



## **PLANNING & DEVELOPMENT COMMITTEE**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 19/1236/13 (KN)  
**APPLICANT:** Mr R Turner  
**DEVELOPMENT:** Outline application for 5 No self build plots with all matters reserved.  
**LOCATION:** SION TERRACE, TIRFOUNDER ROAD, CWMBACH, ABERDARE  
**DATE REGISTERED:** 28/11/2019  
**ELECTORAL DIVISION:** Cwmbach

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#### **RECOMMENDATION: Approve**

**REASONS:** The application site is located within the defined settlement boundary and within an established residential area that is well connected in terms of the sustainable transport options and services and amenities on offer. The principle of developing the site for residential purposes is therefore considered to be acceptable.

The application is made in outline with all matters reserved for future consideration however, the submitted indicative site layout plan indicates that the site could be developed to have a limited impact upon the character and appearance of the site and surrounding area, upon the amenity and privacy of existing residential properties and upon highway safety in the vicinity of the site.

The application therefore complies with the relevant policies of the Local Development Plan.

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#### **REASON APPLICATION REPORTED TO COMMITTEE**

- The proposal is not covered by determination powers delegated to the Director of Prosperity & Development

#### **APPLICATION DETAILS**

Outline planning permission is sought for the construction of 5 dwellings on a parcel of land that is situated at the rear of Sion Terrace, Tirfounder Road, Cwmbach. All matters of detail are reserved for future consideration however, an indicative site layout plan has been submitted which indicates how the site may be developed. Whilst the application forms state that the site is located at the rear of Sion Terrace, it is

considered that it is more accurately described as being located at the rear of Crown Row.

The indicative site layout plan indicates that the proposed dwellings would be located towards the most north-eastern boundary of the site with access being provided off an existing access between 6 & 7 Crown Row. An enclosed garden and off-street parking provision would be provided for each property.

Details submitted with the application indicate minimum and maximum dimensions for each dwelling, as detailed below:

- Plot 1: min. width: 10m, max. width: 21m; min. depth: 9.5m, max. depth: 13m; min. height: 8m, max. height: 10m;
- Plot 2: min. width: 10m, max. width: 15m; min. depth: 9.5m, max. depth: 15m; min. height: 8m; max. height: 10m;
- Plot 3: min. width: 10m, max. width: 15m; min. depth: 9.5m, max. depth: 15m; min. height: 8m, max. height: 10m;
- Plot 4: min. width: 10m, max. width: 15m; min. depth: 9.5m, max. width: 15m; min. height: 8m, max. height: 10m;
- Plot 5: min. width: 11m, max. width: 18m; min. depth: 11m, max. depth: 18m; min. height: 8m, max. height: 10m.

The application is accompanied by the following:

- Coal Mining Risk Assessment (2016);
- Ecological Survey Report (2017);
- Preliminary Ecological Appraisal (2016)

## **SITE APPRAISAL**

The application site relates to an irregular shaped parcel of land that is situated on the steep slope between properties in Crown Row, Tirfounder Road and Bron Haul in the village of Cwmbach. Measuring approximately 0.62 hectares, the site slopes from north-east to south-west and is predominantly characterised by a bank of bracken/bramble. Access to the site is currently gained via an unmade track and farm gate between no's. 6 & 7 Crown Row.

The surrounding area is predominantly residential in character with typical two-storey terraced properties located in Crown Row to the south-west and two-storey, semi-detached properties located in Bron Haul to the north-east. Cwmbach Church in Wales Primary School and a Public Right of Way (CWM/12/2) are located to the eastern boundary whilst an area of mature ancient woodland and a brook is located to the western boundary.

## **PLANNING HISTORY**

17/0195	Land to the rear of Sion Terrace, Cwmbach, Aberdare	Outline planning application for residential development of	Refused 27/06/17  Appeal:
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approximately 15 dwellings, open space, landscaping, drainage features and associated infrastructure with all matters reserved except for access. Allowed with Conditions 15/06/18

## **PUBLICITY**

The application has been advertised by means of direct neighbour notification and through the erection of site notices in the vicinity of the site. No letters of objection or representation have been received.

