

Planning Committee Meeting 13th March 2008

2007/01121/FUL Received on 31 October 2007

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CF15 7NE
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CF14 5GG

Former nursery land adjacent to Cemetery Road, Barry

Erection of 61 No. affordable dwellings (made up of 39 No. houses and two blocks of 11 No. flats) and associated works

PURPOSE OF THE REPORT

The following report should be read in conjunction with the first two reports of planning application 07/01121/FUL, which were presented to the Council's Planning Committees on the 10 October 2007 and the 13 December 2007.

At the October Planning Committee, the application for 66 No. affordable dwellings was deferred for the scheme to be amended. At the December Committee, there was a resolution to approve the amended application (for 61 No. affordable units), subject to conditions and a Section 106 Legal Agreement.

This report provides details of additional representations that have been received since the December Planning Committee in response to the Press Advertisement, and provides an assessment of the issues raised.

The original reports are attached as Appendices A and B.

DESCRIPTION OF DEVELOPMENT

The proposed development remains the same as that considered at the December Planning Committee. For clarification, the original (pre amended scheme report to October Planning Committee) and amended schemes (as reported to the December Planning Committee) are described below.

Original Scheme

The application was initially for 66 units of affordable housing, comprised of 42 No. dwellings and 24 No. flats (2 blocks of 12).

The scheme proposed a residential development comprised of a mix of 2, 3 and 4 bedroom terraced and detached dwellings.

- The east elevation facing Cemetery Road contained 3 terraces made up of 5, 7 and 8 dwellings respectively, and the two blocks of flats, both comprised of 12 units.

- The west elevation facing Cemetery Road contained two terraces of 8 and 10 dwellings.
- The triangular piece of land towards the west of the site contained a crescent of 4 No. detached dwellings.

Amended Scheme

The scheme was amended to 61 units, comprised of 39 No. dwellings and 22 No. flats (2 blocks of 11). The following changes have been made to the original submission:

- The deletion of two houses from the eastern side of Cemetery Road on the terrace nearest to the cemetery entrance. This row has been reduced from five units to three, and a 'garden of contemplation/area of public open space' has been provided in their place.
- The deletion of one unit from the western side of Cemetery Road, at the corner of Cemetery Road and St. Teilo Avenue. This has been replaced by an additional area of tree lined landscaping.
- The reduction in the height of the apartment blocks from 14.8m to 13.6m, and the reduction in the number of units in each from twelve to eleven. Two small dormer features are proposed on the front elevations just above the eaves and two additional parking spaces have been included to serve the flats.

As stated above, this scheme was considered by Planning Committee in December 2007, when it was resolved that planning permission be granted subject to a S106 Legal Agreement.

REPRESENTATIONS

Following the reporting of the application to Planning Committee in December and the resolution to grant planning permission – subject to a Section 106 Legal Agreement it became apparent (following a review of the case file) that despite intentions, the application had not been advertised in the press as required under the terms of the Town and Country Planning (General Development Procedure) Order 1995.

As a consequence, and on the basis that planning permission had not been granted for the development the application was advertised as required in the Western Mail on 30 January 2008.

Eleven letters of objection have been received in response to the notice. The points of objection are summarised below:

- Since 1954, the land has been designated as public open space and it should be protected from development (reference made to Strategic Policy 11, Policy ENV24 and Appendix 1 of the UDP).

- Part of the land in question is identified as allotment land and it therefore cannot be sold without the consent of the Welsh Assembly Government.
- Strategic Policies 1, 3, 8 and 11 and Policies ENV2, ENV17 and ENV24, HOUS11 and HOUS12, TRAN9 and COMM9 of the Unitary Development Plan have not been taken into account.
- Barry Town Council were not consulted in respect of the Press Advertisement, the development brief for the land or the proposed sale of the land.
- The previous use of the land as a refuse tip has not been considered.
- The proposal constitutes a departure from the Unitary Development Plan (UDP) and there is no justification for this.
- Previous objections have been improperly reported.
- There are more suitable sites for housing in Barry and there is already sufficient land allocated for housing in the UDP.
- The development would destroy the approach to the cemetery.
- The development will generate excessive traffic and would be to the detriment of highway safety.
- The development may overload the existing drainage system.
- The development is out of keeping with the character of the area.
- Parking within the central reservation would look unsightly.

The objection letters are attached to this report in full as Appendix C. These letters also contain objections relating to the sale of the land and the associated processes, however, these are not matters that are relevant to the planning merits of the scheme.

A further letter has also been received from No. 15 St. Teilo Avenue, which states that the objections contained within previous letters (from that objector) had not been fully considered. Specifically this letter makes reference to the proximity of a dwelling to the rear boundary of No. 15 St. Teilo Avenue, risk of flooding and a lack of consultation.

REPORT

Planning Policies

The amended report states that the following Policies of the Vale of Glamorgan Council Adopted Unitary Development Plan 1996-2011 are relevant to the assessment of the application.

POLICY ENV11 – PROTECTION OF LANDSCAPE FEATURES

POLICY ENV15 – LOCAL SITES OF NATURE CONSERVATION IMPORTANCE
POLICY ENV16 – PROTECTED SPECIES
POLICY ENV27 – DESIGN OF NEW DEVELOPMENTS
POLICY HOUS2 – ADDITIONAL RESIDENTIAL DEVELOPMENT
POLICY HOUS8 – RESIDENTIAL DEVELOPMENT CRITERIA – POLICY HOUS2 SETTLEMENTS.
POLICY REC3 - PROVISION OF OPEN SPACE WITHIN NEW RESIDENTIAL DEVELOPMENTS.
POLICY REC6 - CHILDREN'S PLAYING FACILITIES.
POLICY TRAN10 – PARKING

Following the receipt of the above listed objections, further consideration has also been given to the following Policies, both in terms of their relevance to the application and whether the application is in compliance with the given policies:

STRATEGIC POLICIES 1, 3, 8 and 11
ENV2 - AGRICULTURAL LAND
ENV17 - PROTECTION OF THE BUILT AND HISTORIC ENVIRONMENT
ENV24 - CONSERVATION AND ENHANCEMENT OF OPEN SPACE
HOUS1 - RESIDENTIAL PRIVACY AND SPACE
HOUS12 - AFFORDABLE HOUSING.
TRAN9 - CYCLING DEVELOPMENT
REC1 - PROTECTION OF EXISTING RECREATIONAL FACILITIES
REC10 - DEVELOPMENT OF ALLOTMENT LAND
COMM9 - ADDITIONAL BURIAL LAND

Issues

This report is to be read in conjunction with the reports to the Council's Planning Committees of the 10 October 2007 and 13 December 2007, and addresses the issues raised by the new representations.

Public Open Space

Since the Council's Planning Committee meetings in October and December 2007, it has become apparent that in 1954, the land in question being land containing areas on the east and west sides of Cemetery Road was appropriated for the purposes of 'public walks and pleasure grounds'. The appropriation was approved by the then Minister for Housing and Local Government in pursuance of Section 163 of the Local Government Act 1933. Since that time it does not appear that the land has been used as public open space or for recreation purposes. However given the appropriation, the Local Planning Authority has assessed the application on the basis of the relevant policy context as follows:

Policy ENV24 of the UDP states that the conservation and enhancement of open spaces that are important for amenity, recreation and/or nature conservation will be favoured. Policy REC1 states that development involving the loss of existing recreational facilities will be permitted if alternative provision of equivalent community benefit is made available, or there is an excess of such provision in the area and the facilities are not important to the character of a conservation area or the setting of a town or village. The supporting text in para 8.4.1 states that circumstances may exist where a recreational facility is redundant or requires relocating and in such circumstances the Council may consider a relaxation of its policy.

Planning Policy Wales (2002) (PPW) states that formal and informal open spaces with significant recreational or amenity value should be protected from development, particularly in urban areas where they fulfil multiple purposes. It also states that Local Planning Authorities may be justified in seeking Section 106 Planning Agreements to contribute to the maintenance of safe and attractive facilities and open space.

Technical Advice Note 16 (TAN16) is also relevant to the application in that it provides guidance relating to Sport, Recreation and Open Space to supplement Planning Policy Wales. There is presently a Draft Revised TAN16, which provides more up-to-date advice on these matters.

This Draft TAN states that Policies on open space within forthcoming Local Development Plans should be informed by Open Space Assessments and as a result, Local Authorities should be able to identify the spaces that require protection. It goes on to state that if there is sufficient provision of open space with significant amenity value in the area, then urban vacant and underused land should not be unnecessarily protected from development where the land is not of significant amenity, nature conservation or recreational value, as it may potentially relieve development pressures in less sustainable locations.

Having regard to the above policies and national guidance documents, it is considered the primary issues in assessing the loss of public open space involves an assessment of the above policy context including Policies REC1 and ENV24 of the Unitary Development Plan including an assessment of the amenity value of the site at present and whether sufficient alternative provision would be secured through the development. Also of significant relevance is the history of the land and the nature of the use put to the land since its appropriation in 1954.

Since the appropriation of the land for the purposes of public gardens and pleasure grounds in 1954, the land was held by Barry Borough Council up to Local Government reorganisation in 1974 when the title to the land was transferred to the Vale of Glamorgan Borough Council, and then in 1996 to the Vale of Glamorgan Council.

It appears that the land has been utilised as a garden nursery site with part of the land leased to SWALEC for an electricity sub station, part to a monumental sculptor and a further part, subject to a licence for gospel hall purposes.

In essence, at no time since 1954 does it appear that the land has either been used for recreational purposes in accordance with the definition of open space for planning purposes (as a public garden, or used for purposes of public recreation). Furthermore, the site has been in an overgrown and derelict condition for a number of years with the land being declared surplus in January 2002 by the then Council Cabinet.

In terms of the site specific issues the land has an overgrown and untidy appearance, and its condition has deteriorated over a significant period of time. It contains a number of derelict storage buildings and is enclosed by unkempt hedgerows and fencing around the perimeter.

Whilst the land was historically appropriated for the purposes of 'public gardens and pleasure grounds', it is not currently used for recreational purposes and there is no evidence before the Council to indicate that the land was previously put to a beneficial recreational purpose as can be seen from the history of the use of the site given above. Indeed the history of the site reveals that since its appropriation in 1954, areas of the site have been used for nursery buildings, a SWALEC sub station, the construction of a Gospel Hall, and use by a monumental sculptor. In addition, the Glamorgan County Development Plan drawn up in the 1950s included a land use plan for Barry, the Barry Town Map which indicated the area to the west of Cemetery Road as being an area primarily for residential use. There is no formal or informal access to the land for the public and it is clearly not in a condition that would facilitate its safe or practical use for open space purposes. In this regard the site is not beneficially used for recreational purposes and has at no time been used for these purposes. This fact is highly material when assessing the policy context and the appropriateness of the proposals. As a consequence an assessment of the development of the site, having regard to Policies REC1 and ENV24 of the Unitary Development Plan, represents a cautious approach.

It is, therefore, considered that the site relates closely to the description of 'urban vacant and underused land' contained in the Draft TAN16 and clearly does not constitute an area of space with significant recreational value to the community. It is considered that the land has little or no benefit to the community in terms of the use of the land and that its development as proposed would therefore not result in the loss of an important or useable public space. Indeed to the contrary, the development of the site for affordable housing purposes with associated environmental and visual enhancements is viewed as being of a positive benefit.

The proposed layout makes provision for a number of small pockets of public open space, including a set aside garden at the entrance to the cemetery, that are considered to be of significantly greater practical worth than the existing site. These areas will be transferred to the Council through the Section 106 Legal Agreement, free of charge with a maintenance contribution. The Legal Agreement also includes a financial contribution in lieu of on site provision, to be used for the improvement and upgrading of existing open space in the area.

It is, therefore, considered that the scheme together with the contributions represent more than equivalent community benefit, as required by Policy REC1(i) of the UDP. It is also considered that the proposal complies with the advice contained within PPW and the Draft TAN 16, particularly given the sustainable location of the site and the underused nature of the land.

Whilst there is a visual amenity value to the trees that line the sides and centre of the highway, these trees are to be retained along with additional planting. It is therefore considered that the visual amenity of the land will be adequately preserved and enhanced. The development has been assessed from a nature conservation perspective and conditions are recommended that make provision for the protection of protected species during the course of the development. The developers would also be bound by the Habitats Directive, Conservation (Natural Habitats etc.) Regulations 1994, Wildlife and Countryside Act 1981 and the Countryside and Rights of Way Act 2000, to ensure that no protected species are adversely affected.

An objection has been received on the grounds that part of the land is identified as allotments. Whilst there are allotments directly to the rear of the site to the east of Cemetery Road, there is no evidence to suggest that the application site includes designated allotment land.

Similarly, it has been stated that the land was formerly used as a refuse tip. Whilst this alleged use has not been substantiated, the Environment Agency and the Council's Environmental Health Section have been consulted in respect of the application and no objection has been received on this basis.

Having regard to all of the above, it is considered that given the existing condition of the land, its historical uses and the benefits that would be accrued through the proposed development, the development of the land for residential purposes is acceptable, and accordingly complies, with the relevant UDP Policies and national guidance, whilst the land has been held for the purposes of open space, as a matter of fact that land has not been used for recreational purposes.

Allocated Housing Land

Whilst the application site is not specifically allocated within Policy HOUS1 of the Unitary Development Plan for housing, it falls to be considered under the terms of Policy HOUS2 - Additional Residential Development. This policy requires the Council to assess the merits of residential schemes within defined settlement boundaries and clearly does not preclude development outside of those sites allocated by Policy HOUS1.

The existing settlements listed in Policy HOUS2 (including Barry) are recognised as being the most sustainable locations for new housing by virtue of their proximity to existing services, transport links and sustainable forms of transport. The Unitary Development Plan therefore makes clear and deliberate provision for additional residential development, beyond the allocated sites, provided it is sustainably located and the detail of the scheme satisfies the criteria of Policy HOUS8 being satisfied. It is therefore considered that the extent of allocated sites does not in principle prohibit the development of this site.

Other Specific Policy Objections

Strategic Policy 1 of the UDP states that's the Vale of Glamorgan's distinctive rural, urban and coastal character will be protected and enhanced and that particular emphasis will be given to conserving areas of importance for landscape, ecology and wildlife. It is considered that the proposed scheme will retain and enhance those aspects of the existing environment that make greatest contribution to the visual amenity value of the site and that the development would not adversely affect the distinctive character of the Vale of Glamorgan. To the contrary the scheme would ensure the beneficial re-use of a derelict and unused site, resulting in a development of much needed affordable housing with associated improvements to the public realm and the provision of usable amenity space to be adopted and maintained by the Council.

Strategic Policy 3 relates to additional housing provision - these issues are discussed under 'allocated housing land' above.

Strategic Policy 8 states that developments will be favoured in locations that are highly accessible by means of travel other than the car and minimise traffic levels and unacceptable environmental effects. As discussed above and within the reports attached as Appendices A and B, it is considered that the site is sustainably located, in close proximity to bus and train routes, and there has been no Highways Objection from the Council's Head of Visible Services.

Strategic Policy 11 relates to sport and recreational facilities and seeks to protect open space where appropriate. These issues are addressed above and of particular relevance in this regard is the history of the use put to the site and the quality assurance and use put to the site.

Policy ENV2 relates to agricultural land and is therefore not considered to be of direct relevance to the assessment of this application.

Policy ENV17 relates to the protection of the built and historic environment. The issues in respect of the impact of the development on the appearance and character of the area have been addressed within the appended reports and again above, within the body of this report.

Policy HOUS11 states that existing residential areas characterised by high standards of privacy and spaciousness will be protected against over development and insensitive in-filling. The appended reports provide an assessment of the proposed layout and a reasoned justification for the number of units.

Policy HOUS12 states that the Council will negotiate an element of affordable housing within residential developments, where there is a demonstrable need. This development is wholly comprised of affordable housing and therefore more than complies with the terms of this Policy.

Policy TRAN9 states that land will be protected and provision made for cycle route. It is considered that the proposed development does not prohibit this Policy or prejudice its implementation. Furthermore the financial contribution towards Sustainable Transport Facilities, contained within the Section 106 Legal Agreement, may potentially be used for upgrading cycling facilities, supporting the aims of this Policy.

Policy COMM9 provides criteria for the Council to assess proposals for additional burial land. This Policy is not for burial land and it is therefore not relevant to the assessment of the proposed development.

Other Objections

The objections relating to the visual impact of the development, its relationship to the character of the existing environment, traffic generation and drainage are addressed within the appended reports. However, in respect of the visual impact of the proposed parking areas, it is not considered that an excessive proportion of the site is designated for this purpose. It should be noted that the entire street is currently available for parking and that the proposed layout makes provision for a heavily landscaped central reservation. It is, therefore, considered that the visual impact of the parking layout will be sufficiently mitigated against. Again it is considered that through additional planting the environment of the sit will be enhanced.

A number of objections have been received in respect of the failure to consult Barry Town Council regarding the press advertisement. However, this advertisement is a separate form of publicity for the proposed development, similar in content and purpose as that previously sent to the Town Council. It is therefore not a statutory requirement to notify consultees about other forms of consultation or publicity.

In respect of No. 15 St. Teilo Avenue, it should be noted that the report to the 13 December Planning Committee made specific reference to the objections received from this neighbour and it is therefore considered clear that these points were fully taken into account by the Planning Committee at that time.

