

## PLANNING COMMITTEE – 20TH JUNE 2012

**SUBJECT: ENFORCEMENT REPORT ES/11/104 – UNAUTHORISED MATERIAL CHANGE OF USE OF LAND FROM PUBLIC OPEN SPACE TO DOMESTIC GARDEN AT LAND REAR OF 24 GRAIG YSGUTHAN, LLANBRADACH, CAERPHILLY**

**REPORT BY: CHIEF EXECUTIVE**

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### 1. SITE AND DEVELOPMENT

- 1.1 In June, 2011, the Council's Planning Division was made aware of a fence that has been erected around land at the rear of 24 Graig Ysguthan, Llanbradach, enclosing it as domestic garden.
- 1.2 In considering this matter, the council's records indicate that planning permission was granted in 1983, reference 5/5/83/0019, for the erection of residential development, now referred to as The Rise, Llanbradach. The approved plans included an area of public open space measuring approximately 0.06 Ha; however, this area was not formally adopted. The area of land subject of this matter forms part of this public open space serving the site. In view of this, the use of the land as domestic garden results in a material change of use in the land, which is currently unauthorised and in breach of planning control.
- 1.3 In mitigation, the landowner claims that he made enquiries with the Council prior to purchasing the land with a view of finding out who was responsible for its maintenance. He was reportedly told that the Council did not have a legal interest in the land and neither was it responsible for its maintenance. As a result, he purchased the land from the original developer, Persimmon Homes, in 2009, who had retained ownership after developing the site in 1983.
- 1.4 Notwithstanding the fact that the land appears to have been purchased and developed in good faith, the landowner has been advised of the need to regularise this matter, either by removing the fence and reinstating the land as public open space or by submitting an application for planning permission in an attempt to retain the development. To date, an application has not been submitted and the land continues to be used as garden. The matter was reported to local members as well as the Chairman and Vice-Chairman of the Planning Committee under delegated powers. However, not all those who were consulted agreed with the officers' recommendation and therefore this matter is to be resolved by the full Planning Committee.

### 2. ISSUES

- 2.1 The purpose of open space is to provide for the general amenity of an estate. In considering the acceptability of this development, therefore, the main policy of direct relevance is Policy CW7 of the Council's Adopted Local Development Plan (November 2010). Policy CW7 states:

'Proposals for development on areas of open space within settlements will only be permitted where:

- (a) The amount of open space remaining in the neighbourhood would still be adequate to serve local needs
- (b) The site has no significant value as a recreational resource or an area of visual amenity.'

- 2.2 In this regard, an open space assessment was carried out by the Council's Strategic Planning and Urban Renewal Manager, in accordance with Supplementary Planning Guidance LDP8: Protection of Open Space, to establish the effects of the loss of this area of open space. The findings of the study show that the area affected by this development, which is within settlement limits, measures approximately 0.0132 Ha and that there is only 0.06 Ha of usable open space within a 0.5km buffer area of the enforcement site.
- 2.3 Ideally, the Council's Strategic Planning and Urban Renewal Manager states that the Council would aspire to have available at least 0.7 Ha of informal and usable open space. Clearly, the loss of this public open space further detracts from the space available within the 0.5km buffer area, to the extent that the amount of open space remaining in the neighbourhood is not adequate to serve local needs. On the face of it, therefore, the development carried out is contrary to criterion (a) of Policy CW7.
- 2.4 However, in considering the effect of the development against criterion (b), officers recognise that the area of public open space is of low recreational value and by today's standards would not qualify as public open space due to the fact that it is hidden away from the majority of residential dwellings. The Council's Parks and Outdoor Facilities Manager has also commented on the matter and adds that due to its location and steep nature, the land subject of this matter has little value as a public open space.
- 2.5 In view of the above, it is clear that the assessment of this development against Policy CW7 is finely balanced. On the one hand, there is a concern that an area of public open space has been lost to domestic garden. Conversely, officers recognise that the open space is considered to serve a narrow level of public use, at best, with the land having been poorly maintained in the past, signifying its underuse.

### **3. CONCLUSION**

- 3.1 Due to the circumstances surrounding this matter and the fact that the land does not have any significant recreational or amenity value, officers consider that any reasons for refusal could not be sustained in the event that an application for planning permission was submitted to regularise this development. It would therefore not be expedient to take enforcement action.

### **4. RECOMMENDATION**

- 4.1 That no further action is pursued.