



PLANNING & DEVELOPMENT COMMITTEE

6 DECEMBER 2018

REPORT OF THE SERVICE DIRECTOR, PLANNING

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 18/1037/15
(RP)
APPLICANT: **Mr Christopher Cousins**
DEVELOPMENT: Variation of conditions 2 (approved plans) and 6 (means of access) of previously approved planning application 17/0632/10 (appeal ref APP/L6940/A/17/3191412) to allow changes to the front curtilage of Calgarwyn to include re-design and re-siting of garage, changes to vehicular access, construction of retaining wall and landscaped area and boundary line change between Calgarwyn and Plot 3
LOCATION: **CALGARWYN, CWMYNYSMINTON ROAD, LLWYDCOED, ABERDARE, CF44 0UP**
DATE REGISTERED: **08/10/2018**
ELECTORAL DIVISION: **Aberdare West/Llwydcoed**

RECOMMENDATION: Grant

REASONS:

The application is considered to comply with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan in respect of its visual impact, the impact it has upon the amenity and privacy of the neighbouring residential properties and also highway and pedestrian safety.

REASON APPLICATION REPORTED TO COMMITTEE

A request has been received from Councillor Sharon Rees for the matter to come to Committee in order that Members can fully consider the objections to the application raised by neighbouring occupiers.

APPLICATION DETAILS

Full planning permission (17/0632/10) was granted under appeal (APP/L6940/A/17/3191412) on the 19th April 2018 to construct 4 detached dwellings with garages together with widening of an access road serving the site.

The current application is submitted under Section 73 of the Town & Country Planning Act 1990 and seeks to vary conditions 2 and 6 of the planning permission as referred to below:

- 2) The development shall be carried out in accordance with the following approved plans and documents: *2564 NB Survey; 2564 NB La2; 2564 NB Plot 1; 2564 NB Plots 3-5; 2564 NB Plot 4; 2564 NB G; 2564 NB RS; Ecological Appraisal dated September 2017; and Soakaway and porosity details dated 18.09.2017*, unless otherwise to be approved and superseded by details required by any other condition attached to this permission.
- 6) Before the development is brought into use the means of access, together with the road widening, parking and turning facilities, shall be laid out in accordance with the submitted plan 2564 NB La 2 and approved by the Local Planning Authority. The approved details shall be implemented prior to beneficial occupation of the first dwelling.

This application proposes to vary these conditions by allowing changes to the front curtilage of the original dwelling Calgarwyn (Plot 2), to include re-design and re-siting of the garage, changes to vehicular access, construction of a retaining wall and landscaped area and also a boundary line change between Calgarwyn and Plot 3.

Prior to receiving this Section 73 planning application a separate submission was received seeking to discharge some of the other conditions associated with the original grant of planning permission (18/0582/38).

SITE APPRAISAL

The site comprises the residential curtilage of the existing dwelling known as Calgarwyn, is located along the western fringe of Llwydcoed and, as a consequence of the gradient of surrounding land, sits below the internal floor level of the closest residential properties Dolwen; Beechwood and Swn-y-Afon the north-west, north and north-east respectively.

The site is also below the level of Cwmyrnysminton Road that adjoins the western boundary of the site.

The site is located on a slope that falls from north to south with the wider area predominantly residential in character incorporating a variety of architectural designs with many of the existing dwellings located within spacious and sprawling grounds

The B4276, Llwydcoed Road, to the east provides the nearest bus stops

PLANNING HISTORY

17/0632	Calgarwyn, Cwmynysminton Road, Llwydcoed, Aberdare	4 detached dwelling houses with garages together with widening of access road	Granted on appeal 19/04/18
18/0582	Calgarwyn, Cwmynysminton Road, Llwydcoed, Aberdare	Discharge of conditions 3, 5 8,10,11 & 12 of application 17/0632/10	Discharged 10/09/18
17/0401	Calgarwyn, Cwmynysminton Road, Llwydcoed, Aberdare	Proposed single storey extension, alterations & repairs	Granted 12/05/17

PUBLICITY

The application has been advertised by direct notification to neighbouring properties. The erection of 2 site notices was also undertaken on the 24/10/2018.

