

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2013-2014

**DEVELOPMENT CONTROL
COMMITTEE
6 FEBRUARY 2014**

**REPORT OF: SERVICE
DIRECTOR PLANNING**

	Agenda Item No.8
APPLICATION NO: 11/0777 - PROPOSED RESIDENTIAL DEVELOPMENT (AMENDED SITE AREA 8/9/11), LAND OFF RHIGOS ROAD, TREHERBERT	

1. PURPOSE OF THE REPORT

Members are asked to consider report and determine the application in accordance with the advice given.

2. RECOMMENDATION

To **APPROVE** the application in accordance with the recommendation and subject to the conditions contained in the report at **APPENDIX A**, and subject to the applicant and any other interested parties entering into a **Section 106 Agreement** to secure the following:

- **£70,000 contribution for the maintenance and upgrading of recreation facilities within the vicinity of the application site (the “Public Recreation Contribution”);**
- **Transportation tariff of £3,008/unit x 50% for 3/4/5 bed houses and £2,256/unit for 1/2 bed houses(the “Transportation Contribution”);**
- **Long term (25 year) management and maintenance of ecological mitigation, public open space and trees (the “Ecological Mitigation Scheme”);**

but without the need to secure affordable housing, or an equivalent sum in lieu of its provision.

3. BACKGROUND

The planning application for this proposed development was reported to meetings of the Development Control Committee on 3 November 2011, 14 December 2011 and 19 January 2012, plus a site visit was undertaken on 14 November 2011 (see **APPENDIX A**). At the meeting of 19 January 2012 it was resolved to grant planning permission

subject to conditions and the applicant, and any other interested parties, entering into a Section 106 Agreement to secure the following:

- 10% affordable housing;
- £70,000 contribution for the maintenance and upgrading of recreation facilities within the vicinity of the application site (the "Public Recreation Contribution");
- Transportation tariff of £3,008/unit x 50% for 3/4/5 bed houses and £2,256/unit for ½ bed houses (the "Transportation Contribution") ;
- Long term (25 year) management and maintenance of ecological mitigation, public open space and trees (the "Ecological Mitigation Scheme").

Subsequently, early in 2013 the applicant submitted a Viability Report that concluded the proposed development cannot achieve the normal level of developer's profit on the open market units that would be expected in the market as well as providing any of the planning contributions and obligations sought by the Council. On this basis, the applicant requested that the Council agree to relinquish its requirements in respect of all planning obligations on this scheme, including those relating to the provision of affordable housing.

This matter was the subject of a report to the Development Control Committee on 5 September 2013 at which the Service Director Planning recommended that, following consideration of the applicant's Viability Report, planning permission be granted subject to conditions but without the applicant and any other interested parties entering into a Section 106 Agreement to provide any of the mitigation in respect of provision of affordable housing, maintenance and upgrading of local recreation facilities, a transport tariff contribution, and management and maintenance of ecological mitigation, public open space and trees (see **APPENDIX B**). At that meeting and after lengthy consideration it was resolved to refuse the request of the applicant that the Committee relinquish its requirements in respect of all planning obligations for this development as Members considered that all of the requirements of the Section 106 agreement are still required and necessary to make the development acceptable at this site (Minute 71 refers).

In response to this decision the applicant has given further consideration to the matter. Notwithstanding his view that the funding of these obligations is unviable in the context of the development proposals, the current economic conditions and the Viability Assessment, the applicant is prepared to offer the "Public Recreation Contribution", the "Transportation Contribution" and the "Ecological Mitigation Contribution" as defined in the draft Section 106 Agreement and as set out Committee's resolution of 19 January 2012. The applicant is not, however, prepared to agree to provide any affordable housing or equivalent commuted sum in lieu of the provision of

affordable housing. A copy of the applicant's letter dated 6 January 2014, in which the offer is set out, is attached as **APPENDIX C**.

The applicant is therefore now offering all of the Section 106 obligations in Committee's resolution of 19 January 2012 except for affordable housing provision or equivalent commuted sums in lieu of its provision. In the context of the viability issues surrounding the residential development of this site, as evidenced in the applicant's Viability Assessment and discussed in the report at **APPENDIX B**, it is considered that this revised offer is extremely generous. The balance the Council must strike is between securing the necessary infrastructure and facilities to support new development against the benefits of the new development itself. In some instances development without the necessary affordable housing or other contributions will be deemed unacceptable whilst in others we may reach the view that new development in itself is of such benefit that this outweighs the absence of either some or all of the required contributions. This approach is consistent with policy AW4 'Community Infrastructure and Planning Obligations' of the Rhondda Cynon Taf Local Development Plan where it states at paragraph 5.23

'Where it is submitted that the requirement to deliver appropriate planning obligations would result in the site being economically unviable, the Council will require verifiable objective evidence of the adverse financial appraisal, taking into account any grant availability. Whilst the planning obligations sought would enhance the quality of development, if the evidence demonstrates conclusively that requiring them would result in a proposal being unviable, the Council may conclude that the benefits of the development outweigh the benefits of seeking to secure a higher quality scheme, in preference to refusing planning permission.'

The Council has undertaken a review of the methodology and assumptions from the developer, the projected costs, sales revenues and other supporting information.

