

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
MUNICIPAL YEAR 2022-2023:**

**PLANNING AND
DEVELOPMENT COMMITTEE
9th MARCH 2023
REPORT OF: DIRECTOR
PROSPERITY AND
DEVELOPMENT**

	Agenda Item No. 15
APPLICATION NO: 22/0886 – Outdoor Hospitality Area to rear, MID RHONDDA WORKING MENS CLUB AND INSTITUTE, 32-33 COURT STREET, TONYPANDY, CF40 2RQ	

1. PURPOSE OF THE REPORT

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

2. RECOMMENDATION

That members consider this 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 26 January 2023 meeting of the Planning and Development Committee with an officer recommendation of refusal. A copy of the original report is attached as **APPENDIX A**. At that meeting Members were minded to approve the application contrary to the officer recommendation as they considered that the proposed development would not be of detriment to the residential amenity of the area, subject to a condition restricting the hours of operation to 9.00pm (Minute No. 187 refers).

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

4. PLANNING ASSESSMENT

The officer considerations in respect of the impacts upon neighbour amenity are set out in the original Committee report, however a brief summary is set out below:

Although the proposal would include 1.8 metre high screening along its eastern boundary with the adjoining dwelling in an attempt to limit overlooking here, the proposal would only see a 1.1 metre high balustrade at the rear that would still allow for direct views of the neighbouring

properties/gardens from a considerable height which is considered unacceptable. Furthermore, at a combined height of 4.7 metres above ground level the elevated deck and associated screening would result in a loss of outlook from the adjoining dwelling, an overbearing impact, and some shadowing.

Whilst it is noted that the existing arrangement might see patrons of the Club using the adjacent outside area to smoke and congregate, it is considered that the establishment of a formal raised outdoor terrace would exacerbate the existing levels of noise and disturbance to the detriment of general amenity standards currently enjoyed by the occupiers of the neighbouring properties, especially so as its scale would promote a number of people sitting/standing out on it for a considerable amount of time, late in to the evening each day, resulting in noise/disturbance to surrounding residents.

Members are advised however that the impact of any development upon the amenity of neighbouring occupiers is subjective. The original considerations were an 'on balance' recommendation, highlighting that whilst the proposal would impact upon residential amenity, neighbouring occupiers would have become accustomed to an existing level and noise and disturbance created by the Club. In addition, the proposal does include mitigating factors such as screening along its side elevation to restrict the most harmful overlooking.

Following the Committee meeting representations were received from Councillor Gareth Hughes which set out that during his 6 years of being a Councillor no complaints have been received with regard the operation of the Club. In addition, the response also sets out the following comments on the application:

- Overlooking has been addressed via the addition of screening.
- This addition would be insignificant when considering the mass and scale of the existing building.
- The car park area to the rear has been used previously as a beer garden which results in a more intrusive impact upon neighbouring properties in comparison to the proposed area.
- The car park at the club is privately owned and could be restricted at any time. However, the proposal would see a minimal loss of spaces with additional parking available located at a nearby Council carpark.

The above highlights that it would be entirely reasonable to conclude that the development would not result in a detrimental impact upon the amenity of neighbouring occupiers.

During the previous meeting Members considered that the use of a condition to restrict the hours the deck could be used could limit disturbance (11:00 to 21:00 Monday to Sunday) and result in an acceptable arrangement. Whilst it would be possible to restrict the use of the decking through the use of a condition, it would be extremely difficult to enforce as the existing club could operate outside of these hours. Nevertheless, a condition is set out below should Members be minded to approve the application.

Therefore, whilst the application is recommended for refusal, if, having considered the above advice and after further consideration, Members remain of a mind to approve planning permission, it is suggested that the following conditions should be attached to any consent:

1. 1A2 Time Limit

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. 1A5 Approved Plans

The development hereby approved shall be carried out in accordance with the approved plans

- Hdw/ph/mid.01
- Hdw/ph/mid.02

and documents received by the Local Planning Authority on 19/09/22, 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. Hours of operation

The raised terrace hereby approved shall only be used between the following hours:

Monday to Sunday: 11:00 – 21:00

Reason: To define the scope of the permitted use and in the interests of the amenity of neighbouring occupiers in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

PLANNING & DEVELOPMENT COMMITTEE

26 January 2023

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 22/0886/10 (JE)
APPLICANT: The Committee of the Mid-Rhondda Working Mens Club
DEVELOPMENT: Outdoor hospitality area to rear
LOCATION: MID RHONDDA WORKING MENS CLUB AND INSTITUTE, 32-33 COURT STREET, TONYPANDY, CF40 2RQ
DATE REGISTERED: 19/09/2022
ELECTORAL DIVISION: Tonypandy

RECOMMENDATION: REFUSE DUE TO THE FOLLOWING:

REASONS: The proposed structure, by virtue of its scale, design and elevated height, would result in an excessive and unneighbourly form of development that would directly overlook and increase noise and disturbance to the immediate neighbouring properties; and would result in a loss of outlook from and a significant overbearing impact to the occupiers of the adjoining dwelling.

