

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2017-2018:**

**PLANNING & DEVELOPMENT  
COMMITTEE  
7 DECEMBER 2017**

**REPORT OF: SERVICE  
DIRECTOR PLANNING**

	<b>Agenda Item No. 7(3)</b>
<b>APPLICATION NO: 17/0163/10) - PROPOSED DWELLING, LAND ADJACENT TO TRELAWNEY, RHYD- Y-NANT, PONTYCLUN</b>	

**1. PURPOSE OF THE REPORT**

Members are asked to determine the above planning application.

**2. RECOMMENDATION**

That Members consider this report in respect of the application and determine the application having regard to the advice given.

**3. BACKGROUND**

This application was originally reported to the 2<sup>nd</sup> November 2017 meeting of this Committee with a recommendation of refusal. A copy of that report is attached at **APPENDIX A**. At that meeting Members resolved to approve the application contrary to the Officer's recommendation because they considered that the Flood Consequence Assessment and the receipt of a consultation response of 'no objection' from Natural Resources Wales on flooding grounds was acceptable. It was resolved that the matter should therefore be deferred to the next appropriate meeting of the Development Control Committee for a report from the Service Director, Planning, if necessary in consultation with the Director, Legal & Democratic Services, upon the strengths and weaknesses of taking a decision contrary to recommendation, prior to determining the matter.

As advised in the original report, section 6.2 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, confirms that highly vulnerable including residential development, should not be permitted in Zone C2.

Members are advised this policy position has been recently confirmed through a decision made by Welsh Ministers in their decision for residential development at Ystrad Barwig (15/1295/13), which details clearly that no residential development should be allowed in a C2 Flood Zone.

If however Members are still minded to approve the application; the following conditions below are suggested:

### **CONDITIONS**

**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.** The development hereby approved shall be carried out in accordance with the approved plan(s) no(s)

- Drg 02 Proposed Site Plan, Elevations and Floor Plans received on 16<sup>th</sup> August 2017

and documents received by the Local Planning Authority on 16<sup>th</sup> August 2017 and 17<sup>th</sup> February 2017, unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

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

**3.** 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, 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: In the interest of residential amenity and to ensure the dwelling is suitable in terms of the flood zone in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

**4.** The lower ground area identified on the proposed plans shall not be used as living accommodation and shall only be used for storage purposes only.

Reason: In the interest of residential amenity and to ensure the dwelling is suitable in terms of the flood zone in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

**5.** The existing fence along the boundary with number 29 Rhyd-y-Nant, as detailed on the proposed plan, shall be maintained as such in perpetuity.

Reason: In the interests of amenity in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan

**6.** Notwithstanding the submitted plans and prior to any works commencing a report to meet the requirements of TAN 15 paragraph A1.12 shall be submitted to and approved in writing. The development shall be carried out in accordance with the approved details.

Reason: In the interest of residential amenity and to ensure the dwelling is suitable in terms of the flood zone in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

**7.** The development hereby permitted shall not begin until a scheme to deal with contamination has been submitted and approved in writing by the Local Planning Authority (LPA). The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically and in writing.

1. A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of contamination relevant to the site. The desk top study should contain a conceptual site model.

2. A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any contamination and its implications. The site investigation shall not be commenced until a desk-top study has been completed satisfying the requirements of paragraph (1) above.

3. A written method statement for the remediation of contamination affecting the site shall be agreed in writing with the LPA prior to commencement and all requirements shall be implemented and completed to the satisfaction of the LPA by a competent person. No deviation shall be made from this scheme without the express written agreement of the LPA.

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

**8.** Notwithstanding the submitted details no development shall take place until drainage arrangements have been submitted to and approved in writing by the Local Planning Authority. The dwelling hereby approved shall not 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.

**9.** The development hereby permitted shall not be occupied and/or operated until the measures approved in the scheme (referred to in Condition 7) have been implemented and a suitable validation report of the proposed scheme has been submitted to and approved in writing by the Local Planning Authority. Any validation report shall be carried out by a competent person.

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

**10.** Prior to the development being brought into use, a vehicular footway crossing shall be provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority, prior to any works commencing on site.

Reason: In the interests of highway safety and to prevent damage to the public highway and utility services in accordance with Policy AW 5 of the Rhondda Cynon Taf Local Development Plan.

**11.** If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then work shall cease and revised contamination proposals shall be submitted to and approved in writing by the Local Planning Authority prior to the work recommencing. Any revised contamination proposals shall be carried out by a competent person.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW 10 of the Rhondda Cynon Taf Local Development Plan.

**12.** The parking area shall be constructed in permanent materials and retained for the purposes of parking only unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that vehicles are parked off the highway, in the interests of road safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan

**13.** Surface water run-off from the proposed parking area, turning area and driveway shall not discharge onto the public highway unless otherwise agreed in writing by the Local Planning Authority.

