

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2014-215

**DEVELOPMENT CONTROL
COMMITTEE
5 FEBRUARY 2015**

**REPORT OF: SERVICE
DIRECTOR PLANNING**

	Agenda Item No.7
APPLICATIONS RECOMMENDED FOR REFUSAL	

1. PURPOSE OF THE REPORT

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

2. Recommendation

To refuse the applications subject to the reasons outlined in Appendix 1.

1. Application No. 13/1084 - Mixed-use development comprising employment (B1 & B2), nursery (D1), care home (C2), and residential (C3), Former Chubb Fire Security Ltd Site, Maerdy Industrial Estate, Ferndale, Maerdy.

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**Committee Report produced for Planning Committee
on 05 February 2015**

APPLICATION NO: 13/1084/13 (GD)
APPLICANT: Garrison Barclay Estates
DEVELOPMENT: Mixed-use development comprising employment (B1 & B2), nursery (D1), care home (C2), and residential (C3).
LOCATION: **FORMER CHUBB FIRE SECURITY LTD SITE,
 MAERDY INDUSTRIAL ESTATE, FERNDALE,
 MAERDY, CF43 4AB**
DATE REGISTERED: 21/01/2014
ELECTORAL DIVISION: Maerdy

RECOMMENDATION: Refuse

REASONS:

The proposed development remains contrary to planning policy and if allowed would also result in a form of residential development that relates poorly to established residential areas and a poor quality living environment likely to result in conflict with established land uses.

APPLICATION DETAILS

This is an outline application with all matters reserved that relates to the Former Chubb Fire Security Factory Site on Maerdy Industrial Estate. The proposal seeks consent for the following: –

- Up to 86 Dwellings
- 660 sq m. of light industrial floorspace.
- 1300 sq m. of general industrial floorspace
- 5400 sq m. residential institution (C2) 100 bedrooms, and;
- 820sq m. nursery.

Though layout remains a reserved matter, the applicants have provided a schematic plan which illustrates the location of buildings, routes and open space. Similarly the applicants have also provided an indication of the maximum and minimum dimensions of the dwellings to be built at the site as follows –

Dwelling type	Min Wid	Max Wid	Min Ht eaves	Max Ht eaves	Min Ht ridge	Max Ht ridge	Min Lth	Max Lth
Up to 2 storey	4.5m	10m	2.4m	5m	5m	8.7m	6m	10.5m

houses									
All 3 storey houses	4.5m	10m	7.1m	7.6m	11.6m	12.1m	9m	10.5m	

The parameters set for the other buildings around the site are set as follows: -

Building	Min wid	Max wid	Min ht	Max ht	Min lth	Max lth
Industrial units	12m	18m	7m	10m	10m	17m
Day care Nursery	10m	28m	5m	8.7m	42m	20m
Residential home	15m	64m	10m	12m	17m	45m

In addition to the standard forms, certificates and plans the proposed development is accompanied and supported by the following information and documents: –

- An illustrative site layout plan.
- A parameters plan.
- Design and Access Statement.
- A site investigation report.
- A transport statement.
- Market viability assessment, and;
- A topographical plan.

SITE APPRAISAL

The application site is comprised in just over 4 hectares of land located between the river Rhondda Fach in the north and the A4233 in the south. To the east of the site at a slightly lower level is the Highfields Industrial Estate and to the west lies the Maerdy Industrial Estate. The site sits on the lower southern slope of the valley and sits approximately 10 – 15 metres above the valley floor and approximately 8 - 10 metres below the classified road. The site comprises two plateau areas with the western plateau being the slightly higher of the two. The plateau areas were created with the former factory units and now only elements of their slabs remain. The Land surrounding the slabs has become overgrown and presents a generally unkempt appearance. The embankment between the road and the plateau is steep in character and well wooded with some ecological value. The site boundaries are defined by the curtilage boundary established by the previous use of the site.

Access to the site is achieved from the A4233 via the Maerdy Industrial Estate access road, a route which served the factory units that previously occupied the site.

The surrounding area is largely characterised by the industrial development to the east and west of the site with the difference in levels and the A4233 providing a clearly defined boundary with established residential development to the south.

Land to the north of the site is characterised by a vegetated steep embankment that slopes down to the river that is crossed in places by off road pedestrian and cycle routes.