## **CONSULTATION**

Coal Authority – No objection, subject to condition

Countryside, Landscape, Ecology – No objection, subject to condition and S106 agreement

Cynon Valley Ramblers – No response received within the statutory consultation period

Dwr Cymru Welsh Water – No objection, subject to condition and advisory note

Fire Service – Consideration should be given to the provision of adequate water supplies for firefighting purposes and access for emergency firefighting appliances.

Flood Risk Management – No objection, subject to conditions

Highways and Transportation – No objection, subject to conditions

Natural Resources Wales – No objection

Public Health and Protection – No objection, subject to conditions

Public Rights of Way Officer – No response received within the statutory consultation period

Western Power- No response received within the statutory consultation period

## **POLICY CONTEXT**

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

The application site is located inside the defined settlement boundary, within the Northern Strategy Area. It is not allocated for any specific purpose.

**Policy CS1** – focuses on developing sustainable communities to support and reinforce the role of the Principle Town of Aberdare, achieved by providing high quality, affordable accommodation and ensuring the removal and remediation of under used and previously used land.

**Policy CS4** – defines housing land requirements.

**Policy AW1** – sets out the means by which new housing will be delivered through the 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 the 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 as a result of flooding.

**Policy NSA10** – reinforces housing density targets for residential development proposals, stating that proposals should be a minimum of 30 dwellings per hectare.

**Policy NSA12** – provides criteria for development within settlement boundaries.

## **Supplementary Planning Guidance**

Design and Placemaking

Nature Conservation

Planning Obligations

Access Circulation and Parking

## **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, which 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 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 2 achieving wellbeing through placemaking  
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 1: Joint Housing Land Availability Studies;  
PPW Technical Advice Note 5: Nature Conservation and Planning;  
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:**

It is considered that the key considerations in the determination of this planning application will be whether the principle of residential development at the application site is acceptable in the first instance, and if so, whether the site is capable of accommodating the proposed dwellings, associated means of access/parking/turning facilities and sufficient amenity space without resulting in a detrimental impact upon the amenity and privacy of neighbouring properties; the character and appearance of the surrounding area; and highway safety in the vicinity of the site.

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

Policies AW1, AW2 and NSA12 primarily seek to promote development in sustainable locations and within defined settlement boundaries, as defined by the Rhondda Cynon Taf Local Development Plan, in order to ensure that the development does not unacceptably conflict with surrounding uses, is accessible by a range of sustainable modes of transport and is in close proximity to key services and facilities.

In the case of this application, the site is located within the defined settlement boundary and within an established residential area. It has good access to local services and facilities such as schools and shops and, with local bus and train services within

walking distance, it is considered to have good access to a range of sustainable modes of transport. The proposal would therefore be compatible with surrounding land uses and would comply with the general thrust of planning policy at both national and local level. Furthermore, the use of the site for residential purposes has already been established through the consideration of a previous outline application (ref. 17/0195) for 15 dwellings. The application was originally refused on highway and ecology grounds but was subsequently allowed (with conditions) at appeal.

It is also noted that the RCT Joint Housing Land Availability Study 2019 calculates the current supply to be 1.3 years which is a deficit of 3.6 years against the minimum required by national policy. As such, the proposed development would go some way to increasing the Authority's housing land supply.

There is some concern that the proposal would not comply with Policy NSA10, which requires a minimum net residential density of 30 dwellings per hectare. With only 5 dwellings proposed on a site measuring approximately 0.62 hectares, the net residential density would equate to approximately 8 dwellings per hectare, which is significantly below the minimum requirement. However, the policy does allow for lower density levels where it can be demonstrated that they are necessary to protect the character of the site or the surrounding area; to protect the amenity of existing or future residents; and, they still make adequately efficient use of the site. It is considered that due to the sloping nature of the site and its relationship with existing properties, a lower density would be acceptable in this instance. Furthermore, the highway network surrounding the site is considered to be sub-standard and a reduction in the number of units would therefore present an improvement to what could potentially occur through the implementation of the 15 units allowed at the previous appeal.

