



## **PLANNING & DEVELOPMENT COMMITTEE**

**3 DECEMBER 2020**

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

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

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 20/0464/10 (GW)  
**APPLICANT:** WDL Homes Ltd  
**DEVELOPMENT:** Proposed residential development and associated works.  
**LOCATION:** LAND AT COLEG Y CYMOEDD, CWMDARE ROAD,  
ABERDARE  
**DATE REGISTERED:** 09/11/2020  
**ELECTORAL DIVISION:** Aberdare West/Llwydcoed

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#### **RECOMMENDATION: REFUSE**

**REASONS:** The development site is outside the settlement boundary identified in the Rhondda Cynon Taf Local Development Plan (LDP). Residential development is not supported by policy in such locations and no suitable justification, as an exception to the relevant policy, has been submitted.

The benefits of providing the proposed dwellings and contributions for improved play facilities and education would not outweigh the conflict with policy and therefore, on balance, the application is recommended for refusal.

**As such the proposal would conflict with Policies AW1, AW2 and NSA12.**

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

The application is reported to the Committee for final determination as it proposes 5 or more dwellings.

#### **APPLICATION DETAILS**

Full planning permission is sought for 7 dwellings at the application site. The proposal would essentially form an extension to a development of 87 dwellings already permitted at the former Coleg y Cymoedd site in Cwmdare (and currently under construction). The new dwellings would be located on part of the land that was

allocated for Public Open Space as part of the previous scheme and would be accessed from the roads within that development, leading from Cwmdare Road.

The 7 dwellings would be situated to the east of the formal playground area that would be provided for the development currently under construction. The proposal is for 3 and 4 bed dwellings of similar types to those being provided at the adjacent development site. They would be of a similar design and materials to those dwellings already approved.

The application is accompanied by the following:

- Cover Letter
- Planning Statement
- Ecological Appraisal Report and Additional Report
- Habitat Creation Plan by BSG Ecology
- Tree Survey
- Landscape Specification & Management Plan
- Written Scheme of Investigation for Archaeological Works

## **SITE APPRAISAL**

The site is located with an open area of land to the north of the former Coleg y Cymoedd Campus in Cwmdare. The former college site is currently being developed in relation to the 87 dwellings already granted permission (19/0116). This and the proposed site would be accessed from Cwmdare Road.

The site is bound to the west by Maesgwyn School and to the south by a residential development at the former Aberdare High School, located on the opposite side of Cwmdare Road. To the east is the B4275, Hirwaun Road and a small number of residential dwellings. The site is bound to the north by the remainder of the open field/greenfield land which houses a single residential dwelling.

## **PLANNING HISTORY** (Relevant to this application)

20/0365/39	Plot 82, Coleg Y Cymoedd, Cwmdare Road, Cwmdare	Provision of garden room for plot 82 of planning consent 19/0116/16.	Granted 04/05/2020
20/0152/39	Coleg Y Cymoedd, Cwmdare Road, Cwmdare	Provision of garden room for plot 87 of planning consent (19/0116/16).	Granted 10/03/2020
19/5116/41	“ “	Pre-application enquiry for construction of 7 new units and associated works.	Raise no objection 23/10/2019

19/1112/39	“	“	Provision of garden room for plot 3 and plot 85 of planning consent (19/0116/16).	Granted 15/10/2019
19/0309/38	“	“	Discharge of conditions: 5 (Scheme of Historic Investigation), 7 (Species and Habitat Protection Plan), 9 (Arboricultural Impact Assessment). 12 (Drainage Strategy), 15 (Internal Highway works) of previously approved outline planning application 16/1390 for development of dwellings.	Granted 06/09/2019
19/0580/38	“	“	Discharge of conditions 13 (external highway works) and 14 (traffic regulation order) of planning permission ref. 16/1390 for residential development.	Granted 21/08/2019
19/0116/16	“	“	Application for reserved matters approval (appearance, landscaping, layout, access and scale) and discharge of conditions 8 (Landscape Mitigation Plan), 10 (Site Investigation Report), 11 (Contamination Report) and 21 (Tree Protection) in respect of 87 dwellings and associated works (16/1390/13)	Granted 17/07/2019
18/0346/38	“	“	Discharge of condition 6 (Construction Method Statement) & part discharge of condition 7 (Demolition Method Statement) of previously approved planning application 16/1390/13.	Discharged 20/03/2019
16/1390/13	“	“	Demolition of existing buildings and development of up to 110	Granted 13/10/2017

dwellings, provision of public open space, landscaping and associated infrastructure.