PLANNING HISTORY

07/0414	Residential Development with new access (outline application)	Appeal against non determination dismissed 31/1/08
01/6300	Certificate of Lawfulness for existing industrial use	Granted 11/10/01
01/6212	Recladding of existing building and new roller shutter doors	Approved 13/08/01
90/0873	Portakabin Extension	Approved 20/11/90
89/0017	Fire test area	Approved 19/04/89
85/0355	Shopfront/internal alterations/external staircase	Approved 06/05/85
78/1357	Factory Extension	Approved 05/02/79

PUBLICITY

The application has been advertised by means of press notice site notices and neighbour notification letters. This has lead to the submission of one letter from a member of the public supporting the application.

CONSULTATION

Transportation Section – no objections subject to conditions.

Land Reclamation & Engineering – raise no objection subject to conditions including the developer providing a hydrological impact assessment for the proposed development.

Public Health & Protection Division - indicate that the submitted noise assessment sets out a number of requirements that would have to be addressed at the design detail stage and that there is a requirement for appropriate conditions should members be minded to support the current proposal.

Education & Children's Services – raise no objection and advise that there is no requirement for a financial contribution towards education in this instance.

Natural Resources Wales – have removed their holding objection to the proposed development and conditions are advised if members are minded to support the current proposals.

Dwr Cymru/Welsh Water – no objections subject to conditions relating to the drainage of the site and the protection of existing sewers which cross the site.

Western Power Distribution – no observations received.

Wales & West utilities – raise no objection to the proposed development and advise on the presence of their apparatus in and around the site and safe working practices to be adopted when working close to it.

South Wales Fire & Rescue Service – no response received within the statutory consultation period.

Police Authority – no response received within the statutory consultation period.

Countryside Landscape & ecology – the submitted ecological assessment is adequate and no objections are raised subject to the inclusion of appropriate conditions in any consent that might be granted. There are no records of European Protected Species from the immediate vicinity.

Glamorgan Gwent Archaeological Trust – raise no objections to the proposal and note that the application site lies within the registered Rhondda Landscape of Special Historic Interest in Wales, though the impact of the current proposal is only of local relevance.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Policy CS1- focuses on sustainable growth.

Policy CS6 - Allows employment land in accordance with Policy NSA 14

Policy AW2 - supports development in sustainable locations.

Policy AW5 - sets amenity and access criteria that new developments are expected to meet.

Policy AW6 - encourages quality design and place-making.

Policy AW11 - addresses the issue of alternative uses for existing employment sites.

Policy NSA2 - supports proposals for residential and commercial development within the key settlement of Ferndale which promotes the beneficial re use of vacant and under used floor space.

Policy NSA10 - promotes a net residential density requirement of 30 dwellings per hectare.

Policy NSA12 - supports new development within settlement limits in the northern strategy area.

Policy NSA14 - allocates employment land on non strategic sites in accordance with **policy CS6**.

Policy NSA16 - supports proposals for the development of vacant industrial sites where it is for an employment led mixed use scheme.

Supplementary Planning Guidance: –

Planning Obligations

Design & Placemaking

Affordable Housing

Delivering Design & Placemaking – Access Circulation & Parking Requirements.

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),

Chapter 3 (Making and Enforcing Planning Decisions),

Chapter 4 (Planning for Sustainability),

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

Chapter 7 (Economic Development),

Chapter 8 (Transport),

Chapter 9 (Housing),

Chapter 12 (Infrastructure and Services),

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

Other relevant policy guidance consulted:

PPW Technical Advice Note 2: Planning and Affordable Housing;

PPW Technical Advice Note 5: Nature Conservation and Planning;

PPW Technical Advice Note 11: Noise;

PPW Technical Advice Note 12: Design;

PPW Technical Advice Note 18: Transport;

PPW Technical Advice Note 23 Economic Development.

Manual for Streets

REASONS FOR REACHING THE RECOMMENDATION

The key considerations in the determination of this application are considered to be the planning policy considerations and the impact of the current proposals on the existing businesses around the application site. The impact of the proposal on the transportation network and environment are also substantial considerations.

Section 38(6) of the Planning & 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 circumstances dictate otherwise.