In light of the above, the proposal to develop the application site for residential purposes is considered to be acceptable in principle, subject to an assessment of the criteria set out below.

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

The application has been made in outline with all matters reserved for future consideration. As such, no details are required to be submitted with regards to the overall design of the proposal however, the application is accompanied by an indicative site layout plan which indicates how the site may be developed.

The plan indicates that the site would be accessed via a new private driveway between no's. 6 & 7 Crown Row with the proposed dwellings being located towards the north-eastern boundary. The steeply sloping nature of the site will inevitably influence the siting of the proposed dwelling however, it is considered that arranging the site in this way is acceptable in principle. Furthermore, the proposed minimum and maximum dimensions, including a ridge height range between 8m and 10m, are also considered to be acceptable.

### **Impact on residential amenity and privacy**

Whilst the exact siting, scale and design of the proposed dwellings would be considered at reserved matters stage, it is considered that the site could be developed in such a way so as to have a limited impact upon existing residential properties.

Whilst no sections have been submitted with the application to demonstrate the potential impact of the proposed dwellings on existing properties in Bron Haul and Crown Row, the indicative site layout plan indicates that the proposed dwellings would be sited closer to properties in Bron Haul, which are located at a higher ground level, than to properties in Crown Row, which are located at a lower ground level. Therefore, given the differences in ground level and the separation distances that would be maintained between habitable windows, it is unlikely that the proposed dwellings would give rise to a significant overbearing, overshadowing or overlooking impact that would warrant the refusal of the application.

### **Access and highway safety**

The application has been assessed by the Council's Highways and Transportation Section in order to determine the potential impact of the proposal on highway safety in the vicinity of the site. The comments received raise some concern that the access road leading to the site via Crown Row/Sion Terrace is sub-standard in terms of width for two-way vehicular movement, junction radii with Bridge Road, forward vision onto Sion Terrace from Bridge Road and lack of segregated footway facilities to accommodate the increase in vehicular and pedestrian movement associated with the proposal. However, taking into account the previous appeal decision (ref. 17/0195) whereby the inspector approved a housing development for up-to 15 dwellings served off the same sub-standard access point, the proposal is, on balance, considered to be acceptable and no objection is raised, subject to conditions.

### **Other Issues:**

The following other material considerations have been taken into account in considering the application, though were not the key determining factors in reaching the recommendation.

### **Public Health**

The Council's Public Health & Protection Section have raised no objections to the proposal, however, a number of conditions have been suggested in relation to hours of operation, noise, waste and dust. Whilst these comments are appreciated, it is considered that issues relating to hours of operation, noise, dust and waste can be more efficiently controlled by other legislation and the suggested conditions are not considered necessary. An appropriate informative note is considered to be sufficient in this instance.

### **Land Drainage**

The application has been assessed by the Council's Flood Risk Management Team in order to determine the potential impact of the proposal on land drainage. The comments received indicate that the site is situated adjacent to a high risk ordinary watercourse and concern would be raised if surface water was proposed to be

discharged to it. As such, a condition has been recommended to ensure that the proposal would not have a negative impact on existing properties surrounding the site.

## **Ecology**

The application is accompanied by an Ecological Survey (dated 2017) which has been assessed by the Council's Ecologist. The report acknowledges that there are records of Bats in the area, together with other protected species and subsequently identifies a series of mitigation measures which need to be secured via a condition. The report also highlights the need for long-term management of the mitigation buffer/grassland zone, which would need to be secured for the long term via a S106 agreement.

## **Community Infrastructure Levy (CIL) Liability**

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

As planning permission first permits development on the day of the final approval of the last of the reserved matters, CIL is not payable at outline stage, but will be calculated for any future reserved matters or full applications. However, the application site lies within Zone 1 of Rhondda Cynon Taf's residential charging zones where a £nil charge is applicable. Therefore, no CIL will be 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.

