

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
15/0310/COU 14.05.2015	Mr C Wright 17 Glyn Derwen Llanbradach Caerphilly CF83 3PQ	Change the use of derelict land to garden use including the filling to new levels and boundary enclosures Land To The Rear Of 13 - 17 Glyn Derwen Llanbradach Caerphilly

**APPLICATION TYPE:** Change of Use

### SITE AND DEVELOPMENT

Location: Land to the rear of 13-17 Glyn Derwen, Llanbradach.

Site description: An irregular but broadly rectangular parcel of overgrown grass/scrub land to the east of dwellings fronting Glyn Derwen which is a residential street in the Cwm Las Estate, Llanbradach. To the west of the site is a pedestrian path with a flood defence bund and the River Rhymney beyond. To the south are new build residential properties. North and west of the site are existing residential properties within Glyn Derwen.

Development: Change of use of land to garden use including the filling to new levels, and boundary enclosures. The submitted details indicate that the land will be raised by varying amounts typically between 1.5m to 2.5m and it is estimated that approximately 594 cubic metres of fill material will be required to raise the ground to the proposed levels.

Dimensions: The area sought for change of use to residential gardens is broadly 65 metres long and 12 metres wide although it tapers at the northern end. A separate small strip is included to the southern side of number 17 Glyn Derwen which is approximately 21m by 2.5m.

### PLANNING HISTORY

14/0445/COU - Change the use from empty land to garden - Refused 06.02.15.

### POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

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Site Allocation: The site lies adjacent to but outside the defined settlement boundary.

Policies: CW2 (Amenity), CW3 (Highways), CW15 (General Locational Constraints), SP5 (Settlement Boundaries), SP6 (Place making), TM1.8 (Tourism Proposals).

NATIONAL POLICY Planning Policy Wales, Technical Advice Note 12: Design and TAN 15 Development and Flood Risk.

### ENVIRONMENTAL IMPACT ASSESSMENT

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

Was an EIA required? No.

### COAL MINING LEGACY

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

### CONSULTATION

Transportation Engineering Manager - Offers no objections, but queries footway at site frontage and boundary treatments.

Head Of Public Protection - No objection subject to conditions.

Senior Engineer (Land Drainage) - Requests condition requiring full drainage details.

Minerals Officer - The application relates to the infilling of a relatively small area of land to provide additional garden space for 13 -17 Glyn Derwen. No new permanent built development is proposed. On that basis there is no objection on mineral safeguarding grounds.

Natural Resources Wales - Initially objected to the application on the basis that the submitted Flood Consequences Assessment was inadequate. Following the consideration of an amended Flood Consequences Assessment they removed their objection to the scheme subject to the imposition of a condition.

### ADVERTISEMENT

Extent of advertisement: The application was advertised via a site notice and neighbour notification letters were sent to nearby properties. It was re-advertised via a press notice and site notice.

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Response: No response to original consultation. At the date of writing this report the consultation period has yet to elapse on the re-advertisement and any representations received will be reported to Members at Planning Committee.

Summary of observations: None.

### 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?

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.

### COMMUNITY INFRASTRUCTURE LEVY

Is this development Community Infrastructure Levy liable? No.

### ANALYSIS

Policies:

The main considerations in the application are in relation to the flood risk, the impact of the development on the amenity of the area and fact the land is located adjacent to but outside of the defined settlement boundary.

The land in question was subject to a previous planning application (14/0445/COU) which sought to change the use of the land to residential garden curtilage. That application was refused for three reasons which can be summarised as:-

- The absence of a Flood Consequence Assessment leading to insufficient information to assess the proposal for the purposes of Policy CW2.
- Have a negative impact on the open characteristic of the area and the visual amenity of the area contrary to Policy CW2.
- Encroachment into the countryside for residential purposes contrary to policies SP5 and CW15.

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## Application No. 15/0310/COU Continued

The current application was submitted with a Flood Consequence Assessment (FCA) and in their initial consultation response Natural Resources Wales objected to the application on the basis that the FCA was inadequate. The applicant subsequently revised the FCA following guidance from Natural Resources Wales and submitted an updated FCA. Having considered the updated document Natural Resources Wales provided a further consultation response removing their objection to the application. Natural Resources Wales are content that with a condition to ensure that the developer adheres to the recommendations within the FCA the application can be approved. It is noted that in relation to TAN 15 and assessment of flooding that the development relates to an expansion of garden land within Flood Zone C1 for purposes ancillary to the enjoyment of existing dwellings rather than new residential development. The land is to be raised above the existing river defence bund height and access to the properties is via existing residential estate roads allowing for unaltered emergency access. The nearby properties approved under application 13/0865/FULL were subject to separate assessment and have similar garden areas. It is considered that with conditions the development has an acceptable impact on flood risk.

