



PLANNING & DEVELOPMENT COMMITTEE

6 SEPTEMBER 2018

REPORT OF THE SERVICE DIRECTOR, PLANNING

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 18/0161/10 (BJW)
APPLICANT: Mr Williams
DEVELOPMENT: Proposed new dwelling on private land.
LOCATION: LAND ADJACENT TO TY DRAW HOUSE,
PONTYCLUN, CF72 9BS
DATE REGISTERED: 19/02/2018
ELECTORAL DIVISION: Pontyclun

RECOMMENDATION: Refuse.

REASONS:

The proposed development would be contrary to Policies AW2, AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan in that it represents sporadic, unjustified and unsustainable housing development outside development limits which is not required in respect of a special need for which land within the settlement area cannot reasonably be made available, or for agricultural or forestry workers to live at or near their place of work. The proposal would also represent inappropriate development within a designated green wedge.

The application access is located within a C2 Flood Zone and represents “highly vulnerable” development – housing. National guidance, through Technical Advice Note (TAN)15 – Development and Flood Risk affirms that such development should not be permitted within such locations.

REASON APPLICATION REPORTED TO COMMITTEE

Councillor Wayne Owen (Councillor for the Llanharry Ward) has requested that the application be brought before Members in order to consider the relationship of the site with the settlement boundary and assess the impact on the residents of the area and the environment.

APPLICATION DETAILS

Full planning permission is sought for the erection of a two-storey dwelling on a parcel of land situated to the north east of the Clos Brenin Estate (former Crown Brewery site) in Brynsadler, Pontyclun.

The dwelling would have a roughly L-shaped plan form with a two-storey wing of the main accommodation with additional bedrooms within the roof area, and a single storey wing for the integral garage and utility room.

The main two-storey element would measure 10.2m in width by 17m in depth by 2.5m in height to the eaves and 6.5m in height to the highest part of the roof. Accommodation would consist of an entry hall; lounge; kitchen/dining room; 2 no. bedrooms, one with en suite and the other with en-suite walk-in wardrobe at ground floor and 2 additional bedrooms a bathroom and store room within the roof area.

The single storey element would measure 11.2m in width by 7.35m in depth by 2.4m in height to the eaves and 5m in height to the highest part of the roof. This part of the property would consist of a double garage, a utility room and a sitting area off the dining room. The dwelling would be finished in a mixture of stonework and white painted render with slate effect tiles.

The dwelling would be located on a natural plateau at the centre of the site close to the existing highway access to Ty Draw located to the west of the site. The proposed access would be off this existing access that runs along the eastern boundary of the adjacent Clos Brenin housing estate that was installed on the former brewery site.

The application is accompanied by a Planning Statement in support of the proposal.

SITE APPRAISAL

The application site relates to an undeveloped parcel of land that currently appears to be unused.

The main site measures 0.63 of a hectare, with a site frontage of approximately 90m and an access of some 225m in length from the entrance to the south at Clos Brenin. The land rises gradually to the south with a steep embankment along the western boundary which falls to the north. The site also rises approximately 1.8m in the south eastern corner.

The applicant has stated that the site forms part of the Pontyclun/Cowbridge railway line which has been redundant since the 1960's. The track has been removed and the site has previously been used for the storage of agricultural equipment and other general storage purposes.

The land is enclosed by a mixture of post and wire and wooden fencing and vegetation and mature trees along each boundary. The nearest residential properties are located approximately 20 metres south of the site, at a higher level than the application site within the Clos Brenin estate.

PLANNING HISTORY

None.

PUBLICITY

This has included site notices and the direct notification of properties surrounding the site. One response has been received from the from one of the local Councillors, Councillor Margaret Griffiths the main points of which are detailed below:

1. The site is outside the settlement area for Pontyclun as defined in the Local Development Plan. Experience shows that if applications are permitted on land outside the settlement area, others see this as a precedent and it becomes increasingly difficult to refuse any subsequent applications. Consequently the Local Development Plan ceases to achieve its purpose with balancing the need for development with the need for environmental protection and supportive infrastructure.
2. This site is located within a Zone C2 flood plain. Section 6 of Welsh Government's Technical Advice Note 15 states that development in Zone C "will only be justified if it can be demonstrated that:-

"i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement **or**,
ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region."

This application does not meet these justifications; it does not add to the sustainability of an existing settlement nor does it meet any key employment objectives. The applicant claims that the proposed dwelling can be made safe from flood risk.

The applicant does not seek to mitigate the effect of reducing the capacity of the plain to absorb flood waters and is therefore adding to the risk of flood to adjacent settlements in Maesyfelin and Brynsadler.

3. The proposed development on this site obstructs a path between Brynsadler and Tyla Garw which has been in regular and uncontested use for over a century. It is a much valued amenity.

