

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2014-2015**

<p><b>DEVELOPMENT CONTROL COMMITTEE 7 AUGUST 2014</b></p> <p><b>REPORT OF: SERVICE DIRECTOR PLANNING</b></p>	<p style="text-align: right;"><b>Agenda Item No.8</b></p> <p><b>APPLICATION NO: 12/1215 – DEVELOPMENT OF 6 TERRACED HOUSES - LAND BETWEEN 138 DYFFRYN STREET AND OUR LADY PENRHYS RC CHURCH, FERNDALE</b></p>
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**1. PURPOSE OF THE REPORT**

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

**2. RECOMMENDATION**

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

**3. BACKGROUND**

This application was originally reported to the Development Control Committee on 20<sup>th</sup> February 2014 (a copy of the original report is reproduced as **APPENDIX A**). At the meeting Members resolved to approve the application, in accordance with the recommendation, subject to delegated powers being granted to the Service Director, Planning to negotiate a Section 106 Agreement (in consultation with the Local Members) to secure:

- (i) Payment of a Transport Tariff (£9,024);
- (ii) Financial contribution towards improving and upgrading the nearby bus stop and its future maintenance (£9,192); and
- (iii) The applicant undertaking to pay all reasonable costs associated with the preparation of the legal agreement. (Minute **180 (2)** refers).

Following the meeting the applicant submitted a Financial Viability Appraisal for the proposed development.

Following an independent assessment of the data submitted it has been confirmed that the contribution requested would make the proposal financially unviable. It is therefore recommended that Members approve the application without both elements of the

Highways Contribution identified as i) & ii) above but subject to the same planning conditions as originally recommended with the exception of conditions 6, 7 & 8 which should be removed given recent revisions to TAN 22 and the transfer of responsibility of the code for Sustainable Homes to Part L of the Building Regulations.

**APPENDIX A**

**APPLICATION NO:** 12/1215/10 (MJ)  
**APPLICANT:** Mr S Dhaliwal  
**DEVELOPMENT:** Development of 6 terraced houses (amended details received 17/04/13).  
**LOCATION:** LAND ADJACENT TO 138 DYFFRYN STREET, FERNDALE, CF43 4ES.  
**DATE REGISTERED:** 17/04/2013  
**ELECTORAL DIVISION:** Ferndale

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**RECOMMENDATION:** Approve, subject to a S.106 Agreement.

**REASONS**

The proposal is considered acceptable in principle.

The proposal would make productive use of an underused site that would be in keeping with surrounding land uses and would not cause detriment to the amenities of neighbouring properties or highway safety. The proposal is in keeping with policies AW1, AW5, AW6 and NSA12 of the Rhondda Cynon Taf Local Development Plan and National Policy.

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**APPLICATION DETAILS**

Full planning permission is sought for the construction of six terraced houses on land between an existing dwelling at number 138 and Our Lady of Penrhys RC Church, Dyffryn Street, Ferndale. Due to the sloping topography of the site the proposed houses would be of a split-level design, involving two stories at the front facing Dyffryn Street and three stories and a lower basement parking courtyard at the rear facing the rear of properties in New Street.

Each dwelling would comprise three bedrooms with a loft room and basement utility room. The ground floor living accommodation would incorporate a balcony at the rear with steps connecting it to basement utility room and parking area. Each parking area would be capable of accommodating two vehicles off the rear lane off New Street.

The proposed dwellings will be sited immediately alongside and will match the ridge and eaves lines, and be similar in design and proportions to those in the adjacent terrace. The properties will be slightly deeper than the existing adjacent terrace and will incorporate single storey front bays that would be extended to double fronted bays on the end dwellings.

A stepped pedestrian access between the street frontage and rear lane will be retained at each end of the proposed terrace.

The application is accompanied by:

- A design and access statement;
- A Code for Sustainable Homes Pre-assessment Report.

It is noted that the proposal is identical to the scheme approved under application ref: 07/0866 which expired in January 2013.

## **SITE APPRAISAL**

The application site is a rectangular shaped plot of vacant land covering an area of approximately 0.06 hectare located within the settlement limits of Ferndale. It is situated between the gable of the existing end of terrace dwelling at 138 Dyffryn Street and the Church, which is Grade II listed.

The site slopes steeply from the Dyffryn Street frontage down to the lane rear of New Street. At present it is a grassed embankment, though formerly occupied by houses that were demolished many years ago. The site is faced by a terrace of dwellings known as Oakland Villas and by the rear elevations of another terrace of dwellings in New Street. A traffic Order prohibits on-street parking along the Dyffryn Street frontage of the site.

