

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2014-2015**

**DEVELOPMENT CONTROL  
COMMITTEE  
16 OCTOBER 2014**

**REPORT OF: SERVICE  
DIRECTOR PLANNING**

<b>Part 1</b>	<b>Agenda Item No. 6</b>
<b>APPLICATIONS RECOMMENDED FOR APPROVAL</b>	

**1. PURPOSE OF THE REPORT**

Members are asked to determine the planning applications outlined in Appendix 1.

**2. RECOMMENDATION**

To approve the applications subject to the conditions outlined in Appendix 1.

1. Application No. 14/0893 - Development of site to provide up to 80 dwellings with associated infrastructure (Outline), Elms Farm, off Stryd Silurian, Llanharry, Pontyclun.
2. Application No. 14/1033 - Variation of Conditions 7, 8 and 9 of Planning Permission 13/0915 to remove the Code for Sustainable Homes Assessment, The Red Cow, 57 High Street, Treorchy.
3. Application No. 14/1129 - Change of use from a private members club to an A3 Bar and carvery, XS Bar And Carvery, 180 Aberrhondda Road, Porth.

## APPLICATIONS RECOMMENDED FOR APPROVAL

**APPLICATION NO:** 14/0893/13 (GD)  
**APPLICANT:** Llanmoor Development Co Limited  
**DEVELOPMENT:** Development of site to provide up to 80 dwellings with associated infrastructure (Outline)  
**LOCATION:** ELMS FARM, OFF STRYD SILURIAN, LLANHARRY, PONTYCLUN, CF72 9GB  
**DATE REGISTERED:** 15/07/2014  
**ELECTORAL DIVISION:** Llanharry

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

**REASONS:**

The principle of the proposed development is on balance considered acceptable given the need to maintain a five year supply of land for housing and the unique circumstances of this particular site.

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### APPLICATION DETAILS

This planning application seeks outline planning permission for residential development and associated infrastructure works with all details reserved for future consideration

As an outline planning application with all matters reserved for future consideration the applicants have provided as required the following maximum and minimum dimensions for the dwellings proposed for this development.

	Minimum	Maximum
Width	4.5m	10.5m
Depth	7m	10m
Height	4m	10m

The figures quoted above have a broad range but are not unduly dissimilar to the range of dimensions the developer has made effective use of on the adjacent development site and in all likelihood final dimensions will fall within the range expressed.

In addition to the forms certificates and plans the application is accompanied by the following:

- Planning Statement.
- Design and Access Statement.
- Transportation Statement.
- Environmental Noise Assessment.
- Extended Phase 1 Habitat Survey.
- Landscape & Visual Impact assessment; and

- A Planning Statement Addendum.

## **SITE APPRAISAL**

The site subject of the current application comprises an L shaped area of some 2.36 hectares of land located at the south eastern extent of the village of Llanharry. The land is undeveloped and unimproved agricultural land used mostly for grazing. The site is well defined by existing housing located to the north and west with the M4 motorway to the south and a hedgerow and lane on its eastern boundary. The site is relatively flat though there is a fall towards a central point on its southern boundary. Though the site abuts the motorway on its southern side a strong tree and hedgerow belt also sits between that boundary and the road itself. The site currently sits within its own field boundaries with access from Stryd Silurian.

## **PLANNING HISTORY**

04/2333	Residential Development of 70no. Dwellings & Associated Works (Outline Application)	Refused 14/06/06
01/2749	Demolition of Existing Agricultural Buildings and Residential Development (Outline Application)	Refused 19/10/01
01/2118	Demolition of Existing Barns & Stables and Residential Development Outline Application)	Withdrawn 01/05/01
97/2079	Demolition of Redundant Agricultural Buildings and Residential Development (Outline Application)	Refused 05/01/99
90/0627	Residential Development	Refused 25/10/90

In addition to the above the following applications are relevant in the context of the wider area.

07/0786	Residential Development – 1 Dwelling (Outline Application)	Refused 05/06/2007
06/2037	Erection of 2no. Detached Dwellings (Outline Application)	Refused 18/12/2006
05/0535	Residential Development, 8no Detached Dwellings and Associated Works	Granted 11/05/2005
04/1546	Erection of a Dwelling	Refused 06/10/2004

## **PUBLICITY**

The application has been advertised by means of press notice, site notices and neighbour notification letters, this has generated a total of 3 responses expressing the following objections and concerns.

- The application site is designated green wedge in the Local development Plan and should remain so.
- The site is a green belt area and should remain so.
- One resident who has been resident at Elms Farm since 2007 believes that the original consent made provision for an amenity area and that development of this site would mean no greenery whatsoever in the wider site.
- Llanmoor have recently been granted permission for development on the Western end of the site and if this proposal is allowed the entire site will be densely developed with no greenery anywhere.
- Development elsewhere in Llanharry means that there is ample supply of new and in some cases affordable housing in the immediate local area.
- It is questioned whether the Local Development Plan makes any provision for the housing now proposed.
- One resident points to the presence of a high pressure gas main in the vicinity of the site and that it might have consequences for the development of the wider site if the proposal is approved.
- The amount of traffic at certain times passing through Llanharry, Brynsadler and eventually Pontyclun is far too busy to consider the accommodation of any more.
- There is no park for children as had been promised some time ago.
- Buses are infrequent through Llanharry.
- The amount of construction traffic is presently too much for the access road and they have to queue to enter and leave the site so it is questioned where would the construction traffic for this site be situated. Noise levels from the M4 are extremely high at all times and existing housing has not been provided with noise attenuation.
- More housing will lead to greater problems accessing and leaving the estate
- Cars park on the estate access road bend and this has already resulted in several near misses.
- Houses being built on this site would lead to there being no separation between Llanharry and Brynsadler.
- One resident has complained about the extent of advertising of the application and the time allowed to respond.