## **PUBLICITY**

The application was advertised via the erection of site notices and by direct neighbour notification. One letter of objection has been received at the time of writing this report. The contents are summarised below:

- We strongly object to the surface water to be discharged to the existing water course, which runs under our property. The site under development is extremely wet and is likely to become waterlogged regularly. The volume of surface water is likely to be very high. We are therefore concerned about the volume of water that is likely to be pumped into the water course, and are concerned that the level of the water is likely to be raised to such a high level during rainy periods that our property will be flooded.
- We are also concerned about the proposed fencing surrounding the development site. The plans show the fences surrounding our property at very close proximity to our hedge at the side of our garden and the wall at the bottom. We would like assurance that no damage will be caused to the hedge, trees and wall surrounding our garden. We have a holly tree within the boundary of our garden that is very precious to us and are worried that this will be damaged by the fencing.
- Behind the holly tree, just outside our boundary is another tree. Firstly, it provides a busy and valuable environment for birds and other wildlife and we feel that it would be an act of ecological vandalism to remove it. Secondly, it will provide an essential shield for us – our bathroom window looks out onto this tree and if it is removed then the new houses will have a clear, close and unshielded view into our bathroom, which will not be pleasant for anybody!

## **CONSULTATION**

**Dwr Cymru / Welsh Water** – We advise that the site will eventually drain to our Cynon Waste Water Treatment Works and as a consequence how the available capacity is apportioned amongst new development is a matter for the Local Planning Authority.

To ensure there is no detriment to the public sewerage system we request that should you be minded to grant planning permission the following condition is necessary with additional Advisory Notes:

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

**Glamorgan Gwent Archaeological Trust** - We commented on the adjacent application for residential development (16/1390/13) in our letter dated 1st February 2017, when we recommended a condition requiring the submission of a Written Scheme of Investigation (WSI), detailing an archaeological watching brief, be attached to any consent. Similar archaeological potential exists for the current application as was the case for 16/1390/13 and we note the submission of an addendum to the existing WSI, updating the document to include the current application area. To ensure adherence to the stated mitigation strategy in the WSI we recommend that a condition should be attached to any consent granted by your Members.

**Natural Resources Wales** – No objection. From the information provided it would seem there will be no impacts on any potential bat roosting features on trees. We note that the Ecological Appraisal – Coleg Y Cymoedd: Additional Units, by BSG Ecology, dated May 2020 states “There are no potential roosting features in any of the trees within the site boundary”.

We recommend you seek the advice of your in-house ecologist to determine if there is a reasonable likelihood of bats, a European Protected Species, being present within the application site. If so, in accordance with Technical Advice Note 5: Nature Conservation and Planning (paragraph 6.2.2), a bat survey may be required.

**RCT Countryside, Landscape and Ecology** – The ecology report has confirmed the overgrown nature of the pasture field which will house the development. It identifies a central area of moderately species rich neutral grassland (which includes some key indicators of species rich grassland). It also identifies the extending bramble fringe to the site and the old hedgerows around the perimeter. The report concludes loss of nesting bird habitat, likely reptile impact, and loss of bat foraging habitat. It does also confirm that mitigation/enhancement for loss of what is an area of local wildlife habitat will be hard to achieve within the development area. The provision of bat and bird boxes are recommended, with wildlife friendly landscaping and control of Japanese Knotweed the only mitigation options available.

The tree survey and layout do indicate retention of most of the eastern boundary tree/hedgerows, but removal elsewhere.

The development is effecting habitat of at least local wildlife value, which when considered with the adjacent wet fields that are subject of the S106 Management Plan for the already approved development, could be considered to form part of a habitat area that justifies SINC criteria, as bird/bat habitat and with potential for reptiles, and old, moderate species rich ex-pasture. As the ecology report identifies, the site does not have the potential to provide mitigation to off-set biodiversity loss, let alone provide biodiversity enhancement.

Notwithstanding this loss, the subsequent Habitat Creation Plan submitted would provide strategic ecological enhancement immediately adjacent the application site.

