

## **PLANNING & DEVELOPMENT COMMITTEE**

**25 April 2024**

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

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

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 23/1255/10 (KL)  
**APPLICANT:** WDL Homes LTD  
**DEVELOPMENT:** 8 no. residential units with associated infrastructure works (Bat Survey rec. 28/11/23)  
**LOCATION:** LAND AT THE FORMER BRICKWORKS SITE OFF LLWYDCOED ROAD, LLWYDCOED, ABERDARE  
**DATE REGISTERED:** 08/11/2023  
**ELECTORAL DIVISION:** Aberdare West and Llwydcoed

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**RECOMMENDATION:** Approve, subject to conditions and no further concerns being raised by NRW

**REASONS:** The application site forms a housing allocation under Policy NSA9 of the Rhondda Cynon Taf Local Development and the principle of developing the site for residential purposes is therefore considered acceptable. Furthermore, the proposed dwellings are considered to be acceptable in terms of their overall, scale, design and visual appearance and it is not considered that they would have an adverse impact upon the character and appearance of the site or surrounding area, the amenity and privacy standards currently enjoyed by the nearest residential properties or upon highway safety in the vicinity of the site.

As such, the application is considered to comply with the relevant policies of the Rhondda Cynon Taf Local Development Plan.

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

- The proposal is not covered by determination powers delegated to the Director of Prosperity & Development
- Three or more letters of objection have been received;

#### **APPLICATION DETAILS**

Full planning permission is sought for the construction of 8 no. detached residential dwellings on a parcel of land which is situated at the rear of nos. 17-30 Tan y Bryn Gardens, Off Llwydcoed Road, Llwydcoed, Aberdare.

The proposed dwellings would be constructed towards the northern and eastern perimeters of the site with access being provided via a new access off Tan y Bryn Gardens to the south (between nos. 28 & 29). The dwellings would be served off a new internal estate road/turning head (to be adopted) to the southern end of the site with 2 dwellings being directly accessed from this (plots 7 & 8). The remainder of the dwellings would be served off 2 further shared internal private shared driveways (plots 1 & 2 off one and plots 3 4, 5 & 6 off another).

The development would consist of the following house types:

- 1no. Windsor – 4 bed property with detached double garage
- 2no. Tresaith – 4 bed property with detached or attached double garage
- 2no. Oxwich Bay – 4 bed property with attached double garage
- 3no. Caswell – 5 bed property with integral double garage

Each dwelling would have off-street car parking for 2 no. cars in front of their respective garages with enclosed gardens being positioned to the rear elevations. Two further visitor spaces would also be provided near the proposed new entrance.

External materials would consist of a mixture of Ibstock Sandhurst stock clary facing brickwork, render and cedar cladding with stone cills, Marley Edgemere slate grey tiles, grey uPVC windows and doors and grey facias and rainwater goods.

The application is accompanied by the following:

- Planning Statement
- Preliminary Ecological Assessment
- Ecological Interim Survey Update
- Bat Transect Survey
- Reptile Survey Report
- Arboricultural Impact Assessment
- Tree Survey
- Bats and Tree Survey Report
- Landscape and Visual Appraisal
- Site Investigations Report
- Desk Study Report
- Lighting Design and Light Spill Report

## **SITE APPRAISAL**

The application site relates to an irregular shaped parcel of land which is situated to the north of existing residential properties in Tan y Bryn Gardens in the settlement of Llwydcoed, Aberdare. The site measures approximately 0.9 hectares in area and currently comprises of scrubland which rises in ground profile from the southern boundary towards a lane off Llwydcoed Road to the north. The site is bound by numerous trees to the northern, eastern and western boundaries whilst the rear of

properties in Tan y Bryn Gardens lie to the south. A Public Right of Way (OED/22/1, OED/22/3 and OED/22/8) which connects Llwydcoed Road with Tan y Bryn Gardens runs along part of the northern and western boundaries.

The site is situated within the defined settlement boundary for Aberdare and is allocated for housing under Policy NSA9.4 (Housing Allocations). The site also falls within land designated as a high risk due to coal mining and the areas of trees to the western, southern and eastern boundaries are protected by Tree Preservation Orders (TPO No.1;1984, TPO No. 72; 2005). Two individual Tree Preservation Orders are also present within the site (TPO: 72; 1 & 2; 2005).

