



PLANNING & DEVELOPMENT COMMITTEE

19 SEPTEMBER 2019

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 19/0831/15 (GD)
APPLICANT: Mrs Pedro
DEVELOPMENT: Extension of time condition 1 of planning permission 13/0856/15.
LOCATION: LAND TO THE REAR OF TREWAUN, HIRWAUN, ABERDARE, CF44 9HN
DATE REGISTERED: 27/07/2019
ELECTORAL DIVISION: Penywaun

RECOMMENDATION: Approve, subject to a S.106 Agreement

REASONS:

The principle of the proposed development has been well established with history of grant of planning permission for residential development on the site. Additionally the policies of the Local Development Plan remain supportive of its development. Whilst delay resulting from the lack of progress in the dualling of the A465T near the site has created uncertainty about the future of the site it remains a suitable site for residential development.

REASON APPLICATION REPORTED TO COMMITTEE

- Three or more letters of objection have been received;
- A request has been received from Councillor Boggis for the matter to come to Committee for the reason that the wider highway implications of the proposals need to be fully considered;

APPLICATION DETAILS

Application is being made under Section 73 of the Town & Country Planning Act 1990, to vary condition 1 of planning permission 13/0856 to allow further time for the

submission of reserved matters in the development of the site. Planning application 13/0856 was granted consent on 15th September 2014 and condition 1 states –

1 (a) Approval of the details of the layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter referred to as "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(b) Plans and particulars of the reserved matters referred to in (a) above relating to the layout, scale and appearance of any building to be erected, the means of access to the site and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

(c) Applications for the approval of reserved matters shall be made before the expiration of three years from the date of this permission.

(d) The development hereby permitted shall be begun before whichever is the latter of either (i) the expiration of 5 years from the date of this permission or (ii) the expiration of 2 years of the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

Reason: To comply with Sections 92 and 93 of the Town and Country Planning Act 1990.

This application affects section 1 (c & d) in seeking to extend the lifespan of the existing consent.

SITE APPRAISAL

The application site comprises some 0.76 hectares of land located to the rear of Trewaun, Hirwaun. The site is part of a former tip and is currently overgrown displaying a mixture of scrub grassland with some woodland it is also increasingly infested with bramble and Himalayan Balsam. The site sits on a flat topped spoil heap that is approximately 1 - 1.5 metres higher than the adjacent properties in Trewaun. The red line boundary of the site is only physically defined where it abuts the properties of Trewaun elsewhere it marks the edge of the tip plateau. The land outside of the application site (i.e. the slopes of the tip) is also in the ownership of the applicant up to where it meets the A465 (T), Tramway and the unnamed street that forms a boundary with the Caravan Park and Trenant. Overhead power lines also traverse the site.

PLANNING HISTORY

13/0856	Variation of condition 1 of planning permission	Approved
	08/1577 to allow a further time for the submission	15/09/2014

of reserved matters. (residential development – outline)

08/1577	Variation of condition 1 of planning permission 05/0884 to allow a further time for the submission of reserved matters. (residential development – outline)	Approved 08/06/2009
05/0884	Residential development (outline application)	Approved 21/10/2005
51/90/0213	Residential development (outline application)	Approved 05/02/1991

PUBLICITY

The application has been advertised by means of site notice and neighbour notification letters one letter of objection accompanied by a 45 signature petition signed by local residents has been received raising the following concerns and objection –

- Access to the proposed development through the existing estate is considered unacceptable.
- Whilst the access road might meet minimum width requirements when neighbours legally park on road it can obstruct emergency vehicles, refuse collection etc.
- Difficulties with parking are also exacerbated by car sharers parking in Trewaun to lift share on their onward journey which of itself is sufficient reason to reject the current proposals. Sometimes in excess of 10 non-residents park in Trewaun.
- When police have been called with regard to non-resident parking conflicts they have advised that vehicles are legally parked.
- Residents though have received letters from the police when cars have been parked on pavements causing obstruction
- Next year work is programmed to start on alterations to the A465(T) and the A4059 which will last two and a half years and further disruption that the development of the site would bring would be too much for residents
- 16 children play in this street and they have no other facilities
- Allowing the development will surely lead to accidents.

CONSULTATION

Transportation – No objections subject to the imposition of conditions previously agreed and applied.

Drainage – No objections

Public Health & Protection – No objections

Natural Resources Wales – No observations received during the consultation period

Dwr Cymru Welsh Water – No objections subject to conditions

Western Power Distribution – New grid connection or line diversion will require the consent of Western Power Distribution.

Wales & West Utilities – Raise no objections to the proposed development and advise with regard to the position of their infrastructure in relation to the development site and safe working practices to be adopted when working in proximity to it.

South Wales Fire & Rescue Service – No response received

Welsh Government Highways – Land at the site has now been purchased for the A465 duelling by Compulsory Purchase Order and this is secure. Therefore no development can take place in this area as marked out on the plan (1907.SLP) as submitted with the planning application, and the applicant should be aware that they are likely to be directly adjacent to a construction site should they develop during the period that the A465 duelling works takes place.

