



## **PLANNING & DEVELOPMENT COMMITTEE**

**5 NOVEMBER 2020**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 19/1066/15 (GD)  
**APPLICANT:** Landare Investments Ltd  
**DEVELOPMENT:** Section 73 - Variation of conditions 1, 2, & 3 of planning permission 10/0792/13 to allow further time for the submission of reserved matters - (original permission granted on appeal 18th October 2016).  
**LOCATION:** FORMER YNYSYNON FARM, CWMBACH, ABERDARE, CF44 0JL  
**DATE REGISTERED:** 18/08/2020  
**ELECTORAL DIVISION:** Cwmbach

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**RECOMMENDATION:** Approve

#### **REASONS:**

The principle of the proposed development of the site has been well established in the earlier planning permissions granted on this site.

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#### **REASON APPLICATION REPORTED TO COMMITTEE**

The proposal is not covered by determination powers delegated to the Director of Prosperity & Development  
Three or more letters of objection have been received;

#### **APPLICATION DETAILS**

Application is being made under Section 73 of the Town & Country Planning Act 1990, to vary conditions 2 & 3 of planning permission 10/0792 to allow further time for the submission of reserved matters in the development of the site. Planning application 10/0792/13 was granted consent at appeal on 18<sup>th</sup> October 2016 and the conditions state –

*2) Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.*

*3) The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.*

The application aims to extend the lifespan of the current consent

In dealing with the appeal the Minister determined that the application should be supported with an Environmental Impact Assessment though its terms of reference were narrow and confined to the ecology of the site.

As such, the application is accompanied by the following:

Planning Statement;

- Preliminary ecology appraisal 29<sup>th</sup> September 2019
- Ecology update 11<sup>th</sup> August 2020.
- Dormouse habitat assessment

The ecological work referenced above updates the ecological work submitted in respect of the environmental impact assessment and has been undertaken to the same standards. Consequently, it has been determined that a formal environmental statement is not required in this instance

## **SITE APPRAISAL**

The application site is comprised in the 3.34 hectares of land that forms undeveloped north-eastern section of the Ynyscynon Farm (otherwise known as Ynyscynon Park) site. The site is steep and generally falls from north east to south west though there is also a substantial cross fall downwards in a south westerly direction towards the developed areas of Ynyscynon Farm.

The site is largely well defined by established residential development at its boundaries comprising the established elements of Ynyscynon Farm, Ynyscynon Street, Pinecroft Avenue and Windermere Close. The boundaries of the northernmost part of the site are defined by mature trees and hedgerow and the Nant Guegarn stream which are an element of a Site of Interest for Nature Conservation.

The site for the most part is largely overgrown with scrub vegetation however its boundaries and fringe area are in part well vegetated as described above.

## **PLANNING HISTORY**

10/0792

Outline application with  
some matters reserved  
for residential

Approved at appeal 18<sup>th</sup>  
October 2016

development to include  
77 dwellings

51/91/0568

Nursing home and elderly persons bungalows Approved 4<sup>th</sup> January 1992

## **PUBLICITY**

The application has been advertised by means of press notice, site notice and neighbour notification letters and this has generated 4 letters of objection raising the following issues –

- The site is heavily wooded and has been for a number of years and as such should be protected for its habitat value. Bats, slow worms, common lizard's owls and dormice are known to use the site.
- The land is greenbelt.
- The development of the site for 77 dwellings would lead to an additional 154 cars accessing the site as well as any associated works vehicles.
- Access/egress and the amount of traffic in this area is already considerable and there is no need for any more. The access via well place is congested and double parked and often obstructs the free flow of traffic and further development will increase the problem and adversely affect the people living in any new development.
- Sufficient brownfield sites exist in the Cynon Valley to meet its housing needs without this wooded area being developed.
- It is questioned why the house types are not included for scrutiny as they have the potential to impact on existing properties.
- The development of the site has the potential to adversely impact the privacy that existing residents currently enjoy.
- The development of the site might prove to be a source of light pollution.
- The development of the site has the potential to increase noise pollution for existing residents both in the development of the site itself and in removal of the trees which currently provide residents with a natural noise attenuation barrier.
- Dust from the development of the site has the potential to pollute property and adversely affect people's health
- The development will have a negative impact on the locality, facilities will become strained, doctor's surgeries and schools are at capacity, and increased traffic will put extra strain on the road system and ultimately the council.
- Residents specifically object to there being any link to Bracken Rise.
- The 10 metre no dig or build zone shown on the masterplan between the site and Bracken Rise is welcomed as it presents the opportunity to maintain a green barrier between proposed and established development.

## **CONSULTATION**

Transportation Section – No Objections subject to the re imposition of conditions issued at appeal

Flood Risk Management – No objections

Public Health & Protection – Raise no objection and suggest a series of conditions to deal with pollution related matters.

Natural Resources Wales – Express their concern at the application but ultimately make no objections subject to certain surveys being referenced in the approved details and the re imposition of conditions originally applied at appeal.

