

# Public Document Pack

Penallta House,  
Tredomen Park,  
Ystrad Mynach,  
Hengoed CF82 7PG

Ty Penallta,  
Parc Tredomen,  
Ystrad Mynach,  
Hengoed CF82 7PG



[www.caerphilly.gov.uk](http://www.caerphilly.gov.uk)  
[www.caerffili.gov.uk](http://www.caerffili.gov.uk)

For all enquiries relating to this agenda please contact Rebecca Barrett  
(Tel: 01443 864245 Email: [barrerm@caerphilly.gov.uk](mailto:barrerm@caerphilly.gov.uk))

**Date: 13th January 2021**

Dear Sir/Madam,

A digital meeting of the **Planning Committee** will be held via Microsoft Teams on **Wednesday, 20th January, 2021 at 5.00 pm** to consider the matters contained in the following agenda. You are welcome to use Welsh at the meeting, a minimum notice period of 3 working days is required should you wish to do so.

This meeting will be recorded and made available to view via the Council's website, except for discussions involving confidential or exempt items. Therefore the images/audio of those individuals present and/or speaking at Planning Committee will be publicly available to all via the recording on the Council website at [www.caerphilly.gov.uk](http://www.caerphilly.gov.uk)

Due to restrictions in relation to Covid19, Planning Committee Site Visits have been suspended and this meeting will not be open to the press and general public. However interested parties may make a request to attend remotely and speak in regard to any item on this agenda. To obtain further details on this process please contact the Committee Clerk at [barrerm@caerphilly.gov.uk](mailto:barrerm@caerphilly.gov.uk)

Yours faithfully,

A handwritten signature in black ink, appearing to read 'CHarrhy'.

**Christina Harrhy**  
CHIEF EXECUTIVE

## AGENDA

- 1 To receive apologies for absence.

Pages

**A greener place Man gwyrdach**

Correspondence may be in any language or format | Gallwch ohebu mewn unrhyw iaith neu fformat



2 Declarations of Interest.

Councillors and Officers are reminded of their personal responsibility to declare any personal and/or prejudicial interest(s) in respect of any item of business on this agenda in accordance with the Local Government Act 2000, the Council's Constitution and the Code of Conduct for both Councillors and Officers.

To approve and sign the following minutes: -

- 3 Planning Committee held on 2nd December 2020. 1 - 6

To receive and consider the following report(s): -

- 4 Code No. 20/0662/OUT - Land North West Of Atcombe Cottage, Waterloo Lane, Machen, Caerphilly. 7 - 20
- 5 Code No. 20/0635/NCC - Former Pontymister Service Station, Newport Road, Pontymister, Risca. 21 - 40
- 6 Code No. 20/0688/FULL - Ty Yn Y Pwll Hotel, Newport Road, Trethomas, Caerphilly, CF83 8BR. 41 - 56
- 7 Code No. 20/0645/FULL - Gelliargwellt Uchaf Farm, Gelligaer Road, Gelligaer, Hengoed, CF82 8FY. 57 - 70
- 8 Review of Service Levels and Decision-Making Processes for the Development Management and Planning Enforcement Functions of the Planning Service. 71 - 110

**Circulation:**

Councillors M.A. Adams, Mrs E.M. Aldworth (Vice Chair), C. Andrews, A. Angel, J. Bevan, M. Davies, J.E. Fussell, R.W. Gough, D.T. Hardacre, L. Harding, A.G. Higgs, A. Hussey, B. Miles, Mrs G.D. Oliver, R. Saralis (Chair), J. Simmonds, J. Taylor, A. Whitcombe and T.J. Williams

And Appropriate Officers

**HOW WE WILL USE YOUR INFORMATION**

Those individuals that attend committee meetings to speak/give evidence will be named in the minutes of that meeting, sometimes this will include their place of employment or business and opinions expressed. Minutes of Meetings including details of speakers will be publicly available to all via the Council website at [www.caerphilly.gov.uk](http://www.caerphilly.gov.uk). except for discussions involving confidential or exempt items.

You have a number of rights in relation to your information, including the rights of access to information we hold about you and the right of complaint if you are unhappy with the way your information is being processed.

For further information on how we process your information and your rights please view the [Full Committee Meetings Privacy Notice](#) on our website or contact Legal Services by email [griffd2@caerphilly.gov.uk](mailto:griffd2@caerphilly.gov.uk) or telephone 01443 863028.



## PLANNING COMMITTEE

### MINUTES OF THE MEETING HELD VIA MICROSOFT TEAMS ON WEDNESDAY, 2ND DECEMBER 2020 AT 5:00 PM

#### PRESENT:

Councillor R. Saralis - Chair

#### Councillors:

Councillors: M. Adams, E.M. Aldworth, C. Andrews, A. Angel, J. Bevan, M. Davies, R.W. Gough, L. Harding, A.G. Higgs, A. Hussey, B. Miles, J. Simmonds, A. Whitcombe, T.J. Williams

Councillor S. Morgan (Deputy Leader and Cabinet Member for Economy and Enterprise)

#### Together with:

M. Woodland (Senior Solicitor), R. Kyte (Head of Regeneration and Planning), R. Thomas (Planning Services Manager), C. Boardman (Area Principal Planner), A. Pyne (Principal Planner), V. Morgan (Principal Planner/Statistician), L. Cooper (Assistant Engineer), J. Hobbs (Senior Engineer), M. Godfrey (Team Leader - Pollution Control), R. Barrett (Committee Services Officer)

#### CHAIR'S ANNOUNCEMENT

On behalf of the Planning Committee, the Chair expressed his deepest condolences to Councillor Gaynor Oliver on the sad loss of her husband Roy.

#### RECORDING AND VOTING ARRANGEMENTS

The Chair reminded those present that the meeting was being recorded and would be made available following the meeting via the Council's website – [Click Here to View](#). Members were advised that voting on decisions would be taken by way of roll call.

- 1. TO NOTE THE APPOINTMENT OF COUNCILLOR E.M. ALDWORTH AS VICE-CHAIR OF PLANNING COMMITTEE UNTIL THE ANNUAL GENERAL MEETING OF COUNCIL IN 2021.**

The Planning Committee noted the appointment and the Chair welcomed Councillor Aldworth to her new role.

## **2. APOLOGIES FOR ABSENCE**

Apologies for absence had been received from Councillors J.E. Fussell, D.T. Hardacre, G. Oliver and J. Taylor.

## **3. DECLARATIONS OF INTEREST**

Councillor A. Whitcombe sought advice in relation to Agenda Item 8 (as Chair of the Housing & Regeneration Scrutiny Committee) and Councillor J. Bevan sought advice in relation to Agenda Item 5 (as the application is in his ward). Both Members were advised there was no requirement to declare an interest on this occasion.

There were no declarations of interest received at the commencement or during the course of the meeting.

## **4. MINUTES – 4TH NOVEMBER 2020**

It was moved and seconded that the minutes of the meeting held on the 4th November 2020 be agreed as a correct record and by a show of hands-up this was unanimously agreed.

RESOLVED that the minutes of the Planning Committee held on 4th November 2020 (minute nos. 1-5) be approved as a correct record.

## **5. CODE NO. 20/0636/COU - 17 HIGH STREET, RHYMNEY, TREDEGAR, NP22 5NB**

Councillor C. Cuss spoke on behalf of local residents in objection to the application.

Following consideration of the application it was moved and seconded that subject to the conditions contained within the Officer's report, the recommendation contained in the Officer's report be approved and in noting there were 11 For, 3 Against and 1 Abstention this was agreed by the majority present.

RESOLVED that:-

- (i) Subject to the conditions contained in the Officers report this application be GRANTED;
- (ii) The applicant be advised that the proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should

wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. The applicant's attention is drawn to the Coal Authority Policy in relation to new development and mine entries available through the following link: [Coal Authority Policy](#)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from the [Coal Authority website \(Ground Stability\)](#) or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the [Coal Authority Website](#).

**6. CODE NO. 20/0830/COU - ICONIC, LLANARTH CORNER, LLANARTH ROAD, SPRINGFIELD, PONTLLANFRAITH, NP12 2LG**

Councillor G. Kirby spoke in objection to the application on behalf of local residents and a written statement was read out on behalf of Mr A. Mitha (the applicant) in support of the application.

Following consideration of the application it was moved and seconded that subject to the conditions contained within the Officer's report, the recommendation contained in the Officer's report be approved and in noting there were 12 For, 2 Against and 0 Abstentions this was agreed by the majority present. Councillor L. Harding lost connection and did not participate in the vote for this item.

RESOLVED that:-

- (i) Subject to the conditions contained in the Officers report this application be GRANTED.
- (ii) The applicant be advised of the comments of the Environmental Health Officer that are brought to the applicant's attention.
- (iii) The applicant be advised that the proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the [Coal Authority Website](#).
- (iv) The applicant be advised that many species of bat depend on buildings for roosting, with each having its own preferred type of roost. Most species roost in crevices such as under ridge tiles, behind roofing felt or in cavity walls and are therefore not often seen in the roof space. Bat roosts are protected even when bats are temporarily absent because, being creatures

of habit, they usually return to the same roost site every year. Bats are protected under The Conservation of Habitats and Species Regulations 2010 (as amended), which implements the EC Directive 92/43/EEC in the United Kingdom, and the Wildlife and Countryside Act 1981 (as amended). The applicant is advised that, if bats are discovered, all works should stop immediately and Natural Resources Wales (NRW) should be contacted for advice on any special precautions before continuing.

**7. CODE NO. 20/0806/NCC - LAND AT GRID REF 319235 191320, NINE MILE POINT INDUSTRIAL ESTATE, CWMFELINFACH**

It was noted that the application had been withdrawn prior to the meeting.

**8. CAERPHILLY COUNTY BOROUGH COUNCIL LOCAL DEVELOPMENT PLAN - HOUSING DELIVERY STATEMENT**

Consideration was given to the report, which provided an update to Members on recent changes to planning policy in respect of housing supply and housing delivery. The report asked Planning Committee to consider the Housing Delivery Statement and endorse the Statement and its recommendations for consideration by Council.

Members received a presentation which provided an overview of the Housing Delivery Statement. This Statement explains the housing trajectory and sets out what pro-active actions the Council is taking to address the shortfall in housing. Subject to approval by Council, the Housing Delivery Statement will be a consideration for the Local Planning Authority (LPA) in the determination of future planning applications.

It was noted that although there is no requirement to submit an Annual Monitoring Report (AMR) to Welsh Government (WG) in 2020 in light of the Covid-19 pandemic and the need to focus on plan preparation, the Council has prepared a Housing Delivery Statement to address the matter of housing delivery and housing supply that is normally addressed in the AMR. This is particularly pertinent as there have been significant changes in national planning policy to the way that the amount of land available for housing is considered.

Members debated the report and Officers provided clarification in response to queries received around the remit and composition of the Housing Stakeholder Group. Particular concerns were expressed as to the limited Elected Member involvement in the Group, which Members were concerned would cease once a development plan is adopted. It was suggested that there should be an ongoing Member presence on the Group to allow for continued scrutiny.

Individual Members requested that the Cabinet Member for Economy and Enterprise give consideration to these issues, who in turn confirmed that he would take these concerns into account as far as possible and would explore the matter outside of the meeting with the Members who had raised these points. However, it was emphasised to the Committee that Members will have the opportunity to scrutinise the housing trajectory agreed by the Housing Stakeholder Group as part of the Annual Monitoring Report, which will be reported to Council on an annual basis, and also through the LDP Focus Group in respect of the trajectory to be included in the 2<sup>nd</sup> Replacement LDP. The Council are limited in what actions they can take regarding membership of the Housing Stakeholder Group, as this has been established in accordance with the requirements of Welsh Government planning guidance (i.e. the Development Plans Manual).

Having considered the report, it was moved and seconded that subject to the comments received in respect of membership of the Housing Stakeholder Group being considered by

the Cabinet Member for Economy and Enterprise, the recommendations in the Officer's report be agreed and forwarded to Council for approval. In noting there were 13 For, 0 Against and 1 Abstention, this was agreed by the majority present.

The Planning Committee therefore

- (i) RESOLVED that subject to the Cabinet Member taking into consideration the comments received in respect of membership of the Housing Stakeholder Group, the Housing Delivery Statement and its recommendations be endorsed;
- (ii) RECOMMENDED to Council that the Housing Delivery Statement and its recommendations be approved as the basis for informing future planning decisions by the Local Planning Authority.

The meeting closed at 6.37 pm

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 20th January 2020.

---

CHAIR

This page is intentionally left blank



**Application Number:** 20/0662/OUT

**Date Received:** 06.10.2020

**Applicant:** Mrs T Howell

**Description and Location of Development:** Erect detached dwelling with associated groundworks and seek approval of scale - Land North West Of Atcombe Cottage Waterloo Lane Machen Caerphilly

**APPLICATION TYPE:** Outline Application

## SITE AND DEVELOPMENT

Location: The application property is located at the south western end of The Meadows, Waterloo, Machen.

Site description: The application site forms part of the domestic garden of the property at Atcombe Cottage and is a relatively flat lawned area. It is bounded to the north east by the side boundary of the dwelling at 9 The Meadows, to the north by timber fence and to the south west by a timber fence and mature trees forming part of the SINC located in that area. Access to Atcombe Cottage is derived off a drive onto Lon Waterloo but there is a secondary access onto The Meadows via a five bar gate.

Development: This application seeks outline planning consent for residential development

Use: Residential development.

The amount of development proposed for each use: One dwelling.

Indicative layout: The revised indicative layout shows a dwelling sited towards the front of the site with parking to the front and amenity space to the rear.

Indicative access points: Access will be derived via the existing five bar gate onto The Meadows.

### Dimensions:

Dimensions (upper and lower limits for height, width and length of each building): Width 7-10m, Depth 7-11.5m, Height 5.6-8.5m.

Materials: Not specified.

Ancillary development, e.g. parking: Two parking spaces are shown and a garage is referred on the indicative layout plan.

## PLANNING HISTORY 2010 TO PRESENT

None.

## POLICY

Local Development Plan: Outside settlement limits and within the South Caerphilly Special Landscape Area (NH1.5).

### Policies

Local Development Plan: SP3 (Development in the Southern Connections Corridor), SP5 (Settlement Boundaries), SP6 (Place Making), SP10 (Conservation of Natural Heritage), CW2 (Amenity), CW3 (Design Considerations: Highways), CW4 (Natural heritage Protection), CW6 (Trees, Woodlands and Hedgerow Protection) and CW15 (General Locational Constraints).

Supplementary Planning Guidance LDP 5 Car Parking Standards sets out parking requirements for all developments.

Supplementary Planning Guidance LDP 6 Building Better Places to Live gives advice on all levels of development.

National Policy: Paragraph 3.9 - The special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations. A clear rationale behind the design decisions made, based on site and context analysis, a strong vision, performance requirements and design principles, should be sought throughout the development process and expressed, when appropriate, in a design and access statement.

Paragraph 3.16 - Planning authorities should through a process of negotiation seek to improve poor or average developments which are not well designed, do not take account of their context and consider their place, or do not meet the objectives of good design. Where this cannot be achieved proposals should be rejected. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions. If a decision maker considers that a planning application should not be approved because of design concerns they should ensure that these reasons are clearly articulated in their decision and justified with sufficient evidence. In the event of an appeal, in these circumstances, the Planning Inspectorate will need to examine the issues in detail and consider if the proposal meets the objectives of good design including the relationship between the site and its surroundings.

3.56 Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.

National Planning Guidance contained in Technical Advice Note 12 - Design.

### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not Applicable.

### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? No.

### CONSULTATION

Transportation Engineering Manager - No objection subject to conditions.

Head Of Public Protection - No objection subject to conditions.

Senior Engineer (Land Drainage) - No comments received.

Dwr Cymru - Provide advice to be conveyed to the developer.

Strategic & Development Plans - No objection.

Landscape Architect - No objection subject to conditions.

CADW - No objection.

Ecologist –

### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: 9 objections were received.

### Summary of observations:

- The application form describes the application site as garden land but no consent exists for such use.
- The application site is located outside the settlement boundary as defined in the Adopted Local Development Plan (LDP). As such, the proposal is a Departure from the LDP and conflicts with its policies that seeks to protect the open countryside.
- The application site falls within a Special Landscape Area and is immediately adjacent to a Site of Importance for Nature Conservation.
- The proposal would have an overbearing impact on no. 9 The Meadows.
- The planning application form states that the proposed development would rely on an existing pedestrian and vehicular access from the public highway. However, it is unclear if the applicants control the land necessary to secure an access point.
- The planning application form states that there will be no felling of trees as a result of the proposal. However, mature trees were recently felled before the submission of the planning application.
- Approval of the application would set a precedent for other similar proposals in the area.
- The proposal would affect the existing turning head at the end of The Meadows.
- The road at The Meadows is not capable of dealing with additional traffic.

### 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?

None.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? Based on current evidence, this is unlikely to be a significant issue in this case, but an advisory note will be attached to the consent and sent to the applicant as a precautionary measure.

Is this development Community Infrastructure Levy liable? No. CIL would be calculated at the reserved matters stage.

### ANALYSIS

Policies: The application has been considered in accordance with national planning policy and guidance, local plan policy and supplementary planning guidance. The application site is a greenfield site outside of the settlement boundary in the Southern Connections Corridor (SCC). The SCC strategy promotes development on previously developed land as opposed to greenfield sites. Therefore, the proposal does not meet with the strategy of the LDP. In addition, the proposal area is within a Special

Landscape Area (SLA) and the North Western boundary intersects a Site of Importance for Nature Conservation (SINC). In that regard the main points to consider in the determination of this application are the principle of the development in this location the impact of the proposal on the character and ecology of the area, and the potential impact on the amenity of nearby residential properties.

With regard to the principle of the development it should be noted that the application site is currently being used as a large garden associated with Atcombe Cottage, and provides a vehicular access to that dwelling off The Meadows. Layout plans submitted with the application highlight that although the site is outside of the settlement boundary, it is not and does not have the appearance of open countryside and the construction of a new dwelling would not have an impact on the character of the Special Landscape Area or its border with the nearby SINC and TPO. There is an existing wooden fence that separates the garden area from the SINC to the west, meaning that potential development is unlikely to have any impact on the adjoining countryside setting and could be considered to be a natural rounding off of the settlement.

It should also be noted that the Council currently has a shortfall of housing land. Policy SP14 Total Housing Requirements makes provision for 10,269 dwellings for the 15-year period 2006 to 2021. This represents 1,644 (19%) residential units more than the 8,625 units required to meet the dwelling requirement identified for the plan period. The 19% over-allocation allows for flexibility and choice in recognition of the fact that not all sites will be developed.

The delivery of housing in the LDP is monitored through the Annual Monitoring Report (AMR). The Council has prepared eight AMRs to date, the most recent of which was agreed by Council in October 2019 (2019 AMR). It is evident from successive AMRs that new housing has not been delivered at the levels required. Policy SP14 indicates that there is a housing requirement for 8,625 new dwellings to be delivered over the 15-year plan period. This equates to an annual requirement of 575 dwellings per annum.