The mitigation identified in both ecology reports can be secured by conditions if permission were to be granted.

**RCT Education & Lifelong Learning** – No comments received at the time of writing this report.

**RCT Flood Risk Management** – On review of the location's risk of flooding it is noted that along the southern perimeter and within there is a High (Q30) surface water flood risk along the length of the watercourse.

The developer should be made aware that if they intend to undertake works to an ordinary watercourse (open channel or culvert) then they will require Ordinary Watercourse Consent prior to the works taking place.

The applicant has indicated that the sites surface water drainage will discharge through sustainable development however further information is required. Therefore, a condition requiring that no development shall commence until all relevant matters with regard to drainage details have been approved in writing by the Local Planning Authority is suggested.

From the 7th January 2019 all surface water drainage for new developments are required to comply with mandatory National Standards for Sustainable Drainage Systems which will be demonstrated through the application of Sustainable Drainage Approval to the Sustainable Drainage Approval Body prior to the commencement of works. This requirement is outside of the Town and Country Planning Act.

**RCT Parks** – The proposal would reduce Public Open Space and fails to meet the standards for the provision of adequate open space as highlighted by the Fields in Trust criteria. Off-site mitigation could be secured with a £7,000 payment to secure improved facilities at the playground area for the Coleg y Cymoedd site.

**RCT Public Health and Protection** – No objection subject to conditions in respect of demolition of dwellings, hours of operation, noise, dust and waste.

Previous intrusive investigations undertaken on this land (under condition 11 of Planning Consent 16/1390/13 which related to a wider area), identified potential contaminants of concern which required remediation in areas of soft landscaping and residential gardens. The land forming this fresh application is not believed to have been remediated as part of the earlier application, since it was being put to a less sensitive use (Public Open Space). Therefore, a condition is required to obtain a scheme to deal with contamination.

**RCT Transportation Section** – The proposed development of 7 dwellings provides for satisfactory access, circulation and parking in accordance with the Council's SPG: Access, Circulation and Parking and Design Guide. Therefore, on this basis, the proposal is considered acceptable and no objections are raised subject to the following

conditions: full engineering design and details of internal layout, a construction method statement and the provision of a Travel Plan for future occupiers of the dwellings.

**RCT Waste Services** – No comments received at the time of writing this report.

## **POLICY CONTEXT**

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

The site is located outside the defined settlement boundary, north of the former Coleg y Cymoedd Campus off Cwmdare Road in the Northern Strategy Area. The site was allocated in the local plan for educational development (NSA 28), although the new campus was instead erected at the Robertstown Strategic Site. The site is bordered by a Green Wedge (NSA 24.7 – Land between Penywaun and Cwmdare/Trecynon), however it does not encroach into this designation. Further, the site lies entirely within a coal mineral resource area (AW 14.4), although the minerals have already been sterilised by surrounding development.

**Policy CS 1** - emphasises building strong, sustainable communities in the Northern Strategy Area, to be achieved partly by promoting development in principal towns (1) and partly by promoting the re-use of previously developed land (3).

**Policies CS 4 and CS 5** - the policies identify that land is required to meet the housing requirements of 14,385 new dwellings in sustainable locations over the plan period. Of these, 1,770 should be affordable units, as set out in CS 5.

**Policy AW 1** - supports new housing inside the settlement boundaries and allocated sites.

**Policy AW 2** - promotes development in sustainable locations.

**Policy AW 4** - lists community infrastructure and planning obligation contributions which the Council may seek in respect of new development.

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

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

**Policy AW 7** - covers the protection and enhancement of the built environment.

**Policy AW 8** - sets out criteria for the protection and enhancement of the natural environment.

**Policy AW 10** - development proposals must overcome any harm to public health, the environment or local amenity.

**Policy AW 14** - protects the resources of coal from sterilisation.

**Policy NSA 10** - seeks a minimum housing density of 30 dwellings per hectare and gives criteria for accepting lower densities.

**Policy NSA 11** - seeks the provision of 10% affordable housing on residential development of 10 dwellings or more.

**Policy NSA 12** - gives criteria for housing development within settlement boundaries.

**Policy NSA 24.7** – Green Wedges have been identified in order to prevent coalescence between and within settlements. The Green Wedge covers the land between Penywaun and Cwmdare/Trecynon.