Dwr Cymru Welsh Water – Raise no objection subject to the re-imposition of conditions originally applied at appeal.

South Wales Fire & Rescue Service – No response received

Countryside – Indicate that the detail submitted in respect of the ecology of the site and its management is acceptable.

Waste Services – no objections – the detailed layout must make adequate provision for access for refuse vehicles and have appropriately appointed bin storage areas.

Western Power Distribution – If the applicants require a new connection or service alteration separate permission will be required from Western Power distribution

Structural Engineer - if retaining walls are required then Compliance with the Mid Glamorgan Act will be required

## **POLICY CONTEXT**

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

**Policy CS1** - sets out criteria for achieving sustainable development in the northern strategy area of the County Borough

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

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

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

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

## **Supplementary Planning Guidance**

Design and Placemaking  
Affordable Housing  
Nature Conservation  
Planning Obligations  
Access Circulation and Parking  
Development of Flats  
Employment Skills

## **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 Edition 10 (PPW) sets out the Welsh Government's (WG) current position on planning policy. The document incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out the WG's policy on planning issues relevant to the determination of planning applications.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

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 12: Design;  
PPW Technical Advice Note 18: Transport;  
PPW Technical Advice Note 21: Waste;  
PPW Technical Advice Note 23: Economic Development;  
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.

In this instance, the applicants are seeking to extend the period of time within which reserved matters can be submitted for the consideration of this Authority. In such circumstances, it is appropriate to consider whether there has been any change in policy or any other material circumstance that might affect the proposal; however, it is not appropriate to challenge the heart of the consent itself.

The key consideration in the determination of this application is that planning policy remains supportive of the proposed development within the terms laid down by the adopted Rhondda Cynon Taf Local Development Plan. The site remains allocated for residential development under policy NSA 9.9 of the plan. Since the initial grant of outline planning permission at appeal planning policy has been updated at the national level with the introduction of Planning Policy Wales 10 in 2018. The key objective of the new national policy is to support sustainable development through placemaking and the proposed development sits well with the key themes that achieve that.

A key element in the initial consideration of the original application was the impact of the development on the ecology of the site, to this end the applicants have provided updated ecological information that clearly illustrates that the development of the site can be managed in a manner that respects the ecology of the area. Members will note that the proposals are considered acceptable in consultation with Natural Resources Wales and the Council's own Ecologist.

Applications made under Section 73 of the Town & Country Planning Act 1990 allow the Local Planning Authority to do one of two things when an applicant seeks to vary the condition, it can:-

- a) Grant consent either with or without conditions; or,
- b) Refuse.

In that the Council can approve with or without conditions, it is also appropriate to consider, if planning permission is to be renewed, the extent and nature of all the previous conditions and amend them to reflect current circumstances and requirements if it is appropriate to do so. In this instance it is considered that the conditions imposed by the inspector in 2016 remain relevant and do not need to be varied, altered or augmented.

#### **Other Issues:**

Members will note that local residents have raised certain concerns regarding the development of the site. These are not new issues and were the subject of consideration when the application was first considered. Notwithstanding that point the following comments are offered.

- Whilst the site is wooded much of it is overgrown scrub – in any event the applicants have exercised due diligence and properly evaluated the ecological value of the site and have been able to demonstrate that the impacts of the proposed development are acceptable.
- The land is not greenbelt or for that matter outside of settlement limits and in countryside as defined by the Local Development Plan.
- Access to the site has been the subject of detailed consideration and no objection is raised by the transportation Section. It would be inappropriate to resist this proposal on the basis that congestion exists off site. The new development would be expected to deliver sufficient parking space to meet its own needs and that is a matter of detail to be resolved at the reserved matters stage.
- The claim made in respect of brownfield sites is not backed with any evidence to support the claim.
- Whilst the application is supported with an illustrative layout which indicates how the site might potentially be developed, the actual detail will follow at the reserved matters stage should this application be approved. The layout is not bound by this. Similarly there are no house types under consideration in this application.
- Any detailed proposals that might come forward in the future would be expected to demonstrate that they would maintain sufficient respect for the privacy of established homes in their layout orientation and level.
- The claims in respect of light pollution are speculative and not substantiated with any evidence to support the claim.
- Noise and dust are an inevitable consequence of developing the site in the short term and their control is governed by other legislation. As such the potential disruption that it might cause forms no basis for the refusal of the planning application.
- No evidence is offered to suggest that the claims made in respect of services and infrastructure would happen.
- Whilst the illustrative masterplan indicated that there was potential for a link between Bracken Rise and the site this is not fixed by granting permission for this development and the detail will be determined at the reserved matters stage. Similarly the potential for the retention of the green barrier is a matter of detail to be considered in the detailed design of the site.

### **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 CIL liable under the CIL Regulations 2010 (as amended). 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.

However, the application site lies within zone 1 of Rhondda Cynon Taf's residential charging zones, where a nil charge is applicable and therefore no CIL will be payable.