## **PLANNING HISTORY**

Previous relevant planning applications that have been made on this site are as follows:

07/0866	Residential development of 6 new terrace houses(amended plans received 17/10/07)	Granted (Conditional) 15/01/2008
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## **PUBLICITY**

The application has been advertised by direct neighbour notification letters and site notices. One letter of objection has been received which is summarised as follows:

- Objections on the basis that the proposal represents the overdevelopment of the site. Objector also questions the need for four bedroom houses in the area.
- Dangerous vehicular access to site off New Street.
- Proposal will generate additional on-street parking in the locale, including in close proximity to the Dyffryn Street/Graig Terrace junction to the detriment to highway safety and free-flow of traffic.
- Loss of privacy and overshadowing arising from nearness and height of the development, balconies and raised garden terraces.
- Concerns are raised regarding the potential loss of privacy and overlooking caused by the proposed development to neighbouring properties.
- Development potentially affects structural integrity of neighbouring dwelling and highway.

## CONSULTATION

Council's Structural Engineer – no objections subject to a condition requiring the submission of a ground investigation report, design details of the retaining wall, a structural appraisal of the adjacent structures' foundations and the public highway (including a method statement).

Transportation Section – no objections subject to conditions and a financial contribution.

Public Health & Protection – no objections subject to conditions and informative notes relating to hours of construction, dust suppression measures, disposal of waste, etc.

Land Reclamation & Drainage – no objections subject to a number of conditions, including the submission of a full drainage scheme to the local planning authority for approval.

Countryside, Landscape and Ecology – no SewBrec records of statutory protected species have been found for the immediate vicinity.

## POLICY CONTEXT

The principal policies in the consideration of this application are as follows:

### Rhondda Cynon Taf Local Development Plan

The application site is identified as within the residential settlement boundary of Ferndale and is unallocated.

**Policy CS2** - sets out criteria for achieving sustainable growth including, promoting and enhancing transport infrastructure services.

**Policy CS4** – Housing Requirements.

**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 AW2** - advises that development proposals on non-allocated sites will only be supported in sustainable locations.

**Policy AW5** - sets out criteria for new development in relation to amenity and accessibility.

**Policy AW6** - requires development to involve a high quality design and to make a positive contribution to place making, including landscaping.

### Planning Policy Wales

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.

The following Planning Policy Wales Chapters set out the Welsh Government's policy on planning issues relevant to the determination of the application:

Chapter 4 (Planning for Sustainability),  
Chapter 8 (Transport),  
Chapter 9 (Housing),

Other relevant policy guidance consulted:

PPW Technical Advice Note 2: Planning and Affordable Housing;  
PPW Technical Advice Note 12: Design;  
PPW Technical Advice Note 18: Transport;  
Manual for Streets

## **REASONS FOR REACHING THE RECOMMENDATION**

The application site lies within settlement limits and in a predominantly residential area. As such, the principle of residential development is considered acceptable.

The key considerations in this case are whether the proposed development of the site for residential development will have an acceptable impact on the character and appearance of the surrounding area including the setting of the adjoining listed building; the impact of the development on the residential amenities of neighbouring properties, and the impact of the proposal on highway safety.

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.

### **Principle of development**

The first issue to be considered in this case is the principle of proposed residential development of the land having regard to prevailing local planning policies. The application site comprises unallocated vacant land, formerly occupied by houses, situated in a predominantly residential area where the principle of residential development is supported by local planning policies and normally considered acceptable.

Overall, it is considered that the development of the site for residential purposes is in accordance with national and local planning policy, in particular, policy CS1, which seeks to promote the reuse of previously developed land, and residential development in locations which will support

principal towns and key settlements in the Northern Strategy Area. As such, in policy terms, the proposal is considered acceptable in principle.

### **Character and Appearance of the Area**

With regard to the impact of the proposal on the character and appearance of the area; it is considered that the use of the site for residential development will be in keeping with the existing residential character of the area.

The proposed scheme is for a total of 6 terraced properties, arranged over four floors in a simply designed terrace which continues the character of the street. The scheme takes account of the site's characteristics and context and as a result, it is considered that the layout is successful in creating a frontage along Dyffryn Street and following the established building line from no. 138 to the existing church building. Neighbouring residents have expressed the view that the proposal amounts to an insensitive development, out of sympathy with the character and appearance of the surrounding area. The submitted plans, however, indicate the proposed development makes good use of the site and the split level design responds to the constraints imposed by the steeply sloping topography. The dwellings would be no greater than the ridge and eaves height of the neighbouring terraced houses in Dyffryn Street. Their design and proportions would similarly match those of the adjacent dwellings, though they would incorporate features such as the bays and gables reflective of elements of the front elevations of Oaklands Villas opposite.