## **CONSULTATION**

Transportation Section – raise no objection subject to conditions and the developer entering into an agreement under Section 106 of the Town & Country Planning Act to secure the appropriate transport tariff financial contribution.

Land Reclamation & Engineering Manager – no objections subject to conditions.

Public Health & Protection – raise no objection to the proposed development subject to the imposition of appropriate conditions relating to contamination, and noise.

Education & Lifelong Learning – raise no objection to the proposal and indicate that they would require a financial contribution through a Section 106 agreement at a level commensurate with the number of eligible dwellings to be provided on site.

Parks & Countryside – there are no relevant records of statutory protected species from the immediate vicinity an appropriate bat informative note may be needed on any planning permission.

It is unrealistic to attempt to protect the small area of marshy grassland on the site, though any future layout should allow the adjacent trees and hedgerows to be properly protected and the ecology report comments in respect of light fall need to be respected. It is suggested that a wildlife protection plan might be necessary for the development advised by nesting bird protection and reptile mitigation.

The development should make provision for a Local Equipped Area for Play and associated commuted sums if the area is to be vested with the Council.

Natural Resources Wales – does not object to the proposed development and also recommends conditions to deal with the drainage issues associated with the site.

Housing Strategy – based on the findings of the local housing market assessment 2012 it is recommended that the following unit mix be provided on site.

8 x 1 bedroom units for social rent (walk up units – no communal area)  
3 x 2 bedroom houses for social rent  
5 x 2 bedroom houses for low cost home ownership.

Western Power Distribution – no observations received.

Wales & West Utilities – raise no objection to the proposed development and advise in respect of the presence of their apparatus, including a high pressure gas main in the vicinity of the application site, and safe working practices to be adopted when working in proximity to it.

South Wales Fire & Rescues Service – no observations received.

Welsh Government Highways – no observations received at the time of report preparation.

Glamorgan Gwent Archaeological Trust – “As the archaeological advisors to your Members, we have no archaeological objection to the determination of the application.”

City & County of Cardiff – “I refer to the above application and would inform you that Cardiff County Council has no objections to the proposed development.”

Vale of Glamorgan CBC – “Consideration has been given to this matter and I would advise you that this Authority does not wish to make any observations on the proposal.”

## **POLICY CONTEXT**

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

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

**Policy CS5** – sets out the Council’s objectives in the delivery of affordable housing.

**Policy AW1** – sets criteria for the delivery of new housing in accordance with the strategy and objectives of the local development plan.

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

**Policy AW4** – States the type of community infrastructure and planning obligation contributions that the Council will be seeking in relation to development proposals.

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

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

**Policy AW8** – sets out policy for the protection and enhancement of the natural environment, including that proposals should not result in harm to sites with recognised nature conservation interest or have an unacceptable impact on features of importance to landscape or nature conservation.

**Policy AW10** - development proposals must overcome any harm to public health, the environment or local amenity as a result of flooding.

**Policy SSA11** – sets a minimum density requirement of 35 dwellings per hectare for the southern strategy area of the County Borough.

**Policy SSA12** – seeks the provision of 20% affordable housing on residential developments of five dwellings or more.

**Policy SSA13** – gives criteria for housing development within settlement boundaries and supporting paragraph 6.160 states that development will not be permitted outside the proposed settlement boundary.

**Policy SSA22** – states that development that would prejudice the open nature of land in green wedges will not be permitted.

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan, particularly where National Planning Policy provides a more up to date and comprehensive policy on certain topics.

#### Planning Policy Wales

##### Chapter 2 (Development Plans),

Paragraph 2.1.2 states that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

##### Chapter 3 (Making and Enforcing Planning Decisions),

Paragraph 3.1.2. In line with the principles of sustainable development planning decisions should be made in accordance with the policies of the local development plan unless material circumstances dictate otherwise

Paragraph 3.1.5. Local Planning Authorities should have good reason if it approves a development which is a departure from the approved or adopted development plan.

Chapter 4 (Planning for Sustainability),

Paragraph 4.8.14 states that there is a presumption against inappropriate development in green wedges. Substantial weight should be attached to any harmful impact which a development would have on a green wedge.

Paragraph 4.8.15 states that inappropriate development in green wedges should not be permitted except in very exceptional circumstances. These would be where other considerations clearly outweigh the harm which such development would do to the green wedge.

Paragraph 4.8.16 defines inappropriate development, which does not include non-affordable housing beyond “limited infilling” in settlements identified for limited infilling in the development plan.

Chapter 5 (Conserving and Improving Natural Heritage and the Coast),

Paragraph 5.1.3. A key role of the planning system is to ensure that society’s land requirements are met in ways which do not impose unnecessary constraints on development whilst ensuring that all reasonable steps are taken to safeguard or enhance the environment. However, conservation and development can often be fully integrated.

Paragraph 5.5.1. It is important to balance conservation objectives with the wider economic needs of local businesses and communities.