Having regard for the 2019 completions data, the 8th AMR indicated that 4,835 units had been delivered (56% of the overall Adopted LDP total housing requirement) up to the end of March 2019. Therefore, there is a requirement for a further 3,790 dwellings to be developed over the remainder of the plan period, i.e. by the end of 2021, to meet the LDP housing requirement. At this point in the plan period (13 years), it would be assumed that 7,475 dwellings would have been constructed.

The number of dwellings that have been constructed each year has been consistently below the annual average requirement (AAR) of 575 dwellings per annum for every year since 2008-9. The last published AMR identified that in the year ending 31st March 2019, only 122 dwellings were completed, which is the lowest housebuilding rate since records for Caerphilly began in 1996.

The 2019 AMR acknowledges that "housing delivery overall is significantly behind where it should be means the delivery of the housing needed to meet the Plan's housing requirement up to 2021 is being seriously compromised."

In order to address this key issue, Recommendation R2 of the AMR states "In recognition of the need to identify more land for employment and housing to support local need and regional aspirations the 8th Annual Monitoring Report recommends that a review of the Adopted LDP be commenced. Further to this, Recommendation R3 states that "in the period up to the adoption of the revised LDP, the Council will need to continue to address the shortfall in the five-year housing land supply through proactive action, including:

"To consider proposals for new residential development on their relative planning merits on a site-by-site basis and have due regard for the need to increase the housing land supply in line with national planning policy and guidance."

Whilst this recommendation to increase the "housing land supply" was originally drafted to address the 5-year land supply, this should now be interpreted to seek to address the shortfall in housebuilding when compared to the LDP requirement.

Whilst this application will only deliver a single dwelling, which will make only a minimal contribution to meeting the housing requirements set out in the LDP, it nevertheless does make a contribution and this view has been supported by recent appeal decisions and as such this should be considered in the determination of this application.

On balance it is therefore considered that the erection of a dwelling at this location would not have a detrimental impact on the character or appearance of the countryside and would not lead to the loss of an otherwise undeveloped area of land. In addition to this, the site is well related to the existing built form of Waterloo and a dwelling would be compatible with adjoining uses. The proposal would also make a small contribution to addressing the shortfall in the delivery of housing. In that regard the principle of the development is considered to be acceptable in this instance.

With regard to the impact of the proposal on the landscape character and ecology of the area, as stated above it should be noted that the application site is currently used as part of the domestic curtilage of Atcombe Cottage and has the appearance of domestic garden rather than that of open countryside. There is a readily definable boundary between the application site and the adjacent SINC and the indicative layout plan shows that a dwelling can be accommodated on the site without the need to affect any of the trees or ecology within that area. The Council's Landscape Architect and Ecologist have also considered the application and do not consider that the proposal would have a detrimental impact on the character of the Special Landscape Area or on the ecology of the site.

Policy CW2 of the LDP states that developments should not have a detrimental impact on the amenity of neighbouring land. In that regard it should be noted that the originally

submitted indicative layout plan showed the dwelling set further back in the site such that it would have an overbearing impact on the rear garden of the adjacent dwelling at 9 The Meadows. However, an amended indicative layout plan has now been submitted showing the dwelling being site closer to the front of the site. Notwithstanding the submitted details, siting is reserved for future consideration and it is considered that the submitted plan shows an acceptable relationship is possible between the two properties. Given the siting of the dwelling alongside the adjacent dwelling and the location of the nearest dwelling on the opposite side of The Meadows it is not considered that there would be any direct overlooking of these properties and as such no loss of privacy would occur. In light of the above considerations it is considered that adequate indicative details have been submitted to demonstrate that a dwelling could be proposed at the site at reserved matters stage that could comply with Policy CW2.

With regard to highway safety it should be noted that no objection has been raised by the Transportation Engineering Services Manager. Whilst the highway at The Meadows has not yet been adopted by the Council, the delay in doing so is a legislative matter rather than a technical one and as such the highway is considered to be acceptable to serve the development. An adequate access to the site can be achieved and the indicative layout plan shows that sufficient parking can be provided within the site. In that regard the proposal complies with Policy CW3 of the LDP subject to conditions.

Comments from Consultees: No objections raised.

Comments from public:

- The application form describes the application site as garden land but no consent exists for such use - It is acknowledged that there is no planning consent in place for the use of the application site as part of the curtilage of Atcombe Cottage. Nevertheless, for the purposes of this application the Local planning Authority has to consider whether the proposal would have a detrimental impact on the character of the area. In that regard, the evidence held by the Council suggests that the application site has been used as a garden for in excess of 10 years and as such it is now exempt from enforcement action. Moreover, as discussed above, the appearance of the land is that of a domestic garden and it is on that basis that the Local Planning Authority has to consider this application. That issue is discussed at length above and is considered to be acceptable in planning terms.
- The application site is located outside the settlement boundary as defined in the Adopted Local Development Plan (LDP). As such, the proposal is a Departure from the LDP and conflicts with its policies that seeks to protect the open countryside - This issue is considered at length above.
- The application site falls within a Special Landscape Area and is immediately adjacent to a Site of Importance for Nature Conservation - This issue is considered above.
- The proposal would have an overbearing impact on no. 9 The Meadows - This issue is considered above.

- The planning application form states that the proposed development would rely on an existing pedestrian and vehicular access from the public highway. However, it is unclear if the applicants control the land necessary to secure an access point - The applicant has now served a land ownership notice on the owner of the land over which the access would be achieved and as such the application is acceptable in planning terms.
- The planning application form states that there will be no felling of trees as a result of the proposal. However, mature trees were recently felled before the submission of the planning application - It is acknowledged that a small number of trees were felled prior to the submission of this application. However, those trees did not benefit from any legislative protection and consent was not required for their removal prior to the submission of this application.
- Approval of the application would set a precedent for other similar proposals in the area - Each application has to be considered on its own planning merits. The justification for this proposal in this particular location is carefully considered above and the approval of this application would not set a precedent for the approval of other dwellings outside of the defined settlement limits.
- The proposal would affect the existing turning head at the end of The Meadows - As stated above it is considered that the proposal is acceptable in highway safety terms. An adequate access to the site can be achieved and there is no reason to believe that this would have any impact on the existing turning head, which is located on the opposite side of the highway from the application site.
- The road at The Meadows is not capable of dealing with additional traffic - As stated above, the proposal is considered to be acceptable in highway safety terms. The highway has been constructed to adoptable standards and is suitable for the increase in traffic associated with this proposal.

Other material considerations:

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

In conclusion it is considered that the erection of a dwelling at this location would make a contribution towards housing provision in the County Borough, it would not have a detrimental impact on the character or appearance of the countryside and would not have a detrimental impact on designated sites adjacent to the site. Furthermore, the indicative site layout details submitted demonstrate that a dwelling could be provided in this location that would not have a detrimental impact on the amenity of neighbouring properties. The proposal is considered to be acceptable in highway safety terms and as such is considered to be acceptable from a planning perspective.

RECOMMENDATION that Permission be GRANTED



This permission is subject to the following condition(s)

- 01) Approval of the details of the access, appearance, landscaping, and layout of the development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before development is commenced and shall be carried out as approved.  
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 02) Plans and particulars of the reserved matters referred to in Condition 01) above, relating to the access, appearance, landscaping and layout of the development, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.  
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 03) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 04) The development hereby permitted shall be begun 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 the provisions of Section 92 of the Town and Country Planning Act 1990.
- 05) The development shall be carried out in accordance with the following approved plans and documents: Site Location Plan (1230/SL1) and Amended Site Layout Plan (1230/2A).  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 06) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority to deal with the contamination of the site. That scheme shall include a ground investigation and a risk assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme.  
REASON: In the interests of public health.

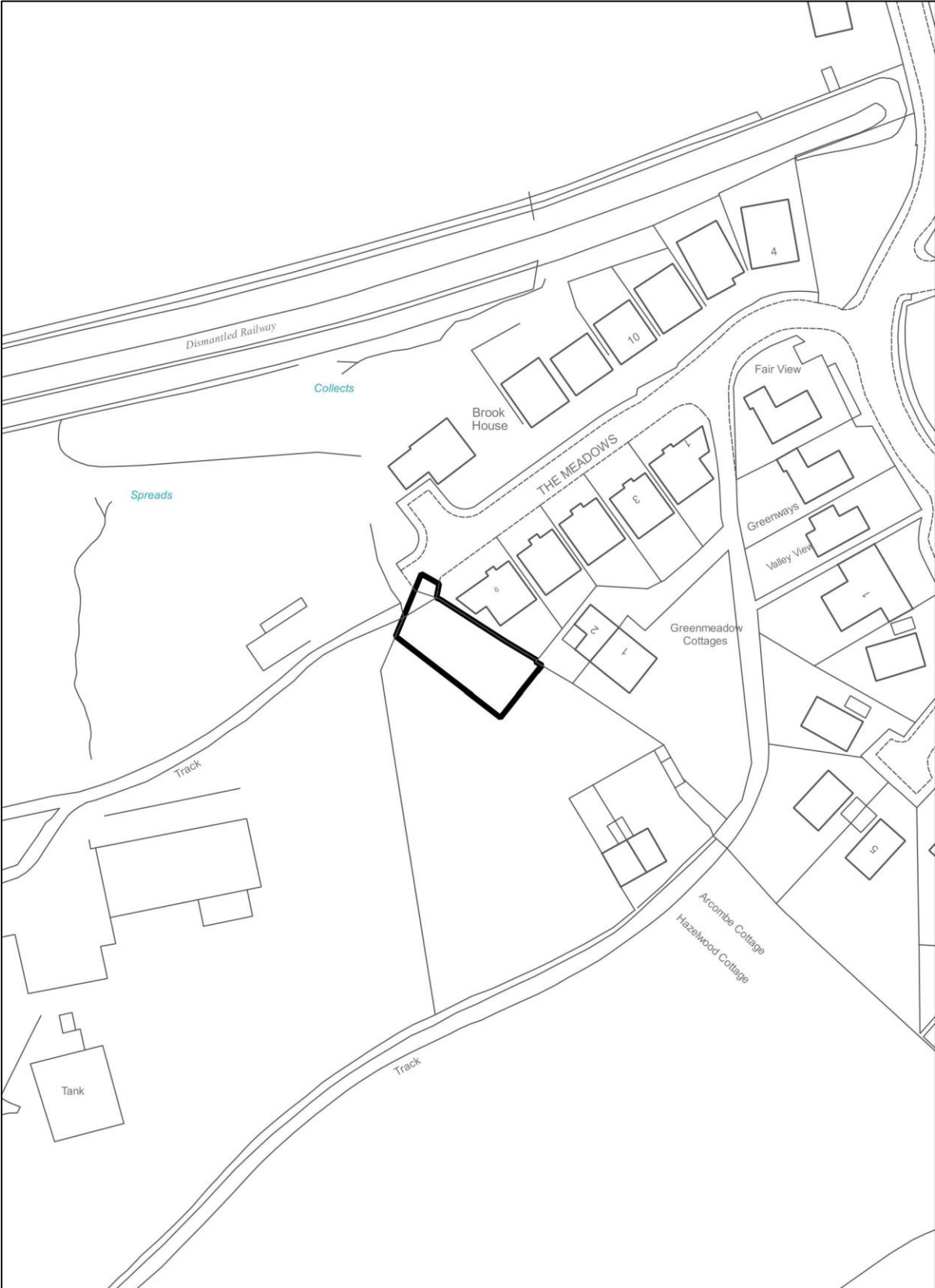
- 07) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLGA document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their importation and testing for contamination shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.  
REASON: In the interests of public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.
- 08) No building approved by this permission shall be occupied or approved uses commence until a report has been submitted to and approved in writing by the Local Planning Authority which verifies that the required works have been undertaken in accordance with the remediation strategy.  
REASON: To protect public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.
- 09) The demolition or site/vegetation clearance associated with the development hereby approved shall not take place during the breeding season for birds, from March to August inclusive in any given year, unless otherwise agreed in writing by the Local Planning Authority.  
REASON: To ensure that breeding birds are protected. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 in accordance with policies CW4 and SP10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 10) Details of biodiversity enhancement shall be submitted with the Reserved Matters application referred to in condition 1 above. The Biodiversity enhancement considered appropriate at this site would be the inclusion of bird/bat boxes, access for hedgehog under fences and use of native species in the planting/landscaping scheme.  
REASON: To ensure compliance with policies CW4 and SP10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 11) Parking throughout the development shall be provided in accordance with LDP5 Car Parking Standards.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 12) The proposed shared access shall have a minimum width of 4.1m for the first 10m, (which can be reduced to 3.65m thereafter), and shall incorporate a turning facility to allow vehicles to enter and leave the site in a forward gear. The access shall be constructed in permanent materials to be agreed in writing with the LPA and completed prior to beneficial occupation of the development.

REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 13) Rainwater run-off shall not discharge into the highway surface-water drainage system.

REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

This page is intentionally left blank



This page is intentionally left blank

**Application Number:** 20/0635/NCC

**Date Received:** 14.09.2020

**Applicant:** M5 Associates Property Development Ltd

**Description and Location of Development:** Vary condition 3 (approved plans) of planning consent 19/0010/FULL (Construct 18 self-contained 1-Bed apartments with on-site parking, amenity, cycle and refuse stores) to approve amendments to the internal layout of the building to create 14no. 1 bed 2 person units and 4no. 2 bed 3 person units instead of 18no. 1 bed 2 persons units and amendments to external appearance of approved building inclusive of removal of glazed entrance atrium and removal of full height windows to second floor units Former Pontymister Service Station Newport Road Pontymister Risca

**APPLICATION TYPE:** Development without complying with conds

## SITE AND DEVELOPMENT

Location: The application site is located on a parcel of land sited between Newport Road and Tanybryn, Pontymister.

Site description: Vacant parcel of land which was formerly the site of a petrol filling station and more recently a car sales place. The site is located in a mainly residential area and is approximately 1.0 - 1.5 metres above the land to the north and south. Planning consent was granted under application 19/0010/FULL to construct a 3-storey building comprising 18 self-contained one bedroom apartments. The development was for 100% affordable housing.

Development: This application seeks approval for two amendments to the approved scheme. The first amendment is to change the mix of apartments from 18 one bedroom apartments to 14 one bedroom apartments and 4 two bedroom apartments. The second amendment is to the design of the building which results in a small reduction in its footprint and bulk in the south east and north west corners.

Dimensions: The proposed building is sited in a roughly north-south orientation and has a footprint that measures 26.7 metres in width, 16.8 metres in depth, with a maximum height of 11.6 metres to ridge level.

Materials: The submitted details show the building being finished in a combination of grey and buff brick, and synthetic roof slate.

Ancillary development, e.g. parking: Off-street parking for 22 cars is shown, and an area of amenity space is proposed to the rear of the building. A bin and bike store is shown to the south of the proposed building.

## PLANNING HISTORY 2010 TO PRESENT

07/0971/OUT - Erect private dwellings - Granted 22.11.07.

16/0367/COU - Change the use to a vehicle washing and valeting facility, construct a canopy and erect a security fence with ancillary mobile structures - Refused 06.07.16.

17/0281/COU - Change the use to form a vehicle washing and valeting facility - Refused 24.05.17.

19/0010/FULL - Construct 18 self-contained 1-Bed apartments with on-site parking, amenity, cycle and refuse stores - Granted 06.12.19.

## POLICY

### LOCAL DEVELOPMENT PLAN

Site Allocation: The site is within the settlement boundary.

#### Policies:

Strategic Policies: Policy SP1 Development Strategy (SCC), Policy SP4 Settlement Strategy, Policy SP5 Settlement Boundaries, Policy SP6 Place Making, Policy SP7 Planning Obligations, Policy SP14 Total Housing Requirements, Policy SP15 Affordable Housing Target and Policy SP21 Parking Standards.

Countywide Policies: Policy CW1 Sustainable Transport, Accessibility and Social Inclusion, Policy CW2 Amenity, Policy CW3 Design considerations (Highways), Policy CW5 Protection of the Water Environment, Policy, CW10 Leisure and Open Space provision, Policy CW11 Affordable Housing Planning Obligation and Policy CW15 General locational constraints

Supplementary Planning Guidance: LDP1: Affordable Housing Obligations, LDP5: Car Parking Standards and LDP6: Building Better Places to Live.

### NATIONAL POLICY

Planning Policy Wales (Edition 10, December 2018), Technical Advice Note 2: Planning & Affordable Housing (2006), Technical Advice Note 12: Design (2016), and Technical Advice Note 18: Transport (2007).

## ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? Yes.



Was an EIA required? No.

### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? No.

### CONSULTATION

Head Of Public Protection - No objection subject to conditions.

Senior Engineer (Land Drainage) - No comments received.

Parks And Open Spaces - No comments received.

Principal Valuer - No objection.

CCBC Housing Enabling Officer - Raises no objection but comments on the internal relationship between apartments within the building.

Head Of Public Services - Raises no objection but provides advice to be conveyed to the developer.

CCBC - 21st Century Schools - No objection.

Dwr Cymru - Provide advice to be conveyed to the developer.

National Grid - No comments received.

Police Architectural Liaison Officer - No comments received.

Network Rail - Provide advice to be conveyed to the developer.

Western Power Distribution - Provide advice to be conveyed to the developer.

Principal Valuer - No objection.

National Grid - No comments received.

Natural Resources Wales - No objection subject to a condition controlling the siting of the proposed building.

Network Rail - Provide advice to be conveyed to the developer.

Dwr Cymru - Provide advice to be conveyed to the developer.

Head Of Public Protection - No objection subject to conditions.

CCBC - 21st Century Schools - No objection.

CCBC Housing Enabling Officer -

Senior Engineer (Land Drainage) - No comments received.

Parks And Open Spaces - No comments received.

Head Of Public Services - Provide advice to be conveyed to the developer.

Police Architectural Liaison Officer - No comments received.

Western Power Distribution - Provide advice to be conveyed to the developer.

Transportation Engineering Manager - Raises objection to the application on grounds that in the absence of adequate on-street parking facilities the development would generate additional on-street parking, to the detriment of highway safety..

Natural Resources Wales

### ADVERTISEMENT

Extent of advertisement: 17 nearby properties were consulted by way of letter and a site notice was displayed opposite to the application site.

Response: Six objections have been received.

### Summary of observations:

- Concern that the proposed development will have inadequate levels of off-street parking;
- Increased pressure on existing on-street parking;
- Loss of light by virtue of massing of proposed development;
- Loss of privacy as a result of the development;
- Scale of development out of keeping with context of surrounding area;
- Application site at higher level than surrounding properties thereby increasing overbearing/overlooking impact;
- Insufficient area allocated for bins;
- Inadequate levels of neighbour consultation undertaken;
- Noise, traffic and dust impact during construction works;
- Querying who will occupy the proposed development;
- Loss of property value;
- Increased levels of vermin attracted to the bin storage area;
- The site was brownfield land and there are underground tanks there. Therefore the site unsuitable to be developed;
- The site is crossed by a public sewer;

- The Council's Senior Engineer (Land Drainage) recommends that the application be refused as it has not been demonstrated that the development is SAB compliant;
- The site is within a Zone C1 flood area.

### 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? Crime and disorder are not considered to be an issue for this application.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No. Conditions will be attached to the permission in the interests of biodiversity.

### COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? Yes, new residential development is CIL liable. The application site is located in the High CIL liability area whereby the chargeable amount is £40 per square metres of proposed floor space (plus indexation). However it should be noted that affordable housing can be CIL exempt.