POLICY CONTEXT

The Rhondda Cynon Taf Local Development Plan

Policy CS1 Sets out criteria for achieving renewal and sustainable growth in the Northern Strategy Area.

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 sets out a series of design criteria that new development should meet where appropriate.

Policy AW10 Requires that new development should have regard to the impacts of development on human health and local amenity having regard to such matters as contamination, air pollution, noise pollution etc.

Policy NSA3 Supports residential development in Hirwaun subject to a series of criteria.

Policy NSA12 Sets a series of criteria for new residential development on unallocated sites within settlement limits.

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 10 sets out the Welsh Government's current position on planning policy that incorporates the objectives of the Wellbeing of Future Generations Act in to planning.

It is considered that the current proposals meet the seven wellbeing of future generation's goals inasmuch as they relate to the proposed development and the site is being brought forward in a manner consistent with the five ways of working.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking as defined by chapter 2 people and places: Achieving Wellbeing through Placemaking of the new policy document and that the proposal is also consistent with the following insofar as they relate to the development proposed –

- Chapter 1 managing new development.
- Chapter 3 strategic and spatial choices.
- Chapter 4 active and social places
- Chapter 5 productive and enterprising places
- Chapter 6 distinctive and natural places

Other relevant policy guidance consulted:

- PPW Technical Advice Note 2: Planning and Affordable Housing;
- 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;
- PPW Technical Advice Note 23: Economic Development;
- 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.

The key consideration in the determination of this application is that planning policy remains supportive of the proposed development within the terms laid down by the adopted Rhondda Cynon Taf Local Development Plan

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 the condition, it can:-

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

In that the Council can approve with or without conditions, it is also appropriate to consider, if planning permission is to be renewed, the extent and nature of all the previous conditions and amend them to reflect current circumstances and requirements.

In this instance, the applicants are seeking to extend the period of time within which reserved matters can be submitted for the consideration of this Authority. In such circumstances, it is appropriate to consider whether there has been any change in policy or any other material circumstance that might affect the proposal; however, it is not appropriate to challenge the heart of the consent itself.

The Local Development Plan (LDP) remains as the key policy consideration and there has been no substantive policy change affecting this site in that it remains within the settlement boundary of Hirwaun, which is a key settlement, and as such, the proposed form of development of the site is considered acceptable as it will implement the LDP settlement strategy. As the site remains within settlement limits and given the requirement of Planning Policy Wales 10 remains a sustainable location well served by sustainable transport options.

On this occasion, the application to renew planning permission has drawn objections from the public in the form of one letter of objection accompanied by a 45 signature petition. Members should first note that the Transportation Section have raised no objections to the proposed development subject to the re-imposition of conditions that have been applied to earlier consents on this site. Whilst access to the site is limited by the existing highway network, it is considered adequate to serve the development proposed. There is clearly an existing problem with casual parking in the immediate area, this though cannot influence the decision on the matter which has to be considered based on the type of application made and the prevailing material planning considerations. Similarly the imminent delivery of the improvements to the Heads of the Valleys Road is not a material consideration in the determination of this planning application.

Other Issues

The site is constrained by a number of factors.

Firstly, there is the issue its relationship with the Heads of the Valleys Road improvement project which will sterilize a portion of the north western flank of the site. The Welsh Government Highways Division have expressed a preference to review the extent of the sterilisation zone previously applied to this site as there may be a requirement for a greater land take than originally envisaged to deliver the road improvements.

Secondly, a further area of the site is compromised by the presence of an electricity pylon.

Thirdly, the site is a steep sided former tip which is likely to require remediation.

Whilst these factors constrain the potential of the site it remains capable of delivering a small amount of housing and the proposal should be supported particularly given current requirements to boost diminishing housing land supply.

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.

Section 106 Contributions / Planning Obligations

Section 106 of the Town and Country Planning Act (as amended) enables local planning authorities and developers to agree to planning obligations to require operations or activities to be carried out on land (in-kind obligations) or require payments to be made (financial contributions), to mitigate any unacceptable impacts of development proposals.

The Community Infrastructure Levy (CIL) Regulations 2010, with effect from 6 April 2010, state that a planning obligation (under S.106) may only legally constitute a reason for granting planning permission if it is:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and,
3. fairly and reasonably related in scale and kind to the development.

Guidance regarding what types of obligations developers may be expected to contribute towards is also contained within Policy AW4 of the Local Development Plan

and the Council's SPG on Planning Obligations, however it is made clear that this is intended to form the basis of negotiations between all parties.

The Section 106 requirements in this case

The earlier applications relating to the development of this site required the provision of a transport tariff payment and the provision of affordable housing on site.

However, following the introduction of CIL only affordable housing is now sought at 10% of the overall number of units to be provided on the site.