As such the proposal would have a significant detrimental impact upon the residential amenity and privacy standards currently enjoyed by the occupiers of the neighbouring properties, contrary to Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

REASON APPLICATION REPORTED TO COMMITTEE

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

APPLICATION DETAILS

Full planning permission is sought for the construction of an outdoor hospitality area at Mid Rhondda Workingmen's Club and Institute, 32-33 Court Street, Tonypandy. The proposed area would be located to the rear of the property towards its eastern boundary and would consist of an elevated decking and associated screening.

The raised area would measure a width of 7 metres and would protrude outwards to a maximum depth of 4.2 metres. The deck area would be elevated above ground level by a number of steel posts and would measure a maximum height of approximately 2.9 metres above the adjacent ground level. The raised area would be enclosed on its southern and western elevations by a 1.1 metre high composite decking balustrade, with a larger 1.8 metre high composite screen located along its eastern side elevation.

The decking area would be accessed from within the Club via an existing door serving as a fire escape. It would also be assessable externally from the rear of the site via the existing fire escape staircase.

SITE APPRAISAL

The application site relates to the Mid Rhondda Workingmen's Club which is located on the corner of Court Street and an unnamed access road. The property is attached to a residential dwelling (no.31 Court Street) on its eastern side and is directly bounded by the highway to the north and west. To the rear of the site is a car park area used by the Club however it benefits from no formal layout or parking bays. The nature of the area slopes from north to south with the ground level decreasing towards the rear of the site and the property appearing as 3 ½ storeys on this elevation taking into account the large rear projection. On its rear elevation the property has an existing steel fire escape and air conditions units.

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

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.

Three letters of objection from neighbouring occupiers have been received following consultation. The points raised have been set out below (summarised):

- Deck will remove off-street car parking in an area where there is existing high demand for on-street parking. Existing on-street parking issues will be exacerbated by users of the Club being forced to park on-street.
- Deck would attract more smokers and would be used as a beer garden in good weather which would generate more nuisance noise and disturbance to neighbouring properties than existing.
- Loss of privacy within neighbouring gardens and to rear elevations of neighbouring properties as elevated structure would directly overlook adjacent properties.

- Use of area by groups of youths who currently hang around the current fire escape.
- Existing issues around cigarette butts being flicked over the fire escape into neighbouring properties.
- Nuisance noise, odours and views of patrons spitting and coughing which are in full view of neighbouring garden.
- Development is almost at bedroom height of neighbouring properties and noise levels would almost certainly have a negative effect on property values.

CONSULTATION

Transportation Section: No objection raised or conditions suggested.

Countryside (Ecology): No objection.

Public Health and Protection: No objection although conditions suggested with regard to hours of construction, dust, waste and hours of operation.

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 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 Tonypandy but is not allocated for any specific purpose.

Policy CS1 - sets out the criteria for new development in the Northern Strategy Area.

Policy AW2 – supports development 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 – confirms that development will not be permitted where it would cause or result in an unacceptable risk of harm to health and/or local amenity.

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) 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 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.

Given the potential impacts upon the amenities of surrounding residents (as set out in detail below), it cannot be considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW, the Well-being of Future Generations (Wales) Act, or FW2040.

Other national policy guidance considered:

PPW Technical Advice Note 11 - Noise
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 the construction of an outdoor hospitality area, consisting of a raised deck within the curtilage of a long established workingmen's club. Ordinarily the principle of such development could be considered acceptable, however, in this instance it is considered the proposed structure would have a significant detrimental impact to the amenities of the surrounding neighbours (as set out below).

Impact on residential amenity and privacy

It is considered a roof terrace of this elevated height and siting, given its proximity to neighbouring residential properties, would be inappropriate and would result in a significant adverse impact to the amenity and privacy levels currently enjoyed by the closest neighbouring properties. These concerns have also been expressed by surrounding residents.

Although the proposal would include 1.8 metre high screening along its eastern boundary with the adjoining dwelling in an attempt to limit overlooking here, the proposal would only see a 1.1 metre high balustrade at the rear that would still allow for direct views of the neighbouring properties/gardens from a considerable height which is considered unacceptable. Furthermore, at a combined height of 4.7 metres above ground level the elevated deck and associated screening would result in a loss of outlook from the adjoining dwelling, a significant overbearing impact, and some shadowing.