## PLANNING HISTORY

The following planning applications are on record for this and the wider former brickworks site:

12/0703	Land at the Former Brickworks Site, Llwydcoed Road, Llwydcoed, Aberdare	Substitution of house types approved by permission 06/1564/10 to provide 69 No. terraced, semi-detached and detached 3 and 4 bedroom properties and associated works.	Granted 06/09/13
11/0796	Tan y Bryn Gardens, Former Brickworks Site, Llwydcoed	Substitution of house types approved by permission 06/1564/10 to provide 8 no. detached dwellings.	Granted 03/11/11
08/1882	Llwydcoed Brickworks, Llwydcoed	2 signs with company name and logo advertising future residential development of the site	Granted 26/01/09
06/1564	Land at Llwydcoed Brickworks, Llwydcoed	Residential development consisting of 99 dwellings, including all associated building and engineering operations and landscaping	Granted 27/01/09

## PUBLICITY

The application has been advertised by means of direct neighbour notification and through the erection of site notices in the vicinity of the site. A total of 5 letters of objection have been received and are summarised as follows:

### *Character and Appearance*

- The proposal uses different materials to the Tan y Bryn Gardens site and it will therefore not be in keeping with the rest of the site.

### *Residential Amenity and Privacy*

- The development will impact upon privacy.

### *Highways and Parking*

- Concern is raised with regards to access for construction vehicles and the impact this will have on the safety of road users and pedestrians.
- It is suggested that existing roads are narrow with visibility poor and cars parking on kerbs.
- The proposed access is too narrow for two cars and will result in increase reversing movements onto the road should two cars meet at the entrance.
- The existing Tan y Bryn development does not have enough parking and cars park on kerbs as a result.

### *Flood Risk and Ground Stability*

- The site is at moderate-high risk of ground and surface water flooding.
- The current woodland area provides natural drainage and acts as a bio-retention area of the site.
- The ground will require significant amounts of filling to stabilise the land.
- The fact that the site sits within a Coal Mining Development High Risk Area has not been taken into consideration.
- Tan y Bryn Gardens is already susceptible to flooding due to poor drainage works conducted by the developer.
- The development will not be built with appropriate drainage.
- Concern is raised with regards to extra flow of water coming through the site.

### *LDP Housing Allocation*

- Whilst the site is allocated for housing within the LDP, this fails to acknowledge the changing landscape of Llwydcoed and the current housing market of Aberdare as a whole.
- The LDP is currently being reviewed and will be updated.

### *Environmental Sustainability*

- The supporting documents make a very poor and weak argument for supporting environmental sustainability.

- The natural biodiversity and natural habitats would be removed.
- Just because the site is situated near a bus stop, does not mean that the development actively promotes the use of sustainable transport.
- The development will encourage the use of potentially 16 additional cars with no electric charging provision which will directly contribute to increase CO2 levels in the area.

### *Ecology*

- The woodland currently acts as a safe and secure rural habitat for an abundance of wildlife.
- Bat surveys have not been carried out.
- The previous landowners were witnessed on site removing trees.
- The proposal actively seeks to remove a natural ecosystem and the rural aspect that is enjoyed by residents and wildlife.
- Any construction work and the felling of trees will significantly affect bats and other wildlife at the site and in the area.

### *Public Right of Way*

- The Public Rights of Way, footpaths and trees and hedges on and around the site need to be retained.

### *Land Contamination*

- Concern is raised about different contaminants that would be disturbed and dispersed to current residents during works.
- Concerns are raised with regards to the contents of the supporting documents in relation to contamination.

### *Other*

- The construction of the development will result in disturbance to existing residents who work from home.
- No effort has been made to reassure existing residents or compensate those that are more affected.
- The saleability of executive style houses in the area has declined and a number of existing executive houses have remained unsold and vacant, leading to the consensus that the area is being overdeveloped.
- Reference is made to other developments in the wider Aberdare area, stating that many properties remain empty after a considerable amount of time.
- Focus and attention should be placed on sites that have already been approved before planning is considered on another.
- Concern is raised with regard to insurance and re-saleability of all houses affected.

- It is advised that machinery has been at the site and works are being carried out before any permission has been granted.
- Construction vehicles and deliveries on the Tan y Bryn site is unacceptable and very dangerous.
- Concerns are raised with regards to the cleanliness of the site.
- WDL have not cleared the waste ground opposite where the show home was.
- This proposed development was not included on the plans to for the original Tan y Bryn development.
- Concern is raised with regards to the integrity of WDL Homes.

## **CONSULTATION**

**Coal Authority:** No objection, conditions recommended.

**Ecology:** No objection, conditions recommended.

**Fire Safety:** No objection

**Flood Risk Management:** No objection, condition recommended.

**Highways and Transportation:** No objection, conditions recommended.

**National Grid:** Advises that a separate application will need to be made to National Grid should a new connection or service alteration be required.