Conclusion

In conclusion, the principle of a residential development remains acceptable under the current Local Development Plan and in the context of Planning Policy Wales 10, in light of this, the current application should be supported.

RECOMMENDATION: Approve subject to conditions and the applicants entering into a Section 106 agreement to secure 10% affordable housing on the site

1. (a) Approval of the details of the layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter referred to as "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(b) Plans and particulars of the reserved matters referred to in (a) above relating to the layout, scale and appearance of any building to be erected, the means of access to the site and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

(c) Applications for the approval of reserved matters shall be made before the expiration of three years from the date of this permission.

(d) The development hereby permitted shall be begun before whichever is the latter of either (i) the expiration of 5 years from the date of this permission or (ii) the expiration of 2 years of the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

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

2. Before the submission of the application for the approval of reserved matters, a detailed site investigations report shall be submitted to and approved in writing by the Local Planning Authority. The report should be

sufficiently detailed to establish if any ground precautions are necessary in relation to the proposed development and the precautions that should be adopted in the design and construction of the proposed development in order to minimise any damage which might arise as a result of ground condition. The development, hereby permitted, shall be carried out in accordance with the recommendations of the approved site investigations report.

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

3.
 - 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.
 - 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.
 - 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

4. No dwelling, hereby permitted, shall not be occupied until the measures approved in the scheme (referred to in Condition 3) 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.

5. 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.

6. No development shall take place until details of the drainage arrangements

to serve the development have been submitted to and agreed in writing by the Local Planning Authority. No dwelling hereby approved shall be occupied until the drainage works have been completed in accordance with the approved plans.

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

7. Prior to the submission of details for the approval of reserved matters, the applicants shall submit plans for the agreement of the Local Planning Authority working in conjunction with the Welsh Government of details of the extent of a buffer zone on the site within which no development will be allowed.

Reason: In order not to prejudice the Welsh Assembly Government's proposals for the dualling of the A465 trunk road.

8. No development whatsoever shall take place until a wildlife protection plan for construction has been submitted to and approved in writing by the Local Planning Authority.

- a) An appropriate scale plan showing Protection Zones' where demolition 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 demolition;
- c) A timetable to show phasing of demolition activities (if any are proposed) to avoid periods of the year when sensitive wildlife and species could be harmed;
- d) Details of specific species and habitat mitigation measures for key species including bats, and birds;
- e) Details of any boundary vegetation clearance;
- f) Details of wildlife sensitive lighting proposals for demolition and operation; and,
- g) Details of water pollution control measures.

Persons responsible for:

- i) Compliance with legal consents relating to nature conservation;
- ii) Compliance with planning conditions relating to nature conservation (Ecological Clerk of Works);
- iii) Installation of physical protection measures and management during demolition;
- iv) Implementation of sensitive working practices during demolition;
- v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during demolition;
- vi) Specific species and Habitat Mitigation measures; and,
- vii) Provision of training and information about the importance of the

'Protection Zones' to all demolition personnel on site.

Reason: In the interests of ecology and biodiversity and having regard to policy AW8 of the Rhondda Cynon Taf Local Development Plan.

9. No development shall take place until full details for reptile and bird mitigation have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustaining local biodiversity.

10. The site shall be served by a single means of access from Trewaun via Hirwaun Road.

Reason: In the interests of highway safety.

11. Notwithstanding the submitted plans, no works whatsoever shall commence on site until full engineering details of the road layout with sections, street lighting and surface water drainage etc. have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved engineering details.

Reason: To ensure the adequacy of the proposed development in the interests of highway safety.

12. The development shall not be brought into beneficial use until space has been laid out within the site for vehicles to be parked in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to development commencing.

Reason: To ensure that adequate parking facilities are provided within the curtilage of the site.

13. The existing highway, Trewaun, serving the proposed development site shall be improved in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to any works commencing on site. The approved details shall be fully implemented prior to the beneficial occupation of any dwelling hereby approved.

Reason: In the interests of highway safety.

14. No works whatsoever shall commence on site until design calculations, duly certified by a professional engineer and constructional details of retaining walls abutting the highway have been submitted to and approved in writing by the Local Planning Authority. Any retaining wall abutting the highway shall be constructed in accordance with the approved details prior to the beneficial occupation of any dwelling approved on the site.

Reason: In the interests of highway safety.

15. Prior to the commencement of development, facilities for wheel cleansing shall be provided on site in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Wheel Cleaning shall be carried out in accordance with the approved details throughout the site preparation and construction phases of the development.

Reason: In the interests of highway safety.

16. Details submitted pursuant to reserved matters shall include proposals for additional off street parking space to be provided for the benefit of established housing at Trewaun. Such detail as may be agreed shall be fully implemented and available for use prior to the first occupation of any dwelling at the site.

Reason: In order to secure an adequate amount of car parking to serve the locality in the interests of avoiding increased vehicular congestion.