst it is noted that the development would be most visible from the rear of properties in Brynderwen Road and Brynderwen to the west, the site is separated from these properties by a recreational area, which is a relatively flat plateau in itself, and it is therefore not considered that the proposal would have such an adverse visual impact that it would warrant the refusal of the application.

Access and highway safety

The previous application was refused on highways grounds in that insufficient information was submitted to enable an accurate assessment of highways considerations to be made. The current application is supported by a Planning Statement which states that no off-site traffic would be generated, other than the initial arrival of the required machinery to undertake the re-grading work and its subsequent removal following completion of the work. It confirms that no material will need to be imported to or exported from the site. It also confirms that the site will be used for the schooling of the applicant's own horses.

The Council's Highways and Transportation section have assessed the information and consider the proposal to be acceptable. The current proposal is therefore considered to overcome the previous reason for refusal and is considered to be acceptable in terms of the impact it would have upon highway safety in the vicinity of the site.

Impact on residential amenity and privacy

The application site is located some distance away from the nearest residential properties and it is unlikely that the re-grading of the land will have any impact in terms of overshadowing and/or loss of outlook. Whilst there may be some views from the site towards these properties, the separation distance would ensure that any overlooking would be acceptable and not significantly different to that currently experienced as a result of the current site levels or the use of the land. It is also noted that trees have been planted along the western boundary of the site which would, in time, help to screen the site from view.

It is noted that one letter of objection refers to the siting of a pig sty on the land. This does not form part of the proposal and it is understood that it would be removed to enable the use of the plateau as a menage for the applicant's own horses. The horses would be stabled within the existing stables to the south of the site (approved under planning ref. 17/0246), and the impact of keeping horses at this location has therefore been previously considered.

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.

Drainage

The proposal has been assessed by the Council's Flood Risk Management team who have indicated that the site is not in an area of surface water flood risk (as per Natural Resources Wales' Surface Water Flood Risk maps). The proposal would result in a construction area which is greater than 100m² and the applicant is therefore required to comply with Schedule 3 of the Flood and Water Management Act 2010 and submit a separate application to the Sustainable Drainage System Approval Body (SAB). They would also be required to comply with Part H of the Building Regulations. Whilst a condition is also recommended, it is not considered necessary as the Sustainable Drainage Systems process would ensure that no drainage/flood risk issues would arise.

It is noted that a number of objections have been received from local residents which raise concern with regards to the drainage of the site and the surrounding area. It is commented that since works commenced on site, more water has been running off the mountainside and into the gardens of nearby residential properties. As SuDs is not available retrospectively, it was considered prudent to investigate what works have already been carried out to determine whether they could then comply with SuDs. Following a visit to the site, it was evident that some ground works have been carried out towards the southern end however, the applicant's agent has confirmed that these were required for the investigation into the test shaft for the Coal Mining Risk Assessment that was required to support the application (discussed further in the *Coal Mining Risk* section below). It was confirmed that no further works relating to this proposal have been undertaken at the site and so the separate SuDs approval would still be relevant.

Ecology

The previous application was refused on ecology grounds in that insufficient information was submitted to enable an accurate assessment of the potential impacts of the proposal upon matters of ecology. Since the refusal of the previous application,

it is clear that the site has been used for the keeping of horses and pigs which has removed the previous grassland cover. The Council's Ecologist has assessed the proposal and considers that any extant ecological value would be very low. No ecological assessment has therefore been requested and no objection has been raised to the proposal.

Whilst no additional information has been submitted to address reason 4 of the previous refusal, there has been a change of circumstances at the site which would mean that any ecological value has been removed. Whilst this is regrettable, the proposal is considered to be acceptable in this regard.

Coal Mining Risk

The previous application was refused due to a lack of information in respect of the risk of past coal mining activity in the vicinity of the site. The Coal Authority confirms that the site falls within the defined Development High Risk Area and that there are coal mining features and hazards within the site and surrounding area that need to be considered. Specifically, it is stated that there are two recorded mine entries (shaft and adit) within the site or within 20 metres of the site boundary.

The current application is supported by a Coal Mining Risk Assessment which has been informed by appropriate and up-to-date geological and mining information, as well as information obtained from the results of site investigations. The report identifies the two recorded mine entries (shaft and adit); the latter of which the report confirms poses no undue risk to ground stability at the site, specifically due to its location. The report also confirms that the shaft corresponds with the proposed development area however, based on it representing a trial pit and that the backfill has settled over a period of 150 years, it is confirmed that it also poses no risk to ground stability at the site. On this basis, the report advises that some limited mitigation measures will be necessary and so the Coal Authority recommends the use of a planning condition to ensure that the measure outlined in the report are undertaken prior to the commencement of development.

Public Health

The proposal has been assessed by the Council's Public Health and Protection team who have indicated that the site was formerly occupied by Albion Lower Tip. It is therefore considered that there is potential for hazards associated with land contamination to exist on site. The comments received state that due to the nature of the proposed development, the applicant should be advised of the past use(s) of the site and the potential for contamination to exist. It is suggested that the applicant may wish to undertake their own site investigations to allow further assessment of the potential hazards and to comply with their duty of care.