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

Main Issues

The Planning Policy Position

The proposal is promoting a mixture of uses including industrial, (Use Classes B1, B2 & B8) residential (Use Classes C2 & C3) and nursery (Use Class D1) uses. The site lies within defined settlement limits within the key settlement of Ferndale and is currently allocated for employment use. In such circumstances it is unsurprising that policy might pull in seemingly different directions with regard to the current proposals. Interpretation and relative weight are therefore the principal determinants of the planning policy position in this particular case. One of the key policy determinants and indeed starting point in this case is that the site is allocated for B1, B2 & B8 industrial uses under policy NSA14 of the Local Development Plan there would be a presumption against its development for alternative purposes and this is reinforced by the requirements of policy AW11. However, policy NSA16 also allows for alternative uses to be established on such sites as long as the overall development proposals are employment lead. This is not the case here with the majority of the site being given over in area terms to non industrial uses and at least half the site being proposed for redevelopment for traditional residential purposes, and the whole development relying too heavily in a financial sense on the housing element of the proposed development financially pump prime the overall proposal, (see below).

The fact that the proposal aims to place residential, residential care home and nursery uses within a designated industrial estate alongside existing and proposed general industrial units gives rise to a clear concern on amenity grounds generated by the potential conflict in land uses. This suggests that the residential uses would be inappropriate at this location even when the fact that the care home and to a

lesser extent the proposed nursery use would of themselves be generators of employment, the suggested uses also clearly conflict with the allocation of the site for industrial development in the adopted Local Development Plan. Whilst in this case it might be argued that the proposed development is compliant with the element of policy NSA16 that supports the redevelopment of derelict, unsightly and underused land, the development is not compatible with other uses in the locality and is not an employment led mixed use scheme. As such it is considered that the proposal remains contrary to the objectives of policies AW5 and AW11 of the Local Development Plan. Furthermore, if the proposals are allowed in their current form, they hold clear potential to prejudice the operation of the neighbouring employment sites, which would leave the established land uses, which already provide local jobs for local people, more susceptible to challenge and again this would be contrary to policies AW5 and AW11 of the Local Development Plan which refer to the requirement for compatibility with established uses in the locality and the alternative uses not prejudicing adjoining employment land.

In supporting the application the applicants have tried to construct an argument that the proposed development is policy compliant on the basis that the site constitutes less than 50% of the site allocation and only constitutes 21% of the total allocation referred to in policy NSA14. They then go on to argue that within the site itself non residential land uses (described as employment landscape and community uses) constitute 54% of the site area and that consequently proposed residential uses only constitute 46% of the site area, which they imply makes it compliant with the requirements of policy NSA16 on the basis that this is an employment lead mixed use scheme. However, no indication is provided as to how these figures have been arrived at and they are in view of officers highly questionable for the following reasons. Firstly, the inclusion of landscaped areas towards the headline figure is misleading particularly as much of the area given over to landscaping on the masterplan could not be put to any other use due to the topography, in any event it could as easily be attached to the areas of the site that would be brought forward for housing, as if the proposal were allowed those areas would have to be heavily landscaped to help in mitigating the impacts of other development, and this in turn would reflect in the balance of figures. Secondly, and more importantly, it appears that such an interpretation of the breakdown of prescribed uses could only be achieved by regarding the care home as a commercial enterprise when in actual fact it is a residential institution, (use class C2). Given the above it is difficult to accept that the redevelopment of the site would be employment lead in any meaningful way as required by policy, the proposal is if anything residential lead as that is what provides viability, (though see below).

Viability

In support of the current proposals the applicants have provided a Market Viability Report prepared on their behalf by Savills. The report considers two scenarios, the first being an entirely commercial scheme and the second being the current mixed use submission. The report reveals that the wholly commercial scheme could only

generate a loss of £3.395 million, whilst the current proposal would deliver a relatively modest profit of £1.904 million.

In concluding on the preferred option that is the subject of this application Savills make the following points: –

- A residential led development with a smaller element of commercial space would deliver a marginal profit and subsidise the employment scheme.
- A residential led scheme would attract demand from a wider section of the market.
- £1.5 Million of the profit figure is generated by the residential element of the proposed development.
- Demand for mixed size units would be limited as purchasers in the locality have demonstrated a preference for family premises.
- A lower density scheme would be unlikely to be viable at this location due to costs associated with site preparation, it would be preferable in commercial terms to increase density of the residential element and decrease the element of care and commercial.
- Any Section 106 requirements could prevent the scheme coming forward due to its economic marginality and they have been excluded from the appraisal.
- Without further support and either additional units or significant cost savings the scheme will remain marginal.

The first of these points that requires some further comment is that the report has been prepared with an allowance for further groundwater testing and risk assessment works but with no costing of a remediation strategy or validation reports that the redevelopment of the site would demand. Whilst this could add significantly to the costs there is also the possibility that these potential costs to the redevelopment of the site could be lower. In any event what this does is add to the uncertainty of the site being developed even if this particular proposal is consented to.