The two other reasons for refusal in the previous application relate to the encroachment into the countryside and the negative impact on the open characteristic of the area and the visual amenity of the area. In considering the current application regard has been had to the nearby residential development approved and constructed under application 13/0865/FULL. This permission was for three detached houses on land to the south of the current application site with the new dwellings fronting Glyn Derwen. These newly constructed properties have rear gardens which extend a similar distance to the area proposed to form part of the extended curtilages under the current application. The rear boundary treatments of the newly constructed dwellings are formed of a close boarded timber fence (circa 1.8m high) either fixed onto the top of retaining walls or on land raised with battered slopes to the rear boundary. The proposed fence line for the extended gardens within the current application would have a similar boundary line to the adjacent dwellings' rear curtilage boundaries and therefore it is considered that the visual impact would be similar to those neighbouring boundary treatments. It is considered that the previous reason for refusal, which was based on negative impact on the open characteristic of the area and visual amenity, could not be justified given the similarities to the recently constructed neighbouring development.

The encroachment into the countryside outside of the settlement boundary has been considered however it is noted that this would be a relatively minor form of development on land immediately adjacent to the settlement boundary. It would constitute an expansion of garden land to existing residential properties rather than a new residential use. In this context and noting the aforementioned new development which has substantially similar curtilages, located in close proximity to the site it is considered that the proposed extension to the garden curtilages is acceptable.

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The land to the east of the site is designated as a tourism proposal under policy TM1.8 (Rhymney Riverside Walk), it is noted that the pedestrian access route itself will be unaffected by the proposed garden extensions and the visual impact on the pedestrian link is considered to be low given the relatively short boundary with the path and will not have a material impact on the overall tourism route.

The proposed site plan also indicates that a missing length of the public footway will be reinstated as part of the development which accords with the Highway Authority's consultation response and boundary treatments have been amended to remove fencing at the site frontage onto Glyn Derwen which could have impacted on visibility and the front garden area. It is considered that the development is acceptable and is recommended for approval accordingly.

Comments from consultees:

The Senior Engineer (Land Drainage) requested a condition in relation to drainage details however this is not considered necessary as the submitted Flood Consequence Assessment indicates that since the gardens will have soft landscaping and no positive surface water drainage measures are provided and surface water run-off will infiltrate directly to the ground. It is however considered appropriate to restrict permitted development rights for outbuildings on the newly extended portion of gardens to all for consideration of impact on drainage/flood risk.

The Council's Ecologist has offered no objections to the development subject to the imposition of an informative note in relation to nesting birds.

Conditions have been recommended to control the type of material being introduced to the site, and to control dust.

Comments from public: None.

Other material considerations: The red line boundary submitted with the application contained an area larger than the applicant had indicated was required for the gardens, a condition has therefore been imposed on the permission clarifying that the change of use is restricted to the area indicated as garden curtilage on the layout plan.

RECOMMENDATION that Permission be GRANTED

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Application No. 15/0310/COU Continued

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 land hereby approved for change of use to garden land is restricted to that land to the east and south of the residential properties 13-17 Glyn Derwen as defined by the green diagonal lined area shown on Inspire Design drawing no. AD03A and appearing on the drawing key with the title "Enclosed Land subject to residential change of use."  
REASON: To define the scope of the permission.
- 03) 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.
- 04) Before any materials 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.
- 05) No garden area approved by this permission shall be brought into beneficial use 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.

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- 06) The development permitted shall be carried out in accordance with the Flood Consequences Assessment (FCA) produced by JDL Consultants Limited, dated 15th July 2015, and the following measure detailed within the FCA:-  
- Garden levels must be set at 80 m AOD (Section 3 of the FCA);  
- There must be no encroachment within 7 metres of the existing landward toe of Natural Resources Wales flood alleviation scheme (Section 3 of the FCA).  
REASON: To reduce the risk of flooding to the proposed development and future users, and to retain access for maintenance purposes/improvements to the scheme and maintain a flood conveyance route behind the defences.
- 07) Prior to the garden areas defined by Condition 02 being brought into beneficial use the new footpath section to the west of number 17 Glyn Derwen, Llanbradach shall be surfaced in accordance with details to have been first agreed in writing with the Local Planning Authority.  
REASON: To provide an acceptable finish to the development.
- 08) 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 on the area as defined within Condition 02 of this permission without the approval of the Local Planning Authority.  
REASON: To enable consideration of the effect on flood risk and provision if required of suitable mitigation measures.
- 09) The development hereby permitted shall be carried out only in accordance with the following plans and other submitted details:-  
- Site Location Plan, Inspire Design drawing AD01;  
- Proposed Garden Extensions drawing AD03A; (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.
- 10) Prior to the importation of any materials to the site a scheme for the control of dust shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed scheme.  
REASON: In the interests of residential amenity.

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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, CW3, CW15, SP5 & SP6.

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