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

**14.** HGV's used as part of the development shall be restricted to 09:00am to 16:30pm weekdays, 09:30am to 13:00pm Saturdays with no deliveries on Sundays and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority.

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

## APPENDIX A

**APPLICATION NO:** 17/0163/10 (GW)  
**APPLICANT:** Mrs A D Smart  
**DEVELOPMENT:** Proposed dwelling.  
**LOCATION:** LAND ADJACENT TO TRELAWNEY, RHYD-Y-NANT,  
PONTYCLUN, CF72 9HE  
**DATE REGISTERED:** 16/08/2017  
**ELECTORAL DIVISION:** Pontyclun

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**RECOMMENDATION:** Refuse

### REASONS:

The planning application proposes highly vulnerable development (housing) within Zone C2 of the Development Advice Map contained in Technical Advice Note (TAN) 15: Development and Flood Risk.

Section 6.2 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, affirms that highly vulnerable development should not be permitted in Zone C2 and this policy position has been recently confirmed through a decision made by Welsh Ministers.

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### REASON APPLICATION REPORTED TO COMMITTEE

The proposal is not covered by determination powers delegated to Service Director Planning as the proposal is contrary to the provisions of the Development Plan.

A request has been received from Councillor Griffiths for the matter to come to Committee for the reason that the development could be visually intrusive and may result in highway problems.

### APPLICATION DETAILS

Full planning permission is sought for the erection of a two bedroom dwelling within the garden area of a property called Trelawney on Rhyd-y-Nant in Pontyclun. The dwelling would replace an existing garage and summerhouse. Living accommodation would be on the ground floor and within the roof space. Dormer windows would be provided on the front and back of the property. Two parking areas would be provided either side of the dwelling. At the lower ground level would be a partly open undercroft area.

The application is supported by a:  
Flood Consequence Assessment

### SITE APPRAISAL

The application site is part of the garden of a detached dwelling, sited within a residential cul-de-sac development on Rhyd Y Nant, Pontyclun. The dwelling occupies a spacious end plot and has a two-storey design. The property benefits from an enclosed rear garden and large front and side garden that provides off street vehicle parking facilities. There is a detached garage structure and a wooden summer house and decking (raised on stilts) sited within the front garden of the property. The landscaped front garden slopes away from the vehicular highway of Rhyd Y Nant and is abutted to its southern and western sides by an open green area and the Ely River.

**PLANNING HISTORY (Relevant to application)**

10/0510/10	Trelawney, Rhyd y Nant, Pontyclun	Summer house in front garden and extension of garden curtilage	Refused 23/02/11  Appeal Allowed 27/07/11
91/0898	“	“	Detached Garage Granted 08/01/92
91/0503	“	“	Single Garage Granted 25/09/91

**PUBLICITY**

The application has been advertised via the erection of site notices and by direct neighbour notification. One local resident has submitted correspondence at the time of writing this report and their comments are summarised below:

- Proposed demolition and building works will cause disturbance.
- Construction vehicles may cause traffic problems on approach roads.
- Off-street parking provision will cause difficulty given the size and topography of the site. A granny flat at the property results in a greater parking requirement. One of parking spaces may involve the removal or relocation of the street lighting post.
- Any additional traffic will exacerbate the existing vehicle congestion in the locality.
- A dwelling with a very high pitched roof (higher than the existing garage) and gable windows will not fit into the existing street scene. There would be virtually no front garden.
- Engineering works required would be very close to the road, river and flood plain. The stability of the surrounding land may be compromised.
- Size of development appears to be an overdevelopment of the site.

- On site foul and sewerage system is proposed. If any leachate results there could be pollution to the river.
- The previous application was refused for the summer house as the site was outside the village boundary. The appeal approval should not be a precedent for the approval of residential development.
- This would be development in the front garden and may set a precedent for other development on the estate.

## CONSULTATION

Countryside Section – the evidence suggest that bat roost potential of the building to be demolished is minimal and it would be unreasonable to require a bat survey. A bat informative note will be needed on any planning permission.

Dwr Cymru/Welsh Water – no objection subject to a condition requiring that no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Flood Risk Management – no objection subject to drainage details by condition.

Natural Resources Wales – no objection. The planning application proposes highly vulnerable development housing, within Zone C2 of the Development Advice Map (DAM) contained in TAN15. Our Flood Map information, which is updated on a quarterly basis, confirms the site to be at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Ely.

We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15).

Notwithstanding this policy advice, the decision as to whether a development is justified is entirely a matter for your authority. For this reason, we have reviewed the flood information that has been submitted in support of the application, to enable us to provide you with technical advice on the acceptability of flooding consequences in terms of risks to people and property.