**Policy NSA 28** - Land adjoining the College is allocated for education development.

### **Supplementary Planning Guidance:**

Access Circulation and Parking  
Affordable Housing  
Design and Placemaking  
Nature Conservation  
Planning Obligations

### **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) (PPW) sets out the Welsh Government's current position on planning policy, which incorporates the objectives of the Wellbeing of Future Generations (Wales) Act in to planning.

It is considered that the proposed development is not consistent with the key principles and requirements for placemaking set out in PPW; and is also not consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

Other relevant national 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 12: Design;  
PPW Technical Advice Note 16: Sport Recreation and Open Space;  
PPW Technical Advice Note 18: Transport;  
PPW Technical Advice Note 23: Economic Development;  
PPW Technical Advice Note 24: The Historic Environment; 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.

## **Main issues:**

### **Principle of development**

The site is located outside the defined fixed settlement boundary of Aberdare, north of the former Coleg y Cymoedd Campus off Cwmdare Road in the Northern Strategy Area. The site was allocated in the local plan for educational development (NSA 28) although the new Coleg y Cymoedd campus was instead erected at the Robertstown Strategic Site. The site is also bordered by a Green Wedge (NSA 24.7 – land between Penywaun and Cwmdare/Trecynon), however the proposed development does not encroach into this designation. Further, the site lies entirely within a coal mineral resource area (AW 14.4), although the minerals have already been sterilised by surrounding development. There are a number of considerations to be made in relation to this application.

### **Housing Need**

The applicant argues that the development would meet housing land supply and need. The Ministers, on the 26<sup>th</sup> March 2020, revoked PPW Technical Advice Note 1: Joint Housing Land Availability (TAN 1) in its entirety and as a consequence the Council will no longer follow the model in TAN 1 to demonstrate a five-year housing land supply. Instead, the Council will move to the Annual Average Requirement (AAR) method, tracking actual completions. It should also be noted that paragraph 4.2.15 of PPW 10, concerning the five-year housing land supply, has also been deleted in accordance with the Minister's letter of the 26<sup>th</sup> March 2020. Therefore, the argument set out within the applicant's planning statement, in relation to this issue, carries little weight in this regard.

### **Settlement Boundary and Whether Site is in a Sustainable Location**

The development is outside but adjoining the settlement boundary identified in the Rhondda Cynon Taf Local Development Plan. Therefore, the proposal conflicts with Policy AW 1.

With regard to Policy AW 2, this requires that development should meet a number of criteria to be considered a sustainable location for development. In relation to the first criterion, the site lies outside the defined Aberdare fixed settlement boundary in Trecynon/Cwmdare and therefore conflicts with part of criterion 1 of the policy.

Policy AW 2 also requires that it accords with Policy NSA 12 of the LDP. This provides for development within and adjacent to the defined settlement boundary in the Northern Strategy Area, subject to criteria. Aberdare however has a fixed settlement boundary, which aims to prevent development that would undermine the character of the area, result in the urbanisation of the countryside and potentially witness growth without the necessary infrastructure to support sustainable development. The Council would not normally allow development outside the defined Aberdare settlement boundary and any development contrary to the plan undermines confidence in the plan-led system. Furthermore, no assessment has been provided as to whether there are sites within the settlement boundary that remain undeveloped and which are capable of accommodating the number of residential units being proposed.

In terms of the other relevant criterion for Policy AW 2 there would be some conflict with surrounding land uses as there would be some loss of ecology. However, whilst the loss would be regretted, as detailed below there would be, on balance, no objection as beneficial mitigation can be provided elsewhere. Access to surrounding services and facilities would be similar to the adjacent residential estate under construction which has been considered a sustainable location for development.

In summing up, the development is outside the settlement boundary identified in the LDP. Residential development is not supported in such locations and no suitable justification, as an exception to the policy, has been submitted. The development would therefore conflict with Policies AW 1, AW 2 and NSA 12 of the LDP. This consideration is backed up by recent decisions made by the Minister for Housing and Local Government including: Appeal ref: APP/L6920/A/19/3226294 Land at Heol y Cefn, Cefn Fforest, Bedwellty, Caerphilly. The Minister detailed, "I am committed to a plan-led system in Wales and I consider the primacy of the adopted LDP is key to providing certainty for communities and developers, regarding the type and scale of development that will be permitted in local authority areas throughout Wales."