The planning position is that in light of the viability issues identified by the developer and the Council's desire to support new housing in the northern part of the County Borough, that the benefit of new housing on this site outweighs the requirement to secure the full planning obligations package. On the basis of the evidence submitted it would appear unlikely that the site will come forward if all of the planning obligations are to be met.

In view of the above and the applicant's offer set out in his letter at **APPENDIX C** it is recommended that the need for the "Public Recreation Contribution", the "Transportation Contribution" and the "Ecological Mitigation Contribution" be maintained, but the provision of affordable housing, or equivalent sum in lieu of its provision, is no longer requested. A review mechanism to accompany any consent to

ensure that the issue of viability can be revisited should the site not come forward in the short term is unnecessary as should the site not be developed and/or planning permission lapse, then the viability of the development can reviewed at that stage.

Therefore, the amended recommendation is that outline planning permission be granted subject to the conditions set out in the report attached as Appendix A, and subject to the applicant and any other interested parties entering into a Section 106 Agreement to secure the following:

- **£70,000 contribution for the maintenance and upgrading of recreation facilities within the vicinity of the application site (the “Public Recreation Contribution”);**
- **Transportation tariff of £3,008/unit x 50% for 3/4/5 bed houses and £2,256/unit for 1/2 bed houses(the “Transportation Contribution”);**
- **Long term (25 year) management and maintenance of ecological mitigation, public open space and trees (the “Ecological Mitigation Scheme”);**

but without the need to secure affordable housing, or an equivalent sum in lieu of its provision.

APPENDIX A

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2011 - 2012: REPORT NO.

**DEVELOPMENT CONTROL
COMMITTEE
19 JANUARY 2012**

**REPORT OF: SERVICE
DIRECTOR PLANNING**

Part 1	Agenda Item No.
<p>APPLICATION NO: 11/0777 – PROPOSED RESIDENTIAL DEVELOPMENT AT LAND OFF RHIGOS ROAD TREHERBERT.</p>	

1. PURPOSE OF THE REPORT

Members are asked to consider the determination of the above planning application.

2. RECOMMENDATION

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

3. BACKGROUND

This application was originally reported to the Development Control Committee on 3rd November 2011 (**APPENDIX A**) with a recommendation to approve the proposal. At that meeting, Members resolved to undertake a site visit which was carried out on 14th November 2011. The application was then reported back to the Development Control Committee on 1st December 2011 (**APPENDIX B**). At this Committee Members were minded to refuse the planning application contrary to the recommendation of the Service Director, as it was considered the proposed development would:

- not be located in a sustainable location.
- have an adverse impact on highway safety due to access onto the A4061;
- exacerbate the existing problem of flooding in the area;
- have an adverse affect upon the residential amenity of residents in Dumfries Street due to the overlooking and overbearing nature of the proposed dwellings.

As pointed out in the original report to Committee (**see APPENDIX A**), the Local Development Plan (LDP) indicates that the site is located within the settlement boundary and thus is, by definition, in a sustainable location. This is clarified by Policy AW2 of the LDP which points out that:

*In order to ensure that development proposals on non-allocated sites support the objectives of the plan, development proposals will only be supported in sustainable locations. **Criteria 1 of this policy defines sustainable locations as sites that are within the defined settlement boundary.***

It should also be noted that the site is within easy walking distance of shops, schools, bus stops, a train station etc which could encourage residents of the proposed dwellings to use and walk/cycle to such facilities rather than use the car (i.e. use sustainable forms of transport). As such, if Members are still minded to refuse this application it is recommended that such a reason is not included in any decision.

Members are advised that the position and design of the access to the site has been carefully considered and assessed by both the applicants Highway consultant and the Councils Transportation Section. It was concluded that the information submitted indicates that an access at the position illustrated on the submitted plans combined with the provision of adequate visibility splay lines would enable a safe access and would not result in a detriment to highway safety.

Although Members concerns are appreciated with regard to the proposed development exacerbating existing flooding problems, the submitted Drainage Impact Assessment, whilst recognising the complexities of providing a storm water drainage system, concludes that appropriate systems could be designed and constructed to control such matters. Therefore, the proposed residential development of the site would, subject to additional detailed information, be feasible in the context of drainage and hydrology. Members will note that this is an outline application with all matters reserved for future consideration thus, as highlighted in the original report to Committee (**see APPENDIX A**) a number of drainage conditions are recommended which would approve and control both the storm/surface water and foul water systems. It should also be noted that Welsh Water, the Environment Agency Wales and the Councils Drainage Engineer all consider the principle of the proposed drainage systems to be acceptable subject to further details being approved. As such, they raise no objections to the proposed development.

The impact of any proposed development on existing residents is always an important consideration which must be carefully assessed. The original report to Committee (**see APPENDIX A**) concludes that the applicant has illustrated that the site can be developed without any dwelling having any adverse impact on the residents of Dumfries Street by virtue of overlooking or overbearing impact. As the report also points

out, Members should be aware that this is an outline application with matters such as layout, scale and appearance of the dwellings to be considered at the reserved matters stage (i.e. as part of a future application if the outline is permitted). Therefore, if this application were to be permitted, then residents would have a further opportunity to consider, in greater detail, the impact of the dwelling(s) on their individual residential amenity.