Chapter 8 (Transport),

Paragraph 8.7.1. When determining a planning application that has transport implications local planning authorities should take into account:

- The impacts of the proposed development on travel demand.
- The level and nature of public transport provision.
- Accessibility by a range of transport modes.
- The willingness of developers to promote modes of transport other than the private car.
- The environmental impact of both transport infrastructure and the traffic generated.
- The effects on the safety and convenience of other users of the transport network.

Chapter 9 (Housing),

Paragraph 9.1.2 advocates residential development that is easily accessible by public transport, cycling and walking, and making the most efficient use of land.

Paragraph 9.2.3 states that a five-year supply of housing land should be available.

Paragraph 9.2.14 and TAN2 state that a community's need for affordable housing is a material consideration.

Paragraph 9.3.1 states that new housing developments should be well integrated and connected to the existing pattern of settlements.

Paragraphs 9.3.3 & 9.3.4 state that residential developments, including conversions, should not be allowed to damage an area's character or amenity.

Chapter 12 (Infrastructure and Services),

Paragraph 12.1.6. States that the capacity of existing infrastructure and the need for additional facilities should be taken into account in the preparation of development plans and the consideration of planning applications. In general Local Planning Authorities should seek to maximise the use of existing infrastructure and should consider how the provision of different types of infrastructure can be coordinated.

Chapter 13 (Minimising and Managing Environmental Risks and Pollution),

Sections 13.5 – 13.7 – Sets out the Welsh governments position in respect of contaminated and unstable land and the approach to be adopted to these issues when dealing with planning applications that might be affected by them

It is considered that the issues highlighted above set out the Welsh Government's policy on planning issues that are most relevant to the determination of this planning application.

Other relevant policy guidance consulted:

PPW Technical Advice Note 1: Joint Housing Land Availability Studies  
PPW Technical Advice Note 2: Planning and Affordable Housing;  
PPW Technical Advice Note 5: Nature Conservation and Planning;  
PPW Technical Advice Note 11: Noise;  
PPW Technical Advice Note 12: Design;  
PPW Technical Advice Note 15: Development and Flood Risk;  
PPW Technical Advice Note 18: Transport;  
Manual for Streets.

## **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

### **Main Issues:**



Given the nature of the proposal currently before members as an application for residential development outside of settlement limits and within a green wedge; and the type of application proposed being an outline planning application, the principal issue in the determination of this application is the principle of development itself.

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

In considering the principle of residential development on this site the key determinants are set out in chapter 4 of Planning Policy Wales and Technical Advice Note 1 Joint Housing Land Availability Studies.

The application site lies outside of the settlement limits of Llanharry and within a green wedge and is therefore in conflict with local development plan policies AW2 and SSA22. The question is therefore whether there are any material circumstances that would justify the grant of planning permission in this case?

The five year housing land supply is currently in shortfall at only 3.7 years. The applicants planning statement makes the case that the shortage of land available for housing is a significant material consideration in the consideration and determination of this planning application that has to be weighed in the planning balance against the designation constraints within the adopted Local Development Plan. It is therefore appropriate in the first instance to consider the issues of housing land supply and the policy constraints that affect this proposal.

Planning Policy Wales at paragraph 4.8.16 is clear that the construction of new buildings in the countryside is only acceptable in specifically defined circumstances that the current proposal does not meet as it is not for

- Justified rural enterprise needs.
- Outdoor facilities for sport or recreation or other uses of land that maintain the openness of the green wedge, or
- For the limited alteration extension or replacement of existing dwellings.

The application site lies outside of the settlement boundary and the proposed development at up to 80 units could not be considered infilling and in any event would have to be considered an inappropriate development in the green wedge.

To an extent this is reinforced by the preceding paragraph 4.8.14 in Planning Policy Wales which promotes a presumption against inappropriate development in a green wedge. On the face of it the building of up to 80 units on 2.36 hectares of open ground even with the retention of some public open space would have a harmful effect on the green wedge as its character or at least part of its character would shift from open to closed and this harmful impact does carry substantive weight.

Paragraph 4.8.15 of Planning Policy Wales is clear, stating that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such developments would do, and these very exceptional cases should be treated as departures from the plan. For any development in a green wedge to be acceptable there would have to be a very exceptional circumstances case brought forward. The need to increase housing land supply might be that exceptional consideration

Technical Advice Note 1 is clear that where the current study shows a land supply below the five year requirement the need to increase the supply should be given considerable weight provided that the development would otherwise comply with national planning policy.

In this case at a national policy level there are clearly competing policy requirements where the harmful impact of the proposed development on the green wedge needs to be balanced against the clear requirement to make more housing land available. Neither competing policy objective holds primacy over the other and consequently it is important to give consideration to the specifics of the case and particularly the settlement limits, the nature of the green wedge and the landscape and visual impacts of allowing the site to be developed.

On the issue of the settlement boundary the applicant argues that the wholly exceptional need to release further land for housing development to address the shortfall makes it inevitable that any additional land coming forward for development would be outside of the settlement limits and that there are certain site specific characteristics that would make the site suitable for residential development without setting a precedent for the wholesale release of land for residential development elsewhere. Among the site specific issues raised are the arguments that the site enjoys a stronger relationship with the built form of Llanharry than it does with the green wedge as a result of its clearly defined boundaries and it being enclosed on three sides by built development or major infrastructure. Furthermore, the association with the built form of Llanharry is further enhanced by the strong nature of its fourth eastern boundary in the form of a dense hedgerow and lane. Members are advised that the claim that these characteristics make it unique within the Llanharry catchment are true and additionally such features set a high bar that few sites that might come forward on a speculative basis outside of settlement limits could match, be it in Llanharry or elsewhere. The applicants also point out that the site is unique in that it is the only area of land abutting the settlement boundary of Llanharry that is not part of the designated Special Landscape Area and it would therefore not result in any significant impact on any area of landscape value and therefore forms a logical location for further development. They also go on to claim that in their view the proposals other than being outside of settlement limits is capable of meeting the requirements of Local development Plan Policies AW2 and SSA13. In respect of these later claims there is certainly a logic to the first though the second is not entirely true as in the view of officers to demonstrate complete compliance with AW2 the developer would have to explain how the proposal would support the development of the eight strategic sites and this they have made no reference to.

