

PREFACE ITEM

APPLICATION NO. 19/0487/OUT

APPLICANT(S) NAME: Mr A Savage

PROPOSAL: Construct infill development of 2 no. detached dwellings

LOCATION: Land Adjacent To Mount Pleasant Inn Mount Pleasant Row Pentwyn Bargoed CF81 9NJ

This application was reported to Planning Committee in August 2019 with a recommendation to refuse the application. A copy of the original report is attached as an Appendix. Members resolved to defer a decision to allow the applicant to submit additional information to overcome the technical reasons for refusal, i.e. to submit a coal mining risk assessment and to outline the intended principles as to how the proposed development would incorporate sustainable drainage within the site.

In that regard a Coal Mining Risk Assessment has been submitted and The Coal Authority withdraws its objection to the proposed development subject to the imposition of an appropriate condition to any consent requiring site investigation works to ensure the stability of the ground together with any mitigation measures.

A desktop sustainable urban drainage report has also been submitted and whilst the report has not demonstrated how the site can be viably drained in accordance with the SUDs hierarchy, the Senior Engineer (Land Drainage) is of the opinion that an acceptable solution can be achieved and has now withdrawn his objection. Notwithstanding the above, SAB approval will be required for the proposed development.

As such the technical matters of concern relating to this application have been addressed; however the principle of residential development outside of settlement limits still remains.

RECOMMENDATION: That planning permission is refused on the basis that the proposal represents unjustified residential development outside of settlement limits as set out in the first reason for refusal in the attached report. However, if Members are minded to grant planning permission, the following conditions are suggested:

- 01) Approval of the details of the access, appearance, landscaping, layout and scale 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.

Cont....

Application No.19/0487/OUT Continued

- 02) Plans and particulars of the reserved matters referred to in Condition 01) above, relating to the access, appearance, landscaping, layout and scale 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:
Dwg No: AS.01.OP.02 Site Location Plan received on 30.05.2019.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 06) Before any development commences the developer shall carry out an investigation of the underground strata (the results of which shall be submitted to the Local Planning Authority) in order to satisfy himself as to the stability of the site and the measures which should be taken to mitigate against the risk of subsidence. Details of the design of the foundations of the proposed building(s) and/or proposals for ground treatment shall take account of the result of the investigation and shall be submitted to and agreed with the Local Planning Authority before development commences. The foundations and/or ground treatment shall thereafter be completed in accord with such details as may be approved.
REASON: In the interests of health and safety in accordance with Policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

Cont....

Application No.19/0487/OUT Continued

- 07) 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 potential ground gas risk to the site. That scheme shall include a risk assessment together with the results of the intrusive investigation to identify the extent of any issues 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 in accordance with Policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 08) The proposed means of access shall be not less than 4.1m wide and shall include turning facilities to cater for calling delivery and service vehicles in a manner to be agreed with the Local Planning Authority which shall be maintained free of obstruction so that vehicles can both enter and leave the site in a forward gear at all times.
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) The level of parking provision throughout the development shall accord with the requirements of the Local Planning Authority's Adopted Supplementary Planning Guidance of LDP5 Car Parking Standards.
REASON: In order to provide adequate parking to serve the development in the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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 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.

Cont....

Application No.19/0487/OUT Continued

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. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

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: www.groundstability.com 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 at: www.gov.uk/government/organisations/the-coal-authority.

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 100m² 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

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
19/0487/OUT 05.06.2019	Mr A Savage Mount Pleasant Inn Pentwyn Bargoed CF81 9NJ	Construct infill development of 2 no. detached dwellings Land Adjacent To Mount Pleasant Inn Mount Pleasant Row Pentwyn Bargoed CF81 9NJ

APPLICATION TYPE: Outline Application

SITE AND DEVELOPMENT

Location: The application property is located on the western side of Glen View Terrace, Pentwyn and is also adjacent to the Mount Pleasant Public House.