### ANALYSIS

Policies: The application has been considered in accordance with national planning policy and guidance, local plan policy and supplementary planning guidance. The application site is a former petrol filling station and more recently a car sales place and is therefore classed as brownfield land located within the settlement boundary. The site is now clear. The presumption is in favour of development on such windfall sites subject to material planning considerations. In this instance those material considerations, i.e. main issues, are:-

- Impact on visual amenity;
- Impact on residential amenity;
- Highways safety and off-street car parking provision;
- Development in Zone C1 (flood risk);
- The need to provide affordable housing.

In this regard it should be recognised that the Welsh Government Development Management Manual confirms that Sections 73(2) and (4) of the Town and Country Planning 1990 Act restricts the Local Planning Authority in their determination of section 73 applications. The effect of the provisions is to limit the Local Planning Authority to considering the question of whether the conditions identified in the section 73 application should apply as originally stated, would be acceptable if modified or it would be acceptable to remove them. The Local Planning Authority cannot revisit the original

permission and reconsider whether it should have been granted in the first place. However, as a section 73 application is a planning application in its own right, it is necessary to assess what material changes there may have been since the original permission was granted in order to ensure that all relevant material considerations have been assessed.

#### Impact on visual amenity

This issue was considered at length in the determination of the approved application. As the development proposed here does not materially change the scale of the proposed building and in fact is slightly smaller than that previously approved it is not considered that it would be reasonable to refuse this application on the basis of the scale and visual impact of the proposal.

Nevertheless it is considered that it would be prudent to remind Members of the considerations in that regard below.

By virtue of its massing, i.e. a three storey block measuring 26.7 metres in frontage, coupled with its position on raised ground (1.0 -1.5 metres above adjoining road level to the north and south), the development will have a significant impact in the streetscene and on the visual amenity of the surrounding area. The site has previously been used as a petrol filling station, and more recently as a car sales place. The site is also constrained by virtue of the public sewer that runs through it and the resultant loss of developable area. This has resulted in the current scheme that requires a critical mass of dwellings to render it financially viable, hence a three-storey development has been proposed.

It is noted that whilst the properties in the surrounding area, in themselves, exhibit limited architectural merit, the character of the area is essentially created by the unified semi-detached building types, hedgerows and walled gardens, set against the backdrop of the rising valley landscape to the north.

The development does not seek to mimic the scale of its surroundings and will be seen as a bold built feature in this relatively open setting. However, this impact does not necessarily make the proposal unacceptable in visual impact terms as areas naturally evolve over time. It is considered that the proposed development has attempted to mimic certain elements of the surrounding architecture whilst also introducing contemporary design that will add visual interest. The use of render as opposed to face brick could further assist to assimilate the building with its surroundings. On balance, given the site constraints, it is not considered that the development would cause harm to the visual amenity of the surrounding area, and it is therefore considered to be acceptable in visual impact terms.

#### Impact on residential amenity

Again this issue was considered at length in the determination of the approved scheme. The proposed development has no different impact to that of the approved scheme and again it is not considered that it would be reasonable to refuse this application on that basis. However, again the previous considerations are included below for Members information.

The existing residential properties on Tanybryn are located to the south and east of the proposed development, and properties located on Newport Road are to the north. Given the siting and massing of the proposed development it is important to consider the potential impact on these nearby residential properties.

Policy CW2 states that development proposals must have no unacceptable impact on the amenity of adjacent properties or land; would not result in the over-development of the site; and the proposed use is compatible with surrounding land uses. These issues are discussed below.

- Proposals must have no unacceptable impact on the amenity of adjacent properties or land - Notwithstanding the massing of the proposed development, given the distance from the nearest part of the proposed development to the nearest part of No. 70 and No. 71 Newport Road to the north (24 metres and 31 metres respectively) it is not considered that the proposed development will have an unacceptable impact on daylight or sunlight to these properties. Furthermore, these distances ensure there will not be an unacceptable impact on privacy levels as a result of the development. Similarly, No 92 Tanybryn which is located 23 metres to the east of the proposed building will not be unacceptably impacted by the proposal in amenity terms to a degree to warrant a refusal of planning permission.

The properties primarily impacted by the proposed development are Nos. 11-16 Tanybryn which are located to the south of the application site and have front elevations that directly overlook the site. At its nearest point, the proposed building will be located 18 metres to the north of No. 13 Tanybryn. Given the style and orientation of these properties, the majority of habitable rooms are located across the rear, south facing elevations, and the properties benefit from long (20 metres or more) open aspect rear gardens. Given the scale and position of the proposed development, coupled with it being sited on a higher ground level (approximately 1.0 - 1.5 metres), the proposed development will inevitably result in a degree of loss of outlook from the front facing windows of these properties. However, as there will be no direct loss of sunlight for any significant period of time, it is not considered that this impact would in itself warrant a refusal of planning permission.

In terms of privacy, the closest relationship between existing and proposed windows is 19 metres. However, given the angle between these windows, coupled with a public highway intersecting the relevant windows, this impact is not deemed to be unacceptable, and would not warrant a refusal of planning permission.

- ii) Proposals would not result in the over-development of the site. Although the proposed development is relatively large in terms of its overall massing, adequate space is provided in terms of private amenity space and parking area, and therefore the proposal is not considered to constitute over-development.
- iii) The proposed use is compatible with surrounding land uses. The site is bounded to the north, east, south and west by existing residential properties and therefore the proposal is compatible with surrounding land uses.

Highway safety and off-street car parking provision.

In accordance with the adopted car parking standards (SPG LDP5), the proposed development generates a car parking requirement of 26 car parking spaces (on the basis that some of the flats are 2-bedroomed). However, due to the constraints of the site only 22 spaces can be provided. This provision equates to 1 space per flat plus 4 visitor spaces. On this basis the Transportation Engineering Manager raises objection to the proposal. Note 5 on residential parking standards within SPG LDP5 states "For developments where clear evidence has been supplied that car ownership levels will be lower than normal, a more flexible approach to numbers of parking spaces may be taken. Acceptable evidence of this would be a contractual arrangement with tenants to secure low car ownership levels."

This application is supported by a Transport Note that provides the following conclusions based on research into parking levels in comparable developments both within Caerphilly and wider afield:-

- The second bedroom in the four units is a single bed as the apartments are for young families or older couples who require separate bedrooms. This is unlikely to generate any additional demand for car parking in comparison with the consented scheme as there is unlikely to be an increase in the number of people of driving age.
- The site is situated in a highly sustainable location. This will encourage sustainable travel and reduce the need for residents to own a car.
- Based on the Census data, the significant majority of flats occupied in CCBC have one vehicle or less, with over half of households not owning a vehicle. Just 6% of flats have two or more vehicles in the household. No flats in the area surrounding the site have two or more vehicles per household.
- Census data shows that flats in CCBC have less than half of the car ownership of houses. Census research also suggests that affordable housing can have up to half the car ownership of private housing.
- LINC Cymru will include a clause in tenancy agreements restricting residents to parking one car on the site to further ensure low car ownership and availability of visitor parking.
- Residents will also be aware of the parking situation prior to moving in and if they perceive parking to be an issue, they can amend their travel choices and car ownership accordingly.

- CCBC Parking Standards allow for flexibility to be applied where it is demonstrated that the site is sustainably located and there is low car ownership. This TN has clearly set out that flexibility should be applied to this site and a reduction of one space per dwelling for the two bedroom units is appropriate (a reduction of four spaces in total).
- On this basis, the provision of one space per unit plus four visitor parking spaces is fully in accordance with the CCBC Parking Standards.

The provision of parking, considering the flexibility is also in accordance with a recent appeal decision issued by the Inspectorate which the applicant has referenced (A/19/3230032: 28 Lucas Street), which states:

"In coming to this conclusion, I have considered the fact that Planning Policy Wales (Edition 10, 2018) (PPW) states, amongst other things, that parking standards should be applied flexibly and informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car, whilst supporting a modal shift to walking, cycling and public transport."

Whilst it is appreciated that each individual case should be dealt with on its own merits, this decision confirms the change in stance for the Inspectorate and Welsh Government in terms of reducing the reliance on the private car, consistent with the transport hierarchy set out in PPW10. In that regard it is not considered that it would be reasonable to refuse this application on the basis of a lack of off street parking and it would be difficult to defend any appeal on that basis.

Moreover, the research shows that the parking provision would not lead to a material impact on parking stress on the surrounding streets or have an unacceptable impact on road safety or highway capacity. The proposals are fully in accord with the objectives for encouraging sustainable travel and reducing car use as set out in PPW10 and consequently they comply with the SPG.

Notwithstanding the above, as the scheme would be delivered and retained by Linc Cymru Housing Association, there is the opportunity for the developer to appropriately control future occupiers car ownership levels, and a solution agreed to by the applicant. This car ownership control would be secured by way of a Section 106 agreement and this is considered to be a reasonable and suitable way to resolve the issue.

The S106 agreement should also require that all of the apartments are provided as affordable units as this is the basis upon which the reduced parking provision is justified. In that regard the development is considered to be acceptable in terms of car parking provision.

Development in Zone C1 (flood risk)

The location of the development in a C1 Zone has previously been accepted and on this basis a recommendation of refusal on these grounds could not be justified in this instance.

The site is located in a C1 flood zone; a high-risk flood zone served by flood defences or infrastructure. Developments within C1 zones are required to be accompanied by a Flood Consequences Assessment (hereafter referred to as FCA). TAN 15 indicates that development, particularly highly vulnerable development, i.e. residential development, in 'C' flood zones should not be permitted unless fully justified in accordance with the tests contained in paragraph 6.2 of TAN 15.

The justification tests set out in paragraph 6.2 of TAN 15, which read as follows:-

- 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,
- 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,
- It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,
- The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

The application site is brownfield land in accordance with the definition contained in PPW.

The proposed development facilitates the local planning authority to increase the number of affordable dwellings in a sustainable location at the edge of Risca Town Centre (criterion i) and the site is previously development land in accordance with PPW 10 (criterion iii).

In terms of potential consequence (criterion iv), the FCA confirms that subject to an appropriate finished floor level for the proposed development the risks and consequences can be managed to an acceptable level subject to conditions.

For these reasons it is considered that the development complies with the requirements of TAN15 and is therefore acceptable from a flood risk perspective.

The need to provide affordable housing

Paragraph 4.2.2 of PPW10 states that the planning system must enable the provision of a range of well-designed, energy efficient, good quality market and affordable housing that will contribute to the creation of sustainable places. Furthermore, paragraph 4.2.25 states that a community's need for affordable housing is a material planning



consideration which must be taken into account when determining relevant planning applications.

The proposal will deliver 18 affordable units on a brownfield site in a sustainable location, and this consideration weighs in favour of the proposed development.

## Conclusions

The proposed development is not considered to be materially different from the scheme previously granted planning permission for the development of 18 No. one bed apartments (Ref. 19/0010/FULL). The principle of this development at this location has been established and the substitution of 4 No. one bedroom flats with 4 No. 2 bedroom flats would not, it is considered, result in a material change in circumstances in terms of its impact upon visual or residential amenity.

Whilst the Highway Authority have raised an objection on grounds of inadequate parking, the applicant has provided information assessing parking demands and car ownership levels at similar developments and within the area which represents a robust argument to demonstrate that sufficient car parking is proposed as part of the scheme and that the development would not have an unacceptable impact upon highway safety. On this basis it is not considered that a recommendation of refusal could be justified on this basis.

Subject to a Section 106 agreement to secure low levels of car ownership, the proposal is considered acceptable in all other regards, and on balance it is recommended that planning permission be granted subject to conditions.

## Comments from Consultees:

The Transportation Engineering Services Manager objects to the proposed development on the basis that inadequate levels of off-street parking have been proposed in accordance with the requirements of the adopted Car Parking Standards. However, the applicant who are a registered social landlord, i.e. LINC Cymru Housing Association, have provided a Transport Note which considers the parking demands associated with similar proposals and provides a robust argument to suggest that sufficient parking is provided as part of this scheme. They have also agreed to enter in an Agreement under Section 106 of the town and country Planning Act 1990 to ensure low level car ownership for future occupiers of the proposed dwellings. It is considered that this is a satisfactory solution to the issues raised by the Highways Department and should therefore not represent a reason for refusal in this instance.

With regard to the concerns of the Housing Enabling Officer in respect of the internal layout of the apartments (concerns are raised that bedrooms have been sited adjacent to the living rooms of the neighbouring apartments) it is considered that this matter can be addressed by the provision of sound insulation in accordance with the Building

Regulations. As this is a matter covered under other legislation, it is not material to the determination of this application.

Comments from public:

- Concern that proposed dwellings will have inadequate levels of off-street parking- This issue is considered at length above.
- Increased pressure on existing on-street parking - This issue is considered at length above.
- Loss of light by virtue of massing of proposed development - Given the position of the proposed development in relation to nearby properties coupled with the distance of separation between the existing and proposed development, it is not considered that the development would lead to a loss of sunlight or daylight to a degree to warrant a refusal of planning permission.
- Loss of privacy as a result of the development - As discussed above, it is not considered that the proposal will have an unacceptable impact on levels of privacy.
- Scale of development out of keeping with context of surrounding area - This matter was discussed in detail in respect of the previously approved application. As the scale of the building is not substantially changed and is actually smaller in respect of this proposal it is not considered that it would be reasonable to refuse this application in that respect.
- Application site at higher level than surrounding properties thereby increasing overbearing/overlooking impact - This issue is discussed in detail above.
- Insufficient area allocated for bins - This issue has been considered by the Head of Public Services and no objection is raised.
- Inadequate levels of neighbour consultation undertaken - Neighbour consultation was undertaken in accordance with the relevant legislation.
- Noise, traffic and dust impact during construction works - Whilst there will inevitably be a degree of disruption during construction works a Condition will be attached to any permission to control such issues during construction.
- Querying who will occupy the proposed development - Tenure type is not a material planning consideration. Furthermore there is a significant need to deliver affordable housing within the County Borough.
- Loss of property value - Loss of property value is not a material planning consideration.
- Increased levels of vermin attracted to the bin storage area - This matter is covered under Public Health legislation and as such cannot be considered in the determination of this application.
- The site was brownfield land and there are underground tanks there. Therefore the site unsuitable to be developed - It is acknowledged that the site is brownfield land and that underground fuel tanks were on site. However, these were previously filled and made safe. In any event, a condition has been requested by the Council's Head of Public Health and Protection requiring the submission of a scheme to deal with any contamination on the site. It is considered therefore that the site can be adequately remediated such that residential development would be acceptable on the site.

- The site is crossed by a public sewer - The proposed building has been sited such that it avoids the line of the existing sewer and no objection is raised by Dwr Cymru/Welsh Water.
- The Council's Senior Engineer (Land Drainage) recommends that the application be refused as it has not been demonstrated that the development is SAB compliant - The requirement to comply with SAB legislation is separate from Planning Legislation and as such this has no bearing on the determination of this application.
- The site is within a Zone C1 flood area - This matter is considered in detail above.

Other material considerations:

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

Living Decision Document: Condition 3 has been varied by consent 20/0635/NCC dated [3 ] granted by Caerphilly County Borough Council.

It is therefore recommended that the application be deferred to allow for the completion of a Section 106 Agreement which will secure the following:-

- A. Appropriate measures to ensure low levels of car ownership for future occupiers of the proposed dwellings.
- B. 100% of the apartments hereby approved as affordable units with 10% of those units being provided in accordance with a mixture of tenure and apartment sizes as agreed with the Local Planning Authority.

If the Section 106 Obligation is not completed within 3 months of the foregoing resolution then delegated powers be given to the Head of Regeneration and Planning to exercise discretion to refuse the application on the grounds of non-compliance with Policies CW3 and CW11 of the Caerphilly County Borough Local Development Plan which require that development has regard for the safe, effective and efficient operation of the transportation network and provides an adequate level of affordable housing respectively.

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 02) The development shall be carried out in accordance with the following approved plans and documents: AL(01)01 Rev A, AL(01)03 Rev A, AL(01)04 Rev A, AL(01)10 Rev C and Technical Note: Parking.  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) Prior to the construction of the external surfaces of the development hereby approved details of the materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.  
REASON: In the interests of the visual amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 04) Prior to the commencement of the development a scheme depicting hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be carried out in the first planting and/or seeding season following the completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die or are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.  
REASON: In the interests of the visual amenity of the area in accordance with policies CW2 and SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 05) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development comes into beneficial use.  
REASON: In the interests of the visual amenities of the area amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 06) The layout of the development hereby approved shall include off-highway collection areas for refuse, recycling, food and garden waste to be collected by vehicles operating a highway kerbside collection service. The approved collection areas shall be completed before the residential units to which they relate are occupied and thereafter they shall be maintained free of obstruction for the storage and collection of refuse, recycling, food and garden waste only.  
REASON: To ensure that adequate provision for refuse, recycling, food and garden waste collection is included in the site layout in the interest of visual amenity and highway safety in accordance with policies CW2, CW3 and SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 07) The development hereby approved shall not be occupied until the area indicated for the parking of 22 vehicles has been laid out in accordance with the submitted plans and that area shall not thereafter be used for any purpose other than the parking of vehicles.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 08) The proposed parking and turning areas shall be completed in materials as agreed with the Local Planning Authority, to ensure loose stones or mud etc. is not carried onto the public highway.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 09) Notwithstanding the submitted plans, no works whatsoever shall commence until details have been submitted to and approved in writing by the Local Planning Authority showing the length of the proposed turning head extended to 13.6m. Such provision shall be completed in accordance with the agreed details prior to beneficial occupation of the development and shall be maintained thereafter free of obstruction for the turning of vehicles only.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 10) Rainwater run-off shall not discharge into the highway surface-water drainage system.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 11) No development or site/vegetation clearance shall take place until a detailed Reptile Mitigation Strategy has been prepared by a competent ecologist and submitted for the approval of the Local Planning Authority. The approved measures shall be strictly complied with.  
REASON: To ensure that reptiles are protected.
- 12) The demolition or site/vegetation clearance associated with the development hereby approved shall not take place during the breeding season for birds, from March to August inclusive in any given year, unless otherwise agreed in writing by the Local Planning Authority.  
REASON: To ensure that breeding birds are protected. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000.
- 13) Prior to the commencement of any works associated with the development hereby approved, a plan showing details of the provision of roosts and a means of access for bats in the new apartment building at the Former Pontymister Service Station, Newport Road, Pontymister, shall be submitted to the Local

Planning Authority for approval. The approved details shall be implemented before the new apartment building hereby approved is first occupied.

REASON: To provide additional roosting for bats as a biodiversity enhancement, in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, and policy contained in Welsh Assembly Government's Planning Policy Wales (2018) and Tan 5 Nature Conservation and Planning (2009).

- 14) Prior to the commencement of any works on site, details of the provision of nesting sites for bird species (House sparrow, Swift, Starling or House martin) in the new apartment building at The Former Pontymister Service Station, Newport Road, Pontymister, shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented before the new apartment building hereby approved is first occupied.  
REASON: To provide additional nesting opportunities for birds as a biodiversity enhancement, in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, and policy contained in Welsh Government's Planning Policy Wales (2018) and Tan 5 Nature Conservation and Planning (2009).
- 15) Prior to the construction of the foundations of the development hereby approved details showing the finished floor levels of the building hereby approved in relation to a fixed datum point off-site shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.  
REASON: In the interests of the visual of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021 and to comply with the requirements of TAN15: Development and Flood Risk.
- 16) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority to deal with the contamination of the site. That scheme shall include a ground investigation and a risk assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme.  
REASON: In the interests of public health.
- 17) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLGA document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their importation and testing for contamination shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.  
REASON: In the interests of public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.

