

PLANNING & DEVELOPMENT COMMITTEE

22 June 2023

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 23/0290/10 (GH)
APPLICANT: C/o Agent
DEVELOPMENT: The demolition of the existing warehouse, construction of a block of 14 affordable apartments, parking and amenity areas. (Revision and resubmission of previous application 22/0510/10)
LOCATION: W R BISHOP AND CO FRUIT AND VEGETABLE WHOLESALE, PENRHIWFER ROAD, TONYREFAIL, PORTH, CF39 8EY
DATE REGISTERED: 15/03/2023
ELECTORAL DIVISION: Tonyrefail West

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

REASONS: The proposed development would enable the re-use of a previously developed site, providing much-needed affordable housing in a sustainable location within the settlement boundary, close to shops and services.

The design, massing and scale of the new building would be acceptable in the context of the surrounding development and compared with the existing appearance of the site, would have a beneficial impact on the immediate street scene.

Nothing the previous use and building occupying the site, it is considered that the development would not be detrimental to neighbour amenity and no other concerns have been raised by statutory consultees, particularly with regard to access and highway safety.

Consequently, the proposed development is considered to be acceptable in respect of the LDP and national planning policy framework.

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 to demolish the former WR Bishop Fruit and Veg Warehouse, Penrhiwfer Road, Tonyrefail, and construct a two-storey residential scheme of fourteen apartments.

The proposal would provide 100% affordable housing on behalf of the Registered Social Landlord Newydd Housing Association.

The one-bed/two-person flats would be of similar size and layout, each having an internal floor space of 47.6m² or 48.5m². The accommodation would comprise bedroom, bathroom and open plan kitchen/diner/living room. All flats would be accessed by a communal entrance and shared internal corridor.

In terms of external finishes, the elevations would be of buff coloured face brickwork, with the feature bays and Juliet balconies picked out in red brick. The roof would have a false concrete-tiled pitch around its perimeter, with the large flat central area almost entirely covered with solar panels.

The proposed site layout plan shows that the existing access from Penrhiwfer Road would be closed and fenced across and a new access formed from Bryn Rhedyn, leading to a car park area, containing fifteen spaces, a bike and bin store and a sitting out area.

Further to the above, a soft landscaping plan has been provided which indicates that the land to the north-east and north-west of the site would be grassed and enclosed by a hedge of native species. The plan also includes specifications for four sections of rain garden, as well as other planting to the front site boundary.

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

- Bat Survey Report
- Planning Statement
- Transport Statement
- Design and Access Statement

Lastly, Members will have noted that this application is a resubmission of a previously refused scheme.

The key changes, in order to overcome the reason for refusal, are a reduction in the size of the new building and a reduction of two units, both of which have enabled it to

be sited further away from the closest neighbouring house to the north-west no.19 Bryn Rhedyn. The overall design of the elevations has also been 'tidied-up', particularly that to the south-eastern side.

SITE APPRAISAL

The application site comprises a vacant warehouse building and associated curtilage from which a wholesale business formerly operated. The site is located towards the northern fringe of Tonyrefail and within the area known as Penrhiwfer.

The site is accessed directly from the B4278 to the north-east where a large hardstanding and parking area provides a forecourt to the warehouse building. The remaining land around the more southerly area of the site comprises grassland, scrub and contains a number of trees, and where the site boundary is demarcated by the adjacent highway Bryn Rhedyn.

Most of the surrounding development is residential in nature and includes traditional Victorian dwellings, as well as later 20th century properties. The exception to this is that there is a Co-op supermarket on the opposite side of Bryn Rhedyn to the south-east.

Other than for the general planning policies listed below, there are no specific constraints or considerations relating to this site. However, records show that a small part of the site is intersected by an area designated by The Coal Authority as 'high risk to development'.

PLANNING HISTORY

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

22/0510/10: The demolition of the existing warehouse building and the construction of a block of 16 affordable housing apartments with associated parking and amenity areas. (Revised plans incorporating solar panels to main roof received 19/05/22, Ownership Certificate 'C' received 04/08/22, revised elevation drawings, floor plans, site layout, lighting details and additional cross section received 08/08/22). Decision: 11/10/2022, Refuse.

21/5106/10: Pre-app. Decision: 19/11/2021, Raise No Objection

PUBLICITY

The application has been advertised by direct notification to nineteen neighbouring properties, notices were displayed on site and a press notice issued.