Two letters have been received, their objections and comments are summarised below:

- Prior to making this application, the applicant has already re-designed, re-positioned and constructed the garage at Calgarwyn, contrary to the planning permission granted to him.
- We do not agree with the Highway Development Control Report, and will not be persuaded that the development does not create an increased risk to the safety of pedestrians, cyclists and existing homeowners who use the lane.
- The positioning of the garage under the original application had the benefit that a car pulling out of the garage would have a clear view of oncoming traffic. The re-positioned garage will not have such a clear view, at the very point at which the road cannot be widened.
- The new configuration of the access onto the highway now increases the risk to the safety of all users of the lane. The previous access allowed a clear view of oncoming vehicles, cyclists and pedestrians in both directions for vehicles emerging onto the highway from the driveway. The new configuration has vehicles emerging onto the highway from the driveway just around the corner of a blind bend, with no clear view of vehicles, cyclists and pedestrians coming down the single lane hill and around the bend.
- The applicant is not adhering to the schedule of conditions laid out in the appeal decision letter.

CONSULTATION

Highways & Transportation - no objections subject to the re-imposition of earlier conditions relating to highway provisions.

Countryside, Parks & Open Spaces - no objections.

Structural Engineer - no objections.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The application site lies within the settlement boundary for Aberdare West/Llwydcoed

Policy CS1 - sets out the strategy for the northern area of the County Borough with an emphasis on sustainable growth.

Policy CS4 identifies the housing requirement figure for the plan period.

Policy AW1 Identifies how the housing requirement figure will be met including through the allocations in the Local development Plan

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 AW8 – sets out policy for the protection and enhancement of the natural environment, including that proposals should not result in harm to sites with recognised nature conservation interest or have an unacceptable impact on features of importance to landscape or nature conservation.

Policy NSA11 - Identifies a housing density requirement for the northern strategy area at a minimum of 30 dwellings per hectare.

Policy NSA12 - Supports development within and adjacent to the defined settlement boundaries.

The following Supplementary Planning Guidance documents are also applicable:-

1. Access, Circulation and Parking;
2. Design and Placemaking.

National Guidance

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

Planning Policy Wales (Edition 9, November 2016) Chapter 2 (Local Development Plans); Chapter 3 (Making and Enforcing Planning Decisions); Chapter 4 (Planning for Sustainability); Chapter 8 (Transport), Chapter 9 (Housing), 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 2: Planning and Affordable Housing;
PPW Technical Advice Note 12: Design;
PPW Technical Advice Note 18: Transport;
Manual for Streets

REASONS FOR REACHING THE RECOMMENDATION

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

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

Main Issues:

Principle of the proposed development

Planning permission (Reference 17/0632/10) (APP/L6940/A/17/3191412) has previously been granted for the construction of 4 dwellings, their associated garages and the widening of an access road. Therefore, the principle of the proposed development is acceptable subject to the current proposal being able to satisfy material planning considerations.

The key consideration in the determination of this application is whether the amendments to the approved plans and changes to vehicular access remain compatible with planning policy considerations and highway requirements. In this, it is also appropriate to consider whether there has been any change in material circumstances affecting this development since the original grant of planning permission and the officer view and that of Highways & Transportation is that in planning and highway terms there has not.

Applications made under Section 73 of the Town & Country Planning Act 1990 allow the Local Planning Authority to do one of two things when an applicant seeks to vary or remove conditions, it can:-

- (a) Grant consent either with or without conditions; or,
- (b) Refuse.

In this case it is clear that allowing amendments to the approved plans and means of access to this plot (Calgarwyn) is acceptable in that planning policy and Transportation remain supportive of the proposals and no other material considerations have arisen within the life of the planning permission that could justify arriving at a contrary view.

Whilst it is appropriate to consider whether there has been any change in policy or any other material circumstance that might affect the proposal; it is not appropriate to

challenge the heart of the consent itself unless there has been a considerable shift in policy or any other material consideration that could lead to a contrary view.

This case has not been affected by any change in policy circumstance or other form of material consideration. However, a Section 73 application also allows the Local Planning Authority to consider any other conditions imposed on the original consent and whether they remain relevant to the planning permission to be granted or whether they require revision or if additional conditions are now necessary. Given the fluid situation with regard to conditions associated with the original planning permission it is therefore appropriate to review the conditions originally imposed, with these being highlighted at the end of this report.

Access and Highway Safety

The proposal amends the vehicular and pedestrian access to Calgarwyn only, together with the re-positioning and re-siting of the garage as per previously approved application 17/0632/10 (APP/L6940/A/17/3191412).

Following public consultation, concerns have been raised by residents with regard to the re-siting and re-positioning of both the garage and access serving the plot. While these comments are appreciated, the Highways & Transportation observations received do not raise objections to the revised access plans for Calgarwyn, subject to conditions.

It should be noted that all other matters relating to vehicular and pedestrian safety and access for the whole site, considered acceptable by the inspector at appeal, remain unchanged.

As such, with regard to access & highway safety, the application is considered acceptable.