- 18) No building approved by this permission shall be occupied or approved uses commence until a report has been submitted to and approved in writing by the Local Planning Authority which verifies that the required works have been undertaken in accordance with the remediation strategy.  
REASON: To protect public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.
- 19) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority, to accommodate:  
(a) Parking of vehicles of site personnel, operatives and visitors,  
(b) Loading and unloading of plant and vehicles,  
(c) Storage of plant and materials used in constructing the development,  
(d) Wheel cleaning facilities  
and each facility shall be retained throughout the course of construction of the development, free from any impediment to its designated use. No other areas on the site, other than those in the approved scheme shall be used for the purposes listed (a) to (d) above without the prior written agreement of the Local Planning Authority.  
REASON: In the interests of amenity and highway safety in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

This page is intentionally left blank



# 20/0635/NCC



This page is intentionally left blank

**Application Number:** 20/0688/FULL

**Date Received:** 01.09.2020

**Applicant:** United Welsh Housing Association

**Description and Location of Development:** Erect residential development and associated works - Ty Yn Y Pwll Hotel Newport Road Trethomas Caerphilly CF83 8BR

**APPLICATION TYPE:** Full Application

## SITE AND DEVELOPMENT

The application site is situated on the northern side of Newport Road, Trethomas.

Site description: The application site is the site of the now vacant Ty Yn Y Pwll Hotel public house. The site comprises the building itself which is a large extended two storey building finished in render with a slate roof. The building is on the western part of the site with the remainder being taken up by garden and storage areas for the public house with a car park on the easternmost part.

The site is within a mixed use area with retail properties to the south and east, residential properties to the north and north east and a village green to the west. There is also a school to the north of the site with a war memorial immediately to the east.

Development: The application seeks full planning permission for the erection of an apartment block containing 18no. 1 bedroom flats, 3no. 1 bedroom adapted flats and 4no. 2 bedroom flats together with a community hub for the occupiers of the complex. The submitted plans indicate the construction of a large three storey building occupying the majority of the site with access, car parking, turning, servicing and deliveries all being accommodated to the side and rear of the building. This would be a modern flat roofed structure with the majority of the second floor facing onto Newport Road being set back from the building line. The building itself is set back from the site frontage with private amenity spaces between the building and the back edge of the pavement. However, the front right hand corner of the building is set forward of the remainder of the building in order to create a feature corner. Entrance to the complex would be via a communal area on the side of the building and there would be a communal garden to the rear.

Dimensions: The application site has maximum measurements of 50m by 35m. The proposed building has maximum dimensions of 36m by 26m by 8.8m high.

Materials: The proposed building will largely be finished in face brickwork with the first floor and the entrance section being clad in a standing seam composite cladding system with a Grey aluminium coping roof.

Ancillary development, e.g. parking: A total of 13 parking spaces are proposed.

## PLANNING HISTORY 2010 TO PRESENT

11/0711/FULL - Erect 2 no. two-storey semi-detached three-bedroom dwellings, provide car parking and reconfiguration of the car parking and amenity area serving the former Public House - Granted - 29.05.2012.

13/0862/COU - Change of use from public house/hotel (A3) to a community facility (sui generis use), with the erection of a new entrance lobby and an extension to provide a function room - Granted - 30.05.2014.

15/1112/FULL - Demolish existing structures and construct a 50 bed care home facility with associated external works - Refused - 18.01.2016.

16/0626/FULL - Demolish existing structures and construct a 32 bed care home facility with associated external works - Granted - 11.11.2016.

## POLICY

Local Development Plan: Within settlement limits.

### Policies

Local Development Plan: SP3 (Development Strategy in the Southern Connections Corridor), SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW3 (Design Considerations: Highways), CW15 (General Locational Constraints).

Adopted Supplementary Planning Guidance LDP 6 Building Better Places to Live gives advice on all levels of development. The following Paragraphs are relevant to the determination of this application:-

1.1 The quality of the places we live in has an impact on all aspects of life. How well they are designed will influence how safe we feel, how easy it is to walk round, whether we have shops, community facilities and schools nearby, whether our children have safe places to play. It will also affect whether there is good access to public transport and a good choice of homes in which to live. It is essential that the places we create embody the principles of good urban design.

1.2 Caerphilly County Borough Council (CCBC) is committed to achieving good design, as is the Welsh Assembly Government (WAG). Good design is a key aim of the Planning System and Planning Policy Wales (WAG 2010) requires that Local Development Plans (LDPs) provide clear policies setting out a local authorities design expectations. Technical Advice Note 12: Design (TAN 12) [WAG 2002] gives advice to local planning authorities on how design may be facilitated within the planning system.

A good movement network allows people to move around freely and easily, through a variety of transport modes. New development should be accessible to all and should be successfully integrated into the existing surrounding area. It is vital that the pattern of accessibility and ease of movement is designed hand in hand with measures to reduce crime and create safe and secure streets, spaces and buildings.

Development should respond to the character and local distinctiveness of site. The character and context of any development is created by the form of the development, the landscape, culture and biodiversity -all of which are locally distinctive. These elements have often built up over a considerable time and help create a 'sense of place'. The character and context of a site should influence design positively so that development does not simply replace what was there but reflects and responds to changes in local circumstances. If the context to a development has been compromised by an earlier stage of development it should not be seen as a reason to perpetuate what has been done before.

Opportunities should be sought to deliver high quality sustainable development that reflects the technologies and aesthetics of the 21st century and creates a strong sense of place.

Often there is a perception that innovative 'contemporary' design conflicts with established patterns of settlement and traditional styles of architecture. In reality architectural styles and traditions have evolved numerous times in the past in response to changing social and economic conditions. There is no reason why design which uses modern materials and responds to contemporary aesthetics should not fit in with context as well as more traditional forms of development.

When the merits of 'contemporary' versus 'traditional' architecture are considered the debate often revolves around the style of the building itself. Often some of the most important design issues related to character and context are totally overlooked. These can be simple issues like building setback, plot width, building height or verticality. If these are responded to appropriately then architecture using modern materials and construction methods, with styling that reflects aesthetics of the 21st century, can be entirely in-keeping with character and context.

Supplementary Planning Guidance LDP 5 Car Parking Standards sets out parking requirements for all developments.

National Policy: Paragraph 3.9 - The special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations. A clear rationale behind the design decisions made, based on site and context analysis, a strong vision, performance requirements and design principles, should be sought throughout the development process and expressed, when appropriate, in a design and access statement.

Paragraph 3.16 - Planning authorities should through a process of negotiation seek to improve poor or average developments which are not well designed, do not take account of their context and consider their place, or do not meet the objectives of good design. Where this cannot be achieved proposals should be rejected. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions. If a decision maker considers that a planning application should not be approved because of design concerns they should ensure that these reasons are clearly articulated in their decision and justified with sufficient evidence. In the event of an appeal, in these circumstances, the Planning Inspectorate will need to examine the issues in detail and consider if the proposal meets the objectives of good design including the relationship between the site and its surroundings.

National Planning Guidance contained in Technical Advice Note 12 - Design.

### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not Applicable.

### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? No.

### CONSULTATION

Ecologist - No objection subject to the provision of bio-diversity enhancements as part of the development.

Head Of Public Protection - No objection subject to conditions.

CCBC Housing Enabling Officer - No objection subject to securing the provision of 40% of the units as affordable.

Senior Engineer (Land Drainage) - No comments received.

Parks And Open Spaces - No comments received.

Head Of Public Services - Provide advice to be conveyed to the developer.

Dwr Cymru - Provide advice to be conveyed to the developer.

Police Architectural Liaison Officer - No comments received.

Western Power Distribution - Provide advice to be conveyed to the developer.

Bedwas, Trethomas & Machen Community Council - Raise objection to the application on the basis of highways safety and the scale, massing and design of the building.

Transportation Engineering Manager - Raises objection to the application in the absence of adequate off street parking.

### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: 16 objections were received.

### Summary of observations:

- The scale and design of the building are out of keeping with the character of the area.
- The proposal would have an overbearing impact on the amenity of the neighbouring dwellings.
- The proposal would cause a loss of privacy to neighbouring dwellings.
- Insufficient parking for the development.
- The access to the site is dangerous and poses dangers to highway safety.
- The proposal will affect refuse collections.
- There is already a litter problem in the area.
- The Ty Yn Y Pwll is the oldest building in the village and should be retained for its historic importance.
- There is a potential safeguarding issue to have a structure that overlooks a primary school.
- Would the building be used to house immigrants?
- The site is currently overrun with vermin, what measures have been put in place to prevent this becoming an issue for neighbouring properties during works on site.
- Loss of property value.

### 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?  
None.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? Based on current evidence, this is unlikely to be a significant issue in this case, but an advisory note will be attached to the consent and sent to the applicant as a precautionary measure.

Is this development Community Infrastructure Levy liable? Yes. The development is liable to CIL and is located in the Higher Viability area where CIL is charged at £40 per square metre. However, it should also be noted that affordable housing can be exempt from the payment of CIL.

## ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The application seeks full planning consent for an apartment block within a mixed use area within the settlement limits of Trethomas and as such the principle of the development is considered to be acceptable. However, each application has to be considered against Local Plan Policy and normal development control criteria and in that regard the main points to consider in the determination of this application are the size and design of the proposed building and the impact of the development on the visual and residential amenity of the area.

It should be noted that a previous application for a slightly larger building was previously approved on this site under application reference number 16/0626/FULL and that that consent is still extant and could be implemented.

With regard to the scale and design of the building it is considered that whilst the design is modern, as stated in Supplementary Planning Guidance LDP6, it should not be perceived that contemporary design conflicts with traditional styles of architecture. Provided that the developer has considered the context of the site and used traditional style features such as set back, building height and fenestration, then a modern design can be perfectly in keeping with the traditional character of the area.

In this instance it is considered that the traditional character of the area has been considered in the design of the building. The scheme uses traditional design tools such as vertical emphasis to its fenestration, the creation of a feature corner on the south east corner of the site (in keeping with the buildings on the corner of The Avenue and Navigation Street) and the set back of the second floor and use of contrasting materials to visually reduce the bulk of the building and it is of a similar scale as the terrace of properties to the east. It should also be noted that the proposed building is smaller than the previous approved building. The building has also been sited towards the front of the site in keeping with the traditional character of properties in the area. As such it is not considered that the scale and design of the building would be out of keeping with the character of the area but rather represents a modern interpretation of the traditional character of the area and therefore the design of the building is considered to be acceptable.

The siting of the building has also moved it to the front of the site and away from the dwellings at the rear such that a minimum distance of 21m is achieved. It is considered that the height and scale of the building, together with the intervening distance mean that the amenity of those dwellings is adequately protected and therefore the proposal



would not have an unacceptable overbearing, overshadowing or overlooking impact and complies with Policy CW2 of the Local Development Plan.

Policy CW3 of the LDP requires that all developments have regard for the safe and efficient use of the highway network. When considered in accordance with the requirements for over 55's accommodation contained in the adopted car parking standards (SPG LDP5), the proposed development requires 1 car parking space per 2 to 4 units (6 to 13 spaces for the proposed 25 units). However, when assessed against the general needs requirement in LDP5 a total of 29 spaces are required (1 space per apartment and 4 visitor spaces). On this basis the Transportation Engineering Manager raises objection to the proposal.

Note 5 in relation to residential parking standards states

“For developments where clear evidence has been supplied that car ownership levels will be lower than normal, a more flexible approach to numbers of parking spaces may be taken. Acceptable evidence of this would be a contractual arrangement with tenants to secure low car ownership levels.”

This application is supported by a transport Note that provides the following conclusions based on research into parking levels in comparable developments both within Caerphilly and wider afield:-

- The proposed development is in an appropriate location being within walking and cycle distance to the facilities available in Trethomas. The site is located adjacent to bus stops that provide access to regular services into nearby Caerphilly, where a wider range of services can be accessed;
- It has been estimated that the existing permitted use of the site as a public house has the potential to generate some 253 daily vehicle movements;
- Current parking standards require that the existing permitted use of the site provides some 40 car parking spaces. Only around 20 spaces are available and there is therefore a shortfall of around 20 spaces;
- The proposal is to redevelop the site to deliver 25 affordable apartments (for occupation by people over 55 years old).
- The proposed development will generate some 56 daily vehicle movements, 197 fewer than the existing permitted use of the site. This will have a positive impact on the operation of the surrounding highway network;
- 13 car parking spaces are to be provided and this meets the Parking Standards' requirement for self-contained elderly persons accommodation (not warded).
- Default Parking Standard requirements for general purpose residential development would be for some 29 car parking spaces. 13 are proposed and, on this measure there is a shortfall of some 16 spaces. On this measure the shortfall in parking provision for the proposed development is less than the shortfall for the existing use of the site.
- On this basis, the provision of 13 parking spaces is fully in accordance with the CCBC Parking Standards.

The provision of parking, considering the flexibility is also in accordance with a recent appeal decision referenced by the applicant issued by the Inspectorate (A/19/3230032: 28 Lucas Street), which states:

“In coming to this conclusion, I have considered the fact that Planning Policy Wales (Edition 10, 2018) (PPW) states, amongst other things, that parking standards should be applied flexibly and informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car, whilst supporting a modal shift to walking, cycling and public transport.”

Whilst it is appreciated that each individual case should be dealt with on its own merits, this decision confirms the change in stance for the Inspectorate and Welsh Government in terms of reducing the reliance on the private car, consistent with the transport hierarchy set out in PPW10. In that regard it is not considered that it would be reasonable to refuse this application on the basis of a lack of off street parking and it would be difficult to defend any appeal on that basis.

Moreover, the research shows that the parking provision would not lead to a material impact on parking stress on the surrounding streets or have an unacceptable impact on road safety or highway capacity. The proposals are fully in accord with the objectives for encouraging sustainable travel and reducing car use as set out in PPW10 and consequently they comply with the SPG.

Notwithstanding the above, the applicant has agreed to enter into an Agreement under S106 of the Town and Country Planning Act 1990 to contribute towards the provision of a demand responsive bus service to serve the site (such a service is already in operation in the area and this proposal would contribute to that provision). In that regard it is considered that the proposal is in accord with the guidance contained in SPG LDP5 and is therefore acceptable in terms of parking.

With regard to the access to the site it is considered that this is designed to acceptable standards would not pose dangers to highway safety. In that regard it is considered that the proposal complies with the requirements of Policy CW3 of the LDP and is therefore acceptable in highway safety terms.

Policy CW11 of the LDP requires the provision of affordable housing and in this instance requires the provision of 40% of the units as affordable. Whilst the development proposes that all of the units will be affordable a condition should be attached to any consent granted requiring that the policy compliant level of affordable housing is provided. On that basis the proposal is considered to be acceptable in this regard.

Comments from Consultees: The Council's Ecologist has suggested that the determination of the application should be delayed pending the submission of amended plans to deal with bio-diversity enhancements. However, it is considered that such

matters can be dealt with by condition and to delay the determination on this basis would be unreasonable in planning terms. No other objections have been raised.

Comments from public:

- The scale and design of the building are out of keeping with the character of the area – This is considered at length above.
- The proposal would have an overbearing impact on the amenity of the neighbouring dwellings – This issue is considered above.
- The proposal would cause a loss of privacy to neighbouring dwellings – This issue is considered above.
- Insufficient parking for the development – This issue is considered above.
- The access to the site is dangerous and poses dangers to highway safety – Whilst the access to the site is located on a main distributor road and the pavement is used by children walking to the nearby Bedwas Comprehensive School it is not considered that the creation of an access at this point would lead to dangers to highway safety. The access to the site is designed to acceptable standards and the pedestrian crossover would be no different to numerous other such crossings between the application site and the school. As such refusal of the application on this basis would not be justified.
- The proposal will affect refuse collections – The provision of refuse collection services to the site has been considered by the Head of Public Services and no objection is raised. Issues with the existing services in the area are not a material planning consideration.
- There is already a litter problem in the area – There is no reason to believe that this proposal would exacerbate any existing problems in this regard.
- The Ty Yn Y Pwll is the oldest building in the village and should be retained for its historic importance – The existing building is not Listed and is not located within a Conservation Area and as such does not benefit from any legislative protection. Moreover the Local Planning Authority has a duty to consider the application before it and cannot justify refusing this application on the basis that the public house should be retained.
- There is a potential safeguarding issue to have a structure that overlooks a primary school – Whilst safeguarding is not a material planning consideration it should be noted that the application site is some 28m from the boundary of the school with the proposed building being some 35m away from the boundary. It is considered that this distance is sufficient that there would be no unacceptable overlooking of the school grounds.
- Would the building be used to house immigrants? – Housing tenure is not a material planning consideration.
- The site is currently overrun with vermin, what measures have been put in place to prevent this becoming an issue for neighbouring properties during works on site – This is not a material planning consideration, rather it is a matter for the developer to deal with in association with the Head of Public Health and Protection.
- Loss of property value – This is not a material planning consideration.

Other material considerations:

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

It is therefore recommended that the application be deferred to allow for the completion of a Section 106 Agreement which will secure the following:-

- Provision of 40% of the total number of units on the site as affordable units.
- A £15,000 contribution towards enhancing transport provision for the residents of the development and in particular the provision of a demand responsive minibus service, on the basis of 1 day a week for 3 years.

If the Section 106 Obligation is not completed within 3 months of the foregoing resolution then delegated powers be given to the Head of Regeneration and Planning to exercise discretion to refuse the application on the grounds of non-compliance with Policies CW3 and CW11 of the Caerphilly County Borough Local Development Plan which require that development has regard for the safe, effective and efficient operation of the transportation network and an adequate level of affordable housing respectively.

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The development shall be carried out in accordance with the following approved plans and documents: Site Location Plan (A001), Proposed Site Layout (A003 Rev C), Ground Floor Plan (A004), First Floor Plan (A005), Second Floor Plan (A006), Elevations Sheet 1 (A007), Elevations Sheet 2 (A008), Site Sections (A009) and Typical Section (A014).  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) Prior to the construction of the external surfaces of the development hereby approved details of the materials to be used, in electronic or printed format shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.  
REASON: In the interests of the visual amenity of the area.
- 04) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority to deal with the contamination of the site. That scheme shall include a ground investigation and a

risk assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme.

REASON: In the interests of public health.

- 05) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLGA document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their importation and testing for contamination shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.  
REASON: In the interests of public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.
- 06) No building approved by this permission shall be occupied or approved uses commence until a report has been submitted to and approved in writing by the Local Planning Authority which verifies that the required works have been undertaken in accordance with the remediation strategy.  
REASON: To protect public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.
- 07) Prior to the commencement of the development a Working Method Statement to control the environmental effects of the demolition and construction work shall be submitted to and agreed in writing by the Local Planning Authority.  
The scheme shall include:
- control of noise,
  - control of dust, smell and other effluvia,
  - control of surface water run off,
  - site security arrangements including hoardings,
  - proposed method of piling for foundations,
  - construction and demolition working hours,
  - hours during the construction and demolition phase, when delivery vehicles or vehicles taking materials are allowed to enter or leave the site.
- The development shall be carried out in accordance with the approved scheme or as may otherwise be agreed in writing by the Local Planning Authority.  
REASON: In the interests of the amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 08) Prior to the commencement of the development a scheme depicting hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be carried out in the first planting and/or seeding season following the completion of the development. Any trees or plants which within a period of 5 years from the completion of the development

die or are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

REASON: In the interests of the visual amenity of the area in accordance with policies CW2 and SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 09) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development comes into beneficial use.