As a result of the consultation twenty-seven letters of objection were received, together with a previously submitted petition relating to the earlier refused scheme, which contained 936 signatures. The concerns raised can be summarised as follows:

Planning Policy / Land Use / Infrastructure

- Local healthcare and school facilities are oversubscribed and many existing residents are registered in other villages.
- Before the Council gives planning permission to future housing developments, they should secure an improvement in the infrastructure.
- The sewerage system in Bryn Rhedyn is already insufficient for the current number of residents and adding more people to this situation would be catastrophic.
- Lack of need for the development.
- The plans stated that the flats were for affordable apartments, now we understand they will be social housing, what is the difference?

Highways

- The minor changes are not sufficient to address previous objections on access and safety grounds.
- Insufficient parking space. There is not room for overspill at Bryn Rhedyn due to the number of dropped kerbs and existing on-street parking.
- It is wrong to assume that there would be only one car per flat. Assuming that the new residents would not be able to afford cars is condescending. Benefits are very generous these days and for a 2 person household, it is not beyond affordability.
- The proposed entrance from Bryn Rhedyn is not safe. The existing access road is too busy and narrow and more traffic would worsen the current health and safety issues. Visibility to the access and a blind bend are dangerous.
- The entrance to the Co-op is very dangerous for pedestrians and vehicles, as cars pull out on residents entering the cul-de-sac. More cars will increase the chances of collisions.
- The loss of parking directly outside my property.
- Danger to children playing in the street.
- The traffic surveys were undertaken when we were under covid restrictions and people were told to work from home and travel only when necessary.
- Two parking spaces are positioned within the line of traffic entering Bryn Rhedyn and are also partially over the boundary line.

Design and appearance

- Building a block of flats in a nice neighbourhood would be unsightly and not fit in.
- The development is too big.

- We understand that there will be some kind of development on this site, but something more in keeping would be a better proposition.
- A mixture of dwellings would be more appropriate.
- Bryn Rhedyn is a community of hard working, law abiding residents and we all have similar looking homes. The proposed flats would seriously stand out and ruin the visual conformity of the street.
- Bryn Rhedyn is made up with detached bungalows or houses, and Penrhiwfer Road has miners houses as well as bungalows, all privately owned. This proposal will change the ethos of the area.
- The density is inappropriate and its design would not assimilate with existing housing.
- The proposals offer poor quality and size of accommodation.

Residential amenity

- The development would dominate outlook from no's 1- 4 Bryn Rhedyn and the houses on the opposite side of Penrhiwfer Road.
- The windows in the side of the development would overlook no.19 Bryn Rhedyn.
- The building will be directly overlooking current residents, providing balconies will only add to the total loss of privacy for those of us living opposite with direct views especially from the upper floor into our homes.
- The new homes are not family oriented and would bring hassle to the street with parking and noise.
- The building would cause a loss of daylight and overshadow local residents.
- An objector has raised concerns regarding the impact of the development on the health of their child with complex care needs.
- Noise and disturbance to us due to the extra traffic and the possibility of 32 extra residents that could be living at the apartments at any one time.
- I do not believe that the resubmitted plans answer all the previous reasons for refusal.
- The bin store is situated along the boundary fence of neighbouring properties which could attract vermin and smell in the expected global warming.

Community safety

- The development will bring unwanted/unnecessary behavioural problems which will not be supported or policed properly.
- Existing poor water pressure is going to suffer further. There was a fire at a bungalow on the main road and not enough pressure for the fire officers to put it out.
- Band A on the housing waiting list are the most vulnerable, troubled and troublesome members of the community. To move them onto this street would cause a variety of drug and alcohol related issues that police are unable to deal with due to the sheer volume of disruption in the community.

- I fully understand the issues that come with drugs and alcohol and the impact this has on the community.

Procedural issues

- Not all homeowners in close proximity to the proposals, or in the west of Bryn Rhedyn who will be affected as the road is a cul-de-sac, were issued with a copy of the consultation letter.
- We request a site visit by the Planning Committee.

Other matters

- Nothing has changed and everything apart from the development being too close to no.19 was brushed under the carpet last time.
- This is an unpopular proposal. That is evidenced by the number of public responses to its predecessor and the number of signatures provided on a petition which were against that application. These must still apply to the new scheme as it is substantially similar to the former scheme and is admitted as such by the Agent.
- Concern that a further application has been submitted since it has already been refused once.
- The development would devalue all properties in the immediate surrounding area/ neighbourhood
- The application states that this proposal is driven by economics, as private houses will not make the contractors any profit. Therefore, the whole thing is driven by money with no consideration for the health and safety of current residents
- We have been trying to sell our property for five months and have had only one viewing. Houses in this cul-de-sac always sell within weeks but the estate agent has said that prospective buyers are being put off buying by the proposed development as they already see the negative impact this will have on our lovely neighbourhood.
- We have no objection to houses being built in a nice cul-de-sac but not a block of flats.
- The southern boundary wall is not a retaining wall and is cracked, and shouldn't be built on.

