

**APPLICATION NO:** 13/0642/13 (BJW)  
**APPLICANT:** Mr A Sheppard  
**DEVELOPMENT:** Outline planning permission to build three new detached dwellings in the grounds of the adjacent properties, Maesycoed and Y-Wern off Llwydcoed Road, Nr. Aberdare with the matters for appearance, landscaping layout and scale reserved  
**LOCATION:** LAND IN THE GROUNDS OF ADJACENT PROPERTIES, MAESYCOED AND Y WERN, OFF LLWYDCOED ROAD, LLWYDCOED, ABERDARE CF44 0UW  
**DATE REGISTERED:** 05/07/2013  
**ELECTORAL DIVISION:** Aberdare West/Llwydcoed

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**RECOMMENDATION:** Approve.

**REASONS:**

The application is for the principle of the development of the land around two large existing houses with considerable garden curtilages. The means of access is the only matter of detail that is offered for consideration at the outline stage with all other matters reserved and this is considered to be acceptable, as is the principle of re-developing the large garden areas for additional dwellings.

While the other details are indicative only they demonstrate how the site could be developed. The application is therefore considered to comply with the relevant policies of the Local Development Plan in respect of its access and highway safety considerations, the amenities of nearby residential properties and the impact on the visual amenities of the area.

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**APPLICATION DETAILS**

Outline consent is sought for three dwellings within the garden curtilage areas of two existing properties, Maesycoed and Y-Wern, on Llwydcoed Road, Llwydcoed, Aberdare.

The application is for the principle of the development with the access to be considered at this stage while the appearance, landscaping, layout and scale to be reserved for future consideration.

The application indicates 3 plots within the application site with details as follows:

- Plot 1 to the north west of Maesycoed. Access off a modified existing entrance off Llwydcoed Road (B4276) to serve the existing and proposed dwelling. Maximum width of 19m, maximum depth 14m, maximum height 9m to ridge.
- Plot 2 to the north west of Y Wern. Access off a modified existing entrance off Llwydcoed Road (B4276) to serve the proposed dwelling. New access to serve the existing property off Lle Hyfryd to the east of Y Wern. Maximum width of 19m, maximum depth 14m, maximum height 9m to ridge.
- Plot 3 to the south west of Y Wern. New access off Lle Hyfryd to serve the proposed dwelling. Maximum width of 19m, maximum depth 14m, maximum height 9m to ridge.

The application is accompanied by a Design and Access Statement (DAS) in support of the application. The DAS states that the proposal would respect the character and appearance of the area and protect the amenities of existing neighbouring properties while making a more productive use of the land

## **SITE APPRAISAL**

Plots 1 and 2 would provide large, linear housing plots that would be accessed directly off Llwydcoed Road (B4276) via existing, modified entrances.

They would effectively halve the frontage of the existing properties of Y Wern and Maesycoed onto Llwydcoed Road. The existing properties have a strongly defined and visually attractive tree lined edge that is also protected by a Tree Preservation Order (TPO) No. 1, 1959. There are also protected trees within the grounds to the rear of both properties that would fall within all three proposed plots.

Plot 3 would also provide a long linear plot off Lle Hyfryd with a new access point to the south west of the existing dwelling, Y Wern. Y Wern would then be served off a further new access off Lle Hyfryd.

All three plots have a shallow slope from north east to south west and the garden areas, particularly in Maesycoed, which is currently vacant being quite overgrown.

There is a Public Right of Way (PROW) - Llwydcoed 22, that runs along part of the rear south west boundaries of Maesycoed and Y Wern.