Notwithstanding the above, if Members are still minded to refuse the application then the following reasons for refusal are suggested:

- 1 The proposed development conflicts with Policy AW5 of the Rhondda Cynon Taf Local Development Plan in that the vehicular access intended to serve the proposed development is located at a point where the increased vehicular turning movements likely to be created by the development proposed, would be likely to increase highway dangers and create more hazardous conditions than exist at the present time to the detriment of highway safety.
- 2 The proposed development conflicts with Policy AW10 of the Rhondda Cynon Taf Local Development Plan in that inadequate evidence has been submitted which demonstrates that the proposed development would not exacerbate existing flooding problems in the area.
- 3 The proposed development, by virtue of overlooking and overbearing impact, would have an adverse affect on the occupiers of residents in Dumfries Street. As such, there would be a loss of residential amenity contrary to Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

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APPLICATION NO: 11/0777/13 (HR)
APPLICANT: West Midlands Dev. Partnership
DEVELOPMENT: Proposed residential development (amended site area 08/09/11).
LOCATION: LAND OFF RHIGOS ROAD, TREHERBERT, CF42 5LW
DATE REGISTERED: 08/09/2011
ELECTORAL DIVISION: Treherbert

APPLICATION DETAILS AND SITE APPRAISAL

Outline planning permission is sought for the residential development of 3.05 hectares of land off Rhigos Road, Treherbert. All matters (access, appearance, landscaping, layout and scale) of the development are reserved for future consideration.

This irregular shaped site is located to the north west of settlement of Treherbert and just within the settlement boundary (as identified in the Rhondda Cynon Taf Local Development Plan). It is 'thumb nail' shaped with the Rhigos Road curving around the majority of its boundary to the north, south and west. The former hospital site and former school playground forms part of the northern and eastern boundaries. Dumfries Street and an existing car maintenance garage form the remainder of the southern and eastern boundaries. A storage building, which has been erected on made up/filled land occupies the south west corner of the site.

The land slopes from north to south and contains a number of watercourses. It once occupied a number of allotments and associated buildings. These have now been removed and only a disabled riding school and paddock area remains.

The application has been supported by a series of indicative plans and sections which illustrative how the site could be developed. The plans show two potential options for the development of the site (**see displayed plan**). These would be:

- A comprehensive development for the whole of the site. The illustrations submitted indicate that the site could accommodate 63 houses. These would consist of 10 no. 4 bed houses and 53 no. 3 bed houses.
- Alternatively, the site could be developed in two phases. The illustrative plans show that Phase 1, which would include the majority of the land but excluding the land which currently contains the storage facility (in the north western extremity of the site), could be developed to provide 57 houses (i.e. 4 no. 4 bed and 53 no. 3 bed houses).

The application has been supported by the following information, documents and reports:

- In line with current legislation, upper and lower limits for the height, width and length of the houses have been submitted. The upper limits would be

12.5m x 11m with a height of 12m. The lower limits would be 8.5m x 5m with a height of 5 metres.

- A Design and Access Statement.
- A Transport Assessment (Including a swept path analysis for the main access).
- A Drainage Impact Assessment.
- An Ecological Scoping Assessment.
- A Phase 1 (Desk Study) Contamination and Ground conditions report.

PLANNING HISTORY (Relevant)

02/0867	Former Piggery Building, off Rhigos Road Treherbert	Established use for storage of vehicles	Granted 13/12/02
94/0431	Land off Rhigos Road, Treherbert	Repositioning of hardstanding	Granted 19/09/94
93/0754	Land off Rhigos Road, Treherbert	Hardstanding for disabled riding.	Granted 08/06/94
75/1062	Land off Rhigos Road, Treherbert	Dwelling	Granted 05/01/76
75/0415	Land off Rhigos Road, Treherbert	Keeping of poultry	Granted 07/07/75

PUBLICITY

The application has been notified to neighbouring properties and has been the subject of site notices and a press notice.

A total of 7 letters of objection have been received, with the grounds of concern summarised as follows:

- Proposed access to the site is unsafe being situated at the bottom of Rhigos Road where traffic descends at speed.
- The alleyway between the proposed site and houses in Dumfries Street is subject to high volumes of water running from the culvert to the side of the former playground area when rain is heavy. The proposal may exacerbate existing conditions. In addition is the balancing pond a safety hazard and how will it be maintained?
- Concern about overloading existing main drain and sewerage system.
- Concern that plots 50 – 53 will overlook existing properties in Dumfries Street.
- Concern about the demand for such housing. The purchase by local residents is likely to be limited due to economic circumstances. There may be a population shift to the new houses which results in more

empty houses in the area. In addition, the houses may be rented or remain empty which would not enrich the local environment.