These objections made specific reference to the impact of a new dwelling proposed at the rear of this property. Whilst an element of the scheme would be sited in relative proximity to the rear boundary, it was not considered that this dwelling would be excessively close to the neighbouring garden or dwelling so as to render it overbearing or result in unacceptable harm to the occupier's residential amenities.

To conclude, having taken into account the new representations received in respect of the proposal, it is considered that the development represents an appropriate use of the land that complies with the Council's Policies on Public Open Space and National Guidance in the form of Planning Policy Wales and Technical Advice Note 16. It is considered that the land is not of significant recreational value to the community and that the visual amenity benefit and others that will accrue from the development will considerably outweigh the loss of the land which has been appropriated as public open space. It is further considered that the use of the land for this purpose will result in the creation of new areas of amenity space of far greater useable value to the public community.

In addition, Members will be aware of the resolution of Planning Committee in December 2007 to approve the application and grant planning permission subject to a S106 Legal Agreement. This resolution is also clearly material to the further consideration of the matter, and Members will note that the report to the October Committee is attached at Appendix A and that to the December Committee (following amendment of the scheme as requested by Planning Committee) at Appendix B. As stated in the body of the report, although appropriated in 1954 for purposes of public grounds and pleasure walks, it would appear that the land has not been put to beneficial use by the public for the purposes of recreation and accordingly the detailed assessment in the body of this report represents a cautious approach to the consideration of the application.

As detailed above, it is also considered that the scheme also complies with the further cited policies, both strategically and in terms of the detail of the layout.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Strategic Policies 1, 3, 8 and 11, Policies ENV11 - Protection of Landscape Features; ENV15 – Local Sites of Nature Conservation Importance; ENV16 – Protected Species; ENV24 - Conservation and Enhancement of Open Space; ENV27 – Design of New Developments; HOUS2 – Additional Residential Development; HOUS8 – Residential Development Criteria; Policy HOUS2 Settlements; REC1- Protection of Existing Recreational Facilities; REC3 - Provision of Open Space Within New Residential Developments; REC6 - Children’s Playing Facilities; and TRAN10 – Parking, and National Guidance contained within Planning Policy Wales (2002) and Technical Advice Note 16, the proposed scheme is considered acceptable in respect of the principle of residential development and the loss of public open space, the density, layout, siting, design, material and finishes, and it is considered acceptable having regard to highway considerations and the impact on the amenity of existing and future occupiers.

RECOMMENDATION

Subject to the applicant first entering into a Section 106 Legal Agreement to include the following necessary planning obligations:

- The dwellings to be built as part of the development built under the planning permission shall be built and thereafter maintained as affordable housing units in perpetuity.
- The developer shall pay the Council a traffic contribution (£9,500) to cover the costs of administration and implementation of Traffic Regulation Orders (TROs) required as a result of the development.

- The developer shall enter an agreement made under Section 278 of the Highways Act 1980 to upgrade the adopted highway at the access points to the development site on Cemetery Road and St. Teilo's Avenue through the provision of new street lighting, kerbing, planting and footway and carriageway resurfacing.
- The developer shall pay the sum of twenty five thousand pounds (£25,000) to the Council to improve Sustainable Transport Facilities serving the site.
- The developer will provide public art on site to a value of thirty thousand pounds (£30,000) or provide a financial contribution to the same value in lieu of on site provision for the Council's public art fund.
- The developer shall pay the sum of twenty five thousand pounds (£25,000) to the Council to provide or enhance Community Facilities in the vicinity of the site.
- The developer shall provide a financial contribution of thirty thousand pounds (£30,000) in lieu of in kind provision, to provide or enhance Recreational Facilities likely to be used by future occupiers of the development.
- The developer shall transfer at no cost to the Council, the areas of public open space land to be adopted by the Council and pay sixty thousand pounds (£60,000) as a commuted sum to the Council, to be used to maintain the public open space for a 20 year period.
- The developer shall pay the sum of fifty nine thousand six hundred pounds (£59,600) to the Council to provide or enhance Educational facilities available for future occupiers of the site.
- The Legal Agreement will include the standard clause requiring the payment of a fee set at 20% of the value of the planning application fee (£3416.00 in this case).

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. This consent shall relate to the plans registered on the 2 August 2007 other than where amended by plans reference 002/Rev: H, 003/Rev: C, 004/Rev: A, 006/Rev: B, 009/Rev: C and dwg 020, received on the 31 October 2007.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

3. A scheme providing for the fencing of the trees to be retained and showing details of any excavations, site works, trenches, channels, pipes, services and areas of deposit of soil or waste or areas for storage shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. No development shall be commenced on site until the approved protection scheme has been implemented and the scheme of tree protection shall be so retained on site for the duration of development works.

Reason:

In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

4. Notwithstanding the submitted plans, no works whatsoever shall commence on site until full engineering details of the road layout including sections, levels, details of street lighting and surface water drainage have been submitted to and approved in writing by the Local Planning Authority, and the development shall thereafter be carried out strictly in accordance with the agreed details.

Reason:

In the interests of highway safety and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

5. Full details of a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with, shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be fully implemented in accordance with the approved details.

Reason:

To ensure effective drainage facilities are provided and that no adverse impact occurs to the environment or the existing public sewerage system, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

6. A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority which shall include indications of all existing trees on the land to be retained, together with measures for their protection in the course of development, and details of all new landscaping and trees as indicated on Drawing No. 002/Rev F of the plans hereby approved.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, 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:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

8. Prior to their use in construction of the dwellings hereby approved, samples of the ridge and roof tiles, bricks, render and hard landscaping 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 samples.

Reason:

To ensure that the visual amenities of the area are safeguarded and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

9. No development shall commence until details of the finished levels of the site in relation to existing ground levels and finished ground levels are submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that the visual amenities of the area are safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting that Order) the dwellings hereby approved shall not be extended or altered in any way without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no building, structure or enclosure required for a purpose incidental to the enjoyment of a dwelling-house shall be constructed, erected, or placed within the curtilage of the dwellings hereby approved without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking or re-enacting that Order, no gates, fences, walls or other means of enclosure shall be erected, constructed or placed on the application site without the prior written consent of the Local Planning Authority.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

13. Prior to the commencement of development, a Reptile Clearance Methodology shall be submitted to and agreed in writing by the Local Planning Authority, which shall be prepared in accordance with Countryside Council for Wales guidance.

Reason:

In order to ensure the appropriate re-location of any protected reptiles within the site, and to ensure compliance with Policy ENV16 of the Unitary Development Plan.

14. Between the date of this consent and the commencement of development, quarterly monitoring of potential badger sites, as identified within the submitted Phase 1 Habitat Survey, shall be carried out, and the results of these surveys provided in writing to the Local Planning Authority.

Reason:

In order to ensure the protection of protected species within the site and to ensure compliance with Policy ENV16 of the Unitary Development Plan.

15. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

16. A scheme for the maintenance of the landscaped areas within the site shall be submitted to and agreed in writing by the Local Planning Authority, prior to the first beneficial occupation of any of the units. The areas shall thereafter be maintained in accordance with the approved scheme.

Reason:

To ensure the satisfactory maintenance of the landscaped open areas and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

NOTE:

1. **Notwithstanding the submitted ecology survey, the applicant and any future developer should be made aware of the following legislation.**

All British bats are European Protected Species under Annex IV of EC Directive 92/43/EEC ('The Habitats Directive'). This Directive has been transposed into British Law under the Conservation (Natural Habitats &c.) Regulations 1994. Bats are fully protected under Schedule 5 of The Wildlife and Countryside Act 1981 (as amended). It is also an offence under the Countryside and Rights of Way Act 2000 to deliberately kill or disturb a European Protected Species or recklessly damage or destroy the breeding site or its resting place.

Notwithstanding the lack of bats evident at the time of survey, if bats or any other protected species are found to be present during the development, work must stop and advice be sought from the Countryside Council for Wales (CCW).

Under the Wildlife and Countryside Act 1981, it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. I therefore recommend that work be carried out outside the nesting season, which is generally recognised to be from 1 March to 31 July, unless it can be demonstrated that nesting birds are absent.

2. **Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

2004/01809/FUL Received on 5 November 2004

Fourgreen Development Ltd, Lyte Buildings, Wern Industrial Estate, Rogerstone, Newport. NP10 9YL

Boyes Rees Architects, Palace House, Stow Hill, Newport. , NP20 4EA , ,

Land adjacent to proposed Rhoose Station, Rhoose

2 storey commercial and residential mixed use development, with retail at ground floor with flats at first floor.

SITE DESCRIPTION

The application site is located in the north-western corner of the Rhoose Point re-development area. The site is bounded to the north by the Vale of Glamorgan Railway line and Torbay Terrace beyond, to the west by the recently opened Transport Interchange and to the east by residential development. The southern frontage of the site fronts the main spine road through Rhoose Point (Trem Echni leading to Heol y Pentir).

The application site measures an area of 0.34 hectares and is currently vacant, although the land in question has been previously used as a temporary site for storage of materials in connection with the construction of the adjacent transport interchange.

DESCRIPTION OF DEVELOPMENT

This is a full application which following its deferral at Planning Committee on 28 September 2005, has been amended and now relates to the construction of a two storey building comprising of commercial (retail) use at ground floor with a total of seven 2 bedroom flats above.

The building is of a modern and contemporary design and measures 45 metres long by a maximum width of 22 metres and will have a modern shallow asymmetrical roof with an eaves height of 6.8 metres and a maximum ridge height of 10.7 metres. The building will also have a feature stairwell which will have a higher eaves level of 9.4 metres.

The proposed plans indicate that the ground floor will comprise of a unit of 344 square metres of net retail floor space with a second unit comprising of 215 square metres, with an option to subdivide this unit. The retail units will be served by an enclosed compound on the rear elevation. Further accommodation on the ground floor at the base of the stairwell will provide a lobby area and store in connection with the use of the residential flats above.

Car and service access for the retail units is via a new access from the main spine road to the south of the site with a total of 24 car parking spaces for public parking in connection with the retail units. A service area for the retail units is proposed to the rear of the development via a gated access, and unloading will take place adjacent to a covered compound area with the service area separated from neighbouring residential development by an existing perimeter brick wall and new landscaping. The service area will also accommodate 4 staff parking spaces.

Pedestrian and cycle-way routes are included from the main road and the adjoining housing development and cycle stands are located adjacent to the retail units.

The residential accommodation has been reduced from 14 to 7 units (comprising of two-bedroom flats). The flats fronting the southern (front) elevation will be served by small balconies. The front elevation of the building will accommodate the shop fronts although the specific details have not been submitted as part of this application. The entrance to the residential element will be via the existing access into the interchange site to the rear of the building through a gated parking area comprising of 25 car parking spaces, two of which are indicated as being disabled spaces.

The building will be finished at ground floor level with clay facing brickwork (Broadmoor, Oakdean Red) with off white render above and cedar horizontal ship lap cladding is proposed between eaves and first floor windows. The proposed roof is shown to be constructed in Kalzip sheets in standard natural stucco finish with standing seam. Eaves soffits are profiled coloured aluminium sheets.

Windows and patio doors are shown to be UPVC white and down pipes will be polyester powder coated.

PLANNING HISTORY

93/01186/OUT – Outline planning permission was granted for 500 dwellings, employment (B1/B2/B8), shop(s), pub/hotel/restaurant, environmental centre, 9 hole golf course, club house, open space, playing fields, new access road, etc. Approved on 27 March 1996 subject to conditions.

02/01515/FUL – Full planning permission was granted for a new district centre including a mixed retail unit, car parking, bus stop and shelters and a public car park on 23 October 2003.

CONSULTATIONS

Cardiff International Airport – “The proposed development has been examined from an aerodrome safeguarding aspect and does not conflict with safeguarding criteria. Accordingly, this department has no safeguarding objection to the proposal.”

Network Rail were consulted and have stated that they have no objections to the proposed development. However, given that the application will have a significant effect on a level crossing they have stated that Planning Authorities have a duty to consult not only Network Rail as adjacent landowner, but the Health and Safety Executive (HMRI) on behalf of the Secretary of State for Transport. Following being advised of the intention to report to Committee (letter sent on 8 January), no further comments have been received.

Health and Safety Executive (Railway Inspectorate) were consulted and responded stating “We noted the contents but have no further comments to make”. Following being advised of the intention to report to Committee (letter sent on 8 January), no further comments have been received.

Department for Transport (Rail Standards and Safety), was advised of the intention to report the application to Committee in January (on 8 January 2008) and to date no response has been received.

In addition to the above, and having received a response for a Mr. Tilly of the Office of Reply Regulation on application 2006/01807/OUT, several attempts were made to contact Mr. Tilly by telephone to establish the stance to be adopted on this application. Given that there was no response, a request for comments as made on 6 February, requesting confirmation that the stance would be the same as that adopted on 2006/01807/OUT. No response has been received. The communication is attached at Appendix C.

Environment Agency Wales were consulted and have responded with a “standard advice” note for developers.

Dwr Cymru/Welsh Water were consulted and stated:

“We would request that if you are minded to grant Planning consent for the above development that the Conditions and Advisory notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru/Welsh Water’s assets.

SEWERAGE

Conditions

Foul water and surface water discharges must be drained separately from the site.

Reason: To protect the integrity of the Public Sewerage System.

The foul only flows shall be connected to the 225mm public combined sewer crossing the railway line, at existing manhole ST0661102.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

No surface water shall be allowed to connect (either directly or indirectly) to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

No land drainage run-off will be permitted, either directly or indirectly, to discharge into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

The proposed development site is crossed by a rising main with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru/Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 3 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto.

Advisory Notes

If a connection is required to the public sewerage system, the developer is advised to contact the Dwr Cymru/Welsh Water’s Network Development Consultants on Tel: 01443 331155.

The Developer is advised to contact the Network Development Consultants to discuss this matter prior to the commencement of any site work, the appropriate contact being Tel: 01443 331155.”

Glamorgan Gwent Archaeological Trust were consulted and have stated that there are no recorded archaeological features within the area of the proposed development.

South Wales Police (Crime Prevention Department) were consulted and have made the following observations:

“Crime Analysis

The risk assessment for crime in the Rhoose and specifically the Rhoose Point area is low, the main offences being Theft From Motor Vehicles and Criminal Damage to Motor Vehicles. There is a youth annoyance problem at the nearby shops and there are also problems locally with skateboarding youths. The development at Rhoose Point is continuing to grow and the retail facilities provided by this development will undoubtedly attract local youths which could lead to similar types of anti-social behaviour. In view of this I would ask that the following recommendations be considered.

Public Car Park

Car parks should be well lit after dark and be subject to good natural surveillance. Planting adjacent to car parking bays should have a thorn content. Traffic calming measures may be employed across the main entrance to the car park. Consideration should also be given to the type of surfacing to be used in the car park or rumble strips at intervals through the car park to discourage use by skateboarders.

Landscaping

All shrubs and plants should have a maximum growth height of 1m, whilst all trees should be pruned to a minimum height of 2m, thereby maintaining a clear field of vision within the site. Trees should not mask lighting columns nor become climbing aids. All hard landscaping and street furniture should be securely fixed down in order to prevent removal, vandalism and/or use as potential ammunition.

Street Lighting

Street lighting to the car park area and movement routes should comply with BS 5489. It should be carefully designed to cover all vulnerable areas and must not create shadows. Well-positioned lighting will deter and reveal potential offenders.

Drainpipes

Rainwater pipes must be either flush fitting or concealed to prevent them being used as a climbing aid to the first floor balconies.

Cycle Path

Public footpaths and cycle-ways are important in facilitating pedestrian and cycle movements within a proposed development and connecting with the rest of the built-up area. They should be provided where they are likely to be well used thereby providing fewer opportunities for crime and generating an increased sense of safety, which in turn increases their use. Wherever possible, footpaths should be wide, clear of hiding places, well lit and should follow a direct route. If they are not well used, they can provide opportunities for crimes against users, as well as unobserved access to the rear of buildings and as a means of escape for offenders.

The linking of the adjacent residential area to this site by means of a cycle/footpath will provide easy access to the area and means of escape for burglars, and will create opportunities for crimes against people”.

The Head of Visible Services (Highway Development) – “The proposed development site is located to the west of the Rhoose Point Development, adjacent to the proposed park and ride facility for the station and is currently accessed by the unfinished road layout which serves Rhoose Point from the sole point of access off Porthkerry Road.

In the interests of highway/public safety and to ensure an uninterrupted access to the Rhoose Point Development as a whole, which includes housing, employment and recreation areas identified within the Vale of Glamorgan Council’s Unitary Development Plan, the Highway Authority requires an additional (secondary) safe means of vehicular/pedestrian access open to the public 365 days of the year to ensure that an alternative means of access is available, as recommended on pages 21 and 22 of “Design Bulletin 32, Second Edition” published by the Department of the Environment and Transport.

The Highway Authority would also advise that both the initial TIA produced by Ove Arup for Blue Circle Properties Limited and the subsequent TIA produced by Mason Richards Engineering for Cofton Land & Property Projects Limited identifies the use of the existing level crossing at Station Road as a secondary vehicular, pedestrian and cyclist access i.e. a Public Highway.

