

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2014-2015

**DEVELOPMENT CONTROL
COMMITTEE
20 NOVEMBER 2014**

**REPORT OF: SERVICE
DIRECTOR PLANNING**

	Agenda Item No.5
APPLICATIONS RECOMMENDED FOR APPROVAL	

1. PURPOSE OF THE REPORT

Members are asked to determine the planning applications outlined in Appendix 1.

2. RECOMMENDATION

To approve the applications subject to the conditions outlined in Appendix 1.

1. Application No. 10/0752 - Application for a Lawful Development Certificate for an Existing use as vehicle repair and vehicle storage, Unit E & land adjoining Unit F, Glyntaff Sidings, Pentrebach Road, Pontypridd.
2. Application No. 14/1054 - Removal of Conditions 27, 28 and 29 of Planning Permission 11/1001 to remove the Code for Sustainable Homes Assessment, land adjacent to The Meadows, Gwern Heulog, Tonyrefail.

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APPLICATIONS RECOMMENDED FOR APPROVAL

APPLICATION NO: 10/0752/09 (EL)
APPLICANT: M & E Bin Hire Ltd
DEVELOPMENT: Application for a Lawful Development Certificate for an Existing use as vehicle repair and vehicle storage.
LOCATION: UNIT E & LAND ADJOINING UNIT F, GLYNTAFF SIDINGS, PENTREBACH ROAD, PONTYPRIDD CF37 4BW.
DATE REGISTERED: 12/07/2010
ELECTORAL DIVISION: Treforest

RECOMMENDATION: Grant Lawful Development Certificate

REASONS:

Having assessed the information provided, it is considered that the applicants has demonstrated that the property and land has been occupied and utilised, for a period in excess of 10 years, for activities associated with vehicle repair and vehicle storage (Class B2).

APPLICATION DETAILS

A certificate of lawfulness is sought for an existing use at Unit E & land adjoining Unit F, Glyntaff Sidings, Pentrebach Road, Pontypridd.

The lawful development certificate has been submitted to establish that the lawful use of the site is for the purposes of vehicle repair and vehicle storage (Class B2). A statement, within the planning application forms states that the activities/use commenced on 1st January 1998.

The application forms are accompanied by the following information:

- Site location plan, identifying the areas in question Unit E is identified as Site A, land adjacent to Unit F is identified as Site B.
- A letter from Rhondda Cynon Taf Corporate Services confirming that J Gwynne Car and Commercials Ltd. have been liable for occupied business rates since 01/01/1998 at Units E& F.
- A letter from Egan Waste confirming that they have been dealing with John Gwynne Commercials at Unit E & F since the start of 1998. They comment that the main work undertaken at the premises over this period was vehicle repairs and vehicle storage. They also comment (in a second letter) that the

area known as the “cutting” adjacent to Unit F was used for the storage of vehicles.