#### Allocation for College development

The site is allocated in the LDP for an extension to the Coleg Morgannwg (now Coleg y Cymoedd) campus (Policy NSA 28). The college has however subsequently been re-located on the Robertstown Strategic Site and as such development of the land for this purpose is no longer required. Notwithstanding this, development of the site, would not intrude into the adjacent Green Wedge which would retain its purpose of protecting the countryside and preventing coalescence, and it is conceded that the application site would somewhat offer a natural extension to the existing permitted site (for 87 dwellings), whilst being contained by surrounding designations and development. That being said, it remains outside the fixed settlement boundary, and if other types of development (i.e. residential) were considered acceptable, it would have been included within the settlement boundary of the LDP.

#### Impact on Public Open Space

The proposed 7 no. houses would be located within the red line area of an existing planning permission for 87 houses (19/0116) and on land identified as Public Open Space (POS) for that development. From the proposals submitted, it would appear that the existing area to the west of the current application site would still form an area of POS, with a children's play area, although somewhat reduced in size from that approved for the site of 87 dwellings (19/0116).

Approximately 1.1 ha of POS was indicated in application 19/0116 for the 87 houses. The current application reduces the POS by 0.38ha to 0.72ha. In assessing if 0.72ha is an acceptable area of POS, the Council's SPG on obligations indicates the previous permission had a 304 person demand and the new development increases this by 27. Taken from the calculations in the SPG the combined requirement of 331 persons for POS would be 0.7944ha. Whereas only 0.72ha is provided (in the area identified as POS) this would be a shortfall of approximately 0.07ha.

The applicant argues that this is acceptable as outline permission (16/1390) identified 110 houses were acceptable on the site and that the additional dwellings being proposed now would be within the total numbers approved. Members are advised that the 110 houses were however identified in an area for housing on the 'masterplan' for that application, and this number of houses would not have affected the 1.1ha of approved area for POS. As such, the under development of the approved housing area (for 87 houses) is not considered a reason that should carry significant weight in allowing the loss of POS.

The Council's Parks and Countryside Section have been consulted for their opinion on whether the remaining open space within the wider site is acceptable for both developments. They comment that the remaining area fails to meet the standards for the provision of adequate open space as highlighted by the Fields in Trust criteria. It is also noted the site is however on the rural fringe where residents could relatively easily access other open space in the area. The Council's Legal and Democratic Services Section state that if the remaining area of POS is not sufficient, further mitigation could be sought.

The information submitted suggests the applicant does not have any further land nearby to provide additional POS. Whilst POS would be lost as part of the proposal, it could be argued that there would be some benefits from having housing in the proposed location. In accordance with place-making principles (and as set out in the pre-application advice), the developer was encouraged (if submitting an application) to provide housing that overlooked the play area on both the permitted and proposed sites, in the interest of supervision and safety. It is noted that the 7 dwellings proposed as part of this site extension do indeed overlook the designated open space/play park and may provide some benefit in this matter.

The Council's Parks Section have further detailed that a payment of £7,000 from the developer could be used to mitigate the loss of open space to provide enhanced play facilities at the adjacent site. The applicant has been made aware of this and would

agree to the payment. Members are advised that the payment could be obtained by a Section 106 agreement if the development was permitted.

In summing up, whilst the remaining open space does not meet the Fields in Trust criteria, the site is located on the rural fringe where the countryside can be accessed relatively easily. In addition the agreed payment for enhanced facilities would offset the loss of public open space on site and would be considered necessary if permission were to be granted. Therefore, on balance, whilst the level does not accord with the criteria required by Policy AW 6, the Public Open Space issue would be considered acceptable.

