

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
11/0650/FULL 23.08.2011	Mr L Richards Suite A The Old Workhouse Cross Houses Shrewsbury Shropshire SY5 6JH	Erect new housing development comprising of 13 detached and 1 pair of semi-detached dwellings Land Adj To Former Waterloo Works Machen Caerphilly CF83 8NL

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: The site is located to the north of the settlement of Waterloo, which lies between the villages of Bedwas and Machen, in the south-eastern area of the County Borough.

Site description: The land involved is currently part of a farm holding (i.e. Gelli-Wastad Farm), which is sited on the northern side of the River Rhydney approximately half a mile from the application site. The land concerned is of an irregular shape and is well wooded. To the west it is bounded by an existing car park that served the former Total Paint Works site, along with the public highway which connects Waterloo to the main A468 road located to the north. To the east the site abuts farmland of a similar condition. To the north it bounds a strip of farmland the other side of which is the River Rhydney, whilst to the south it borders onto a former railway line.

Development: The proposal is for 15 dwellings. Of these 13 are detached with the other 2 comprising a pair of semi-detached properties. All the dwellings are two-storey houses (albeit the larger dwellings have bedrooms in their roof space) which are made up as follows:-

- 8 are 3 bedroom properties.
- 4 are 4 bedroom properties.
- 3 are 6 bedroom properties.

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Dimensions: The site has a gross area measuring 0.9 hectares. This was reduced from the original site area which identified approximately 1.1 hectares. This site area had mistakenly included land within the ownership of the former paint works. As such the development was reduced from 18 to 15 dwellings.

The detached properties range in gross floor area from 81 square metres to 297 square metres. With the semi-detached property having a gross floor area of approximately 116 square metres.

The heights of the properties, to their apexes, vary from 8 metres to 9.5 metres.

Materials: The walls are shown as a mixture of render and stone cladding, with the roofs being covered in reconstituted slate.

Ancillary development, e.g. parking: All the properties have on-site parking comprising garages and drives, which provide for a minimum of 3 spaces per dwelling, with the larger properties being served by 4 spaces.

PLANNING HISTORY

08/1343/FULL - Erect new housing development - Refused 09.09.10.

POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: The site is located outside the settlement limits contained in the Caerphilly County Borough Local development Plan up to 2021 - Adopted November 2010.

It is shown as being located within a Site of Interest for Nature Conservation (i.e a SINC) and also is part of a Special Landscape Area (i.e. an SLA).

Policies: The policies of particular relevance to this application are as follows:-

SP5 (Settlement Boundaries), CW15 (General Locational Constraints), CW4 (Natural Heritage Protection), NH3 (Sites of Importance for Nature Conservation), NH1 (Special landscape Areas), CW6 (Trees Woodland and Hedgerow Protection) and CW2 (Amenity).

NATIONAL POLICY Planning Policy Wales, TAN 15 (Development and Flood Risk) and TAN 10 (Tree Preservation Orders).

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ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? Yes. The site area exceeded the 0.5 hectare threshold contained in the EIA Regulations.

Was an EIA required? No.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Yes.

CONSULTATION

Glam/Gwent Archaeological Trust - raise no objection to the application.

Gwent Wildlife Trust - points to various policies in the Local Development Plan which need to be addressed as part of the determination of this application.

Natural Resources Wales - comment that the Flood Consequences Assessment submitted with the application is acceptable in satisfying the test relating to criterion (iv) of TAN 15, subject to the imposition of conditions attached to any permission granted. They further advise that it is for the Local Planning Authority to be satisfied that the remaining three tests identified in the TAN are also satisfied. This is discussed further in the Analysis section of this report.

Countryside And Landscape Services - are concerned at the loss of the majority of trees on the site which they consider make a valuable contribution to the area. The Arboricultural Officer comments more specifically on the validity of the Tree Preservation Order and the need for its retention in respect to a development which pays no regard to its setting (i.e. in an SLA and SINC).