- A letter from Inter-haul Pallet Services Ltd. Confirming that they have had dealings with John Gwynne Commercials at Unit E & F since the commencement of the business (Inter-haul) in 2001. The author of the letter also comments that they dealt with John Gwynne Commercials at the same address, using their services for vehicles repairs and storage for a period of 3 years before June 2001, in their previous employment.
- A copy of a letter/receipt from Spicketts Solicitors dated 3rd May 2000, addressed to J Gwynne Commercials, Unit E&F. The letter refers to the payment of money for the repair of a vehicle and trailer.
- A letter from Brent Coaches Ltd stating that they rented Unit A from 1996-2003 and that during this time John Gwynne carried out work on their coaches in Unit B. From January 1998 Mr Gwynne carried out work on their vehicles at Units E and F. They also note that whilst the vehicles were waiting to be worked on they were kept in the cutting at the side of Unit F.
- A letter from Bush & Griffiths Ltd. Builder Merchants. This comments that they began renting Unit C in 1995. They comment that at that time John Gwynne Commercials were renting Unit B. They comment that in 1998 John Gwynne Commercials transferred to Units E & F and that since then have always parked their vehicles in the ‘cutting’.
- A letter from Catering Connect Ltd. Confirming that the John Gwynne Commercials has undertaken maintenance on their vehicles since 1998, operating from Units E & F and using the “cutting” as a storage area.
- A letter from Graig Environmental Recycling Services Ltd. stating that in 1998 they used J. Gwynne Commercials for their vehicle maintenance and servicing. They comment that their vehicles were parked and stored at the cutting shed while waiting for maintenance.
- An aerial photograph dated 1999 illustrating vehicles on the land in question.
- An Affidavit by Mr Philip Andrew Page (dated 20/02/12) stating that: he owns a skip hire business and has known Mr John Gwyn as a friend and business colleague since his occupation of industrial units at Pentrebach Road, and he first started trading and repairing (my) lorries approximately 10 years ago. He also comments that on the many occasions when he has visited the site, there have been 8 to 10 lorries being worked upon in the storage compound, which is identified as ‘Site B’ (land adj. Unit F).
- An Affidavit by Mr Peter Coles (dated 20/02/12) Scrap Merchant, who carries out business at Unit G. This states that: he has had a contract with John Gwynne for the repairing of (his) lorries, since his occupation of the units approximately 10 years ago. He has always used him to maintain his commercial vehicles and has reason to use his garage on a weekly basis. It is also claimed that the Council use his garage for the service and repair of their refuse vehicles. He also comments that on the many occasions when he has visited the site, there have been 8 to 10 lorries being worked upon in the storage compound, which is identified as ‘Site B’ (land adj. Unit F).

- An Affidavit by Mr Peter Michael Davies (dated 15/02/12) which states that: he has had dealings with John Gwynne since his occupation of industrial units at Pentrebach Road approximately 10 years ago. It is commented that he has always used him to maintain his commercial vehicles and has reason to use his garage on a weekly basis. He also comments that on the many occasions when he has visited the site, there have been 8 to 10 lorries being worked upon in the storage compound, which is identified as 'Site B' (land adj. Unit F).

SITE APPRAISAL

The application site consists of two separate parcels of land located at Glyntaff Sidings, Pentrebach Road, Pontypridd. The first, referred to as Site A is an established industrial unit known as Unit E. This is a single storey commercial building constructed in a combination of facing brickwork and box profile cladding. Along the front, north elevation, are a series of roller shutter doors, providing access onto a forecourt area. At the time of the site inspection, a number of commercial vehicles (trucks and lorries) were being worked on within the unit. The second area is a parcel of land located to the east side of Unit F (which adjoins Unit E and is also in use by John Gwynne Repairs. This parcel of land extends to approximately 400m². At the time of the site inspection the land in question was used for the storage of a number of vehicles, the majority of which were commercial vans and lorries. The land in question is concealed from view of adjoining land and buildings to the north and south, by a high quarry face and mature trees. The two sites form part of a wider industrial estate, accessed off Pentrebach Road.

PLANNING HISTORY

97/2840	Glyntaff Sidings, Pentrebach Road, Pontypridd	Change of use to include Class B2 (General Industrial) in respect of consent number 56/96/0116 - industrial units.	Granted with conditions 20/02/98
96/116	Glyntaff Sidings, Pentrebach Road, Pontypridd	Construction of small industrial units with service yard and associated car parking.	Granted with conditions 29/03/96
95/485	Glyntaff Sidings, Pentrebach Road, Pontypridd	Construction of small industrial units with service yard and associated car parking.	Refused 17/11/95
88/88	Glyntaff Sidings, Pentrebach Road, Pontypridd	Development of a section of the Taff Ely Cycleway	Granted with conditions 17/03/88
07/2132	Glyntaff Sidings, Pentrebach Road,	Extension to exist. Factory unit	Granted with conditions

	Pontypridd		28/01/08
93/0176	Glyntaff Sidings, Pentrebach Road, Pontypridd	Certificate of Lawfulness skip hire & scrap metal merchant	Granted with conditions 09/02/94
94/0317	Glyntaff Sidings, Pentrebach Road, Pontypridd	Change of use from B8 to B1	Granted with conditions 25/01/95
00/2425	Glyntaff Sidings, Pentrebach Road, Pontypridd	Construction small industrial unit (B1 & B8) with service yard & car parking	Granted with conditions 08/09/00
03/0766	Glyntaff Sidings, Pentrebach Road, Pontypridd	Change of use of existing small industrial unit to Metal recycling	Granted with conditions 12/09/03