- The site should be a Special Landscape Area. The proposal to leave the watercourses open and to include them as part of the open amenity space is a recipe for disaster, especially where young children are concerned. The problem of surface water run off has not been suitably addressed in the design.
- The vision splays are interrupted by trees and a road sign which obscures views of traffic already in the A4061. Therefore it is not possible to obtain required vision splays.
- The site does not achieve 30 dwellings per hectare and is therefore contrary to Local Plan Policy.
- The proposed footpath on the grassed verge leading from the site to Treherbert Park is unsafe.
- The proposed footpath from the site to Dumfries Street would result in strangers walking through the street. It would also be used as a rat run.
- Part of the land in the submitted plans is owned by the occupiers of 1 Dumfries Street.
- Drivers do not always drive at 30mph on this stretch of road. This is unsafe to pedestrians and other road users.
- There are a number of mature trees which are not shown on the plans and therefore the applicant must intend to remove. Likewise there are some trees outside the site which will require felling.
- Slow worms are known in the area but their habitat was destroyed when the allotment site and adjoining land was bulldozed.
- A balancing pond is not possible in the proposed location due to flash flooding it would be overwhelmed. The houses and hard standings would increase surface water run-off.
- There is absolutely no consideration of the existing traditional terraced buildings or sympathetic design (including use of materials).
- The applicant is vague in terms of which land is in his ownership.
- The site is at the gateway to the Rhondda and must respect the historical and cultural landscape. Any 'contemporary' estate or attempt to 'make a mark' will destroy this cultural legacy.
- The proposed building materials are not consistent or sympathetic to the vernacular architecture of the area. Likewise, the sizes of the detached property are not consistent with local architecture.
- The Rhigos Road to the south west of the application site is lined by mature lime trees. These trees represent a unique feature when arriving into Treherbert. The layout would necessitate the removal of all 5 lime trees in order to achieve the required vision splays.

CONSULTATIONS

Transportation Section – no objection subject to conditions and the provision of a section 106 agreement that secures a Transport Tariff contribution (towards improving the strategic highway network) of £3,008/unit x 50% for 3/4/5 bed houses and £2,256/unit for 1/2 bed houses.

Land Reclamation and Engineering (Drainage) – no objections subject to conditions.

Education - no objection and no planning obligation required.

Public Health and Protection - offers comments and advice in respect of noise, dust, disposal of waste, lighting and contamination from previous land use.

Environment Agency Wales – no objections subject to conditions. The Environment Agency Wales welcomes the conclusions of the Drainage Impact Assessment which recommends the use of sustainable drainage (SUDS) in developing solutions for development. The assessment states that the use of culverting and diversions should be avoided in order to prevent an unacceptable impact on flow upstream and down stream of the site. The assessment also recommends that surface water from the development site should be limited to existing peak levels of greenfield run-off, and the development layout must accommodate the existing watercourses on the site in such a way that the existing flow characteristics upstream and down stream of the site are maintained. Given the findings of the assessment the Environment Agency Wales offer no adverse comments with regard to flood risk.

Dwr Cymru/Welsh Water - no adverse comments subject to drainage conditions.

Countryside Council Wales - no objection having reviewed the information provided, namely the report entitled “*Land at Treherbert, Rhondda Cynon Taff Ecological Scoping Assessment*”. The ecological impacts and issues relating to this site can be adequately addressed through consultation with the Councils Ecologist.

Parks and Countryside Section – The ecology assessment is a competent and appropriate assessment which covers all the relevant habitat and species issues. There are some residual issues associated with nesting birds and potential for reptiles but these can be dealt with by conditions and use of a Wildlife Management Plan. The details of ecological mitigation and Public Open Space treatment should be dealt with by condition and their long term maintenance/management by a S106 agreement.

Given that no play facilities are being provided within the site (due to site constraints etc) an off-site financial contribution of £70,000 (equivalent to the cost of providing such a facility on site) is required via an S106 agreement which secures on-going maintenance etc.

The Arboriculturist Officer considers the trees along the south western boundary of the site to be of high local value and should be protected.

A Japanese knotweed eradication condition is also required.

POLICY CONTEXT

Rhondda Cynon Taff Local Development Plan

In the adopted LDP, the site is not allocated but lies within the settlement boundary.

Core Policy CS1 emphasises the building of strong, sustainable communities; partly by promoting residential development that would support and reinforce the roles of key settlements (1); partly by providing high quality, affordable housing that diversifies the market (2).

Policy AW1 – states that provision will be made for the development of new dwellings including, the development of unallocated land within the defined residential settlement boundaries.

Policy AW4 – Planning obligations may be sought where development proposals require the provision of new, improved or rely on existing services, facilities, infrastructure and related works, to make a proposal acceptable in land use terms.

Policy AW5 – specifies criteria for new development. It requires new development to have an acceptable impact on the character and appearance of the site and surrounding area and no significant impact on the amenities of neighbouring occupiers. It also requires development to be of sustainable design with good and safe accessibility.

Policy AW6 – outlines types of development criteria that will be supported, including the following:

- A high standard of design;
- Design appropriate to the local context;
- An integrated mixture of uses appropriate to the scale of the development; and
- An efficient use of land.

Policy AW8 - only permits development where it would not cause harm to features of the natural environment, special designated sites, or could reasonably be located elsewhere. The policy requires proposed developments to demonstrate what measures are proposed for the protection, management and mitigation of potential impacts on species and habitats of ecological importance.

Policy AW10 – seeks to prevent development which would cause or result in a risk of unacceptable harm to health and/or local amenity.

Policy NSA10 seeks a minimum density of 30dph and gives criteria for lower densities.

Policy NSA11 seeks a minimum of 10% affordable housing.

Planning Policy Wales

3.1.2 Applications for planning permission should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise. Material considerations could include current circumstances, policies in an emerging development plan, and planning policies of the Welsh Government and the UK Government.

4.10.2 Good design can protect and enhance environmental quality, consider the impact of climate change on generations to come, help to attract business and investment, promote social inclusion and improve the quality of life.

5.5.1 Biodiversity and landscape considerations must be taken into account in determining individual applications and contributing to the implementation of specific projects. The effect of a development proposal on the wildlife or landscape of any area can be a material consideration.

