

## **PLANNING & DEVELOPMENT COMMITTEE**

**05 October 2023**

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

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

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 23/0514/10 (GH)  
**APPLICANT:** MADE Architecture  
**DEVELOPMENT:** Residential development of 22 x one and two-bedroom apartments, with associated landscaping, boundary treatment and parking  
**LOCATION:** SITE OF FORMER ROYAL NAVAL ASSOCIATION CLUB, 233 COURT STREET, TONYPANDY, CF40 2RF  
**DATE REGISTERED:** 05/07/2023  
**ELECTORAL DIVISION:** Tonypandy

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

**REASONS:** The application site occupies a highly sustainable location where both PPW11 and FW2040 support the principle of growth and where the LDP presumes in favour of residential development.

The proposed market apartments would be an appropriate land use, given the surrounding residential development; would regenerate a long vacant brownfield site in a prominent position and would contribute to the variety of the local housing mix.

The development is therefore considered to align with the relevant policies of the Local Development Plan, would be acceptable in respect of its visual impact and any impact upon the amenity and privacy of the neighbouring residential properties, and would not be harmful to highway safety.

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

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

#### **APPLICATION DETAILS**

Full planning consent is sought for the construction of 22 x one and two bedroom apartments at 233 Court Street, Tonypandy, perhaps better known as the site of the former Royal Naval Club.

It is proposed that the accommodation would be arranged over six floors to include the following:

*Basement* - thirteen parking spaces, bin store, cycle store, plant room and vehicular entrance to the undercroft car park.

*Ground floor* - 2 x one-bed and 3 x two-bed flats, landscaping, cycle store and main pedestrian entrances from Court Street.

*First floor* - 3 x one-bed and 2 x two-bed flats.

*Second floor* - 3 x one-bed and 2 x two-bed flats.

*Third floor* - 3 x one-bed and 2 x two-bed flats.

*Fourth floor* - 2 x one-bed flats (the fourth floor is stepped so these flats are on the higher northern side of the building only).

Although appearing as one single mass, the internal layout shows that the above ground part of the development would effectively operate as two separate, but physically joined buildings, each with separate entrances, their own staircase and lift.

The size of the flats varies between 42m<sup>2</sup> and 70m<sup>2</sup>, twelve of which would have external space or balcony provision. All habitable rooms would have windows, though the scope of available natural light would vary considerably between flats.

With regard to external finishes, these are proposed to incorporate a mixed palette of materials, including beige face-brickwork, anthracite cladding, dark grey framed fenestration, stone window heads, perforated brick detail and tinted glazing.

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

- Pre-Application Report (PAC)
- Preliminary Ecological Appraisal
- Coal Mining Risk Assessment
- Design and Access Statement
- Transport Statement
- Supporting Statement
- Tree Survey / Arboricultural Report
- Acoustic Report
- Flood Consequences Assessment
- Development Viability Report

## **SITE APPRAISAL**

The application property is a piece of unallocated land located to the south-west of the centre of Tonypany. The site comprises a surface area of approximately 0.07 hectares and there is a significant fall in level from west to east.

Formerly occupied by the Royal Naval Association Club, its disused buildings were gutted by fire in 2005 and were subsequently demolished. The site is now vacant and

unallocated for any specific use. The land and remains of the Club's foundations and retaining walls are overgrown with vegetation.

The surrounding properties are primarily residential in nature, with typical Victorian terraced houses located further along Court Street and at Chapel Street to the south. However, directly to the north-east of the site there is a five storey block of flats known as Mitchell Court, which is of a mid-20th century construction.

This site is both within the defined settlement boundary and part of a Registered Landscape of Outstanding Historic Interest in Wales. It is both very close to the town's designated retail centre area and a short distance from the bus station.

The site falls within land designated as low risk to development from coal mining and is not subject to river or surface water flooding.

## **PLANNING HISTORY**

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

- 22/5088/41:** Pre-application Advice for 22 Apartments, parking communal gardens. Decision: 13/09/2022, Raise Objections.
- 17/1096/13:** Outline application for a proposed residential development comprising 12 no. apartments. Decision: 24/07/2019, Grant.
- 17/5058/41:** Pre-application Advice for three storey high building comprising 15 No. apartments and relevant amenities. Decision: 20/07/2017, Raise Objections.
- 12/1020/13:** Outline application with all matters reserved for 19 bed care home for elderly comprising of three storey building (amended description and amended plans received 07/03/13). Decision: 03/07/2013, Grant.
- 07/0375/13:** Proposed residential development (outline). Decision: 27/04/2007, Grant.
- 06/2404/13:** Construction of three storey building containing nine small flats. Undercroft parking area (Outline). No decision: Withdrawn by Applicant, 07/03/2007.