The issue of the green wedge designation of the site the developer recognizes needs to be given greater weight than that of the settlement boundary as such designations are intended to perform a higher status function. However they go on to argue that the particular characteristics of the site would not result in a harmful effect on the green wedge in this particular instance. Whilst the building of up to 80 dwellings on the site would in the view of officers harm a part of the green wedge to an extent by changing its character from open ground to developed land, the case here again hinges on the site specific issues that need to be considered against the site analysis undertaken in the landscape and visual impact assessment

accompanying the planning application and the defined purposes of green wedges as set out in Planning Policy Wales.

The principal purpose of a green wedge is to prevent the coalescence of settlements. In this the appellants point out that the development of the site would not result in an easterly extension of development beyond the extent already established by Clos Pupren and that a clear distinction would be maintained between Llanharry and Brynsadler. They also point out that in this instance the development would present the opportunity to provide a clearly defensible boundary for the green wedge. Notwithstanding that the green wedge already benefits from a clearly defined boundary there is merit in the arguments presented on this point.

A key role of any green wedge is that it should perform an urban management role. This the applicants argue is currently weak given the relationship of the site with the surrounding built development it is more readily construed as part of the settlement itself rather than open countryside. On this point they again argue that allowing its development would allow the creation of a clearer defensible boundary for the green wedge with the eastern boundary hedgerow and Strawberry Lane replacing the current arrangement. Whilst the first point is somewhat subjective there is some merit in the second.

The applicants then argue that it follows from the above that the development of Elms Farm could be considered a logical rounding off opportunity that would not involve encroachment into the countryside. This point highlights a difference between the existing allocation and their interpretation of the situation at the site itself and the point could be argued either way. The point reiterates the applicants contention that the site weakens the green wedge generally.

A further requirement of the green wedge is that it should perform a significant function in providing a setting for the urban area. On this point, the applicants claim the lack of any strong delineation between the site and the existing settlement means that it is construed as part of it rather than separate to it. There is some merit in this argument as all that separates the two elements for the most part is the estate service road and the boundary between the two is then further eroded by the residential development of Clos Pupren with its back to the site.

On the final test the applicants concede the point that the development if allowed would not assist in recycling derelict or other urban land due to its greenfield status they insist however that its development would assist in ensuring that there is a sufficient range of suitably located land available for development.

In light of the above key points, and whilst the case is not as clear cut as the applicants believe, there is on balance a strong case for releasing this land despite its green wedge status as it is a weak element within the wider green wedge site, for the reasons cited above, its location, the topography of the wider area, and because its development would allow for the creation of a more robust boundary

Turning to the landscape and visual impact elements of the proposal the landscape and Visual Assessment of the site concludes that the site is well placed on a discreet area of low lying land within a gently undulating landscape which includes pre existing built form generally the long and shorter distance views of the site are for

the most part extremely limited and the proposals would have no discernible impact on the adjacent Special Landscape Area, any conservation areas near the site, any registered parks or gardens or scheduled ancient monuments, or any national trails or long distance paths. This document has been considered by the Countryside Section and there is no disagreement with its conclusions which are clear that the development of the site would have little impact in this context. As such it serves to prove that residential development of the site is acceptable in landscape terms and at the same time underlines some of the points made by the applicants in respect of the green wedge.

In conclusion, on this point of principle the acceptability or otherwise of the development hinges on the acceptability of the proposals in terms of planning policy and balancing the need to protect the countryside against the need to provide sufficient land that can be readily available for housing development. In this case the applicant has been able to demonstrate that the impact on the green wedge in particular is minimal and the balance therefore has to fall in favour of maintaining the housing land supply.

### **Access and highway safety**

A number of residents have raised certain concerns over the potential of the development to add to the weight of traffic in the locality or have referred to car parking on the existing estate access road or the difficulty in using the Llanharry - Brynsadler road at certain times of the day. In support of the application the applicants have provided a Transport Assessment that addresses the key issues arising out of the proposed development within the established estate and in terms of its impact on the A4222. The assessment has been independently vetted by the Transportation Section who have concluded that while the proposed development does generate some concerns in terms its impact at the A4222 Cowbridge Road/Llanharry Road Junction, such concerns can be adequately addressed through the Transport Tariff contribution and the application of appropriate planning conditions. As such the proposed development is considered acceptable form an operational highway standpoint.

### **Ecology**

The application is supported by an extended phase 1 habitat survey that is clear in its findings and has not generated any ecology based concern with regard to the consultation responses received from Natural Resources Wales or from the Council's own ecologist. Whilst the Council ecologist has requested a condition requiring the submission and agreement of a wildlife protection plan in this instance it is recommended that this would be best achieved by a condition requiring adherence to the recommendations of the Habitat survey that accompanies the planning application.