CONSULTATION

Highways and Transportation

No objection subject to conditions, as detailed further below.

Flood Risk Management

Given the total construction area is greater than 100m² the developer would be required to submit an application to the Sustainable Drainage Systems (SuDS) Approval Body (SAB) and the development would also be required to comply with Part H of the Building Regulations.

Regarding the requirements of the Lead Local Flood Authority, detail relating to surface water disposal has not been provided. The Applicant has outlined that surface water will be disposed of via the existing water course.

Regardless of construction size and proposal type, it is essential that when connecting to an ordinary watercourse that the Applicant evidences the watercourse can handle any increase in flows, and there is a need to provide pre and post-discharge rates to confirm that flood risk is not increased downstream, demonstrating compliance with the requirements of Section 8.3 of Technical Advice Note 15.

This information may include a drainage strategy with associated calculations demonstrating the pre and post surface water discharge rates from the site and a general arrangement of the catchment and proposed drainage system.

A condition is therefore recommended for those details.

Public Health and Protection

Conditions relating to construction noise, dust, waste and hours of operation are recommended, although it is considered that these matters can be controlled within the scope of existing Public Health legislation. In addition, a condition requiring a site investigation for contamination would be required.

Natural Resources Wales

NRW continues to have concerns with the application as submitted but is satisfied that these concerns can be overcome with a condition for a Construction Environmental Management Plan (CEMP) to prevent pollution to the Nant Cae'rgwerlas watercourse.

Dwr Cymru Welsh Water

DCWW has reviewed the information submitted as part of this application and notes that the intention is to drain foul water to the public sewer and surface water to the nearby watercourse, to which there is no objection.

National Grid

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

South Wales Fire and Rescue Service

The Fire Authority has no objection to the proposed development.

Countryside – Ecologist

No objection subject to a condition in respect of the measures outlined in the Applicant's Bat Survey Report.

The Coal Authority

On the basis that the area where the built development would be constructed falls outside the defined Development High Risk Area, the Coal Authority does not consider a Coal Mining Risk Assessment is necessary for this proposal and does not object to this planning application.

South Wales Police

No objection. A list of recommendations, in respect of designing out crime, have been submitted for forwarding to the developer.

Tonyrefail Community Council

The Council supports the many residents who have objected to this development as it is felt there are legitimate concerns relating to the access and the likelihood of neighbouring properties being overlooked.

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

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 is in the process of being replaced. 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 Tonyrefail but is not allocated for any specific use.

Policy CS2 - sets out the strategy for the Southern Strategy Area (SSA) with an emphasis on sustainable growth that protects the culture and identity of communities by focusing development within defined settlement boundaries. Emphasis will also be on protecting the cultural identity of the strategy area by protecting the natural environment.

Policy CS4 - identifies the housing requirement figure for the plan period.

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

Policy AW1 - outlines how the housing land requirement will be met, and includes the development of unallocated sites within the defined settlement boundaries.

Policy AW2 - ensures that development proposals are only supported when located in sustainable locations. Such locations would not unacceptably conflict with surrounding uses, have good access to key services by a range of sustainable transport options, and support the roles and functions of Key Settlements.

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

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

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

Policy AW8 - seeks to protect the natural environment from inappropriate development and that there would be no unacceptable impact upon the features of importance to landscape or nature conservation.

Policy AW10 - 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 would not be supported.

Policy SSA4 - indicates that residential development in the Key Settlement of Tonyrefail will be permitted where it supports and reinforces the role of the centre as a key settlement; is of a high standard of design and integrates positively with existing development; promotes the beneficial re-use of vacant and underused floor space; supports the provision of local services and promotes accessibility by a range of sustainable modes of transport.

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

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

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

Supplementary Planning Guidance

- Delivering Design and Placemaking
- Access, Circulation and Parking Requirements
- Planning Obligations
- Affordable Housing
- Development of Flats

National Guidance

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

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

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

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

- Policy 1 – Where Wales will grow – Employment / Housing / Infrastructure
- Policy 2 – Shaping Urban Growth – Sustainability / Placemaking
- Policy 7 – Delivering Affordable Homes – SDP/LDP allocations and innovative approaches.
- Policy 9 – Resilient Ecological Networks – green infrastructure / ecology

SE Wales Policies

- Policy 33 – National Growth Areas Cardiff Newport & the Valleys – SDP/LDP/large schemes.

Other relevant national policy guidance consulted:

PPW Technical Advice Note 2: Planning and Affordable Housing;
PPW Technical Advice Note 5: Nature Conservation and Planning;
PPW Technical Advice Note 12: Design;
PPW Technical Advice Note 15: Development and Flood Risk;
PPW Technical Advice Note 18: Transport;

Manual for Streets

REASONS FOR REACHING THE RECOMMENDATION

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

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

Main Issues:

Principle of the proposed development

The application proposes the construction of an affordable housing development, which would be located within the defined settlement boundary, in compliance with LDP Policies CS2 and SSA13.

