

RHONDDA CYNON TAFF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2015-2016

**DEVELOPMENT CONTROL
COMMITTEE
15 OCTOBER 2015**

**REPORT OF: DIRECTOR OF
REGENERATION AND
PLANNING**

	Agenda Item No.11
ENFORCEMENT OF PLANNING CONTROL – ENFORCEMENT NO: 14/00405 – CHANGE OF USE TO ANIMAL RESCUE CENTRE AND ERECTION OF TIMBER CATTERY - WONKY TOWERS, GLYNDWR, DARREN-DDU ROAD, GLYNCOCH,PONTYPRIDD, CF37 3HE	

1. PURPOSE OF THE REPORT

Members are asked to consider the determination of the above mentioned enforcement matter.

2. RECOMMENDATION

That Members resolve to initiate enforcement action under the provisions of Section 172 of the Town and Country Planning Act 1990 to secure a cessation in the use of the land as an animal rescue centre and the removal of the timber cattery

and

To institute legal proceedings pursuant to s.179 of the Town and Country Planning Act 1990 in the event of non-compliance with the notice.

3. BACKGROUND

Following complaints regarding the operation of an animal rescue centre, an inspection of the grounds and property were carried out. It was observed that 46 cats/kittens were being accommodated within various garden outbuildings and 5 dogs kept within the dwelling. A number of smaller animals, rabbits and tortoises were being accommodated in various hutches in the back garden. A wooden cattery building had also recently been constructed along the side boundary directly adjacent to the neighbouring dwelling.

The operator who is a tenant residing at the property confirmed that she was running an animal rescue centre and that she had between 2 to 3 volunteers attending on a daily basis. There seemed to be no restrictions on the type or number of animals temporarily kept at the premises waiting re-homing or restrictions on times abandoned/stray animals are taken in. Open days had been held for the public to meet the animals and to learn about the rescue centre; further open days were being advertised offering free dog micro chipping.

The keeping of a large number of animals, together with the daily comings and goings of the volunteers and open days held at the property has triggered a material change of use requiring planning permission. Consent is also required for the wooden cattery building.

The operator was advised on a without prejudice basis that it is unlikely that a retrospective planning application to continue the animal rescue centre would be favourably supported due to the detrimental effect on neighbouring amenity, as a result of noise, additional traffic movements and odour generation. She was also advised that if she decided to progress a retrospective planning application a 28 day period would be given to prepare and submit the application.

A planning application was submitted and refused on 19th March 2015, due to the impact on the amenity of neighbouring properties and highway safety. A copy of the delegated planning report setting out the full reasons for refusal is attached as **APPENDIX A**.

A number of meetings have taken place with the operator since the planning refusal. Initially an appeal was to be lodged but the operator then advised that she would be applying for a personal, temporary consent to allow her time to find alternative accommodation and to relocate the animal rescue centre. To date no further planning application has been submitted and the time period for lodging an appeal against the planning refusal has expired.

The animal rescue centre is still operating from the premises. The wooden cattery has been relocated to the rear garden.

The matter is reported to Committee at the request of Councillor D. Williams in order to assess the impact upon amenity and the highway.

4. REASONS FOR REACHING THE RECOMMENDATION

The use of the premises as an animal rescue centre is not compatible with the area. It is in close proximity to neighbouring properties and has generated a number of complaints in respect of the increase in vehicle movements, noise, smell and disturbance. Due to the nature of the use, the number and type of

animals will vary on a day to day basis, 5 dogs were present during the enforcement investigation but this had increased to 10 dogs at the time the planning application was submitted, however there were less cats.

It is considered that the use would be difficult to control and conditions would not overcome the harm caused to neighbouring amenity and highway safety. For the above reasons a 3 month period to comply with the enforcement notice is considered acceptable.