PUBLICITY

The application was advertised by neighbour notification and the posting of site notices in the immediate area. 8 letters of objection have been received in response to the application and 1 petition, signed by 20 individuals. These are summarised as follows:

- Objections are raised to the noise and disturbance which is generated from the operation of the use on the site.
- It is commented that the site is within 30 yards of residential properties.
- It is commented that fires are often lit on the site causing dust and smoke disturbance to nearby residents.
- It is commented that the site often operates early in the morning and late into the evening (sometimes until 10pm).
- It is commented that the use is detrimental to the wellbeing of local residents.
- It is commented that the use is detrimental to wildlife and to the adjacent trees which are protected by Tree Preservation Orders.
- It is claimed that the applicant has made false statements to his entitlements on the site, in order to extend the use of the units. (This statement is not elaborated upon).
- Questions are raised as to how the business has been able to trade without consent. The use of the site creates toxic fumes which affects the health of residents.
- One letter suggests that the land in question (site B) has only been in use for approximately 5 years.
- The petition objects to the application on the grounds of health and amenity and the fact that the use is inappropriate in a residential area.

CONSULTATION

County Borough Legal & Democratic Services Officer were consulted. Representation was received stating the criteria for the granting of a Certificate of Lawfulness is to be based on the balance of probabilities and bearing in mind that if the local planning authority have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate. It is commented that the application satisfies the legal requirement for a Lawful Development Certificate for an Existing Use.

POLICY CONTEXT

The principal of the development is not tested, as this is an application for a Certificate of Lawfulness for an existing use. Therefore, Development Plan policy is not relevant to this kind of application, which are determined on matters of fact and law.

Circular 10/97 Enforcing Planning Control, Annexe 8 deals with 'Lawfulness and the Lawful Development Certificate'.

Paragraph 8.3 of the above Circular defines lawfulness for the purposes of planning, and paragraph 8.15 explains the relevant test of the submitted evidence.

PLANNING CONSIDERATIONS

Since the application is for a certificate of lawfulness the relative planning merits of this application are not tested. What is of relevance however, is the supporting material submitted by the applicant to substantiate their claim that the use of the property commenced more than 10 years before the date of the current application.

As set out above, the application seeks to establish the lawful use of two separate areas, although both operate in conjunction with one another. The first relates to an existing industrial unit building, Unit E and the second relates to a parcel of land to the east of the buildings.

The application is accompanied by a range of evidence that aims to substantiate the claim that the two sites have been used for the storage and repair of vehicles, a use defined under Class B2 of the Town & Country Planning (Use Classes) Order 1987.

The supporting evidence may be divided into three broad categories, those being letters from customers/non-domestic rates, aerial photography and sworn affidavits. A total of six letters of have been received from individuals representing different businesses, each of which state that they are aware of the business and have been customers of the business over the period in question. The letters come from

businesses who have either been operational in adjacent units on Glyntaff Sidings or have had contracts with John Gwynne Commercials. Each of the letters confirm that they have had dealings with the applicant and business at the stated locations over various periods, which total in excess of 10 years.

In addition to the letters from private businesses, the application is accompanied by correspondence from the Council's Non-domestic Rates Section, within Corporate Services. This letter confirms that the applicant's named business J. Gwynne Car and Commercials Ltd. has been held liable for occupied business rates on Units E & F Glyntaff Sidings since 1st January 1998.

It is considered that the combination of this evidence substantiates the applicant's claim in relation to Unit E (identified as Site A).

The second site, which forms part of the same application and same business unit, is a parcel of land located to the east of the main units. Whilst it is claimed that the land is occupied and utilised in conjunction with the use as a repair garage, it is separate from the main units.