## **PUBLICITY**

The application has been advertised by direct notification to forty neighbouring properties and notices were displayed on site.

Furthermore, in accordance with the Development Management Procedure Order (Wales) the relevant press notice was published on 11th July 2023 identifying that the proposal constitutes Major Development.

Four letters of objection or representation have been received, on behalf of five residents, raising the following matters:

#### Amenity

- Impact of privacy through overlooking.
- Balconies on the back of the building will overlook neighbouring gardens.
- Block sun and natural light.
- Restriction of views.
- Air pollution during construction – a family member of an objector has a severe dust allergy.

#### Parking

- Inadequate car parking provision.
- Underground parking may attract antisocial behaviour.
- Already an issue with unmet on-street parking demand.

#### Biodiversity/Environment

- There is a lot of wildlife on the site and developing the land may disturb a lot of rats.
- How will the development deliver a net biodiversity gain?

#### Appearance/Street Scene

- Tonypandy is being taken over by flats.
- The development is out of character with the area. It would be better suited to Cardiff Bay as Tonypandy is not an affluent suburb of a large city.

#### Other

- Concerns over future occupiers; cheaply rented flats may attract people not of good character, where there is already a high crime rate in the area.

### **CONSULTATION**

#### Highways and Transportation

No objection, subject to a number of conditions and informative notes.

#### Flood Risk Management

No objection. A condition is recommended in respect of surface water management.

#### Public Health and Protection

Conditions relating to construction noise, dust, waste, lighting and hours of operation are recommended.

### Natural Resources Wales

No objection.

### Dwr Cymru Welsh Water

Foul flows from the proposed development can be accommodated within the public sewerage system and capacity is available in the water supply system to accommodate the development.

### National Grid

Advises that 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 and has provided standard guidance for the benefit of the developer.

### Countryside Section – Ecologist

No objection, subject to a condition to secure the recommendations within the Preliminary Ecological Appraisal.

### South Wales Police

No objection and although the site will be privately owned/managed there no reason why the developer should not strive to achieve the Secured By Design Gold Award.

A list of recommendations, in respect of designing out crime, have been submitted for forwarding to the developer including the insertion of a gate at the pedestrian entrance and the specification of the external communal entrances.

It is noted that SW Police discussed the proposal with the Applicant's Agent during the pre-application stage.

### Waste and Recycling

The bin collection point should be at the kerbside.

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 Tonypandy but is not allocated for any 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 Principal Towns and Key Settlements, including the re-use of previously developed sites.

**Policy CS4** - Housing requirements: sets out the housing requirement figure for the plan period.

**Policy AW1** – Concerns the supply of new housing within the Borough. It stipulates that the supply will be met by the development of unallocated land within the defined settlement boundaries of the Principal Towns, Key Settlements and Smaller Settlements.

**Policy AW2** - seeks to ensure that development is in sustainable locations. The policy sets out criteria which defines these locations, these include but are not limited to the following:

- Are within the defined settlement boundary.
- Would not unacceptably conflict with surrounding uses.
- Have good accessibility by a range of transport options.
- Have good access to key services and facilities.
- Support the roles and functions of the Principal Towns, Key Settlements and Smaller Settlements.

**Policy AW4** - Outlines that planning obligations may be sought to make the proposed development acceptable in land use planning terms and identifies a range of purposes for which contributions would be sought.

**Policy AW5** - Identifies 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. In addition, 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. Furthermore, proposals must be designed to protect and enhance landscape and biodiversity by providing measures for mitigation and enhancement, where appropriate.

**Policy AW8** - Seeks to protect and enhance the natural environment from inappropriate development.

**Policy AW10** - Development proposals must overcome any harm to public health, the environment or local amenity as a result of flooding, pollution, noise, contamination, land stability or any other identified risk to local amenity and public health.

**Policy NSA2** - Supports proposals for residential development within the Key Settlement of Tonypanydy which: 1) support and reinforce the role of the centre as a Key Settlement; 2) are of a high standard of design; 3) promote the beneficial re-use of vacant floor space; and 4) support the provision of local services.