CCBC - 21st Century Schools - comments that a contribution of £44,100 will be required towards education provision in the area if permission is granted.

Head Of Public Protection - raises no objection subject to the imposition of conditions relating to a range of issues, including dealing with on-site contamination, noise and dust mitigation measures and control over imported materials.

CCBC Housing Enabling Officer - raises the issue of on-site affordable housing. Confirmation is given that 40% of the development (i.e. 6 properties) will be required to comply with the Local Development Plan in this regard.

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Senior Engineer (Land Drainage) - raises no objection subject to a condition requiring a comprehensive drainage scheme being submitted and approved prior to the commencing.

Outdoor Leisure Development Officer - raises no objection to the application.

Head Of Public Services - has made no comment on this application.

Transportation Engineering Manager - made a number of comments on the application which eventually resulted in the applicant acknowledging the Council's landownership interests. Notice was subsequently served on the Authority and the response, on highway safety matters, was thereafter received. This raised no objection subject to the imposition of a range of conditions relating to matters such as vision-splays, engineering details, on-site parking provision etc. The completion of a Section 106 Agreement to secure contributions towards improvements in the Strategic Highway Network is also required.

Dwr Cymru - have made no comment on this application.

Police Architectural Liaison Officer - offered no objection to the development, but made a range of comments on security matters, which they wished to be forwarded to the applicant should consent be forthcoming.

Wales & West Utilities - comment that they have no objection to this application, however it would be advisable to contact them prior to commencing work on site, if permission is granted.

Western Power Distribution - comment that they have apparatus within the vicinity of the site. The applicant should therefore contact them directly if consent is forthcoming.

Minerals Officer - comments that Policy CW22 of the Local Development Plan seeks to protect minerals that may be needed for the future. This proposal does not comply with that policy.

Bedwas, Trethomas & Machen Community Council - raises no objection.

ADVERTISEMENT

Extent of advertisement: The application has been advertised by way of site and press notices. Neighbour consultation letters were also sent out to 10 properties in the area.

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Response: A number of responses on the proposal have been received from the agent's acting on behalf of Total Limited, in respect to the re-development of the former Cray Valley Paint Works site, which mainly sits on the opposite side of Waterloo Road. The car park, which served that works, does however abut the application site to the south.

A number of the responses were received which sought clarification, particularly with regard to land ownership issues. These resulted in an amended scheme being submitted. In respect to this final scheme there was a detailed letter of objection submitted.

Summary of observations: The basis of the objections raised are as follows:-

1. The site access could compromise the proposed access points into the Cray Valley site, as the proposed site access to this residential development is potentially opposite those that will serve the much larger Cray Valley development (i.e. 545 houses and a school) when it is formally approved.
2. The development could also compromise the access into the Cray Valley land last occupied as a car park, which abuts the proposal to the south.
3. An increase in traffic to the site could adversely impact on junctions in the area.
4. The site lies outside the settlement limits contained in the Local Development Plan and is contrary to policy.
5. It is in a C2 flood risk area.
6. It would be in a SINC and on land designated as a Special Landscape Area in the Local Development Plan.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? It is not considered that the determination of this application will have a detrimental impact on crime and disorder in this area.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? The application site and adjacent river were surveyed for Bats and Otters whilst the potential for Dormice was also assessed. The Council's Ecologist considered the information submitted in this regard and concluded that the three Habitat Regulations tests do not apply.

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ANALYSIS

Policies: Policy SP5 and CW15 are linked in that the former identifies settlement boundaries, which is a key mechanism for achieving resource efficient settlements and to indicate where growth will be permitted whilst the latter contains more specific criteria relating to the siting of development in respect to those identified settlement boundaries.