## **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.

The Welsh Government Development Management Manual and Welsh Office Circular 13/97 Planning Obligations provide procedural guidance on the role of planning obligations in mitigating the site-specific impacts of unacceptable development to make it acceptable in planning terms. The Welsh Government Development Management Manual also advises planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition and when it meets the three tests above. 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**

The original planning approval was subject to a section 106 obligation and the renewal of permission will also require the renewal of the legal agreement under the same terms as previously agreed which are –

- An affordable housing contribution as follows
  - 4no. two bedroom units for low cost home ownership.
  - 4no. two bedroom units for social rent.
  - 1no. four-bedroom unit for social rent.

Along with an addition of -

- Employment skills training plan.



## Conclusion

The application is remains compliant with the relevant policies of the Local Development Plan in respect of all key areas of consideration. Similarly the proposals are considered compliant with the requirements of Planning Policy Wales 10 and as such the renewal of planning permission is supported in this case.

## RECOMMENDATION: Grant

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2. Reason: To comply with Section 92 of the Town & Country Planning Act 1990  
Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

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

3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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

4. No development shall take place until a site investigation has been carried out in accordance with a methodology first submitted to and approved in writing by the local planning authority. The results of the site investigation shall be submitted to the local planning authority before any development begins. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development shall be submitted to and approved in writing by the local planning authority. Remedial measures shall be carried out prior to the first beneficial use of the development in accordance with the approved details and retained in perpetuity.

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

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons

following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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.

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. A landscape management plan, including management responsibilities and maintenance schedules for all landscaped areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the occupation of any of the dwellings on the site. The landscape management plan shall be carried out as approved.

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. Prior to the occupation of the dwellings hereby approved a plan indicating the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as approved before the buildings are occupied or in accordance with a timetable agreed in writing with the local planning authority.

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

8. All the trees shown on the tree survey plan [Corscadden Associates 2011.04] as "to be retained" and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority. Appeal Decision : APP/L6940/A/14/2217451

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

9. No development shall take place until a wildlife protection plan has been submitted to and approved in writing by the local planning authority. The wildlife protection plan shall include:

- i) A plan showing wildlife protection zones;
- ii) Details of development and construction methods within wildlife protection zones and measures to be taken to minimise the impact of any works;
- iii) Details of phasing of construction to avoid periods of the year when wildlife could be harmed;
- iv) Details of a light mitigation strategy including measures to reduce light spillage into foraging habitats for bats;
- v) Persons responsible for compliance with all legislative requirements and planning conditions related to nature conservation including training and information about the importance of the 'Wildlife Protection Zones' to all construction personnel on site.

The protection plan shall then be implemented in accordance with the timings approved by the local planning authority.

Reason: To afford protection to animal and plant species in accordance with Policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan

10. No development shall take place until a habitat management plan has been submitted to and approved in writing by the local planning authority. The habitat management plan shall include:

- i) Purpose, aims and objectives of the scheme;
  - ii) A review of the site's ecological potential and constraints;
  - iii) Description of target habitat features to be restored;
  - iv) Details (including selection) of the habitat restoration strategies and specific restoration techniques together with the sources of habitat material and the extent of the proposed works;
  - v) Timing of works, monitoring, aftercare and long term management.
- Restoration works will be carried out in accordance with the approved details, unless otherwise approved in writing by the local planning authority. Any amendments to the Habitat

Management Plan required as a result of ongoing monitoring shall be submitted to and approved in writing by the local planning authority prior to their implementation.

Reason: To afford protection to animal and plant species in accordance with Policies AW5 and AW8 of the Rhondda Cynon Taf Local Development Plan

11. Construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.

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

12. Notwithstanding the submitted layout plans, development shall not commence until full engineering design and details of the internal road layout including sections, street lighting details and surface water drainage have been submitted to and approved in writing by the local planning authority.

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

13. Notwithstanding the submitted layout plans, access, parking circulation and traffic calming shall be in accordance with details to be submitted to and approved in writing by the local planning authority prior to works commencing on site. Appeal Decision : APP/L6940/A/14/2217451

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

14. No development shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) The means of access to the site for all construction traffic;
- ii) The parking of vehicles of site operatives and visitors;
- iii) Loading and unloading of plant and materials;
- iv) Storage of plant and materials used in constructing the development;
- v) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) Wheel washing facilities;
- vii) Measures to control the emission of dust and dirt;
- viii) A scheme for recycling/disposing of waste resulting from construction works.

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

15. Details of the finished levels for the site in relation to existing levels and the levels of established residential properties and full details of all proposed retaining walls or structures shall be submitted as part of the reserved matters submission for this development.

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

16. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of the development and retained in perpetuity.

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

17. No building shall be occupied until a sustainable drainage system for the site has been completed in accordance with the details first submitted to and agreed in writing by the local planning authority. The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To prevent the increased risk of flooding in accordance with policies AW8 and AW10 of the Rhondda Cynon Taf Local Development Plan

18. The development shall be carried out in general accordance with the illustrative site layout received 14th April 2011, which is not approved in relation to highway details.

Reason: for the avoidance of doubt as to the approved plans