

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
15/0978/FULL 05.10.2015	Mr M Toms C/o SLP The Studio Beaufort Yard Devauden Chepstow NP16 6NT	Erect one dwelling Land At Ogilvie Terrace Deri Bargoed

**APPLICATION TYPE:** Full Application

### SITE AND DEVELOPMENT

Location: Land at Ogilvie Terrace, Deri, CF81 9JD

Site description: The site comprises undeveloped vacant land surrounded by residential properties to the eastern and western boundaries. There is a small triangular area of open space including trees, shrubs and an electricity substation to the south east of the site, which is outside of the application site.

There is an existing public footpath, lane and steps surrounding the site which provide connectivity to the existing adopted highway, which abuts the western boundary of the site.

The topography of the site is sloping with a cross fall of some 10 metres from west to the east.

The application has been supported by a Reptile Mitigation Strategy and Method Statement together with a Design and Access Statement.

Development: Full planning approval is sought in respect of the erection of one, two-storey, dormer style, four-bedroom, dwelling and detached double garage. The site layout proposes the dwelling to be located in the southern half of the site with the detached garage to the northern half of the site. Vehicular access is proposed off the rear lane serving 1 - 4 Ogilvie Terrace and Oaklands. A new footpath is proposed across the site frontage.

Dimensions: The footprint of the proposed dwelling has maximum dimensions of 12.2m (depth) 24.8m (width) 7m (height).

Cont....

Planning application 15/0978/FULL Continued

Materials: External walls comprise cream render with brick plinth, slate tile roof, upvc windows and doors, boundary fencing to north and western boundaries.

Ancillary development, e.g. parking: Proposed six off-street parking spaces, two within a detached garage.

### PLANNING HISTORY 2005 TO PRESENT

P/01/0440 – Erect residential development - Refused 07.02.02.

### POLICY

#### LOCAL DEVELOPMENT PLAN

Site Allocation: Policy SP5 - within the settlement boundary.

#### Policies:

Policy SP1 - Development Strategy in the Heads of the Valleys Regeneration Area, SP6 - Place Making, SP21 - Car Parking Standards.  
CW2 - Amenity, CW3 - Design considerations - highways, CW4 - National Heritage Protection, CW7 - Protection of Open Space, CW15 - General locational constraints, supplementary planning guidance contained in LDP5 - Parking Standards, LDP6 - Building Better Places to Live, LDP7 - Householder Developments. LDP8 - Protection of Open Space.

#### NATIONAL POLICY

Planning Policy Wales, 7th Edition, July 2014, TAN 12 - Design, TAN 16 - Sport, Recreation and Open Space, Manual for Streets.

### 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? Not an issue in respect of this planning application.

Cont....

Planning application 15/0978/FULL Continued

### CONSULTATION

Transportation Engineering Manager - No objection subject to conditions being attached to any consent in respect of access and parking provision. The applicant will also be required to enter into a formal highway agreement with the Authority, which is supported by a bond, in order to undertake the highway improvement works.

Head Of Public Protection - Have no objections to the development subject to standard conditions being attached to any consent in respect of any contamination of the site together with site control measures.

Senior Engineer (Land Drainage) - Has no objection to the development subject to a standard condition being attached to any consent requiring comprehensive proposals showing how surface water and land drainage flows from the site will be dealt with. He provides advice to be conveyed to the developer in respect of land drainage matters.

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

Countryside And Landscape Services - There are no objections in relation to landscaping issues, however it is considered appropriate to attach a condition to any consent requiring details of any boundary treatment to be agreed with the Local Planning Authority.

### ADVERTISEMENT

Extent of advertisement: The application has been advertised in the press, on site and twenty-nine neighbouring properties have been consulted.

Response: Thirteen objections and one letter of support.

### Summary of observations:

- driveway and parking over sewer;
- loss of view/outlook;
- irregularities in submitted plans but does not explain what they are;
- will cause subsidence to existing houses;
- highway considerations;
- a right of way on the land needs to be preserved;
- erection of a fence has already caused problems to residents;
- prevent access for emergency vehicles;
- removal of a green area;

Cont....

## Planning application 15/0978/FULL Continued

- refuse vehicle not able to collect bins;
- concern about the geology of the area/subsidence;
- not been consulted about the proposed development;
- scale and design is inappropriate;
- allegations of bribery in respect of Council officers in order to facilitate the positive determination of the planning application.

### Letter of support

- will remove an eyesore which devalues property;
- questions the concerns raised regarding the loss of use of a footpath when there are steps with handrails and lighting around the site providing a safer route.

## 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? There are no specific crime and disorder implications material to the determination of this planning application.

## EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

The site supports semi-improved grassland and low lying scrub, the grassland supporting a small number of neutral (5) and acidic (5) indicator species. The habitats have been evaluated as being of local value for wildlife and this assessment is agreed.

The development of the site will result in the loss of this local habitat and no mitigation measures or compensation measures have been proposed to mitigate the loss of this habitat. Therefore the provision of alternative wildlife features within the new property, as compensation for loss of this habitat will be required.

The reptile survey undertaken in May and June 2015 confirmed the presence of a medium population of common lizards and a small population of slow worm within the application site. The submitted Reptile Mitigation Strategy set out how the applicant proposed to capture and remove the reptiles from the site and translocate them to a receptor site in the nearby Parc Cwm Darran. This mitigation strategy is acceptable, and with the exception of final site clearance set out in section 3.8 and 3.9 has already been carried out in advance of the submission of the planning application.

Cont....

Planning application 15/0978/FULL Continued

The submitted Reptile Translocation Records Report confirms that a total of 24 common lizards have been captured from the site and removed to two receptor sites in Parc Cwm Darran during a total of 32 visits to the site, and 6 clear trapping days. No slow worms were caught, but the amount of trapping effort is considered to be acceptable. However in view of the small possibility of some reptiles remaining, a condition should be added to any consent to ensure that ecological supervision is provided during the final site clearance. In the event that any remaining reptiles are discovered and are found to be in hibernation, these will need to be temporarily retaining in captivity before being released in spring.

### COMMUNITY INFRASTRUCTURE LEVY

Is this development Community Infrastructure Levy liable? Yes, however the development is proposed within the lower viability charging zone in respect of CIL, which is set at £0 per square metre and as such CIL will not be payable.

### ANALYSIS

Policies: The application has been considered in accordance with local plan policies and national planning guidance. The main issues to be considered in the determination of this planning application are considered to be the compatibility of the use with surrounding land uses, design, amenity and highway implications.

Outline planning consent, for residential development of the site for two houses, was previously refused in February 2002 (reference P/01/0440). The application was refused on two grounds, namely the development would be detrimental to the open nature of the street scene and spoil the character of the existing residential area and also that the highway network to serve the site is inadequate.

The first reason for refusal was based on Policy H2 (B) of the then Caerphilly Unitary Development Plan (UDP) and the second reason for refusal was based upon policy DC1(E) of the UDP.

Policy H2 stated - Proposals for housing development on windfall and small sites within the settlement boundaries will be permitted provided that:

B. The development will not result in the insensitive or inappropriate infilling which would spoil the character of an existing residential area.

Cont....

## Planning application 15/0978/FULL Continued

The UDP has since been replaced by the Caerphilly County Borough Local Development Plan (LDP) adopted November 2010. Policy SP6 of LDP requires development proposals should contribute to creating sustainable places by having full regard to the context of the local, natural, historic and built environment and its special features through amongst other things an efficient use of land, a high standard of design, a sustainable location and the incorporation of existing natural heritage features. The Council's Adopted Development Design Guide LDP6: Building Better Places to Live provides general guidance as to the design of residential developments, addressing such issues as natural heritage, accessibility, legibility, character and context. Policy CW2 of the LDP considers amenity issues and Policy CW3 of the LDP considers highway issues.

The site comprises an undeveloped area of land situated between semi-detached residential dwellings, on higher ground to the west and lower ground to the east. A detached dwelling is located to the north of the site. The site has no formal land use allocation within the LDP. The surrounding area is characterised by a mix of house types ranging from traditional terraced housing to post war semis and more contemporary modern housing. Again the use of external materials is mixed. The previous refusal was for two dwellings but at that time there were no details of the house types only an indicative site layout plan. This application is for one dwelling. Notwithstanding the footprint of the dwelling is large it sits comfortably in what is considered to be an appropriate infill plot. In addition, the site lies in a sustainable location within the settlement boundary and as such the residential development of the site is acceptable in principle and is in accordance with Policy SP6, subject to compliance with other policies of the LDP relating to issues such as density, scale, massing, detailed design and parking provision.

Policy CW2 considers amenity and in this respect it is considered the proposed residential development of the site is compatible with surrounding residential uses and would not have an adverse impact upon the privacy or amenity of neighbouring residential dwellings. The proposed development would not have an overbearing or overshadowing impact upon neighbouring properties. However, given the location of the site, it is considered appropriate to attach a condition to any consent removing permitted development rights in respect of any extensions or outbuildings in order that the amenity of occupiers of neighbouring residential properties are not adversely impacted upon. In addition, it is considered important that boundary treatment are in keeping with the character of the surrounding street scene and do not impact upon the amenity of neighbouring properties and in this respect it is considered appropriate to attach a condition to any consent requiring boundary details to be submitted to the Local Planning Authority for consideration.