In 1997 a planning application was submitted for the change of use of Unit 3 (now known as Unit F) and land at Glyntaff Sidings, to allow Class B2 activities. This was approved on 20th February 1998). The application was accompanied by a layout plan, which illustrated the arrangement of the units in question and also identified the use an area to the east of Unit F as a 'vehicle storage compound area'. The land which is the subject of the current application adjoins this (to the east). It is apparent that as the business has expanded, then so too has the vehicle storage compound. Whilst the six letters, referenced above, refer to the use of an area known as the 'cutting' for the storage of vehicles, they do not specifically identify the location or extent of the land in question. Therefore, in order to substantiate their claim, that this extended area has also been used for the storage of vehicles over a period of 10 years, additional information has been provided in the form of affidavits.

Three affidavits have been provided, each by individuals, representing private businesses that have utilised the services provided by J. Gwynne Car and Commercials Ltd. Each statement confirms that the business has been operational for a period of 10 years and that they have attended both sites on numerous occasions over this period. Furthermore, these statements are accompanied by a site layout plan, which identifies the land and buildings to which the statements refer. These plans correspond with those that accompany the current application.

On the basis of the above-mentioned information, the lawful development certificate application therefore asserts that the occupation of Unit E and the parcel of land adjacent to Unit F for the purposes of vehicle repair and vehicle storage (Class B2), is lawful.

Following consultation with the Council's Legal Section it is noted that in light of the information presented, the application satisfies the legal requirement of an application for a Lawful Development Certificate for a Existing Use. It is noted that the criteria for the granting of a certificate of lawfulness is to be based on the balance of probabilities and bearing in mind that if the local planning authority have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate.

It is acknowledged that following the advertisement of the application, a number of representations have been received from members of the public in connection with the proposal. However, the letters received focus largely on the nature of the business and the way in which it is managed; expressing concerns that the operation of the use adversely affects the levels of amenity of nearby residential properties. However, it is important to note, that the current submission is not a planning application that seeks a change of use, but rather is an application, which seeks a lawful development certificate. As such, the application seeks only to establish the lawful use class of the premises. As such, impacts upon neighbouring residential amenity do not form considerations, which may be taken into account in the determination of this application. Nevertheless, legislation exists under the Council's Public Health and Protection Section to monitor any noise or nuisance, which may result from the operation of the site. It is noted that the letters received provide no information or evidence to contradict the claim that the site has been in use for purposes within Class B2 for a period in excess of 10 years.

Having assessed the various information provided, it is considered that the applicant has demonstrated that the property and land has been occupied and used for the repair and storage of vehicles continuously, for a period in excess of 10 years. Therefore, on the basis of the evidence presented, consideration of the documents associated with the relevant planning permissions and the comments of the Council's Legal Officer, on balance of probabilities the application is considered proven and it is recommended that the certificate be granted.

RECOMMENDATION

Grant Lawful Development Certificate for an existing use - the use of Unit E and land adjacent to Unit F as vehicle repair and vehicle storage (Class B2).

RECOMMENDATION: Grant

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APPLICATION NO: 14/1054/15 (PB)
APPLICANT: Lewis Homes

DEVELOPMENT: Removal of Conditions 27,28 and 29 of Planning Permission 11/1001 to remove the Code for Sustainable Homes Assessment.

LOCATION: **LAND ADJACENT TO THE MEADOWS, GWERN HEULOG, TONYREFAIL, CF39 8RS**

DATE REGISTERED: 11/08/2014

ELECTORAL DIVISION: Tonyrefail East

RECOMMENDATION: Approve, subject to a Section 106 Deed of Variation.

REASONS:

As of the 31st July 2014, national planning policy requirements for sustainable building standards were withdrawn and Technical Advice Note 22: Planning for Sustainable Buildings (TAN22) cancelled. All requirements relating to energy efficiency have now been included within Part L of the Building Regulations.

APPLICATION DETAILS

This application is made under Section 73 of the Town and Country Planning Act 1990 and seeks the removal of three conditions attached to the extant planning permission for the development of 54 houses which comprises the first phase of residential development of land known as The Greens, adjacent to The Meadows, Gwern Heulog, Tonyrefail.

Full planning permission for the development of 54 houses on the application site was granted on 22 March 2013 subject to conditions and a Section 106 Agreement (application reference 11/1001). Conditions 27, 28 and 29 of that permission read as follows:

Condition 27

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.

