

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2023-2024:

**PLANNING AND
DEVELOPMENT COMMITTEE
11th APRIL 2024**

**REPORT OF: DIRECTOR
PROSPERITY AND
DEVELOPMENT**

Agenda Item No.

**APPLICATION NO:23/1277/38 – Discharge
of conditions 7 (traffic Management) and
8 (drainage details) imposed on planning
permission 23/0575/15 for the
construction of 3no. three bedroom
houses on land adjacent to 15 Grover
Street Graig, Pontypridd.**

PUROPOSE OF THE REPORT

Members are asked to determine the above planning application

RECOMMENDATION

That Member consider this report and determine the application having regard to the advice given.

BACKGROUND

Planning application 23/0575/15 approved on 8th November 2023 is a renewal of planning permission for the construction of 3no. three bedroom link houses adjacent to 15 Grover Street, Graig, Pontypridd. Following the renewal of consent the developer submitted application 23/1277 aiming to discharge the requirements of condition 7 relating to traffic management proposals and condition 8 drainage details. A report in respect of the second application was prepared for the meeting of the Planning and Development Committee held on 7th March 2024 (a copy of the original report to Members forms appendix A to this report). Following receipt of a last minute objection from Dwr Cymru Welsh Water to the proposed drainage arrangements Members resolved to defer determination of the application to allow officers further time to consider the contents of the late letter received from Dwr Cymru Welsh Water (minute no 226 refers).

Following deferral of the application, the applicant submitted revised drainage plans to the Council and to Dwr Cymru Welsh Water. The revised plans have been subject to scrutiny by Dwr Cymru Welsh Water and they have now confirmed that they find the details acceptable in principle though the sewer diversion will need to be managed through legislation m overseen by themselves (Section 185 of the Water Industry Act). Flood Risk Management

were supportive of the original submissions and the approach adopted to the overall drainage of the site and remain so.

Following the deferral a further objection was received from a local resident raising the following additional issues: -

- Whilst it is accepted attenuation cells can be placed closer to houses than soakaways Building regulations require a geologist report to confirm ground stability.
- The proposed attenuation cells are uphill and guidance requires them to be on level ground at the lowest point of the build
- The attenuation cells are close to the retaining wall supporting a house in Kirkhouse Street.
- It is requested that Building Control be invited to comment before the drainage condition is discharged.
- The ownership of the land around the building plot is in dispute as neighbours are trying to claim adverse possession – if successful, they have stated they will not allow drainage over or through their land should they prove successful.
- The revised sewer plans and the associated diversion, involves excavations close to the foundations of existing properties and they may be deeper and residents are concerned that it might lead to subsidence and object on that basis.

With regard to the first three points these are matters that will be governed by Building Regulations at the time that such a submission is made and they do not need to be proven now to discharge planning conditions which are establishing the principle that the approach is acceptable. The Building Regulations operate under a separate stream of legislation and it is not appropriate to seek their implementation through planning legislation. The fourth point would be unnecessary in the circumstances. The fifth point lies entirely outside the scope of proposals when considering the discharge of planning conditions and this submission should not be the subject of delay while this issue is resolved. The final point is no basis for an objection to the discharge of conditions as it would also be governed under other legislation and it would not in any event be appropriate to object to or prevent development on the basis that something might or might not happen

In light of the above and the fact that the details submitted in respect of traffic management at the site remains acceptable it is recommended that Members authorise the discharge of conditions 7 and 8 of planning permission 23/0575/15.

PLANNING & DEVELOPMENT COMMITTEE

07 March 2024

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 23/1277/38 (GD)
APPLICANT: Brickcraft Construction Ltd
DEVELOPMENT: Discharge of conditions 7 (Traffic management details) and 8 (drainage details) as imposed on permission 23/0575/15 for the construction of 3 no. 3 bedroom linked housing units
LOCATION: LAND ADJ TO 15 GROVER STREET, GRAIG, PONTYPRIDD
DATE REGISTERED: 07/12/2023
ELECTORAL DIVISION: Graig and Pontypridd West

RECOMMENDATION: Approve

REASONS: The relevant consultee departments have both confirmed that the submitted details sufficiently address the requirements of the relevant conditions and that they can now be discharged.

REASON APPLICATION REPORTED TO COMMITTEE

- Three or more letters of objection have been received.

BACKGROUND

A renewal of planning permission for the construction of 3no. 3 bedroom link houses was considered at the Planning and Development Committee on 19th October 2023 and permission granted subject to conditions.