The comments also note that the site is situated near to a number of residential properties and that no details have been submitted for a lighting scheme. A condition

is recommended to secure details of the type, position and angle of glare of any external lighting scheme to be implemented at the site. This condition is considered to be reasonable and necessary.

Further conditions have been recommended in relation to hours of construction, noise, dust and waste however, given that these issues are more effectively dealt with by separate Public Health legislation, it is not considered necessary to duplicate the issues through the imposition of planning conditions.

Land Stability

The site would result in the re-grading of the land to provide a flat plateau for the schooling of horses. Two 'terraces' would also be created along the highest section of the land (adjacent to the eastern boundary). One letter of objection quite understandably raises concern with regards to the stability of the site however, no details have been submitted with the application to enable a full assessment in this regard. A condition is therefore recommended for full engineering details (including surface water drainage details) to be submitted to ensure that the development would not result in any issues of land instability.

Other issues raised by residents

A number of objections have been received in relation to the proposal which raise concern that works have continued on site, despite permission being refused in 2018. Whilst it is regrettable that works have been carried out without permission, the development is now being applied for retrospectively and must be considered accordingly.

Residents also raise concern with regards to works being carried out at all times of the day and on the weekend, and that the applicant appears to be burning waste on site, both of which are causing disturbance to residents. Whilst it is requested that hours of construction be restricted, these are not usually imposed on small-scale developments such as this with issues surrounding unacceptable noise and disturbance being more appropriately dealt with by separate Public Health legislation. It is therefore not considered necessary to duplicate these issues through the imposition of planning conditions.

One resident also suggests that the applicant has created an access onto the Council playing field immediately to the west of the site in order to school their horse which has caused damage. Whilst no evidence has been provided to demonstrate this, the proposal would, if successful, provide a flat area for the schooling of the applicant's horse(s) and any use of the adjacent playing field would therefore cease.

Whilst one objector suggests that it would be better for the applicant to find grazing land elsewhere that is already flat and suitable for horses, the applicant owns this site and would, understandably, seek to utilise this area first, particularly given that

permission has already been granted for the stables immediately adjacent. In any case, the Local Planning Authority must consider the details put forward in the 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 would provide a large flat plateau for the schooling of horses. Whilst it would form a visible alteration to the site, some degree of landscaping has been incorporated to the western boundary with further landscaping proposed to the eastern boundary. It is considered that this, along with the removal of gabion baskets previously proposed (refused application ref. 18/0984), would help to screen the site from the surrounding and wider area and it is considered to be acceptable in terms of the impact it would have on the character and appearance of the site and the wider special landscape area.

Furthermore, the reasons for the refusal of the previous application (ref. 18/0984) have been overcome and the application is considered to be acceptable in terms of its impact upon highway safety in the vicinity of the site, ecology and coal mining risk.

The proposal would also have no adverse impact on nearby residents in that it would not result in any overbearing or overshadowing impact that would be detrimental to the amenity currently enjoyed by those nearest. The level of overlooking would also not be significantly increased over the current situation.

RECOMMENDATION: Grant

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

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

2. The development hereby approved shall be carried out in accordance with the approved plans unless otherwise to be approved and superseded by details required by any other condition attached to this consent:

- Site Plan (Rec. 17 June 2021)

- Drawing No. GA 2: Proposed General Arrangement (Rec. 17 June 2021)
- Drawing No. GA4: Proposed Cross-section A-A (Rec. 17 June 2021)
- Drawing No. GA6: Proposed Cross-section B-B (Rec. 17 June 2021)
- Drawing Ni. GA7: Proposed Cross-section C-C (Rec. 17 June 2021)

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

3. No development shall commence until a scheme of landscaping has been submitted to and agreed in writing by the Local Planning Authority. The scheme 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. The development shall be carried out in accordance with the agreed details.

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.

4. Notwithstanding the submitted plans, no works other than site clearance and preparation works shall commence until full engineering design and details of the terraces hereby approved has been submitted to and approved in writing by the Local Planning Authority. The details shall include longitudinal and cross sections and details of surface water drainage. The works shall be implemented in accordance with the approved details.

Reason: In the interests of land stability and drainage, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

5. No development shall commence until a scheme for external lighting, including of the type, position and angle of glare, has been submitted and approved in writing by the Local Planning Authority. The development shall be implemented and retained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of neighbouring residential properties immediately adjacent to the site and in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

6. The development shall be carried out in accordance with the recommendations set out in Section 4 of the Coal Mining Risk Assessment (prepared by Rhondda Geotechnical Services and dated 2 September 2021).

Reason: In the interest of public amenity and land stability, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

7. The development hereby permitted shall only be used for the private keeping of horses and the storage of associated equipment and feed and shall at no time be used for any commercial purpose whatsoever, including for livery, or in connection with equestrian tuition or leisure rides, without the prior written consent of the Local Planning Authority.

Reason: In the interests of highway safety and to protect the living conditions of nearby residents, in accordance with Policies AW 5 and AW 10 of the Rhondda Cynon Taf Local Development Plan.

8. There shall be no burning of horse waste (manure/straw/bedding) on the site.

Reason: In the interests of public safety and amenity in accordance with Policy AW 10 of the Rhondda Cynon Taf Local Development Plan.