## **PLANNING HISTORY**

06/1574	Land at side of Y Wern, Merthyr	Renewal of Planning application ref - 00/4187 dwelling (outline)	Conditions 26/01/07
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	Road, Llwydcoed, Aberdare.		
03/0689	Y Wern, Merthyr Road, Llwydcoed, Aberdare	Renewal of Outline Planning application C/00/4187/13 for a dwelling.	Conditions 07/07/03
00/4187	Land to side of Y Wern, Merthyr Road, Llwydcoed, Aberdare	Dwelling	Conditions 22/06/00
97/4157	Land to side of Y Wern, Merthyr Road, Llwydcoed, Aberdare	Detached dwelling house (outline)	Conditions 23/06/97
94/0109	Land to side of Y Wern, Merthyr Road, Llwydcoed, Aberdare	Detached dwelling house (outline)	Conditions 06/06/94
91/0127	Land to side of Y Wern, Merthyr Road, Llwydcoed, Aberdare	Detached dwelling house (outline)	Conditions 29/05/91
90/0001	Rear of Y Wern, Merthyr Road, Llwydcoed	Proposed dwelling house	Conditions 29/01/90

## **PUBLICITY**

This has included site notices and the direct notification of properties surrounding the site and the following comments have been received.

1. Plot 3 would overlook our garden area, which would be detrimental to our privacy and would require the removal of a very attractive rhododendron hedge.
2. There is an extensive infestation of Japanese Knotweed at the site of the proposed development. The infestation has not been treated or prevented

- from spreading since I purchased my property in 2011. It has spread into my garden for which I have taken the responsibility to treat myself. However I have grave concerns that development of this land without strict control measures will contribute significantly to the already out of control infestation.
3. Blanket spraying the Japanese Knotweed on this property is unsuitable due to the mature trees on the proposed property as well as my own garden having Tree Preservation Orders.
  4. Under the Wildlife and Countryside Act 1981, the land owner is required by law to prevent the spread of Japanese Knotweed onto neighbouring land.
  5. The unlicensed disposal of Japanese Knotweed is an offence under the Environmental Protection Regulations 1991.
  6. Violation of all of the above can lead to criminal prosecution and third party litigation for damages and/or spread of invasive weed or contaminated soil onto adjoining land.

## **CONSULTATION**

Transportation Section – no objection, subject to conditions.

Land Reclamation and Engineering – no objection, subject to conditions.

Public Health and Protection – no objection, subject to conditions.

Dwr Cymru Welsh Water – no objection.

Wales and West Utilities – no response received.

Western Power Distribution – no response received.

Countryside, Landscape and Ecology – due to the nature of the application being for the principle of development the impact on trees is considered acceptable at this stage. Careful consideration of siting and the impact on individual protected trees will be required at the reserved matters or full permission stage.

Bat surveys could be required should there be the felling of any trees or the demolition of garages and/or outbuildings at the site.

No works should impede the southern edge of the boundary of the site which is a Public Right of Way (PROW) – Llwydcoed 22.

The developer should be made aware of the potential for knotweed and their responsibilities under the Wildlife and Countryside Act should there be any knotweed at the site.

## **POLICY CONTEXT**

The site is within the settlement boundary and unallocated. There is a Tree Preservation Order (No. 1, 1959) that affects the trees on the site and the southern edge of the boundary is a Public Right of Way (PROW) – Llwydcoed 22.

### **Rhondda Cynon Taf Local Development Plan**

**Policy CS2** - sets out criteria for achieving sustainable growth.

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

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

**Policy AW8** - only permits development where it would not cause harm to features of the natural environment.

**Policy AW10** - development proposals must overcome any harm to public health, the environment or local amenity.

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of National Planning Policy that 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 Chapter 2 (development plans), Chapter 3 (making and enforcing planning decisions), Chapter 4 (planning for sustainability), Chapter 9 (housing), Planning Policy Wales Technical Advice Note 12 Design sets out the Welsh Government's policy on planning issues relevant to the determination of this planning application.

## **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 site is within the defined settlement boundary where development is considered to be acceptable subject to compliance with other policies within the Local Development Plan and relevant material considerations. Additionally, there is a history of approvals for the principle of housing development within the grounds of Y Wern dating back as far as the early 1990's.

It is considered that in policy terms there has been little change in the direction of National or development plan policy since the initial planning approvals at the site. Previous consents, therefore, provide a compelling material consideration.

Additionally, the application is for the principle of development with the access alone being considered at this stage. In this regard it is considered that the access arrangements are acceptable subject to the imposition of conditions. Consequently, it is considered that the principle of the development for housing and the access arrangements to the proposed dwellings are acceptable.