**Policy NSA10** - permits proposals where the net residential density is a minimum of 30 dwellings per hectare.

**Policy NSA11** - affordable housing contributions will be sought on sites of ten units or more.

**Policy NSA12** - supports housing development within the settlement boundary which is 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**

- Design and Placemaking
- Access, Circulation and Parking Requirements
- Affordable Housing
- Planning Obligations
- Nature Conservation
- 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 3 – Supporting Urban Growth – Council land / placemaking / developers / regeneration / sustainable communities / exemplar developments.
- Policy 33 – National Growth Areas Cardiff Newport & the Valleys – SDP/LDP/large schemes.

Other relevant national policy guidance consulted:

PPW Technical Advice Note 5: Nature Conservation and Planning

PPW Technical Advice Note 11: Noise

PPW Technical Advice Note 12: Design

PPW Technical Advice Note 15: Development and Flood Risk

PPW Technical Advice Note 18: Transport

PPW Technical Advice Note 19: Telecommunications

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 development would comply with Local Development Plan Policy CS1 which supports proposals that promote the re-use of vacant land and buildings and where development can be evidenced to support the roles of Key Settlements.

In this case, Policy NSA2 identifies Tonypanydy as a Key Settlement and like Planning Policy Wales 11 and per the National Sustainable Placemaking Outcomes, the Policy is also supportive of developments that re-use previously developed land and buildings. The buildings which once occupied the site, latterly fire-damaged, were demolished eighteen years ago and even then, had been vacant for approximately ten years prior to that.

Policy AW1 recognises that the supply of new housing will be met, in part, by residential development on unallocated land within the settlement boundary, i.e., 'windfall sites', where high quality affordable accommodation is provided.

The location of the site, which is within the settlement boundary, benefits from good access to sustainable transport options and to the key services and facilities which



can be found in the nearby retail centre. The development would also be compatible with the surrounding residential land uses.

Therefore, in the absence of any environmental constraints, it is considered that the former club site would be a sustainable location in accordance with the relevant criteria of Policy AW2.

Policy NSA12 seeks that residential development does not have an adverse effect on the provision of car parking in the surrounding area. Similarly, Policy AW5 requires development proposals to comply with the car parking provision set out in the Council's SPG. The plans include limited off-street parking spaces and any concerns in this regard are considered further below.

Lastly, the density of the development would far exceed that required by Policy NSA10. However, Policy AW4 establishes that planning obligations may be necessary to make a development acceptable in land use planning terms, and Policy NSA11 stipulates that an affordable housing contribution would be expected, either on-site, off-site or via a financial contribution. Noting the submitted Viability Report, this matter is also considered further below.

Consequently, as the planning history for the site demonstrates, residential development is considered to be appropriate in principle, since it meets the definition of a sustainable location where new housing would support the Key Settlement of Tonypanydy, and it would make good use of previously developed and derelict land.

### **Impact on the character and appearance of the area**

Although the land previously accommodated a large scale split-level building, the fact that its remains were levelled in 2005 means that it has comprised just slab and some retaining features which have been overgrown with scrub for the best part of eighteen years.

This means that any redevelopment of the site, because of its prominent position on a bend at Court Street, is likely to have significant impact on the street scene, particularly looking towards the site from the east, where the change in ground level from west to east is most pronounced.

In this regard, Members will have noted the photographs of the former Club which have been included in the presentation for reference, courtesy of RCT's digital archives. It is apparent that the eastern facing elevation was rather edifice-like, compared with the side elevation, which underlines the point that this is where the size of any new building is likely to be most evident.

Following discussions with the Agent, regarding concerns about the appearance of the new retaining wall around the eastern side of the site - given its height and length - an additional drawing was received. It is now proposed to create a green wall, which should result in a considerable softening of that elevation.

Conversely, in respect of the existing engineered level change between the site and the neighbouring property to the west, no.232 Court Street, the mass of a new building,

like that now proposed, would be somewhat mitigated and absorbed by the rising ground around it, which means it would appear to be set into the bank.

The previously approved outline scheme for 12 apartments, ref.: 17/1096/13, was determined by Committee Members in 2019 and was subject to scale parameters. One of these parameters specified a maximum height of 14.5m, i.e., approximately 50cm lower than the top of Mitchell Court.