REASON: In the interests of the visual amenities of the area amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 10) The layout of the development hereby approved shall include off-highway collection areas for refuse, recycling, food and garden waste to be collected by vehicles operating a highway kerbside collection service. The approved collection areas shall be completed before the residential units to which they relate are occupied and thereafter they shall be maintained free of obstruction for the storage and collection of refuse, recycling, food and garden waste only.

REASON: To ensure that adequate provision for refuse, recycling, food and garden waste collection is included in the site layout in the interest of visual amenity and highway safety in accordance with policies CW2, CW3 and SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 11) The development hereby approved shall not be occupied until the area indicated for the parking of 22 vehicles has been laid out in accordance with the submitted plans and that area shall not thereafter be used for any purpose other than the parking of vehicles.

REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 12) The proposed parking and turning areas shall be completed in materials as agreed with the Local Planning Authority, to ensure loose stones or mud etc. is not carried onto the public highway.

REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 13) Prior to the commencement of works, a Travel Plan shall be submitted to and approved in writing by the LPA, and shall thereafter be implemented in accordance with any timescales contained therein.

REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 14) Rainwater run-off shall not discharge into the highway surface-water drainage system.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 15) Notwithstanding the submitted plans, no works whatsoever shall commence until details have been submitted to and approved in writing by the LPA which provide covered and secure cycle stands catering for 2 cycles within the curtilage of the site. Such provision shall be completed in accordance with the agreed details prior to beneficial occupation of the development and shall be maintained in perpetuity for use by residents and visitors.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 16) The demolition or site/vegetation clearance associated with the development hereby approved shall not take place during the breeding season for birds, from March to August inclusive in any given year, unless otherwise agreed in writing by the Local Planning Authority.  
REASON: To ensure that breeding birds are protected. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 in accordance with policies CW4 and SP10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 17) The landscaping scheme referred to in condition 8 above shall provide for at least two of the proposed trees to be of a native species, the details of which shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site.  
REASON: To ensure compliance with policies CW4 and SP10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 18) Prior to the commencement of any works associated with the development hereby approved, a plan showing details of the provision of 15 swift boxes shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented before the development hereby approved is first occupied.  
REASON: To provide swift boxes as a biodiversity enhancement, in accordance with Section 40 Natural Environment and Rural Communities Act 2006, and policy contained in Welsh Assembly Government's Planning Policy Wales and TAN 5 Nature Conservation and Planning in accordance with policies CW4 and SP10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

Advisory Note(s)

It should be noted that a registered Asbestos contractor should remove any asbestos within the boundary of the development.

Although this development wouldn't need a formal air quality impact assessment, Environmental Health would encourage the applicant to submit a scheme of air quality soft measures that can reduce the impact of the development on local air quality. This should include the provision of electric charging points or wiring, cycling routes and facilities etc. that encourage cleaner travel.





This page is intentionally left blank

**Application Number:** 20/0645/FULL

**Date Received:** 10.08.2020

**Applicant:** Bryn Recycling Ltd

**Description and Location of Development:** Erect extension of buildings to provide additional drying space and associated works to support increased recycling quality and recycling rates - Gelliargwellt Uchaf Farm Gelligaer Road Gelligaer Hengoed CF82 8FY

**APPLICATION TYPE:** Full Application

## SITE AND DEVELOPMENT

Location: Gelliargwellt Uchaf Farm, Gelligaer Road, Gelligaer, Hengoed, CF82 8FY

Site description: Gelliargwellt Uchaf is a dairy farm with lands between Gelligaer, Nelson and Trelewis. A small quarry was established to the south-east of the farmhouse in the early 1990s and a materials recycling facility and waste transfer station was developed to the west of the farmhouse following an appeal in 2013. An Anaerobic Digestion facility has also been developed to the north-west of the farmhouse, following the same appeal.

Development: The development sought for permission is to extend three buildings within the site.

Dimensions: An extension measuring approximately 35m by 14m to the south of the existing bailing and recycling facility building with an overall height to match the existing roof of 9.2m

An extension to an existing building in the north-west of the site measuring approximately 7m by 16m with an overall height of 6.8m

An extension to another existing building in the north-west of the site with the main portion of the extension on the western side with a footprint measuring approximately 41.7m by 19.8m with an additional extension to the south of part of the existing building measuring 20m by 5m. The maximum height measures approximately 7.2m to the eaves and 8.5m to the ridge.

Materials: To match the existing structures they are extended with materials including profile metal sheeting in green/dark green for walling and roof and/or concrete walls.

Ancillary development, e.g. parking: None.

## PLANNING HISTORY 2010 TO PRESENT

10/0429/RET - Retain and complete earthworks - Granted - 04/11/2010.

11/0224/FULL - Erect building and tanks to incorporate anaerobic digestion facility with associated plant, engineering and landscaping works - Refused - 08/12/2011.

11/0226/FULL - Provide permanent operation of materials recycling facility and erection of new building - Refused - 08/12/2011.

11/0227/NCC - Delete condition 13 of planning permission ref 10/0429/RET to remove requirement to reduce height of bund to 1 metre above the adjoining ground level - Granted - 08/12/2011.

12/0570/FULL - Extend existing quarry operations including new drainage system and settlement ponds, landscape bunds and associated works - Granted - 08/08/2013.

14/0226/FULL - Provide materials recycling facility (revision to approved material recycling facility reference 11/0226/FULL) - Granted - 14/07/2014.

15/0488/RET - Retain development previously approved under planning permission.

11/0224/FULL for the construction of an anaerobic digestion facility with changes to construction details relating to the position of the digestate tanks, digestate lagoon, surplus gas flare - Granted - 10/12/2015.

16/0069/COND - Discharge Condition 12 (external lighting), Condition 13 (wheel and road washing), Condition 14 (surface water drainage), Condition 15 (slurry pipeline), Condition 16 (landscaping), Condition 18 (construction method statement) and Condition 20 odour management) of planning permission 15/0488/RET (Retain development previously approved under planning permission 11/0224/FULL for the construction of an anaerobic digestion facility with changes to construction details relating to the position of the digestate tanks, digestate lagoon, surplus gas flare, silage clamp and associated works and to change the use of the existing in vessel composting building to an anaerobic digestion reception building and an in vessel composting facility) - Decided - 25/04/2016.

18/0085/NCC - Vary condition 8 of planning consent 15/0488/RET (Retain development previously approved under planning permission 11/0224/FULL for the construction of an anaerobic digestion facility with changes to construction details relating to the position of the digestate tanks, digestate lagoon, surplus gas flare, silage clamp and associated works and to change the use of the existing in vessel composting building to an anaerobic digestion reception building and an in vessel composting facility) to enable the continuation of restricted Saturday and Bank Holiday hours (which have been operated under for the past three years) - Granted - 19/04/2018.

18/0843/NCC - Vary condition 08 of planning consent 18/0085/NCC (Vary condition 8 of planning consent 15/0488/RET (Retain development previously approved under

planning permission 11/0224/FULL for the construction of an anaerobic digestion facility with changes to construction details relating to the position of the digestate tanks, digestate lagoon, surplus gas flare, silage clamp and associated works and to change the use of the existing in vessel composting building to an anaerobic digestion reception building and an in vessel composting facility) to enable the continuation of restricted Saturday and Bank Holiday hours (which have been operated under for the past three years) to enable collections to take place on Sundays - Granted - 06/12/2018.

19/0011/FULL - Provide additional fire prevention measures including structures, storage tanks, engineering and associated works - Granted - 21/02/2019.

19/0275/NCC - Vary Condition 08 (Hours of operation) of planning consent  
14/0226/FULL (Provide materials recycling facility (revision to approved material recycling facility reference 11/0226/FULL) to extend the hours of operation for utility providers - Refused -12/09/2019.

19/0276/NCC - Vary Condition 6 (Hours of operation) of planning consent  
12/0570/FULL (Extend existing quarry operations including new drainage system and settlement ponds, landscape bunds and associated works) to extend the hours of operation for utility providers - Refused - 12/09/2019.

20/0140/COND - Discharge conditions 03 (Drainage), 04 (Trees) of planning consent  
19/0011/FULL (Provide additional fire prevention measures including structures, storage tanks, engineering and associated works) - Decided - 09/04/2020.

20/0171/COND - Discharge conditions 6 (Resurfacing of access road) and 7 (Site Management Plan) of planning consent 19/0275/NCC granted on appeal reference number APP/K6920/A/19/3240193 (Vary Condition 08 (Hours of operation) of planning consent 14/0226/FULL (Provide materials recycling facility (revision to approved material recycling facility reference 11/0226/FULL) to extend the hours of operation for utility providers) - Decided - 09/04/2020.

20/0172/COND - Discharge conditions 09 (Resurfacing of access road) and 10 (Site Management Plan) of planning consent 19/0276/NCC granted on appeal reference number APP/K6920/A/19/3240204 (Vary Condition 6 (Hours of operation) of planning consent 12/0570/FULL (Extend existing quarry operations including new drainage system and settlement ponds, landscape bunds and associated works) to extend the hours of operation for utility providers) - Granted - 20/04/2020.

20/0260/FULL - Construct canopy over existing farm yard area - Granted - 08.07.2020.

20/0293/FULL - Carry out engineering works to provide a lagoon and associated works and infrastructure - Granted - 08.07.2020.

20/0479/FULL - Carry out engineering works to provide agricultural improvement work - Pending.

20/0592/CLPU - Obtain a Lawful Development Certificate for proposed development to increase flue stack height on CHP units - Granted - 15.10.20.

20/0702 - Enable the retention of, and proposed extension to, quarry operations including new drainage systems and settlement ponds, landscape bunds and associated works and a site restoration scheme - Pending.

20/0937/FULL - Erect extension to existing milking parlour to provide covered feeding area -Pending.

## POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan up to 2021 adopted November 2010 (LDP).

Site Allocation: The site is not allocated for any purpose in the adopted Local Development Plan.

Policies: The following policies are relevant to the determination of this application: CW2 (Amenity), CW4 (Natural Heritage Protection), CW5 (Protection of the Water Environment), CW15 (General Locational Constraints), CW22 (Mineral Safeguarding Areas), CW23 (Minerals site buffer zones), and NH1.3 (Special Landscape Areas).

NATIONAL POLICY Planning Policy Wales (PPW) Edition 10, December 2018. Technical Advice Note 21: Waste.

## ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not Applicable.

## COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The site is within the coalfield and the Coal Authority has been consulted.

## CONSULTATION

Mr R Jones - Welsh Government as highway authority for the A470 trunk road does not issue a direction in respect of this application.

Landscape Architect - Following clarification on the siting of the extensions no objections have been raised to the development.

CADW - No response received.

Glam/Gwent Archaeological Trust - No objections.

Chief Fire Officer - No response received.

Health & Safety Executive - No response received.

Transportation Engineering Manager - No response received.

Head Of Public Protection - Environmental Health have no objections to the above application

Ecologist - No objections, recommends Ecological Enhancement be secured through the imposition of a planning condition.

The Coal Authority - No objections.

Senior Engineer (Land Drainage) - The Land Drainage Officer has confirmed that Sustainable Drainage (SAB) approval is required for the development and requests further information submitted on compliance with SAB. Advises the site is situated within an area susceptible to groundwater flooding and the site is situated within an area susceptible to surface water flooding.

Dwr Cymru - No objections raised.

### ADVERTISEMENT

Extent of advertisement: The application was advertised via a site notices, a press notice and neighbour notification letters.

Response: 5 objections have been received.

Summary of observations: - Objection to all/any planning applications for the wider site  
- Objection in terms of noise/dust/odour/nuisance from the Bryn Group's activities  
- Objections in relation to the quarry extension.

### 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 crime and disorder will be materially affected by the development.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No

### COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? No.

### ANALYSIS

Policies: The application has been considered in accordance with national planning policy and guidance, local plan policy and supplementary planning guidance. The main considerations in this case are the principle of the development, the impact on amenity of the surrounding area, the visual impact, including impact on the Special Landscape Area, and any impact on the mineral safeguarding area and mineral site buffer zone.

Principle of the development (Policy CW15 - General Locational Constraints)

The site is outside settlement boundaries but it is entirely within the existing facility and there is no conflict with policy CW15.

Amenity (Policy CW2 Amenity)

Policy CW2 states that development proposals must ensure that there is no unacceptable impact on the amenity of adjacent properties or land and that the use is compatible with surrounding land uses. The proposal is to provide extensions to existing structures within the site to improve the existing ways of working and does not have a material impact in terms of dust, noise or traffic so the impact on surrounding residents is considered acceptable. It is compatible with the surrounding land uses and is in accordance with policy CW2.

Visual Impact (Policies NH1 Special Landscape Areas and SP6 Placemaking)

The site is within NH1.3 Mynydd Eglwysilan Special Landscape Area (SLA). The explanatory text supporting Policy NH1 states that the SLA will be protected from any development that would harm its distinctive features or characteristics but highlights that the policy is not designed to preclude development. Policy SP6 relates to matters including design, impact on natural heritage and use of land.

The proposed extensions relate to existing built structures on the site. The extensions are generally lower or the same height and form as the buildings they seek to extend. In one case there would be increase in the eaves and ridge height of a building by around a metre in height. Existing landscaping provides some screening to the development and where views of from outside the site are possible, the extensions will be seen in the context of the existing built development at the site. The site is elevated above the surrounding area, particularly in relation to land to the south and parts of the site can therefore be viewed at distance from the surrounding area. It is considered appropriate that a Landscaping condition is imposed to strengthen existing planting to mitigate for the increased massing of the extensions.



It is considered that the proposed development would have an acceptable visual impact on the character of the area (including on the Special Landscape Area designation) subject to agreement through planning condition for additional landscape screening to strengthen and enhance the existing screening.

#### Mineral Safeguarding Area (CW22)

Development proposals that may impact mineral safeguarding areas will be considered against the criteria set out in policy CW22 to ensure that the minerals that society may need in the future are not unnecessarily sterilised.

The site is within sandstone and coal safeguarding areas. Since the Local Development Plan was adopted there has been a change in national policy in Planning Policy Wales (PPW) in that local planning authorities are no longer required to safeguard coal resources. PPW advises that Coal powered generation is being phased out at a UK level and moving away from fossil fuel for use in energy generation. National policy takes precedence and, therefore, the coal safeguarding area is not an issue in this case.

As regards the sandstone safeguarding area, future development of the resource is already constrained within the application site due to existing built development. The proposed development would materially alter this existing constraint and there is no conflict with policy CW22.

#### Mineral Site Buffer Zone (CW23)

The site is partially within the buffer zone for Bryn quarry, which is also under the control of the applicant company. Within buffer zones neither new sensitive development nor mineral development will generally be permitted to prevent conflict between the two uses. In this case the proposed development is not for the winning and working of minerals and cannot be classed as sensitive development. The proposal would not, therefore, increase conflict between land uses within the buffer zone.

#### National policy and Guidance (PPW, TAN21)

National policy is generally supportive of proposals to increase recycling rates and avoid waste being sent to landfill, provided that there are no unacceptable amenity or environmental effects. The proposed development would improve the safe and efficient working of an existing permitted waste management facility. The amenity impacts are discussed above and have been found to be acceptable. No significant environmental impacts would arise from the proposed development, based on the responses from consultees.

#### Highways (CW3)

The information submitted with the application explains that the proposed extensions to existing buildings would not result in the overall site processing more material than is presently received at the site as regulated by the relevant Environmental Permits, but rather enables it to be processed more efficiently. The application documentation also states there will be no increase in vehicle movements to or from the proposed

development. It is therefore considered that the development accords with Policy CW3 (Highways).

Comments from Consultees:

The Land Drainage Officer has confirmed that SAB approval is required for the development and requests further information be submitted on compliance with SAB prior to determination. In this instance the extensions will be constructed on existing areas of hardstanding within the site and as advised by the Land Drainage Officer separate approval is required under the SAB regulations. It is therefore considered appropriate that the applicant will be made aware of the Land Drainage Officer's comments and an informative note highlighting the need for separate SAB approval should be added to the permission.

Comments from public:

Objection to all/any planning applications for the wider site.

- It is noted that in the determination of planning applications it is the proposals comprised within the application which are required to be assessed rather than a general determination made in terms of all future development. However in assessing this application the cumulative impacts of the proposed development, taking into consideration the existing operation at the site has been assessed and it is considered that the extensions proposed would have an acceptable impact on amenity given the existing operations at the application site.

Objection in terms of noise/dust/odour/nuisance from the Bryn Group's activities

- The proposed extensions to buildings are not considered to have a material impact on either noise, dust, odour or nuisance arising from the site as the applicant has indicated that the works will not lead to an increase in the volume of materials being brought onto site but the works are identified as being required for reasons of efficiency for the existing recycling operation.

Objections in relation to the quarry extension.

- It is noted that objections have been made in relation to the extension to the quarry at the site and reference in objections is made to an online petition against the expansion of the quarry application. It is noted that the quarry extension does not form part of this application and a separate planning application (20/0702/FULL) is currently under consideration by the Local Planning Authority and will be reported to Planning Committee in due course. It is therefore considered that objections specific to the quarry are not material to the consideration of this application and will be considered under the separate planning application reference 20/0702/FULL.

Other material considerations: The development would not affect the setting of the Listed buildings on site noting the position of the extensions proposed as there are existing parts of the recycling buildings/infrastructure closer to them.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

The proposed development is considered to have an acceptable impact in terms of the visual impact on the character of the area with suitable mitigation to strengthen existing screening being provided through the proposed Landscaping condition. The impact on the residential properties that are within the local area is acceptable and there will not be an adverse impact on the highway network. The application is recommended for approval accordingly.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The development shall be carried out in accordance with the following approved plans and documents:
  - Site Location Plan, drawing reference BRL-WYD-2020-001;
  - Proposed Site Plan, drawing reference BRL-WYD-2020-007;
  - Enlarged Proposed Site Plan, drawing reference BRL-WYD-2020-008;
  - Enlarged Proposed Site Plan drawing reference BRL-WYD-2020-009;
  - Proposed Floorplan, drawing reference BRL-WYD-2020-010;
  - Proposed Elevation plan, drawing reference BRL-WYD-2020-011;
  - Proposed Elevation plan, drawing reference BRL-WYD-2020-012;
  - Proposed Elevation plan, drawing reference BRL-WYD-2020-013;
  - Proposed Elevation plan, drawing reference BRL-WYD-2020-014;
  - Proposed Floorplan plan, drawing reference BRL-WYD-2020-016;
  - Proposed Elevation plan, drawing reference BRL-WYD-2020-017;
  - Proposed Elevation plan, drawing reference BRL-WYD-2020-018.REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building.  
REASON: In the interests of the visual amenities of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 04) The extensions hereby permitted in each case shall not be used for any other purpose than the approved use of the respective building they are physically attached to and shall be operated in the same manner as the building they are attached to.  
REASON: To define the scope of the permission.
- 05) Prior to first use of the developments hereby approved, 3 No. Swift boxes shall be erected at the highest position available on one of the new extensions. The boxes shall be retained in situ for a minimum of 10 years.  
REASON: To provide nesting for birds as a biodiversity enhancement, in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, and policy contained in Welsh Assembly Government's Planning Policy Wales (2016) and Tan 5 Nature Conservation and Planning (2009).
- 06) Prior to the commencement of the development a scheme depicting hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be carried out in the first planting and/or seeding season following the completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die or are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.  
REASON: In the interests of the visual amenity of the area in accordance with policies CW2 and SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

#### Advisory Note(s)

##### WARNING:

##### SUSTAINABLE DRAINAGE APPROVAL IS REQUIRED PRIOR TO COMMENCEMENT OF THIS DEVELOPMENT.

Please note from the 7th January 2019, Schedule 3 of the Flood and Water Management Act 2010 commenced in Wales requiring all new developments of more than one house or where the construction area is of 100m<sup>2</sup> or more to implement sustainable drainage to manage on-site surface water. Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by Welsh Ministers.