Residential Amenity and Character & Appearance

The re-design and re-siting of the garage is viewed as acceptable and it is thought that this, together with the revised boundary line with Plot 3 (yet to be built), actually promotes a better relationship between the two plots by removing the staggered boundary.

The amendment also includes the introduction of a landscaped area to the front of Calgarwyn, in place of the original vehicular access point to the plot, and it is thought that this addition will visually soften the development within its surroundings.

To this end, and with no objections raised from the Council's landscaping officer, these proposed changes are viewed as acceptable.

Discharge of Conditions Issues

Prior to this Section 73 planning application being submitted a separate discharge of conditions application was made (18/0582/38) and this has been determined with

conditions 3 & 5 (Highways), 8 (Landscaping), 10 (Materials), 11 (Drainage) and 12 (Ecological Appraisal) being viewed as acceptable.

Other than a request from Highways & Transportation to apply previous highway conditions to this consent, it is appropriate for the aforementioned conditions to be reviewed and altered when being applied to this consent.

Community Infrastructure Levy (CIL) Liability

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

The application is for development of a kind that is liable for a charge under the CIL Regulations 2010 as amended however, the application lies within Zone 1 of Rhondda Cynon Taf's Residential Charging Zones, where a nil charge is applicable and therefore no CIL is payable.

Conclusion

The application is considered to comply with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan in respect of its visual impact, the impact it has upon the amenity and privacy of the neighbouring residential properties and also highway and pedestrian safety.

RECOMMENDATION: GRANT SUBJECT TO THE BELOW CONDITIONS:

1. The development shall be carried out in accordance with the following approved plans and documents: 2564 NB Survey; 2564 NB La2 (Revision B); 2564 NB Plot 1; 2564 NB Plots 3-5; 2564 NB Plot 4; 2564 NB G; 2564 NB G 03; 2564 NB RS; Ecological Appraisal dated September 2017; and Soakaway and porosity details dated 18.09.2017, unless otherwise to be approved and superseded by details required by any other condition attached to this permission.

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

2. Notwithstanding the approved plans, development shall not commence until full engineering design and details of the road widening including sections; turning area, boundary treatment set back 450mm, street lighting details; and junction build out / white lining to improve visibility details have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and implemented prior to beneficial occupation of the first dwelling.

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

3. No works shall commence on site until details and design calculations of any retaining walls abutting the highway have been submitted to and

approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved details prior to beneficial occupation.

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

4. No development shall take place, including any works of site clearance, until a Construction Method Statement has been submitted and approved in writing by the Local Planning Authority to provide for:

- a) the means of access into the site for all construction traffic;
- b) the parking of vehicles of site operatives and visitors;
- c) the management of vehicular and pedestrian traffic;
- d) the loading and unloading of plant and materials;
- e) the storage of plant and materials used in constructing the development;
- f) the wheel cleansing facilities; and
- g) the sheeting of lorries leaving the site.

The approved Construction Method Statement shall be adhered to throughout the development process unless agreed otherwise in writing by the Local Planning Authority.

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

5. Before the development is brought into use the means of access, together with the road widening, parking and turning facilities, shall be laid out in accordance with the submitted plan 2564 NB La 2 (Revision B) and approved by the Local Planning Authority. The approved details shall be implemented prior to beneficial occupation of the first dwelling.

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

6. 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.

7. The landscaping scheme and proposed boundary treatments, which shall include indications of all existing trees (including spread and species) and hedgerows on the land and details of any to be retained together with measures for their protection during the course of development including detail methods for the eradication of other invasive vegetation on site shall be fully implemented in accordance with information found acceptable and approved under reference 18/0582/38.

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.

8. All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

9. External materials, to be used on the dwellings, shall be Jutland roof slate blue/black colour, Bradstone square dressed walling in buff, Sandstone cills and lintels in portland colour, Ibstock New Sandhurst facing brick, red smooth faced hanging tiles, K Rend silicone scraped texture in ivory colour and white casement windows and doors, as set out in the submitted details and as approved under reference 18/0582/38.

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.

10. The scheme for the disposal of foul and surface water shall be fully implemented in accordance with the details approved under reference 18/0582/38, prior to the beneficial use of the development and retained in perpetuity.

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

11. The development shall be fully implemented in accordance with the Wildlife and Habitat Protection and Mitigation Plan dated May 2018 prepared by BE Ecological Ltd, approved under reference 18/0582/38.

Reason: In the interests of protecting and enhancing the ecological value of the site, in accordance with Policy AW8 of the Rhondda Cynon Taf Local Development Plan.

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