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Committee Report produced for Delegated

APPLICATION NO: 14/1642/10 (MF)
APPLICANT: **Wonky Towers**
DEVELOPMENT: Erection of a timber cattery and change of use from residential to mixed use residential and animal rescue centre (Retrospective)
LOCATION: **WONKY TOWERS, GLYNDWR, DARREN-DDU ROAD, GLYNCOCH, PONTYPRIDD, CF37 3HE**
DATE REGISTERED: 22/01/2015
ELECTORAL DIVISION: Glyncoch

APPLICATION NO: 14/1642
APPLICANT: Ms E Jones
PROPOSAL: Erection of a timber cattery and change of use from residential to mixed use residential and animal rescue centre (Retrospective).
LOCATION: Wonky Towers, Glyndwr, Darren-Ddu Road, Glyncoch, Pontypridd, CF37 3HE

RECOMMENDATION: Refuse

REASONS: The use of the property as an animal rescue centre in this residential area is considered to have an unacceptable impact upon the amenity of the surrounding residential properties and highway safety. As such the development is considered to be contrary to the relevant requirements of the Local Development Plan.

APPLICATION DETAILS

Retrospective planning permission is sought for the change of use of the application property and its associated amenity space and outbuildings from a residential dwelling (C3) to a mixed use residential dwelling (C3) and animal rescue centre (Sui Generis).

The property is a one bedroom dormer bungalow currently occupied by the applicant who also runs an animal rescue centre at the premises with support from up to 3 volunteers at any one time. The centre is operational 24 hours a day and aims to provide temporary accommodation for animals, generally dogs, cats, rabbits and

various other small animals until a permanent home is found. The applicant has stated that no other services are provided on site and that the site/development comprises:

- Accommodation for up to 8 dogs within the kitchen and conservatory of dwelling;
- An office within the dwellings conservatory;
- The remainder of the dwelling is used a residential living space for the applicant;
- An outbuilding adjacent to the dwelling used for extra dog accommodation;
- An outbuilding to the rear of the garden providing accommodation for up to 20 cats;
- 4 hutches within the rear garden space providing accommodation for small animals i.e. rabbits, guinea pigs, tortoises, etc;
- It is proposed an additional timber cattery building be erected within the rear garden to provide extra animal accommodation;
- It is proposed the rear garden space be landscaped in order to provide an activity area for the dogs.

The application is accompanied by the following:

- Design and Access Statement;
- Business Background Statement.

SITE APPRAISAL

The application site is located within a small cluster of residential dwellings at the edge of Ynysybwl village. The site comprises a detached dormer bungalow along with its front and rear amenity space and a driveway to the southern side. A number of garden outbuildings are located within the rear amenity space all of which have been altered to provide accommodation for various animals except for a domestic garage that is still used for domestic storage. The site is bounded by residential dwellings at either side and woodland to the rear. A number of residential properties are sited opposite. Access to the site is gained via Darren-Ddu Road, a narrow country lane to the front.

At the time of the site visit an animal rescue centre was in operation at the property. The dwelling and various outbuildings within the rear garden space were being used to house a significant number of cats and dogs. Additionally, within the rear garden area a timber cattery structure was under construction and various works were being undertaken to provide additional facilities for the rescued animals. The business was being run from an office located within the dwelling's conservatory and a number of dogs were housed within the dwelling itself.

PLANNING HISTORY

Previous planning applications submitted at the site include:

App No.	Site Location	Proposal	Decision	Decision Date
05/0639	Glyndwr, Darren-Ddu Road, Glyncoch	Detached dwelling	REF	24/05/05

PUBLICITY

The application has been advertised by means of direct neighbour notification and site notices. One letter of objection has been received from the residents of the adjacent dwelling, St Athan, making the following comments (summarised):

- The animal rescue centre use is not appropriate for this residential dwelling located within a residential area. The use would be better placed in a countryside location or industrial/commercial estate.
- The use of the dwelling as an animal rescue centre causes significant disturbance to the surrounding properties through noise and odours.
- At least 6 dogs, 50 plus cats and various other small animals have been witnessed at the property at any one time which has a significant impact upon the neighbours and is considerably more than has been detailed by the applicant.
- Access is poor off the lane and parking is restricted. As such cars are regularly parked outside of the site on the lane and at the junction with the main road causing serious hazards in area that has already seen a number of incidents.
- Regular deliveries of animals and equipment occur throughout the day, 7 days a week. Customers regularly visit the premises which is in operation 24 hours a day causing significant disturbance to the surrounding residents by way of vehicle and animal noise.
- The structures located in the rear garden overlook the adjacent property.
- The animals regularly escape into the adjacent properties.