The Sustainable Drainage Approval process is a technical approval independent of the need to obtain planning permission, and as such you are advised to contact the Sustainable Drainage Approval Body. Their details are provided below:

Phone: 01443 866511

Email: [drainage@caerphilly.gov.uk](mailto:drainage@caerphilly.gov.uk).

Website: [www.caerphilly.gov.uk/sab](http://www.caerphilly.gov.uk/sab)

Please find attached the comments of The Land Drainage Officer, Coal Authority that are brought to the applicant's attention.

This page is intentionally left blank



This page is intentionally left blank





## PLANNING COMMITTEE - 20TH JANUARY 2021

**SUBJECT:            REVIEW OF SERVICE LEVELS AND DECISION-MAKING PROCESSES FOR THE DEVELOPMENT MANAGEMENT AND PLANNING ENFORCEMENT FUNCTIONS OF THE PLANNING SERVICE.**

**REPORT BY:        INTERIM DIRECTOR OF COMMUNITIES**

### **1.        PURPOSE OF REPORT**

1.1        To provide a review of service delivery and decision making processes for the development management and enforcement functions of Planning Services, and seek a view from Planning Committee on the service levels proposed and on the recommendations for amendments to the Scheme of Delegation and Member protocols and for a review of the size of the Planning Committee.

### **2.        SUMMARY**

2.1        The Planning Service will play a key role in facilitating the delivery of a sustainable recovery as the country emerges from the COVID-19 crisis and faces the challenges and opportunities presented by Brexit.

2.2        In this respect the Planning Service has recently undergone the final stages of restructure to accommodate significant budgetary pressures with staff resources now well below historic levels.

2.3        In recent years the planning system in Wales has been modernised as part of the Welsh Government Positive Planning Agenda whilst the TeamCaerpilly – Better Together Strategy set in place a whole organisation transformation programme which, in response to the COVID-19 lockdown, has facilitated the introduction of new ways of working and models of service delivery.

2.4        The opportunity now exists to review the development management and enforcement service in light of the ongoing staff restructure and embed many of these new approaches through the introduction of an output driven statutory service and more strategically focussed decision making processes.

2.5        This report, therefore, sets out proposals which will help the Planning Service more effectively respond to the challenges it now faces, whilst seeking to deliver on its statutory obligations.

### **3. RECOMMENDATIONS**

#### **3.1 That Planning Committee:**

- a) Endorses the output driven service delivery model proposed for the development management and enforcement function, with a focus on the delivery of its statutory obligations, frontloading, further commercialisation and the delivery of major and strategically significant schemes underpinned by the introduction of a new Wellbeing local performance indicator,
- b) Endorses amendments to the Enforcement Charter,
- c) Endorses changes to the Planning Committee structure with a reduction from 20 to 16 Members,
- d) Endorses changes to the Scheme of Delegation to provide Planning Committee with a more strategic role and focus,
- e) Endorses the Non- Planning Committee Member Protocol for Ward Members.

### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 To seek the views of Planning Committee on the proposed service delivery model and amendments to the Council Constitution.

### **5. THE REPORT**

#### **Background**

- 5.1 The impact of the COVID-19 pandemic on our economy, communities and society coupled with the imminent impact of Brexit is acknowledged as presenting one of the biggest challenges we have faced in a generation. In this respect Welsh Government recognise that the planning system will play a key role in achieving its Wellbeing objectives and delivering a sustainable recovery in environmental, social, cultural and economic terms.
- 5.2 Central to the delivery of these objectives must be an efficient, flexible and responsive development management and enforcement function which facilitates sound and timely decision making and the investigation of breaches of planning control.

#### **Current Staff Resources and Caseloads**

- 5.3 The Planning and Regeneration Service has undergone a significant restructure in recent years in response to ongoing budgetary pressures. In this regard the core planning budget has been reduced by some 72% over the last 5-6 years.
- 5.4 More specifically the development management and enforcement function has accommodated a budget saving of £337k during this period and this has been achieved mainly through a reduction in staff resources. The service also has demanding fee income targets which in a volatile economic climate with peaks and troughs in development can prove difficult to achieve year on year.
- 5.5 The final elements of the most recent restructure of Planning Services was implemented in October 2020 and as a result, following the retirement of a further member of staff, the Development Management Team now comprise of a single Team Leader and 5 case officers, comprising, 3 Principal Planning Officers (Grade 10) and 2 Planning Officers (Grade 9). The number of Enforcement Officers has already been

reduced from 6 officers to 2 with this service currently being delivered by one, recently appointed, Principal Enforcement Officer (Grade 10) and one Enforcement Officer (Grade 7).

- 5.6 On average the Authority determines in excess of 1000 planning and related applications per annum. On this basis, and following the restructure, future individual caseloads will on average comprise of some 200 cases per case officer which will be well above sustainable levels, and significantly more than traditionally recommended caseloads of 135 per annum.
- 5.7 The current level of enforcement complaints of over 300 per annum coupled with an existing caseload of in excess of 250 enforcement cases also presents a significant challenge for the Authority's 2 remaining enforcement officers.
- 5.8 Historically between 80 and 100 enforcement cases are resolved per annum, per officer, depending on the complexity of the caseload. In this respect, of the existing outstanding caseload there remains a range of complex cases requiring positive action to remove unauthorised breaches including those requiring the service or monitoring of the requirements of an enforcement notice and/or prosecution.
- 5.9 Clearly with the current level of staff resources, responding positively to the impact of COVID-19 coupled with Brexit and facilitating the delivery of a sustainable recovery in environmental, social, cultural and economic terms will present the Local Planning Authority with a significant and unprecedented challenge.

#### Positive Planning

- 5.10 The planning system in Wales has undergone a significant change process as part of the Welsh Government Positive Planning agenda, culminating in the Planning (Wales) Act 2015 and the introduction of subsequent secondary legislation.
- 5.11 In this respect the Positive Planning agenda sought to change culture and provide a planning system that can deliver national, local and community wellbeing objectives by supporting the delivery of appropriate sustainable development.
- 5.12 An efficient development management and enforcement service and modern governance arrangements underpinned by a robust output driven performance framework is seen as integral to the delivery of this agenda.
- 5.13 In this respect the concept of "front loading" introduced a formal paid statutory pre-application advice service for all applications and Pre-Application Consultation (PAC) for major developments, with early engagement being central to delivering quality positive outcomes in a timely and efficient manner.
- 5.14 The enforcement function has also been refocussed to deliver the timely investigation of cases within prescribed timescales, with new tools including temporary stop notices and enforcement warning notices introduced to deal more expeditiously with breaches of planning control which may cause irreparable damage and facilitate the submission of planning applications to regularise unauthorised development.
- 5.15 The Planning Performance Framework (PPF) set in place key qualitative and quantitative performance indicators used to focus resources on delivering the key elements of a good planning service (1). In addition key sustainable development indicators have also been introduced. All Local Planning Authorities are required to report quarterly on performance to Welsh Government and publish an Annual

Performance Report (APR) (2) detailing its performance in the context of the PPF. Local Planning Authorities are also required to refund fees where decisions are not made in a timely manner with the provision for penalties to be used in the event of consistent under performance.

- 5.16 The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 which came into force on 5<sup>th</sup> May 2017 requires Planning Committees to comprise of no less than 11 Members and no more than 21, it also provides that no more than one Member from a multi Member Ward can sit on a Planning Committee at any one time.
- 5.17 This secondary legislation followed a comprehensive review of planning committees and decision making across Wales which concluded that large planning committees are resource intensive, diminish the valuable role of Councillors as representatives of their community and generate slow and inconsistent decision making as a result of the associated administrative burden, low average attendance and the tensions between respective Electoral Division and Committee roles (3).
- 5.18 On this basis, the overriding duty of a Planning Committee Member is seen as being to the wider community and the whole Authority, with the role of the Planning Committee focussed on the delivery of the Development Plan by making locally strategic planning decisions, which go beyond protecting the private interests of one person, or group of people, against the activities of others. In this context a Planning Committee should not deal routinely with a plethora of minor development proposals, particularly householder development, which have minimal impact upon the wider area.
- 5.19 Such issues remain current today and were again raised in the recent Wales Audit Office report on the Effectiveness of the Planning Authorities in Wales, which identified continued inconsistencies in the size of Planning Committees, inconsistent decision making and a lack of strategic focus with some Committees still focussing on parochial ward based issues (4).
- 5.20 A comprehensive review of the fee structure for planning applications is also currently ongoing by Welsh Government in an attempt to provide adequate resources to fund the statutory development management process. This is a complex piece of work and in recognition of the current pressures and significant resource and resilience issues Local Planning Authorities currently face, a 20% planning application fee increase across the board was introduced on 24<sup>th</sup> August 2020. The expectation is that this fee increase will be reinvested exclusively into improving the delivery of the development management service at the local level.
- 5.21 Whilst this is welcomed, it should be recognised that the current underachievement of fee income by the Service is in excess of 20% and as a consequence this increase will be absorbed by the existing fee income target and will not release further resources to invest into service delivery.

#### TeamCaerphilly – Better Together

- 5.22 The TeamCaerphilly – Better Together Strategy is based on 3 main pillars: Service Reviews, Commercialisation and PlaceShaping, and sets in place a whole organisation transformation programme which, in response to the COVID-19 lockdown, has facilitated the introduction of new ways of working and models of service delivery.
- 5.23 The opportunity now exists, therefore, to review the development management and

enforcement service, deploy the principles of TeamCaerphilly and embed many of these new approaches into its future service delivery and decision making processes.

- 5.24 In this respect the proposals in this report seek to capitalise on the opportunities provided by the TeamCaerphilly Framework with further commercialisation in the promotion of fee earning elements of the service, further refinement of agile working, the development of a single point of contact and online resources and provision of a more strategic focus for service delivery and decision making to facilitate the PlaceShaping agenda, underpinned by an output driven performance management framework.

## 6. **Service Delivery**

- 6.1 Whilst the Regeneration and Planning Service has recently implemented the final stages of a restructure, the corresponding impact upon the level of service and service delivery options is yet to be reviewed in this regard or in light of the Positive Planning Agenda or to meet the requirements of the Planning Performance Framework.
- 6.2 As part of its response to the COVID-19 crisis the development management and enforcement functions have also been forced to operate in different ways, investing in paperless working, providing a different level of service with a focus on its statutory obligations as a priority. This review, therefore, provides the opportunity to embed the principles of positive planning into service delivery options and learn lessons from the current crisis to build a more efficient, output driven service with a greater strategic focus on delivery.

### Frontloading the Development Management Process

- 6.3 Use of the statutory pre-application advice service offered by the Authority has been low. In Q1 2020/21 just 14 pre-application enquiries were submitted and this is a consistent picture in previous quarters.
- 6.4 Historically scarce resources have instead been dedicated to the provision of informal advice on an adhoc basis and significant negotiation at the formal planning application stage. Whilst this can be regarded as good practice it results in delays in the formal decision making process with the average time to determine applications standing at around 82 days in 2019/20. Importantly, this officer time is not formally accounted for, has resulted in depressed take up of the pre-application advice service, reduced income generation from this service and conflicts with the concept of frontloading with a high percentage of applications being submitted as invalid, requiring amendment and re-consultation, drawing further on the burden of administering the process.
- 6.5 During the COVID-19 lockdown, officers have worked from home and the Authority has moved quickly to capitalise on available digital technology, kit and equipment to migrate from a paper, office based system to a paperless digital based system. The service is now delivered to customers through a range of digital platforms with the ongoing development of online resources, payment processes and use of virtual meetings and telephone conferencing.
- 6.6 Resources have been dedicated to the processing of planning applications in a timely manner with limited negotiation and an emphasis on the use of the Council's pre-application advice service to frontload the process and reduce the need for negotiation at the formal planning application stage. Where negotiation has taken place it has been focussed on delivering significant or major applications which, by their nature, are more likely to have an economic imperative that could stimulate recovery in a post-Covid19

and post-Brexit era or those applications which are likely to have a wider community interest or impact.

- 6.7 As a consequence, and despite the circumstances, performance and productivity has improved when measured against key indicators in the Planning Performance Framework with the percentage of applications determined within timescales, over the lockdown period, increasing from 80% in Q1 2019/20 to 97% in the same quarter 2020/21.
- 6.8 Whilst there remains significant work to do in terms of modernising the delivery of the service, managing public contact and expectations in response to the current crisis and future challenges, the above approach to service delivery has proven to be an efficient model moving forward, particularly given the significant economic, social and environmental challenges we now face and the increasingly diminishing staff resources the service has at its disposal.
- 6.9 It is therefore recommended, that the service continues to develop its service delivery model along the following lines: with a focus on outputs as measured by the Planning Performance Framework; an increasing emphasis on frontloading; the provision of paid formal services; signposting to free online resources; and a focus on the delivery of major or significant schemes which have a broader economic and/or community impact.

In this regard the following are seen as key aspects of modernising the service:

- Single point of contact for access to services and signposting of public to online resources for advice, submission of applications and complaints and reporting of breaches of planning control,
  - Further commercialisation and development of range of paid services,
  - Frontloading of the planning application and enforcement processes,
  - Timely determination of householder and minor planning applications,
  - Focus on the delivery of major and strategically significant schemes which have a broader economic and/or community impact,
  - Output driven service delivery model focussed on meeting key performance indicators.
- 6.10 In this latter respect it is also recommended that an additional local performance indicator be introduced relating to the percentage of applications with an economic imperative that are approved i.e. major applications. Overlain with the existing National performance management framework currently in place which measures performance in quantitative and qualitative terms and against key sustainable development measures this new local indicator will have the effect of providing the service with a greater a focus on delivery and will also embed economic Wellbeing objectives into service delivery in a measurable way.

#### Responsive Planning Enforcement

- 6.11 As indicated above the enforcement service has shouldered significant cuts in staff resources in recent years with the remaining 2 enforcement officers receiving on average in excess of 300 enforcement cases each year in addition to a significant existing caseload. Such staff levels are clearly not sufficient to maintain traditional levels of service. In this respect the issue of budget and staffing within Planning Service is subject to a further report also presented to this Committee meeting for consideration.

- 6.12 During the lockdown period the level of enforcement complaints has remained consistent, but in line with Welsh Government advice officers have not been able to visit sites to investigate these complaints unless it is essential to do so where irrevocable damage was taking place to the environment or where there is a risk to life. During this period the Authority has for the first time issued a number of temporary stop notices to cease ongoing operational development.
- 6.13 An online complaints process has also been launched with all complaints being submitted via an online form. In addition, to assist investigations, complainants have been contacted and asked to provide further clarification and supporting information, including photographs, and virtual meetings have been undertaken to assist the investigation by remote means.
- 6.14 Historically enforcement complaints have been submitted via a range of methods, including via word of mouth, telephone, in writing or by email. Frequently complaints are submitted anonymously, lack the necessary information to allow cases to be prioritised or expedited without significant investigation. In many cases no breach of planning control takes place and the opportunity to triage complaints and manage public expectations at the outset is lost through a lack of information.
- 6.15 Addressing the existing backlog when lockdown restrictions are lifted will clearly present a significant challenge given the resources at the Authority's disposal even should additional staff resources be allocated. The Enforcement Charter was adopted by the Council in 2019. This set in place the service levels complainants can expect, ways in which a complaint can be submitted and the level of information required. This embodies many of the principles adopted during the lockdown period but has been updated and revised in light of the lessons learned to provide more focussed and efficient processes, to align with the principles of TeamCaerphilly and to manage public and member expectations.
- 6.16 The revised Enforcement Charter is attached as Appendix 1. Whilst the proposed changes are subtle they will go some way to assisting the delivery of the enforcement service and to focus on the performance levels set down in the Planning Performance Framework.
- 6.17 In this respect all enforcement complaints should now be submitted in a uniform way, namely online via the enforcement complaint form and complainants are required to provide a range of information, depending on the complexity of the case, before the complaint can be submitted, accepted and investigated. In addition, a triage system has been introduced which will allocate complaints a priority at the outset allowing expectations to be managed and resources to be allocated in the most efficient manner to deal with the most severe breaches of planning control. Public expectation will need to be managed with service levels clearly articulated at the outset and contact with the case officer throughout an investigation limited to that required as part of statutory processes namely at the end of the investigation stage.

## 7.0 **Decision Making**

- 7.1 The Council Constitution prescribes the form and composition of Planning Committee and via the Scheme of Delegation identifies those decisions which must be made by Planning Committee, providing delegated powers to officers to issue decisions on a range of functions including planning and related applications and enforcement cases.

### Planning Committee Structure

- 7.2 The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 which came into force on 5<sup>th</sup> May 2017 requires Planning Committees to comprise of no less than 11 Members and no more than 21, it also provides that no more than one Member from a multi Member Ward can sit on a Planning Committee at any one time.
- 7.3 As detailed above the legislation was introduced by Welsh Government to control, by statute, the size of Planning Committees as small Committees were regarded as facilitating better, more efficient, consistent and timely decision making.
- 7.4 The table below illustrates the range in the current size of Planning Committee's in Wales.

Table 1 – The Size of Planning Committees in Wales

| <b>Local Planning Authority</b>   | <b>No. Members</b> |
|-----------------------------------|--------------------|
| Merthyr                           | 11                 |
| Newport                           | 11                 |
| Cardiff                           | 11                 |
| Isle of Anglesey                  | 11                 |
| Rhondda Cynon Taf                 | 11                 |
| Swansea                           | 12                 |
| Neath Port Talbot                 | 12                 |
| Blaenau Gwent                     | 15                 |
| Conwy                             | 15                 |
| Gwynedd                           | 15                 |
| Pembrokeshire                     | 15                 |
| Torfaen                           | 16                 |
| Monmouth                          | 16                 |
| Flintshire                        | 16                 |
| Vale of Glamorgan                 | 17                 |
| Bridgend                          | 18                 |
| Brecon Beacon National Park       | 18                 |
| Pembrokeshire Coast National Park | 18                 |
| Snowdonia National Park           | 18                 |
| Denbighshire                      | 19                 |
| Caerphilly                        | 20                 |
| Carmarthenshire                   | 20                 |
| Wrexham                           | 20                 |
| Ceredigion                        | 21                 |
| Powys                             | 21                 |

- 7.5 The Authority's current Planning Committee comprises some 20 Members and is one of the largest Planning Committees in Wales, the largest within the Cardiff Capital Region and significantly larger than other large urban Authorities such as Cardiff (12), Swansea (12), Newport (11) and Rhondda Cynon Taff (11). It also represents the largest Committee in the Council with Licensing comprising 15 Members and Scrutiny Committee 16.
- 7.6 Average attendance at each Planning Committee meeting was 14 in 2019/20 and the quality of decision making when assessed against the Planning Performance



Framework was relatively inconsistent with 8% of Committee decisions being made contrary to professional officer recommendation. Good performance being categorised as 5% or less and poor performance 9% or more.