Criterion C of Policy CW15 states as follows:-

"C. Outside settlement boundaries proposals will not be permitted unless the proposed development is either:

- i Associated with either agriculture, forestry or the winning and working of minerals or
- ii For the conversion, rehabilitation or replacement of rural buildings and dwellings, or
- iii For recreation, leisure and tourism proposals that are suitable in a countryside location or
- iv Associated with the provision of public utilities, infrastructure and waste management facilities that cannot reasonably be located elsewhere or
- v Associated with the reclamation/treatment of derelict or contaminated land."

Clearly the proposal falls into none of the above categories and is therefore contrary to Policy CW15.

The applicant's agent has however sought to argue that as the current land supply for housing identified in the Local Development Plan is less than 5 years. Applications for such development should be given considerable weight if they are acceptable in all other respects and would contribute to the increase in the supply. They consider therefore that this imperative overrides the policy objection and justifies an extension of the settlement boundary to include the application site. This, they consider, will be reinforced if the numbers of the houses on the larger Local Development Plan identified site at the former Cray Valley Paint Works are reduced, as they feel they could well be.

This view is strongly opposed by your officers who whilst recognising that the land supply is less than 5 years, consider that the shortfall should be addressed by way of the Local Development Plan Review process, which will ensure that the sites released are the most sustainable, as opposed to the ad hoc approach pursued by this application.

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Furthermore the capacity of the Waterloo Works site and the delineation of the settlement boundary in the Waterloo area are two unrelated matters. Whilst the actual number of units on the Waterloo scheme will not be known until such time as a detailed application is submitted, if less than the 545 indicative dwellings identified in the Local Development Plan are developed, there is sufficient flexibility in the plan to accommodate this. Paragraph 3.202 of the Local Development Plan states, "The proposed number of units identified for each site is indicative and higher or lower densities may be acceptable where the proposed development addresses other policy considerations including design, sustainability and comprehensive development." Furthermore, Policy SP14 on Total Housing Requirements indicates that an over-allocation of 1,644 residential units (or 19% allowance) has been provided to allow for choice and flexibility, which can include sites being developed for fewer units than identified in the Local Development Plan. There is therefore no justification that the settlement boundary should be amended specifically to allow for compensatory housing to address a perceived shortfall on Waterloo Works.

The settlement boundary is a key mechanism for achieving resource efficient settlements and it is acknowledged that Waterloo has a role as a residential settlement. The Local Development Plan strategy for the Southern Connections Corridor, which includes Caerphilly Basin, seeks to consolidate development within existing settlement boundaries. The priority and emphasis in this area is on the redevelopment of existing sites and not on the release of any substantial new greenfield land. Furthermore, the strategy seeks to reduce the impact of development upon the countryside as in some areas, particularly the Caerphilly Basin, further growth outside settlement boundaries would result in the development of particularly sensitive areas such as Special Landscape Areas, SINC's and Visually Important Local Landscapes. Settlement boundaries in this area have been delineated in accordance with this strategy and the settlement boundary in Waterloo has been drawn to follow the boundary of existing development, including brownfield land.

As a greenfield site designated as a SINC and SLA, it is clear that the development of this site would not promote the full and effective use of urban land, nor would it prevent inappropriate development in the countryside.

As such the policy objection with regard to CW15 is considered to remain valid.

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Policy CW4 relates to Natural Heritage Protection. Development within, or in close proximity to designations such as SLA's and SINC's, is only in compliance with CW4 if it is seen as conserving or, where appropriate, enhancing the characteristic features or ecological/geological importance of the designation, or if the need for such a development outweighs the ecological importance of the site and suitable mitigation measures can be undertaken.

It is considered that this proposal neither enhances nor conserves the characteristic features of either the ecological value of the SINC, or the landscape value of the SLA, and therefore it is contrary to Policy CW4.

