

## **PLANNING & DEVELOPMENT COMMITTEE**

**4 AUGUST 2022**

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

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

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 22/0308/15 (JE)  
**APPLICANT:** Ardwyn Developments LTD  
**DEVELOPMENT:** Variation of conditions 2 and 3 to extend the time to submit reserved matters (ref 13/0070/13)  
**LOCATION:** LAND ADJACENT TO THE WEST OF ARDWYN TERRACE, TONYPANDY  
**DATE REGISTERED:** 11/03/2022  
**ELECTORAL DIVISION:** Tonypandy

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**RECOMMENDATION: APPROVE**

#### **REASONS:**

Outline planning permission has been previously granted for dwellings on the site and no significant changes in policy or material considerations have occurred since the original permission was granted to warrant a refusal.

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

- Three or more letters of objection have been received

#### **APPLICATION DETAILS**

A variation of condition is proposed to extend the time period to submit reserved matters and commence development for two dwellings on land adjacent to Ardwyn Terrace in Tonypandy. Outline planning permission (Reference 13/0070/13) was originally granted at appeal by the Planning Inspectorate on 16<sup>th</sup> January 2014 and was subsequently extended (Reference 19/0053/15) on the 1<sup>st</sup> April 2019.

Members should note that the timeframe for submitting reserved matters on the existing permission expired on the 1<sup>st</sup> April 2022 and that local residents (as detailed in the 'Publicity' section below) have pointed to this issue as a reason not determine

the current application. Whilst their reasoning is appreciated, the application was however received by the Local Planning Authority on the 10<sup>th</sup> March 2022, i.e. before the permission expired.

In terms of the application details, all matters have been reserved for future consideration and therefore it is just the principle of residential development that is being determined. However, in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 a number of illustrative plans accompany the current submission. These show the potential siting of the two dwellings and access to the site. They also indicate engineering works would be required to create level areas and that this would require retaining structures.

In addition, whilst details of the scale and appearance of the dwelling are both matters reserved for future consideration it has been indicated that each dwelling would have:

Minimum - maximum width of 8 metres - 10.5 metres.

Minimum - maximum depth of 8 metres - 11 metres.

Minimum - maximum height of 7.5 metres - 8.5 metres.

## **SITE APPRAISAL**

This site is a sloping area of rough ground that extends to approximately 0.2 hectares in size. The site is located on the western side of Ardwyn Terrace and slopes steeply from west to east, with a stone retaining wall along its eastern boundary separating it from the carriageway on Ardwyn Terrace. To the east and north of the site are the residential streets of Ardwyn Terrace and Gilfach Road which are mostly characterised by traditional terraced properties. To the west is the A4119 and to the south of the site is an area of allotments.

## **PLANNING HISTORY**

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

**08/0262/13:** LAND ADJACENT ARDWYN TERRACE, TONYPANDY

Outline application for residential development

Decision: 22/04/2008, Withdrawn by Applicant

**10/0158/13:** LAND ADJACENT TO ARDWYN TERRACE, TONYPANDY.

Outline planning application for the construction of 3 detached dwellings.

Decision: 27/04/2010, Refuse

**10/0948/13:** LAND ADJACENT TO ARDWYN TERRACE, TONYPANDY.

3 new detached houses (resubmission).

Decision: 19/10/2010, Refuse

**11/5879/32:** LAND ADJACENT TO ARDWYN TERRACE, TONYPANDY  
Residential Development  
Decision: 05/12/2011, Raise Objections

**13/0070/13:** VACANT LAND ADJACENT TO ARDWYN TERRACE, TONYPANDY  
Two new detached houses (outline application).  
Decision: 27/06/2013, Refuse

**19/0053/15:** VACANT LAND ADJACENT TO ARDWYN TERRACE, TONYPANDY.  
Variation of conditions 2 and 3 to extend the time to submit reserved matters and to commence development of outline planning permission for the erection of two detached houses (ref 13/0070/13).  
Decision: 01/04/2019, Grant

**22/0405/16:** LAND ADJACENT TO THE WEST OF ARDWYN TERRACE, TONYPANDY  
Approval of reserved matters (appearance, layout, scale, means of access and landscaping) for the erection of 2 detached dwelling houses together with associated works against the extant outline permission (19/0053/15)  
Decision: (Under determination at the time of writing this report)

## **PUBLICITY**

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

3 letters of objection have been received from neighbouring occupiers following consultation. The points raised have been summarised below:

- The time has run out to extend the development and there has been no development at the site.
- It is a high piece of land and our privacy would be affected.
- The entrance is narrow and would cause access issues.
- The buildings will look incongruous
- They will block out light to neighbouring properties
- The street is peaceful and this will be disrupted.
- Trees have been taken down at the site.

## **CONSULTATION**

**Transportation Section:** No objection subject to the re-imposition of previous planning conditions.

**Public Health and Protection:** No comments in relation to the variation of conditions 2. It is requested that the Public Health Comments submitted under 19/0053/15 should still stand

**Flood Risk Management (Drainage):** No comments to the variation of condition application.

**Dwr Cymru/Welsh Water:** No objection to the Variation of Conditions, and we ask that any drainage Conditions on the original consent are brought forward

## **POLICY CONTEXT**

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

Members will be aware that the current LDP's lifespan was 2011 to 2021 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 4<sup>th</sup> 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 4<sup>th</sup> 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<sup>th</sup> 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 Tonypany and isn't allocated for a specific purpose.