APPLICATION DETAILS

Consent is sought for the discharge of conditions 7 and 8 of planning permission 23/0575/15 relating to the construction of 3no. 3 bedroom link houses adjacent to 15 Grover Street.

Condition 7 states

Prior to the commencement of development, details of traffic management and wheel washing facilities shall be provided on site in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained throughout the construction period unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that mud and debris are not deposited from the construction site onto the public highway, in the interests of highway safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

Condition 8 states

No development shall take place until drainage arrangements have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate disposal of foul and surface water drainage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

The application is supported with plans relevant to the details the developer is attempting to agree.

SITE APPRAISAL

The application site is approximately 650sqm in area and lies at the north-western end of Grover Street, adjacent to number 15. The site is a cleared, vacant parcel of land. Adjoining the northwest of the site the land slopes away down to meet Sardis Road public car park. A footpath which connects Grover Street with the car park also lies within the redline boundary of the application site. An access path serving the rear of terraced properties in Grover Street and Kirkhouse Street runs adjacent to the eastern boundary of the site between the application site and 15 Grover Street. The southwestern site boundary is defined by the rear boundary wall of a neighbouring residential property known as Ger-Y Nant (which is served off Kirkhouse Street). The adjacent residential properties mainly consist of traditional terraced properties of a mixed external finish of render and stone, with a scattering of new larger properties in brick and render along Kirkhouse Street.

PLANNING HISTORY

23/0575	Land adj. 15 Grover Steet, Graig, Pontypridd	Variation of condition 1 of application 18/0617/15 to extend the current consent by a further 5 years (original application 13/0758/10 –	Granted with conditions 19/10/23
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		residential development, construction of 3no. 3 bedroom link houses)	
18/0617	Land adj. 15 Grover Steet, Graig, Pontypridd	Variation of Condition 1 of previous application 13/0758/10 to extend the approval for a further 5 years.	Granted with conditions 05/07/18
13/0758	Land adj. 15 Grover Steet, Graig, Pontypridd	Residential development, construction of 3 no. 3 bedroom linked housing units (Amended Plans Received)	Granted with conditions 28/20/13
08/1292	Land North/West Limit, Grover Street, Graig, Pontypridd.	Renewal of consent 05/1561/15 - Erection of a two storey block of residential flats.	Granted with conditions 13/10/08
05/1567	Land North/West Limit Grover Street, Graig, Pontypridd.	Renewal of consent 02/1027/15 - Erection of a two storey block of residential flats.	Granted with conditions 28/10/05
02/1027	Land North/West Limit Grover Street, Graig, Pontypridd.	Renewal of consent 99/2420/15 - erection of a two storey block of residential flats	Granted with conditions 09/09/02
99/2420	Land North/West Limit Grover Street, Graig, Pontypridd	Renewal of consent 95/0786 - Erection of a two storey block of residential flats.	Granted with conditions 27/07/99
95/0786	Land North/West Limit Grover St, Graig Pontypridd	Erection of a 2 storey block of residential flats (renewal of outline permission ref: 56/92/0925).	Granted with conditions 31/05/96
92/0925	Land North/West Limit Grover St, Graig, Pontypridd	Erection of a 2 storey block of residential flats (renewal of outline permission ref: 89/1062)	Granted with conditions 02/02/93
89/1062	Land to North West limit of Grover Street, Graig, Pontypridd	Residential flats (2 storey)	Granted with conditions 10/01/90
89/0788	Site of existing garages at North western limit of Grover Street,	Erection of block of flats (3 storey)	Refused 23/10/89

Graig, Pontypridd

PUBLICITY

No publicity is required to be undertaken in respect of discharge of conditions applications however, in this instance eight letters of objection from 4 different sources have been submitted raising the following issues

Traffic Issues

- The submitted plan prevents vehicles from turning safely at the bottom of the street, the suggested image shows the turning circle is not big enough and will prevent vehicles from entering and leaving the street in a forward gear.
- If the proposals are allowed it will remove up to 12 parking spaces from general use.
- It is suggested that the width of the brown area is halved to allow turning for residents.
- The street is heavily parked and to block this area off to manage traffic is selfish.
- It is suggested that the width of the brown area is halved to allow a parking area for residents.
- The condition was set in place to manage traffic safely the proposals do not achieve that and creates a danger for residents.
- Condition 7 states that the developer needs to inform the residents of such intentions, this has not happened therefore condition 7 cannot be discharged.
- The site plan states that the area at the front of the house is a “drive way”, planning application 13/0758 states the area is labelled as on street parking.
- If the proposed scheme is approved it would restrict emergency vehicle and large vehicle deliveries access to the wider area and 1 & 2 Birdsfield Cottages in particular.
- Even with the revisions submitted there is still no room for residents to park. Will specific provision be made for residents to park and particularly disabled parking?
- There is insufficient parking to serve the street.
- The Council has rejected the request for resident only parking.
- Why does the new development not provide private parking inside the plot owned.
- When the pavement and parking are completed who will own the land.
- The traffic management plans show there would be no space for established residents to park.
- Why were residents not permitted to attend the site visit held on 11th January?