The second point relates to the non inclusion of Section 106 contributions. The figures do make an allowance for the provision of 10% affordable housing on the site and nothing else. However it also has to be acknowledged that the recent introduction of the Community Infrastructure Levy assists the case for the applicants insofar as they would no longer be obliged to pay a transport tariff charge.

The economic marginality of the proposed development makes comment in terms of overall viability difficult due to the uncertainty that it inevitably brings. Whilst it is

clear that the applicants have made strenuous efforts to demonstrate that a housing lead development in some form might be viable for the site they acknowledge that the relative uncertainty in terms of ground conditions might severely undermine that.

Environmental & Ecological Considerations

The principal concern for the Public Health and Protection Division has been to ensure that the issue of noise be addressed should the development proceed. In this instance, and despite the presence of established heavy industry in the form of a steel fabrication plant adjacent to the site, a noise assessment has been produced that demonstrates that subject to the incorporation of specific requirements in the detailed design stage that the development of the site for residential and non industrial use purposes could satisfy statutory nuisance criteria. However, this does not necessarily make residential development of the site acceptable in planning terms as Planning Policy Wales makes clear that regardless of whether or not noise might represent a statutory nuisance it is a material planning consideration, and members are referred to comments in respect of amenity and impact on existing businesses below. Furthermore the illustrative masterplan submitted with the application places new B2 industrial units within the proposed development and it is unclear whether or not the noise assessment has taken account of their potential presence in arriving at its conclusions.

Given that the site is part of a wider industrial estate and had itself formerly been occupied by a manufacturing unit with the Highfield Industrial Estate sitting below it, it is unsurprising that it offers little in the way of ecological value. Statutory consultees have not raised any issues that could not be addressed through the imposition of conditions on any consent that might be issued.

Urban Design and Amenity Considerations

The current application is accompanied by a masterplan outlining the disposition of the various elements of the development proposed in relation to each other and the wider locality. Generally the proposed development gives cause for some concern in terms of its design and layout particularly in how the residential element of the proposed development relates to the surrounding area and the neighbouring existing and proposed land uses.

In terms of the locational relationship of the proposed development with the surrounding area the residential element of the site is dislocated from the surrounding residential areas by the physical geography of the area and the neighbouring industrial estate through which access would have to be achieved. Consequently the residential element of the proposal would be isolated from the existing settlement. This is accentuated by the access arrangement which also creates a poor character and setting for the proposed scheme.

The initial problem is also reflected in the consideration of the issues of connectivity in the layout. The proposed layout is inward looking with a single point of access/egress with a loop road enclosed by houses on both sides, this along with poor footpath arrangements results in the proposed development, as illustrated in the masterplan, lacking any genuine sense of connection with the existing urban area or the surrounding countryside, with the footpath links proposed. This situation is then exacerbated by the inward looking nature of the proposed houses resulting in rear fences dominating the character of the wooded bank and proposed green corridor.

The arrangement of different uses proposed contributes further to the sense that the new housing is dislocated from the surrounding area with the proposed nursing home and nursery sitting uncomfortably between the existing industrial estate and proposed housing and having a relationship with neither.

The insular nature of the proposed residential development can only create a poor relationship with the surrounding land. This in turn creates poor views into the site from the existing urban fabric and the surrounding countryside, as well as restricting attractive views from the proposed public realm to the countryside and exposing proposed houses to security risks

The consequences of the relatively poor quality built environment, if allowed, would also contribute to poor amenity in the living environment. The bulk of the housing would be located on the lower eastern plateau area between two industrial estates. Both industrial estates have a mixture of uses but are generally dominated by B1 and B2 type industrial uses. The net result of this situation is that the residential estate would be enclosed and isolated within the site affording little opportunity for social integration with the wider community at a location where inevitably residents would be exposed to noise and pollution from existing buildings on the industrial estate which even if it can be demonstrated sit below a level of statutory nuisance if the site is developed in a particular way, would still leave a very low quality living environment where residents would be persistently exposed to low level nuisance.

The Impact of the Proposed Development on Existing Businesses

Turning to the potential impact of the proposal on existing industrial space there remains a concern at the effects allowing residential development, a care home and a nursery at this location might have on the surrounding and neighbouring industrial estates and employment sites.