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

Issues relating to the impact of the proposed development on the character and appearance of the area are covered in some detail in the context of the principle of the proposed development section above. This concludes that such impacts that there would be, are on balance acceptable

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

As an outline application there is no detail to consider and these issues are better dealt with at the design detail stage. However the applicants have prepared an illustrative detail plan which clearly illustrates that the site could with careful design be developed in a manner where the impacts of its development would be entirely acceptable in terms of the privacy and amenity of existing residential property.

## **Other matters**

One resident has made reference to there being no green space/play provision should this development gain approval. However, if allowed the Section 106 requirement would ensure the provision of a play area and surrounding informal open space.

Another resident claims that there is ample new housing some of it affordable within Llanharry. This may have some credence at the most local of levels, however the key determinant in this case is the strategic argument set out above.

Finally one resident claims that the current proposals have not been sufficiently advertised. Members are referred to the Publicity Section above and are advised that statutory requirements in this regard have been met.

## **Section 106 Contributions / Planning Obligations**

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

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

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

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**

Discussion with the applicant has indicated that in this instance they are prepared to meet the full scope of the requirements outlined in the Council's Supplementary Planning Guidance on Planning Obligations in the following terms:-

- A transport tariff payment commensurate with the final number of homes to be built on site.
- Affordable Housing to the following amount
- 8 x 1 bedroom units for social rent (walk up units – no communal area)  
3 x 2 bedroom houses for social rent  
5 x 2 bedroom houses for low cost home ownership.
- A financial contribution to education provision commensurate with the number of eligible dwellings to be built in the development.
- The provision of a Neighbourhood Equipped Area for Play and Public Open Space.
- Meeting the Council's reasonable costs in preparing the Section 106 legal agreement.

## **Conclusion**

This is an unusual application from a planning policy perspective in as much as even though the site lies outside of settlement limits and within a green wedge as defined by the Local Development Plan, there is ultimately a strong material consideration in the form of the need to maintain a five year supply of land for housing development. The case for allowing the development contrary to policy is strengthened both by the case outlined above and through discussions with the applicant that have revealed that there are no land ownership issues that need to be resolved and that subject to the approval of this application and the future agreement of design details they would aim to be on site within a year. This second point is particularly important as to make a contribution to the five year supply in a meaningful way the developer should be able to deliver new housing as soon as is practicably possible. There is clearly an eagerness on the part of the developer which is further bolstered by their willingness to accept a condition that restricts the time for the submission and agreement of reserved matters and the commencement of works on site to shorter timescales than would usually be allowed, (see below). In light of the clear planning policy case, the unique nature of the site itself and the willingness of the developer to bring this site forward a positive recommendation is made.

## **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 two 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 3 years from the date of this permission or (ii) the expiration of 1 year of the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

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

2. The development hereby permitted shall not begin (Other than for any necessary works of demolition and site investigations) until a scheme to deal with contamination of the site or for that phase of the development 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:

- *A desk-top study to identify and evaluate all potential sources and impacts of contamination relevant to the site. The desk top study should contain a conceptual site model.*
- *A site investigation shall be carried out to fully and effectively characterise the nature and extent of any contamination and its implications. The site investigation shall not be commenced until a desk-top study has been agreed in writing with the Local Planning Authority.*
- *A written method statement for the remediation of contamination affecting the site*

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

3. No dwelling, hereby permitted, shall be occupied until the measures approved in the scheme (referred to in condition 2 above or any additional/alternative works required under condition 4 below) have been implemented and a suitable validation report of the proposed scheme or scheme phase 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.

4. 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.

5. The details of landscaping required to be submitted to and approved by the Local Planning Authority under reserved matters shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection during the course of development.

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.

6. 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.

7. Before any work is commenced on site, including site works of any description, each of the trees to be retained shall be securely fenced off by a chestnut paling or similar fence erected in a circle round each tree to coincide with the extremity of the canopy of the tree. Within the areas so fenced off the existing ground level shall be neither raised nor lowered, and no materials or temporary buildings or surplus soil of any kind shall be placed or stored thereon. If any trenches for services are required in the fenced-off areas they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cms or more shall be left unsevered.

Reason: To protect the existing trees on the site during the course of building work in the interests of amenity in accordance with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

8. Before any works start on site, existing and proposed levels (including relevant sections) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.



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

9. 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) Nor 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 AW10 of the Rhondda Cynon Taf Local Development Plan.

10. No development shall take place other than any necessary works of demolition, site remediation and preparation until drainage arrangements for the development as a whole or any identified phase of development have been submitted to and approved in writing by the Local Planning Authority.

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

11. No dwelling shall be occupied until the drainage works have been completed in accordance with the approved plans as a whole for the site or for any agreed phase of development.

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

12. No development shall commence until the Local Planning Authority has received and approved in writing a hydrological impact assessment including proposed mitigation measures design details and a development programme with respect to;

- Protection of open and culverted sections of the existing watercourse during and after construction.
- Protection of properties downstream of the development from increased flood risk during and after construction owing to the development.
- Protection of properties within the development from flood risk.

Reason: To ensure that the proposed development does not cause or exacerbate any adverse conditions on the development sit, adjoining properties and environment with regard to flood risk.

13. The means of vehicular access to the development shall be from Stryd Silurian only.

Reason: To limit the number of accesses onto the highway in the interests of road safety in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

14. Notwithstanding the approved plans development shall not commence until full engineering design and details of the proposed junction, internal road layouts, sections, street lighting and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

15. Surface water runoff from the proposed development shall not discharge on to the public highway or be connected to any highway drainage system unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to prevent over capacity of the existing highway drainage system and potential flooding.