Drainage issues

- Building Regulation 5.3.11 states that underfloor crates and soakaways should be 5 metres from any wall or foundation and 2.5m within the land boundary. it also states that they cannot be used within 5 metres of a road. The intended plans do not fulfil these criteria.
- SUDs guidance B1.3 states “where land ownership is an issue the local authority will need evidence that any necessary easements are in place before agreeing drainage proposals.
- Residents understand that any development larger than 1 house is subject to a full SuDS application and query if this is the case with this application.
- Residents currently experience flooding at the bottom of the street every time it rains. The drain overflows with back pressure and any additional load on the stretched system will be horrendous.
- Welsh Water state that no operational development shall be carried out within 3 metres either side of the centreline of a public sewer – the sewer map provided by welsh water shows 2 sewers running through the site and the plans clearly show construction within that easement.
- Birdsfield Cottages lie at a lower level and at the end of the drainage line and any proposals that exacerbate water related issues offer a greater potential for flooding.
- The applicant is installing attenuation cells and these are close to other properties – the Building Regulations state that a geologists report is required to confirm ground stability and no such report has been provided
- There is no provision on the drainage plans for septic tanks can you provide information on where the septic tanks will be located in relation to existing property?
- One objector references the requirements of drainage related conditions associated with earlier permissions on this site pointing out that the current submissions could not meet the requirements of those conditions as they require that no surface water or land drainage would be allowed to connect to the public sewer

Other issues

- Document D01 does not accurately reflect the land ownership boundary. The developer owns around 1/3 of the land they claim on the drainage files.
- This also invalidates the calculations on pre development and post development calculations and areas.
- The land surrounding the building plot is in dispute, neighbours are aiming to register the land under adverse possession. Neighbours claim to have used and maintained the land for over 20 years. If they are successful with their application they will not be allowing soakaway usage on their land – the developer needs to manage their surface water inside of their legal boundary.
- The plans used are not Land Registry documents.

- The applicant has no right to erect heras fencing and restrict access to the public footpath in the manner shown.
- The applicant has physically threatened locals when they have complained and refuses to engage in reasonable discussions.
- It is claimed the proposed vehicular parking bay was obtained fraudulently and is built over a claimed vehicular right of way and is currently subject of court action. Whilst such action is ongoing it cannot be used for parking and it is an offence to obstruct a legal right of way.
- The Local Development Plan states development should maintain existing off road parking.
- It is alleged that the certification on the original renewal application did not allow the specified period for advertisement before the application was submitted.

CONSULTATION

Highways and Transportation – the details submitted are acceptable to discharge condition 7 in part prior to implementation on site. The approved details shall remain in operation throughout the construction phase.

Flood Risk Management – Have reviewed the documentation provided by the applicant – they propose to discharge from the site at a rate of 1.2l/s, this does provide a small betterment and is acceptable from a flood risk perspective subject to SAB approval.

Natural Resources Wales – have no comment to make on the proposed development.

Dwr Cymru Welsh Water – no response received.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Members will be aware that the current LDP's lifespan was 2011 to 2021 and that it is in the process of being reviewed. 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.

Indicates that the site is within the defined settlement limits of Pontypridd.

CS 2 sets out that in the Southern Strategy Area the emphasis will be on sustainable growth that benefits Rhondda Cynon Taf as a whole. CS2 (1) promotes residential development with a sense of place which respects the character and context of the Principal Towns and Key Settlements of the Southern Strategy Area.

AW 1 sets out the criteria for new housing proposals, commenting that the provision of new dwellings will be met by a number of methods, including the development of unallocated land within the defined settlement boundaries.

AW2 promotes development in sustainable locations.

AW 5 sets out criteria for new development in relation to amenity and accessibility.

AW6 sets out the criteria for new development in terms of design and place-making.

AW8 sets out the criteria for the protection and enhancement of the natural environment.

AW10 sets out the criteria for environmental protection and public health.

SSA11 requires residential developments to provide a density of 35 dwellings per hectare.

SSA13 sets out the criteria for new development within Settlement Boundaries.