Although the site is not formally allocated for residential development as a strategic or non-strategic site, Policy AW1 sets out the housing requirement over the LDP period and clarifies that unallocated sites will contribute to the supply of new properties to help meet local need. The principle of the redevelopment of brownfield land is supported by Policy CS2 and PPW11 indicates a strong preference for the use of previously developed sites rather than greenfield locations.

The site is within 356m of the Tonyrefail retail centre, which has a number of services and facilities including a chemist, opticians, convenience stores, a newsagent, takeaways, hairdressers, a butcher, coffee shops and a public house. There is also a reasonably sized Co-op supermarket on the opposite side of the Bryn Rhedyn junction.

Furthermore, the site is also close to a network of public rights of way, a bus route and adjacent to a proposed active travel route, which aims to improve connectivity within Tonyrefail and eventually form a continuous route to Tonypandy.

Therefore, the development would be considered to support the role of Tonyrefail as a Key Settlement, as per Policy SSA4, and would meet the relevant criteria of Policy AW2, which define whether or not a location can be considered a sustainable one.

Policy SSA11 stipulates that proposals for residential development will be permitted where the net residential density is a minimum of 35 dwellings per hectare. The site comprises an area of 0.21 hectares, giving a density of development well in excess of policy requirements at 66 dwellings per hectare.

Policy AW11 requires that employment and retail units are marketed for 12 months for those express purposes. Since the last use was an employment one (Use Class B8), the applicant would need to provide evidence that the property has been marketed consecutively for a twelve-month period.

Information accompanying the current and previous application noted that the site had been marketed in excess of 12 months, with no interest shown for continuation of an employment use. In addition, evidence of marketing was apparent by the presence on site of a property agents board in April 2022. The same boards can be seen in Google Street View images dated July 2021.

Policy SSA12 identifies that a 20% affordable housing contribution will be sought on developments of over 5 units. However, since this scheme would be constructed for Newydd Housing Association and all units would be affordable and secured as such by a S106 agreement, this policy requirement would be easily met. The Council's Housing Strategy Team has also commented that the unit mix and tenure proposed are in accord with the Local Housing Market Assessment 2017/23.

Lastly, it might be helpful to clarify that the term affordable housing is based strictly on the definition within PPW TAN 2 i.e., "*housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers*".

The TAN identifies that affordable housing can take the form of:

- Social rented housing (that provided by RSLs and local authorities)
- Intermediate housing (where rents are above social housing but below market rates)
- Part-ownership or staircasing schemes (such as RCT Homestep)

Whilst it is not unusual to hear references to affordable housing in a general non-planning sense, to describe developments that are considered to be good value, or of

lower cost to buy or rent than in other areas, anything other than that falling within the TAN definition is considered to be market housing.

In light of the above, it is considered that the principle of residential development is acceptable.

Impact on the character and appearance of the area

With an approximate width of 27.7m and depth of 17.5m the new building would have a slightly wider footprint than that of the warehouse it would replace but would be positioned around 6m further towards the north-east towards Penrhiwfer Road.

However, compared with the previous refused scheme, the current proposal would have a lower roofline and be set further away from the nearest neighbouring property to the north-west, no.19 Bryn Rhedyn.

The distance between no.19 and the warehouse is currently 11.24m, as measured from the mid-point of the side elevation of the latter, whereas the new development would have a staggered side elevation with a minimum separation of 15.9m and maximum of 19.8m.

Concerns have been raised by objectors about the scale and design of the development, with a suggestion that having a single, large building does not reflect the settlement pattern in this part of Tonyrefail and would be out-of-keeping.

It might, therefore, have been preferable for the flats to be accommodated in a couple of blocks, or arranged in a walk-up style, rather than with a communal entrance, to reduce mass and any sense of an 'institutional' appearance.

Nonetheless, for a long period of time the local character, both prior to and since the construction of Bryn Rhedyn has been mixed, with commercial and residential buildings of various eras. Old mapping shows that that the Co-op site formerly accommodated a large building in addition to the WR Bishop warehouse.

The design of the development is also considered to be of an appropriate scale since its proportions and massing are comparable to a five-dwelling terrace and it is of a domestic style and size.

Unlike the design of the previously refused scheme, which resulted in tweaks and amendments to try and manage concerns relating to neighbour impact, the current proposal does not have a sense of having a compromised or overly fussy appearance.