Condition 28

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.

Condition 29

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.

In each case the reason for the conditions is to ensure the development constructed is in accordance with policy guidance in relation to providing sustainable buildings in Planning Policy Wales.

In June 2014 the Welsh Minister for Housing and Regeneration announced his intention to withdraw the national planning policy requirement for sustainable building standards and cancel TAN 22 'Planning for Sustainable Buildings', when the changes to Part L of the Building Regulations came into effect from the end of July 2014. In announcing the change the Welsh Minister expressed his belief that TAN 22 had served its purpose now that the Welsh Government has control over the Building Regulations which provide a more appropriate vehicle for setting building standards. These changes came into effect on 31 July 2014.

In making these changes it is the view of the Welsh Government that any applications determined after the 31 July 2014, including Section 73 applications which might seek to remove extant conditions on planning permissions requiring the relevant Code for Sustainable Homes / BREEAM levels to be achieved, should be assessed in accordance with the policy changes and any existing adopted Local Development Plan policy which may require a higher standard.

The application is accompanied by a Design and Access Statement.

SITE APPRAISAL

The application site has an area of 2.35 hectares and comprises part of three agricultural fields of improved pasture located at the eastern side of Coedely. The boundary of each field is defined by its own established hedgerow. The land is steeply sloping uphill from the rear of the existing adjacent residential development at The Meadows. The application site is therefore located on the edge of settlement in an elevated position with views across the Ely valley to the south of Tonyrefail. The Gwern Heulog and The Meadows residential developments lie directly to the south and the remainder of the application site is surrounded by farmland and areas

designated in the Rhondda Cynon Taf Local Development Plan as Special Landscape Areas.

A builder's construction compound and site office occupies part of the land at the site entrance. It has been present since the later stages of the now completed adjacent residential development.

PLANNING HISTORY

11/1001	Phase 1, The Greens, land adjacent to The Meadows, Coedely, Tonyrefail	Construction of 54 dwellings	Approved 22/03/13
11/0996	Land adjacent 'The Meadows', Coedely, Tonyrefail.	Residential development (outline)	Approved 22/03/13
08/0275	Land adjacent to The Meadows, Coed Ely, Tonyrefail	Residential development (Outline)	Withdrawn 04/06/08
07/0590	Phase 2 Gwern Heulog, Coedely	Re-plan of part of site	Approved 21/02/05
06/2078	Phase 2, Gwern Heulog, Coedely	Revised house types to plots 28 – 33 (amended 15/2/06)	Approved 04/01/07
06/0032	Land at Tylcha Fach (Gwern Heulog), Coedely	Reserved Matters application for housing development comprising 48 dwellings, garages and infrastructure	Approved 17/03/06
04/0699	Land off Tylcha Fach Terrace, Coedely	Residential development (Phase 2) – outline	Approved 21/12/05
T/00/2248	Land rear of Tylcha Fach Terrace, Coedely	Reserved matters application for 47 houses	Allowed on appeal (AP.239) 17/05/01
56/97/2845	Land rear of Tylcha Fach Terrace, Coedely	Renewal of planning permission for residential development	Approved 23/01/98

56/94/0810	Land rear of Tylcha Fach Terrace, Coedely	Variation of condition number 1 to application ref: 56/91/0814 in respect of the period for the submission of Reserved Matters	Approved 24/01/95
56/91/0814	Land rear of Tylcha Fach Terrace, Coedely	Residential development	Approved 06/03/92
56/89/0784	Land rear of Tylcha Fach Terrace, Coedely	Housing development	Withdrawn 17/07/90
56/88/0326	Land rear of Tylcha Fach Terrace, Coedely	Residential development	Approved 04/11/88

PUBLICITY

The application has been publicised by means of site notices erected on 29 August 2014.

Tonyrefail & District Community Council – comments ‘Tonyrefail Community Council understands that conditions are put on applications for a purpose and the developer/s should not sit upon the application for some time and then apply to have those conditions removed in order to progress the development.’

Another letter of objection has been received from a resident of Gwern Heulog though has not specified the reasons for the objection.