**Natural Resources Wales:** No objection, subject to conditions. Further information has been requested in respect of the proposal to construct a new access road over an ordinary watercourse. No further comments had been received at the time of writing this report.

**Public Health and Protection: No objection**

**TPO Officer:** Concerns raised.

**Welsh Water:** No objection, condition and advice provided.

## **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 4<sup>th</sup> January 2016 but do not have retrospective effect. Therefore, the*

*provisions do not apply to LDPs adopted prior to this date and plans adopted before 4<sup>th</sup> January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24<sup>th</sup> September 2020. Subsequently, Members are advised that the existing Plan remains the development plan for consideration when determining this planning application.*

The application site is situated inside the defined settlement boundary and is allocated for housing. The following policies are considered relevant in the determination of this application:

**Policy CS1 Development in the North:** seeks to build strong, sustainable communities in the Northern Strategy Area to 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 AW1 Supply of New Housing:** sets out how the housing requirement will be met during the plan period. This includes but is not limited to the allocations set out within Policy NSA9.

**Policy AW2 Sustainable Locations:** advises that development proposals will only be supported in sustainable locations.

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

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

**Policy AW7 Protection and Enhancement of the Built Environment:** sets out criteria for development proposals which affect public rights of way.

**Policy AW8 Protection and Enhancement of the Natural Environment:** seeks to protect and enhance the natural environment from inappropriate development.

**Policy AW10 Environmental Protection and Public Health:** development proposals must overcome any harm to public health, the environment or local amenity.

**Policy NSA9 Housing Allocations:** sets out the housing allocations within the Northern Strategy Area, which includes the Former Brickworks Site, Old Diary and tipped land to the rear of Birchwood.

**Policy NSA10 Housing Density:** requires developments in the Northern Strategy Area to have a minimum residential density of 30 dwellings per hectare.

**Policy NSA12 Housing Development within and Adjacent to Settlement Boundaries:** requires housing development within the settlement boundary to be accessible to local services by a range of sustainable transport modes without adversely affecting the highway network or provision of car parking in the surrounding area.

## **Supplementary Planning Guidance**

Design and Placemaking  
Nature Conservation  
Planning Obligations  
Access Circulation and Parking

### **National Guidance**

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

Planning Policy Wales Edition 12 (PPW) was issued on 7<sup>th</sup> February 2024 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
- 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 policy guidance consulted:

PPW Technical Advice Note 5: Nature Conservation and Planning;  
PPW Technical Advice Note 6: Planning for Sustainable Rural Communities;  
PPW Technical Advice Note 12: Design;  
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**

This application proposes the construction of 8 no. residential dwellings on a parcel of land which is situated within the defined settlement boundary and within an established built-up area that is predominantly residential in character.

It must also be noted that the site is allocated for housing under Policy NSA9.4 of the Rhondda Cynon Taf Local Development Plan. This indicates that the site has been allocated in accordance with the criteria set out in Policy AW2 and on the basis that it will reinforce the roles of the Principal Towns and Key Settlements, as set out in Policy CS1. Furthermore, whilst the site is currently vacant, it was previously occupied by the former Llwydcoed Brickworks and the proposal would therefore be further supported by Policy CS1 in that it would promote the re-use of previously developed land.

The site forms part of a wider allocation for 175 dwellings over 6 hectares of land, of which 125 dwellings have already been constructed through the Tan y Bryn Gardens and Maes y Ffion developments. Whilst the development only proposes the construction of an additional 8 dwellings, the development would result in all 6 hectares of the allocation being developed.

Policy NSA10 requires development for residential dwellings in the Northern Strategy Area to have a net residential density of at least 30 dwellings per hectare. The proposal would have a significantly reduced density of approximately 8 dwellings per hectare and whilst this is of some concern, the policy permits lower densities where it can be demonstrated that a lower density would be necessary to protect the character and appearance of the site/surrounding area or to protect the amenity of existing or future residents. In this case, the site is positioned on a slope with a public sewer, an ordinary watercourse and a number of TPO's present within the site. These constraints would inevitably restrict the ways in which the site could be developed and a lower density could therefore be considered acceptable. The proposed site layout plan clearly indicates the presence of these constraints and demonstrates that the site can be suitably developed around them. Whilst it is noted that perhaps more dwellings of a

smaller scale could have been proposed, the site connects with the Tan y Bryn Gardens development, which is largely characterised by a number of large, detached properties. The proposed dwellings are very similar to the house types visible in the wider development and the overall design of the proposal would therefore be in keeping with the character of the area. Furthermore, a proposal for more dwellings in this location would likely have additional highways implications due to the slightly sub-standard access (as discussed in the *Highway Safety and Parking section* below). It is therefore considered that, on balance, a lower residential density is acceptable in this case.