- 7.7 The COVID-19 lockdown has starkly demonstrated the need for the Authority's decision making processes to adapt quickly to ever changing circumstances. Whilst Planning Committee reconvened on 17<sup>th</sup> June 2020 via virtual meetings, significant resources were deployed to train all 20 Members to facilitate this process.
- 7.8 Setting aside the views of Welsh Government and the Auditor General for Wales regarding the benefits of small Planning Committees, clearly in a rapidly changing environment where both decision making processes and policy responses may have to react quickly, a smaller and more focussed Planning Committee would, it is considered, be more responsive to change.
- 7.9 On this basis and having regard to the political balance of the Council it is recommended that the size of Planning Committee be reduced to 16 Members which more closely aligns with Licensing and Scrutiny Committees and other Local Planning Authorities in the Cardiff Capital Region.

#### Scheme of Delegation

- 7.10 A National Scheme of Delegation has not, as yet, been introduced, however, Welsh Government have been clear that the role of Planning Committee should be focussed on making locally strategic planning decisions which go beyond protecting the private interests of one person, or group of people, against the activities of others. In this context a Planning Committee should not deal routinely with a plethora of minor development proposals, particularly householder development, which have minimal impact upon the wider area (3).
- 7.11 In this context the role of Planning Committee should be to deliver the adopted development plan by making locally strategic planning decisions and by determining those applications:
1. That are identified as major development;
  2. That raise policy issues affecting the delivery of the development plan, such as applications departing from the adopted plan; and
  3. Where there is quantifiable, community-wide interest in a development which goes beyond protecting the private interests of one person, or group of people, against the activities of others.
- 7.12 The Authority's current scheme of delegation relating to the determination of planning applications is reproduced below:
- "The determination of all applications for planning permission, reserved matters, listed building consent, conservation area consent, tree preservation order consent, advertisement consent and all other matters submitted for the determination formal application or comment of the local planning authority under the relevant Town and Country Planning Act and associated legislation, **OTHER THAN**
- (a) any application which any member requests in writing to the Head of Regeneration & Planning within 21 days of the publication of the weekly list containing the application, should be considered by the Planning Committee.
  - (b) any application where it is recommended that permission be granted contrary to the Council's planning policies.

- (c) any application which in the opinion of the Head of Regeneration & Planning or the Planning Services Manager are likely to be controversial or of significant public interest or should in any event be determined by the Planning Committee.
  - (d) applications where the decision would conflict with an objection received from a statutory consultee.”
- 7.13 The Authority’s current Scheme of Delegation, therefore, has a broad focus ranging from strategic to very minor issues. In this respect under the terms of criteria a) there are no thresholds relating to the nature of applications that should be considered by Planning Committee in terms of their scale or to quantify the community wide interest. Any application could, therefore, be reported to Planning Committee for decision, including very minor or householder applications where the issues for consideration relate to protecting the private interests of one person, or group of people, against the activities of others. Conversely major applications which, by their nature, would have a much broader community impact can currently be determined under delegated powers.
- 7.14 This process can create uncertainty for Members, officers, the public, applicants and developers and can serve to distract from the strategic focus of the Committee. If Planning Committee is to adopt a more strategic role it is considered that both development and objection thresholds should be introduced into the scheme of delegation. In this respect it is considered that decisions on householder applications should not be made at Planning Committee level. This clarity would allow Members to engage more effectively in the planning process from the outset whether in a Planning Committee or Ward member role.
- 7.15 Under criteria (b) applications which depart from the provisions of the Development Plan are clearly of strategic significance and would require Planning Committee consideration if recommended for approval as are those considered to be controversial or of significant public interest under criteria (c).
- 7.16 It is not considered, however, that an objection received from a statutory consultee should trigger an automatic requirement for Planning Committee consideration. The list of statutory consultees appears to be growing following the recent inclusion of Dŵr Cymru/Welsh Water and current proposals to include the Fire and Rescue Service. Very often the issues raised by consultees or the development concerned is relatively minor and a more appropriate mechanism for consideration would be to include both a development and/or an objection threshold against which to focus Planning Committee decision making.
- 7.17 In addition there is no provision in the scheme of delegation for planning applications submitted by Officers or Members to be considered by Planning Committee. This lack of clarity can lead to a large number of applications being reported to Planning Committee because the applicant may work for the Council, however, their relationship is entirely unrelated to the decision making process. In the interests of transparency, it is considered appropriate to require all applications submitted by any officer involved in the planning process or a Councillor to be considered by Planning Committee. In this respect an officer is involved in the planning process if they are a member of staff in planning services, or involved in enforcing planning matters, or giving advice or support to officers or Councillors involved in the planning process or could be perceived to be involved in the planning process.
- 7.18 In view of the above it is recommended that the scheme of delegation for planning applications be amended to read as follows:

“The determination of all applications for planning permission, reserved matters, listed building consent, conservation area consent, tree preservation order consent and advertisement consent and all other matters submitted for the determination, formal application or comment of the local planning authority under the relevant Town and Country Planning Act and associated legislation, **OTHER THAN** :-

- (a) Development Threshold - All major planning applications or those involving Environmental Impact Assessments;
- (b) Objection Threshold Call In - Any planning application, other than a householder application, where a petition containing 30 or more names from separate households or 20 or more written objections on material planning grounds have been received from separate households or organisations within the 21 day consultation period and a member has requested in writing to the Head of Regeneration & Planning within the 21 day consultation period that the application should be considered by the Planning Committee;
- (c) Departure Applications - any application where it is recommended that permission be granted contrary to the Council’s planning policies.
- (d) Officer Referral - any application which in the opinion of the Head of Regeneration & Planning or the Planning Services Manager has a community wide impact, is of strategic significance or should in any event be determined by the Planning Committee.
- (e) Any planning application submitted by any officer of the Council involved in the planning process or a Councillor.”

7.19 For the purposes of criteria (a) of the above proposed scheme of delegation a major planning application is as defined in the Town and Country Planning (Development Management Procedures) (Wales) Order 2012 (DMPWO) namely:

- a proposal to erect 10 or more dwellings (including flats)
- where the number of dwellings is not known (outline applications), the application site exceeds 0.5 hectares
- where the application site exceeds 1 hectare
- where proposed buildings/extensions create a floor area exceeding 1000 square metres
- winning and working of minerals
- waste development

7.20 In relation to criteria (b) whilst the call-in procedure is a fundamental and important part of the democratic process, unnecessary ‘call-ins’ can lead to unreasonable delay.

7.21 Therefore, where it is considered that a Member or Members is/are unreasonably calling in planning applications or otherwise potentially abusing the ‘call-in’ process, the Chair and Vice-chair, in consultation with relevant Ward Member(s), will have the authority to withdraw any “call-in” request. The decision of this panel is final.

7.22 Finally under the provisions of criteria (e) an officer is involved in the planning process if they are a member of staff in planning services, or involved in enforcing planning matters, or give advice or support to Officers or Councillors involved in the planning process or could be perceived to be involved in the planning process.

#### Role of Members

7.23 All Elected Members are required to adhere to the Council's agreed code of conduct and in this context there is a clear difference between the role of a Planning Committee Member and that of a Ward Member.

- 7.24 To fulfil their role as a Planning Committee Member and take a full part in the decision making process a Member of the Planning Committee must be satisfied that they approach any decision with an open mind and have not been influenced or unduly prejudiced to the extent that this would influence the way they would vote.
- 7.25 In planning terms a Ward Member has, however, a much broader role in representing their community and constituents whether for or against a development. This can result in pressures and demands on officers and Members alike.
- 7.26 Given the proposed output driven and strategic focus of the development management and enforcement service and decision making processes moving forward it is important that Member expectations and those of the public are effectively managed if the Service is going to respond effectively and play a central role in facilitating recovery.
- 7.27 In this respect it is recommended that the attached Member Protocol be adopted which will assist in guiding Members through the planning process in the exercise of their Ward Member role.

## 8.0 Conclusion

- 8.1 The recommendations proposed in this report seek to embed new ways of working deployed during the COVID-19 lockdown and capitalise on the ongoing investment in technology to provide the development management and enforcement service and its decision making processes with a more strategic, output driven focus.
- 8.2 Given the significant challenges the service faces this is considered to be the most effective way of focussing scarce resources to respond to the COVID-19 crisis and facilitate the delivery of a sustainable recovery in environmental, social, cultural and economic terms.

## 9. ASSUMPTIONS

- 9.1 None.

## 10. LINKS TO RELEVANT COUNCIL POLICIES

- 10.1 The recommendations contained within this report are designed to create a new operating model for the development management and enforcement functions of Planning Services that will actively support the delivery of each of the Corporate Well-being Objectives in the Corporate Plan 2018-2023:

**Objective 1** Improve education opportunities for all.

**Objective 2** Enabling employment.

**Objective 3** Address the availability, condition and sustainability of homes throughout the County Borough and provide advice, assistance or support to help improve people's wellbeing.

**Objective 4** Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment.

**Objective 5** Creating a County Borough that supports a healthy lifestyle in accordance with the sustainable Development Principle within the Wellbeing of Future Generations (Wales) Act 2015.

**Objective 6** Support citizens to remain independent and improve their well-being.

## **11. WELL-BEING OF FUTURE GENERATIONS**

11.1 The recommendations in this report will assist the Authority in its duties as a public body under the Well-being of Future Generation (Wales) Act 2015 to contribute of the well-being goals for Wales:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh Language
- A globally responsible Wales

11.2 The recommendations of this report are also consistent with the five ways of working as defined within the sustainable development principle in the Act. The five ways of working of the sustainable development principle, listed in the Act are:

- Long Term – the proposals will enable the Authority to develop a more sustainable service in response to significant budgetary and resource pressures and deliver its statutory obligations.
- Prevention – taking a more commercial approach and strategic focus will allow services to be targeted more effectively and prevent current resource issues from frustrating the delivery of development and key strategic projects.
- Integration – further development of a single point of contact for access to services, online resources, formalisation of advice and frontloading will facilitate more integrated working.
- Collaboration – the proposals will facilitate greater collaboration through the planning process with other organisations and bodies in the delivery of strategic projects.
- Involvement – the proposal will facilitate engagement and access to resources through a great range of digital platforms.

## **12. EQUALITIES IMPLICATIONS**

12.1 An EIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance. No potential unlawful discrimination and/or low level or minor negative impact has been identified, therefore a full EIA has not been carried out.

## **13. FINANCIAL IMPLICATIONS**

13.1 None.

## 14. PERSONNEL IMPLICATIONS

- 14.1 There are no specific personnel implications directly resulting from this report.

## 15. CONSULTATIONS

- 15.1 The draft report was distributed as detailed below. All comments received have been reflected in this version of the report.
- 15.2 In addition this report came before the Housing and Regeneration Scrutiny Committee on 9<sup>th</sup> December 2020. The report was introduced by the Cabinet Member for Economy and Enterprise. The Cabinet Member advised that an efficient, flexible and responsive development management and enforcement function which facilitates sound and timely decision making and the investigation of breaches of planning control was central to the delivery of the Council's well-being objectives. The Cabinet Member highlighted during his opening remarks that the Authority's current Planning Committee comprises some 20 Members and is one of the largest Planning Committees in Wales, the largest within the Cardiff Capital Region and significantly larger than other large urban Authorities such as Cardiff (12), Swansea (12), Newport (11) and Rhondda Cynon Taff (11). It was outlined that reducing membership to 16 would be in line with the Authority's Scrutiny Committees.
- 15.3 The Chair highlighted that Committee Members had received emails from Cllr Gair and Cllr Bezzina raising concerns about the proposals. During the ensuing debate one Member raised the issue of political representation if membership of the Planning Committee was reduced. The Cabinet Member advised that the Planning Committee would still reflect the political balance of the Council as is the case with other Committees. The Member then raised the issue of attendance at Planning Committee meetings and the role of members in terms of decision-making. The Member also told Committee that in her opinion changing the scheme of delegation for planning applications would make it more difficult for smaller parties to raise objections and that she had concerns for this reason.
- 15.4 Another Member also raised concerns about the proposed scheme of delegation. He told Members that whilst he agreed with paragraph 5.18 of the report, that the Planning Committee should not have to deal routinely with a plethora of minor development proposals which have minimal impact upon the wider area, they should deal with minor proposals if they are a matter of concern or controversy within the ward. The Member thought that there should not be an arbitrary high bar to clear concerning the number of complaints received before a Member can seek adjudication from the Planning Committee. The Member said he would be happy to endorse all the recommendations with the exception of recommendation (d), which he thought should be removed. The recommendation states: *that Scrutiny Committee endorses changes to the Scheme of Delegation to provide Planning Committee with a more strategic role and focus.* The Member told Committee that in his opinion this recommendation takes away the power from Planning Committee Members to represent the whole community and from Ward Members to represent their local community by making representations to the Planning Committee. He concluded that Members should be able to take concerns before the Planning Committee without having to face a high bar which he believed the proposed changes to the scheme of delegation would create.
- 15.5 One Member highlighted the important role of Ward Members as part of the planning process. The Member said that in his opinion on some occasions too much credit was given to the view of developers rather than the views expressed by Councillors who

possessed greater local knowledge. The Planning Services Manager advised Members that the purpose of the proposed scheme of delegation was to provide certainty and focus in terms of decision-making. So that everyone was clear at the outset what applications had to go to Committee and which did not. He talked about the proposed objection threshold and advised that it was there to identify a community-wide impact as opposed to a community interest. This would then ensure that Planning Committee time was used appropriately and was focussed on strategic matters.

- 15.6 A Member advised the Committee that he would like to second the Motion put forward earlier that the report's recommendations be endorsed by Committee with the exception of recommendation 3.1 (d).
- 15.7 Following consideration and discussion, it was proposed and seconded to amend the recommendations to exclude the following recommendation: 3.1 (d) To endorse changes to the Scheme of Delegation to provide Planning Committee with a more strategic role and focus.

By way of Forms voting (and in noting there were 10 for, 2 against and 0 abstentions) this was agreed. Therefore, subject to the exclusion of recommendation 3.1 (d) it was RESOLVED that for the reasons contained in the report:

The Scrutiny Committee:

- a) Endorsed the output driven service delivery model proposed for the development management and enforcement function, with a focus on the delivery of its statutory obligations, frontloading, further commercialisation and the delivery of major and strategically significant schemes underpinned by the introduction of a new Wellbeing local performance indicator.
  - b) Endorsed amendments to the Enforcement Charter.
  - c) Endorsed changes to the Planning Committee structure with a reduction from 20 to 16 Members.
  - d) Removed the recommendation to endorse changes to the Scheme of Delegation to provide Planning Committee with a more strategic roles and focus.
  - e) Endorsed the Non-Planning Committee Member Protocol for Ward Members.
- 15.8 In response it should be recognised that the main issue of concern raised by Scrutiny Committee members related to the Objection Threshold as detailed at paragraph 3.18 above and the need for a call in request to be validated by a petition of 30 names from individual households and/or 20 letters of objections from individual households.
- 15.9 Whilst Scrutiny Committee resolved to exclude any change to the scheme of delegation as a consequent, it should be recognised that there are a number of elements to the proposed changes relating to the introduction of a Development Threshold to ensure all major planning applications are referred to Planning Committee, Departure applications, officer referral and applications submitted by officers or a Councillor.
- 15.20 For the reason detailed at paragraphs 7.10-7.22 above it is considered that the current Scheme of Delegation would, however, still benefit from a review. Should Planning Committee share the concerns of those expressed by Scrutiny Committee regarding the Scheme of Delegation, therefore, it is suggested that consideration be given to

amending the Objection Threshold (7.18 (b)) only, to omit the need for a “Call In” request to be validated by a qualifying petition of number of objections and subject to this amendment that the revised Scheme of Delegation presented at Paragraph 7.18 be endorsed by Planning Committee.

## **16. STATUTORY POWER**

16.1 The Local Government Acts 1998 and 2003.

Author: Ryan Thomas, Planning Services Manager

Consultees: Cllr Sean Morgan Cabinet Member for Finance, Performance and Planning  
Christina Harray, Chief Executive  
Mark S. Williams, Interim Corporate Director Communities  
Rhian Kyte, Head of Regeneration and Planning  
Stephen Harris, Steve Harris, Head of Financial Services & S151 Officer;  
Robert Tranter, Head of Legal Services/Monitoring Officer  
Liz Lucas, Head of Customer and Digital Services  
Anwen Cullinane, Senior Policy Officer, Equalities, Welsh Language and Consultation  
Lynne Donovan, Human Resources Service Manager  
Cllr R Saralis, Chair of Planning Committee  
Cllr Andrew Whitcombe, Chair of Housing and Regeneration Scrutiny Committee  
Cllr Christine Forehead, Vice Chair of Housing and Regeneration Scrutiny Committee

Background Papers:

- (1) [Link to Planning Performance Framework](#)
- (2) [Link to Planning Annual Performance Report](#)
- (3) [Link to WG Document - Planning Committees, Delegation & Joint Planning Boards](#)
- (4) [Link to WAO Document - The Effectiveness of Local Planning Authorities in Wales](#)

Appendices:

- Appendix 1 Enforcement Charter  
Appendix 2 Ward Member Protocol



## Planning Enforcement Charter

A guide to the Enforcement of Planning Control  
in Caerphilly County Borough Council





## Summary

The Council as Local Planning Authority (LPA) has powers to take enforcement action against development carried out without the appropriate consent under planning legislation. While all valid complaints will be investigated, it is not always possible or expedient for the LPA to take action. The purpose of this Charter is to explain the basis on which the LPA will investigate breaches of the planning statutes, and in what circumstances it will take action.

### This Charter seeks to:-

- Provide an overview of the planning enforcement system, including a summary of what may constitute a breach of planning control;
- Detail the enforcement processes and powers available to the Council;
- Identify policies and procedures which set out how the Caerphilly County Borough Council Planning Enforcement team will deal with enforcement complaints in a fair, reasonable and consistent manner;
- Set out the service standards that we strive to achieve to ensure that enforcement complaints are dealt with in a timely manner, and that complainants are advised of the outcome of such investigations at appropriate stages.

This Charter is not an authoritative source in respect of the legislation and policy, and does not bind the Council in those regards.