Cont....

## Planning application 15/0978/FULL Continued

At the nearest point, the new house will be 10.7m from the existing houses to the west. However, the ground level of the development will be some 5.2m lower than the existing, so that the rear windows will face the retained land, and there will only be two rooflights in the roof serving bedrooms.

Policy CW7 of the LDP aims to protect areas of open space and development will only be permitted where the amount of open space remaining in the neighbourhood would still be adequate to serve local needs, and that the site has no significant value as recreational resource or an area of visual amenity. The site has no formal land use allocation and amounts to an area of steeply sloping wasteland (cross fall of around 10 metres across the site) within an established residential area. There are a network of permissive footpaths around the edge of the site and a recently claimed right of way across the site. The claimed right of way is subject of separate investigation and will be reported as a separate matter. The Supplementary Planning Guidance LDP8 Protection of Open spaces seeks to protect land within the settlement boundaries that are not designated for leisure or recreation and requires applications for development on such open space to be accompanied by an Open Space Assessment. The applicant has submitted such an assessment, which identifies 0.335ha of usable space within the required 0.5km buffer zone, which exceeds the 0.29hectare requirement (as calculated in accordance with the formula contained in LDP8).

In addition to the open space provision within the settlement boundary there are vast tracts of open countryside surrounding the area of northern Deri and in particular Parc Cwm Darren (LDP Policy LE3.2) which is within 50 metres of the site and provides large scale, less formal facilities for recreational activity in a rural setting.

Policy CW7 criterion (b) also seeks to assess a site in terms of its visual and recreational contribution to the surrounding area. It is not considered the loss of this open space would cause undue detriment to either visual amenity of recreational amenity.

Policy CW3 of the LDP considers highway implications and replaces policy DC1 of the former UDP. In this respect the Group Manager (Highways and Transportation) has raised no objection to the development subject to conditions being attached to any consent in respect of access and parking provision.

Comments from Consultees: The concerns of the statutory consultees referred to above maybe addressed by attaching appropriate conditions to any consent.

Cont....

## Planning application 15/0978/FULL Continued

### Comments from public:

- driveway and parking over sewer. Dwr Cymru/Welsh Water have confirmed and identified the existence of their apparatus within the vicinity of the application site, which includes a combined sewer. No operational development will be permitted within 3 metres of the centre line of the public sewer and this has been taken into account in the submitted site layout.
- loss of view/outlook. There is no right to a view in planning terms. The layout, scale and massing of the development, is constrained by site topography and in this respect the design which utilises the roof space ensures that the ridge height of the dwelling is reduced to protect the amenities of those properties to the west. In addition, the slab level of the proposed dwelling is set 5.2m below the slab level of those existing houses. This together with the design and siting of the proposed dwelling will not significantly harm the amenity of privacy of residents of existing dwellings as a result of overlooking. The siting of the proposed dwelling within the southern half of the site also means there is no overlooking of those existing properties at 1 - 4 Ogilvie Terrace located on the lower ground to the north east of the site. Consequently, it is considered the proposed development will not significantly harm the privacy or amenity of occupiers of neighbouring properties as a result of overlooking, and as such is acceptable in planning terms.
- irregularities in submitted plans are mentioned but there is no explanation as to what they are.
- will cause subsidence to existing houses. Any development is the responsibility of the developer who will be required to comply with Building Regulations in terms of the detail of construction.
- highway considerations. This Council's Transportation Engineering Manager has raised no objection to the development subject to the imposition of appropriate conditions as discussed above.
- a right of way on the land needs to be preserved. There is no formal right of way across the land but a claimed right of way application is being considered by the Authority. From a planning point of view there are alternatives around the site that are acceptable.
- erection of a fence has already caused problems to residents. The path through the site is not a dedicated right of way. An application has subsequently been received, under the Wildlife and Countryside Act 1981, to add the footpath to the Definitive Map and Statement. Although evidence user forms were completed a number of years ago no formal application had been submitted until recently. As a planning application has been submitted investigation into the application will be given priority. The formal complaint is being dealt with by the Council Legal Department.

Cont....