16. No development shall take place, including any works of site clearance until a construction method statement has been submitted to and approved in writing by the Local Planning Authority to provide for:

- The means of access into the site for all construction traffic.
- The parking of vehicles of site operatives and visitors.
- The management of vehicular and pedestrian traffic.
- Loading and unloading of plant and materials.
- Storage of plant and materials used in constructing the development.
- Wheel cleansing facilities; and,
- The sheeting of lorries leaving the site.

The approved 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 safety and the free flow of traffic.

17. No HGV deliveries to the site shall take place during the period of construction between 0800 hours and 0900 hours am or between 1500 hours and 1600 hours pm on weekdays to or from the site.

Reason: In the interests of the safety of all highway users.

18. The development shall be carried out entirely in accordance with the recommendations of the Phase 1 habitat survey prepared by Messrs Soltys

Brewster dated 2<sup>nd</sup> July 2014.

Reason: In the interests of maintaining biodiversity.

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**APPLICATION NO:** 14/1033/15 (HL)  
**APPLICANT:** Reach4Saving Ltd  
**DEVELOPMENT:** Variation of Conditions 7, 8 and 9 of Planning Permission 13/0915 to remove the Code for Sustainable Homes Assessment.  
**LOCATION:** THE RED COW, 57 HIGH STREET, TREORCHY, CF42 6NY  
**DATE REGISTERED:** 01/08/2014  
**ELECTORAL DIVISION:** Treorchy

**RECOMMENDATION:** Grant, subject to a S.106 Deed of Variation.

**REASONS:**

**As of the 31<sup>st</sup> July 2014, national planning policy requirements for sustainable building standards were withdrawn and Technical Advice Note 22: Planning for Sustainable Buildings (TAN22) cancelled. All requirements relating to energy efficiency have now been included within Part L of the Building Regulations.**

**APPLICATION DETAILS**

The application seeks consent via section 73 of the Town and Country Planning Act 1990 to remove conditions 7, 8 and 9 from planning permission 13/0915/10 which granted consent for the replacement of a former public house with a development of 12 No. one bedroom flats on the 7<sup>th</sup> March 2014.

Conditions 7, 8 and 9 specify the following:

*7. 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.*

*8. 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.*

*9. 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.*

The application is accompanied by:

- A design and access statement.

## **SITE APPRAISAL**

The site comprises a rectangular shaped parcel of land measuring 12m wide, 40m deep that was formerly occupied by the Red Cow public house. The site forms a complete block with public highways on all four sides. At the time of inspection, with the exception of the front steps, the former building had been demolished, the site cleared and security fences erected around the perimeter.

The plot is positioned on the north-eastern side of High Street in close proximity to Treorchy town centre. The site and wider area is positioned on a gradient falling from north-east to south-west. The surrounding area is dominated by two-storey, single and double fronted Victorian dwellings, mostly in the form of small terraces. A variety of uses and building styles/ architecture are evident along High Street.

## **PLANNING HISTORY**

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

13/0915	Replacement of existing public house with a development of 12 No. One bedroom flats.	Granted 07/03/14
11/0740	Retention of public house with demolition of rear extension to provide 4 no 2 storey 3 bed terrace houses to the rear of the site	Allowed at Appeal 16/11/12

00/6006	New side entrance door and improvements to front entrance steps	Granted 24/03/00
87/0777	Advertisement	Granted 25/01/88
87/0615	External signage, demolition of rear building and re-build, internal alterations.	Granted 08/12/87

## **PUBLICITY**

The application has been advertised by direct neighbour notification letters and the erection of site notices. 2 letters of objection have been received which are summarised as follows:

- Residents object strongly to the pile driving that may cause structural damage to their properties.
- Concerns regarding the hazards associated with the contractor's entrance to the site being on a residential street; the location of the builder's toilet facilities and building material being stacked at the front of the site.
- The development is causing congestion on the roads which will inhibit access by emergency vehicles.

## **CONSULTATION**

Building Regulations - full plans building regulations application received 26th August 2014. Application is valid and processing.

## **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 Treorchy and is unallocated.

**Policy CS1** – promotes the building of strong sustainable communities.

### Planning Policy Wales (Edition 7 July 2014)

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).

## REASONS FOR REACHING RECOMMENDATION

The application seeks to remove conditions 7, 8 and 9 from planning permission 13/0915, which was granted consent on the 7<sup>th</sup> March 2014 for the replacement of the existing public house with a development of 12 No. one bedroom flats.

The application does not seek full planning permission for the development of the site. Detail planning permission for the site has been established by the granting of planning permission 13/0915/10 and the completion of the associated Section 106 legal agreement.

The conditions are sought to be removed following changes to the Welsh Government's legislation on sustainable buildings, which has resulted in national planning policy requirements for sustainable building standards being withdrawn and Technical Advice Note 22: Planning for Sustainable Buildings (TAN22) being cancelled, with all requirements relating to energy efficiency being included within Part L of the Building Regulations. As a result of the legislative changes there is no longer any requirement to meet mandatory levels of Code for Sustainable Home (Code) and BREEAM accreditation as part of the planning process.

Furthermore the Design and Access Statement submitted in support of the current application outlines that the approved scheme is unable to achieve Code accreditation, in line with the requirements of the Inclusive Design Principles Checklist, as the topography of the site prevents the provision of a level access from the entrance doors to bin storage areas and amenity space. No alteration to the external appearance, layout or number of units as previously approved is proposed as part of the application.