### Density of development

Policy NSA 10 requires a minimum density of 30 dwellings per hectare in the Northern Strategy Area. The policy does however stipulate that lower density levels may be permitted where it can be demonstrated that: they are necessary to protect the character of the area; they are necessary to protect the amenity of existing or future residents; and they still make adequate efficient use of the site. During the pre-application stage, the applicant was asked to provide justification for the proposed lower density level for the site. The applicant argues that “...*the density of the proposed development is considered to be acceptable in order to provide a well-designed development that makes efficient use of the land and meets planning policy requirements*”. No further argument or point is made in this regard. It is acknowledged that the topography of the site, which slopes upward towards the north, could be a factor in not meeting the requirement of 30dph in this instance, however this point is not raised by the applicant. The site is also on the rural fringe where density is normally lower. The site is approximately 0.3 hectares in size, which equates to 20dph, this is shy of the minimum density level set by the policy. An additional 2 or 3 dwellings would be required on the site to meet the policy requirements. On balance however, as detailed above, the density of the proposed residential development would be considered acceptable in this location as it would help protect the character of the area.

### PPW Placemaking principles

The pre-application advice requested that the applicant provide information evidencing that the site is in line with the placemaking principles, well-being goals and the five ways of working, as set out in PPW 10 and the Well-being of Future Generations (Wales) Act. Such evidence is not present within the Planning Statement that accompanies this application. There is however a focus on the five-year housing land supply issue, which has been subsequently deleted from national planning policy. Notwithstanding this and that the site is outside the settlement boundary, it is evident that the proposal would link in to the highways arrangement of the earlier approved development and would somewhat complement the character of that proposal.

### Education Contribution

The original proposal for 87 dwellings required an education contribution. The additional dwellings at the site would result in increased demand for education services. As detailed in the pre-application meeting with the applicant, if the other issues with the application are acceptable, a section 106 agreement for an education contribution for primary school places would be necessary. The education contribution for the previous application for 87 dwellings was £343,196 for primary school places. Therefore, for this proposal the contribution for 7 dwellings would be £24,514. The applicant has agreed to this contribution which could be obtained via a Section 106 agreement. As such, if the contribution is paid it would cover some of the burden of additional education demand as a result of the development.

### Summing up

In summing up, the site is outside the settlement boundary and conflicts with Policies AW 1, AW 2 and NSA 12. Recent Welsh Government decisions have reiterated the importance of a plan-led system.

The allocation of the land for an extension to the former college (Policy NSA 28) carries little weight as the college has moved and therefore this development requirement has been removed.

There are issues with the shortfall in Public Open Space and the proposed low density of development, however these would be acceptable as detailed above.

The development could however be seen somewhat as a natural extension of the already approved housing scheme. It would be connected to the existing highways network, would somewhat complement the character of the approved residential scheme and could aid overlooking of the remaining Public Open Space. Furthermore, a financial contribution for improved play facilities would be provided and an education contribution would be provided to offset the school places demand it would generate.

Whilst it is accepted the proposed development would provide some benefits, it is not considered these benefits outweigh the conflict with LDP policies. Particularly to the Aberdare area, where the settlement boundary has been designed in order to control housing development outside defined settlement policy boundaries.

Therefore it is recommended the proposal would not be acceptable in principle.

### **Impact on Ecology**

Section 6 (para 6.4.5) of Planning Policy Wales states, "Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity."

The submitted ecology report concludes there would be a loss of nesting bird habitat, likely reptile impact, and loss of bat foraging habitat. It also confirms that mitigation/enhancement for the loss of what is an area of local wildlife habitat will be hard to achieve within the development area. The only mitigation options recommended are: the provision of bat and bird boxes, wildlife friendly landscaping and the control of Japanese Knotweed. The Council's Ecologist considers the development will be effecting habitat of at least local wildlife value and that could be considered to form part of a habitat area that justifies Site of Importance for Nature Conservation (SINC) criteria. Therefore, it is not considered the measures proposed would be sufficient to mitigate the loss identified.

In response, the applicant has submitted an updated ecology report with a habitat enhancement plan for land outside and to the north of the application site. The mitigation area referred to is not within the current applicant's ownership and it is understood to be owned by Coleg y Cymoedd.

No objection has been raised to this by the Council's Ecologist subject to conditions for improvements on site and to the adjoining mitigation area. On balance, it is considered that whilst biodiversity at the site would be significantly diminished, the mitigation at the adjoining site would be a benefit. The development therefore demonstrates that it could provide a net benefit for biodiversity as required by Section 6.4.5 of Planning Policy Wales (PPW) and would accord with the requirements of Policy AW 8 of the Local Development Plan in respect of its compatibility and impact on ecology.