## Planning application 15/0978/FULL Continued

- prevent access for emergency vehicles. It is not explained how emergency vehicles would be prevented from attending Ogilvie Terrace. The existing adopted highway network serving Ogilvie Terrace will not be compromised by the proposed development.
- removal of a green area. The applicant has submitted an 'Open Space Assessment' as required by Policy CW7 of the LDP and has followed the criteria set out in supplementary planning guidance LDP8 - Protection of Open Space, the details of which are considered satisfactory as discussed above.
- refuse vehicle not able to collect bins. This Council's Head of Public Services has confirmed that his crews have not had any problems collecting bins at Ogilvie Terrace. The only problem has been residents parking their vehicles in a manner which could cause problems for refuse vehicles.
- not been consulted about the proposed development. The application has been advertised in the press, on site, and 29 neighbouring properties have been consulted.
- scale and design is inappropriate. The character of the surrounding area comprises a mix of two-storey, semi-detached, detached and traditional terraced properties with external materials comprising a mixture of render, stone and face brick in walls, both concrete and tile roofs and a mix of upvc and wooden windows. The site is constrained in terms of its topography and relationship with surrounding residential properties. Consequently, the design of the dwelling aims to ensure the privacy and amenity of neighbouring properties is not compromised whilst drawing on design elements in terms of fenestration and materials used in the surrounding houses.
- works have already commenced on site. The site has been secured with fencing. Translocation of reptiles to Parc Cwm Darren has been undertaken in accordance with a Reptile and Mitigation Strategy and Method Statement submitted and overseen by this Council's Ecologist.
- allegations of bribery in respect of Council Officers. Such allegations are derogatory and unfounded.

Other material considerations: None.

In conclusion it is considered the proposed development does not conflict with local plan policies or national planning guidance and as such is acceptable in planning terms.

Cont....

Planning application 15/0978/FULL Continued

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) No development shall commence until details of a scheme for the disposal of surface water and land drainage flows from the site has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details prior to the beneficial use of the development and retained in perpetuity.  
REASON: To ensure the development is served by an appropriate means of drainage.
- 03) 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 beneficial occupation of the development hereby approved.  
REASON: In the interests of the visual amenities of the area.
- 04) No development shall commence, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding;
  - v) measures to control the emission of dust and dirt during construction;REASON: In the interests of residential amenity.

Cont....

Planning application 15/0978/FULL Continued

- 05) 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.
- 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.
- 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: To prevent contamination of the application site in the interests of public health.
- 08) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order, with or without modification), the garages hereby approved shall not be physically altered or converted to any other domestic purpose without the prior approval of the Local Planning Authority. The garages shall be made available at all times for the parking of motor vehicles associated with the residential use of the dwellings hereby approved.  
REASON: In the interests of highway safety.
- 09) The development shall not be occupied until the area indicated for the parking of 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.

Cont....

Planning application 15/0978/FULL Continued

- 10) Ogilvie Terrace and the side lane serving the site shall be improved in accordance with submitted drawing jw694 - 105 B, and in a manner to be firstly submitted to and approved in writing with the Local Planning Authority. Those improvements shall be completed in accordance with the agreed details prior to the first occupation of the proposed dwelling.  
REASON: In the interests of highway safety.
- 11) The proposed driveway and parking area shall be completed in permanent materials as approved by the Local Planning Authority before beneficial occupation of the dwelling and shall be constructed with a maximum gradient of 1 in 8.  
REASON: In the interests of highway safety.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) with or without modification, no building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of a dwelling house as such shall be constructed without the approval of the Local Planning Authority.  
REASON: In the interests of residential amenity.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) with or without modification, no enlargement of the dwelling hereby approved shall be constructed without the approval of the Local Planning Authority.  
REASON: In the interests of residential amenity.
- 14) The development hereby permitted shall be carried out only in accordance with the following plans and other submitted details: jw694-101 rev K, jw694-102 rev C, jw694 - 105 rev B, (or any plans or details subsequently agreed in writing by the Local Planning Authority as an amendment to the approved plans).  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 15) Prior to construction works starting on site, any remaining vegetation and topsoil shall be removed from site and shall be undertaken under the supervision of an ecologist. Any reptiles found shall be either released to a receptor site or retained temporarily in captivity depending on the season when clearance works occurs, as advised by the applicant's ecologist.  
REASON: To ensure adequate protection to protected species.

Cont....

Planning application 15/0978/FULL Continued

- 16) Prior to the commencement of any works on site, details of the provision of nesting sites for bird species on the new property shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented before the new property hereby approved is first occupied.  
REASON: To provide nesting provision for birds as compensation for the loss of wildlife habitat on site.
- 17) 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 property at land at Ogilvie Terrace, Deri 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 additional roosting for bats 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.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2 and CW3.

The applicant is advised of the comments of Dwr Cymru/Welsh Water, Senior Engineer (Land Drainage), and the Council's Ecologist.

---