- The animal waste container is located directly adjacent the neighbouring property which causes significant disturbance through odours.
- The use attracts vermin to and within the vicinity of the site.
- Various foods and equipment are stored throughout the site which are an eyesore and cause disturbance.
- The applicant states that no other services are provided at the premises but 'dog chipping' services and open days/animal auctions have occurred causing further disturbance.
- A number of structures have been erected in the rear garden without planning permission.
- If the business continues to operate the use will intensify causing further disturbance.
- The business may require signage in future which would be out of character with the area.

CONSULTATION

Transportation Section – Raise objections – the development lacks adequate vision splays on the access to Darren-Ddu Road and there are no continuous pedestrian footways to the site. Additionally the development increases the use of a sub-standard lane to the detriment of safety for all highway users.

Public Health and Protection – Raise objections – the application site is located within a residential area and as such the development has the potential for multiple statutory nuisances to arise.

Countryside, Landscape and Ecology – No objection.

Land Reclamation and Engineering – No objection.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The application site lies outside of the defined settlement boundary for Ynysybwl and is located within the Cwm Clydach Special Landscape Area. The site is also located

adjacent to the Llys Nant and Graig Twyn-y-glog Woodlands SINC and the Land between Glyncoch and Ynysybwl Green Wedge.

Policy CS 2 – sets out the criteria for development in the Southern Strategy Area, supporting development in sustainable locations which include sites that are within the defined settlement boundary.

Policy AW 2 – supports development in sustainable locations and includes sites that are accessible by a range of sustainable transport modes and would not unacceptably conflict with surrounding uses. States that development on non-allocated sites will only be supported in sustainable locations, which includes sites that are within the defined settlement boundary.

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

Policy AW 6 – requires development to involve a high quality design and to make a positive contribution to place making, including landscaping and biodiversity.

Policy AW 8 – states that Rhondda Cynon Taf's distinctive natural heritage will be preserved and enhanced by protecting it from inappropriate development.

Policy AW 10 – does not permit proposals where they would cause or result in risk of unacceptable effect upon the interests of certain matters including agriculture, nature conservation, landscape importance, public health and residential amenity.

Policy SSA 22 – the defined green wedges have been designated specifically to prevent coalescence between and within settlements, protect vulnerable and undeveloped land and urban form.

Policy NSA 25 – requires that development within the defined Special Landscape Areas will be expected to conform to the highest standards of design, siting, layout and materials appropriate to the character of the area.

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 2 (Development Plans), Chapter 3 (Making and Enforcing Planning Decisions), Chapter 4 (Planning for Sustainability), Chapter 5 (Conserving and Improving Natural Heritage and the Coast) and Chapter 8

(Transport) set out the Welsh Government's policy on planning issues relevant to the determination of the application.

Other relevant policy guidance consulted:

PPW Technical Advice Note 5: Nature Conservation and Planning;

PPW Technical Advice Note 11: Noise;

PPW Technical Advice Note 12: Design;

PPW Technical Advice Note 18: Transport.

REASONS FOR REACHING THE RECOMMENDATION

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

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

Principle of the Proposed Development

The application proposes the retrospective change of use of a residential dwelling to that of a residential dwelling and an animal rescue centre. The application site is located outside of the defined settlement boundary where such uses, in principle, are generally acceptable. However, in this instance the application site is situated within a small cluster of residential properties being bounded at either side by further residential dwellings. As such, the use of the small scale residential dwelling and its associated amenity spaces and outbuildings as such an intensive animal rescue centre in such close proximity to other residential dwellings requires careful consideration, as detailed below.

Residential Amenity

Whilst it is acknowledged that the setting of the application site is semi-rural, being located away from the main settlement of Ynysybwl, nevertheless it is sited within a small cluster of residential properties and is bounded at either side by residential dwellings with the immediate dwelling to the north, St Athan, being sited directly adjacent to the application property. As such, the impact of the development upon the amenity of the surrounding residents is a key consideration in the determination of this application.