The objectors also raised a number of concerns with regard nuisance noise, odours anti-social behaviour associated with the proposed development. Whilst it is noted that the existing arrangement might see patrons of the Club using the adjacent outside area to smoke and congregate, it is considered that the establishment of a formal raised outdoor terrace would exacerbate the existing levels of noise and disturbance to the detriment of general amenity standards currently enjoyed by the occupiers of the neighbouring properties, especially so as its scale would promote a number of people sitting/standing out on it for a considerable amount of time, late in to the evening each day.

Some concern associated with the proximity to neighbouring properties was also raised by the Public Health and Protection Division, but no objection was raised and it was instead suggested that a condition restricting the hours the deck could be used could limit disturbance (11:00 to 22:00 Monday to Sunday). Whilst these comments are appreciated, it is not considered that restricting the hours of use would result in an acceptable arrangement as it would be extremely difficult to enforce.

Consequently, it is considered the siting and elevated position of the raised terrace would result in an un-neighbourly form of development that would form an unacceptable source of nuisance and disturbance to surrounding residents. Furthermore, it would result in an unacceptable loss of privacy to the neighbouring properties and a significant overbearing impact to the adjacent dwelling. It is therefore considered the proposal is contrary to Policy AW5 of the Rhondda Cynon Taf Local Development Plan in this respect.

Impact on the character and appearance of the area

Given the location of the proposal to the rear of the property, the raised terrace would not impact upon the street scene at Court Street or the main elevations of the property, although it is accepted that there would be views from the access lane to the south and unnamed highway to the west. Nevertheless, when considering the scale of the property and the siting and design of the

proposal which would adjoin an existing steel fire escape, it is not considered that the structure would form an incongruous addition that would significantly impact upon the character and appearance of the application site or the wider area.

As such, taking the above into account, the application is considered acceptable in this regard.

Highway Safety and Parking Provision

The Council's Transportation Section were notified during the consultation period in order to assess the suitability of the scheme with regard to highway safety and parking provision. The following response was received:

The property is served off Court Street which provides parking restrictions on both sides of the carriageway fronting the property. Due to the nature of terraced housing there is a lack of off-street parking facilities causing high on-street parking demand along Court Street.

The existing car park to the rear of the property is served off a one-way unnamed road to the side of the property which provides parking restrictions on both sides of the carriageway to prevent indiscriminate on-street parking. There is an existing vehicular crossover in place and the car park provides a minimum of 6 metres between parking spaces which is in accordance with the Council's standard details, allowing vehicles to safely manoeuvre to and from spaces. Therefore, vehicles would be able to access and egress the site in a forward gear which is considered acceptable.

No details of the existing layout of the building have been submitted and therefore no parking assessment can be made. However, the existing provides a car park to the rear which provides 16 spaces. The proposed will create an outdoor hospitality area on a raised balcony above the car park which is an area of approximately 24m² which increases the parking requirement of the existing by 2 spaces in accordance with SPG: Access, Circulation & Parking Requirements with none proposed, which raises some concern. There is also concern that the proposed will affect the parking of up to 3 spaces. However, taking into consideration there is sufficient space within the car park for the existing 3 spaces affected by the proposed to be set back whilst maintaining sufficient space for vehicles to safely manoeuvre to and from spaces within the car park, on-balance, the proposed is considered acceptable in this respect.

Subsequently, while there is some concern that the proposed would increase the parking requirement of the existing use with no new spaces proposed, taking into consideration that the increase in parking requirement is minimal, there are parking restrictions surrounding the property to prevent indiscriminate on-street parking and that Court Street is along a bus route, on-balance, the proposed is considered acceptable in highway safety terms.

Public Health

The Public Health and Protection Division suggested a number of conditions be attached to any consent in relation to construction noise, waste, and dust. Whilst these comments are appreciated, it is considered that construction noise, waste and dust matters can be more efficiently controlled by other legislation.

Neighbour Consultation Responses

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

The objector's commented that the proposal would decrease property values in the locality. While these comments are acknowledged, property values are not a material planning consideration and cannot be taken into account during the deamination 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 development, by virtue of its scale, design and elevated height would result in an excessive and unneighbourly form of development that would have a significant detrimental impact upon the residential amenity and privacy standards currently enjoyed by the occupiers of the neighbouring residential properties. As such, the development is contrary to Policy AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

RECOMMENDATION: REFUSE DUE TO THE FOLLOWING:

1. The proposed structure, by virtue of its scale, design and elevated height, would result in an excessive and unneighbourly form of development that would directly overlook and increase noise and disturbance to the immediate neighbouring properties; and would result in a loss of outlook from and a significant overbearing impact to the occupiers of the adjoining dwelling.

As such the proposal would have a significant detrimental impact upon the residential amenity and privacy standards currently enjoyed by the occupiers of the neighbouring properties, contrary to Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