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

The proposed residential development would result in the loss of some open countryside space. However, due to the position of existing houses on Hirwaun Road to the east and Nantgwyn to the west and the development under construction on the former college site, the proposed development could somewhat be seen as a natural rounding-off of the settlement boundary. It would also not affect the adjoining Green Wedge area.

The layout proposed is similar to that on the approved part of the former college site and the density of housing being proposed is considered acceptable in this location. The range of housing types and the design, size, scale and finishing materials would be acceptable.

Taking into account the above assessment, on balance, it is considered the development would not result in a significant detrimental visual impact to the character of the site and the area as a whole.

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

An objection has been received, as part of the public consultation exercise, detailing that there could be a loss of privacy to a neighbouring dwelling as a result of a tree being removed. Whilst this is noted and it is appreciated that views maybe opened up as a result of some vegetation being removed, it is considered that there would be an acceptable distance between the existing dwellings and the proposed to protect amenity. For example, the resulting closest relationship would be between plot 90 and the existing dwelling behind on Hirwaun Road. These would be separated by 20m, which in this instance, is considered an acceptable separation distance.

The layout would also not result in any significant impact from overbearing or loss of sunlight. As such, the impact to nearby residents is considered to be acceptable.

### **Access and highway safety**

The development would be accessed from the highways permitted under the original scheme. No objection has been raised by the Transportation Section subject to conditions requiring full engineering design and details of internal layout, a construction method statement and the provision of a Travel Plan to future occupiers of the proposed dwellings.

### **Contamination**

The Council's Public Health and Protection Section highlight previous intrusive investigations undertaken on this land for the previous applications identified potential contaminants of concern which required remediation in areas of soft landscaping and residential gardens. They detail the land forming this fresh application is not believed to have been remediated as part of the earlier application, since it was being put to a less sensitive use (Public Open Space). Therefore a condition is considered necessary to obtain a scheme to deal with contamination. Details of this can be required by a suitably worded condition if Members are minded to approve the application.

### **Impact on Archaeology**

The site has potential for former historical features as clarified by Glamorgan Gwent Archaeological Trust (GGAT). The applicant has submitted a report detailing a scheme of investigation. No objection has been raised by GGAT subject to a condition requiring a watching brief. This is considered necessary and can be required by a suitably worded condition if permission is granted.

### **Drainage**

An objection has been raised by a local resident detailing that the proposed surface water discharge to a drainage channel, which then crosses their property, may result in the flooding of their property. The Council's Flood Risk Management Section recognise there are some local flooding issues in the area and that flow to the channel

would need to be regulated to below green field discharge rates. They further detail all surface water drainage for new developments are required to comply with mandatory National Standards for Sustainable Drainage Systems, which will be demonstrated through the application of Sustainable Drainage Approval to the Sustainable Drainage Approval Body prior to the commencement of works.

With regards to foul drainage, Dŵr Cymru/Welsh Water do not object subject to a condition to restrict surface water to the public sewerage system.

Members are advised that drainage matters can be obtained by separate legislation i.e SAB approval, Building Regulations and Dŵr Cymru/Welsh Water approval. However, as flooding issues could occur if an acceptable drainage system is not provided, a condition requiring drainage details be submitted to and approved by the LPA prior to any works starting on site is considered necessary in this instance.

### **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.

The Welsh Government Development Management Manual and 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 only intended to form the basis of negotiations between all parties.

### **The Section 106 requirements in this case would be:**

- An education contribution for primary school places of £24,514.

- A contribution for improved play facilities at the adjoining site of £7,000.

### **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 site lies within Zone 1 of Rhondda Cynon Taf's Residential Charging Zones, where a £nil charge is applicable. Therefore no CIL would be payable.

### **Conclusion**

The application would not comply with the relevant policies of the Local Development Plan in respect of the principle of development (Policies AW 1, AW 2 and NSA 12).

Furthermore, the development would not contribute to national sustainable placemaking outcomes, identified in Planning Policy Wales, in the following areas: Has distinctive and special landscapes and prioritises the use of previously developed land and existing buildings.

### **RECOMMENDATION: Refuse**

1. The site is outside the defined settlement boundary of the Rhondda Cynon Taf Local Development Plan. As such the proposal conflicts with Policies AW1, AW2 and NSA12 of the Rhondda Cynon Taf Local Development Plan and it would amount to an unjustifiable extension of residential development into the countryside.