By comparison, the current scheme on its eastern side would be approximately 60cm taller than Mitchell Court but on its western side, where there would be a part fourth floor, would be around 1m lower than the ridge of the two storey-house at no. 232 Court Street. In height terms, therefore, the current proposal would not be of much greater height than the previous outline consent.

In terms of the design and appearance of the development a couple of comments submitted by objectors suggest that it would appear incongruous and that there are already too many flats in Tonypany.

However, notwithstanding a previous point – that any redevelopment of the site will cause a marked change to the street scene – the proposal should be considered alongside the context of the surrounding built environment. The area around Pandy Square and to the west has been something of a transition zone between the town centre and the surrounding residential development, sharing some characteristics of both.

For example, in the last 100 years the area has accommodated several larger scale buildings, including the Tonypany Conservative Club, RCT offices, Pandy Inn, Pavilion Ice Rink and Royal Naval Club. The last remaining terraced houses were replaced by Mitchell Court at some point in the mid-20th century. The construction of another large building would not, therefore, be considered to result in an out-of-character development.

Furthermore, since the site would need further clearance of redundant structures, substantial retaining and engineering works, and will need to provide a return to the developer, it would not be reasonable to expect a low-level or low-density scheme to come forward at this location. For the same reason, any future redevelopment scheme for Mitchell Court is likely to be of a similar scale.

Consequently, taking the above into account, it is considered that the proposed development would not have a harmful impact on the character and appearance of the surrounding area and would result in the remediation of a vacant and derelict site.

## **Impact on neighbouring occupiers and future residents**

### *Existing residents*

The development has been considered in terms of potential impact upon existing neighbours regarding privacy, overshadowing and outlook.

Although the application has been widely publicised, the four letters of objection for a major development is relatively low and given the central location of the site and proximity to other dwellings, might be considered surprising.

Firstly, the large block of flats to the north of the site, Mitchell Court, is being depopulated and most residents have already been rehoused. It is understood that this process is nearly complete and proposals will likely come forward for its demolition and residential redevelopment in due course.

Secondly, in respect of the neighbouring properties along Court Street to the west, the great fall in level towards the application site means that the tallest fourth floor part of the development would still be lower than the ridge line of no.232 Court Street, which is the closest dwelling to the site boundary. This arrangement can be seen on drawing 'Proposed Elevation A'.

Whilst the side elevation of the flats might result in some early morning shading of no.232's garden, this relationship would be little more significant than that caused by having two two-storey houses next door to one another.

In addition, no outward facing windows are proposed to the western side or north-facing rear elevations so there are no concerns relating to overlooking of neighbouring properties; and in terms of the other dwellings at Zion Terrace, these are not in a direct line of sight of the application site and occupy a higher ground level.

Thirdly, the position of the properties on the opposite southern side of Court Street is noted, specifically those at Court Place and Chapel Street.

The linear arrangement of these terraced rows to the site and Court Street is an almost perpendicular relationship, where they are generally set lower in the ground than the highway surface and either tend to face towards each other or are back to back.

This arrangement, the topographical context and the position of windows in the main elevations of dwellings at Court Place and Chapel Street suggests that the impact on outlook would not be a detrimental one.

Likewise, although there are some windows within those dwellings such as those in the side elevation of an off-shot or within principal elevations on the lower part of Chapel Street, the affected ones would be few in number and most views would be very skewed.

There could also be views from the new flats towards the yards and gardens opposite, though again it would only be the closest properties which would be affected and those gardens are either overlooked by existing neighbouring houses or can be seen into from the pavement along Court Street, which as mentioned above, is at a higher level.

Therefore, although the development would not be without some amenity impact, given the context of the site and the small number of properties involved, this would not be considered to be unacceptable.

*Future residents*

The Council's SPG for the Development of Flats includes a variety of criteria to guide decision makers about whether a development is acceptable.

Although space and accommodation standards, such as those within the Welsh Government's WDQR publications, do not apply to market dwellings, in this case the majority of the flats within the new building would be largely compliant and all habitable rooms would benefit from windows.

It is perhaps also worth noting that some past applications and appeal decisions arising from them have also tended to indicate PEDW's view that the living conditions of future residents of flats is less of a concern for market housing than it would be for social housing.

However, the floor plans of the development show that the majority of the flats would have access to balconies or external space, which is supported by the SPG and is beneficial for well-being. In addition, the site is well located and convenient for the town centre and there are outdoor recreation facilities located a short distance to the south-west at King George's Park.