### **Character and appearance of the area**

The area is characterised by large dwellings in generous curtilages with a wide variety of designs and materials being present.

While the proposals would sub-divide the garden areas of existing properties, it is considered that they and the proposed new dwellings would still retain generous plots that would allow large dwellings. This arrangement would respect the existing character, appearance and layout of the surrounding area while making better use of the available land at and around existing dwellings.

Additionally, the appearance, landscaping, layout and scale of the scheme is reserved for future consideration and within the control of the Local Authority. This would therefore allow the Council to reject schemes that would have an adverse impact in these respects.

### **Impact on amenities of neighbouring properties**

Matters of detail in terms of the layout and scale of the proposal have not been submitted for consideration at this stage. It is acknowledged that concerns have been raised by the adjacent dwelling, Llys Aman, in terms of the potential impact of Plot 3 on the privacy and amenity of their garden. However, it is considered that the submitted indicative details, in terms of the layout, demonstrates that the dwelling at Plot 3 would not have a detrimental impact on the privacy and amenity of the neighbouring property.

It is acknowledged that the submitted details are for indicative purposes and it is considered that this issue can be given further careful consideration at the

reserved matters stage, should the full details be significantly different from the current indicative scheme or highlight additional areas of concern.

### **Highway safety**

The Transportation Section has raised no objection to the application. This view is conditional upon the submission of amended details for the access points along Llwydcoed Road that would require additional details for submission and approval.

It is considered that these arrangements will also have to have regard to existing protected trees in the vicinity of the access points and to ensure that a balanced approach is reached.

Consequently, it is considered that the application is acceptable in this respect.

### **Protected Trees**

Trees at the site are protected by virtue of Tree Preservation Order (No1. 1959). As such the development proposals clearly have significant potential to impact on the health and future of these trees.

It is acknowledged that the layout of the dwellings is to be considered as part of a subsequently submitted application where the impact on protected trees can be more fully assessed.

In terms of the proposed access arrangements the shared access to Maesycoed and Plot 1 does require some amendment that has been covered by a restrictive condition. However, the impact on protected trees is still an important consideration and any resultant amendment will need to balance these issues.

Consequently, it is considered that the principle of the development can be accommodated at the site without having a detrimental impact on the protected trees at the site, subject to conditions.

### **Japanese Knotweed**

The points made by the neighbour are noted as is the responsibilities of the owner of any site where Japanese knotweed is present. These responsibilities are enforced under the Wildlife and Countryside Act 1981 which is separate to planning legislation.

However, it is considered that a standard condition could be included to ensure that any scheme to treat knotweed at the site can be examined and agreed by the Local Authority. This would address the concerns of the neighbouring

property while also ensuring a degree of Local Authority scrutiny and control over the resultant scheme.

Therefore, it is considered that the applicant should be made aware of their responsibilities under the law in relation to the presence of Japanese knotweed by an informative note and the inclusion of a planning condition.

## **Ecology**

The comments of the Council's Ecologist are acknowledged in respect of the potential for bat activity, particularly in the relation to tree felling and/or the demolition of existing outbuildings.

As the exact requirements of the development are not known at this stage it is considered that an informative note advising the developer of the need for this information to be provided would adequately address this issue.

## **Conclusion**

The application is considered to comply with the relevant policies of the Local Development Plan in respect of the issues outlined above (and in accordance with Policies AW5, AW6, AW8 and AW10).

## **RECOMMENDATION: Grant**

1. (a) Approval of the details of the layout, scale and appearance of the building(s) and the landscaping of the site (hereinafter referred to as "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
- (b) Plans and particulars of the reserved matters referred to in (a) above relating to the layout, scale and appearance of any building to be erected, and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
- (c) Applications for the approval of reserved matters shall be made before the expiration of three years from the date of this permission.
- (d) The development hereby permitted shall be begun before whichever is the latter of either (i) the expiration of 5 years from the date of this permission or (ii) the expiration of 2 years of the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

2. Before the submission of the application for the approval of reserved matters, a detailed site investigations report shall be submitted to and approved in writing by the Local Planning Authority. The report should be sufficiently detailed to establish if any ground precautions are necessary in relation to the proposed development and the precautions that should be adopted in the design and construction of the proposed development in order to minimise any damage which might arise as a result of ground condition. The development, hereby permitted, shall be carried out in accordance with the approved site investigations report.