The application property and associated outbuildings sit in close proximity to the adjacent dwelling St Athan with a minimum separation distance of approximately 8 metres between the two. Whilst it is not considered that the development of a number of small scale garden outbuildings would adversely affect the amenities of the neighbouring residents on their own, significant concern is expressed with regard to the use of the dwelling and associated outbuildings as an animal rescue centre for a significant number of animals.

At the time of the site visit approximately 10 dogs and a significant number of cats were housed throughout the site and the applicant confirmed that the number of animals can vary from day to day. Consequently, considerable concern is raised with regard to the potential noise and odour disturbance which may be generated by the animal's presence.

It is considered that the use of the property and its amenity space as an animal shelter in this residential setting causes significant disturbance to the residents of the nearby properties. It is considered that dogs could be prone to barking or baying at anytime during the day and night, requiring only one distressed animal to cause upset amongst the others. It may also be difficult to determine the potential behaviour of any one dog since not all dogs have the same temperament; as such some may fret and howl, no matter how well they are cared for at the centre.

It is also important to note that a number of objections have been raised by residents of the adjacent property in this regard. Whilst a number of the points raised do not form material planning considerations, the main concerns expressed relate to close proximity of the intensive animal rescue centre use to their property and the significant disturbance caused through noise and odours throughout both the day and night.

It is acknowledged that in certain circumstances it may be possible to employ sound reduction measures within this type of development to limit potential noise disturbance, however, it is not clear how such measures could be employed at the application site since the outbuildings require various openings to allow natural ventilation and the dogs require an 'open' run area in the garden to allow for exercise. As such it is considered that it would be difficult to adequately insulate the structures against sound travel without significant alterations to their physical construction and appearance. Furthermore, whilst sound insulation would provide some mitigation, the potential for disturbance would still potentially arise as animals arrive and leave the site.

These concerns are supported by the Council's Public Health and Protection Section, who, following consultation, have raised an objection to the application on the grounds that the use gives rise to potential noise and odour disturbance to the neighbouring residential properties.

It is consequently considered that by virtue of the very nature of the business, generating noise and odour disturbance throughout the day and night, the development has a significant detrimental impact upon the amenity of the surrounding properties and is unacceptable in this regard.

Highway Safety

Following consultation, the Council's Transportation Section has commented that the access to the site has vision splays that are considerably below that required and that there is no dedicated turning area within the site to allow for access and egress in a forward gear. Additionally there is no continuous footway link from the application site to the local community which forces pedestrians on to the substandard access lane to the detriment of all highway users.

It was also noted that the dwelling and rescue centre use requires a maximum of 10 off-street parking spaces with 7 provided which results in on street parking to the detriment of all highway users and the free flow of traffic.

Furthermore, a 1 bedroom bungalow would propose a trip generation of between 8-10 trips a day and having spoken with applicant during a site visit, the change of use generates on average between 20-24 trips a day. As such the change of use from residential to a mixed use animal rescue centre and residential dwelling increases the use of the substandard access to the detriment of all highway users.

Consequently the change of use is considered have an unacceptable detrimental impact upon pedestrian and highway safety.

Visual Impact

The application proposes the retention of a series of structures in the rear garden area that all vary in design and scale. Policy NSA 25 requires development in designated Special Landscape Areas to conform to the highest standards of design, siting, layout and materials appropriate to the character of the area.

Whilst the ad-hoc nature of the buildings have the appearance of impermanent structures rather than a purpose built development, it is acknowledged that attempts have been made to limit their visual impact through siting and painting. Furthermore, located to the rear of the dwelling, there is no impact upon the street scene along

Darren-Ddu Road. It is noted that the outbuildings are visible from the adjacent dwellings, especially St Athan given the difference in ground levels between the two sites, but given the their siting and single storey nature, it is not considered the visual impact is significant enough to warrant refusal of the application.