Welsh Government Circular WGC 016/2014: The Use of Conditions for Development Management includes the 'six tests' that have been laid down by the Courts as the general criteria for the imposition of conditions on a planning permission. These are as follows, the conditions must be:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects

For Members information the new conditions circular: The Use of Conditions in Development Management came into force on 6 October 2014. The previous Welsh Office Circular 35/95: The Use of Conditions in Planning Permissions is now cancelled.

As identified above, the developers submitted a full plans building regulations application on the 26<sup>th</sup> August 2014 and as such will be required to meet the sustainability criteria set out in Part L of the Building Regulations. As the development will therefore be the subject of sustainability requirements, it is considered that retention of conditions 7, 8 and 9 of planning permission 13/0915 would be unenforceable, unreasonable and unnecessary.

Following consultation, two letters of objection have been received. However, the concerns and objections raised relate to the principle of development and the activities of the construction team as opposed to the removal of the conditions. Works at the site are currently being monitored by the Enforcement and Condition Monitoring Officers.

## **PLANNING OBLIGATIONS**

From 6 April 2010 planning obligations should meet all of the following tests in order to comply with the Community Infrastructure Levy legislation:

- (a) necessary to make the development acceptable in planning terms
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

As part of the previous application, the applicant was required to enter into a Section 106 agreement to:

1. Ensure that the development would be secured for affordable housing; and
2. Provide a contribution of £5000 towards improving bus stops along High Street.

As the current application seeks to vary the original planning permission and in essence, if approved, would result in the reissuing of a planning permission, the applicant will need to enter into a Deed of Variation of the original 106 agreement to link the consents and ensure the above requirements are provided and complied with.

It is considered that this requirement meets all of the above tests and is compliant with the relevant legislation.

## **CONCLUSION**

Taking the above into consideration it is recommended that conditions 7, 8 and 9 be removed, that all the other conditions associated with planning permission 13/09151/10 be reiterated (and where appropriate renumbered) and the application be approved subject to the applicant entering into a Deed of Variation of the original 106 agreement.

## **RECOMMENDATION: Grant**

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. Prior to works commencing on site, design and detail of the proposed works to the public footway shall be submitted to and approved in writing by the Local planning Authority prior to any development on site commencing.

Reason: In the interests of highway and pedestrian safety.

- 4. Prior to the commencement of development, details of traffic management 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: In the interests of highway and pedestrian safety.

- 5. 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.

- 6. 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.

- 7. The blue plaque on the existing building shall be carefully salvaged, protected and stored in a secure location for re-use/reinstatement on the building hereby approved in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the retention of the commemoration of the special historic interest of this building in accordance with policy AW7 of the



Rhondda Cynon Taf Local Development Plan.

8. The development permitted by this planning permission shall only be carried out in accordance with the drawing 1833(04) 04 Rev B and the finished floor levels should be set at 159 metres Above Ordnance Datum (AOD).

Reason: To reduce the risk of flooding on the proposed development and future occupants.

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**APPLICATION NO:** 14/1129/10 (BJW)  
**APPLICANT:** Mrs Sherrin Payne  
**DEVELOPMENT:** Change of use from a private members club to an A3 Bar and carvery.  
**LOCATION:** XS BAR AND CARVERY, 180 ABERRHONDDA ROAD, PORTH, CF39 0LF  
**DATE REGISTERED:** 01/09/2014  
**ELECTORAL DIVISION:** Porth

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**RECOMMENDATION:** Approve

**REASONS:**

The proposed change of use would be similar to its previous use as a private members club and is considered to be acceptable in the existing area which has a mix of residential and commercial properties. Additionally, it is considered that the operation of the use would not have a detrimental impact on the amenity of the closest residential properties.

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**APPLICATION DETAILS**

The application seeks consent for change of use from a private members club to an A3 use as a bar and carvery at XS Bar and Carvery, Aberrhondda Road.

The property is a large, end of terrace, commercial property with a cellar, ground, first and second floors. The layout of the property would be as detailed below:

Cellar – main cellar area; bottle store area; store room; kitchen and boiler room.

Ground floor – entrance porch; bar area (includes bar servery and stage); gents W. C.; ladies W. C. and office.

First floor – bar area (includes stage/disco booth and bar servery); gents W. C. and ladies W. C.

Second floor – living accommodation consisting of a living room; kitchen and 2 bedrooms.

The proposed hours of operation of the business would be 11.00am to 11.30pm Monday to Friday, 11.00am to 12.00pm Saturdays and 11.00am to 11.30pm Sundays and Bank Holidays.

The application is accompanied by an Access Statement in support of the application. The Access Statement states that the proposed development would convert the private members club to a bar and carvery. There would be no alteration to the external appearance of the property and the main point of access to the premises would also be unchanged. It is also stated that the property is in a mixed residential and commercial area, a sustainable location and is accessible to a range of sustainable transport modes.

### **SITE APPRAISAL**

The application premises is a large, commercial scale, end of terrace building located within a mixed commercial and residential area of the town of Porth.

The property is located adjoining 179 Aberrhondda Road, a residential property, and adjacent to a hand car wash and valeting centre that operates out of a former petrol filling station. Immediately opposite are residential dwellings and the Tynewydd Hotel which is currently disused.

