

PREFACE ITEM

APPLICATION NO.	20/0662/OUT
APPLICANT(S) NAME:	Mrs T Howell
PROPOSAL:	Erect detached dwelling with associated groundworks and seek approval of scale
LOCATION:	Land North West Of Atcombe Cottage Waterloo Lane Machen Caerphilly

The above planning application sought outline planning permission (with all matters other than scale reserved for future consideration) to redevelop the application site for residential development of 1 dwelling and associated works.

The application was reported to Planning Committee on 20th January 2021 with a recommendation for approval subject to conditions. A copy of the previous report is attached at Appendix A.

The Officer report makes reference to the fact that the application site is located outside of the settlement limits as defined in the proposals map to the Caerphilly County Borough Local Development Plan up to 2021 – Adopted November 2010. The report goes on to discuss the fact that the land has been used as part of the garden curtilage of the property at Atcombe Cottage for in excess of 10 years. On that basis, and having regard for the domestic appearance of the site, and its proximity to the settlement, it was considered that the proposal would constitute acceptable rounding off of the settlement and as such was acceptable in planning terms. Furthermore, given the character of the adjacent land to the west, which is part of a Special Landscape Area, designated as a Site of Special Scientific Interest and is protected by a Tree Preservation Order, the application site is considered to have natural defensible boundaries to further development.

At the meeting, Members resolved that the application be deferred to allow Officers to provide reason(s) for refusal on the basis that the development would be unacceptable development in the countryside contrary to Policy SP5 of the Local Development Plan and would result in unacceptable impacts on the amenity of the neighbouring dwellings.

If Members remain minded to refuse the application on this basis, suggested reasons for refusal are contained at the end of this preface item report. However, prior to determining the application it is felt that the following information should be considered.

The Status of the Application Site as Domestic Curtilage

It is acknowledged that the use of the application site as domestic garden does not benefit from planning consent. However, it should be noted that planning consent was granted for the land to be used as part of the curtilage of the dwelling at Atcombe Cottage under application reference number 5/5/93/0739. As can be seen from the attached aerial photograph from 2001 at appendix B, this consent was not implemented within 5 years of the date of that permission and as such that consent expired.

Nevertheless, as can be seen from the aerial photograph from 2010 at Appendix C the land was in use as part of the domestic curtilage of the dwelling. In accordance with Section 171B of the Town and Country Planning act 1990 the time limit for taking enforcement action is 10 years from the date of the breach. Whilst the Local Planning Authority could request that the applicant make an application for a Certificate of Lawfulness for an Existing Use in order to regularise the use, it would not be reasonable to pursue any enforcement action in respect of this matter as the use would be lawful in planning terms.

The decision of the Local Planning Authority to not include the application site within the defined settlement limits when these were set out in the Adopted LDP has no bearing on this fact as the host dwelling at Atcombe Cottage is also outside of the settlement limits but this does not prevent it from being used for residential purposes.

The Character of the Application Site

If it is accepted that the application site forms part of the domestic curtilage of Atcombe Cottage then its character and impact on the landscape character of the Special Landscape Area have to be considered in the determination of this application. It is a principle of planning that each application has to be treated on its own merits having regard for the particular circumstances of each case. In that regard, and whilst it is acknowledged that the application site forms part of the South Caerphilly Special Landscape Area, the domestic appearance of the site, its inclusion both visually and physically within the curtilage of Atcombe Cottage, and its close proximity to the established settlement which includes the adjacent modern dwellings in The Meadows, is such that it does not make a significant contribution to the landscape character of the SLA. It should also be noted that the SLA covers a total area of 1600 hectares and the application site has an area of 0.04 hectares and as such the application represents an insignificant portion of the SLA. In that regard it is considered that the development of the site would not have a detrimental impact on the landscape character of the special landscape area and would not lead to the domestication of an otherwise rural setting.

Setting a Precedent for Approval of Other Developments

As stated above it is a central principle of planning that each application has to be considered on its own merits. In that regard, and notwithstanding that only the courts can set a precedent, it would only be possible for this application to set a precedent for the approval of other similar applications if those applications have the same planning characteristics as this proposal.

With regard to the adjacent site at The Tinworks and any potential development of that, it should be noted that that site is not only part of the South Caerphilly Special Landscape Area, but it is part of the Rudry Woodlands Site of Importance for Nature Conservation and is also protected by a Tree Preservation Order. In that regard there are a number of considerations which would make this site different to the application site such that approval of this application would not set a precedent for approval of development on that site.

In light of the above it is considered that the proposal is acceptable in planning terms and as such it would be difficult to defend a refusal of the application at appeal on the grounds of unacceptable development in the countryside.

Scale of the Proposal and its Impact on the Amenity of Neighbouring Dwellings

Whilst members raised concerns with regard to the scale of the proposal it should be noted that the upper and lower scale parameters suggested are in keeping with the scale of the adjacent dwellings in The Meadows and would not be out of keeping in that regard. In terms of the impact of the proposal on the amenity of the neighbouring dwelling it should be noted that siting is reserved for future consideration. In that regard it is considered that the dwelling could be sited in such a position within the application site that it would be directly adjacent to the side elevation of the neighbouring dwelling which has no windows facing onto the application site. Alternatively it could be sited on the western side of the application site such that it is located away from the neighbouring dwelling. In either respect the impact on the amenity of the neighbouring dwelling would be acceptable in planning terms and it would be very difficult to defend a refusal on this ground and as such a reason for refusal in that respect is not provided.

RECOMMENDATION – That if Members are minded to GRANT planning permission that it is GRANTED subject to the conditions included in the report at Appendix A.

However, if Members remain minded to refuse the application the following reason is suggested:

“The proposal would result in unacceptable development in the countryside which has not been justified by any of the excepted categories of development set out in Criterion C of Policy CW15 of the LDP and as such the proposal is contrary to the provisions of Policies SP5 and CW15 of the Caerphilly County Borough Local Development Plan up to 2021.”