The Highway Authority require confirmation in writing from all of the affected parties i.e. HSE (HRMI) and Network Rail that all parties are agreeable in principle to utilise the said crossing as a secondary means of access to the development as a Public Highway subject to all necessary upgrading of the crossing in accordance with the Rail Regulatory Procedures/Specifications.

Therefore, in the absence of the above, the Highway Authority object to the residential use at the site. In any event, an objection would be raised based on highway safety as the proposed access to the residential use is via a public car park.

However, the Highway Authority has no objection in principle to the retail use at development subject following details being submitted as formal amendments to the planning application.

The pedestrian/cycle link to Rhoose train station from the adjacent residential development is required to be maintained through the proposed development site.

Parking spaces 20 to 24 serving the proposed retail use at the site are located within the proposed access serving the retail area, which will increase the likelihood of vehicle and pedestrian conflicts.

The submitted swept paths showing an articulated vehicle on the proposed site layout plan are required to resubmitted showing the swept paths of an 11.0m ridged vehicle.”

The Director of Legal, Public Protection and Housing Services (Environmental Health (Pollution)) has advised that: “to avoid noise complaints from nearby residents in the future, the applicant should carefully consider siting and use of the latest and quietest chillers/coolers. Moreover all fittings should be isolated from the walls and fitted into the fabric of the building, so that they are also attenuated.

As you are aware the previous use of the site could have lead to contamination. Thus although remedial work has been completed, it is essential that any ground works do not establish a new source/pathway/receptor linkage. For that reason I would like a condition requiring that during such works if any suspicious material is encountered then:

- (i) Works must be halted.
- (ii) The Authority must be informed.
- (iii) Written agreement with this Authority must be obtained before work is recommenced”.

In view of the fact that the development is close to residential premises, both as part of the development and the nearby existing houses, I would advise that deliveries to the commercial premises should be time restricted because of noise from reversing beepers, chiller units and general engine noise. I would therefore suggest the time restriction be 'no deliveries between the hours of 21:00 and 07:00'.

Following further consultation, and given the previous land use of the site they recommend that the following conditions are added to any planning permission.

Condition 1

'No development approved by this permission shall be commenced until a contaminated land assessment and associated remedial strategy have been submitted to and approved by the Local Planning Authority. The assessment shall contain the following elements and follow the guidance contained in 'Contaminated Land: A Guide for Developers' available from the Local Planning Authority:

- (a) A Phase I Preliminary Risk Assessment (Desk Study) to be submitted to the LPA for approval. The desk study shall detail the history of the site uses and identify and evaluate all potential sources and impacts of land and/or groundwater contamination.
- (b) Where the preliminary risk assessment identifies potentially unacceptable risks at the site, a suitably qualified and accredited person shall carry out a site investigation, including relevant soil, soil-gas, surface and groundwater sampling in accordance with a quality assured sampling and analysis methodology. The requirements of the LPA shall be fully established before any site surveys are commenced.
- (c) A site investigation report detailing all investigative works and sampling on site, together with the results of any analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the LPA. The LPA shall approve any such remedial works as required, prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
- (d) The approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the LPA.
- (e) Upon completion of the works, this condition shall not be discharged until a verification report has been submitted to and approved by the LPA. The verification report shall include details of the completed remediation works and include quality assurance certificates to show that the works have been carried out in full and in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site.'

Condition 2

'Any soils or similar material to be imported on to the site shall be assessed for chemical and other potential contaminants in accordance with a scheme of investigation to be submitted to and approved by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.'

REPRESENTATIONS

Adjoining occupiers were consulted in addition to occupiers on Torbay Terrace on the original and the amended scheme.

In relation to the original scheme, a total of 21 letters of objections were received (although several of the letters relate to representations from the same occupiers). A petition of 193 names and 54 names has also been received. In summary the representations received are summarised below:

- The height and scale of the building is out of keeping with surrounding dwellings.
- Loss of view.
- The development will result in overlooking and overshadowing and loss of light.
- Noise and disturbance.
- The increase in the scale of development over and above the original scheme which related to a single retail unit.
- The building is out of character with the rest of the development.
- Insufficient parking to serve the development.

Letters of representation have also been received from Ward Members Councillor Gordon Kemp and Councillor Jeffrey James. The letters relate to representations that have been made with regard to the dominance of the development on the skyline, loss of privacy and undermining the visual amenity of Torbay Terrace.

In relation to the amended scheme, at the time of reporting of the application to Planning Committee in January, a total of eleven letters of representation had been received, whilst one of the letters welcomes the reduction in the height of the building the same concerns outlined in the original scheme continue to be raised.

All late representations received subsequently to the printing of the Committee report in readiness for the Planning Committee are reported separately at the end of the report given that Planning Committee deferred consideration of the proposal for a site visit to be undertaken and for officers to report back on the late representations.

REPORT

Planning Policies

The following policies contained within the Vale of Glamorgan Adopted Unitary Development Plan 1996 - 2011 are considered relevant.

Policy HOUS2 of the Vale of Glamorgan Adopted Unitary Development Plan 1996 - 2011 supports the principle of housing infill, small-scale development and

redevelopment within the rural settlement boundary of Rhoose, subject to the criteria listed in Policy HOUS8 being met.

Policy HOUS8, states that subject to the provisions of Policy HOUS2, development will be permitted which is within or closely related to the defined settlement boundaries provided that it meets all the following criteria:

- (i) The scale, form and character of the proposed development is sympathetic to the environs of the site;
- (ii) The proposal has no unacceptable effect on the amenity and character of existing or neighbouring environments of noise, traffic congestion, exacerbation of parking problems or visual intrusion;
- (iii) The proposal does not have an unacceptable impact on good quality agricultural land (Grades 1, 2 and 3a), on areas of attractive landscape or high quality townscape or on areas of historical, archaeological or ecological importance;
- (iv) When appropriate and feasible the provisions of Policy REC3 are met;
- (v) The provision of car parking and amenity space is in accordance with the Council's approved guidelines; and
- (vi) Adequate community and utility services exist, are reasonably accessible or can be readily and economically provided.

Policy ENV6 (East Vale Coast) states that outside the Glamorgan Heritage Coast development within the undeveloped coastal zone will be permitted if:

- (i) a coastal location is necessary for the development and
- (ii) the proposal would not cause unacceptable environmental effects by way of:
 - visual or noise intrusion;
 - impact on areas of landscape importance;
 - air, land or water pollution;
 - exacerbation of flooding or erosion risk;
 - hazardous operations; or
 - impact on ecology or features of geological or geomorphological importance.

In areas of existing or allocated development within the coastal zone, any new proposal should be designed with respect to its local context and sensitive to its coastal setting.

Policy ENV27 (Design of New Developments) states that proposals for new development must have full regard to the context of the local natural and built environment and its special features.

Policy SHOP12 (New Retail Development outside District Shopping Centres) states that proposals for new retail development outside existing town and district shopping centres will be permitted if relevant criteria are met. In respect of this application the most relevant criteria are as follows:

- (i) **the proposal either singularly or cumulatively with other existing or approved developments will not undermine the vitality, attractiveness and viability of the town and district shopping centres or the retail developments proposed in policy shop 3;**
- (ii) the proposal is well located to public transport, the needs of the non-car traveller and the main road network;
- (v) the highway network is capable of accommodating the traffic generated by the proposal without an unacceptable adverse effect on traffic flows and patterns, safety, energy use or other emissions;
- (iii) car parking and servicing facilities are in accordance with the council's approved guidelines;

Policy TRAN10 (Parking) states that the provision of parking facilities will be in accordance with the approved parking guidelines, and will be related to the type of land use, its density and location; accessibility to existing and potential public transport facilities; and the capacity of the highway network.

The following Supplementary Planning Guidance is also of relevance:

- Sustainable Development.
- Amenity Standards.
- Public Art.

Also considered relevant are the following national planning policy documents:

Planning Policy Wales (March 2002)

TAN 12 - Design

TAN 18 - Transport

Issues

Committee Members will recall that this application was first reported to planning Committee on 28 September 2005 when it was DEFERRED to allow consideration of late representations and for officers to negotiate a reduction in the height of the proposed development.

By way of background Committee Members will be aware that a planning application for the construction of a transport interchange and new district retail centre, including car parking, was approved on 23 October 2003 (planning application 02/01515/FUL refers). The previously approved retail unit comprised of a single storey building of some 400 square metres located to the western side of the site.

The current application therefore seeks to increase the level of retail floor space by an additional 160 square metres and provide flatted development above. The principle of retail development on the site has previously been accepted under application ref: 02/01515/FUL and prior to that under the original outline consent for the site under ref: 93/01186/OUT as set out in the approved master plan for Rhoose Point. However an assessment should be made with regard to satisfactory access, parking provision and considerations with regard to impact on the amenity of the adjacent residential occupiers as the retail unit will be sited closer to residential dwellings than the previously approved scheme.

With regards to the additional provision of residential accommodation, the application site falls within the residential settlement boundary of Rhoose, where Policy HOUS9 permits the principle of residential development subject to the compliance with relevant criteria.

Scale and Massing

In terms of the scale of the development, following the deferral of the application at the 28 September 2005 Planning Committee, discussions took place with the agent and applicants, to resolve the concerns raised in respect of the height of the building and its visual impact. The amended scheme has omitted the third floor level of accommodation and the resulting building is now of a significantly reduced scale compared to that of the original scheme (a reduction from 12.6 metres to 10.7 metres to the top of the stairwell) and will not appear prominent when viewed from within Rhoose Point and from Torbay Terrace to the north. With regard to the design, materials and finishes, the building is of a contemporary style characteristic of modern waterfront and indeed transport interchange developments. Whilst the majority of the Rhoose Point development relates to “vernacular style” dwellings, the materials proposed will echo those used in the dwellings.

Siting

As reported to Planning Committee of 28 September 2005 the building has been re-sited some 3 metres westwards from its original siting. Furthermore windows which were originally shown in the eastern side elevation overlooking the dwellings in Lon Lindys, have also been omitted.

It is considered that the amended scheme will not impact on the amenity of occupiers of nearby residential dwellings, where the building would be 25 metres from the nearest dwelling to the east (No. 14 Llon Lindys) and would be 53 metres from the terraced dwellings on Torbay Terrace. Furthermore it should be noted that the submitted cross-sections indicate that the building will be sited some 3.5 metres below the level of the dwellings at Torbay Terrace. Accordingly, whilst the proposed development is two storey the occupiers of Torbay Terrace would only view the first floor and roof area, given the differences in ground level.

Impact on Residential Amenity

In terms of impact on residential amenity, the scheme does propose an access, turning and service area adjacent to the residential dwellings to the east of the site. Following discussions with the applicant the building was moved some 3 metres westwards which has moved the access further away from the residential units with an enhanced landscape buffer. However it is considered that the amenity of the occupiers could at times be impacted upon during delivery and servicing of the retail units. Accordingly it is considered that if planning permission is granted, such a consent should be limited so that deliveries and servicing only take place during the daytime between the hours of 07:00 and 21:00 hours Mondays to Saturdays, to protect both amenities of the existing adjacent occupiers and the future occupiers of the flats above the retail units.

In terms of the nature of the proposed retail use, the applicant has not clarified an end user or the specific type of retail use. However given the planning history and the location of the development in a predominantly residential development, the use of the units should be restricted to uses falling within Class A1 of the Use Classes Order (1987), in order to protect the amenities of nearby adjacent occupiers.

Amenity Space

With regard to amenity space, the Council's Amenity Standards Supplementary Planning Guidance require flatted development to be served by 20 metres square of amenity space per person. The proposed scheme provides little private amenity space although it does provide necessary bin store areas and provision for cycle parking. It also provides a landscaped area which can be increased in size if the numbers of car parking spaces to serve the residential units are reduced in number. However, the Rhoose Point development benefits from considerable areas of informal public open space which is considered to override the deficiency in on-site amenity space, to the number of flats now proposed. Members should also note the proposed enhancement to open space provision being required under the application reference 2006/01807/OUT also being reported to this Committee.

Highway and Access

The proposed development is to be served by two separate access points, a new direct access from the main spine road and the second access via the existing access road serving the interchange. The highway engineer has not raised an objection to the access arrangements into the retail site, subject to conditions. However the engineer has raised a highway objection to the access to the residential element as in the interests of highway safety and pedestrian safety it is not considered acceptable to access the private residential parking area via a public car park. Whilst the engineers' comments are noted, the interchange car park is a Council implemented scheme and the access to the residential car parking area is only via the access road to the car park not through the car park itself. In this regard it would be totally unsustainable in planning terms and in appeal terms to require a yet further new access spur to be created from Tre Echni (which would take the total to 3 access points). Accordingly, it is not considered that the highway objection could be sustained, given the interchange car parking area itself is not used as an access route.

In terms of car parking levels for the residential units (7 in total), a total of 25 car parking spaces are proposed. This is an over provision and it is proposed that this area be re-planned by way of planning condition to provide for a covered cycle store area and for an enclosed area of landscaping and amenity space area.

In respect of the secondary access over the level crossing, it should be noted that the Highway Authority requires an additional (secondary) safe means of vehicular/pedestrian access open to the public 365 days of the year. This is to ensure that an alternative means of access is available, as recommended on pages 21 and 22 of "Design Bulletin 32, Second Edition" published by the Department of the Environment and Transport.

It was previously reported to Planning Committee that there was a large degree of legal uncertainty as to the precise status of the level crossing and the necessary procedural route whereby full public use of the crossing could be achieved.

An application was made in June 2005 by Network Rail (the line operator) for an Order under the Level Crossings Act 1983 with regard to the dedication of the roadway over the level crossing to reflect the current position, that is for the barriers to be kept in the raised position, except when the train needs to pass. In response the Railway Inspector (HMRI) were of the view that the changes proposed at the level crossing would ultimately lead to it being used by the general public with vehicles as of right rather than invitation. In this regard HMRI has sought to amend the draft, proposing that the barriers be kept in a closed position. If granted in the terms sought by HMRI, the Order would provide for manually controlled barriers at the crossing, where every person, whether on foot or in a car would have to telephone the signaller for permission to cross. Such restrictions of normal access rights over the crossing, (which currently provide unfettered access), would strictly limit the use of the level crossing as an open second access into Rhoose Point, impacting both on the viability of the interchange and Rhoose Station, the sustainability of the site in providing a direct vehicular link between the village and Rhoose Point in respect of access to community facilities.

The draft Order was referred by HMRI to the Department for Transport (DfT) to decide the legal issues. The Council has sought an indication from DfT as to likely timescale for a decision, but no clear answer has been received and to date the legal position remain unconfirmed.

Counsel advice has been sought in order to achieve a way forward in light of the Council aims of providing mixed use development at the site and having regard to the previous planning permissions relating to Rhoose Point and the current undetermined applications for Rhoose Point.

In relation the planning history at the site outline planning permission ref: 93/01186/OUT was granted for a mixed use development (see planning history). Planning permission was also granted for a retail unit under application ref: 02/01515/FUL, which included a new district centre including car parking, bus stop, shelters and a public car park. It should be noted that the Highway Engineer raised no objections in principle, however they did request a Grampian Condition be attached so that beneficial occupation of the site shall not take place until vehicular and pedestrian access across the adjacent level crossing have been established to the Council's satisfaction.

In terms of the current position it should be noted that Network Rail has, for the past 2 years or more been allowing full public access over the level crossing for pedestrians and vehicles without incident. One of the principal requirements for a secondary access to serve Rhoose Point is to provide a secondary means of access in case of emergency or in the case of any obstruction or loss of the use of the primary access. Counsel advice states that following consultation with the emergency services, they have advised that in case of an emergency, the level crossing could be opened for such use, even if DfT restricted user rights in line with HMRI's request for an amended Order.

Further to the above, there is more modern policy context, the Highway comments refer to DB32 which is no longer Government guidance, whereby Technical Advice Note (TAN) 18 – Transport published March 2007, takes a more flexible approach and does not specifically state that a residential development of this size requires two access points.

Therefore in conclusion Counsel Advice states that in light of alternative provision for emergency procedures, the planning history of the site, the desire to seek mixed use elements within Rhoose Point as originally envisaged and the fact that DB32 is no longer Government guidance, the refusal on the grounds of the absence of an unrestricted second access is unlikely to be upheld at appeal. Moreover it should be noted that Network Rail and the Health and Safety Executive (Railway Inspectorate) were both consulted and have stated that they have no objection and no further comments to make (respectively) to the proposed development. Furthermore the uncertainty over user rights of the second access may last indefinitely, and Members will be aware of the Council's desire to resolve this matter, provide certainty and to ensure the final phases of this mixed use development site are delivered.

In essence Counsel has stated that the matter is not straightforward and that there are several powerful points that could be made by the applicant in the event of an appeal, namely:

- The planning history – which sought and continues to seek a mixed use scheme at Rhoose Point.
- The fact that the Unitary Development Plan allocation contains no specific requirement for a secondary access.
- A matter of common sense – that even if unfettered access via a level crossing is not available in an emergency, emergency services could come and go over the crossing.
- The fact that all vehicles have been able to freely use the level crossing in recent times in any event.
- The modern policy context which sees TAN18 taking a more flexible approach to transportation issues generally and specifically encourages pedestrian movement over traffic movement.