Welsh Office Circular 13/97 Planning Obligations provides procedural guidance on the role of planning obligations in mitigating the site-specific impacts of unacceptable development to make it acceptable in planning terms. The Welsh Government Development Management Manual also advises planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition and when it meets the three tests above. Further 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 developer will be required to enter into a S106 agreement for the following:

- Nature conservation – the agreement of a public open space management plan which includes the set-up, design and long term management of the ecological mitigation areas;
- The revocation of the previous planning permission (ref. 17/0195/13).

It is considered that these requirements meet all of the above tests and are compliant with the relevant legislation.

## **Conclusion**

The application is considered to comply with the relevant policies of the Local Development Plan in respect of the impact it would have on the character and appearance of the site and surrounding area, the impact it would have on the amenity and privacy of surrounding residential properties and in terms of the impact it would have on highway safety in the vicinity of the site.

## **RECOMMENDATION: Approve subject to S106 Agreement**

1. (a) Approval of the details of the access, layout, scale and appearance of the building(s) 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 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 3 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.

2. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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.

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.

3. Prior to the construction of the dwellings hereby approved samples of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

4. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the residential 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.

5. Notwithstanding the submitted plans, development shall not begin until design and details of the private shared access including its tie in with Sion Terrace and surface-water drainage details have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented to the satisfaction of the Local Planning Authority prior to beneficial occupation of the dwellings.

Reason: In the interests of highway 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 09:30am to 3.00pm weekdays, 09:00am to 13:00pm Saturdays with no deliveries on Sundays and Bank Holidays.

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

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

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

8. 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) loading and unloading of plant and materials,
  - e) storage of plant and materials used in constructing the development,
  - f) wheel cleansing facilities,
  - 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.

9. Prior to the commencement of the development, a report indicating a methodology for undertaking a conditions survey of Sion Terrace, Tirfounder Road & Bridge Road affected by the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The report should include: the timescales for undertaking the surveys and the method(s) of reporting the findings to the Local Planning Authority; comprehensive photographs; and potential compensation arrangements. The development shall not be brought into use until the final survey on completion of the development hereby approved and any compensation arrangements have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the extraordinary traffic use arising from the proposed development does not have an adverse impact on highway safety.

10. No development shall take place until a Species, Tree and Habitat Protection Plan for Construction has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
- a) An appropriate scale plan showing 'Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
  - b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
  - c) A timescale to show phasing of construction activities to avoid periods of the year when sensitive wildlife and species could not be harmed;

- d) Details of specific species and habitat mitigation measures (including bat, nesting bird and reptile);
- e) Details of wildlife sensitive lighting proposals;
- f) Details of water pollution control measures;
- g) Details of invasive plant control and removal;
- h) Details of trees and hedgerow protection;
- i) An agreed scheme of progress reporting to the Council during the construction programme. Persons responsible for:
  - i. Compliance with legal consents relating to nature conservation;
  - ii. Compliance with planning conditions (Ecological Clerk of Works);
  - iii. Installation of physical protection measures and management during construction;
  - iv. Implementation of sensitive working practices during construction;
  - v. Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
  - vi. Specific species and Habitat Mitigation measures;
  - vii. Provision of training and information about the importance of the 'Protection Zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan.

Reason: In the interests of maintaining biodiversity in accordance with Policy AW8 of the Rhondda Cynon Taf Local Development Plan.

11. Prior to the occupation of the dwellings hereby approved a plan indicating the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as approved before the buildings are occupied.

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

12. Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.

Reason: In the interests of the amenity and privacy of neighbouring residential properties, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

13. No development shall commence until a scheme has been submitted to and approved in writing by the local planning authority of 'intrusive site investigations' and shall include:

a) A programme for the undertaking of that scheme of intrusive site investigations;

b) The submission of a report of findings arising from the intrusive site investigations; and

c) The submission of a scheme of remedial works for approval in writing by the local planning authority.

The remedial works shall be fully implemented prior to the development first being brought into beneficial use.

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