On this basis and since the proposal would evidently result in an improvement to the current appearance of the site, it is considered that an objection on these grounds would not be a sustainable one.

In addition, the local area is not part of a conservation area designation or defined character area and since the development would bring about a residential use, it would be more relatable to the surrounding dwellings at Bryn Rhedyn and at Penrhiwfer Road.

Therefore, taking into account the site context and the foregoing, it is considered that the development would not be detrimental to the character and appearance of the site and surrounding area, and there are no objections in this regard.

Impact on neighbouring occupiers

There have been various objections from existing residents regarding matters of privacy, overshadowing and amenity, as well as concerns about public wellbeing and safety.

As per the preceding proposal, the development is an affordable housing scheme which, like the neighbouring residential properties around it, falls within Use Class C3. The application does not seek consent for any other form of residential use, such as secure accommodation or where an element of care would be provided.

Consequently, any considerations relating to the matter of tenure, whether a new property is to be owner-occupied or rented, regardless of the owner, landlord or the background of any potential occupiers, is not material to a planning decision.

Thus, the development can only be considered acceptable in terms of its compatibility with neighbouring existing residents. In addition, it might be considered that a residential land use would be preferred to the established industrial B8 use, since although the activities of the previous occupier may not have been intrusive, the same might not be able to be said of other lawful uses that could occupy the unit without the need for planning permission.

The Applicant has provided sectional drawings and plans which demonstrate that there would be a gap of at least 33m between the elevations of the flats and the properties on the opposite side of Bryn Rhedyn. and gap of at least 24m to the dwellings on the opposite side of Penrhiwfer Road.

These distances are easily in excess of the 21m rule of thumb distance which is used to ensure the privacy of residents is maintained where there are opposing elevations and would also mean that there would be no overshadowing of habitable rooms or gardens.

Similarly, the provided lighting arrangements for the site, together with their positions, angle of direction and illumination spill show that the lighting of the external areas of the development would be no more intrusive than the existing street lights within the adopted highway.

Members will recall that the reason for refusal of the earlier application was due to what was considered to be an unacceptable relationship between the side elevation of the development and the neighbouring dwelling immediately to the north-west, no.19 Bryn Rhedyn, in terms of harm to outlook.

Generally, where there is around 11-12m between a front or rear elevation of a neighbouring property and the side elevation of a new development this, depending on the context of the site and any other material matters, would likely be considered satisfactory.

However, this revised scheme has increased the gap between no.19 and the development to a minimum of 15.9m. which means that the new side elevation would be at least 4.7 metres further away from no.19, and the staggered part further still. The combined cycle and bin store would also be located a little further to the south-west, which helps to address a previous concern about its visibility from no.19.

Whilst it is recognised that no.19 currently looks out towards the side elevation of the warehouse and would continue to look towards a side elevation, it is considered that the proposed relationship represents a betterment and would not be of significant material concern to warrant a recommendation of refusal.

Lastly, to prevent concerns of intrusive views from the first floor windows within the north-western side elevation of the new building, it is proposed to add a condition to ensure they are fitted with obscure glazing.

Therefore, in terms of the impact of the development on the amenity and privacy neighbouring residents, the application is considered to be acceptable.

Access and highway safety

The Council's Highways and Transportation Section has reviewed the application and provided the following assessment:

Proposed Primary Access

The new vehicular / pedestrian access to the site is proposed to be from Bryn Rhedyn which is an adopted residential cul-de-sac with a carriageway width of 5.5m with 2m wide footways on both sides, which is acceptable for safe vehicular and pedestrian movement.

The proposed access point would require the relocation of an existing street lighting column. The applicant will be required to relocate this at their own cost in a position to be agreed by the Council's street lighting department.

The new access would require:

- A width of 6m
- 4.5m radii as a minimum
- Visibility achievable at 2m x 25m in both directions in accordance with Manual for Streets for a 20mph speed limit
- Dropped crossing with tactile paving

Transport Statement

The Transport Statement indicates 85th percentile speeds of 20.6mph southbound and 20.4mph northbound. The average daily trips recorded for Bryn Rhedyn are 128 southbound and 136 northbound.

Vision Splays

The vision splay requirement for a 30mph speed limit area in accordance with Manual for Streets is 2.4m x 40m.

However, since the applicant has submitted a speed survey indicating 85th percentile speeds of 20.6mph, which would require vision splays of 2.4m x 25m, this can be achieved within the existing highway limits and is acceptable.

The proposed new access is a substantial betterment to the existing access from the site which is directly onto the B4278 Penrhiwfer Road and has sub-standard visibility splays at the junction of 2.4m x 7m left and 2.4m x 17m right, which is of significant concern. There is also a lack of suitable segregated footway facilities for the existing access to serve a residential use.