Reason: The site may be unstable and as such a stability report is required in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

3. The details of landscaping required to be submitted to and approved by the Local Planning Authority in accordance with Condition 1 above shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection during the course of development.

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

4. All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

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.

5. Before any work is commenced on site, including site works of any description, each of the trees to be retained shall be securely fenced off by a chestnut paling or similar fence erected in a circle round each tree to coincide with the extremity of the canopy of the tree. Within the areas so fenced off the existing ground level shall be neither raised nor lowered, and no materials or temporary buildings or surplus soil of any kind shall be placed or stored thereon during the period of construction works. If any trenches for services are required in the fenced-off areas during construction works they shall be excavated and back-filled by hand and any

tree roots encountered with a diameter of 5cms or more shall be left unsevered.

Reason: To protect the existing trees on the site during the course of building work in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

6. Building operations shall not be commenced until samples of the materials proposed to be used have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the sample(s) so approved.

Reason: To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

7. Construction works on the development shall not take place other than during the following times:

- i) Monday to Friday 0800 to 1800 hours;
- ii) Saturday 0800 to 1300 hours;
- iii) Not at any time on Sundays, Bank or Public holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the noise emitted from this development is not a source of nuisance to occupants of nearby residential properties in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

8. 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.

9. No dwelling shall be occupied until the drainage works have been completed in accordance with the approved plans.

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

10. Each dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit

under category 'Ene1- Dwelling Emission Rate' in accordance with the requirements of Version 3 of the Code for Sustainable Homes. The development shall be carried out entirely in accordance with the approved assessment and certification.

Reason: To ensure the development constructed is in accordance with policy guidance in relation to providing sustainable buildings, outlined in paragraph 4.12.4 of Planning Policy Wales (5th Edition) November 2012.

11. Unless otherwise agreed in writing by the Local Planning Authority, construction of any dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to and approved in writing by the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that individual dwelling or house type in accordance with the requirements of Version 3 of the Code for Sustainable Homes.

Reason: To ensure the development constructed is in accordance with policy guidance in relation to providing sustainable buildings, outlined in paragraph 4.12.4 of Planning Policy Wales (5th Edition) November 2012.

12. Prior to the occupation of each individual dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to and approved in writing by the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Version 3 of the Code for Sustainable Homes.

Reason: To ensure the development constructed is in accordance with policy guidance in relation to providing sustainable buildings, outlined in paragraph 4.12.4 of Planning Policy Wales (5th Edition) November 2012.

13. Notwithstanding the submitted plans, prior to the commencement of development, details of the revised access for plot 1 and Maesycoed shall be submitted to and approved in writing by the Local Planning Authority. The development should be carried out in accordance with the approved plans and retained thereafter.

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.

14. Prior to the development being brought into use, vehicular footway crossover shall be provided for plot 3 in accordance with details to be

submitted to and approved in writing by the Local planning Authority prior to any development on site commencing.

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

- 15. Off-street parking shall be in compliance with Rhondda Cynon Taf's Supplementary Planning Guidance (SPG) on Delivering Design and Placemaking: Access, Circulation & Parking Requirements (March 2011).

Reason: To ensure that adequate parking facilities are provided within the curtilage of the site, in the interests of highway safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

- 16. Surface water run-off from the proposed development shall not discharge onto the public highway or connected to any highway drainage system unless otherwise agreed in writing by the Local Planning Authority.

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

- 17. 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.

- 18. Full details of a scheme for the eradication and/or control of Japanese Knotweed (*Fallonia japonica*, *Rouse decraene*, *Polygonum cuspidatum*) shall be submitted to and approved by the Local Planning Authority prior to the commencement of work on site. The approved scheme shall be implemented prior to the occupation of any dwelling/building.

Reason: To ensure compliance with the Wildlife and Countryside Act 198.

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