Paragraph 9.1.1 – The Assembly Government’s vision is for everyone in Wales to have the opportunity to live in good quality, affordable housing, to be able to choose where they live and to decide whether buying or renting is best for them and their families.

9.3.3 States that new housing development should not damage an area’s character or amenity.

Planning Policy Wales Technical Advice Note 12 (Design) advises that the Assembly Government is strongly committed to achieving the delivery of good design in the built and natural environment, which is fit for purpose and delivers environmental sustainability, economic development, and social inclusion at every scale throughout Wales.

Planning Policy Wales Technical Advice Note 15 (Development and Flood Risk) advises on the planning and development process in relation to flood risk.

PLANNING CONSIDERATIONS

This site is located entirely within the settlement boundary, as identified by the Rhondda Cynon Taf Local Development Plan (LDP). Therefore, in accordance with policies AW1 and AW2 of the LDP the principle of residential development is acceptable. Given this, the main considerations in the determination of this application are considered to be: the impact of the development on the character and appearance of the area; the impact on highway and pedestrian safety, flooding and drainage issues; the impact on ecology and loss of trees; and the impact of the development on the amenity of existing and potential residents.

The impact of the proposal on the character and appearance of the area.

As highlighted in the Design and Access Statement, the site constraints have strongly influenced the layout (illustrative). It is clear from both visiting the site and the submitted information that a number of watercourses run through the land. There is a requirement (by the Environment Agency Wales) that the water courses are left open (except when piped if crossed by roads). The surface water run-off from the site also needs to be maintained at green field run-off levels. The proposed sustainable drainage scheme, due to the impervious surfaces created by the proposed development, requires a balancing pond to hold and then dissipate this excess water (**see displayed plan**). These requirements combined with the only feasible access point, the topography of the land, the close proximity of an existing car maintenance business and existing dwellings (the latter two factors requiring appropriate separation distances) severely restricts the amount of developable land. It is also considered that because the northern and western boundaries of the site are in close proximity of the open countryside, the density of development should be less at this location in an attempt to have a softer edge to the landscape areas beyond. Therefore, although the density falls below that highlighted in policy NSA10 of the LDP, for the reasons above, the illustrated layout plans are considered acceptable.

Notwithstanding these constraints and contrary to the objections from some local residents, it is considered that the applicant has illustrated that the site can be developed in a way which is sympathetic to the character and appearance of the surrounding area. Although the illustrative layouts do not follow the traditional terraced appearance, they respect the orientation of the surrounding streets. The traditional method of constructing streets in this area was either to build up the slope or across the slope. The illustrative plans, for the majority of the site, reflect this terraced pattern of development albeit, within a modern standard of internal access roads, pavements and on-street and off-street car parking (**see displayed layout**). Members will also note that layout is a reserved matter and therefore if outline permission is granted, a further application (reserved matters) will fully consider this issue.

Although, the appearance and scale of the houses is also reserved for future consideration, the illustrative details show that rather than propose a pastiche of the vernacular architecture, the architect suggests that a more modern/contemporary approach could be successful at this location. The Design and Access Statement points out that the context of the area has been fully taken into account when considering the design of any houses at the site. Features such as simple building form and massing, small private frontage spaces and bay windows could be utilised in order to create contemporary house designs. A palette of materials (stone, slate and render) could also be used to reflect the local context.

Although there has been some objection to the proposed footpath link between the proposed site and Dumfries Street, it is considered that this link is essential to enable potential occupiers of the houses to easily walk/cycle to

the shopping areas, schools and other facilities in Treherbert (to the east of the site).

In conclusion, it is considered that the submitted information illustrates the site can accommodate a residential development that would reinforce local distinctiveness and not have any detrimental impact on the character and appearance of this part of Treherbert. As such, the proposal accords with policies AW5 and AW6 of the LDP.

Transportation and highway safety and the loss of existing highway verge trees.

The principal aspect of this consideration is the effect the proposed access would have on highways safety on the A4061 (Rhigos Road), a matter that has generated expressions of concern from members of the public. Although access is also a matter which has been reserved for future consideration, the illustrative access submitted with the application is the only feasible access to the proposed residential site.

The Transportation Assessment (TA) concluded that the proposed development is acceptable in terms of traffic impact and accessibility provision and that there are no highway safety or capacity reasons that would prevent the residential development of the site. Members should note that from 1st April 2005 to 31 March 2010, information obtain by the Transportation Section indicates that no accidents have occurred in the immediate vicinity of the site or at the proposed access to the site. Additional information (swept path analysis) submitted with the application clearly indicates that all vehicles (cars, delivery vehicles etc) could leave the application site in a southerly direction without driving onto the opposite side of the road.

The Transportation Section has fully considered the TA and other submitted details and has raised no objection subject to a number of relevant conditions. Therefore, whilst the concerns of residents are appreciate, based on the evidence submitted both the vehicular access and proposed footpaths are considered acceptable. As such, the proposal accords with Policy AW5 of the LDP.

One of the conditions recommended by the Transportation Section relates to the provision of 2.4m x 70m vision splays. As expressed by members of the public, the provision of such vision splays would result in the loss of mature trees which have grown in the highway verge (i.e. highway land), outside the application site. However, rather than the 5 trees that members of the public suggest would be felled, details submitted with the application point out that a maximum of 3 mature trees would be lost. Members will also note that the Councils Countryside Section consider these trees to be important in terms of their amenity value.