It should also be noted that the proposed mixed use development on the site will have considerable benefits for the adjacent transport interchange in that the development will provide a high level of surveillance over the interchange particularly from the residential flats. The introduction of what would be a 24 hour use of the site will contribute to making a safer environment, reducing both the fear of crime and opportunity for crimes to be committed. Moreover the Council has negotiated through Section 106 contributions, £15,000 to improve/enhance the existing security surveillance equipment in the vicinity of the site, which will further enhance the levels of security at the adjacent interchange.

In conclusion, and taking all considerations into account, on drafting of the report to the January Planning Committee it was considered that the provision of a retail facility would serve the residential population of Rhoose Point and support the village of Rhoose and would support the adjacent interchange and park and ride facility. Furthermore the proposed retail facility and residential units are sited in a sustainable location, adjacent to the new Rhoose Cardiff International Airport Station serving the recently re-opened Vale of Glamorgan Railway Line, providing a direct link from Bridgend to Cardiff.

Consideration of Late Representations

As stated earlier in the report the application was deferred at 17 January Committee for a site visit. Members also suggested that the subsequent report back to Planning Committee considers the late representations received. In this regard the previous late representations are appended as Appendix A, and for completeness these are as follows:

The following points are made in response to these late representations:

- Letter dated 17 January 2008 from a K. Gallimore and C. Stockholm (Nyth–yr–Eos) (a bundle of papers attached to this letter is not appended to this letter but has been placed in the Members' room).
- Letter dated 15 January 2008 from a Eluned Parrott (Glyn–y–Gog).
- Letter from Savills (dated 16 January).

Applicant

One letter makes reference to the fact that Fourgreen are no longer the applicants. The application has always been progressed on the basis that the applicant remains unchanged from the details as originally submitted. The letter writer states that a letter dated April 2007 found on another file, stated that Fourgreen no longer had an interest in the site. For clarification, the letter is an e-mail and it was not held on another file but is held on the application file. The application details were not changed as the e-mail did not indicate that Fourgreen were no longer the applicants. Furthermore for clarity, the agent (Boyes Rees Architect) have confirmed in a letter dated 30 January 2008 (Appendix B) that Fourgreen remain as the applicant, and in this regard the Section 106 can be signed by the applicant. As a consequence, the claim that the Local Planning Authority is presenting misleading information is wholly unfounded as there has never been the absence of an 'applicant' as suggested.

Use of the site to include A2 uses

In light of Condition 9 of the previous recommendation which sought to restrict the use of the ground floor use as a retail unit falling within Use Class A1(shops), Savills acting on behalf of the applicant is of the opinion that 'retail' development should include A1, A2 and A3 Use Classes. They are of the opinion that such a limitation to only allow A1 uses would be restrictive and consider that it would be appropriate to allow A2 uses, albeit with some restrictions. They have however not requested a change to the condition but wish to have their position recorded in light of any future applications for A2 use. Members should note that it was always considered by the LPA that the ground floor retail uses would comprise of shops and therefore the restriction to A1 use was considered appropriate and necessary. Moreover the original brief for the site highlighted the site as a retail centre and as such it is considered necessary to restrict the use of the retail units to A1 in order to maintain local retail facilities. Whilst some A2 uses may be considered appropriate (banks, building societies), any future applications would be dependant on appropriate marketing of A1 uses and evidence to demonstrate that the units cannot be occupied for A1 uses.

Consultees

In relation to the re-consultation of consultees, it is not normal practice for a LPA to undertake re-consultation on an application during the application process unless the LPA considers that there has been a change in circumstances or that the form of development has changed significantly, or additional information has been submitted. In the case of this application, the only amendment to the scheme has been the omission of the third storey of the building with a reduction in the number of residential flats. However notwithstanding this, in light of the consideration of issues relating to the second access over the level crossing, the Department for Transport (Rail Standards and Safety), Health and Safety Executive (Railway Inspectorate) and Network Rail were all re-consulted on the application and where responses have been received they have been included in this report. Furthermore further clarification has also been sought from several consultees and the report has been updated where necessary. This includes making specific contact with the Office of Rail Regulation as detailed in the consultation section of this report.

Change of Use

In relation to the suggestion that the application represents a change of use from the original Rhose Point Design Guide, whilst the site was outlined for retail development this remains the principal use of the site with residential development above and the application description clearly describes the form of development proposed. Even where the proposal to constitute a 'total change' from the use originally envisaged for the site, the application would not be made in the form of a 'change of use' of buildings or land, given that the current site is vacant and has no use. There can therefore be no change of use and the description of the application is correct and appropriate.

The application does not represent a departure from the Vale of Glamorgan Adopted Unitary Development Plan 1996 – 2011 as one site is not an allocated site. Therefore there is no statutory requirement to consult the National Assembly for Wales.

Site Infrastructure

The determination of applications for planning permission is a statutory process which follows various legal stages and procedures. This is a separate process to the reporting to Cabinet and Scrutiny Committees. It is the view of your officers that the Council as Local Planning Authority has sufficient information to consider and determine this application.

Sewer and Highway Adoption

Dwr Cymru/Welsh Water were consulted on the application and their comments are detailed in full in this report. It should be noted that they raised no objection to the principle of development, subject to conditions. As a result, conditions are recommended as part of this application.

In relation to both sewer and highway adoption, this matter is currently being progressed by the Head of Visible Services. Meetings have been held between the Council and Cofton and matters are progressing in that as laid drainage plans have now been submitted to the Council and negotiations are continuing with Dwr Cymru/Welsh Water and Cofton. In the same way negotiations are proceeding on highway adoption issues and these matters will continue to be progressed towards resolution.

All these discussions involve a consideration of highway adoption, drainage adoption and the transfer of the Nature Reserve land into the control of the Council and all matters are linked by virtue of the linkages between the highway infrastructure, drainage infrastructure and long term maintenance of the Nature Reserve and lagoon.

Access

Counsel advice sought in respect of the second access over the level crossing is subject to legal privilege and therefore cannot be directly reproduced in this report or be made available for inspection.

Late representations suggest that the reason for a delay in receiving a response from the DfT on the level crossing, is due to the desire of the DfT to hold a visit to the site and that this has been delayed given the time taken by the Local Planning Authority to provide the planning history of the site. This is not the case, as a full dossier of information including plans, copies of applicants' reports and decision notices were all despatched to the DfT on the 7 November 2007.

For clarity, the Council's legal representative first spoke to an officer from the DfT on 16 October, followed by a letter on 23 October setting out the Council's position, with a full dossier of planning history following on 7 November. In spite of numerous subsequent requests for progress, no date for a site visit has been suggested. It should be noted that this involvement and correspondence is separate to the application process and is a matter that the Council is pursuing in any event, irrespective of the applicants for planning permission due to the desire to resolve the situation with the level crossing.

To clarify the comments made by the Health and Safety Executive (Railway Inspectorate) their response states that whilst they note the consultation letter they have no further comments to make. This was in response to the initial consultation in January 2005. Whilst the report has been updated it is maintained that the report was correct in summarising the comments from both HSE and Network Rail. It should be noted whilst the Council has been in correspondence with the Department for Transport, this was not in connection with this application. The correspondence was from the Legal Division to provide further background planning documents to the site to assist the DfT in making a decision in respect of the access issues relating to the level crossing (as discussed above). Members should however note that on the 8 January the DfT, HSE and Network Rail were all advised of the intention to report the matter to Committee in January and invited to make further comments. None had been received at the time of reporting the application in January and none had been received at the time of writing and finalising this report. The same applies to the Office of Rail Regulation.

The comments state that there is no comment from the PROW department. It should be noted that the application site is not crossed by a public footpath and as such there is no requirement to consult the PROW department.

All matters raised in respect of the highway comments are noted however the Council stance in respect of the highway objection raised is fully detailed and set out in this report and the issues in respect of all matters relating to the crossing and the need or otherwise for a secondary access are considered in detail in the report.

Watercourses

For the avoidance of doubt a drainage condition has been included in order to identify all existing on site drainage and a scheme for new drainage to serve the development. This matter therefore can be adequately dealt with by condition which seeks details in advance of site commencement works. Notwithstanding the above, the Council's Head of Visible Services (Highway Development) has stated that he is not aware of any watercourses or laid drains that cross the site. Likewise he has confirmed that his division has no record of any flooding on the site. He has stated that should any watercourses or laid drains be located, it is the responsibility of the land owner to ensure that flows are maintained. In addition he has advised that he is not aware of any underground sprays existing in the Torbay Terrace that link to the new drainage system serving the train station.

Contamination

In respect of the comments received from the Pollution Section it is noted that the Rhoose Point area has been identified as potentially contaminated by the Council's Contaminated Land Inspection Strategy (CLIS) due to its past land use. However detailed investigation or risk assessments have not been carried out by the Council via the CLIS as this has been carried out by the redevelopment and planning regimes. However following further information received from Environmental Heath Officer, subsequent to the reporting of the matter to the January Committee, they now recommend that conditions are added to any planning permission to request a contaminated land assessment and associated remedial strategy to be submitted approved by the LPA and to control the importation of material onto the site. In relation to the capping of the Waste Management Area , the Environment Agency have issued a completion Certificate. Furthermore on consultation with the Environment Agency, they raised no objection to the development.

EIA Development

The application site covers an area of some 0.41 hectares and is therefore below 0.5 hectare threshold where such urban development projects may require an EIA under Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Schedule 3 sets out the 'selection criteria' which must be taken into account in determining whether a development is likely to have a significant effect by considering the characteristic of development, environmental sensitivity of the location and the characteristic of the potential impact of the development. Whilst it is acknowledged in light of the Environmental Health Officer's comments, that the site has been identified as being potentially contaminated, the whole of the site was previously subject to an EIA as part of the original outline consent and it should also be noted that the capping of Waste Management Licensing Area has been completed to the satisfaction of the Environment Agency. Finally and for clarity it should be noted that the letter of representation states that the EIA regulations did not come into force until March 1999, this is incorrect and the regulations have been in force since July 1988.

At the time of making this report no further representations have been received.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV6 (East Vale Coast), ENV27 (Design of New Developments), HOUS8 (Residential Development Criteria), SHOP12 (New Retail Development Outside District Shopping Centres) and TRAN10 (Parking), the proposal by virtue of its siting, scale, design and materials is considered acceptable with regard to its impact on the amenities of nearby residential occupiers, access and parking considerations and would not impact on the existing character of Rhose Point or the wider character of the developed East Vale Coast.

RECOMMENDATION

Subject to the interested person(s) first entering into a Section 106 Legal Agreement to include the following necessary planning obligations:

- The Developer shall pay the sum of fifteen thousand pounds (£15,000) to the Council to improve security surveillance equipment in the vicinity of the site.
- The Developer will provide public art on site to a value of at least 1% of the build costs of the development or provide a financial contribution to the same value in lieu of on site provision for the Council's public art fund. In this case the 1% for art has been calculated as sixteen thousand, nine hundred and five pounds (£16,905.00).
- The Legal Agreement will include the standard clause requiring the payment of a fee set at 20% of the value of the planning application fee (£616 in this case).

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. This consent shall relate to the plans registered on 5 November 2004 other than where amended by plans reference 102, 103, 104, 105 , 106, 107 AA, 108 BB and 109 received on 21 August 2007.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

3. Before the commencement of the development on any part of the site, a scheme showing the means by which foul sewage and surface water run-off are to be catered for (which shall include the identification of all existing land drainage ditches, pipes and drains within the site and a scheme to maintain the existing flows within the ditches and pipes) shall be submitted to and approved in writing by the Local Planning Authority. No part of the development hereby permitted shall be put to beneficial use until the drainage works have been completed in full accordance with the approved details.

Reason:

To ensure a satisfactory means of drainage of the site and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

4. The proposed levels of the building, parking areas and servicing areas shall be constructed as detailed on the proposed cross section drawing, reference 107 AA, 108 BB and 109 received by the Local Planning Authority on 21 August 2007.

Reason:

To ensure a satisfactory form of development and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

5. With the exception of the 25 residential car parking spaces, the access, turning areas, car parking spaces, bin store and cycle parking areas, shown on Drawing No. 102, shall be fully laid out prior to any part of the development hereby approved being brought into beneficial use and shall thereafter be maintained at all times to serve the retail development hereby approved.

Reason:

To ensure satisfactory provision of on-site parking and amenity facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policies ENV27 and TRAN 10 of the Unitary Development Plan.

6. Notwithstanding the submitted plans, the parking area shown located at the rear of the building and identified for the seven flats, shall be re-designed to accommodate a reduction in parking spaces and additional landscaping and covered cycle parking in accordance with a plan to be first submitted to and agreed in writing by the Local Planning Authority prior to the commencement of works on site, and the development shall be completed in accordance with the details hereby approved.

Reason:

To ensure satisfactory provision of on-site parking and amenity facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policies ENV27 and TRAN10 of the Unitary Development Plan.

7. Prior to their use in the construction in the building hereby approved, samples of standing-seam roofing, soffit cladding, brick and a sample panel of the proposed coloured render to be used, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and shall thereafter be carried out in accordance with the agreed samples and thereafter maintained at all times.

Reason:

To ensure a satisfactory standard of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

8. The hours of delivery, loading and unloading shall be restricted to between the hours of 07:00 to 21:00 during any one day on Mondays to Saturdays and no delivery loading and unloading shall take place at any time on Sundays or Bank Holidays.

Reason:

In order to protect the amenity of nearby residential occupiers and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

9. No materials, equipment, plant or stock shall be stored outside the building on the site unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of visual amenity, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

10. The consent hereby granted shall only relate to the ground floor use as a retail unit falling within Use Class A1 as defined in the Town and Country Planning Use Classes Order 1987.

Reason:

In order to control the use of the ground floor of the development hereby approved in order to protect the residential amenities of adjoining properties and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. Prior to the occupation of any of the retail units, where the units require the installation of any extraction equipment/air conditioning units or chiller units, a scheme detailing the specification of this equipment, its means of installation and isolation from the main structure of the building shall be submitted to and approved in writing by the Local Planning Authority, and the agreed equipment shall be installed and thereafter maintained in full accordance with the agreed details.

Reason:

In order to ensure that residential amenities of the occupiers are fully protected and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

12. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

13. A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority which shall include species appropriate for the exposed coastal location of the site.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

14. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, 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:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

15. Any soils or similar material to be imported on to the site shall be assessed for chemical and other potential contaminants in accordance with a scheme of investigation to be submitted to and approved by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Reason :

In the interests of health and public safety in accord with Policies ENV26 - Contaminated Land and Unstable Land and ENV27 - Design of New Development of the Unitary Development Plan.

16. Prior to the commencement of development on site a contaminated land assessment and associated remedial strategy shall be undertaken and shall contain the following elements and follow the guidance contained in 'Contaminated Land: A Guide for Developers' available from the LPA :
- (a) A Phase I Preliminary Risk Assessment (Desk Study) to be submitted to the LPA which shall detail the history of the site uses and identify and evaluate all potential sources and impacts of land and/or groundwater contamination.
 - (b) Where the preliminary risk assessment identifies potentially unacceptable risks at the site, a suitably qualified and accredited person shall carry out a site investigation, including relevant soil, soil-gas, surface and groundwater sampling in accordance with a quality assured sampling and analysis methodology.
 - (c) A site investigation report detailing all investigative works and sampling on site, together with the results of any analysis, risk assessment to any receptors and a proposed remediation strategy. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

- (d) The approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the LPA.

and shall be submitted to and approved by the Local Planning Authority. The submitted details shall include a verification report to include details of the completed remediation works and include quality assurance certificates to show that the works have been carried out in full and in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason:

In the interests of health and public safety in accord with Policies ENV26 - Contaminated Land and Unstable Land and ENV27 - Design of New Development of the Unitary Development Plan.

NOTE:

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

Cofton Ltd, C/o Agent
Savills 12 Windsor Place, Cardiff, CF10 3BY.

Land to the south side of the railway line Rhoose Point, Rhoose

Residential Development and community uses with associated infrastructure

SITE DESCRIPTION

The application site relates to a vacant rectangular shaped area of land measuring 2.95 hectares, located within the Rhoose Point housing estate.

To the north the site abuts the Vale of Glamorgan railway line and beyond that lies the site which is allocated for housing under Policy HOUS1(22) of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011. To the south, the site adjoins Trem Echni, the main highway through the Rhoose Point development. To the west and east the application site adjoins modern residential dwellings built as part of the Rhoose Point development.

DESCRIPTION OF DEVELOPMENT

The application is for outline planning permission with all matters reserved for residential development and community uses with associated infrastructure.

Whilst all matters are reserved the site layout plan as now submitted and subsequently amended indicates that the community uses will comprise of offices, a health centre, a public house and a children's nursery.

The residential element of the application which comprise of approximately two thirds of the site and indicates in illustrative form the provision of 54 dwellings located on the western side of the site, with the community uses provided in the eastern portion of the site. The revised scheme now includes the provision of a double length bus lay-by and an area of land reserved to facilitate the possible provision of an improved means of pedestrian crossing to the railway at its point over the railway to the land to the north.

PLANNING HISTORY

Application Site

03/01380/OUT - Outline application for employment development. Approved 22 August 2005, subject to conditions.

02/01518/OUT - Outline application for residential development. An appeal was made against non-determination to the Welsh Assembly on 7 July 2003. Planning Committee resolved on 30 July 2003 that the application would have been refused had the application been determined prior to the appeal. The appeal was withdrawn on 21 April 2006.