The premises is located at roadside and at the same level as surrounding properties and has a 3 storey facade on the front elevation.

### **PLANNING HISTORY**

14/0823	Application for a Lawful Development Certificate for an Existing shared use for a Public House (A4) and Carvery (A3 Use).	Withdrawn - Invalid 28/08/14
14/5141	Licensing Consultation – Application for a Premises License	ROB 17/04/14
11/5697	Licensing Consultation Enquiry	RNO 08/09/11
09/5647	Change of use from private members club to hot food take away	PRQ 16/10/09
07/1723	Conversion of former licensed club into a dwelling and a bar with flat accommodation.	WDN 28/01/08
98/6054	Public House Advertisement Signs and Associated External Lighting Units	GTD 06/03/98
98/6030	Renewal/refurbishment of exterior front elevations	GTD 09/03/98

97/6665	Proposed sign	CR 28/11/97
93/0390	Refurbishment of fire damaged premises	GTD 04/06/93
90/783	Proposed alterations to form a new entrance	GTD 05/11/90
89/0758	Section 53 app. To form a flat	Consent required 02/10/89
81/0801	Proposed extension to form flats and alterations	GTD 10/11/81
74/0542	Change from stewards accommodation to additional club lounges	GTD 11/09/94
74/0258	Change from stewards accommodation to additional club lounges	GTD 12/06/74

## **PUBLICITY**

This has included site notices and the direct notification of properties surrounding the site however, no comments have been received.

## **CONSULTATION**

Transportation Section – no objection.

Public Health and Protection Division – no objection.

Natural Resources Wales - no response received within the consultation period. Any comments received will be reported orally to Members at the meeting.

## **POLICY CONTEXT**

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

The application site lies outside the settlement boundary of Porth and is unallocated.

**Policy CS1** - sets out criteria for achieving sustainable growth including, promoting and enhancing transport infrastructure services.

**Policy AW2** - supports development in sustainable locations.

**Policy AW5** - lists amenity and accessibility criteria that will be supported in new development proposals.

**Policy AW6** - lists design and place making criteria that will be supported in new development proposals.

**Policy AW10** – states that development will not be permitted where they would cause or result in a risk of unacceptable harm to health and/or local amenity because of issues including air, noise or water pollution and contamination.

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of National Planning Policy that are not duplicated in the Local Development Plan, particularly where National Planning Policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales, Chapter 2 (development plans), Chapter 3 (making and enforcing planning decisions), Chapter 4 (planning for sustainability), Chapter 7 (economic development) set out the Welsh Government's policy on planning issues relevant to the determination of this planning application.

### **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

### **Main issues:**

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

In terms of the change of use it is considered that the existing use of the premises as a private members club has many of the same characteristics as the bar that is now being applied for. The property has also been used for several temporary events as a bar and the applicant has been granted a full licence by the local authority (in its role as licensing authority) and is therefore considered to be a person who is fit to run an establishment of this nature.

The premises has been used on an intermittent basis over approximately the last 15 years with long periods of inactivity when the property was vacant.

It is considered that the principle of the change of use to a bar/carvery use would be broadly similar to its previous use as a private members club, would bring the building back into productive use, would be acceptable in terms of licensing and the various conditions that have been imposed and would therefore be acceptable.

#### **Impact on neighbouring properties**

The proposal would utilise an existing club premises that is located at the end of a terrace of residential properties. While there is potential for disturbance to be caused to neighbouring residential properties it is considered that the existing use of

the premises, as a private members club, would have similar potential in this regard. It is also acknowledged that there have been no adverse responses from neighbouring properties as part of the consultation process.

It is considered that the immediate area is a mixed commercial and residential area where several commercial properties have operated for a considerable period in close proximity to residential dwellings without undue amenity problems.

The current proposal has recently been granted a license by the local authority and is subject to conditions regarding the noise emitted from the premises and the hours of operation. It is considered that the licensing regime in place adequately mitigates many of the key amenity considerations to an acceptable level. Therefore the impact on the closest residential properties would be considered to be acceptable.

### **Highway safety**

The Transportation Section has raised no objection to the application. This view acknowledges that there is concern with regard to the lack of off-street car parking provision, however, there is no increase in parking requirements between the proposed and existing uses.

Therefore, taking into account the existing traffic regulation orders in place preventing indiscriminate on-street car parking along Abershondda Road and the sustainable location of the property, the proposal is considered to be acceptable.

### **Conclusion**

The application is considered to comply with the relevant policies of the Local Development Plan in respect of the principle of the change of use, highway safety and the impact on existing neighbouring residential properties.

### **RECOMMENDATION: Grant**

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. The premises/land shall be used for a bar and carvery and for no other purpose; including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Reason: In order to define the scope of the consent and to protect the amenity of neighbouring residential properties from potential noise and disturbance that could be caused by other A3 uses in accordance with policy AW10 of the Rhondda Cynon Taf Local Development Plan.

3. The hours of operation for the business hereby approved shall be as

follows:

Monday – Thursday	11.00 to 23.30 hours
Fridays and Saturdays	11.00 to 00.30 hours
Sundays and Bank Holidays	11.00 to 23.30 hours

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.



**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**

**16 OCTOBER 2014**

**REPORT OF: SERVICE DIRECTOR PLANNING**

**REPORT**

**APPLICATIONS RECOMMENDED  
FOR APPROVAL**

**OFFICER TO CONTACT**

**MR J BAILEY  
(Tel: 01443 425004)**

**See Relevant Application File**

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