**Policy CS1** - Development in the North: seeks to build strong, sustainable communities. This will be achieved through promoting residential development in locations which reinforce the roles of the Principle Towns and Key settlements.

**Policy AW1** - sets out the criteria with regard to new housing developments.

**Policy AW2** - seeks to ensure that development is in sustainable locations

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

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

**Policy AW8** - seeks to preserve and enhance the County Borough's natural environment and heritage. This include SINC designations. Development proposals will only be permitted where they would not cause harm to the features of the SINC subject to criteria.

**Policy AW10** - aims to prevent development which could cause or result in a risk of unacceptable harm to health or local amenity due to land instability or any other identified risk to local amenity and public health.

**Policy NSA12** - requires housing development within the settlement boundary to be accessible to local services by a range of sustainable transport modes without

adversely affecting the highway network or provision of car parking in the surrounding area.

#### Supplementary Planning Guidance

- Delivering Design and Place-making
- 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 11) (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.

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 policy guidance considered:

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:**

### **Principle of the proposed development**

In this instance, the applicants are seeking to extend the period of time within which reserved matters can be submitted for the consideration of this Authority. In such circumstances, it is appropriate to consider whether there has been any change in policy or any other material circumstance that might affect the proposal; however, it is not appropriate to challenge the heart of the consent itself.

The Local Development Plan (LDP) remains the key policy consideration in this application however, national policy has changed with the publication of PPW11 and Future Wales – The National Plan 2040. Whilst this is a change since the approval of the previous application, there is still a clear emphasis for residential development in sustainable locations and within defined settlement boundaries. Nothing has changed in terms of the position of the site in that it remains within the settlement boundary of Tonypanydy. It is therefore still considered to be a highly sustainable location and the proposal is still considered to be acceptable in principle. Furthermore, the extant outline consent for 2no. dwellings is considered to carry significant weight and, when balanced against the absence of a change in circumstance at the site and lack of objections from consultees, the greater weight lies in favour of granting approval for an extension of the timescale in which reserved matters may be submitted.

It is appreciated that objectors have raised matters with regard traffic, access, loss of sunlight, loss of privacy, loss of trees and with regard the visual impact. However, these matters and other material planning considerations were assessed in the appeal for the original outline application that was approved. Members are advised that since the previous permission (13/0070/13) and renewal (19/0053/15) there have been no significant material changes in planning circumstances that are considered to affect that decision.

### **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**

Overall, there is no significant difference in planning circumstances since the previous application was approved at the site to prevent the renewal of the existing consent. It is therefore considered reasonable and appropriate to renew the previous consent for a further standard period of time.

## **RECOMMENDATION: GRANT SUBJECT TO THE BELOW CONDITIONS:**

1. Approval of the details of the appearance, layout and scale of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced and such development shall be carried out as approved.

Reason: To comply with Section 92 and 93 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with Section 92 and 93 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun 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 Section 92 and 93 of the Town and Country Planning Act 1990.

4. The development hereby permitted shall be carried out in accordance with the following approved plans: 670-01B, 670-02C, 670-04F, 670-06I, 670-07B, 670-08C and 670/10.

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

5. Details, including samples, of the materials to be used in the construction of the dwellings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

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.

6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which 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 in 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 and AW6 of the Rhondda Cynon Taf Local Development Plan.

7. All planting, seeding and 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 five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation

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

8. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of boundary treatment and a timetable for its implementation. The approved scheme shall be carried out in accordance with the approved timetable.

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.

9. No development shall take place until details of the arrangements for foul and surface water drainage have been submitted to and approved by the Local Planning Authority. No dwelling shall be occupied until the approved works have been completed.

Reason: To ensure that the floor levels of any proposed buildings are above the flood level in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.



10. No development shall begin until full details of the private shared access, including arrangements for the turning of emergency, service and delivery vehicles, have been submitted to and approved by the Local Planning Authority. The access shall be at a gradient not steeper than 5% (1 in 20) for the first 10m and 12.5% (1 in 8) thereafter. No dwelling shall be occupied until the access has been completed in accordance with the approved details.

Reason: In the interests of highway safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

11. No development shall begin until construction details of all retaining walls and details of their finished appearance, including design calculations certified by a professional engineer, have been submitted to and approved in writing by the Local Planning Authority. The retaining walls shall be completed in accordance with the approved scheme prior to the first occupation of either of the dwellings.

Reason: In the interests of visual amenity and safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan

12. Prior to the commencement of development, a scheme for the management of construction traffic and for the provision of wheel washing facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

13. Prior to the first occupation of any of the dwellings, a 2m wide footway and vehicle crossover shall be provided along the site frontage in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of pedestrian safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

14. The development hereby permitted shall not begin until a scheme to deal with contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures unless otherwise agreed in writing by the Local Planning Authority:

1. A desk-top study 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 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 agreed in writing with the Local Planning Authority.
3. A written method statement for the remediation of contamination affecting the site.

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.

15. No dwelling, hereby permitted, shall not be occupied until the measures approved in the scheme (referred to in Condition 14) 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

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.

16. If during development works any contamination is 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 the Local Planning Authority. The development shall not re-commence until the additional proposals have been agreed in writing by the Local Planning Authority.

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.