The submitted drawings show that the ground floor Finished Floor Level (FFL) of the proposed dwelling will be set at 41.88m AOD. This is above the predicted 1 in 100 year plus climate change and 1 in 1000 year flood levels. This is in line with the guidance set out on in A1.14 and A1.15 of TAN15 and therefore on this basis, we offer no objection to the proposals.

However, we understand that there will be structural supports for the dwelling and that a lower ground floor area will be created for storage purposes, as shown on Drawing 02, Rev D. The storage area is proposed to have a FFL of 39.18m AOD and will be boarded with wood panels. We also note that 'self-closing flood drains' will be included in the design. With a FFL of 39.18m AOD, this lower ground floor

area would be at risk of flooding during a 1 in 75 year (max predicted depth 2.44m), 1 in 100 year plus climate change allowance (max predicted depth 3.07m) and the 1 in 1000 year (max predicted depth 4.44m) flood events.

As such, we advise that should your Authority be minded to grant permission for this development, you should be satisfied that this area will be retained for storage use only in the future, in order to minimise the potential flood risks and consequences should a flood event occur. Furthermore, you should be aware that we are not able to comment on the structural suitability and integrity of proposed design should a flood event occur. We therefore recommend that you consult with other professional advisors as needed, in order to satisfy yourselves that the proposed design is appropriate. We refer you to paragraph A1.12 of TAN15 in this regard, which states that a site should only be considered for development if it is ‘...designed to minimise structural damage during a flooding event and is flood proofed to enable it to be returned to its prime use quickly in the aftermath of the flood.’

Public Health and Protection – no objection subject to conditions on the demolition of dwellings, hours of operation during construction, noise, dust, waste and contamination due to previous land uses.

Structural Engineer – a condition requiring a structural report to meet the requirements of TAN 15 paragraph A1.12 for the lower ground.

Transportation Section – no objection subject to conditions. There is concerns with the intensification of use of the sub-standard turning area at the western end of Rhyd-y-Nant, however, when considering the nature of Rhyd-y-Nant and the scale of the proposed development, the concern is not significant enough to warrant highway objection.

There is concern with the shortfall of 1 off-street parking space for the existing dwelling and potential for consequent on-street parking taking place in the existing sub-standard turning area, however, when considering the cul-de-sac nature of Rhyd-y-Nant, with low traffic speeds and volumes, the concern is not significant enough to warrant a highway objection.

Wales & West Utilities – our pipes are in the area and maybe at risk during construction works. These must not be built over or enclosed. General guidance is provided for the applicant.

## **POLICY CONTEXT**

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

The majority of the site is within settlement boundaries as defined by the Rhondda Cynon Taf Local Development Plan and is unallocated. It is partly within a Special Landscape Area (SSA 23.2), Site of Important Nature Conservation (AW8.97) and an area of Limestone Resources (AW14).



**Policy CS2** - sets out criteria for achieving sustainable growth including: promoting residential development with a sense of place and focussing development within defined settlement boundaries;

**Policy AW1** - residential development proposals will be expected to contribute to meeting local housing needs and the supply of new housing will include the conversion of suitable structures to provide housing.

**Policy AW2** - development proposals will only be supported in sustainable locations, including sites within the defined settlement boundary, which would not unacceptably conflict with surrounding uses, have good accessibility by a range of sustainable transport options, have good access to key services and facilities and support the roles and functions of the Principal Towns.

**Policy AW5** - sets out criteria for new development and requires the scale, form and design of new development to have an acceptable effect on the character and appearance of the site and surrounding area and existing features of the built environment to be retained. Development must have no significant impact on the amenities of neighbouring properties, be compatible with other uses in the locality and to design out the opportunity for crime and anti social behaviour. Development must be sustainable, have safe access and provide car parking in accordance with the Council's Supplementary Planning Guidance (SPG).

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

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

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

**Policy AW14** – safeguards minerals from development that would sterilise them or hinder their extraction.

**Policy SSA13** – provides criteria for housing development within settlement boundaries.

**Policy SSA23** – Identifies Special Landscape Areas. 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.

## **Supplementary Planning Guidance**

Access Circulation and Parking

Design and Placemaking

Nature Conservation

## **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), Chapter 7 (Economic

Development), Chapter 8 (Transport), Chapter 9 (Housing) and Chapter 13 (Minimising and Managing Environmental Risks and Pollution) sets 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 12: Design;
- PPW Technical Advice Note 15: Development and Flood Risk;
- PPW Technical Advice Note 18: Transport;
- PPW Technical Advice Note 23: Economic Development; and
- Manual for Streets.

## **REASONS FOR REACHING THE RECOMMENDATION**

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

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

### **Principle of the proposed development.**

The site is located partly outside the settlement boundary identified in the Rhondda Cynon Taf Local Development Plan. However previously the applicant extended their garden curtilage and built a summer house on the land. This was retrospectively granted planning permission at appeal following the refusal of the planning application (10/0510/10).