Site description: The application site is a rectangular parcel of grassed land to the side of the Mount Pleasant Public House and to the north of fourteen terraced properties. The site is outside settlement limits with open land located to the north and east of the site.

Development: Outline planning permission is sought for the erection of two detached dwellings. All matters are reserved for subsequent approval.

Dimensions: The indicative submitted details indicate detached dwellings. The maximum scale parameters for the proposed dwellings are:

Width: 7.0 metres
Depth: 9.7 metres
Ridge Height: 7.5 metres

Materials: No details have been submitted at this stage.

Ancillary development, e.g. parking: All proposed plots will be capable of having parking and private amenity space.

PLANNING HISTORY 2005 TO PRESENT

None.

Cont'd

Application No: 19/0487/OUT Cont'd

POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: The application site outside settlement limits and is unallocated within the Caerphilly County Borough Local Development Plan up to 2021-adopted November 2010.

STRATEGIC POLICIES

SP1 (Development Strategy- Development in the Heads of the Valleys Regeneration Area (HOVRA)) indicates that development will be focused on providing appropriate forms of growth in response to the role and function of settlements and serve to address existing problems of deprivation in order to sustain and develop communities that is consistent with the underlying principles of sustainable development.

SP4 (Settlement Strategy) defines the settlement hierarchy for towns and villages across the county borough and identifies those areas where development would be supported and enhanced based on the specified role and function of a particular area. The Strategy seeks to concentrate new development to respond appropriately to the economic, social and environmental needs of individual settlements and thus settlement boundaries are identified accordingly to indicate the potential areas where development is likely to be permitted. Pentwyn is not identified as a residential settlement for the purposes of the settlement strategy.

SP5 (Settlement Boundaries) promotes resource efficient settlements, indicating where growth will be permitted through the delineation of settlement boundaries. Settlement boundaries define the area within which development would normally be allowed, taking into account all relevant planning policy and material planning considerations. This policy needs to be considered alongside Policy CW15, which sets out the types of uses that would be acceptable outside of the settlement boundary.

SP6 (Place Making) requires development proposals to contribute to the creation of sustainable places by having full regard to the context of the local, natural, historic and built environment and its special features.

The visual appearance of the development, which proposes to replace one building with four smaller buildings, will intensify the residential use in this predominately rural area, which will be out of character.

Cont'd

Application No: 19/0487/OUT Cont'd

SP10 (Conservation of Natural Heritage) recognises the natural heritage as a positive asset that enriches people's quality of life. In this context Policy SP10 indicates that the Council will protect, conserve, enhance and manage this asset in the consideration of all development proposals. Whilst the proposal is for the erection of two dwellings, the application site lies adjacent to a SINC (NH3.17 Cefn Gelligaer West of Deri).

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 housing 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 Annual Monitoring Report (AMR) is the main mechanism for reviewing the relevance and success of the LDP and identifying any changes that might be necessary. The main principle of the monitoring process is to identify when the revision of the LDP should take place.

The Council has prepared seven reports to date, the most recent of which was considered by Council on 9th October 2018. It is evident from the AMR that new housing has not been delivered at the levels required in the first half of the plan period. Policy SP14 indicates that there is a housing requirement for 8,625 new dwellings to be delivered to meet identified need over the plan period. In order to meet this need, an average of 575 dwellings needs to be delivered per annum. The 7th AMR indicated that 4,713 units had been delivered (55% of the total housing requirement) up to the end of March 2018. Therefore there is a need for a further 3,912 dwellings to be developed over the remainder of the plan period i.e. by 2021 to meet the total housing requirement for the plan period.

National indicators are also included within the AMR for housing land supply and notably these require housing land supply to be monitored based on the residual method as outlined in Technical Advice Note 1: Joint Housing Land Availability (JHLA) Studies (2016). TAN 1 seeks to ensure that there is a genuine 5 year land supply available, and thus categorises sites to indicate those that can be included within the 5 year land supply. Using this method of calculation the latest JHLAS (2018) indicated that there was only 2.3 years land supply.