This contention is supported by the views of the Council's Ecologist who states that:- "The planning application lies within the River Rhymney Site of Importance for Nature Conservation identified under Policy NH3.1 of the Local Development Plan. This site has been designated for its riverine habitat and the species associated with it and has also included adjacent semi-natural habitat that provides additional habitat for species associated with the river SINC. This includes the scrub habitats on the western side of the site, the alder woodland within the application site, and grassland, which formerly supported a mosaic of tall ruderal habitats and scrub, and now supports improved grassland."

In this regard she concludes that the part of the site occupied by the alder woodland offers a habitat that is rare in the U.K. and where present on a site should be retained and enhanced.

In response to this position the applicant offered the possibility of entering into a Section 106 Agreement to provide additional planting on land to the north-east of the site. To assess this offer properly the Council's Ecologist requested further details; however the applicant's agent responded by stating that this request was unreasonable as it would put the applicant to additional cost at a time when the Council has a negative view of the application. On this basis the Council's Ecologist retains the objection on the potential impact of the development on the SINC.

Policy CW6 relates to tree, woodland and hedgerow protection, Criterion C of which requires developments to have made all reasonable efforts to "retain protect and integrate trees..." within the development site. It is evident from the layout submitted that all the trees within this site are being removed. This is particularly relevant as the site forms part of a Tree Preservation Order (i.e. a TPO) covering a larger area.

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The applicant has consistently questioned the validity of this Order and has maintained that it is fundamentally flawed. The applicant's agent has requested that a background statement to this effect be drawn to the Committee Member's attention. As such the statement submitted is attached as an Appendix to this report.

The Council's Arboricultural Officer has considered the information submitted with the proposal (including the statement referred to above) and concludes as follows:-

- 1) TPO 34 is valid, and was served and later confirmed in the proper way. The TPO was confirmed for appropriate and defensible reasons.
- 2) The applicant's agents have not persuaded him that the removal of protected trees is either appropriate or desirable at this location - a site designated locally as a SINC and as an SLA.
- 3) The proposed design layout too readily necessitates the removal of trees which make a significant contribution to the landscape for at least a considerable number of years.

He therefore recommends refusal of the application on its impact on the trees and woodland located on the site.

The application is therefore considered to be contrary to Policy CW6.

The final Local Development Plan policy of relevance is CW2(Amenity). The site layout, as amended, is functional and basic. It does however achieve a level of acceptability, albeit Plots 11 and 12 should be slightly repositioned to gain the 21 metre distance between them and Plots 6 and 7.

The house designs are reasonable with the majority of them being detached. The applicant's agent is no doubt aware however that the Authority would require 40% of these as "Affordable" should consent have been granted. In the circumstances these issues are secondary as the submission has more fundamental objections to its consideration.

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With regard to National Policy Planning Policy Wales (Edition 6, February 2014) contains a chapter which addresses the Conservation and Improvement of the Natural Heritage and Coast. This chapter contains general guidance relating to "Trees and Woodlands." It concludes by stating that "Local Planning Authorities should, as appropriate, make full use of their powers to protect and plant trees to maintain and improve the appearance of the countryside and built up areas (Para. 5.2.10.)."

In this instance the site is part covered by a TPO is a SINC and forms part of an SLA. This demonstrates that the area concerned is one that should continue to be protected, particularly in respect to development that is contrary to Local and National Policy.

Turning to the matter of Flood Risk, it is acknowledged that the applicant has submitted a Flood Consequences Assessment in accordance with the tests contained in Section 6 of TAN 15. The then Environment Agency (the current Natural Resources Wales) found this assessment to be acceptable subject to the imposition of conditions. However it is also acknowledged that this submission only complies with test (iv), which relates to the potential consequences of a flood.

The TAN indicates that it is for the Local Planning Authority to identify how a proposed development meets tests (i), (ii) and (iii).

The wording of these tests is as follows:-

"Development, including transport infrastructure, 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 1; 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; and,
- (iii) It concurs with the aims of Planning Policy Wales and meets the definition of previously developed land.