The trees are not protected by a Tree Preservation Order but undoubtedly do provide a degree of amenity value. Whilst their loss would be regrettable, it is considered that the retained trees on the same side of the road (opposite

Treherbert Park) combined with the trees on the opposite side of the road would still provide the sense of the tree lined avenue approach/exit to this part of the valley. Indeed, it could be argued that the trees on the opposite side of the road, due to their numbers and consistency of spacing, provide the greater amenity value for road users, residents and visitors to this part of Treherbert. In addition, the applicant is proposing additional tree planting which would help maintain the tree lined avenue appearance. Once again, all landscaping details would be approved at the reserved matters stage if this outline application were to be permitted by the Committee. Therefore, it is considered that the loss of these trees does not outweigh the presumption in favour of this residential development.

Flood risk, drainage and contamination issues

Members will note that there have been a number of objections concerning both surface water flooding and the capacity of the main sewerage system to cope with any additional houses. The method of dealing with the watercourses that run through the site and surface water run-off resulting from the development (as outlined above) has been one of the major constraints of the site. On the other hand, these drainage issues also provide an opportunity to create a layout which enhances and encourages biodiversity and nature conservation, makes visually attractive features while at the same time developing a comprehensive and integrated layout. Both the Environment Agency Wales and the Councils Drainage Engineer fully support and encourage the sustainable drainage proposals (containing within the submitted Drainage Impact Assessment) put forward subject to additional details and information being received (and approved) by means of appropriately worded conditions. Whilst the safety concerns of balancing ponds and open watercourses are acknowledged, the relevant risk assessments and ultimate responsibility for such matters will fall with the land owner.

The main sewer, as highlighted by Welsh Water, is capable of accommodating the additional houses proposed. As such, the proposal is acceptable in terms of policies AW6 and AW10 of the LDP.

Ecology and nature conservation interests

Members of the public have expressed concern that there maybe protected species that utilise the site. The applicant has undertaken and submitted an Ecological Scoping Assessment of the application site. Based on the findings in this report the Countryside Council for Wales (CCW) has offered no objection to the proposed development. Likewise the Councils Ecologist has raised no objection subject to appropriate wildlife/landscape protection conditions and a section 106 agreement which secures the long-term (25 year) management and maintenance of ecological mitigation, public open space and trees. It is therefore concluded that the proposal is unlikely to adversely impact on ecological and nature conservation interests in the locality. As such the proposal does not conflict with Policy AW8 of the LDP.

Impact on residential amenity.

The greatest impact in terms of loss of overlooking or overbearing impact arises from the potential overlooking from illustrative plots 60–63 (it is considered that the objector has got the plot numbers wrong – stating 50 rather than 60) to the rear windows of 1–6 Dumfries Street. The illustrative plans indicate that the proposed houses could be approximately 20-21 metres away from the habitable room windows of the properties in Dumfries Street. It is considered that this distance is acceptable, however, as Members will note this matter can again be explored further at the reserved matters stage if this outline application were to be permitted.

The greatest overbearing impact could result from illustrative plot 59 on 9–11 Dumfries Street. However, a distance of approximately 12-17 is maintained between the gable end of plot 59 and the rear elevations of 9–11 Dumfries Street. Likewise, although this is considered acceptable, this matter can again be explored at the reserved matters stage if this outline application were to be permitted.

Given the above, the proposal is unlikely to have any adverse impact on residential amenity and as such accords with Policy AW5 of the LDP.

Affordable housing provision

Policy NSA 11 of the LDP specifies that a target of 10% affordable housing provision will be sought on residential proposals of 10 units or more in the Northern Strategy Area. The applicant has agreed to provide these units.

Other issues

Most of the issues raised by members of the public have been addressed in the assessment above. The issue relating to land being included in the application site which is owned by the occupier of 1 Dumfries Street has been addressed. This area of land has simply been taken out of the application site. This omission does not affect the proposal. The point raised by a local resident that the land should be designated as a Special Landscape Area is acknowledged. However, the recently adopted LDP does not recognise this site as such and indeed provides it with no designation/allocation other than including it within the settlement boundary.

The concern relating to the sale and occupation of the proposed houses and the potential knock on impact to existing housing stock is not a matter that can be taken into consideration when determining this application. Such market forces are not a planning matter.

Finally, the proposal if developed would result in the loss of the disabled riding school facility. The owners of the site (along with the owner of the riding school) have verbally confirmed that every effort is being made to find an alternative site for the relocation of this much needed facility. Although, the loss of this facility is not material in the consideration of the determination of

this application, it may be of some comfort to the Committee that this search is on-going and both the owners of the site and riding school appear to be determined to find an alternative location.

Conclusion and Recommendation

Having taking into account all the material considerations and representations made in this case, it is concluded that the proposal is acceptable and accordingly it is recommended that outline planning permission be granted subject to the conditions set out below and the applicant, and any other interested parties, entering into a Section 106 Agreement to secure the following:

- 10% affordable housing
- £70,000 contribution for the maintenance and upgrading of recreation facilities within the vicinity of the application site.
- Transportation tariff of £3,008/unit x 50% for 3/4/5 bed houses and £2,256/unit for 1/2 bed houses.
- Long term (25 year) management and maintenance of ecological mitigation, public open space and trees.

RECOMMENDATION: Grant

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.