SP15 (Affordable Housing Target) sets out a requirement for at least 964 dwellings to be delivered through the planning system. This is discussed in more detail in relation to Policy CW11.

Cont'd

Application No: 19/0487/OUT Cont'd

COUNTY WIDE POLICIES

CW1 (Sustainable Transport, Accessibility and Social Inclusion) requires development proposals that are likely to generate a significant number of trips to be designed to ensure that car borne trips are kept to a minimum. It is therefore important to ensure that provision is made within the development to actively encourage walking and cycling and that appropriate infrastructure is included in the layout to facilitate short trips on foot.

The application site is located within a rural location that is poorly served by public transport and is a significant distance away from services and facilities such as schools, GP surgeries and shops. The site is not therefore in a location that would encourage walking and cycling.

CW2 (Amenity) indicates that development proposals must ensure that the proposal would not result in over-development of the site and/or its surroundings. Furthermore, the policy indicates that the proposed use would need to be compatible with the surrounding land uses and not constrain the development of neighbouring sites for their allocated use.

There are a small number of existing dwellings adjacent to the site. The development of two additional dwellings in this rural area, together would intensify the residential use within the area.

CW3 (Design Considerations - Highways) states that development proposals must meet a number of highways requirements including that new access roads are designed to an appropriate standard.

The site is adjacent to the highway and it would be possible to satisfy highway requirements, regarding access, turning facility, car parking and a pedestrian footpath.

CW15 (General Locational Constraints) sets out the types of uses that would be acceptable outside of settlement boundaries. Policy CW15 does allow for the conversion, rehabilitation or replacement of rural buildings or dwellings.

Whilst evidence has been provided to indicate that dwellings were once previously sited on the application site, the proposals cannot be considered as a replacement buildings nor has any justification been put forward for the erection of two new dwellings in the open countryside when considered against the other policy considerations included as part of policy CW20.

Cont'd

Application No: 19/0487/OUT Cont'd

CW20 (Locational Constraints - Conversion, Extension and Replacement of Buildings in the Countryside) allows for the replacement of a building outside of settlement boundaries where:

- The existing building is structurally unsound and not capable of rehabilitation or conversion to an alternative use without major alteration or rebuilding
- The use of the existing building has not been abandoned
- The use cannot practicably continue to be accommodated in the existing building and
- All practical appropriate alternatives for reuse have been examined.

As stated above, details have been submitted to indicate that dwellings once occupied the site, this will be discussed in turn within the body of the report.

SUPPLEMENTARY PLANNING GUIDANCE LDP10: Buildings in the Countryside (January 2016).

NATIONAL POLICY Planning Policy Wales Edition 10 (December 2018), Technical Advice Note 1: Joint Housing Land Availability Studies (January 2015), Technical Advice Note 5: Nature Conservation and Planning (September 2009), Technical Advice Note 6: Planning for Sustainable Rural Communities (July 2010), Technical Advice Note 12: Design (March 2016) and Technical Advice Note 18: Transport (March 2007)

ENVIRONMENTAL IMPACT ASSESSMENT

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

Was an EIA required? Not Applicable.

CONSULTATION

The Coal Authority - The application site is located in a high risk coal mining area. Whilst the applicant has submitted some coal mining information to accompany the planning application; such as a Coal Mining Report, Consultants Report or Enviro All in One Report. However, these are factual reports only and this information does not provide any assessment of the potential risks posed to the development proposal by past coal mining activity. The Coal Authority therefore objects to this planning application.

Cont'd

Application No: 19/0487/OUT Cont'd

Transportation Engineering Manager - The layout as submitted has the following issues:

The parking spaces are all shown as undersized: to accord with our parking guidelines these each need to measure 2.6m x 4.8m, in order to comply this would involve removing the proposed landscaping to the east of the site, and would also impact on the location of the existing bus shelter;

The proposed shared access needs to have a minimum width of 4.1m for the first 10m, and needs to incorporate a turning facility. Currently a visitor space is shown to the south of Plot 1, this is not a necessity and this space could be freed up to accommodate the majority of the turning facility.