Rhoose Point (General)

04/01809/FUL - 2 storey commercial and residential mixed use development, with retail at ground floor with flats at first floor at land adjacent to interchange. Application not yet determined, but being reported to this Committee.

03/01311/OUT - Outline application for pub/restaurant. Refused 18 October 2004.

02/01515/FUL – Full planning permission was granted for a new district centre including a mixed retail unit, car parking, bus stop and shelters and a public car park on 23 October, 2003.

98/01065/FUL - Determination of updated conditions for mineral site at Rhoose Quarry. Outstanding to date.

93/01186/OUT - 500 dwellings, employment (B1/B2/B8), shop(s), pub/hotel/restaurant, environmental centre, nine hole golf course & club house, open space, playing fields, new access road etc. Approved 20 March 1996 with a Section 106 Legal Agreement.

CONSULTATIONS

Environment Agency Wales were consulted and their response of 26 January 2007 does not raise an objection to the development in principle but suggests conditions relating to contaminated land, infill materials and drainage / flood defence.

The Health and Safety Executive advised to check the PADHI+ system. On consultation with PADHI+ system the response states that the HSE do not advise against the proposed development.

HM Railway Inspectorate were consulted on 31 January and their response received on 22 February 2007 stated that the development must not interfere with the level crossing or cause traffic queues to form in the vicinity of the level crossing. Following re-consultation on 7 January they have responded by stating that they note the contents of the letter and that Network Rail should be consulted on the application.

Network Rail were consulted and their response received on 23 January 2007 stated no objection in principle. They provide advice in relation to safety, construction and impact upon the railway that will need to be taken into account at the reserved matters stage. Following being advised on 7 January of the intention to report the matter to Planning Committee on 27 January they have responded, in which they re-emphasise that there should be no additional discharge into the existing railway culverts and that the developers were ask to demonstrate that the site can be adequately drained without overloading the existing drainage system.

Public Rights of Way Officer was consulted and has confirmed that the site is crossed by Public Footpath No.2 Penmark. The proposed development shown in the outline planning application does not directly affect the line of the path which remains in its current location along the easternmost boundary of the site. Consequently a diversion order does not appear to be necessary, and I would have no objections in principle to consent being granted for outline planning consent on this basis. However I would require more detailed proposals for the treatment of the path, including in this case sections showing finished levels across that part of the site affected by the path, to be considered as part of an application for full planning consent.

British Gas were consulted on 8 January 2007, no response received to date.

Civil Aviation Authority were consulted on 8 January 2007, no response received to date.

The Operational Manager for Engineering Design (drainage) commented on 24 January 2007 in respect of land drainage and coastal protection matters as follows:

“A carrier drain passes near the northern boundary of the proposed development and may be affected by the proposals. The developer will be required to maintain flows within the pipe, during and after the works, and should be requested to submit appropriate details showing proposals to maintain the same to the Local Planning Authority prior to the commencement of any works.

It is noted that some of the proposed buildings are over or near the carrier drain. This will severely restrict any future maintenance and repair work to the pipe. It is therefore recommended that no buildings are constructed within a minimum of 6 metres of the pipe.

It is noted that the development consists of a number of plots and I assume that these are to be sold individually. The developer should therefore be requested to confirm the future responsibility for the maintenance/repair of the carrier pipe to ensure that this is clearly defined.

The developer should also advise each individual plot owner of the presence of the carrier pipe where it passes through their land and confirm that he has done so.

It is noted that land drainage ditches cross the site. The developer should therefore identify all land drainage ditches and ensure that they are still utilised for their intended use or alternative provisions made. The developer should be requested to submit appropriate details showing proposals to maintain the same to the Local Planning Authority for approval prior to the commencement of any works.

Land drainage pipes also pass under the railway and onto the proposed development. The developer should therefore be requested to identify and provide details of these pipes, including the method of connection to the carrier drain and hydraulic flow calculations, to ensure that flows within these pipes are maintained. It is also recommended that you seek the comments of Network Rail as the pipes under the railway are considered to be in their ownership.

The submitted details indicate that surface water run-off from the proposed development is to discharge to existing mains. The applicant should therefore be requested to submit full details of the proposals for the disposal of surface water run-off for further comment.

It is also recommended that you seek the views of Dwr Cymru/Welsh Water regarding the adequacy of the public and potentially adoptable sewerage systems to accept the drainage flows from proposed development.”

The Head of Visible Services (Highway Development) was consulted and made the following comments.

“Further to receipt of the amended site layout plan produced by RPS Design, reference number ACA4941/101/C in relation to the submitted planning application, the Highway Authority are aware of the site's designated use for employment previously Identified within the Vale of Glamorgan Council's Unitary Development Plan 1996 - 2011, Deposit Draft 1998, reference EMP 1(14) and now within the Vale of Glamorgan Council's Adopted Unitary Development Plan 1996 - 2011, reference EMP 1(12) and the previous planning permission reference 93/01186/OUT for the site.

The Highway Authority would advise the Local Planning Authority that the matter of the provision of a safe “ **Secondary** “ access to the Western corner of the Rhoose Point development via the existing level crossing to cater for all modes of transport whether by public transport, car, cycling or walking which would provide access to the public all year round (365 days of the year) to the surrounding areas i.e. Rhoose Village as an alternative in addition to the “ **Primary** “ vehicular access provided via Pentir y De which connects directly to the roundabout on Porthkerry Road.

The issue of a secondary access to Rhoose Point forms an integral part of the overall development to provide alternative / permeable networks within the site and existing street networks outside the site which was initially identified within the Traffic Impact Assessment (TIA) produced by Ove Arup for Blue Circle Properties Limited which has been subsequently included in the TIA produced by Mason Richards Engineering on behalf of the applicant Cofton Land & Property Projects Ltd for the previous application relating to the ' Proposed Reallocation of Employment Land for Housing Development, Vale of Glamorgan Council (Planning Application reference, 03 / 1380 / OUT ' and again within the Transport Assessment (Item 2.8) produced by FMW Consultancy submitted as part of this planning application.

The Highway Authority would inform the Local Planning Authority that we are not aware to date that the Office of Rail Regulation (ORR) has given written consent for the change in use of the level crossing status for use by all highway users.

In the absence of the above, the Highway Authority would raise an objection to the residential use of the site without the above being satisfied. However, there would be no objection raised to a suitable designed layout for an employment development.”

The Director of Legal, Public Protection and Housing Services (Environmental Health) was consulted and the response of 19 January 2007 stated that part of the site previously formed part of the Rhoose Cement Works. They recommend attaching a contaminated land condition and an imported materials condition. They advise that any residential development adjacent to the railway must be subject of a noise assessment in accordance with TAN 11, identifying appropriate noise attenuation measures. They also note potential impacts from the commercial uses e.g. noise, disturbance, fume extraction etc.

Dwr Cymru/Welsh Water were consulted and their response of 16 February 2007 stated that although the current public system is unable to accept any increase, further works will be necessary to improve the private sewerage pumping station to increase its capacity. It is understood that this could be done by planning condition.

Cardiff International Airport commented on 20 January 2007 that they cannot comment at this stage and should be re-consulted at detailed planning stage.

Glamorgan Gwent Archaeological Trust were consulted and their response of 14 February 2007 stated it is unlikely that archaeological material would be disturbed.

Subsequent to the reporting of the matter to Planning Committee on 17 January the following additional responses have been received:

- The Office of Rail Regulation (Mr. J. Tilley – H.M. Principal Inspector of Railways, Level Crossing National Expertise Team) has stated in a letter dated 22 January 2008 as follows:

“Thank you for your letter dated 7 January 2008 regarding the above planning application. H.M. Railway Inspectorate notes the contents of your letter and Network Rail should be consulted on this application.”

REPRESENTATIONS

The application has been advertised in the press and on site. Adjacent and nearby occupiers were notified on the original layout on 19 January 2007 and the amended layout on 30 August 2007. In respect of the original scheme a total of 13 letters of representation have been received. The principle concerns relate to the fact that representors wish to see that all outstanding infrastructure issues are resolved prior to the granting of any further planning permission, particularly in respect of the adoption of the sewers and roads. Reference is also made to the drainage infrastructure which crosses the application site (carrier drain) and through the gardens of dwellings on the adjacent residential development.

Further concerns relate to issues of flooding, access over the railway line, additional traffic generation and noise and disturbance. A copy of a sample letter is attached as Appendix A.

Councillor Jeffery James has commented on the application that there are a number of outstanding issues in relation to the original Rhoose Point development such as non adoption of drainage by Welsh Water, non adoption of highways by the Vale Council, outstanding planning obligations from the Section 106 Agreement, and ongoing dialogue about the Level Crossing. He notes that the health centre and pub may meet the needs of some residents. However, he seeks reassurance that proper marketing of the site for employment purposes has been undertaken to justify the departure from the allocated use to residential.

On the amended indicative site layout plan (which amended the illustrative location of the public house with the health centre) at the time of reporting of the application to Planning Committee in January there were a further 9 letters of objection which continued to raise the same issues. A copy of one of these letters is attached as Appendix B being indicative of the responses received.

All late representations received subsequent to the presenting of the Committee report in readiness for the Planning Committee are reported separately at the end of the report, given that Planning Committee deferred consideration of the proposal for a site visit to be undertaken and for officers to report back on the late representations.

REPORT

Planning Policies

Relevant National and Local Planning Policy Documents

Planning Policy Wales March 2002 contains policy objectives and principles which together with TANS and circulars should be taken into account by Local Planning Authorities in Wales in the preparation of Unitary Development Plans and is material to decisions made on individual planning applications.*

The relevant Technical Advice Notes which should be read in conjunction with Planning Policy Wales March 2002 are set out below:

TAN2 – PLANNING AND AFFORDABLE HOUSING

TAN12 – DESIGN

TAN18 - TRANSPORT

Local Planning Policies

For the purposes of assessing this application, the Vale of Glamorgan Adopted Unitary Development Plan 1996 - 2011 constitutes the development plan for the area for the purposes of Section 38 of The Planning and Compulsory Purchase Act 2004. However considerations should also be given to other material historical allocations, in relation to the site.

The application site lies within the settlement boundary of Rhose and is specifically allocated under Policy EMP 1 (12) 'Land for Employment Uses' (12) for employment uses falling within B1, B2 and B8. Moreover it should be noted that there is an extant outline planning permission (03/01380/OUT) for employment use.

The proposal seeks to retain an element of employment related uses along side community and related uses, with the addition of residential development on the site. The following policies are relevant and contained within the Vale of Glamorgan Adopted Unitary Development Plan 1996–2011:

POLICY EMP4 - Protection Of Land For Employment Uses states that on existing employment sites and sites identified in Policy EMP1 development of uses that are not contained in classes B1, B2 and B8* of the town and country planning (Use Classes) order 1987 (as amended) will not be permitted.

Policy HOUS2 supports the principle of housing infill, small-scale development and redevelopment within the rural settlement boundary of Rhose, subject to the criteria listed in Policy HOUS8 being met.

Policy HOUS8, states that subject to the provisions of Policy HOUS2, development will be permitted which is within or closely related to the defined settlement boundaries provided that it meets all the following criteria:

- (i) The scale, form and character of the proposed development is sympathetic to the environs of the site.
- (ii) The proposal has no unacceptable effect on the amenity and character of existing or neighbouring environments of noise, traffic congestion, exacerbation of parking problems or visual intrusion.
- (iii) The proposal does not have an unacceptable impact on good quality agricultural land (Grades 1, 2 and 3a), on areas of attractive landscape or high quality townscape or on areas of historical, archaeological or ecological importance.
- (iv) When appropriate and feasible the provisions of Policy REC3 are met.
- (v) The provision of car parking and amenity space is in accordance with the Council's approved guidelines; and
- (vi) Adequate community and utility services exist, are reasonably accessible or can be readily and economically provided.

ENV6 (East Vale Coast) states that outside the Glamorgan Heritage Coast development within the undeveloped coastal zone will be permitted if:

- (i) a coastal location is necessary for the development; and
- (ii) the proposal would not cause unacceptable environmental effects by way of:

- visual or noise intrusion;
- impact on areas of landscape importance;
- air, land or water pollution;
- exacerbation of flooding or erosion risk;
- hazardous operations; or
- impact on ecology or features of geological or geomorphological importance.

In areas of existing or allocated development within the coastal zone, any new proposal should be designed with respect to its local context and sensitive to its coastal setting.

ENV27 (Design of New Developments) states that proposals for new development must have full regard to the context of the local natural and built environment and its special features.

TRAN10 (Parking) states that the provision of parking facilities will be in accordance with the approved parking guidelines, and will be related to the type of land use, its density and location; accessibility to existing and potential public transport facilities; and the capacity of the highway network.

The following Supplementary Planning Guidance is also of relevance:

- Sustainable Development.
- Amenity Standards.
- Public Art.

Also considered relevant are the following national planning policy documents:

Planning Policy Wales (March 2002)

TAN12 - Design

TAN18 – Transport

Issues

The principle of development at the site has already been considered acceptable, albeit for employment uses (Use classes B1, B2 and B8). Accordingly in light of the above relevant policies and guidance, the following issues are considered central to the consideration of this outline application:

- i. Whether the loss of part of the employment allocation at Rhose Point would prejudice the planned provision of a sustainable mixed use redevelopment at Rhose Point.
- ii. The appropriateness of the introduction of residential development on some two thirds of the site which is specifically allocated under EMP 1 (12) 'Land for Employment Uses'.
- iii. The consideration of the highway issues with regard to the provision of the secondary access.

- iv. Other material considerations, which include the planning history of Rhose Point, and site specific matters relating to the proposed development.

Loss of Part of the Employment Allocation

As part of the Local Development Plan the Council has undertaken a study, (Employment Land Study Report (October 2007) in order to assess the supply, need and demand for employment land and premises (use Class B) in the Vale of Glamorgan. Whilst the study was undertaken for the Vale of Glamorgan Council to provide robust evidence to underpin the information the Local Development Plan, 2011-2026, the report has weight in assessing applications. The report concludes that there is sufficient land allocated for employment use in the Vale and recommends the de-allocation of Rhose Point as an employment allocation, although it states that the site should be utilised for mixed-use purposes.

The proposed uses comprise of offices, a health centre, a public house and a children's nursery, which comprise a mix of uses classes, namely A3, B1 and D1 uses. Whilst two of these uses fall outside of what is considered as employment uses (B1, B2 and B8) these uses nevertheless still result in employment opportunities at the site which would assist in achieving the objectives of the Employment Chapter of the Vale of Glamorgan Adopted Unitary Development Plan 1996 – 2011.

Moreover it should be noted that if the site was developed, as approved for B1, B2 and B8 uses such commercial uses may not have necessarily result in local employment opportunities or any significant levels of employment, or provide any benefits by way of community uses. Whilst such employment uses would have provided a mix use development in respect of Rhose Point, in reality, such uses may not have necessary provided direct benefit to residents of Rhose Point or the village of Rhose as a whole.

In this regard the provision of a broader range of uses at the site with a higher proportion of community related uses such as the public house, nursery and health centre, would provide local facilities for the nearby residents and still satisfy the Councils objectives in providing a mixed use form of development at Rhose Point. It is particularly relevant that the original master plan for Rhose Point envisaged the provision of a public house. A previous planning application for a public house (ref: 03/01311/OUT refers) was refused given its inappropriate location vis a vis existing residential properties. This current proposed location is considered far more appropriate being closer to the existing centre of Rhose and more accessible to residents of both Rhose Point and Rhose itself.

Principle of Acceptability of Residential Use

Prior to planning permission being granted to renew the outline application for employment development ref: 03/01380/OUT, a previous application was submitted for residential development on the whole of the site under application ref: 02/01518/OUT. Whilst the application was not determined, an appeal was made against non-determination to the Welsh Assembly on 7 July 2003. Planning Committee resolved on 30 July 2003 that the application would have been refused had the application been determined prior to the appeal. The appeal was withdrawn on 21 April 2006.

This application now proposes the development of some two thirds of the site for residential use. The loss of employment land to residential would normally be considered contrary to Policy EMP4 (which seeks to retain allocated employment sites), however for the reasons given above and based on the supporting documentation produced by the applicant and the Employment Land Study Report (October 2007), there is considered to be some degree of flexibility in permitting non employment uses on part of the site.

In policy terms, the principle of residential development at the site (notwithstanding the employment land considerations,) would nevertheless be considered acceptable given that the site falls within the settlement boundary of Rhoose.

Siting

Whilst the application is in outline with siting reserved some weight is given to the indicative site layout plan, which provides a broad indication to the general layout of the site and the location of the uses proposed. In this regard the original plan indicated the location of the public house adjacent to the existing residential dwellings located on Maes y Gwenyn and Bryn Y Gloyn to south east corner of the site. Following representations received and consideration of the scheme, concerns were raised with regards to the proximity of the public house to existing dwellings and the likely impact in respect of noise and disturbance. Amended plans were therefore sought, and whilst illustrative the amended scheme now proposes to site the public house in place of the health centre and visa versa. It is considered that the public house is now more appropriately located towards the centre of the site and given that it does not directly adjoin any existing residential development its general siting is now considered acceptable. However the actual impact in relation to existing and future occupiers of dwellings will be a matter which will be fully considered in subsequent reserved matters applications. Therefore the general location of the residential elements and that of the community and commercial uses is considered acceptable and should be conditioned to ensure that future reserved matters applications are in general accordance with the illustrative layout plan.