Whilst some concern is expressed due to the number of outbuildings within the garden space, it is not considered the amount is disproportionate to the scale of the garden and has not lead to overdevelopment of the site.

As such, it is not considered that the impacts resulting from the appearance of the structures alone, would be so great as to warrant the refusal of the application. Rather it is the use to which these structures and the dwelling is put to that is the main determining factor in this case

Other Issues

It is noted that consultation has been undertaken with the Councils Land Reclamation and Engineering and Countryside Landscape and Ecology Sections with a view to assessing any potential impacts upon drainage and ecology respectively. Their responses raise no objection to the planning application.

Community Infrastructure Levy (CIL) Liability

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31st December 2014.

This application relates to the change of use of a residential dwelling to mixed use residential dwelling and animal rescues centre. The application is for development of kind that is liable for a charge under the CIL Regulations 2010 (as amended) however, the CIL rate for this type of development as set out in the Charging Schedule is £0 and therefore no CIL is payable.

Conclusion

The principle of such an intensive animal rescue centre and associated works at this residential property is considered unacceptable. Furthermore, there is considerable concern with regard to the operation of the centre and the keeping of a significant number of animals in such close proximity to the surrounding residential properties, primarily due to the potential for noise and odour disturbance and general loss of amenity. It is considered that the noise and smells which may be generated by the

development would be extremely difficult to manage and could not be appropriately controlled through the use of conditions.

In addition to the impacts upon amenity, an objection has also been raised by the Council's Transportation Section with regard to the lack of pedestrian footways to the site, the lack of adequate visibility at the site, and the intensification of the sub-standard lane. As such, the development has a detrimental impact upon highway safety.

In light of the above, the application is considered contrary to the relevant policies of the Local Development Plan and is therefore recommended for refusal for the reasons set out below.

RECOMMENDATION: Refuse

REASONS

1. The mixed use as a residential dwelling and an animal rescue centre is incompatible with the nearby residential properties due to its adverse impact upon the amenity of the occupiers of the neighbouring dwellings arising from noise and odour generation and general disturbance. As such, the proposal conflicts with policies AW 5 and AW 10 of the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales.

2. The development has a detrimental impact upon highway safety, contrary to Policy AW 5 of the Rhondda Cynon Taf Local Development Plan for the following reasons:

- i. In the absence of continuous pedestrian facilities leading to the site, the development creates additional pedestrian movements in the highway to the detriment of all highway users.
- ii. The site access lacks adequate visibility for vehicles emerging from the site on to Darren-Ddu Road, the increased use of this access therefore creates additional hazards to the detriment of highway safety.
- iii. The access lane lacks adequate width of carriageway and segregated footway to serve additional vehicular and pedestrian traffic to and from the application site and therefore creates traffic hazards to the detriment of safety of all highway users.

NOTES

RECOMMENDATION **Refuse**

1. The mixed use as a residential dwelling and an animal rescue centre is incompatible with the nearby residential properties due to its adverse impact upon the amenity of the occupiers of the neighbouring dwellings arising from noise and odour generation and general disturbance. As such, the proposal conflicts with policies AW 5 and AW 10 of the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales.
2. The development has a detrimental impact upon highway safety, contrary to Policy AW 5 of the Rhondda Cynon Taf Local Development Plan for the following reasons:
 - i. In the absence of continuous pedestrian facilities leading to the site, the development creates additional pedestrian movements in the highway to the detriment of all highway users.
 - ii. The site access lacks adequate visibility for vehicles emerging from the site on to Darren-Ddu Road, the increased use of this access therefore creates additional hazards to the detriment of highway safety.

The access lane lacks adequate width of carriageway and segregated footway to serve additional vehicular and pedestrian traffic to and from the application site and therefore creates traffic hazards to the detriment of safety of all highway users.

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

15 OCTOBER 2015

REPORT OF: DIRECTOR OF REGENERATION AND PLANNING

REPORT

**ENFORCEMENT OF PLANNING
CONTROL – ENFORCEMENT NO:
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ERECTION OF TIMBER CATTERY
- WONKY TOWERS, GLYNDWR,
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See Relevant Application File