Senior Engineer (Land Drainage) - In the absence of a SuDs Compliance Statement, it has not been demonstrated how the site can be viably drained.

Ecologist - No comments received at the time of writing the report.

Head Of Public Protection - No objection subject to conditions to deal with the potential of ground gas risk in the site and any necessary remediation strategy required.

Dwr Cymru - Provides informative advice to the developer.

ADVERTISEMENT

Extent of advertisement: The site has been advertised by means of a site notice and six neighbours were notified by letter.

Response: None.

Summary of observations: Not Applicable.

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 application.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

Cont'd

Application No: 19/0487/OUT Cont'd

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? Yes, new residential development. However the site is located within the Lower viability area where CIL is charged at a rate of £0 per square metre.

ANALYSIS

Policies: The application has been considered in accordance with national policy and guidance, local plan policies and supplementary planning guidance. The main considerations in the determination of this application are the principle of development in the countryside, its scale, impact on residential amenity and highway safety.

In line with the requirements of National and Local Planning Policy, development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where it meets a local need for affordable housing, however new buildings in the open countryside away from existing settlements or areas allocated for development in the Local Development Plan must continue to be strictly controlled.

The proposal is not for affordable housing and is not considered to be infill development. As such the proposed development therefore represents unjustified residential development in the open countryside which conflicts with local planning policy as set out in LDP Policies SP5 and CW15.

Policy SP5 relates to settlement boundaries. The purpose of this policy is to promote resource efficient settlements, indicating where growth will be permitted through the delineation of settlement boundaries. This policy also seeks to prevent inappropriate development in the countryside. Given the location and scale of Pentwyn, it is not identified as a settlement within the settlement hierarchy, and therefore lies outside of settlement limits. As such the site would not constitute a sustainable location for new housing development and the proposal would not represent an acceptable extension to the built form and would undermine Policy SP5 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010 in relation to the location of new housing which directs such development to settlements that have sufficient physical form and capacity for growth. The application site is located in an isolated and unsustainable location that is poorly related to services and facilities and as consequence any future occupiers are likely to be dependent on private vehicles for most of their daily needs. Therefore the proposal also fails to comply with policies SP4 and CW1 together with also failing to meet with the sustainability aims of Planning Policy Wales.

Cont'd

Application No: 19/0487/OUT Cont'd

Policy CW15 sets out the types of uses that would be acceptable outside of settlement boundaries. Policy CW15 does allow for the conversion, rehabilitation or replacement of rural buildings or dwellings. It is noted that supporting information has been submitted to demonstrate that dwellings once occupied the application site, however where the use of land relies on a building, that use is extinguished should that building be demolished. In that regard, the use of the land for residential purposes has been extinguished for a number of decades and cannot be relied upon to support the application. As such two new dwellings are not considered to be an appropriate replacement, when considered against the other policy criteria included as part of policy CW20.

Furthermore, Section 6 of Supplementary Planning Guidance LDP 10 provides guidance on New Buildings and Infrastructure. Paragraph 6.3 of the SPG states:-

"Suitable rural development will not include residential development unless the construction of a new house is a replacement of an existing dwelling in accordance with Policy CW20, or can be justified as a rural enterprise dwelling in line with the requirements of TAN 6, where accommodation is required to enable rural enterprise workers to live at, or close to, their place of work."

Criterion D of Policy CW20 allows for the replacement of a building outside of settlement boundaries where:

- The existing building is structurally unsound and not capable of rehabilitation or conversion to an alternative use without major alteration or rebuilding
- The use of the existing building has not been abandoned
- The use cannot practicably continue to be accommodated in the existing building and
- All practical appropriate alternatives for reuse have been examined.