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As the site is outside of a settlement boundary and will not therefore be necessary to sustain an existing settlement, it is not considered to comply with Criterion (i). Furthermore, it is not previously developed land so will not adhere to Criterion (iii).

On this basis it is considered that the application does not adhere to TAN 15 and therefore the application is contrary to this element of National Planning Policy.

The role of the Local Planning Authority in assessing proposals has recently been reinforced by the Planning Division of Welsh Government, who when commenting on the consideration of the tests in Zone C state that the tests are a "matter for the Local Planning Authority to undertake, and these should be undertaken sequentially. Therefore the Local Planning Authority should be able to identify how a proposed development meets tests (i), (ii) and (iii) of Paragraph 6.2 prior to consulting National Resources Wales on any detailed Flood Consequence Assessment necessary.

In respect to policy issues it is considered that the application is contrary to Local Development Plan policies CW4, CW6, CW15. It is also contrary to National Planning Policy in the form of TAN 15 (Development and Flood Risk) and PPW 6 (Conserving and Improving Natural Heritage and the Coast).

Comments from Consultees:

It is evident that a number of consultees have raised objection to this application, (e.g. the Council's Ecologist, Countryside and Landscapes Services and Arboricultural Officer), whilst the comments of the Transportation Engineering Manager have resulted in the applicant acknowledging the ownership of the Council in respect to the access arrangements at the site.

The objections raised are such as to justify a recommendation for refusal of the application on policy grounds. The above section seeks to demonstrate how these objections are underpinned by policy reasons (particularly those relating to Policies CW4 and CW6 of the Local Development Plan).

With regard to the comments received from the Minerals Officer in respect to compliance with Policy CW22 it is considered that the likelihood of mineral extraction in this area is remote and consequently a refusal of consent on this basis, at this particular site, is not considered to be supportable.

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Comments from public:

The response to the objections received are as follows:-

1. The development on the larger Cray Valley site to the west has not yet been approved and in any event it is an outline submission which reserves access for future approval. As such the refusal of this application on the basis of arrangements yet to be approved is considered to be unreasonable.
2. The same applies to the car park abutting the application site. That site has an existing access which accommodated the staff employed at the former paintworks site. Access to it was not an issue previously and should remain acceptable in any event.
3. The impact on existing junctions is a matter that the Transportation Engineering Manager has considered and has raised no objection to.
4. It is accepted that the application is outside settlement limits, and this is an issue that is found to be unacceptable in the consideration of this proposal.
5. The consideration of the flood risk at the site is again one that is found to be unacceptable at this site.
6. The impact of the development on the natural heritage of the site, which is an SLA, a SINC and is covered by a TPO is such as to warrant the raising of an objection.

Other material considerations: None.

RECOMMENDATION that Permission be REFUSED

The reason(s) for the Council's decision is/are

- 01) The proposal is contrary to the requirements of Section 6 of TAN 15: Development and Flood Risk, in that the site is outside of the settlement boundary, identified in the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010, and therefore will not be necessary to sustain an existing settlement. It therefore fails test (i) of the TAN. Also it is not previously developed land and therefore it cannot fulfil to the requirement of test (iii) of the TAN.
- 02) The proposal is contrary to policy CW15 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 as it involves development outside the identified settlement boundaries which is not in accordance with the exceptions contained in that policy.

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- 03) The development is contrary to Policy CW4 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010, as it will adversely affect locally designated natural features including the Special Landscape Area, and a Site of Interest for Nature Conservation which cover the site.
 - 04) The development is contrary to the requirements of Policy CW6 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 in that the form of the proposed development will result in the loss of the trees within the site area, all of which are covered by a Tree Preservation Order (No. 34).
 - 05) The development is contrary to the guidance given in Planning Policy Wales (Edition 6 - February 2014), as it relates to the Conservation and Improvement of Natural Heritage. This development will adversely impact on this area of naturally wooded countryside and directly affect the Tree Preservation Order which protects those trees currently on the site.
-