## 1. Introduction

- 1.1** The Town and Country Planning Act 1990 provides the Council as LPA with the powers to serve an enforcement notice where it is expedient to issue one, having regard to the provisions of the Development Plan and to any other material considerations. That means that the Council will not take action or serve a notice in every case, and will often look to resolve breaches of Planning legislation by other means, such as removing the unauthorised development through negotiation, or by getting the developer to submit an application to secure planning permission retrospectively.
- 1.2** The planning enforcement function is carried out by the Council's Planning Enforcement Officers within the Regeneration and Planning Service of the Communities Directorate.
- 1.3** Welsh Government policy on planning enforcement is set out in section 14 of its Development Management Manual which can be found at the following website:  
  
<https://gov.wales/sites/default/files/publications/2018-10/development-management-manual.pdf>

## 2. What is a Breach of Planning Control?

2.1 The main breaches of planning control are:

- Carrying out building works or engineering operations, or materially changing the use of land or buildings, without the necessary planning permission;
- Where planning permission has been granted but the approved plans or the conditions attached to the approval have not been complied with;
- Unauthorised works to a Listed Building that affect its character as a building of special architectural or historic interest;
- Unauthorised demolition in a Conservation Area;
- Unauthorised display of advertisements;
- Unauthorised works to trees protected by Tree Preservation Order (TPO) or because of they are in a Conservation Area;
- Untidy land or buildings that may be adversely affecting the amenity of an area.

## 3. Determining whether action should be taken

- 3.1** Welsh Government's Development Management Manual states that effective enforcement underpins the whole Development Management function. The decisive issue is to consider whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. The intention should be to remedy the effects of the unauthorised development, not to punish the people carrying out the operation or use.
- 3.2** The Manual emphasises that:
- Any enforcement action should be commensurate with the breach of planning control to which it relates;
  - It is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to public amenity; and
  - Enforcement action should not be taken simply to regularise development for which permission had not been sought but which is otherwise acceptable.
- 3.3** When investigating an alleged breach of planning control the LPA always tries to ensure that decisions are taken concerning the most appropriate way forward in an effective and timely manner. This does not, however, mean that formal action will be taken. Indeed such action is limited to the most serious cases where harm arises and action is warranted in the public interest.
- 3.4** In the majority of cases, even where breaches are identified, we will seek to resolve them informally, which may include:

- Informal negotiation with an owner or developer to remove a breach, or to make changes to a development such that it no longer constitutes a breach, or no longer causes material harm;
- Seeking the submission of a planning application to regularise a breach, which may include the need to comply with conditions to mitigate any harm caused by the development;
- Concluding that no harm arises from the breach, such that it is not expedient for the Council to take the matter further.

**3.5** When we investigate complaints, and these are found to require planning permission we will undertake an initial assessment to determine whether the development would be acceptable judged against the policies within the Council's adopted Local Development Plan, and other material considerations such as Welsh Government policy, and decisions taken by The Planning Inspectorate.

**3.6** Where we consider that such development is likely to be acceptable, and it is minor, e.g. a garden shed, we will advise the developer that it is not expedient to take action, but the development is unlawful, and they may wish to regularise the matter by submitting a planning application.

**3.7** Where the development is more significant and could be made acceptable by conditions, we will usually seek submission of an application to regularise the development.

**3.8** However, where unauthorised development has adverse impacts that cannot be controlled adequately by condition, we will normally serve an enforcement notice seeking its removal.

**3.9** There are time limits for taking enforcement action: four years in the case of unauthorised buildings, and 10 years for unauthorised changes of use or failures to comply with planning conditions.

**3.10** There are rights of appeal against enforcement notices to The Planning Inspectorate details of which can be found at the following website:

<https://gov.wales/planning-appeals>

If an appeal is received, no further action can usually be taken until the appeal has been determined.



## 4. Reporting a Breach of Planning Control

- 4.1** Anyone can report a breach of planning control. Please be assured that a complainant’s details will remain confidential and will not be publicly available. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 give a general right of access to information and environmental information held by public authorities. While the presumption will always be in favour of disclosure of such information, having regard to the wider principles of promoting accountability and transparency in the planning process, in respect of enforcement complaints details will be treated in strictest confidence.
- 4.2** Accordingly, while requests to disclose the identity of a complainant are likely to be resisted because it would discourage others from reporting alleged breaches of planning control to the Council, thereby prejudicing the proper enforcement of planning laws, each request will have to be considered individually to establish whether an exemption applies.
- 4.3** We will only act upon a complaint where it is received via the Planning Enforcement complaints section of the Council’s website. You may phone the Planning Enforcement team to notify us of a breach of planning control but you will be advised to complete the online form before a potential breach of planning control is investigated.
- 4.4** All Enforcement complaints, upon receipt, will be validated to ensure that adequate information is provided prior to being passed onto the Planning Enforcement Officers for investigation. To ensure that the enforcement complaint has enough information to be registered, the following information will be required:

- Your name;
- Your address;
- A valid e-mail address, this is to ensure we can update you on the progress of the investigation;
- As well as the relevant evidence listed under point 4.4 of this Charter.

**4.5** If the LPA believe that a valid email address has not been provided, then a decision will be made regarding whether the reported breach will be investigated.

**4.6** All complaints should be accompanied by the following evidence.

**1. Allegations of unauthorised buildings and structures including fences, and alterations to listed buildings.**

- The address of the site where the work is taking place;
- The location on the site of the alleged breach;
- A description of the development taking place supported where possible by photographs;
- Details of when the unauthorised works were commenced or completed. If there is no known address to the site where works are being taken place, then a map showing clearly the location of where the breach is being undertaken will be required.

**2. Allegations of unauthorised changes of use**

- The address of the site where the use is taking place;
- The location on the site of the alleged breach;
- A description of the change of use taking place;

- A log of the occasions on which you have observed the alleged change of use, being a minimum of at least five occasions on five separate days, with a full description of the activities, and supported where possible by photographs;
- Details of how long the alleged breach has been taking place;
- If there is no known address to the site where works are being taken place, then a map showing clearly the location of where the breach is being undertaken will be required.

### 3. Failure to comply with planning conditions or approved plans

- The address of the site where the alleged breach is taking place;
- The location on the site of the alleged breach;
- Which plan or condition the developer is failing to comply with, and in what manner, supported if possible by photographs;
- Details of how long the alleged breach has been taking place;
- A log of the occasions on which you have observed the alleged breach taking place, being a minimum of at least five occasions on five separate days, with a full description of the activities, and supported where possible by photographs;
- If there is no known address to the site where works are being taken place, then a map showing clearly the location of where the breach is being undertaken will be required.

### 4. Untidy land or buildings

- The address of the site where the work is taking place;
- The location on the site of the alleged breach;
- A description of the site's condition supported where possible by photographs;

- Details of how long the alleged breach has been taking place;
  - If there is no known address to the site where works are being taken place, then a map showing clearly the location of where the breach is being undertaken will be required.
- 4.7** The complaint will not be registered and acted upon unless that information is submitted. If the LPA consider that not enough information has been submitted to support the complaint, then a letter will be sent via e-mail to the complainant requesting that the required information is provided within 14 days of the date of the letter. If the required information is not received within this timeframe then the reported breach will **NOT** be investigated.
- 4.8** Anonymous complaints will **NOT** be investigated unless the Council's officers determine that the nature of the complaint is sufficiently serious that it may require immediate action by the Council in terms of public amenity, or includes irreversible actions that involve serious breaches resulting in significant harm. If the complainant's details clearly indicate that the complaint has been made anonymously then the alleged breach of planning control will **NOT** be investigated.
- 4.9** Planning Enforcement complaints can only be made **ONLINE** by completing the Enforcement Complaint Form at the Council's website: <https://www.caerphilly.gov.uk/>
- 4.10** The LPA will not investigate some complaints, such as neighbour disputes over boundaries or complaints over anti-social behaviour as they relate to matters over which planning legislation has no control. Where officers consider the complaint relates to such matters where there are private or civil law solutions, the Council will not become involved. In such cases you will be advised of this and, if possible, where the complaint could be directed.

## 5. How Do We Deal With Complaints?

**5.1** On receiving a valid complaint fully supported by the appropriate evidence we will:

- Register the complaint in the Council’s Enforcement System;
- Allocated a priority in line with Appendix A of the Charter;
- Acknowledge the complaint in writing within 5 working days from receipt (by email where the address is provided), providing:-
  - The Enforcement Case reference number.
  - The priority allocated to the complaint.
  - The name and contact details of the investigating Enforcement Officer.

**5.2** The Council will seek to ensure that 100% of complaints are registered and acknowledged in writing within 5 working days of receipt.

**5.3** Following registration and acknowledgement of a complaint we will;

1. Undertake any relevant initial research which may assist in identifying whether the complaint constitutes unauthorised development. Depending on the findings, the complaint may not be investigated any further.
2. Carry out a site visit to gather information and evidence relating to the alleged breach of planning control, including taking notes and photographs from the site or adjoining land. Depending on the findings, the complaint may not be investigated any further.

- 5.4** At the end of either of these stages, if the development under investigation is found to be unauthorised, the LPA may come to the view that it is not expedient to take further action.
- 5.5** The timescales for those activities will depend on how serious the LPA consider the breach to be. In some cases a site visit and initial investigation will be made no later than the next working day following the registration of the complaint. In most other cases a site visit will be made within twenty-five working days and the initial investigation will be concluded within 84 days of receipt of the complaint.
- 5.6** Following the appropriate investigations, officers will come to one of the following conclusions:
1. That there has not been a breach of planning control;
  2. That there has been a breach, but it would not be expedient to pursue further action;
  3. That a breach has occurred, and action is expedient;  
  
Such action can include requesting the submission of a planning application, negotiating the removal of the breach, or to take enforcement action to remove the breach.
  4. Notify the complainant in writing of the outcome of the investigation phase, including information on the next stages of the investigation where relevant;
  5. Notify the owner or developer of the conclusions of the investigation phase, including details of the next stage of the investigation where a breach of planning has been identified and it is expedient to pursue the matter further.

- 5.7** The LPA will seek to advise complainants in writing (including email) of the conclusion of this phase of the investigation within 12 weeks of the receipt of the original case, in 90% of cases. In all cases, an assessment will be made taking account of the relevant matters, which will assist the LPA to a final conclusion regarding the case.
- 5.8** There are a number of actions the LPA can take to try to resolve a breach of planning control including, encouraging the submission of a planning application, removal through negotiation, serving an enforcement notice, prosecution following the service of an enforcement notice and the exhaustion of any appeal procedure, and in some cases direct action to remove the breach. The LPA will strive to ensure that such action is taken in no fewer than 80% of cases within 180 days of the complainant being advised of the course of action.
- 5.9** The term ‘enforcement action’ encompasses a number of procedures which are summarised below.
- Enforcement notice: this is usually served against unauthorised operational development or changes of use;
  - Breach of condition notice: as the name suggests, this is served to secure compliance with a condition on a planning permission e.g. one that limits hours of operation;
  - Temporary stop notice: this is a new procedure which can require an activity which is a breach of planning control to stop immediately, but ceases to have effect after 28 days. Before issuing, the LPA must consider the consequences of the notice, including any implications in respect of the Human Rights Act 1998, and the Equalities Act 2010;

- Enforcement warning notice: this is served to provide a developer with a clear indication that if an application for planning permission is submitted, adequate controls could be applied to the development by conditions to make it acceptable;
- Section 215 notice: this is served on land and buildings to require their proper maintenance;
- Stop notice: this can be served in conjunction with an enforcement notice when there is a severe amenity problem. Before issuing, the LPA must consider the consequences of the notice, including any implications in respect of the Human Rights Act 1998, and the Equalities Act 2010. There are also compensation implications if the notice is later withdrawn, varied or quashed at appeal;
- Injunction: this is usually used at the end of a long process of enforcement action;
- Completion notice: this requires development to be completed within a certain time, otherwise the planning permission will cease to have effect for the uncompleted part of the operations.

**5.10** It is difficult to predict a general timescale for the closure of enforcement cases. Some developers recognise their mistake immediately, are cooperative, and the breach is removed or planning permission is secured fairly promptly. Others will refuse to resolve the breach despite being prosecuted and fined. There are also rights of appeal to The Planning Inspectorate. Therefore the Council cannot commit to any targets for the closure of enforcement cases. The LPA will, however, always seek to ensure final resolution of enforcement cases at the earliest opportunity, and will pursue all appropriate and reasonable action to secure resolution.



## Appendix A

At the registration stage all complaints will be prioritised. This will ensure that the expectations of complainants can be managed and that the resources of the Planning Enforcement team are appropriately and proportionately targeted, having regard to the likely level of harm being caused to the local community and public amenity.

All complaints will be prioritised in accordance with the following protocol:-

### Priority 1: High Priority Cases

In general, 'Priority 1' cases will be restricted to those cases where the likelihood of harm being caused to the environment or amenity is significant, immediate and potentially irreparable, and there is a likelihood that urgent action may be needed to prevent or mitigate existing or potential immediate harm.

This is likely to relate to serious breaches such as:

- Unauthorised works to a Listed Building, archaeological site or Scheduled Ancient Monument (SAM) (contact will be made with Cadw in respect of SAM);
- Demolition of important unlisted buildings in a Conservation Area;
- Development Works affecting a European Protected Species (EPS) Site of Special Scientific Interest (SSSI) or other designation;
- Unauthorised development that is causing severe disturbance to neighbours or poses a threat to public safety;
- Unauthorised works to trees covered by a Tree Preservation Order (TPO) or in a Conservation Area;
- Unauthorised display of advertisements which appear likely to be causing significant harm to public safety.

## Priority 2: Medium Priority Cases

'Priority 2' will normally be given to those cases which the Authority consider there is a potential likelihood of a serious or significant effect on the environment or local amenity, which could merit formal enforcement action being taken, but no short-term harm.

This is likely to relate to serious breaches such as:

- Breaches of planning control contrary to the policies of the Local Development Plan (e.g. Unauthorised residential use in the countryside);
- Complaints where the time limit for taking formal action may be about to expire;
- Serious breach of conditions on planning permissions, including non-compliance with 'conditions precedent\*';
- New Building works of medium-large scale;
- Complaints of significant harm being caused to amenity, for example, extensions to residential property that result in serious overlooking or other amenity problems, unauthorised uses of land which cause amenity problems to neighbouring properties;
- Unauthorised display of advertisements which appear likely to be causing significant harm to visual amenity.

\* A condition which require approval of details or actions to be undertaken prior to development commencing.

## Priority 3 Low Priority Cases

'Priority 3' will be assigned to all other cases. These cases being those which, while potentially of significance to a complainant, are nevertheless (based on the information available at registration stage): -

- Likely to have a limited degree of harm;
- May be cases where it will not be expedient to take positive action; or
- Deemed unlikely to represent a breach of planning control;
- This is most likely to relate to complaints about;
- Householder development such as small-scale extensions, boundary enclosures etc;
- Advertisements (other than those identified under Priority 2);
- Minor development where there may be a breach of planning control but there is little or no immediate harm to amenity, for example incidental minor developments that only just exceed permitted development rights;
- The Material Change of Use of a property;
- Minor Breaches of Planning Conditions.

## Assigning a Priority to a Case

The priority of a case will normally be assigned by the Principal Area Enforcement Officer or Team Leader in liaison with the Development Manager – Planning.

In all cases it will be for the Council to determine whether and to what level any harm to public amenity results from an alleged breach, and which priority is assigned to an enforcement case.

### Please note:

1. A Priority will be assigned to a case irrespective of the source of the complaint.

2. Although a Priority rating will be given to each case as it is received, the rating may change during the investigation.
3. Notwithstanding the priority given to a complaint, the Council remains committed to investigating every alleged breach of planning in accordance with the guidance and targets within the Charter.

Depending on the seriousness of the alleged breach and available resources the target time for our initial investigation will be as follows: -

### **Priority 1 cases:**

A site visit and initial investigation will be made no later than the **next working day** following the registration of the complaint.

### **Priority 2 cases:**

A site visit will be made within **ten working days** of receipt.

### **Priority 3 cases:**

A site visit will be made within **twenty-five working days** of receipt.

All enforcement complaints have a target investigation time of 12 weeks, where the authority will strive to investigate 90% of complaints within this timeframe.



This page is intentionally left blank

## Planning

### Non- Planning Committee Member – Officer Protocol

1. The Development Management process is a regulatory one, and the Planning Act states that the Authority must determine planning applications in accordance with the provisions of the development plan unless material considerations indicate otherwise. It is essential that members bring their concerns to the attention of officers as soon as possible so that they can be run through that statutory filter. Having been advised of the members', and the public's concerns, it is for the professional officers to decide:
  - which of those concerns is a material planning consideration,
  - what weight to give the material considerations,
  - which of them needs to be resolved before permission is granted and which can be dealt with by condition, and
  - which may merit refusing planning permission.

Where applications are reported to Planning Committee, the members have a right to disagree with the officers' assessment of the case, and give a different weight to the material considerations.

2. Guidance on the conduct of non-Planning Committee members is contained in the *Planning Code of Practice* which can be found in the *Codes and Protocols* part of the Council's Constitution. The Code currently states as follows:

#### **“Non-Committee members of the council**

2.7 Members who are not on the Planning Committee represent their electoral division and the county borough as a whole. They may attend the Planning Committee and address it for no more than five minutes but may not take part in any debate and will not have a vote on any matter. They may also attend site visits. Such members do not act in the quasi-judicial role performed by Planning Committee members, but shall:

- Act fairly and openly and avoid any actions that would give rise to an impression of bias or undue influence.
- Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.

2.8 Such members may express support for a particular opinion in advance of the matter being considered by the Planning Committee, or by the Chief Planning Officer and Development Control Manager under delegated powers.

2.9 A member who has declared an interest in a matter is not permitted to attend the Planning Committee, either as a councillor or as a private citizen.”

3. Members are consulted about planning submissions by means of the weekly list of planning applications, which gives them the opportunity to specify which proposals

should come before committee, and should prompt them to advise officers of their concerns as early in the process as possible.

4. Officers cannot give members a blow-by-blow account of the determination of a planning application. They cannot enter into correspondence about material planning considerations with members or interested persons whilst an application is in the process of being determined. The important thing is that members provide officers with their concerns as soon as possible so that they can be properly investigated.
5. It is not appropriate for members to communicate directly with the applicants, developers or statutory consultees. It is for officers to resolve any matters with the applicants, developers or statutory consultees.
6. Officers will not attend public or site meetings to discuss planning applications.
7. Officers will commit to one meeting with ward members for each major planning application, to give councillors the opportunity to express their concerns. A maximum two members of the public can attend such a meeting as representatives of the local community and unless there are exceptional circumstances these meetings should be held a virtually. If further concerns come to light, an email will normally be enough to advise officers.
8. Members will not be provided with any paper copies of a planning application or supporting documents. That would be wasteful of resources and contrary to the general trend of communicating information electronically.
9. Officers will ensure that all additional documentation submitted by applicants or agents in support of a planning application will be placed on the Public Access part of the Council's website as soon as practically possible to allow members to update themselves on the progress of an application.
10. Members should communicate to officers their concerns or support for a scheme based on the submission of amended plans and documentation as soon as practically possible.
11. The feedback on members' concerns is contained in the report to Planning Committee or in the delegated officer report. Officers will provide to members a general quarterly update in respect of major applications stating when they are likely to come before committee, and what the outstanding issues are. The timescale for reporting an application to Planning Committee will vary depending on the scale and complexity of the application.
12. In multi-Member Wards only one Member from each political group should normally exercise speaking rights at Planning Committee unless they have opposing views.