CONSULTATION

Transportation Section – initially raised an objection to the application. However following the submission of amended details now offers no objection, subject to conditions requiring the improvement of the means of access, widening of the private shared access drive, installation of passing bays, an earth bund and parking and turning facilities; the full engineering details of the improvements to be agreed by the Local Planning Authority and a restriction on Heavy Goods Vehicle deliveries and movements during the construction period.

Land Reclamation and Engineering – no objection, subject to conditions.

Public Health and Protection – no objection, subject to conditions relating to a restriction of the hours of operation during construction and conditions with regard to the investigation and possible mitigation of potentially previously contaminating land uses.

Natural Resources Wales (NRW) – initially raised an objection to the proposal. Following the submission of additional details NRW do not object to the application. However, the planning application proposes highly vulnerable development - housing, within Zone C2 of the Development Advice Map (DAM) contained in TAN15.

The NRW Flood Map information, which is updated on a quarterly basis, confirms the site to be partially at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outline of the River Ely. NRW refer to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15).

Notwithstanding this policy advice, the decision as to whether a development is justified is entirely a matter for the Local Planning Authority. For this reason, NRW has reviewed the flood consequences assessment (FCA) submitted in support of the application, to enable it to provide technical advice on the acceptability of flooding consequences in terms of risks to people and property. Therefore, should the Council be minded to permit the application, contrary to Welsh Government policy on development and flood risk, the following advice is provided;

Section 4.6 of the FCA, produced by Quad Consult, dated April 2018, states that all new built development, including the house, garden and driveway are predicted to be flood free during the 1% (1 in 100 year) (plus 25% climate change allowance) and 0.1% (1 in 1000 year) flood events. This is in line with the guidance set out in A1.14 and A1.15 of TAN15.

However, the existing access road, that is included within the red line boundary for this development and is identified as Access 2 in the FCA, is predicted to flood to a maximum depth of 1.02m during the 1% (1 in 100 year) flood event (plus an allowance for climate change). This is not in line with the guidance set out in A1.14 of TAN15. NRW note that the FCA has considered a climate change allowance of 20% for the access road and not 25%, as set out in the Chief Planner's letter, dated 23 August 2016.

The existing access road is predicted to flood to a maximum depth of 1.14m during the 0.1% (1 in 1000 year) flood event with a predicted maximum velocity of 0.22m/s. The predicted flood depth is not in line with the guidance set out in A1.15 of TAN15, which advises a maximum flood depth of 600m for residential access. The predicted velocity is within the guidance set out in this section of TAN15, which advises a maximum velocity of 0.3m/s for residential access. NRW note that the FCA proposes

alternative access and egress during a flood event via Meadow Way, to the North of the site.

Dwr Cymru/Welsh Water – no objection subject to advisory notes.

Western Power Distribution – no objection. The applicant should be made aware that they will need to apply to Western Power Distribution, if they require a service diversion or a new connection.

Wales and West Utilities – no objection. Standard advice offered in relation to safe working practices in the vicinity of their apparatus.

Countryside, Landscape and Ecology – the development site lies within part of SINC 94. This is primarily the River Ely SINC, with associated habitats within the Ely Valley. The planning application area was included in the SINC because the mature trees around the periphery of the Site form a woodland canopy and part of the connected wooded landscape along the corridor of the river, which in this location forms a habitat link between the river and the wet woodland and grasslands which lies to the north-west of this site (which are also part of SINC 94).

Following a visit to the site, it is apparent that the grassland of the old railway cutting is now regularly mown and that some tree works (crown reduction and some felling) has been undertaken on mature trees. The impact of development on the mown grass of the cutting is not likely to involve any direct unacceptable ecological impact. However the retained mature trees on the embankment are of ecological value. No cross sections have been submitted showing the relationship between trees and the new build, but from the site visit, some of the embankment trees are likely to be close to the new build, and on the banking above that house. While, it may be possible with care to construct a house in this location without disturbing the root protection zones of those trees, the long term future of some trees is likely to be compromised through their proximity on sloping ground above the new house. While recognising that an existing housing estate occurs on the far side of the old railway bridge, the development of the site as a house and garden will extend the impacts of night time lighting into an area which is currently unlit. That may have implications for how the site is used by nocturnal species such as bats.

The other specific ecological concern related to this development is the Highways Department objection and the requirement (if that objection is to be lifted) for passing bays and river containment (which it is assumed is a fence or barrier) along the access track. Having walked the route it is clear that any passing bays would have to be provided on the River Ely side of the track (the other side being private properties).