Though no locally based businesses have objected to the proposed development, concern that allowing residential development on this site will lead to an element of friction developing between established businesses remains, as new residents who might be disturbed by the constant operation of these businesses many of which are noise generating enterprises, would be minded to raise complaint. against them with the potential result the business operations could be stifled. This is particularly

worrying as some of the businesses on the estate are heavy engineering enterprise that rely on being able to work in an unrestricted manner sometimes in the open when attenuation of any kind would be impossible.

This situation is also to some extent exacerbated by the fact that the nature of the proposed layout relative to the remainder of the industrial estate will still mean that all traffic associated with the development would be required to access and egress the development site via the existing industrial estate.

This employment site located in the upper Rhondda Fach might not be considered strategically significant to the economy of the Authority as a whole. However, it contains a concentration of businesses in the engineering and service sector and a reduction in available employment land in the upper Rhondda Fach has the potential to constrain or restrict growth in these sectors, which are important to local communities as they provide local jobs close to home for local people.

Given the conclusions of the Pollution & Public Health team outlined above it is clear that with careful siting and suitable noise attenuation built into the dwellings a situation could arise whereby noise inside dwellings from external noise sources would not cause a statutory nuisance. However, that does not mean that potential future residents will not hear industry generated noise or heavy traffic passing the site.

Below the level of inconvenience that would represent a statutory nuisance a lower level of persistent nuisance can and does exist and it is often associated with industrial activity and traffic movement and it can have a detrimental impact on quality of life and the levels of amenity that residents might reasonably expect to enjoy within their own homes. This in turn can lead to persistent complaint, as has been the case elsewhere in the County Borough (Taffs Well), where historically it affected the ability of businesses to function on a 24/7 basis. Allowing residential development cheek by jowl with established industry here would in all likelihood result in a similar outcome to the detriment of local businesses.

Highways & Transport Related Matters

Members should note that the Transportation Section have raised no objection to the proposed development subject to conditions. The application is supported by a transport statement and masterplan and despite the fact that these reveal minor deficiencies in respect of the approach and design offered (e.g. a mixed use development should have an access road wider than 5.5m.) these are matters that could be resolved at the design detail stage.

Other Issues

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

Whilst matters such as ecology, drainage, archaeology and visual impact of the proposals have impacted on the consideration the current proposal they have following further consideration and in some cases detailed work, been demonstrated to have had positive or at least neutral outcomes that would not impact on the decision making in this particular case.

The Community Infrastructure Levy was introduced by Rhondda Cynon Taf from 31st December 2014.

As planning permission first permits development on the day of the final approval of the last of the reserved matters, CIL is not payable at outline stage, but will be calculated for any reserved matters or full applications.

Conclusion

Members will note from the planning history of the site that it has previously been the subject of an appeal for residential development in its totality. In that appeal decision the appointed inspector concluded that “...*the proposed development would be detrimental to the availability of employment land, that the need for housing land does not materially affect the balance of arguments and that it would be premature to grant permission without proper consideration of relevant strategic issues*”. Matters have moved on since that decision was made in that there is an adopted local development plan in place and this application has to be determined against its requirements and those of the current iteration of Planning Policy Wales. However, the Local Development Plan allocates the site for employment uses and the proposal fails to sufficiently demonstrate that the proposal is employment lead mixed use scheme to satisfy the exception criteria of policy NSA14. In addition to this there are other considerations to take into account such as viability evidence such as it is which would favour allowing the scheme to some extent and this needs to be balanced against the potential for conflict between existing and proposed uses and the quality of the proposed living environment that mitigate against the proposal.

RECOMMENDATION: Refuse

1. The proposed development would result in the establishment of alternative uses on land designated for industrial use contrary to the requirements of policies AW11 and NSA814 of the Rhondda Cynon Taf Local Development Plan.
2. The proposed development would result in an unsatisfactory form of development with unacceptably low levels of residential amenity contrary to the requirements of policy AW5 of the Rhondda Cynon Taf Local

Development Plan.

3. The development of the site for residential purposes (use classes C2 & C3) would prove prejudicial to the adjacent employment land and buildings contrary to the requirements of policies AW11 and NSA16 of the Rhondda Cynon Taf Local Development Plan and paragraph 4.6.7 of Planning Policy Wales Technical Advice Note (TAN) 23 Economic Development.

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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

5 FEBRUARY 2015

REPORT OF: SERVICE DIRECTOR PLANNING

REPORT

**APPLICATIONS RECOMMENDED
FOR REFUSAL**

OFFICER TO CONTACT

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See Relevant Application File