#### *Construction period*

As with all development sites the undertaking of any construction or demolition works is likely to cause a degree of noise and disturbance to existing neighbouring residents, although this is not a matter which could reasonably justify a recommendation of refusal since it is a short-term impact.

Nevertheless, one resident has highlighted a concern about a relative with a dust allergy and it is recognised that working from home has become more widespread. The consultation response from Public Health colleagues also noted concerns relating to construction noise and dust, suggesting that mitigation by way of dust suppression measures and acoustic screening, plant silencing etc. could be appropriate.

In order to address those concerns the standard Construction Method Statement condition, recommended in the list of conditions below, has been expanded to require the submission of detail for approval relating to the control of dust, noise and lighting.

In addition, it is acknowledged that existing public health powers, conferred by the Environmental Protection Act 1990 and relating to statutory nuisance, may be a more effective and speedier way of dealing with any issues, rather than being reliant on the enforcement of planning conditions.

In light of the above and in terms of the impact on the amenity and privacy of existing and future residents, the application is considered to be acceptable.

### **Access and highway safety**

#### *Location*

The streets in close proximity to the site have parking restrictions (double yellow lines) on both lanes of the carriageway preventing on-street car parking taking place. There are a number of public car parks in close proximity to the proposed site.

### *Parking*

The Council's SPG for Access, Circulation & Parking identifies the development would require a total of 31 off-street spaces for residents and 4 spaces for visitors, whereas 13 spaces are proposed.

The proposed development is well below the maximum parking standards despite its sustainable location. In addition, there are parking restrictions in place preventing on-street car parking due to the high demand within the residential streets adjacent to the town centre.

Therefore, there is some concern that the development would add to existing parking pressures.

However, an assessment regarding existing car ownership has been undertaken, where car ownership statistics have been obtained from Census data for the Tonypandy Ward, for which the site is situated within.

The assessment demonstrates that based on average car ownership, a total of 6 car parking spaces could be expected to be required for the development in 2023 and 7 car parking spaces required by 2028.

On this basis the development proposals constitute an over-provision of off-street parking and demonstrate that the proposed parking provision is suitable to accommodate the likely future demand of residents.

The assumption that the development would require only 7 spaces in 2028 seems low taking into account experience of similar developments within town centres. However, the Highway Authority contends that the 13 spaces proposed are acceptable due to the sustainable location of the proposed development.

### *Electric Charging Provision*

The Council provides guidance on residential charging facilities within its Electric Vehicle Charging Strategy 2021-2030 which states that "all new residential properties with off street parking will be required to be "EV Ready"". Therefore, each parking bay should be installed with the ability to provide electric vehicle charging capability in the future which is acceptable.

### *Cycle Parking*

The proposed development would provide secure cycle storage for 26 cycles which is in excess of that required in the Council's SPG. This helps to mitigate the impact of off-street car parking provision and will help promote sustainable modes of transport other than the private motor vehicle.

### *Mitchell Court Access*

The development would result in an increase of vehicular movement by all types of vehicle to and from Mitchell Court out onto Court Street. The visibility splay to the right of the site is obstructed by the high boundary walls.

Vision to the right leading out onto Court Street is 2.4m x 18m, whereas that to the left is 2.4m x 69m. To address this concern, a condition has been suggested for 2.4m x 22m vision splays to be provided from the road junction between Mitchell Court and Court Street.

### *Pedestrian Access*

The 1.2m wide footway leading to the parking area (Mitchell Court Access Road) is sub-standard in width, which is of concern to the Highway Authority. However, given that this relates to a short distance, the shortfall is, on balance, acceptable.

### *Bin Store*

It is noted that the bin store doors currently open out onto land within the ownership of the applicant. However, the Applicant should consider widening the footway at this location to 2m which would enable the bin store doors to open inwards, which would be better for pedestrian safety.

### *Sustainability*

The application site is located within the town centre of Tonypany which offers a variety of local facilities with both bus and rail stops within easy walking distance, which will help to promote sustainable modes of travel with less reliance on the private motor vehicle.

### *Summary*

There is concern that the development would provide for only 13 off-street car parking spaces which is below the maximum standard set out in the SPG for Access, Circulation & Parking. However, taking into account the sustainable location and that residents of flats are less likely to own a motor vehicle than those occupying other types of dwelling, this would not warrant a highway objection.