In considering the acceptability of the proposed level of residential accommodation at the site, discussions took place with the applicant and agent, where initial concerns were raised with the balance between residential and community uses. It was the Council's view that the proposed mixed use of the site may be considered acceptable although the residential element should be reduced. It was suggested that the site could include a form of recreational use to help achieve the mixed use development at the site in the form of a Multi Use Games Area (MUGA). In response the agent offered to provide this facility off site (on the western part of the site on land to the south of the interchange, which land has previously been identified to be used for accommodating, in part a playing field.

Furthermore it has also been agreed that the MUGA and a playing pitch will be served by a fully serviced changing facility. Members should also be aware that whilst not part of this application the landowner has also agreed to provide a full-sized football / rugby pitch, which is an outstanding matter which should have been provided under the original Section 106 Legal Agreement attached to planning permission ref: 93/01186/OUT. It has also been agreed that the recreational facilities will be adopted by the Council and the developer pay a 20 year maintenance contribution to the Council to maintain these.

In this regard subject to the MUGA being provide off site (secured by a Section 106 Legal Agreement) it is considered that the balance of uses on the application site would be considered appropriate. However in accepting this balance the Council will seek to ensure that the non residential elements (community and employment uses) are delivered at the site in a phased manner. Therefore the Section 106 Legal Agreement will include a clause regarding phasing to ensure that the commercial uses are provided before or alongside the residential development in a staged manner.

Highway and Related Considerations

The proposed development is to be served by two separate access points, from Trem Echni with dedicated access serving the residential element and the community uses. No objection has been raised to a suitable designed layout for the employment (community) element however an objection is raised on the residential use of the site on the grounds of the provision of a safe secondary access into Rhoose Point. The Head of Visible Services (Highway Development) requires an additional (secondary) safe means of vehicular/pedestrian access open to the public 365 days of the year to ensure that an alternative means of access is available, as recommended on pages 21 and 22 of "Design Bulletin 32, Second Edition" published by the Department of the Environment and Transport.

Members of the Planning Committee will be aware that there was a large degree of legal uncertainty as to the precise status of the level crossing and the necessary procedural route whereby full public use of the crossing could be achieved.

An application was made in June 2005 by Network Rail (the line operator) for an Order under the Level Crossings Act 1983 with regard to the dedication of the roadway over the level crossing to reflect the current position, that is for the barriers to be kept in the raised position, except when the train needs to pass. In response the Railway Inspector (HMRI) were of the view that the changes proposed at the level crossing would ultimately lead to it being used by the general public with vehicles as of right rather than invitation. In this regard HMRI has sought to amend the draft, proposing that the barriers be kept in a closed position. If granted in the terms sought by HMRI, the Order would provide for manually controlled barriers at the crossing, where every person, whether on foot or in a car would have to telephone the signalman for permission to cross.

Such restrictions of normal access rights over the crossing, (which currently provide unfettered access), would strictly limit the convenience of the level crossing as a general second access into Rhoose Point, impacting both on the viability of the interchange and Rhoose Station, the sustainability of the site in providing a direct vehicular link between the village and Rhoose Point and access to community facilities.

The draft Order was referred by HMRI to the Department for Transport (DfT) to decide the legal issues. The Council through Counsel advice have sought an indication from DfT as to likely timescale for a decision, but no clear answer has been received and to date the legal position remains unconfirmed.

Counsel's advice has been sought in order to achieve a way forward in light of the Council aims of providing a mixed use development at the site and having regard to the previous planning permissions and current undetermined applications.

In relation the planning history at the site outline planning permission Ref 93/01186/OUT was granted for a mixed use development (see planning history). The only condition relating to highways was the requirement to submit highway details as part of the reserved matters, and there was no S.106 obligation in respect of the provision of the second access to serve the development. It should be noted that in the outline application for employment development ref: 03/01380/OUT, the Highway Authority continued to raise no objection subject to (inter alia) the requirement for *"an additional (secondary) safe means of vehicular/pedestrian access open to the public 365 days of the year to ensure that an alternative means of access is available"*. However this application was subsequently approved on 22 August 2005, subject to conditions and the outline consent is still extant for the submission of a reserved matters application.

In terms of the current position it should be noted that Network Rail have, for over 2 years been allowing full public access to both pedestrians and vehicles without incident over the level crossing. One of the principal requirements for a secondary access to serve Rhoose Point is to provide a secondary means of access in case of emergency or in the case of any obstruction or loss of the use of the primary access. Counsel advice states that following consultation with the emergency services, they have advised that in case of an emergency, the level crossing could be opened for use, even if DfT restricted user rights in line with HMRI's request for an amended Order. In this regard the emergency services would have a right and ability to cross irrespective of the status of the crossing.

Further to the above, the Highway comments refer to policy document DB32 which is no longer Government guidance. Technical Advice Note (TAN)18 – Transport published March 2007, has recently been adopted and takes a more flexible approach to highway and related matters.

In conclusion Counsel Advice states that in light of provision for emergency procedures, the planning history of the site and the fact that DB32 is no longer Government guidance, the refusal on the grounds of the absence of an unrestricted second access is unlikely to be upheld at appeal. Furthermore the uncertainty over user rights of the second access may last indefinitely, and Members are therefore respectfully asked to consider the above given the Council's desire to resolve this matter, provide certainty and to ensure the final phases of this mixed use development site are delivered.

More specifically, given that the application site falls centrally within the Rhoose Point Development, and given its proposed community uses, it is likely to provide a community focus. In this regard there is also an opportunity to provide an enhanced pedestrian link to the land to the north. The developer has agreed to provide a PROW Contribution of £10,500 towards the feasibility works for the transfer of the land necessary to undertake these work free of charge to the Council.

In support of the enhancement of the Public Right of Way and to promote and enhance more sustainable means of transport the Council has also sought to secure a double length bus lay which will form part of the application site to provide a suitable and centrally located bus lay by for use by school buses and other future dedicated services through Rhoose Point. A bus stop maintenance contribution will also be sought through Section 106 contributions in addition to a contribution to improve public transport services and public transport information for future users of the site. Contributions are also sought to provide or enhance facilities for cyclists in the vicinity of the site.

Other Related Considerations

Drainage

Members of the Planning Committee will be aware of the outstanding matters within Rhoose Point and the concerns raised by local residents is in respect of the adoption of the sewers, the carrier drain which passes through the site and concerns with flooding.

In this regard whilst the application is in outline, if planning permission is granted conditions attached to the outline consent will ensure that any reserved matters application provide full details for foul and surface water drainage and identify all existing land drainage ditches, pipes and drains through the site and details of how the existing flows will be maintained. Furthermore a condition will also ensure that subsequent applications have full regard to the location of the carrier drain to ensure that future development will not impact on the existing system either directly or indirectly.

The application was deferred at 17th January Committee for a site visit and to provide an updated report. In light of the late representations received, the following points are clarified.

Consideration of Late representations

As stated earlier in this report, the application was deferred at 17 January Committee for a site visit and to provide an updated report, in light of the late representations received. In this regard the previous late representations received are attached as Appendix C and for completeness these are as follows:

- Letter dated 17 January 2008 from a K. Gallimore c/o 9, Nyth-yr-Eos (a bundle of papers attached to this letter is not appended but has been placed in the Members' room).
- Letter dated 14 January 2008 from Network Rail (this is addressed in the consultation section of the report).
- Letter dated 15 January from Eluned Parrott (Glyn-y-Gog).
- Letter dated 13 January (by e-mail) from a Mr. A. Bailey and the Head of Planning and Transportation's response of 17 January.

The following points are made in response to these late representations:

Letters of Representation

The first point made is that the letter attached as Appendix A in the report does not constitute the representations to the proposed development. However Members will note that the letter in question refers to the application reference 2006/01807/OUT. Given this fact it is understandably assumed that the letter was a letter of representation and was therefore highlighted as a sample letter of those received.

Use of the Site and Departure from the Plan

In relation to the suggestion that the application relates to a 'change of use' from the original Rhose Point Design Guidance Document, whilst the proposal does relate to a departure to the design guide, the reasoning is clearly set out in the report. The representation states that a change of use requires a full application, this is incorrect and the application has been submitted in outline which is procedurally correct to assess the principle of the development proposed. Irrespective of the above facts, the site is a vacant, undeveloped site which in effect does not have an existing use. The application therefore cannot and should not be a change of use as one cannot change the use of something that does not exist. I am therefore satisfied that the appropriate application description has been put forward and the correct procedure followed.

It is agreed that as the site is allocated and accordingly it does represent a departure from the Vale of Glamorgan Adopted Unitary Development Plan 1996 – 2011, although the representation adds that the application should be ‘called in’ and that there is no indication on the consultation file that WAG were contacted. It should be noted that whilst Planning Policy Wales does state (in paragraph 4.12.2) that Local Planning Authorities should refer to the Assembly all departure applications for development, this is only where such a departure would *significantly prejudice* the implementation of the UDP in order to allow the Assembly to decide whether it wishes to call in the application for its own determination. It should be noted that The Town and Country Planning (Development Plans and Consultation) Directions 1992 Annex 2 Part 6 states that “it is for authorities to take a responsible view on whether departure applications which they do not propose to refuse fall within paragraph 3 of the Direction”. It should be noted that the size of the development does not exceed the thresholds given (150 houses or flats or more than 10,000 sq. metres of retail floor space). In this regard the departure from the allocated employment site would not undermine the policies and proposal of the Vale of Glamorgan Adopted Unitary Development Plan 1996 - 2011 as the Employment Land Study Report (October 2007) undertaken to improve the production of the Local Development Plan concludes that there is sufficient land allocated for employment use in the Vale and has recommended the de-allocation of Rhose Point as an employment allocation through the Local Development Plan. It should also be noted that the application has been advertised as a departure.

Carrier Drain

The plan of the carrier drain was sought for information purposes and in order to undertake the necessary internal consultations and was forwarded to the Council’s Engineering and Design (Drainage) Group to assist in the provision of appropriate and informed comments. In addition the carrier drain exists on the site, it does not form part of the proposal and is not therefore a proposal in its own right. As a consequence there was no requirement to consult on the receipt of a plan for information purposes.

Employment Study

The employment study was submitted with the application and whilst it was not placed on the Part 1 file for public viewing it nevertheless formed part of the consideration of the application, by your officers and has subsequently been available for inspection under the Access to Information Regulations.

Consultees

The Environment Agency were consulted as a statutory consultee and their response is based on their own records, and no doubt the experience and expertise of their professional officers.

It is correct the Health and Safety Executive advised that their advice is provided through the PADH+ system. However as this system only usually relates to consultations on applications located near major hazard installations or pipelines, a consultation was not initially undertaken. However the consultation through the PADH+ system has now been undertaken and the response states that the Health and Safety Executive does not advise against the proposed development. This consultation response is held on file and this response is recorded under the consultations section of this report.

In respect of land drains and the carrier drain it is considered that the report fully and accurately sets out the comments of the Operational Manager for Engineering and Design (Drainage). Any reference on the file to the re-direction of the land drain represents part of the ongoing working file and negotiations and discussions which are typical of the vast majority of applications. In any event it was concluded that the Local Planning Authority would not seek the redirection of the land drain, and the application does not propose the relocation of the drain.

It is maintained that the highway issues are fully set out in the report, and it is not necessary to comment further on these issues as they relate to the level crossing and access issues generally.

The Public Rights of Way Officer has now responded to the original consultation and the report has been updated accordingly, where no objection has been raised in principle.

Dwr Cymru/Welsh Water have stated in their response that the public sewerage system is unable to cope with any further increase in discharge, however they add that the only alternative is to impose a planning condition which is suggested at Condition No. 11.

Network Rail have been consulted twice on the application with their most recent response dated 14 January 2008 in which they re-emphasise that there should be no additional discharge into the existing railway culverts and that the developers be asked to demonstrate that the site can be adequately drained without overloading the existing drainage system. It should be noted that Conditions attached to any permission given will fully address the concerns of Network Rail and will require details of all existing site drainage including the carrier drain and land drains and details of proposed foul and surface water drainage.

It should be noted that the Office of Rail regulation (ORR) was advised of the intention to report to Committee in January and they have subsequently responded advising that they note the content of the letter and that Network Rail should be consulted on the application. (This is referred to in the consultations section of the report)

Countryside Council for Wales (CCW) were not consulted on the application and the comments made in 1994 relate to the original outline application, prior to the granting of permission for Rhoose Point. It is not considered necessary to consult CCW on this current proposal.

In respect of determining applications in relation to the investigation of Rhoose Point Issues, whilst a further report is to be presented to Scrutiny Committee in due course, it is nevertheless considered that the Local Planning Authority have sufficient information to consider this application. The role of Planning Committee and the role of the Council as Local Planning Authority in progressing and determining applications for planning permission is distinctly separate to the role of Scrutiny Committee

Multi Use Games Area

In relation to the location of the Multi Use Games Area (MUGA) and its location on the Waste Management Area, this is not disputed. However in considering the suitability of the site, the Section 106 officer has undertaken internal consultations including consultations with the Pollution Control Officer. In response he acknowledges that the proposed pitches are situated on an area of landfill although states that the site would nevertheless be suitable for such a use. He adds that the design, construction and operation/use of the sports pitch must ensure that the integrity of the cap is not damaged or compromised. Moreover he requests that the design of the pitches must be submitted with a full risk assessment to show that the presence of the landfill will not pose a risk to the end users of the sports facilities from ground contamination.

It should be noted that the development of the MUGA will be subject to a separate planning application which will include full consultations both internally and externally with relevant departments and consultees. In addition, and in negotiating possible Section 106 obligations with the applicant, regard has been paid to the intention to locate a playing field in this location under the terms of the original Section 106 Agreement relating to the development of Rhoose Point. As a consequence it is considered entirely appropriate to seek to upgrade and expand this area to include facilities over and beyond that intended as part of the original Section 106 Legal Agreement relating to Rhoose Point.

EIA Development

The application site covers an area of some 2.7 hectares, which could normally require an EIA under Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. However the whole of the site was previously subject to an EIA as part of the original outline consent and it should also be noted that that the capping of Waste Management Licensing Area has been completed to the satisfaction of the Environment Agency.

It should be noted that the letter of representation states that the EIA regulations did not come into force until March 1999, this is incorrect and the regulations have been in force since July 1988.

The application does not include any proposals to divert the carrier drain and therefore there is no requirement to screen these works for an EIA.

Legal Disputes

Legal dispute(s) between the applicant and third parties are matters for the parties involved – these are civil matters and are not planning matters. Accordingly there is no reason whatsoever why the Local Planning Authority cannot proceed to determine this application.

Highway and Drainage Adoption

With reference to sewer and highway adoption the Council now has, as constructed, drawings for the drainage system on all land in the control of Cofton. The receipt of plans from Cofton as to the extent of the agreed areas for highway adoption is also imminent. The Council continues to discuss the adoption of both the drainage infrastructure and the public highways with Cofton and Dwr Cymru/Welsh Water, alongside, and following the conclusion of these matters it is anticipated that the Nature Reserve land (including the lagoon) will transfer to the Council.

Section 106 Issues

With reference to the Comments received from Mr. Andrew Bailey of the Rhoose Community Group in respect of Section 106 contributions, Mr. Bailey's letter of 13 January and the Head of Planning and Transportation's response of 17 January are attached as Appendix C.

The Committee report outlines broadly the obligations that the Council are seeking the applicant and any subsequent developer to enter into in order to realise benefits over and above the specific development of the sites relating not only to this current planning application but also that considered under reference 2004/01809/FUL, in both cases for non-residential, community orientated facilities. The obligations themselves, as they will appear in the final Section 106 Agreement will be detailed and will include clauses on phasing of the requirements as well as default mechanisms.

With regard to changing facilities, a sum of £55,000 (index linked) was to be provided under the original Section 106 (1996 S106), and this alone is not sufficient to provide adequate changing facilities at the site. Accordingly the suggested Section 106 clause to be imposed under this application seeks to supersede the need for a contribution with direct provision. There will be a cost to providing new serviced changing facilities, in a purpose built building on site, and this cost will be included in the Section 106, as if Cofton or any subsequent developer fails to provide the changing rooms a sum of money will be sought in lieu of provision to enable the provision to be implemented in default. The same applies for all other facilities (the playing pitch and the multi use games area).

With regard to the facilities, the Section 106 will require full specifications, full construction details and all other necessary details of the construction of the field (the same applies to the changing facilities and the multi use games area, by a certain time, and their subsequent transfer with commuted maintenance sums to the Council, again by a certain time). The Council has been seeking advice from the Sports Turf Research Institute to obtain cost estimates for the provision of the recreational facilities, for inclusion in the S106 Agreement as appropriate back-up clauses.

The precise phasing will be negotiated with the developer, but current proposals are to require development of the various community facilities alongside the residential development and certainly, prior to the final occupancy of all the proposed dwellings. In the same way it is considered appropriate to have a clause requiring at least two of the commercial units to be built to a standard suitable for occupation before the beneficial occupation of the 25th residential dwelling. Thereafter, current thinking is that the remaining commercial units be built to a standard suitable for occupation before the beneficial occupation of the remainder of the residential development. The S106 Agreement will also include planning to ensure that the affordable homes are provided alongside the open market housing and that off-site facilities are provided at the same time as residential units.