Swept Path

Swept path analysis contained within the Transport Statement indicates that service and delivery vehicles can access / egress the site safely, using the car park aisle width as a turning facility, which is acceptable.

Existing Culverted Access Point.

The existing Penrhiwfer Road access referred to above, crosses the culverted watercourse. Without a comprehensive assessment of the existing culvert it is not anticipated that the private structure would withstand the type of vehicular loading associated with residential use (bin waste, fire tender, large delivery vehicles etc).

Parking

In accordance with the Council's SPG documents for Access, Circulation & Parking and Flats, the proposed 14 x one-bed apartments would require 14 x off-street car parking spaces for residents and 2 visitor spaces. The proposed car park provides for 15 x off-street spaces.

Considering the sustainable location close to public transport and the retail area of Tonyrefail, with the potential for short term visitor parking to take place on street, the proposed car parking provision is acceptable.

Cycle Parking

The proposed development provides for 14 no. secure cycle stands to promote sustainable modes of transport and mitigate the reliance on private motor vehicle as the primary mode of transport.

Travel Plan

Contained within the Transport Statement is a residential travel plan indicating information relating to sustainable modes of transport and local facilities to reduce reliance on the private motor vehicle as the primary mode of transport which is acceptable. A condition is recommended in this regard.

Conclusion

The proposed development would result in the closing up of the existing sub-standard access off Penrhiwfer Road and providing for primary access from Bryn Rhedyn which is acceptable for safe vehicular and pedestrian movement. Parking provision would be provided in accordance with the Council's SPG Access, Circulation & Parking.

The development would therefore be considered acceptable subject to several highway related conditions, as set out further below.

Ecology

The I&G Ecological Consulting bat survey of August 2021, which included a building inspection and a dawn emergence survey, together with its subsequent report, dated April 2022, has been reviewed for this site.

The survey concluded that there was no bat roost use of the building and no nesting bird use. At the request of the Council's Ecologist, given the time that has passed since it was undertaken, a further check of the building took place which also found no evidence.

The Council's Ecologist has since confirmed that providing a condition is applied in respect of the precautionary bat method statement and requirement for control of site lighting in Section 5.0 of the survey report, together with the nesting bird and bat roost enhancement outlined in Section 4.2, there would be no objection.

Other matters

The public consultation highlighted a number of other concerns, which are set out below.

WDQR Standards

As an affordable housing development, the proposed development would be dependent upon Social Housing Grant. In order to receive those funds, the space standards set out by the Welsh Government's Welsh Development Quality Requirements would have to be met.

A query was raised about the size of the flats. However, it is understood that the minimum standard of 50m² can be relaxed if the plans showing the flat layout can demonstrate that minimum furniture requirements can be accommodated and internal circulation space is acceptable.

In any event, it is considered that whether or not a development is WDQR compliant is a matter for the developer to demonstrate to Welsh Government, or risk losing funding.

Infrastructure and local services

Concerns relating to local infrastructure in the Tonyrefail area were highlighted, including healthcare, school, water and sewerage facilities and so forth. In this regard, no objections were received from any of the statutory consultees, including the South Wales Fire and Rescue Service and South Wales Police.

The issues relating to waiting lists for hospital treatment, or GP and dentistry capacity for example, are well-reported and also apply to areas where little or no development has taken place.

Furthermore, consultation on the LDP was undertaken on the basis of there being a total dwelling supply over the plan period of between 14,936 to 15,386 new units, whereas the number delivered has been far lower at circa 7200. This scheme of 14 flats is a very small proportion of that larger housing requirement.

Need for the development

The Council's Housing Strategy Team has advised that this social rented scheme has been designed by Newydd HA, in dialogue with them, to help address the need for additional affordable housing within Tonyrefail, and that the unit mix and tenure proposed are in accordance with the Local Housing Market Assessment 2017/23.

Procedural matters

The application was advertised in excess of the requirements of the Development Management Procedure (Wales) Order by the use of direct notification, site notices and a press notice.

Members will note the request from objectors to undertake a site visit.

Property values

A number of objectors have raised concerns about the potential devaluation of their properties that the development would cause. However, this is not a matter material to planning.

Loss of light

Whilst overshadowing and outlook are material to a decision, and are discussed in the report further above, loss of light is not. This matter is subject to separate non-planning legislation as per the Prescription Act of 1832.

Nevertheless, since the development is of a similar size, location and form to the building currently occupying the site, albeit further away from no.19 Bryn Rhedyn and slightly lower, it is not considered that it would cause a loss of daylight.

Boundary and wall

A query was raised about the position of the boundary and concern that the development would be built on top of an existing boundary block wall.