## **Ecology and environment**

The Council's Ecologist has reviewed the May 2023 Acer Ecology Preliminary Ecological Appraisal submitted with the application.

The Appraisal states that the site primarily consists of dense scrub dominated by Buddleia with some small patches of semi-improved grassland. There are mature trees identified including a mature willow, silver birch and a cherry tree outside the site boundary but with limbs crossing onto the site.

The trees have been assessed for their suitability to support bats and were found to have low suitability for roosting bats. In line with the Bat Conservation Trust Guidelines, trees with low suitability do not require further survey work and the report has identified measures to minimise risk to bats including the pruning of T1 and soft felling of T2 and T3.

A stone wall on site was also assessed for bat potential and whilst assessed to have low roosting potential, a detailed inspection of the wall found no evidence of use by bats and therefore further surveys were not necessary in accordance with the Bat Conservation Trust Guidelines, however precautionary measures for the removal of the stone wall are detailed in Section 4 of the report. The report has also recommended precautionary measures for nesting birds, reptiles and hedgehogs.

The Ecologist advises that the site assessment is appropriate and recommends a condition to capture all of the recommendations set out in Section 4 of the Appraisal.

The Consultation response from NRW notes that protected sites have been considered that are within 2km of the application property. In this case, there is only one site within this radius - Craig Pont Rhondda SSSI.

Craig Pont Rhondda SSSI lies 680m from and at a 35m higher elevation than the proposed development site. In this instance, the only potential impacts from the proposed development would be from airborne and waterborne pollution during the construction phase.

Nevertheless, NRW considers that waterborne pollution is negated by the topography of the area and that it is unlikely any airborne dust will reach the SSSI due to the distance, topography and surrounding residential properties. Therefore, the proposed development is unlikely to have an adverse impact on the designated features of Craig Pont Rhondda SSSI.

NRW has also requested that the Preliminary Ecological Appraisal is included in the list of approved plans and documents condition on any decision notice, to ensure the precautionary measures in relation to bats are implemented. However, since a separate condition is proposed, per the Council's Ecologist's advice, this would not be necessary.

## **Flood Risk**

It is noted that the development will require a separate application to be made to the Sustainable Drainage Systems (SuDS) Approval Body (SAB) and will have to comply with Part H of the Building Regulations. The Council's Flood Risk Management Team has reviewed the site surface water risk, using Natural Resources Wales' flood risk maps.

Although the site does not fall within an area of surface water flood risk, there is a high, medium and low surface water flood risk identified downstream of the site; particularly along Chapel Street, conveying down Court Street, across Llwynypia Road and eastward onto Church Street. The Applicant will need to demonstrate flood risk is not increased downstream.

The Applicant has outlined that surface water will be disposed of via SuDS in the application form however has not provided any relevant surface water drainage proposals for review. To ensure surface water is appropriately managed, the Lead Local Flood Authority will need to be provided with further information as to how surface water will be managed and disposed of at the site.

In order to address matters relating to flood risk and surface water drainage, a condition has been recommended for the submission of details and has been incorporated in those proposed below.

### **Other matters**

In addition to the issues raised by objectors, relating to parking, environment and amenity, which have been considered in the preceding sections, concerns relating to the potential occupiers and the impact of the development on property values were also raised.

Nonetheless, the tenure of the proposed apartments, whether privately owned or socially rented is not a material planning matter. This is also the case for the nature of future residents and since the development would fall within the scope of Use Class C3, this would be the same residential land use as most of the surrounding residential development.

Furthermore, while concerns relating to the development and property values are acknowledged, this is also a matter not germane to the determination of the application.

### **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 housing requirement within the Northern Strategy Area as set out within the LDP.

- **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 and would create footfall for local shops, services and transport links.
- **Maximising Environmental Protection:** The development would be subject to a condition for biodiversity enhancement measures as per the recommendations of the PEA. In addition, the development of a brownfield site is preferable to meet housing demand than a greenfield location.
- **Facilitating Accessible and Healthy Environments:** The application site is in a very sustainable location, being close to a bus route, railway station and services and facilities located within walking distance in Tonypanyd 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, however, the application site lies within Zone 1 of Rhondda Cynon Taf's Residential Charging Zones where a £nil charge is applicable. 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 would provide twenty-two market apartments and LDP Policy AW4 outlines where planning obligations may be sought. Policy NSA11 specifies that at least 10% affordable housing provision would be required for sites of ten units or more, which could take the form of on-site or off-site provision, or a financial contribution.