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

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

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

Other relevant national policy guidance consulted:

PPW Technical Advice Note 18: Transport

REASONS FOR REACHING THE RECOMMENDATION

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

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

Main Issues:

Principle of the proposed development

The application relates to the approval of details reserved by a condition of an existing planning permission. The principle is therefore considered acceptable. However, in this case the relevant consultees have to be satisfied that the details submitted are sufficient to discharge the requirements of the conditions referenced.

Condition 7 Traffic Management

The Highways and Transportation Section have given full consideration to the details submitted in respect of this condition. They have also been made aware of the nature of the objections submitted by the objectors to the proposals. They have though concluded that in this instance the detail submitted is sufficient to discharge the requirements of the condition.

Much of the objection relating to highway matters either suggests alternatives which the applicant is not obliged to consider or suggests that the proposed arrangement is in some way inconvenient or unsafe. Highways and Transportation in arriving at the conclusion they have on the submitted details do not agree with these assertions. Further, the proposed arrangements and the agreement of a Traffic Regulation Order will secure an adequate turning facility to the benefit of the development and existing residents.

A number of traffic related issues raised also lie outside the scope of the adequacy or otherwise of the detail submitted to support the application. The current state of parking on Grover Street, the fact that the Council might have rejected requests for resident only parking, who will own the land on completion of the development and whether or not residents can attend and inform site meetings are not relevant to the consideration of the detail submitted to discharge the condition. It is noted however that when the

pavement and other works are completed the applicant's intention is that it will be adopted by the Highway Authority.

Condition 8 Drainage

The Council's Flood Risk Management (FRM) Section have considered the details submitted in support of the drainage of the site. At the time of preparation of this report no response had been received from Dwr Cymru Welsh Water. FRM have indicated that they are satisfied with the land drainage proposals to serve the development and that if implemented there will be slight benefit inasmuch as runoff rates from the site will be properly controlled. Though Dwr Cymru Welsh Water have not so far commented on the proposals there is sufficient provision under the Water Industries Act that would ultimately enable them to secure an appropriate connection.

Much of the objection raised to the details submitted references other legislation that the proposals may or may not be able to comply with, or the fact that it relies on the control of land that is currently the subject of legal dispute. It is not the purpose of planning legislation and requirements to enforce what can be enforced through other legislation. Some residents raise the issue of compliance with SuDS, however, as the original grant of planning permission pre dates the introduction of SuDS this development is not subject to that regime. Whilst residents reference SuDS and the Building Regulations in relation to soakaways in particular, it should be noted that the scheme proposed is a lined attenuation system.

The sewer map supplied by the objectors does not concur with that provided by Dwr Cymru when application 23/0575 was under consideration. In any event it is common practice to seek an easement from them in such circumstances. Again this lies outside the scope of what can reasonably be considered when an application of this nature is being considered.

The requirement to provide a geologists report relates to the Building Regulations. There is no such requirement with regard to the discharge of planning conditions and it would not be appropriate to attempt to enforce the requirements of other legislation through the planning process.

Grover Street lies within a sewered area and the developer is expected to provide an appropriate foul drainage solution that connect with the public sewerage infrastructure. The need for septic tanks should not arise – this though is fundamentally an issue to be resolved between the Developer and Dwr Cymru Welsh Water.

Notwithstanding what conditions associated with earlier iterations of this permission might have required the condition currently under consideration does not make the same requirements and it is against this that the current submission needs to be assessed. The current drainage condition does not prevent the attenuated land drainage connection promoted in this application.

Other Issues

Residents have also raised a number of issues that lie outside the scope of the proposals which require some further commentary.

The fact that some of the land required to implement both the highways and drainage schemes is the subject of dispute does not affect consideration of the technical adequacy (or otherwise) of the scheme itself. If the developer cannot secure the land required then they would have to develop an alternative solution. Similarly so the claims relating to land ownership and encroachment on to land owned by others lie outside the scope of what this application can or should consider.

The applicants are not obliged to use Land Registry plans to define the extent of the site, Ordnance Survey is more than adequate. The key issue for the determination of this submission is that it reflects the site boundary approved under the earlier application.

The herras fencing does not restrict access to the public footpath and the developer has the right to secure the site in advance of development occurring

The comments in respect of the Local Development Plan and what it requires in respect of off road parking are not relevant.

The certification concerns relate back to the original renewal of planning permission and any action in respect of that (if it can be proved to be the case) would be out of time.

Conclusion

The application is considered to comply with the requirements of the conditions subject of the application and as such these conditions can and should be discharged.

RECOMMENDATION: Approve