The proposed dwellings would be slightly greater in depth from front to back than the adjacent houses in Dyffryn Terrace and would have limited private amenity space to the rear. Consequently the rear elevations would be effectively four stories high and closer to the rear boundary of the plot and neighbouring dwellings in New Street than the existing dwellings. Given the steeply sloping nature of the site and the desire to preserve a significant degree of continuity in the front elevation street scene, there is little scope for a reduction in the scale of the rear elevations or to dispense with access balconies and external stairways. In any event, in comparison with the adjacent houses in Dyffryn Street, it is considered that the rear elevations of the proposed dwellings are neither significantly greater in scale nor significantly closer in proximity to the neighbouring dwellings in New Street. Also, in common with adjacent dwellings in Dyffryn Street the slope of the land limits the potential to create a reasonably sized and useable garden space, unless off-street parking is dispensed with.

Another aspect requiring careful consideration is the consequences of the proposal for the adjacent Our Lady of Penrhys Church, which is Grade II Listed, on account of it being a prominent and unusually distinctive Arts and Craft small church. Current national and local planning policies emphasise that new development should not be permitted if it is likely to damage, destroy or adversely affect the architectural and historic value of a statutorily listed building or fails to protect the character and setting of such a building. In recognition of this situation, the development attempts to create a coherent bridge between the listed building to the one side and the terraced houses on

the other. The scale and design is quite modest and, subject to an appropriate choice of materials, in sympathy with the simplicity of the adjacent Arts and Craft church. Accordingly, it is considered that the proposal does not adversely affect the architectural and historic value or the setting of the listed building.

The proposal is therefore considered to be in keeping with the character and appearance of the surrounding area in accordance with the provisions of policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

### **Residential Amenity**

With regards to the impact on neighbouring residential amenity, concerns have been raised that include loss of privacy by overlooking to adjoining neighbouring properties. Whilst a degree of overlooking of the rear of houses in New Street from the raised balconies and stairways is inevitable (given the slope of the site), it would not be significantly greater than that which presently occurs from the rear of the neighbouring houses in Dyffryn Street.

The adjoining Church has recently been granted planning permission for its conversion to two residential units on the ground and lower ground floors of the church. It is acknowledged that the proposed development will have an impact on the windows in the western elevation of the Church building by overshadowing. The main windows affected are kitchen, utility rooms and bathroom windows which are located in the gable of the existing church. Having regard to the history of the application site and the fact that the windows affected by the proposed are secondary or very small, on balance, it is not considered that the impact of the proposed development on the occupiers of the adjoining church will be so detrimental to the amenity of the residents to warrant the refusal of the application.

The proposed terrace will be sited in a position to ensure that it will not have an overbearing impact on neighbouring residential properties to the rear of the site which follows the building pattern of the street scene. It is therefore considered that the proposed layout and scale of the building is acceptable.

Following consultation with the Council's Public Health and Protection Section, no objections have been raised to the proposal; however a number of conditions are specified. Matters relating to potential for disturbance resulting from construction traffic and general on site activities during the course of the construction of the application have also been raised, as such a condition to restrict the hours during which construction operations may be undertaken is also suggested. Whilst it is inevitable that any redevelopment of the site would lead to noise and disturbance to adjacent properties during the construction stage, it is considered that such impacts could be minimised by the imposition of appropriate conditions. Overall, it is not considered that the temporary impacts experienced during the period of construction would be so great as to warrant the refusal of the application.

The proposal is therefore considered acceptable in terms of its impact on the amenities of neighbouring residential properties in close proximity to the site



and on balance; it is considered that the development would have an acceptable impact on residential amenity. The proposal is therefore considered to comply with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

### **Highway Safety**

With regard to the impact of the proposal on highways safety, the Council's Transportation Section has raised no objections to the application subject to conditions.

Concern has been expressed by neighbouring residents that the development would give rise to a highway hazard due to the generation of on-street parking and the intensification of use of a poor access off New Street. In response to the concerns it is acknowledged the site fronts onto the A4233 Dyffryn Street/Oakland Terrace, where available on street parking in the vicinity is in considerable demand. However, each of the proposed dwellings would have two parking spaces accessed off the rear lane from New Street, which meets the current Parking Guidelines. In addition, the use of the rear lane as a secondary means of access for another six dwellings has not attracted concern from the Transportation Section. Moreover, although the proposed dwellings would be sited almost right up against the back edge of the footway, the gentle sweep of the bend in the highway, across the site frontage, means the dwellings would project no more than 1.4m forward of a direct line from the corner of the Arts and Craft Church and 138 Dyffryn Street. As such it is considered there would be no significant impact on the visibility of motorists.

The proposal involves the widening of the rear lane to 4.1m which in turn will allow for two cars to pass one another, reducing the amount of vehicle reversing movements which is considered acceptable. There are bus stops located a short walking distance from the proposed site and it is considered that the site is in a sustainable location and the need for maximum car parking standards would not apply in this case. However, the Transportation Section has suggested that the applicant provides a financial contribution to provide an additional bus stop in closer proximity to the site. The application also attracts a Transport Tariff of £9,024.