In light of the above, the principle of developing the site for residential purposes is considered acceptable.

### **Character and Appearance**

The proposal would result in 8 no. detached dwellings being constructed around the northern and eastern extents of the site with access being provided via the Tan y Bryn Gardens development to the south. The site is crossed by an ordinary watercourse to the south and east and a public sewer to the east. A protected tree is also situated towards the southern end of the site, which is proposed to be retained. Given these constraints, the proposed layout of the site is considered to be a feasible way of developing the site.

The proposed dwellings would be of a large scale however, they do not appear to be any greater than existing properties in the adjacent Tan y Bryn Gardens development. Indeed, it is noted that the proposed house types are very similar to those visible in the area and whilst it is noted that the proposed palette of materials would differ to what is typically visible in the existing Tan y Bryn Gardens development, the site is situated behind the existing development where it would not be visually prominent. As such, it is not considered that the deviation in finishing materials would have such a significant impact upon the character and appearance of the surrounding area that it would warrant the refusal of the application.

Furthermore, the site would partially retain its 'open' appearance with ample space around the dwellings to enable a comprehensive landscaping scheme to be implemented, which would ensure that the development integrates well within its setting.

Consequently, it is considered that the proposal is acceptable in terms of the impact it would have upon the character and appearance of the site and the surrounding area, and the application would therefore comply with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

### **Residential Amenity and Privacy**

As indicated previously, the site is situated within an established built-up area which is predominantly residential in character. It will therefore be important to consider the impact of the proposed development upon the amenity and privacy of existing residential properties in the vicinity of the site.

In this case, the nearest residential properties are considered to be those in Tan y Bryn Gardens to the east and south of the site (nos. 17-20 & nos. 21, 22 & 24-33). Further residential properties are situated to the north of the site (Casa Mia and Birchwood) and to the north-west (6 & 8 Plasmarl).

Properties in Tan y Bryn Gardens to the eastern boundary of the site (nos. 17-20) would be a sufficient distance away (around 30m) and separated from plot 8 (the nearest plot) by an area of trees and a watercourse. Furthermore, given the differences in ground levels and orientation of plot 8, it is not considered that the development would result in any adverse impact upon amenity or privacy.

Properties in Tan y Bryn Gardens to the south (nos. 21, 22 & 24-33) are set at a lower ground level to the site however, it is noted that sufficient separation distances would be maintained between existing and proposed dwellings (in excess of 35m) which would ensure no adverse loss of privacy or outlook would arise. Furthermore, being positioned to the north and north-east of existing properties in Tan y Bryn Gardens, the development would not result in any overshadowing.

In terms of the impact of the proposal upon existing residential properties to the north and north-west, these properties are separated from the site by a line of trees and an area of woodland respectively. Furthermore, these properties are situated over 30 and 50 metres (respectively) and at a higher ground level and would not be adversely affected by the development.

As such, the proposal is considered acceptable in terms of the impact it would have upon the amenity and privacy of surrounding residential properties and the application would therefore comply with Policy AW5 (1.c) of the Rhondda Cynon Taf Local Development Plan.

### **Access and Highway Safety**

The application has been assessed by the Council's Highways and Transportation section and no objection has been raised in relation to the proposal, subject to a number of conditions being imposed upon any grant of planning consent. The comment received are summarised as follows:

#### **Access**

The application site is served via an existing housing development (Tan Y Bryn Gardens) which has been designed and built to an adoptable standard. There is a section 38 Agreement in place to adopt the proposed housing development Tan Y Bryn Gardens but to date the maintenance still remains with the developer WDL

Homes. The carriageway leading to the site is 5.5m with access to the proposed to be located off the square turning facility.

The access road proposed for the development is 4.8 metres, prior to extending by a further 0.7 metres to 5.5m within the site. A footway is proposed adjacent to the access. Furthermore, an additional footpath, which will link to the existing public right of way to the east, will be provided within the site enabling pedestrian connectivity.