Concerns have been expressed that the Nature Reserve money has not been claimed (as a consequence of the original S106 Agreement). In this regard, the Nature Reserve money will be recouped, and the transfer of the open space land to the Council is still required and being sought. However, it is clear that £20,000 (index linked), as reported under the original S106 Agreement relating to Rhoose Point, will not provide a nature reserve centre, but I envisage that it can be used for related purposes. This is currently being considered by officers from within the Council, and any alternative but related proposals for future use of the £20,000 index linked will be assessed and will need to be agreed by Cofton.

Further to the consideration of the above matters, further exchange of correspondence between Mr. Bailey and the Head of Planning and Transportation is attached as Appendix D. For clarity and completeness these relate to a letter from Mr. Bailey dated 20 January 2007, a response from the Head of Planning and Transportation dated 30 January and a further letter from Mr. Bailey dated 12 February, as well as further e-mailed correspondence dated 4 March 2008 which again makes reference to the benefits of a permanent beach facility when compared to the proposals for a Multi Use Game Area. This e-mail has been acknowledged.

In terms of the letter dated 20 January, concerns are raised with regard to the scale of contributions for cycling (£18,000) and community facilities contribution (£25,000). The sums are proportionate to the development planned. In addition and of relevance, sums can be retained and used alongside other funds claimed or to be claimed for other development sites and other planning obligations. Finally, the terminology used in the S106 obligations is deliberately “open”, to allow flexibility. For example the £25,000 community facilities contribution could be used to enhance existing facilities (e.g. Rhoose Library, the School, the Community Hall, proposed or existing open space areas). The £18,000 cycling contribution will be used to assist the Council in delivering the proposed Rhoose section of the national Cycle Network (Route 88).

In summary, the original Section 106 (relating to Rhoose Point) included costings and clauses which have proven to be unworkable. The current proposals seek the provision of facilities by others for the transfer to the Council. If they are not provided there will be default powers written into the S106.

In addition, and in order to fully advise Members of the current position a member of the public has submitted an enforcement complaint to the Council, requesting that the Council investigate the alleged unauthorised construction of a carrier drain that runs across the site subject to the application. Members are advised that this complaint of unauthorised works will be progressed by officers, notwithstanding the fact that an earlier similar complaint has been progressed by the Council and also subject to investigation by the Local Government Ombudsman, when the Ombudsman found no evidence of maladministration in the manner in which the Council had progressed the case, and resolved not to progress formal enforcement action. Members may well be copied into this more recent complaint, although I refrain from providing further details due to the anonymity afforded. In addition, Mrs. K. Gallimore has submitted an e-mail dated 3 March to Councillors (not officers) entitled ‘Report to Cabinet’, in which she deals with various Rhoose Point issues. Again this has not been submitted under the consultation undertaken on this application and accordingly it is not appended to this report.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV6 (East Vale Coast), ENV27 (Design of New Developments), EMP1 (Land for Employment Uses), EMP4 (Protection of land for Employment Uses), HOUS8 (Residential Development Criteria) and TRAN10 (Parking), the proposal is considered acceptable with regard the principle of the use at the site and highway considerations and would not impact on the existing character of Rhoose Point or the wider character of the developed East Vale Coast.

RECOMMENDATION

Subject to the interested person(s) first entering into a Section 106 Legal Agreement to include the following necessary planning obligations:

- A minimum of 20% of the residential units shall be affordable housing and this shall be phased to be developed alongside the market housing units.
- A bus stop and lay-by shall be provided on Trem Echni and a bus stop maintenance contribution shall be paid to the Council to maintain the bus stop.
- The Developer shall pay a Public Transport Contribution of fifty thousand pounds (£50,000) to the Council to improve public transport services and public transport information for future users of the site.
- The Developer shall pay a Cycling Contribution of eighteen thousand pounds (£18,000) to the Council to provide or enhance facilities for cyclists in the vicinity of the site.
- The Developer shall pay a PROW Contribution of ten thousand five hundred pounds (£10,500) to the Council towards the feasibility works for the provision of an enhanced pedestrian link north over / under the railway line and transfer the land necessary to undertake these work free of charge to the Council.
- The Developer will provide public art on site to a value of at least 1% of the build costs of the development or provide a financial contribution to the same value in lieu of on site provision for the Council's public art fund.
- The Developer shall pay a Community Facilities Contribution of twenty five thousand pounds (£25,000) to be paid to the Council to provide or enhance Community Facilities in the vicinity of the site.
- The Developer shall pay an Education Contribution to be calculated upon submission of full details to provide or enhance educational facilities within the catchment area required as a consequence of the development.
- The Developer shall provide Recreational Facilities in the form of a Multi Use Games Area, a fully serviced changing facility and full-sized football / rugby pitch with vehicular access for maintenance vehicles to be provided off site (land to the south of the transport interchange). In the event that the developer fails to provide these facilities a financial contribution shall be paid to the Council to construct the facilities themselves.
- The recreational facilities shall be adopted by the Council and the developer shall pay a 20 year maintenance contribution to the Council to maintain these.

- The Development shall be phased to ensure that the commercial uses are provided before or alongside the residential development in a staged approach.
- The Legal Agreement will include the standard clause requiring the payment of a fee set at 20% of the value of the planning application fee (£1,520 in this case).

APPROVE subject to the following condition(s):

1. Approval of siting, design, external appearance, means of access and landscaping (hereinafter called `the reserved matters`) shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters hereinbefore referred to must be made not later than the expiration of three years beginning with the date of this permission.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than whichever is the later of the following dates:

- (a) The expiration of five years from the date of this permission.
- (b) The expiration of two years from the date of the final approval of the reserved matters or, in the case of approval on different dates the final approval of the last such matters to be approved.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

4. The submission of all reserved matters applications shall be in accordance with the amended indicative site layout submitted to the Local Planning Authority on 9 November 2007, in relation to the areas allocated for residential use and community/commercial uses.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved indicative plan.

5. The development of the site shall be limited to the uses set out and specified on the amended indicative site layout submitted to the Local Planning Authority on 9 November 2007.

Reason:

For the avoidance of doubt.

6. A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority which shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, 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:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

8. No development shall take place on any part of the site until an investigation has been carried out to determine whether the land is contaminated and any associated remedial works have been carried which shall be fully detailed in a report which shall have first been submitted to and approved in writing by the Local Planning Authority. The investigation shall include a desktop study, intrusive site investigation, remedial statement and a remediation validation report.

Reason:

In the interests of health and public safety in accord with Policies ENV26 - Contaminated Land and Unstable Land and ENV27 - Design of New Development of the Unitary Development Plan.

9. Any soils or similar material to be imported shall be assessed for potential contaminants in accordance with a scheme of investigation to be submitted to and approved in writing by the Local Planning Authority in advance of its importation, on any of the development areas.

Reason:

In the interests of health and public safety in accord with Policies ENV26 - Contaminated Land and Unstable Land and ENV27 - Design of New Development of the Unitary Development Plan.

10. Any subsequent reserved matters application shall have full regard to the location of the carrier drain and its depth and no part of any building shall be constructed within 6 metres of either side of the carrier drain.

Reason :

In order to facilitate future maintenance of the carrier drain to ensure accordance with Policy ENV27 - Design of New Development of the Unitary Development Plan.

11. Before the commencement of the development on any part of the site, a scheme showing the means by which foul sewage and surface water run-off are to be catered for (which shall include the identification of all existing land drainage ditches, pipes and drains within the site and a scheme to maintain the existing flows within the ditches and pipes) shall be submitted to and approved in writing by the Local Planning Authority. No part of the development hereby permitted shall be put to beneficial use until the drainage works have been completed in full accordance with the approved details.

Reason:

To ensure a satisfactory means of drainage of the site and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

12. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

13. Any reserved matters application(s) relating to residential development adjacent to the railway line shall be supported by a noise assessment of daytime and nighttime railway noise in accordance with the guidance set out in Technical Advice Note 11 : Noise, which shall identify the appropriate noise category and the requirement for any noise mitigation measures.

Reason:

To safeguard the amenities of residential occupiers and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

14. The detailed plans shall provide for parking facilities to meet the standards of the Local Planning Authority.

Reason:

To ensure adequate on-site parking in accordance with Policy TRAN10 'Parking' of the Unitary Development Plan.

15. The proposed residential development shall be designed to meet the Council's minimum standards of amenity space and privacy as outlined in the approved Supplementary Planning Guidance on Amenity Standards.

Reason:

To ensure adequate provision of private amenity space and privacy in accord with Policy ENV27 'Design of New Developments' and Supplementary Planning Guidance on Amenity Standards.

NOTE:

1. **Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
2. **Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.**

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

2006/01000/OUT Received on 4 July 2007

Bloomfield Brothers Limited, Counting House, Celtic Gateway, Cardiff., CF11 0SN
S. G. Williams & Associates, Lombard House, 64, Mansel Street, Swansea., SA1 5TN

90, Fontygary Road, Rhoose

Residential development including demolition of existing bungalow and garage

SITE DESCRIPTION

The application site relates to the curtilage of a dwelling located at No. 90 Fontygary Road, Rhoose. The site is rectangular in shape with a road frontage of some 40 metres in width, with a site area of 1.09 acres (0.44 hectares). The site is currently occupied by a bungalow which is located centrally towards the front of the site, with the remaining curtilage mainly laid to grass with large mature trees.

DESCRIPTION OF DEVELOPMENT

This is an outline application with all matters reserved except for access and siting. The scheme as amended now comprises of 6 detached two storey dwellings served by a central access road, each of which are shown to have a floor space of some 180 sq. metres.

PLANNING HISTORY

None.

CONSULTATIONS

Environment Agency Wales were consulted and responded with a "standard advice" guidance note for developers.

The Head of Visible Services (Highway Development) were consulted and have stated that further to receiving amended plans in relation to the above the Highway Authority would advise that an objection to the development proposals cannot be sustained provided that the following details are made conditional to the planning consent.

1. Notwithstanding the submitted plans, no works whatsoever shall commence on site until full engineering details of the road layout with sections, street lighting and surface water drainage etc. have been submitted and approved by the Local Planning Authority. Reason: To ensure that the proposed access is constructed in accordance with the Highway Authority's standards for adoption.
2. Visibility splays of 2.4m x 70.0m shall be provided along the adjacent highway from the access of the development. Within the visibility envelopes, no obstructions e.g. boundary walls, fencing shall be greater than 900 mm in height above the carriageway channel edge and any planting will be located at the rear of the visibility envelop and shall not be greater than 600 mm in height. Reason: In the interests of highway safety.
3. Car parking in relation to the development proposals shall be provided in accordance with the Highway Authorities parking guidelines before beneficial occupation and thereafter maintained and retained at all times. Reason: To ensure adequate parking facilities are provided within the boundary of the development site.

The Head of Visible Services (Engineering and Design Group) has advised that a watercourse passes on the boundary of the site and may be affected by the proposals and that the developer is required to maintain flows within the watercourse during and after works and should be requested to submit appropriate details showing proposals to maintain the same to the Local Planning Authority prior to the commencement of any works.

Director of Legal, Public Protection and Housing Services (Environmental Health) consulted and had no comments to make on the application.

Dwr Cymru/Welsh Water were consulted and requested that if planning permission is granted conditions should be attached to ensure no detriment to the existing residents or the environment.

The Head of Economic Development and Leisure (Ecology) has been consulted and have advised that the bungalow and application site could offer potential roost sites for bats. Therefore it is recommended a full bat survey of the bungalow and any mature and semi-mature trees is undertaken to ascertain the presence or absence of bats/bat roosts. Furthermore the site is also with 360 metres of a very large great crested newt population and therefore it is recommended that a survey be conducted by a licensed surveyor to ascertain the presence or absence of Great Crested Newt.

REPRESENTATIONS

Adjacent and nearby occupiers were consulted on the original and amended plans and to date a total of eleven letters of objection have been received. The objections are summarised below:

- Loss of light and privacy on neighbouring dwellings.

- Loss of a large garden and intensification/overdevelopment of the site.
- Impact on the character of the area.
- Increase in noise and disturbance.
- Intensification of parking/traffic on Fontygary Road.
- Proposal may aggravate existing flooding problems.

Two letters are attached as Appendix A being representative of the correspondence received.

REPORT

Planning Policies

The site falls within the settlement boundary of Rhose and therefore the following policies contained within the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 are relevant:

Policy HOUS2 supports the principle of housing infill, small-scale development and redevelopment (including conversions) within the settlement boundary of Barry, subject to the criteria listed in Policy HOUS8 being met.

Policy HOUS8, states that subject to the provisions of Policy HOUS2, development will be permitted which is within or closely related to the defined settlement boundaries provided that it meets all the following criteria:

- (i) the scale, form and character of the proposed development is sympathetic to the environs of the site;
- (ii) the proposal has no unacceptable effect on the amenity and character of existing or neighbouring environments of noise, traffic congestion, exacerbation of parking problems or visual intrusion;
- (iii) the proposal does not have an unacceptable impact on good quality agricultural land (Grades 1, 2 and 3a), on areas of attractive landscape or high quality townscape or on areas of historical, archaeological or ecological importance;
- (iv) when appropriate and feasible the provisions of Policy REC 3 are met;
- (v) the provision of car parking and amenity space is in accordance with the council's approved guidelines; and
- (vi) adequate community and utility services exist, are reasonably accessible or can be readily and economically provided.

Policy ENV27 (Design of New Developments) states that proposals for new development must have full regard to the context of the local natural and built environment and its special features.

Policy HOUS11 (Residential Privacy and Space) states that existing residential area characterised by high standards of privacy and spaciousness will be protected against over development and insensitive or inappropriate infilling.

TRAN 10 (Parking)

Furthermore consideration should also be given to the policies and guidance set out in the adopted Amenity Standards and Sustainable Development Supplementary Planning Guidance.

Also considered relevant is national planning policy guidance contained in Planning Policy Wales (March 2002). In particular, paragraph 9.3.3 states that “Insensitive infilling or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area’s character and amenity. This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing.”

Furthermore, paragraph 9.3.4 “In determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area’s character and amenity....”

Issues

The existing site comprises of a very large curtilage serving a bungalow, which is one of the largest along Fontygary Road. The redevelopment of the site comprises of a small scale cul-de-sac as opposed to an infill form of development. In terms of the appropriateness of this form of development, it should be noted that this residential layout is found in the adjacent Milburn Close and nearby Wharton Close, which are of a similar size and scale. In this regard the redevelopment of the site as indicated is not considered to be at variance with the character of the area. With regard to the impact on the street scene the existing bungalow is set back into the site by some 30 metres and being set behind a mature hedge is well screened from the road. Whilst the proposals indicate two dwellings to the front of the site (located either side of the central access), which will be nearer to the highway than the existing bungalow, the dwellings will be in line with adjacent dwellings either side of the site (Nos. 6 Milburn Close and 94 Fontygary Road). However it is considered necessary to maintain the hedge along the front of the site (except for the works required to create the access) which can be secured by condition, in order to maintain the existing sense of enclosure around the site.

The proposed access is shown to be located centrally and the access and highway layout and siting of dwellings is similar to that in Milburn Close. The Highway Engineer has confirmed that the amended scheme is now considered acceptable, subject to conditions. The curtilage shown to serve each of the dwellings are of sufficient size to provide car parking in line with the Parking Guidelines, although this would be fully considered under any subsequent reserved matters application.

In terms of the provision of amenity space, the Amenity Standards Supplementary Planning Guidance requires a minimum of one square metre of amenity space per one square metre of gross floor area. Furthermore it also requires that 70% of the amenity space should be accommodated in the private rear gardens, which shall also be private and of a usable shape. On the basis that the dwellings would be two storey, based on the site layout shown and the footprint of the dwellings, all of the proposed plots could satisfy these standards where the gardens would be both private and usable.

The original plans detail the rear elevation of plot 6 to orientate toward the rear garden of the adjacent dwelling at No. 94 Fontygary Road. It was considered that this orientation would have result in a loss of privacy to the adjacent occupiers rear garden. In light of this, Plots 4-6 have now been amended and the orientation, siting and distance between dwellings is now such that the proposed dwellings are not likely to result in a loss of privacy to adjacent occupiers both existing and proposed dwellings, subject to the window placement and design of the dwellings, which will be considered under any subsequent reserved matters application.

In response to the comments received from the Ecology Section, a great crested newt and bat and barn owls surveys were submitted. It was concluded that despite thorough research, no evidence of use by Great Crested Newts were found. In respect of the bat and a barn owl survey the report states that the bungalow offers little opportunity for bat roosts within the roof space. The large garden and diverse trees and shrubs provide a good habitat for bats to forage despite the fact that no bats appears to roost in it. Many areas for bird nesting are identified especially in the hedgerow and no works shall commerce within the spring and summer period. In conclusion it is stated that no mitigation and compensation is required, however it is recommended that at least two bat boxes should be placed on the south facing aspects of each of the new dwellings.