2. The details to be submitted for approval pursuant to condition 1 above shall be in accordance with the design principles identified the Design and Access Statement (dated May 2011). Compliance must be demonstrated

through a further Design Statement, which accords with details set out in *Technical Advice Note 12: Design*. No development shall commence until a further Design Statement has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure good design of the scheme in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales Technical Advice Note 12 (Design).

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

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

4. Development shall not commence until Local Planning Authority has received and approved in writing, including mitigation, design details and a development programme with respect to:
 - (a) protection of open and culverted sections of the existing watercourse during and after construction;
 - (b) protection of properties downstream of the development from increased flood risk during and after construction work owing to the development;
 - (c) protection of properties within the development from flood risk.

Reason: To ensure the development is does not cause or exacerbate any adverse condition on the development site, adjoining properties and environment with respect to drainage in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development.

5. The hydrological design of the surface water drainage system including construction details shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The approved scheme shall be implemented in accordance with the approved scheme and before any dwelling, hereby permitted, is occupied, unless an alternative time-scale is first agreed in writing by the Local Planning Authority.

Reason: To ensure the adequacy of the surface water drainage system, in the interests of highway safety and in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

6. No development shall take place until drainage arrangements have been

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

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

7. No works shall commence on site until full engineering details of the proposed vehicular access to the site together with the link footpaths off Rhigos Road (A4061) have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and in a timescale which has first been agreed in writing by the Local Planning Authority.

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

8. The vehicular access to the site shall be laid out, constructed and retained thereafter with 2.4m x 70m vision splays. No obstruction or planting when mature, exceeding 0.9m in height shall be placed within the required vision splay areas, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To give better visibility in the interests of road safety to vehicles emerging on to the highway in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

9. No works shall commence on site until full engineering design and details of the internal road layout (with sections), street lighting, surface water drainage, footways, footpaths and associated works have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

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

10. No works shall commence on site, until details and design calculations, of the retaining walls abutting the highway have been submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved details.

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

11. 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) wheel washing facilities,
- f) 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.

12. 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) wheel washing facilities,
- f) 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.

13. Notwithstanding the submitted details, the development hereby permitted shall not begin until a scheme to deal with contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures unless otherwise agreed in writing by the Local Planning Authority:

1. 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.
2. 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.

3. 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.

14. No dwelling hereby permitted shall be occupied until the measures approved in the scheme (referred to in Condition 13) 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.

15. 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.

16. Construction on the development shall not take place other than during the following times:
- (i) Monday to Friday 0800 to 1800
 - (ii) Saturday 0800 to 1300
 - (iii) Not at any time on Sundays, Bank or Public Holidays.

Reason: To ensure that the noise emitted from this development is not a source of nuisance to occupants of nearby residential properties in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

17. Each dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category 'Ene1 - Dwelling Emission Rate' in accordance with the requirements of Version 3 of the Code for Sustainable Homes. The development shall be carried out entirely in accordance with the approved assessment and certification.

Reason: To ensure the development constructed is in accordance with policy guidance in relation to providing sustainable buildings, outlined in

paragraph 4.11.4 of Planning Policy Wales.

18. Unless otherwise agreed in writing by the Local Planning Authority, construction of any dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to and approved in writing by the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that individual dwelling or house type in accordance with the requirements of Version 3 of the Code for Sustainable Homes.

Reason: To ensure the development constructed is in accordance with policy guidance in relation to providing sustainable buildings, outlined in paragraph 4.11.4 of Planning Policy Wales.

19. Prior to the occupation of each individual dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to and approved in writing by the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Version 3 of the Code for Sustainable Homes.

Reason: To ensure the development constructed is in accordance with policy guidance in relation to providing sustainable buildings, outlined in paragraph 4.11.4 of Planning Policy Wales.

20. Notwithstanding the submitted details, the reserved matters application shall include comprehensive details of the existing and proposed levels (including relevant sections). The development shall be carried out in accordance with the approved details.

Reason: To protect residential and visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

21. Full details of a scheme for the eradication and/or control of Japanese Knotweed (*Fallonia japonica*, *Rouse decraene*, *Polygonum cuspidatum*) shall be submitted to and approved by the Local Planning Authority prior to the commencement of work on site. The approved scheme shall be implemented prior to the occupation of any dwelling/building.

Reason: To ensure compliance with the Wildlife and Countryside Act 1981 and in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

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APPENDIX B

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2013-2014: REPORT NO.

**DEVELOPMENT CONTROL
COMMITTEE
5 SEPTEMBER 2013**

**REPORT OF: SERVICE
DIRECTOR PLANNING**

Part 1	Agenda Item No.
<p>APPLICATION NO: 11/0777/13 – PROPOSED RESIDENTIAL DEVELOPMENT (AMENDED SITE AREA 08/09/11), LAND OFF RHIGOS ROAD, TREHERBERT.</p>	

1. PURPOSE OF THE REPORT

Members are asked to consider report and determine the application in accordance with the advice given.

2. RECOMMENDATION

To **APPROVE** the application in accordance with the recommendation and subject to the conditions contained in the report of the 3 November 2011(at **APPENDIX A**), but without the requirement for the applicant and all other interested parties entering into a **Section 106 Agreement** to secure affordable housing, maintenance and up-grading of recreation facilities, a transport tariff contribution, and long term management and maintenance of ecological mitigation, open space and trees.