Having regard to the above criterion, the proposed development does not comply with Policies CW15 or CW20.

In terms of the scale of the proposed dwellings maximum indicative scale parameters have been provided, these appear to be acceptable, together with demonstrating that the required privacy distances can be achieved in respect of all dwellings ensuring future occupiers are not at risk of adverse overlooking, lack of privacy and poor amenity in accordance with Policy CW2. Nonetheless it is considered that the dwellings would cause some harm to the open character of the countryside as a consequence of outdoor paraphernalia associated with dwelling together with the amount of off-street car parking and hard surfacing required as a result of a required turning area to serve the dwellings.

Cont'd

Application No: 19/0487/OUT Cont'd

Policy CW3 considers highway safety implications. Whilst the off-street car parking spaces identified on the indicative layout are all shown to be undersized and do not therefore accord with LDP5: Car Parking Standards whereby each space needs to measure 2.6 metres x 4.8 metres, it is possible for this to be achieved. However this would be at the expense of removing additional landscaping to soften the site, and would also impact on the location of the existing bus shelter. Furthermore, the development would have to provide a turning area to serve both dwellings and this would only add to the built form of this open countryside. Notwithstanding this, it is noted that the layout as submitted is only indicative and the highway requirements could be achieved, however this does not outweigh the identified harm to the open countryside.

Finally, it is noted that the application site was subject to an appeal decision in 2007 (appeal reference APP/K6920/A/06/1199878) for the erection of two dwellings, whereby the Inspector concluded that:

"two detached dwellings on the site would result in a significant intrusion of built form. This would have a harmful urbanising effect on the rural character of the village, contrary to the objectives of the relevant planning policies."

In conclusion, whilst the proposal can be made acceptable in terms of its design, impact on neighbouring amenity and highway safety subject to attaching appropriate conditions to any consent, to allow such a development would undermine the key mechanisms available to the Local Planning Authority to protect the vitality and integrity of individual settlements, and would represent an unjustified, unsustainable and inappropriate form of development within the countryside.

Comments from Consultees:

The comments of the Transportation and Engineering Manager have been addressed in the above report.

The Coal Authority raises an objection to the application on the basis that no Coal Mining Risk Assessment Report, or equivalent report, to support this planning application has been submitted.

Comments from public: None.

Cont'd

Application No: 19/0487/OUT Cont'd

Other material considerations: Whilst the development of the site is contrary to the provisions of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010, it is noted that the provision of 2 additional dwellings would make a small contribution towards the housing land supply. However, the proposal's limited contribution towards the housing land supply would not outweigh the identified harm to the open countryside.

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.

RECOMMENDATION that Permission be REFUSED

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

- 01) The application site is outside the settlement boundary as defined by Policy SP5 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 and the proposed development would constitute the erection of two new dwellings in the open countryside for which no justification has been put forward. The development is therefore contrary to Criterion C of Policy CW15 and criterion D of Policy CW20 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.
- 02) Insufficient information has been submitted to determine whether or not past mining activity poses any risk to the development proposal. In the absence of a report assessing any potential hazards relating to instability, together with identifying acceptable measures to overcome instability (if any) satisfactorily, the proposal has failed to comply with the advice contained within Planning Policy Wales - Edition 10 December 2018 (paragraphs 6.9.25 and 6.9.26).
- 02) Insufficient information has been submitted to enable the Local Planning Authority to determine whether or not the development can comply with Welsh Government document 'The Statutory Standards for Sustainable Drainage Systems - designing, constructing, operating and maintaining surface water drainage systems 2018' (referred to as National Standards) and as such the proposal has failed to comply with Policy CW5 of the Caerphilly County Borough Local Development Plan up to 2021 and the advice contained in Planning Policy Wales - Edition 10 December 2018 (paragraphs 6.6.17 - 6.6.19).

Deferred for reasons for refusal.