The proposed carriageway access is slightly below the standards (4.8m) set out in the Rhondda Cynon Taff Design Guide. However, this width is over a short section of the carriageway only with it widening back out to 5.5m within the site. Vision is good to see oncoming vehicles and, given the limited traffic generated by 8 dwellings and the fact that the 4.8m width (over a short distance) allows for an HGV and car to pass one another or two cars (in accordance with Manual for Streets), on-balance the proposal is considered acceptable.

The proposal is in excess of 5 dwellings and, in accordance with Welsh Government guidance and in accordance with the council's design guide, the proposed access road and turning facility will be required to be designed and built to an adoptable standard and offered for adoption. There are two dwellings served directly off the adopted highway, two off one shared access and four off another shared access, which is acceptable.

The proposed access is via a vehicular crossover leading to the proposed between two existing dwellings number 28-29 Tan Y Bryn Gardens. Taking into account the limited additional traffic generated by 8 additional units the proposal is acceptable. However, full engineering design and detail will be required, including swept path, and the design implemented in accordance with the approved detail which has been conditioned accordingly.

#### *Parking SPG Access, Circulation & Parking*

The 8 no. 4 & 5 bed dwellings require up-to a maximum of three spaces per unit in accordance with the SPG Access, Circulation & Parking 2011 with a minimum of 3 spaces per unit provided.

The development also requires 2 visitor spaces with 2 provided which is acceptable.

#### *Surface Water Culvert*

It is noted that the proposed site access crosses what appears to be an open watercourse. Open water course consent will be required and commuted sums for any additional maintenance liability to the council.

In light of the comments received from the Highways Officer, the proposal is considered acceptable in terms of the impact it would have upon highway and pedestrian safety in the vicinity of the site and the application would therefore comply with Policy AW5 (2.c & 2.d) of the Rhondda Cynon Taf Local Development Plan.

## **Other Issues:**

The following other material considerations have been taken into account in considering the application, though were not the key determining factors in reaching the recommendation.

## **Drainage**

### *Surface Water*

The proposal would result in the construction of 8 no. dwellings and, under Schedule 3 of the Flood and Water Management Act 2010, the applicant will be required to submit a separate application to the Sustainable Drainage Systems (SuDs) Approval Body (SAB). The applicant will also be required to comply with Part H of the Building Regulations.

Details submitted with the application indicates that surface water will be disposed of using SuDs however, no relevant surface water drainage proposals have been provided for review. A condition is therefore recommended for such information to be provided prior to any works commencing on site however, given that the development would be subject to a SuDs consenting regime, the recommended condition is not considered necessary in this case.

The Council's Flood Risk Management team have reviewed the sites' surface water flood risk and it is advised that there are areas of high, medium and low surface water flood risk identified across the application site, particularly along the south, west and northern perimeter. The identified high surface water flood risk is associated with the unnamed ordinary watercourse which flows through the site along its eastern and southern perimeter.

### *Foul Drainage*

Welsh Water and NRW note that foul drainage would be disposed of via the public sewerage system and no objection is raised in this regard.

### *Public Sewer*

Welsh Water advise that the application site is crossed by a surface water public sewer which is situated towards the eastern extent of the site. It is advised that access is required this apparatus at all times and, as such, an easement of 3m would be required either side of the centreline of the sewer. Notwithstanding this, the proposed site layout plan indicates that the development has been designed around this constraint with no building or structure appearing to be situated within the protection zone.

### *Watercourse*

As mentioned above, the site is crossed by an unnamed ordinary watercourse to the southern and eastern end of the site. The submitted plans indicate that the proposed access would be constructed over the stream and the applicant has confirmed that in order for the access road to be adopted, a small section of the watercourse will need to be culverted. It is further confirmed that a timber bridge structure would be provided at the pedestrian link to the PROW at the eastern end of the site.

It is advised that Ordinary Watercourse Consent will be required under Section 23 of the Land Drainage Act 1991, prior to any works affecting any watercourse identified within the site.

## **Ecology**

The application has been assessed by the Council's Ecologist who notes that the site comprises of remnant groups of trees and a few individual trees, including a small number which are protected by Tree Preservation Orders, and tall ruderal vegetation. The site also incorporates a stream to the southern and eastern boundaries.

The application is supported by a Preliminary Ecological Assessment, Reptile Survey Report, an Ecological Interim Survey Update and a Bat and Tree Survey Report, which have been assessed by the Council's Ecologist. Further information has also been provided in respect of lighting.

The Council's Ecologist advises that the site is not of SINC quality, although it is considered that the remaining trees are important, particularly as bat foraging and potential roost habitat, and these need to be fully protected within the development. A condition for tree protection and management is therefore recommended, as well as a condition for a Construction Environmental Management Plan (CEMP).