3. BACKGROUND

This application was originally reported to a meeting of the Development Control Committee on 3 November 2011 with a recommendation that it be approved (see **APPENDIX A**).

This application was deferred for a site visit which took place on 14 November 2011, (minutes from the site visit are attached as **APPENDIX B**). The planning application for this proposed development was reported back to a meeting of the Development Control Committee on 19 January 2012 (see **APPENDIX C**). At that meeting it was resolved to grant planning permission subject to conditions and the applicant, and any other interested parties, entering into a **Section 106 Agreement** to secure the following:

- 10% affordable housing;
- £70,000 contribution for the maintenance and upgrading of recreation facilities within the vicinity of the application site;
- Transportation tariff of £3,008/unit x 50% for 3/4/5 bed houses and £2,256/unit for 1 and 2 bed houses;
- Long term (25 year) management and maintenance of ecological mitigation, public open space and trees.

The applicant has since submitted a Viability Report that concludes the proposed development cannot achieve the normal level of developer's profit on the open market units that would be expected in the market as well as providing any of the planning contributions and obligations sought by the Council. On this basis, the applicant requests that the Council agrees to relinquish its requirements in respect of all planning obligations on this scheme, including those relating to the provision of affordable housing.

The balance the Council must strike is between securing the necessary infrastructure and facilities to support new development against the benefits of the new development itself. In some instances development without the necessary affordable housing or transport contributions will be deemed unacceptable whilst in others we may reach the view that new development in itself is of such benefit that this outweighs the absence of the required contributions. This approach is perfectly consistent with policy AW4 'Community Infrastructure and Planning Obligations' of the Rhondda Cynon Taf Local Development Plan where it states at paragraph 5.23

'Where it is submitted that the requirement to deliver appropriate planning obligations would result in the site being economically unviable, the Council will require verifiable objective evidence of the adverse financial appraisal, taking into account any grant availability. Whilst the planning obligations sought would enhance the quality of development, if the evidence demonstrates conclusively that requiring them would result in a proposal being unviable, the Council may conclude that the benefits of the development outweigh the benefits of seeking to secure a higher quality scheme, in preference to refusing planning permission.'

The Council has undertaken a review of the methodology and assumptions from the developer, the projected costs, sales revenues and other supporting information.

The planning position is that in light of the viability issues identified by the developer and the Council's desire to support new housing in the northern part of the County Borough, that the benefit of new housing on this site outweighs the requirement to secure the full planning obligations package. Whilst it is acknowledged that Highways, Parks and Housing are fully justified in seeking contributions on the site, on the basis of the evidence submitted it would appear unlikely that the site will come forward if these planning obligations are to be met.

In view of the above, it is recommended that the housing, open space, transport contributions and long-term management and maintenance of ecological mitigation, public open space and trees are no longer requested. A review mechanism to accompany any consent to ensure that the issue of viability can be revisited should the site not come forward in the short term is unnecessary as should the site not be developed and/or planning permission lapse, then the viability of the development can be reviewed at that stage.

Therefore, the amended recommendation is that outline planning permission be granted subject to the conditions set out in the report attached as APPENDIX A, but without the need for a Section 106 Agreement to secure affordable housing, maintenance and up-grading of recreation facilities in the vicinity, a transport tariff, and long term management and maintenance of ecological mitigation, open space and trees.

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6th January 2014

Our Reference: RCA056a/RC/060114

WITHOUT PREJUDICE

Dear Mr Gale,

Rhigos Road, Treherbert (Ref: 11/0777/13) – Section 106 Agreement

Further to my letter of 3rd December 2013, I have not received a formal response from the Council, although I have spoken to the Case Officer informally over the telephone. He informed me that there has been a conversation with the local Members but that they had asked my client to 'make an offer' in respect of which planning obligations they were prepared provide.

My client maintains that the funding of these obligations is unviable in the context of the scheme, the current economic conditions and the Council's own viability assessment. However, in the interests of being pro-active and to enable delivery of the site my client is prepared to offer the "Public Recreation Contribution", the "Transportation Contribution" and the "Ecological Mitigation Area Scheme" as defined within the draft Section 106 Agreement. My client is not, however, prepared to agree to provide any affordable housing or equivalent commuted sum in lieu of the provision of affordable housing as covered under the Fourth Schedule of the draft Section 106 Agreement.

I would be grateful if this offer could be discussed with local Members and the Council's response communicated back to me by 17th January 2014. Should this offer be rejected, then my client will have no alternative other than to seek to appeal against the Council's decision to refuse our request to relinquish its planning obligation requirements under Section 106B of the 1990 Act (as amended) and to seek costs from the Council on the basis that we believe that they have acted 'unreasonably'.

I await your response.

Yours sincerely,



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LOCAL GOVERNMENT ACT 1972

as amended by

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LIST OF BACKGROUND PAPERS

DEVELOPMENT CONTROL COMMITTEE

6 FEBRUARY 2014

REPORT OF: SERVICE DIRECTOR PLANNING

REPORT

**APPLICATION NO: 11/0777 -
PROPOSED RESIDENTIAL
DEVELOPMENT (AMENDED SITE
AREA 8/9/11), LAND OFF RHIGOS
ROAD, TREHERBERT**

OFFICER TO CONTACT

**MR P BRISTOW
(Tel. No. 01443 494763)**

See Relevant Application File

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