A small inaccuracy relating to the position of the site boundary on the original plans has been corrected. The plans do not show that two parking spaces would extend beyond the boundary.

Regarding the suggestion that an existing block wall, in poor condition, would be used as part of the development, the footprint of the building would not be directly above this wall or the site boundary. Site section drawing CC evidences this and any concerns relating to the foundations of the development would be a matter for building regulations approval.

Personal Health Issues

The complex health issues identified by an objector, relating to the element of change, noise and disturbance etc. are acknowledged and are clearly of a significant concern and very personal to that family.

Nonetheless, the Applicant's fallback position is a relevant consideration and as reflected earlier in the report this principally relates to reuse of the building within the scope of Use Class B8.

Whether for storage or as a distribution centre, either on a similar basis to that of the previous occupier as a warehouse, or by a new occupier, this would represent an element of change to the status quo and result in the resumption of some form of activity at a site that has seen very little activity in recent years.

It is also worth noting, as a general principle, that the Planning Authority would be likely to resist new development proposing B2 or B8 uses in close proximity to residential properties due to concerns of compatibility and residential amenity i.e., since such commercial uses have the potential to be unneighbourly and operate at unsocial times. A long-term residential use of the site would therefore be considered to be preferable.

Furthermore, should the current or future owner decide that the extant warehouse was no longer fit for purpose, planning permission would not be required to demolish it and the Prior Notification procedure would apply. Since the site occupies a sustainable location within the settlement boundary, both national and local planning policy carries a strong presumption in favour of the principle of the development.

Section 149 of the Equality Act 2010 requires a that a public authority must, in the exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant characteristic and those who do not share it. Protected characteristics include disability.

Taking into account the equality duty it is considered that the health issues identified would not be of sufficient material weight to justify a recommendation of refusal, although it is considered reasonable that the scope of the proposed condition requiring pre-commencement approval for a Construction Method Statement be increased to cover working hours, measures for the control of noise and details of site lighting.

National Sustainable Placemaking Outcomes

Chapter 2 of PPW11 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.

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, the proposed development is considered to relate in particular to the following aspects of the national sustainable placemaking outcomes:

- **Creating and Sustaining Communities:** The development density is appropriate for this edge of centre location and as a social housing scheme would contribute to the affordable housing requirement within the Northern Strategy Area.
- **Making Best Use of Resources:** The development accords with the local and national policy aims to prioritise the use of previously developed land and buildings.
- **Growing Our Economy in a Sustainable Manner:** The development would have a small but positive effect in terms of construction jobs.
- **Maximising Environmental Protection:** The development would be expected to include a condition for biodiversity enhancement measures with regard to bats and nesting birds
- **Facilitating Accessible and Healthy Environments:** The application site is in a very sustainable location, being close to a bus route and services and facilities located within walking distance in Tonyrefail town centre. It would therefore not be car dependent.

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

Community Infrastructure Levy (CIL) Liability

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

The application is for development of a kind that is liable for a charge under the CIL Regulations 2010 as amended. The application lies within Zone 2 of Rhondda Cynon Taf's Residential Charging Zones where there is a liability of £40m² for residential development.

The CIL (including indexation) for this development is expected to be £ 25,389.12.

However, social housing relief may be claimed on the social housing element of the development and therefore no CIL would be payable.

Section 106 Contributions / Planning Obligations

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

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

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

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

The Section 106 requirements in this case

In this case the proposed development, on behalf of the Newydd Housing Association, would provide 100% affordable housing for social rent.

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

Conclusion

As the preceding sections of the report note, it is considered that the proposed development and residential land use would, in principle, be acceptable.

The design, massing and scale of the new building, its relationship with the surrounding development and impact on the character and appearance of the locality, would be considered to be an improvement, and no other concerns were raised by statutory consultees, particularly with regard to access and highway safety.

Finally, the position of the development relative to the nearest neighbouring properties would not be harmful to residential outlook and amenity, and therefore the development is considered to be acceptable.

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

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

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

2. The development hereby approved shall be completed in accordance with the approved drawings and documents:

- Proposed Site Plan 1590-PL2-04 Rev. A
- Floor and Roof Plans 1590-PL2-05
- Elevations 1590-PL2-06
- Site Sections 1590-PL2-07
- Bins and Bike Store 1590-PL-09 Rev. A
- Soft Landscape Proposals 1152.01 Rev. C
- Car Park Lighting Design SHD607-SHD-HLG-FRUI-DR-EO-Lighting Layout-R1

and details and documents received on 15th March 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. No development shall commence until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the dwellings/buildings 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.

4. No development shall commence until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- i) How the development is to comply with the requirements of Section 8.3 of PPW Technical Advice Note 15.

ii) 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.