### *Bats*

The Bat Report identifies that the site is important as foraging and commuting habitat for the local bat population and a series of necessary measures are proposed to retain dark nighttime conditions in order to maintain bat use of the site, and details of a lighting scheme have been provided, to which the Council's Ecologist raises no objection.

### *Reptiles*

The Reptile Survey indicates that no reptiles were recorded at the site however, it identifies some low-key precautionary measures which need to be conditioned.

### *Landscaping*

The Council's Ecologist initially raised some concerns with regards to the proposal Landscaping Plan however, further commentary was provided by the applicant and no further concerns were raised.

### *Mitigation and Enhancement*

The Preliminary Ecological Survey includes a series of additional mitigation requirements, including invasive plant management, bat and bird bricks/boxes and hedgehog friendly fencing. The Council's Ecologist recommends that the details for these mitigation and enhancement measures are sought by condition.

### *Japanese Knotweed*

The submitted documents note the presence of Japanese Knotweed at the site and whilst NRW recommend a condition for its eradication, this is an issue that can be controlled by other legislation (Wildlife and Countryside Act 1981) and an informative note to the applicant would be sufficient should permission be granted.

### **Contaminated Land**

The application site was previously occupied by Llwydcoed Brickworks and it is also noted that it was also used for the disposal of soil. Neighbouring land was also previously occupied by ironstone quarries/mining and works, spoil and refuse tips and three landfill sites are situated within 250m of the site.

The application is supported by a Desk Study Report and Site Investigations Report which has been reviewed by the Council's Public Health and Protection team however, the comments received indicate that the information is not sufficient to negate the need for full contaminated land conditions to be imposed upon any grant of planning consent and these have been recommended accordingly.

### **Coal Mining Legacy and Land Stability**

As indicated previously, the site is crossed by a Development High Risk Area in respect of historic coal mining and, as such, there are coal mining features and hazards which need to be considered in the determination of this application.

The application is supported by a Desk Study Report which has been reviewed by the Coal Authority. The report recommends that intrusive ground investigations be carried out in the form of drilling of rotary boreholes, in order to confirm the depth and thickness and condition of any underlying shallow coal seams or ironstone veins and to inform any necessary remedial works. The Coal Authority concur with these findings and recommendations, and standard site investigations conditions have therefore been recommended.

### **Tree Preservation Orders**

As indicated above, the application site is bound by a number of TPO areas with a number of individual TPOs identified within the site.

The application is supported by a Tree Survey, a Tree Constraints Plan and an Arboricultural Impact Assessment (AIA) which confirm that the majority of trees on and around the site will be retained. However, it is noted that a total of 10 trees are recommended for felling due to the majority of these (9no.) being identified as poor quality (U category) and one being low quality (C category).

The trees to be felled appear to fall within the TPO areas at the northern and eastern boundaries of the site. A separate TPO application would therefore be required for any works to/ the felling of TPO trees. To date, no such application has been received.

The Council's TPO Officer raises some concern with regards to the impact of the development on the trees to be retained and suggestions have been made for the dwellings to be brought forward or for the number of dwellings to be reduced in number and/or scale. However, the applicant has confirmed that they do not wish to make any amendments to the scheme. It is confirmed that the proposed layout is fully compliant with BS5837:2012 Trees in relation to Design, Demolition and Construction with the proposed dwellings and structures being located outside of the Root Protection Areas (RPAs) and crowns of retained trees, and the AIA demonstrates that there is no conflict issue with the trees. Should future residents wish to undertake works to any tree protected by a TPO, then this would be subject to a TPO application, and the Local Planning Authority would have the powers to refuse such applications if it can be demonstrated that the proposed works are unnecessary/unreasonable. Furthermore, it is advised that potential future residents would be made aware of the presence of TPO trees at conveyance stage.

The applicant considers that the TPO Officer's suggestion of moving the dwellings forward would create conflict with an individual TPO tree towards the southern boundary of the site. It can be seen from the Proposed Site Layout Plan that moving plots 1-4 forward would result in the private shared driveways being positioned with the RPA of that tree.

On that basis, the Arboricultural Impact Assessment sets out a series of protection measures for the retained trees which are in accordance with the details set out in BS5837:2012 and it is recommended that the implementation of tree protection measures on site should be carried out in compliance with a site-specific Tree Protection Plan and Arboricultural Method Statement. These details can be secured by condition.