Therefore, a S106 agreement would be required to secure such a planning obligation and this was highlighted in the pre-application response previously provided to the Applicant, ref.: 22/5088/41.

However, Members will have noted and had sight of the Viability Report which has accompanied this application and which explains why the development could not afford to make a contribution.

The Report sets out, in some detail, how the residual land value resulting from the scheme, compared with the existing land value, would result in a sizeable deficit and would not create any surplus to support any affordable housing provision. The calculations within the Report are explained as being based on industry norms and with the use of an appropriate economic toolkit.

The Report also notes that the affordable housing policies and requirements within the current LDP were adopted in March 2011 and viability assumptions would have been made on the basis of the preparation of the evidence base at an earlier point in the LDP process – hence the need for the Report to identify what has changed. In this case the Report notes how market conditions have worsened, including Brexit, the Covid 19 pandemic and war in Ukraine, all of which have increased construction costs.

Whilst this position is regrettable, particularly at a time of a housing crisis and unmet demand for both social and market housing, the recommendation to Members is that the case set out within the Viability Report sufficiently justifies, in terms of construction costs versus financial return, that an affordable housing contribution would be unaffordable.

### **Conclusion**

It is considered that the development would provide a high quality housing scheme which would make efficient use of a long vacant and semi-derelict brownfield site in a highly sustainable location.

The proposal would accord with the aims of PPW11 and FW2040, in terms of where new development should be located and where Wales will grow and would contribute to the housing mix and requirements set out within LDP Policies CS1, AW1 and NSA2.

In terms of other material matters, such as residential amenity, design and appearance, highway safety and environment, the development is considered to be acceptable, subject to the range of conditions set out at the end of this report.

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

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

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

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

- 21416/001(-) Location Plan
- 21416/002(-) Proposed Site Plan
- 21416/003(A) Proposed Basement Plan
- 21416/004(A) Proposed Ground Floor Plan
- 21416/005(A) Proposed First Floor Plan
- 21416/006(A) Proposed Second Floor Plan
- 21416/007(A) Proposed Third Floor Plan
- 21416/008(-) Proposed Fourth Floor Plan
- 21416/009(-) Proposed Roof Plan
- 21416/010(-) Proposed Elevation A
- 21416/011(-) Proposed Elevation B
- 21416/012(-) Proposed Elevation C
- 21416/013(-) Proposed Elevation D
- 21416/014(-) Proposed Elevation E
- 21416/015(-) Proposed Elevation F
- 21416/025(-) Green Wall Visual

and details and documents received on 10th May 2023 and 5th July 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 take place 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 take place until a scheme for the delivery of all the recommendations contained within Section 4 of the Preliminary Ecological Appraisal (Acer Ecology, May 2023) 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: In the interest of biodiversity and the natural environment in accordance with PPW 11 and Policies AW6 and AW8 of the Rhondda Cynon Taf Local Development Plan.

5. No development shall take place until a scheme for the management of surface water has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall evidence how the development is to take into account of local surface water flood risk and outlines a strategy to ensure the structure is resilient to ensure the development does not increase the number of residents at risk of surface water flooding. Development shall be carried out in accordance with the approved details.

Reason: In the interest of public health in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

6. No development shall take place until details of the following have been submitted to and agreed in writing by the Local Planning Authority:

- i) Details of a scheme for the setting back of the site boundary fronting Court Street to provide a 2.4m x 22m vision splay from Mitchell Court, to ensure adequate visibility for exiting vehicles.
- ii) Details of proposed works to the public highway including vehicular crossovers and tie in details with the public footway fronting the site.
- iii) Details and design calculations for the retaining walls abutting the highway.

Development shall be carried out in accordance with the approved details.

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

7. No development shall take place, 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,
- k) measures for the suppression of dust

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.

- 8. Prior to beneficial occupation, a validation report shall be submitted to and approved in writing by the Local Planning Authority, to confirm that the double glazing has been installed in accordance with that specified in the submitted Acoustic Report (Blue Acoustics ref NS459, March 2023).

Reason: In the interest of the amenity of future residents in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

- 9. Prior to beneficial occupation, the means of access, together with the parking and turning facilities, shall be laid out in accordance with drawing number 21416/003(A). The car parking spaces shall be retained thereafter for the parking of vehicles in association with the proposed apartments.

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.