CONSULTATION

None undertaken, given the application relates to the removal of the Code for Sustainable Homes conditions attached to an extant planning consent.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Policy CS2 - sets out criteria for achieving sustainable growth including, promoting and enhancing transport infrastructure services.

Policy AW2 - advises that development proposals on non-allocated sites will only be supported in sustainable locations.

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 AW10 - development proposals must overcome any harm to public health, the environment or local amenity as a result of flooding.

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 Chapter

Chapter 4 (Planning for Sustainability), sets out the Welsh Government's policy on the key issues relevant to the determination of the 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:

The application seeks to remove the three Code for Sustainable Homes conditions imposed on planning permission 11/1001, which was granted consent on the 22 March 2013 for the construction of 54 dwellings on the site.

Removal of the conditions is sought on the basis of changes to the Welsh Government's legislation on sustainable buildings, which has resulted in national planning policy requirements for sustainable building standards being withdrawn and Technical Advice Note 22: Planning for Sustainable Buildings (TAN22) being cancelled, with all requirements relating to energy efficiency being included within Part L of the Building Regulations. As a result of the legislative changes there is no longer any requirement to meet mandatory levels of Code for Sustainable Home (Code) and BREEAM accreditation as part of the planning process.

Welsh Government Circular WGC 016/2014: The Use of Conditions for Development Management includes the 'six tests' that have been laid down by the Courts as the

general criteria for the imposition of conditions on a planning permission. These are as follows, the conditions must be:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

It is anticipated this development will be the subject of sustainability requirements under The Building Regulations therefore, it is considered that retention of conditions 27, 28 and 29 of planning permission 11/1001 would be unenforceable, unreasonable and unnecessary.

PLANNING OBLIGATIONS

From 6 April 2010 planning obligations should meet all of the following tests in order to comply with the Community Infrastructure Levy legislation:

- (a) necessary to make the development acceptable in planning terms
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

As part of the previous application (ref 11/1001) and an allied outline planning application for a wider site that incorporates this land the applicant was required to enter into a Section 106 agreement to secure:

- An education contribution of £420,000, with phased payment strategy;
- A leisure / open space contribution of £80,000;
- A transportation contribution of £300,000, with phased payment strategy;
- 13 affordable housing units or commuted sum in lieu of, with phased delivery strategy.

As the current application seeks to vary the original planning permission and, if approved, would result in the reissuing of a planning permission, the applicant will need to enter into a Deed of Variation of the original 106 agreement to ensure its provisions apply to the planning permission. It is considered that this requirement meets all of the above tests and is compliant with the relevant legislation.

CONCLUSION

Taking the above into consideration it is recommended that conditions 27, 28 and 29 be removed, that all the other conditions imposed on planning permission reference 11/1001 be reiterated (and where appropriate renumbered) and the application be

approved subject to the applicant entering into a Deed of Variation of the original 106 agreement.

RECOMMENDATION: Grant

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

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

2. Building operations shall not be commenced until samples of the external finishes 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.

3. Prior to the commencement of development detailed plans and engineering calculations for any retaining walls and engineered slopes greater than 2m in height shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details as might be 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.

4. All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or completion of the development adjoining the areas to be so landscaped, 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 works start on site, existing and proposed levels (including

relevant sections) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: To protect residential and visual amenity in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

6. Improvements to the Gwern Heulog/Tylcha Fach junction shall be laid out as shown on Drawing No. 002 0121 A of the Transport Assessment and constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The approved details shall be implemented prior to beneficial occupation of the first dwelling unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety and policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

7. Notwithstanding the submitted plans, no works whatsoever shall commence on site until full engineering design and details of the road layout, traffic calming, footpath links, street lighting, surface water drainage and highway structures including longitudinal and cross sections have been submitted to and approved in writing by the Local Planning Authority. The highway works shall be fully implemented in accordance with the approved engineering details.