The development shall be carried out in accordance with the approved details prior to beneficial occupation of any unit.

Reason: To ensure that surface water runoff from the proposed development does not cause or exacerbate the flood risk on the development site or elsewhere and does not increase the number of residents at risk of surface water flooding, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

5. No development shall commence until the following have been submitted to and approved in writing by the Local Planning Authority:

- i) Engineering details of the car park entrance including un-controlled pedestrian crossing point.
- ii) Details of a scheme to relocate the streetlamp column affected by the proposed access.
- iii) Details of a scheme for the stopping up of the existing vehicular access from Penrhiwfer Road.
- iv) Details and design calculations of any retaining walls abutting the highway.

All works shall be carried out in accordance with the approved details prior to beneficial occupation of any unit.

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

6. No development shall commence, including any works of site clearance, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority to provide for:

- a) the means of access into the site for all construction traffic,
- b) the parking of vehicles of site operatives and visitors,
- c) the management of vehicular and pedestrian traffic,
- d) loading and unloading of plant and materials,
- e) storage of plant and materials used in constructing the development,
- f) wheel cleansing facilities,
- g) the sheeting of lorries leaving the site,
- h) hours of operation,
- i) measures for the control of noise from demolition and construction,
- j) site lighting during demolition and construction.

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.

7. No development shall commence, including any works of site clearance, until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:

- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Daily visual inspection of the Nant Cae'rgwerlas to ensure pollution prevention.
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: To ensure necessary management measures are agreed prior to commencement of development for the protection of the environment during construction, in accordance with Policies AW8 and AW10 of the Rhondda Cynon Taf Local Development Plan.

8. No development shall commence until a scheme to deal with contamination affecting the application site area has been submitted to and approved in writing by the Local Planning Authority. This assessment must be carried out by or under the direction of a suitably qualified competent person and shall assess any contamination on the site, whether or not it originates on the site.

The scheme shall include:

- (i) 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.
- (ii) An intrusive site investigation to assess the extent, scale and nature of contamination which may be present, and its implications. The site

investigation shall not be commenced until a desk-top study has been completed satisfying the requirements of paragraph (i) above.

(iii) If required, a written method statement for the remediation of contamination affecting the site and justification for the preferred remedial option(s).

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

9. Prior to beneficial occupation:

i) Any measures approved in the contamination remediation scheme referred to in Condition 8 (iii) shall be implemented.

ii) If any remediation measures were required to be implemented a suitable validation report of the proposed scheme shall be submitted to and approved in writing by the Local Planning Authority. Any validation report shall be carried out by a suitably qualified competent person.

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

10. Prior to beneficial occupation of each unit the Developer shall provide the occupier of each dwelling with a Travel Plan / Welcome Pack which should contain the following:

a) Bus/Train Service providers, their contact details, frequency of service, timetable, bus stops/train stations, current ticket costs and financial incentives to encourage use of public transport;

b) Park and Ride/Park and Share facilities and associated costs and restrictions on use of such facilities;

c) Pedestrian links to public transport services, to local facilities, areas of employment, education and leisure;

d) Local and national cycle routes; and

e) Any other measures that would encourage use of sustainable modes of travel.

Reason: To ensure reduction of road traffic and promotion of sustainable modes of travel in accordance with PPW11.

11. Prior to beneficial occupation of any unit the means of access, together with the car parking facilities and cycle stands, shall be laid out in accordance with the submitted site plan 1590-PL2-04. The parking spaces shall be surfaced in permanent material and retained thereafter for the parking of vehicles.

Reason: In the interests of highway safety and to ensure vehicles are parked off the highway in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

12. Prior to beneficial occupation of any unit, the proposed first floor windows within the north-east facing side elevation shall be fitted with obscure glazing to an industry standard of privacy level three or above and be permanently retained in that condition thereafter.

Reason: In the interests of the privacy and amenity of neighbouring residents in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

13. The development shall be carried out in accordance with Sections 4.2 and 5.1 of the Bat Survey Report (I&G Ecological Consulting Version 1 dated 13th April 2022). The bat and bird box enhancement measures outlined on drawing number 1590-PL2-08 shall be installed prior to beneficial occupation of any unit.

Reason: In the interests of biodiversity, European Protected Species and the natural environment in accordance with PPW11 and Policies AW6 and AW8 of the Rhondda Cynon Taf Local Development Plan.

14. No surface water run-off from the proposed development shall discharge onto the public highway or be connected to any highway drainage system.

Reason: In the interests of highway safety and to prevent overcapacity of the existing highway drainage system and potential flooding in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

15. 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 Local Planning Authority prior to the work recommencing.

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

16. Any topsoil (natural or manufactured), or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with the approved scheme.

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