In terms of the trees to be felled, the Arboricultural Impact Assessment confirms that the development focuses only on the clearance of poor-quality trees (U category) on the eastern boundary and a scrubby line of low-quality trees to facilitate the



construction of Plot 8. It is advised that the U category trees would be required for removal on safety grounds, irrespective of the outcome of the proposed development.

The existing tree belts on the western, northern and eastern boundaries, as well as two internal trees, would be retained with this minimising any wider landscape impacts. It is further advised that some new tree planting be considered in order to mitigate any tree loss and to contribute to an enhancement of the local tree stock.

One individual TPO is identified as being positioned towards the northern end of the site however, it appears that this has been removed at some point prior to the application being submitted. It is not referred to in the plans or supporting documents and it was not visible at the time of the Planning Officer's site visit.

### **Public Rights of Way**

As indicated above, the site is bound by a series of Public Rights of Way to the northern and eastern boundaries however, details submitted with the application indicate that these would be retained and remain unaffected by the development. In any case, should a temporary or permanent diversion be required at any point, this would be subject to separate consent from the Council's Countryside Section.

The Council's Public Rights of Way Officer has been consulted on the proposal and the comments received raises no objection.

### **Other Issues Raised by Objectors**

Where the objections and concerns raised by residents have not been addressed in the sections above, the following responses are offered:

#### *Construction Noise and Disturbance*

Issues of construction noise and disturbance are not material planning considerations and whilst it is appreciated that construction of the development would inevitably result in some degree of noise and disturbance, this would be for a temporary time period only and would not be reason to refuse planning permission. Furthermore, there is separate Environmental Health legislation available, if such activities became a statutory nuisance.

Similarly, compensation for existing residents is outside the parameters of the planning process and the objector should seek this through the appropriate channels.

#### *Housing Market and Requirements*

One letter of objection suggests that the market for executive style houses has declined and that a number of existing houses have remain unsold. It is beyond the remit of the Planning Department to determine market requirements and it has to be

assumed that the developer has carried out suitable and sufficient market research to identify a need within the area prior to going to the expense of formulating and submitting a planning application.

One letter of objection also suggests that focus and attention should be placed on sites that have already been approved before planning is considered on another site. The Planning Department has no control over the submission of applications and it must therefore consider every application on its own individual merit.

### *Property Values and Insurance*

Concerns raised with regard to property values and insurance are not material planning considerations.

Furthermore, whilst the development may not have been included on the plans to the original Tan y Bryn Gardens development, that is not to say that the site would remain undeveloped indefinitely. As indicated elsewhere in this report, the site is identified as a housing allocation in Policy NSA9 of the Rhondda Cynon Taf Local Development plan and so the re-development of the site for residential purposes can be expected.

### *Condition of Site and Site Works*

It is noted that some residents have raised concern with regards to the condition of the site in terms of cleanliness and it is suggested that waste ground has not been cleared by the developer. This is not material to planning and would not be reason to refuse planning permission for this site or the developer. Indeed, there is other legislation available should residents wish to pursue this issue.

One resident has also suggested that machinery has been brought to the site and that works are being carried out before any permission has been granted. The objection does not specify what works are currently being undertaken however, any works being undertaken are entirely at the developer's own risk. It must also be noted that some works can be carried out without planning permission.

### **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 lies within Zone 1 of Rhondda Cynon Taf's Residential Charging Zones, where a nil charge is applicable and therefore no CIL is payable.

### **Conclusion**

The application site forms a housing allocation under Policy NSA9 of the Rhondda Cynon Taf Local Development and the principle of developing the site for residential purposes is therefore considered acceptable. Furthermore, the proposed dwellings are considered to be acceptable in terms of their overall, scale, design and visual appearance and it is not considered that they would have an adverse impact upon the character and appearance of the site or surrounding area, the amenity and privacy standards currently enjoyed by the nearest residential properties or upon highway safety in the vicinity of the site.

As such, the application is considered to comply with the relevant policies of the Rhondda Cynon Taf Local Development Plan.