Having regard to the above, the application is considered to be in keeping with policy AW5 of the Rhondda Cynon Taf Local Development Plan in terms of its impact on highway safety.

### **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.

Planning Policy Wales (Chapter 3) advises that contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits which will make development more sustainable. Further guidance regarding what types of obligations developers may be expected to contribute towards is also contained within policy AW4 of the Local Development Plan and the Council's SPG on Planning Obligations, however it is made clear that this is intended to form the basis of negotiations between all parties.

### **The Section 106 requirements in this case**

It is noted that through the course of the application, consultation with the Transportation Section has generated requests for the applicant to enter into a Section 106 agreement. It is suggested that the financial contributions requested would potentially enhance the quality of the development and offset any potential detrimental impact upon local facilities and the environment. The terms of the agreement and the commuted sums required are set out below.

1. Payment of a Transport Tariff (£9,024).
2. Financial contribution towards improving and upgrading the nearby bus stop and its future maintenance (£9,192).
3. That the applicant undertakes to pay all reasonable costs associated with the preparation of the legal agreement.

It is considered that this requirement meets all of the aforementioned tests and is compliant with the relevant legislation. The applicant is yet to agree all contribution requests and it is requested that Members grant delegated powers to officers to discuss the requirements with the applicant, in consultation with the Local Members should they wish to approve the application.

### **Conclusion**

Taking all of the above considerations into account it is concluded that the proposed development of the site for residential purposes is acceptable and is in keeping with the relevant policies of the Rhondda Cynon Taf Local Development Plan. The application proposal is considered acceptable in terms of its compatibility with the character of the immediate area, its impact upon highway safety and its potential impact upon the privacy and amenity of neighbouring dwellings. Therefore, it is recommended that approval of full planning permission be granted subject to the conditions specified below.

### **RECOMMENDATION: Grant**

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1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. Construction works on the development shall not take place other than during the following times:
  - i) Monday to Friday 0800 to 1800 hours;
  - ii) Saturday 0800 to 1300 hours;
  - iii) Not at any time on Sundays, Bank or Public holidays, unless otherwise agreed in writing by the Local Planning Authority.

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 AW5 of the Rhondda Cynon Taf Local Development Plan.

3. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building(s) are occupied. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the new development will in keeping with the surrounding area and to protect residential amenity in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

4. Building operations shall not be commenced until samples of the materials proposed to be used have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the sample(s) so approved.

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

5. No development shall take place until drainage arrangements (including highway surface water drainage) 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 plans.

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

6. 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 4.12.4 of Planning Policy Wales (5<sup>th</sup> Edition) November 2012.

7. 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 4.12.4 of Planning Policy Wales (5<sup>th</sup> Edition) November 2012.

8. 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 4.12.4 of Planning Policy Wales (5<sup>th</sup> Edition) November 2012.

9. The site boundary fronting the lane to the rear shall be set back to provide a carriageway widened to at least 4.1m, in accordance with details to be submitted to and approved by the Local Planning Authority prior to works commencing on site. The approved details shall be implemented to the satisfaction of the Local Planning Authority prior to development being brought into beneficial use.

Reason: In the interests of highway safety.

10. Before the development is brought into use the means of access, together with the parking facilities, shall be laid out in accordance with submitted plan I (00) 002 rev pl p1 pl1 pl2 pl and approved by the local planning authority. The garages shall be retained for the parking of vehicles thereafter unless agreed in writing with the local planning authority.

Reason: In the interests of highway safety.

11. Prior to the commencement of development, details of traffic management and wheel washing facilities shall be provided on site in accordance with details to be submitted to and approved in writing by the local planning authority. The approved details shall be implemented and maintained throughout the construction period unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that mud and debris are not deposited from the construction site onto the public highway, in the interests of highway safety.

12. HGV's used as part of the development shall be restricted to 09:30am to 16:00pm weekdays, with no deliveries on weekends and bank holidays unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the safety and free flow of traffic.

13. Prior to the commencement of development, a detailed site investigations report and method statement (including a structural appraisal of the public highway and structures adjacent to the site) shall be submitted to and approved in writing by the Local Planning Authority. The report should be sufficiently detailed to establish if any ground precautions are necessary in relation to the proposed development and the precautions that should be adopted in the design and construction of the proposed development in order to minimise any damage which might arise as a result of ground condition. The development, hereby permitted, shall be carried out in accordance with the approved site investigations report.

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

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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**

**7 AUGUST 2014**

**REPORT OF: SERVICE DIRECTOR PLANNING**

**REPORT**

**APPLICATION NO: 12/1215 –  
DEVELOPMENT OF 6 TERRACED  
HOUSES - LAND BETWEEN 138  
DYFFRYN STREET AND OUR  
LADY PENRHYS RC CHURCH,  
FERNDALE**

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**See Relevant Application File**