The proposed dwelling would replace an existing garage and the summerhouse and would be built on the land that has been approved as garden curtilage for Trelawney.

The new dwelling would be serviced off the existing cul-de-sac as the existing dwellings are on Rhyd-y-Nant. In terms of whether the dwelling is in a sustainable location it is considered there would not be a significant difference between the existing dwellings and the proposed in these terms.

Much of the site however lies within Zone C2 (areas of the floodplain without significant flood defence infrastructure) of the Development Advice Maps referred to in Technical Advice Note (TAN) 15: Development and Flood Risk.

Section 6.2 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, affirms that highly vulnerable development should not be permitted in Zone C2.

Whilst it is noted a Flood Consequence Assessment has been submitted and Natural Resources Wales (NRW) doesn't object subject to the Local Planning Authority finding the development acceptable. It should be noted that a recent appeal decision (for application 15/1295/13) and subsequent call in procedure for a decision by the Welsh Ministers has clarified that whilst justification tests can be applied to less vulnerable development, these should not be taken into account when highly vulnerable development (housing) is proposed in or partially within a C2 Flood Risk Zone.

As such, it is considered therefore that the principle of residential development of the site would not be acceptable.

### **Other issues**

#### **Impact on the character and appearance of the area and on residential amenity**

The site is partly within a Special Landscape Area, however it has now been incorporated within the curtilage of Trelawney and has the visual appearance of being part of a domestic garden. Although the dwelling would be sited to the front of Trelawney, it would not lie between the dwelling and the road.

The objector suggests that the proposal represents overdevelopment of the plot. Trelawney occupies a spacious end plot and has a substantial area of open useable garden space. This would be largely retained and the proposal would not therefore amount to an overdevelopment of the site.

The objector also considers the dwelling would not visually fit in with the street scene. Whilst the proposed dwelling would be of a different design to existing dwellings on Rhyd-y-Nant it is not considered the visual impact would result in a significant detrimental impact on the character of the area.

The dwelling would be of sufficient distance from other dwellings so that it would not result in a significant detrimental impact on residential amenity. The objections raised with regard to the impact from construction works are noted, however it is not considered these issues would warrant a refusal reason for this application.

Therefore, it is considered the proposal would not result in a significant detrimental impact on the character of the area or on residential amenity.

#### **Access and highway safety**

The objector points out that the area experiences congestion and the dwelling would add to this. It is considered one additional dwelling would not have a significant impact on the existing situation and that this would not warrant a refusal reason. No objection has been raised by the Council's Transportation Section on the access or parking provision. The suggested condition for traffic management and wheel washing is considered not necessary and can be controlled by other legislation.

#### **Ecology**

The site is partly within a Site of Important Nature Conservation (SINC). However the site is now within the garden curtilage of Trelawney. The proposal would replace

existing structures and would not extend significantly beyond these. No objection has been raised from the Countryside Section and it is considered the proposal would not warrant a refusal reason on this issue.

**Public Health and Protection Comments**

With regard to the issues raised by the Public Health and Protection Section it is considered dust and waste matters can be more efficiently controlled by other legislation. An appropriate note can be added to any permission concerning dust issues.

**Community Infrastructure Levy (CIL) Liability**

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

The application is for development of a kind that is liable for a charge under the CIL Regulations 2010 as amended. The application lies within Zone 3 of Rhondda Cynon Taf's Residential Charging Zones, where there is a liability of £85 / sqm for residential development (including extensions to dwellings over 100 sqm).

The CIL (including current indexation) for this development is expected to be £12,282.14.

**Conclusion**

The proposal is for highly vulnerable development (housing) within a C2 flood zone and would not be considered acceptable development (Policies AW2 and AW10 and TAN15 – Development and Flood Risk).

**RECOMMENDATION: Refuse**

1. The planning application proposes highly vulnerable development (housing) within Zone C2 of the Development Advice Map contained in Technical Advice Note (TAN) 15: Development and Flood Risk. Section 6.2 of TAN15 affirms that highly vulnerable development should not be permitted in Zone C2. As such the development would be contrary to Technical Advice Note (TAN) 15: Development and Flood Risk and Policies AW2 and AW10 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**

**PLANNING & DEVELOPMENT COMMITTEE**

**7 DECEMBER 2017**

**REPORT OF: SERVICE DIRECTOR PLANNING**

**REPORT**

**APPLICATION NO: 17/0163/10) -  
PROPOSED DWELLING, LAND  
ADJACENT TO TRELAWNEY,  
RHYD-Y-NANT, PONTYCLUN**

**OFFICER TO CONTACT**

**MR G WATKINS  
(Tel. No. 01443 494889)**

**See Relevant Application File**

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