**RECOMMENDATION: Approve, subject to conditions and no further concerns being raised by NRW**

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 carried out in accordance with the approved plans and documents received by the Local Planning Authority on 6<sup>th</sup> November 2023, unless otherwise to be approved and superseded by details required by any other condition attached to this consent:

- Drawing No. 3054-02(05)201: Site Location Plan
- Drawing No. 3054-00(05)101: Proposed Site Layout
- Drawing No. 3054-04(05)201 Rev A: Caswell House Type Floor Plans
- Drawing No. 3054-04(05)301 Rev A: Caswell House Type Elevations
- Drawing No. 3054-05(05)201 Rev. A: Garage Plans and Elevations
- Drawing No. 3054-02(05) 201: Oxwich Bay House Type Floor Plans
- Drawing No. 3054-02(05)301: Oxwich Bay House Type Elevations Plot 1
- Drawing No. 3054-02(05)301: Oxwich Bay House Type Elevations Plot 7
- Drawing No. 3054-03(05)201 Rev A: Windsor House Type Floor Plans
- Drawing No. 3054-03(05)301 Rev A: Windsor House Type Elevations
- Drawing No. 3054-01(05)201: Tresaith House Type Floor Plans
- Drawing No. 3054-01(05)301: Tresaith House Type Elevations
- Drawing No. 00(05)107 Rev A: Street Scene
- Drawing No. 3054-00(05)108: Site Sections
- Drawing No. 3054-00(05)102: Material Layout
- Drawing No. 3054-00(05)110: Boundary Details
- Drawing No. 3054-00(05)103 Rev A: Boundary Layout

- Drawing No. 2302TFL.LS.01: Landscape Layout
- Arboricultural Impact Assessment (dated 16<sup>th</sup> October 2023)
- Bats and Tree Survey V1 (dated 13<sup>th</sup> March 2023)
- Preliminary Ecological Survey (dated 13<sup>th</sup> March 2023)
- Interim Survey Update (dated 16<sup>th</sup> October 2023)
- Reptile Survey Report (dated 17<sup>th</sup> May 2023)
- Site Investigation Report (dated February 2023)
- Tree Survey (dated 6<sup>th</sup> December 2022)
- Tree Constraints Plan (dated 12/22)

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

3. Before the development is brought into use the means of access, together with the parking and turning facilities, shall be laid out in accordance with the submitted plan 3054 00 (05) 101 approved by the Local Planning Authority. The approved details shall be implemented prior to beneficial occupation of the first dwelling.

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

4. Notwithstanding the submitted plans, development shall not commence until full engineering design and details of the road layout including its tie in with Tan Y Bryn Gardens highway sections; street lighting details, swept path, surface-water drainage details and highway structures have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the adequacy of the proposed development, in the interests of highway safety, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

5. No development shall take place, including any works of site clearance, until a Construction Method Statement has been submitted 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.

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.

6. No above ground development shall commence until;
- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure that the risks of land instability are fully considered and remediated/mitigated, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

7. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure that the risks of land instability are fully considered and remediated/mitigated, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

8. Building operations shall not be commenced until a scheme to deal with contamination has been submitted and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:
- 1. A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of contamination

relevant to the site. The desk top study should contain a conceptual site model.

2. A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any contamination and its implications. The site investigation shall not be commenced until a desk-top study has been completed satisfying the requirements of paragraph (1) above.
3. A written method statement for the remediation of contamination affecting the site shall be agreed in writing with the LPA prior to commencement and all requirements shall be implemented and completed to the satisfaction of the LPA by a competent person. No deviation shall be made from this scheme without the express written agreement of the LPA.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

9. The development hereby permitted shall not be occupied and/or operated until the measures approved in the scheme (referred to in condition 8 above) have been implemented and a suitable validation report of the proposed scheme has been submitted to and approved in writing by the Local Planning Authority. Any validation report shall be carried out by a competent person.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

10. 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 LPA prior to the work recommencing. Any revised contamination proposals shall be carried out by a competent person.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

11. No development shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction Methods: details of materials, how waste generated will be managed.
- 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 spoils, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the extant and phasing of development, location of landscape and environmental resources, design proposals and objectives for integration and mitigation measures.
- Resource Management: details of fuel and chemical storage and containment, details of waste generation and its management, details of water consumption, wastewater and energy use.
- Traffic Management: details of site deliveries, plant on site, wheel washing facilities.
- 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 protection of the environment during construction, in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

12. No development shall commence until a scheme for biodiversity enhancement 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: Future Wales requires all development to maintain and enhance biodiversity.

13. No development shall take place until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the dwellings 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.

14. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

15. No development shall take place until an Arboricultural Method Statement and Tree Protection Plan has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect the existing trees adjacent to the site and in the interests of amenity in accordance with Policies AW5, AW6 and AW8 of the Rhondda Cynon Taf Local Development Plan.

16. No development shall take place until a method for precautionary measures in respect of reptiles have been submitted and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To afford protection to animal species in accordance with Policy AW8 of Rhondda Cynon Taf Local Development Plan.