As such the passing bay requirement will have a direct impact on the habitat corridor along the River Ely (which is part of SINC 94). There would be inevitable loss of river corridor trees and vegetation, and the potential need for bank side engineering works to accommodate passing bays. Those works will lie within 7 metres of the River Ely (which is a main river) and have a direct impact on the SINC. If this application gains planning permission subject to a need to providing passing bays and river containment, then there will be direct and very significant impact on the immediate

riverbank habitats of the River Ely, with implications for protected species (including bats and otter) and water quality.

Therefore, it is considered that the cumulative impacts of this proposed scheme will involve direct and indirect impacts on the River Ely and SINC 94 which are likely to be significant and detrimental. As such there is an objection to the planning application on the basis of impacts to the SINC under policy AW8 of the RCT LDP.

PROW Officer – a Public Right of Way (Llanharry 16/Llantrisant 344) shares the surface of the access track. It is noted that the Highways Department have raised concerns about the conflicts of increased road usage with public use of the PROW.

As it stands the access road is a stone dust/gravel surface, which may help to limit vehicle speeds. The access track currently serves one house and is used as a public right of way. The Highways Department response identifies an extra 10 vehicle movements a day as a result of a new house development and again suggests improvements to help facilitate passage along the track with pedestrian access an issue of concern.

In its current form the use of the public right of way does not appear to have been compromised or unduly conflicts with the single house access. However, the Highways Department is clearly concerned that public safety may be an issue as a result of the increased traffic generated by a second house.

While public right of access along that track would be maintained through this planning application, the public safety issue identified by the Highways department is clearly a concern and would not appear to have been addressed in the planning submission.

Pontyclun Community Council – no response received

Taff Ely Ramblers Association – no objection.

POLICY CONTEXT

The site is outside the settlement boundary and within a green wedge (Policy SSA22 refers).

Rhondda Cynon Taf Local Development Plan

Policy CS2 - sets out criteria for achieving sustainable growth.

Policy CS4 – identifies the need to meet housing requirements through making land available in sustainable locations.

Policy CS5 – requires provision of affordable housing.

Policy AW1 - further defines the housing land supply, to be met by means that do not include land outside defined boundaries.

Policy AW2 – stipulates that non-allocated development proposals will only be permitted in sustainable locations, these include sites that: are within the defined settlement boundary; would not unacceptably conflict with surrounding uses; have good accessibility by a range of sustainable transport options; and have good access

to services and facilities; and do not permit highly vulnerable development (including housing) within zone C2 floodplains and are well-related to utility provision.

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 AW7 - seeks the protection of Public Rights of Way

Policy AW8 - only permits development where it would not cause harm to features of the natural environment.

Policy AW8.94 – identifies part of the site as and Site of Importance for Nature Conservation (SINC) – Ty Draw (Pontyclun Floodmeadow).

Policy AW10 - development proposals must overcome any harm to public health, the environment or local amenity.

Policy SSA11 - sets a minimum density of 35 dwellings per hectare and gives criteria for lower densities.

Policy SSA13 - promotes development within settlement boundaries. Supporting paragraph 6.160 states that development will not be permitted outside the defined settlement boundaries.

Policy SSA22 – identifies the site as forming part of a Green Wedges identified to prevent coalescence between and within settlements.

Policy SSA23 – identifies the site as a Special Landscape Area (SLA 23.1 – Llanharry surrounds). Development proposals will be required to have the highest standards of design, siting, layout and materials.

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.

Chapter 2 (development plans), Chapter 3 (making and enforcing planning decisions), Chapter 4 (planning for sustainability), Chapter 9 (housing)

Planning Policy Wales Technical Advice Note 12 Design

The above chapters and Technical Advice note 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

The development site is outside the defined settlement boundary where residential development is restricted to certain excepted categories such as for agricultural or forestry workers to live close to their place of work. Additionally, the site is also within a designated Green Wedge that seeks to avoid the coalescence between settlements; is within a Special Landscape Area (SLA) where the highest standards of design, siting, layout and materials will be required; is within a C2 Flood Zone as defined by the Development Advice Maps (dam's) and administered by Natural Resources Wales (NRW) and is in a Site of importance for Nature Conservation (SINC).

In this regard the principle of building a house at this site would be contrary to the provisions of the Local Development Plan as well as Technical Advice Note (TAN) 15 – Development and Flood Risk. Additionally, the application would adversely impact on the open nature of the allocated Green Wedge (this is dealt with fully later within the report).

While the applicant's comments regarding the lack of a five year land supply are acknowledged, it is not considered that this would be a material consideration that would outweigh the other policies within the plan. The need to increase the housing supply carries considerable weight – provided that the development would otherwise comply with development plan and national planning policies.