Reason: In the interest of highway safety and policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

8. Surface water run-off from the proposed parking areas shall not discharge onto the public highway. No part of the development shall be occupied until drainage works to the development's parking areas and driveways have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

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

Reason: To ensure adequate parking facilities are provided within the curtilage of the site in the interest of highway safety and policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

10. 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 and out from 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) wheel cleansing facilities;
 - e) 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 interest of the safety and free flow of traffic in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

11. Heavy Goods Vehicles (HGVs) used as part of the construction of the development shall be restricted to 9.30 a.m. to 16.30 p.m. weekdays, 09.30 a.m. to 13.00 p.m. Saturdays, with no deliveries on Sundays and Bank Holidays unless agreed in writing with the Local Planning Authority.

Reason: In the interest of the safety and free flow of traffic in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

12. Prior to the commencement of development, 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 due to former mine workings and as such a stability report is required in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

13. The development hereby permitted shall not begin until a scheme to deal with contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures unless otherwise agreed in writing by the Local Planning Authority:

1. A desk-top study to identify and evaluate all potential sources and impacts of contamination relevant to the site. The desk-top study should contain a conceptual site model.
2. A site investigation shall be carried out 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 agreed in writing with the Local Planning Authority.
3. A written method statement for the remediation of contamination affecting the site.

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.

14. The development hereby permitted, shall not be occupied until the measures approved in the scheme (referred to in Condition 13) 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.

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.

15. If during development works any contamination is 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 the Local Planning Authority. The development shall not re-commence until the additional proposals have been agreed in writing by the Local Planning Authority.

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.

16. 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) Nor 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 AW10 of the Rhondda Cynon Taf Local Development Plan.

17. The development hereby approved shall be carried out in accordance with the recommendations in the Ecological Assessment by Pryce Consultant Ecologists, dated 15th April 2010, and subsequent Appendix, dated 28th November 2011.

Reason: To afford protection to animal and plant species in accordance with policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan.

18. 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. If any trenches for services are required in the fenced-off areas 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.

19. No development shall take place until a Wildlife Protection Plan for Construction has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
- a) An appropriate scale plan showing 'Wildlife Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
 - b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
 - c) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as nesting bird season);
 - d) Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;

- iii) Installation of physical protection measures during construction;
- iv) Implementation of sensitive working practices during construction;
- v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
- vi) Provision of training and information about the importance of the 'Wildlife Protection Zones' to all construction personnel on site.

All construction activities shall be implemented with the approved details and timing of the plan unless otherwise approved in writing by the Local Planning Authority.

Reason: To afford protection to animal and plant species in accordance with policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan.

20. No development shall commence until a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been submitted to and approved in writing by the Local Planning Authority.

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

21. 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 water, surface water and land drainage in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

22. Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the of the public sewerage system in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

23. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

24. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

25. There shall be no beneficial use or occupation beyond the 27th dwelling until such time the public combined sewer from manhole reference ST01866505 to manhole reference ST01866408 is upsized from 225mm to 300mm at up to 2.4m depth and from manhole ST01866401 to manhole reference ST01867302 is upsized from 300mm to 450mm at up to 3.6m depth as indicated on drawing reference 2001 revision 001 of The Greens, Coedely, Hydraulic Modelling Assessment (DCWW document RT-CA-1368, dated April 2012). All works shall be carried out in accordance with a scheme to be agreed and implemented in full, to the approval of Dwr Cymru/Welsh Water, and such approval is to be confirmed in writing and approved by the Local Planning Authority.

Reason: To protect the integrity of the public sewerage system and prevent pollution of the environment and ensure that public sewerage facilities are available to the dwellings, in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), no private car garages, extensions, garden sheds, raised patios, gates, fences, walls, other means of enclosure, or structures of any kind (other than any hereby permitted) shall be erected or constructed on this site without the prior express permission of the Local Planning Authority.

Reason: To preserve and enhance the visual amenities of the locality in accordance in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

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LOCAL GOVERNMENT ACT 1972

as amended by

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LIST OF BACKGROUND PAPERS

DEVELOPMENT CONTROL COMMITTEE

20 NOVEMBER 2014

REPORT OF: SERVICE DIRECTOR PLANNING

REPORT

**APPLICATIONS RECOMMENDED
FOR APPROVAL**

OFFICER TO CONTACT

**MR J BAILEY
(Tel: 01443 425004)**

See Relevant Application File

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