However, in this particular case, one new dwelling would have a negligible effect and contribution to the housing land supply, whilst this is set against the identified effect on the openness of the Green Wedge and the site's designation as a SINC and Special Landscape Area. Consideration should also be given to the fact that the length of the access road from the main road is in a C2 flood zone. There is also concern that there is significant inefficient use of land, contrary to Policy SSA11, with very low density of development at as little as 1.5 dwellings per hectare.

Consequently, it is considered that the principle of the development, for the reasons stated above, would be unacceptable.

Character and appearance of the area

The proposed dwelling is considered to be a large, attractive, contemporary property. Were the building to be proposed in an urban or suburban setting then the impact on the character and appearance of the area would be likely to be acceptable.

However, due to its proposed location, it is considered that the proposed dwelling would represent an unjustified incursion into the countryside that would be detrimental to its character and appearance.

Additionally, the proposal would prejudice the open nature of the existing Green Wedge, weakening both its rural character and its purpose to retain a strong boundary between settlements and avoid their coalescence.

Consequently, it is considered that the proposed dwelling would have a detrimental impact on the character and appearance of the rural character of the area and would be unacceptable in this regard.

Impact on amenities of neighbouring properties

The development site is a reasonable distance from existing properties and it is not considered that there would be any impact on their amenities. It is also acknowledged that there have been no objections received from neighbouring properties following the consultation exercise for the proposal in this regard. Consequently, there is no issue with this element of the proposal.

Highway safety

The Transportation Section initially raised an objection to the application however, following the submission of amended details now offer no objection, subject to conditions.

These comments acknowledge that the private shared access / public right of way would need to be improved in order to address its currently sub-standard nature.

In terms of the amended details the Transportation concludes that:

The applicant has submitted a revised scheme to overcome the highway and pedestrian safety concerns showing the private shared access widened to 4.5m; a full size turning area; 3 No. passing bays located along its length widened to 5.5m in accordance with standard detail number 192 and a 1.0m high earth bund to prevent vehicles entering the river which is satisfactory to overcome the previous concerns and on this basis no highway objections are raised subject to a number of conditions.

Consequently, subject to the suggested conditions there would be no objection to this element of the proposal.

Community Infrastructure Levy (CIL) Liability

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is liable for a charge under the CIL Regulations 2010 as amended. The application lies within Zone 3 of Rhondda Cynon Taf's Residential Charging Zones, where there is a liability of £85 / sqm for residential development.

If the application was being considered favourably, the CIL charge (including indexation) for this development would be expected to be £ 31,391.67.

Other Issues

The points made by Councillor Griffiths regarding the application are acknowledged and, in this regard, the following comments are offered:

It is acknowledged that the site is outside the settlement boundary and while each application is dealt with on its individual planning merits, approving applications in such areas can erode confidence in the planning system and lead to difficulties when defending the settlement boundary policy for future proposals.

Part of the site is within a C2 flood zone and is considered to be a highly vulnerable category of development. As such, unless the type of development can be demonstrated to be justified then it should not be approved within such locations. This position has also been supported by the Planning Inspectorate in relation to appeal decisions recently issued.

The issue around the community path is noted, however there has been no objection to the proposal from the Public Rights of Way Officer in this regard.

Conclusion

It is considered that the proposed development represents an unsustainable and inappropriate form of development in the open countryside and a designated Green Wedge, contrary to Policies AW2 and SSA22 of the Local Development Plan.

The application access is located within a C2 Flood Zone and represents “highly vulnerable” development – housing. National guidance, through Technical Advice Note (TAN)15 – Development and Flood Risk which affirms that such development should not be permitted within such locations.

The proposed access remains substandard and, without the suggested highway improvements, the proposal would continue to be detrimental to highway safety, contrary to Policies AW5 and AW6 of the Local Development Plan.

Consequently, the application is recommended for refusal.

RECOMMENDATION: REFUSE DUE TO THE FOLLOWING:

1. The proposed development would represent unjustified, sporadic and inappropriate development in an unsustainable location, outside the established settlement boundaries and within a Green Wedge that would compromise its open nature and purpose by facilitating the coalescence of Brynsadler and Pontyclun contrary to Policies SSA22, AW2 and AW5 of the Rhondda Cynon Taf Local Development Plan.
2. The proposed development represents “highly vulnerable” development – housing within a C2 Flood Zone as defined by the Development Advice Maps (DAM's) contained in Technical Advice Note (TAN)15 – Development and Flood Risk. The proposal is therefore contrary to the provisions of TAN15 which affirms that highly vulnerable development should not be permitted in Zone C2 as well as Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

3. The proposed development would have direct and significant detrimental impacts on the Ely Valley River corridor which is a Site of Interest for Nature Conservation (SINC) due to loss of habitat and would also have implications for protected species, including bats and otter, contrary to Policy AW8 of the Rhondda Cynon Taff Local Development Plan.