Given the tree coverage on site, a comprehensive land and tree survey was required to be submitted to support the application. The submitted survey identified all trees to be retained, those to be felled, new trees to be planted and existing and new hedging. Whilst the siting of the new dwellings will require the removal of what are considered smaller non specimen species, the scheme has been design to accommodate the large high quality tree groups. Furthermore an amended plan has been submitted to further take into account the trees to be retained, their crown spread and root system. Furthermore the tree survey and results have been considered by the tree officer and ten of the principal trees have now been protected and are subject to a Tree Preservation Order, including Maple, Silver Birch, Cherry, Horse Chestnut and Ash. The Tree Officer has considered the amended plan in light of the protected trees on site and has no adverse comments to make provided the developer's pay strict attention to the mitigation measures and the recommendation outlined in the Aboricultural Implication Assessment.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies HOUS2 – Additional Residential Development; HOUS8 - Residential Development Criteria; HOUS11; Residential Privacy and Space; ENV27 - Design of New Developments; and TRAN10 - Parking, the proposed residential development is considered acceptable in relation to its siting and access and is not considered at variance or out of character with the area.

RECOMMENDATION

APPROVE subject to the following conditions(s):

1. Approval of the details of the design and external appearance of the dwellings and the landscaping of the site (hereinafter called 'the reserved matters') shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters hereinbefore referred to must be made not later than the expiration of three years beginning with the date of this permission.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than whichever is the later of the following dates:

- (a) The expiration of five years from the date of this permission.
- (b) The expiration of two years from the date of the final approval of the reserved matters or, in the case of approval on different dates the final approval of the last such matters to be approved.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

4. This consent shall relate to the plans registered on 17 July 2006 other than where amended by plans reference 12/04/61/2 Rev. A received on 25 July 2007.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

5. Full details of a scheme for the foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any construction works and the approved scheme shall be fully implemented in accordance with the approved details prior to the first beneficial occupation of any of the dwellings.

Reason:

To ensure the satisfactory drainage of the site and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

6. Prior to the commencement of development of any of the plots, full details of a scheme for maintaining flows of watercourses and ditches which pass through the site (including details for future maintenance) shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be fully implemented in accordance with the approved details and thereafter so maintained at all times.

Reason:

To maintain existing water flows through the site and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

7. None of the dwellings hereby approved shall be brought into beneficial use until the approved access has been constructed in accordance with the approved plans and the access shall thereafter be so retained to serve the development hereby approved.

Reason:

In the interest of highway safety and to ensure a satisfactory form of access to serve the development, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

8. Prior to the commencement of any development at the site, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority which shall include indications of all existing trees (protected and non protected) and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of each of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, 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:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

10. All means of enclosure associated with the development, to include existing perimeter boundaries to be repaired, rebuilt, or reconstructed and means of enclosures to serve the new dwellings shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development of each of the plots and the means of enclosure shall be implemented in accordance with the approved details prior to any of the respective dwellings being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. Prior to the first beneficial occupation of the dwellings hereby approved , two bat boxes shall be placed on each dwelling on a southerly facing aspect for which details shall have first been submitted of the design and location of bat boxes. The bat boxes shall thereafter be retained at all times.

Reason :

In the interests of nature conservation and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

NOTE:

1. Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.
2. Bats must not be disturbed or destroyed during felling work. A full visual inspection of the trees to be felled must be carried out prior to felling to check for the presence of bats. Advice on bats and trees may be obtained from the Countryside Council for Wales. Bats may be present in cracks, cavities, under flaps of bark, in dense Ivy and so forth. Should bats be identified, please contact either the Countryside Council for Wales on 02920 772400 or the Council's Ecology Section on 01446 704627.

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

Mr. Wayne Gill, Gills of Maesteg, Llwydarth Road, Maesteg.
Bernard Clatworthy RIBA., 15, Denison Way, St. Fagans, Cardiff., CF5 4SF

Upper House Garage, Turkey Street, Llantwit Major

Demolition of existing garage erection of two number houses

SITE DESCRIPTION

The site is located on Turkey Street within the Llantwit Major Conservation Area and is currently occupied by a petrol service station with associated buildings and plant. To the immediate north is Downcross House, a Grade II Listed Building.

DESCRIPTION OF DEVELOPMENT

The proposal entails the demolition of the existing service station and the construction of two large detached dwellings. The scheme has been amended since original submission, and is now accompanied by the required design statement and levels, and entails the following:

Plot 1 will be located approximately in line with the adjacent Downcross House, with a projecting front gable and two-storey rear wing. An attached, single-storey garage would be provided on its southern wall. The dwelling has been set at existing ground level (following Environment Agency confirmation that the site lies within Zone A of the DAM and is therefore not considered to be within the 0.1% flood plain of the Main River Ogney Brook), with a maximum ridge height of 7.6m.

An internal private drive serving Plot 2 to the rear would use the existing side access, leading to:

Plot 2, which would be sited in the north-eastern corner of the site, with an internal courtyard created off the access drive. The dwelling would be marginally set into the existing slope of the site, and be to a maximum ridge height of 7m.

The dwelling would front the courtyard, with two, two-storey projecting wings on either side, also being linked to an existing outbuilding (itself linked to the listed Downcross House), the use of which does not form part of this application. The rear elevation to High Street - the highway to which is set approximately 2m above the proposed site levels – would have a two-storey rear wing, with the elevation having a width of 15.2m, and a span of 5.4m.

Both dwellings would be finished with painted render, timber windows and cement-based 'slate' roof tiles.

PLANNING HISTORY

A number of applications have been submitted on the garage site over the years, of which the following are of particular relevance to the current application:

90/00318/FUL - Demolition of existing structure on site and erection of four dwellings. Refused 2 October 1990 on the grounds that the proposal represented overdevelopment of the site to the detriment of the character of the Llantwit Major Conservation Area and to the setting of Downcross a Grade II Listed Building. A subsequent appeal to the Welsh Office was allowed subject to conditions on 12 November 1991.

90/00646/CAC - Demolition of buildings at Upper House Garage. Refused 2 October 1990.

96/00187/CAC - Demolition of existing workshops and partial demolition of car showroom. Approved 23 May 1996.

97/00372/FUL - Residential development comprising 6 No. cottages. Withdrawn 9 April 1998.

00/00079/FUL - Demolition of existing garage and erection of two houses. Approved 21 December 2000 subject to conditions including a schedule of finishes, further details of the eaves height of the dwelling on Plot 1, further details of the front boundary treatment, an investigation for contamination, removal of permitted development rights and granny annexe to be use ancillary to the dwelling on Plot 2.

06/00890/CAC - Conservation Area Consent for demolition of existing garage. Refused November 2006 due to a lack of justification for demolition in the absence of a satisfactory scheme for redevelopment.

2006/00364/FUL - Erection of apartments and house. Refused November 2006 on grounds that it represented an insensitive redevelopment of site, harmful to character and appearance of Conservation Area and setting of adjoining listed building.

CONSULTATIONS

Llantwit Major Town Council has no objection provided the existing and previous petrol storage tanks are removed satisfactorily.

Environment Agency Wales has no objections but require a condition requiring a desktop study with respect to protection of controlled waters from potential contamination. Advise that the site lies within Zone A of the DAM and is therefore not considered to be within the 0.1% flood plain of the Main River Ogney Brook; and require a condition relating to provision of a scheme for the provision and implementation of a surface water regulation system.

Civil Aviation Authority has no safeguarding objections.

The Head of Visible Services (Highway Development) originally requested additional details of proposals, including access and visibility. Commented on amended plans as follows:

“Further to receiving amended plans in relation to the above, it is noted that the previously requested site layout plan showing the development proposals in relation to the adopted highway has not been submitted.

Therefore, in the absence of the above, the Highway Authority comments are as follows.

- There are no manoeuvring facilities provided within the boundary of Plot 1. As a result, vehicles will not be able to enter/exit the site from the adjacent classified highway in a forward gear.
- The proposed parking spaces allocated within plot 2 are below the minimum requirement of 4.8m x 2.4m.
- The required clear manoeuvring area behind each parking space within plot 2 is below the minimum requirement of 6.0m.
- Visibility from the access to plot 2 along the adjacent highway appears to be obstructed to the north by the boundary wall of the dwelling known as Downcross House. Furthermore, the visibility splay crosses land, which is not under the control of the applicant.

Therefore, in order to overcome an objection, the applicant is required to address the above issues and submit an amended site layout plan for consideration.”

Amended plans have since been submitted, following discussions with the Highway Engineer, to overcome the above concerns.

The Director of Legal, Public Protection and Housing Services (Environmental Health Pollution Control Officer) has no objection subject to conditions in respect of the need for and implementation of remediation works following, a contaminated land assessment and remedial strategy.

Dwr Cymru/Welsh Water has no objections subject to conditions in respect of foul and surface water discharges and land drainage run-off.

Vale of Glamorgan Conservation Advisory Group at their meeting on 31 May 2007 recommended refusal (original plans). The Group felt that the proposal (and in the absence of a design statement) would neither preserve nor enhance the character of the Conservation Area with particular concern regarding the form and scale of the unit located on the Turkey Street frontage of the site.

Glamorgan Gwent Archaeological Trust (GGAT) advise that important archaeological features could be located in the application area, and that the applicant should be requested to commission such archaeological work, and that the application should be deferred until a report on the archaeological evaluation has been submitted. In response, GGAT prepared a brief for evaluation, and Cardiff archaeological Consultants have been appointed to advise the applicants. The applicant has since conducted such archaeological evaluation, with GGAT subsequently advising that they do not envisage a need for any conditions requiring further archaeological work to be attached to any consent.

REPRESENTATIONS

Orchard House, Orchard View, Brooklands, Downcross Barn, Horsecroft Barn, Downcross House, Old Place, Ogney House, The Coach House, and Nos. 14 and 16, Great House Meadows were consulted on 26 April 2007 and re-consulted on amended plans on 13 November 2007. The application was also advertised on site and in the press on 22 May 2007.

Orchard House (original plans) comment in respect of filling in the petrol tanks; concern that the plans do not mark the well that rises in the property; concerns about the height of new buildings given character of Llantwit which is low stone houses; no provision of access to their back wall; and concerns about use of existing drains.

REPORT

Planning Policies

The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18 April 2005.

The site is located within the residential settlement boundary for Llantwit Major and within the boundaries of the Llantwit Major Conservation Area. In addition the adjoining dwelling Downcross House is a Grade II Listed Building. As such the following policies are relevant:

ENV17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT

ENV18 - ARCHAEOLOGICAL FIELD EVALUATION

ENV19 - PRESERVATION OF ARCHAEOLOGICAL REMAINS

ENV20 - DEVELOPMENT IN CONSERVATION AREAS

ENV21 - DEMOLITION IN CONSERVATION AREAS

ENV27 - DESIGN OF NEW DEVELOPMENTS

HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA

National guidance contained in Planning Policy Wales March 2002 and TAN12 - Design is also highly relevant.

Issues

As with previous applications on the site, it is considered that the principal issues relate to the impact on the character and setting of this part of the Llantwit Major Conservation Area and upon the Grade II Listed Downcross House. Other important matters concern the impact on neighbouring dwellings, on highway safety, and on land remediation.

Planning History

It will be noted from the planning history that consent has previously been allowed on appeal, in 1991, for the redevelopment of the site for up to four dwellings. It will be further noted that a number of recent applications for extensive development on the site have been refused, with the most recent approval relating to the demolition of existing garage and erection of two houses (ref. 00/00079/FUL) which was approved 21 December 2000 (and is therefore no longer extant).

The principle of accommodating residential development is therefore established, and acceptable, subject to detailed consideration of the impact of such redevelopment. It is noted, however, that a Conservation Area Consent application has yet to be submitted for the demolition of the existing garage building.

Impact on Conservation area and Adjacent Listed Building

The primary issue in this application concerns the impact of the proposed redevelopment upon the Llantwit Major Conservation Area, and upon the listed Downcross House which is sited to the immediate north of the site.

Following the Environment Agency's representations, the scheme has been amended to reduce the proposed levels to existing ground levels. This has had the effect of significantly reducing the height and scale of the dwellings, and particularly Plot 1 to the front, which now sits comfortably alongside the existing Downcross House, being set down approximately 0.5m below that property's ridge.

The use of a two-storey front gable, white render, sash windows and slate (which would need to be conditioned to require natural slate rather than the manmade alternative proposed), would also provide a pleasing, simple and traditional approach in this sensitive location, while the earlier scheme's bulk has been significantly reduced through the provision of a single, smaller rear wing.

Plot 2 to the rear is set significantly lower than High Street to the east such that, although the dwelling is large, its physical impact upon the conservation area will not be significant. Indeed, the simple appearance of the rear elevation and roofscape will provide a degree of enclosure while the use of an informal courtyard arrangement, and a significant area of garden to the south, will ensure that the dwelling will sit with the established character and pattern of development in the locality.

Within this context, while these properties are relatively large, each is considered to sit comfortably within this large site. Furthermore, not only would the removal of the present use and building enhance the conservation area (subject to redevelopment as part of a continuous scheme) but the scale, form and massing of the proposal – subject to careful control over the materials and detailing - is considered to sensitively reflect the local character of buildings and spaces, and thus positively enhance the character and appearance of the Conservation Area.

With respect to the impact on the adjoining Listed Building, it is to be noted that the appeal Inspector in 1990 stated that Downcross House was “not a formally contrived, architecturally imposing structure whose distinctive characteristics might require a spacious setting to do its appearance justice. Rather it is a simple, tough, worthy, vernacular building playing a part as one of many such helping to give the important and historic town its particular flavour”.

He considered the earlier scheme would improve the existing setting, particularly in losing the existing garage use, and the current scheme is no different, insofar as it would provide for a pleasing form of development, which would enhance the setting of the listed building.

Flooding/ Drainage Issues

Although the Environment Agency, in commenting on the previous application proposed in 2000 required floor levels be at least 600mm above any known flood level, their current representations confirm that the site lies within Zone A of the DAM and is therefore not considered to be within the 0.1% flood plain of the Main River Ogney Brook.

Accordingly the slab levels have been set at existing ground level, which is acceptable to the Agency and in conservation/ design terms.

Provided conditions relating to provision of a scheme for the provision and implementation of a surface water regulation system, and the commissioning of a desktop study with respect to protection of controlled waters from potential contamination are included, there are no objections on drainage grounds.

Impact on Neighbouring Properties and Provision of Amenity Space to Serve the Development

The site is sufficiently large to accommodate the proposed large dwellings without compromising the amenity of neighbouring properties. In particular, Plot 2 has been set in the north-eastern part of the site, with its southern wall approximately 18 metres from the boundary with Orchard House, such that the building would neither appear overbearing or adversely impact upon their amenity. While it is acknowledged that there is a window within the rear dormer, and a smaller rear window to Orchard House's rear elevation, these are almost directly upon the site boundary, and do not appear to serve a habitable room. Accordingly, precluding any windows in this elevation fronting the garden would be deemed to be unreasonable given the 18m distance provided to the boundary.

In terms of amenity space, there is ample private space within the large rear gardens to serve each dwelling.

Highway Safety / Parking Layout

The scheme provides for sufficient parking and vehicular manoeuvrability within site to ensure that there would be no harm to highway safety in the locality. In addition, given the existing/ authorised use of the site, the nature of the side access to serve a single dwelling, with limited visibility to the north, is not considered to be so harmful as to warrant refusal on highway safety grounds.

Given that any increase in the height of the frontage wall would require planning permission, a condition is not required to ensure that the proposed stone boundary walls to the site frontage within any vision splay are maintained to a height not greater than 1 metre.

Land Contamination / Remediation

Given the existing use of the site, the Environmental Health Officer has advised that conditions should be imposed requiring the need for and implementation of remediation works following preparation of a contaminated land assessment and remedial strategy. Provided these works are implemented, there are no reasons to consider that any demonstrable harm would be caused as a result of the existing use of the site.

Archaeology

As required by Planning Policy Wales (2002) and Circular 60/96, the applicant has conducted an archaeological field evaluation, following GGAT's advice that important archaeological features could be located in the application area, and that the application should be deferred until a report on the archaeological evaluation had been submitted.

That evaluation report has now been received and concluded that no medieval activity was detected in the development area and that, in view of the location of the proposed dwellings over the existing petrol station and over an area of recently disturbed ground, they recommend that no further excavation is undertaken during development.

The report has since been considered by GGAT, who have advised that there is no need for any conditions requiring further archaeological work to be attached to any consent, given the lack of indications of any human activity on the site.

Accordingly, the grant of planning permission subject to conditions would meet with the objectives of Policies ENV18 - Archaeological Field Evaluation; and ENV19 - Preservation of Archaeological Remains of the Unitary Development Plan.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV17 - Protection of Built and Historic Environment; ENV18 - Archaeological Field Evaluation; ENV19 - Preservation of Archaeological Remains; ENV20 - Development in Conservation Areas; ENV21 - Demolition in Conservation Areas; ENV27 - Design of New Developments; and HOUS8 - Residential Development Criteria, of The Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 and the approved amenity standards SPG, it is considered that the proposed development will enhance the character and appearance of the Conservation Area and the setting of the adjacent Listed Building, while also protecting the interests of neighbouring residents, highway safety, and archaeology.

RECOMMENDATION

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. This consent shall only relate to the amended plans reference P/10C, 11C, 12C and 13B received on 20 December 2007 and the development shall be carried out strictly in accordance with these details.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

3. Prior to the commencement of work on the construction of the new dwellings hereby approved, full details (including samples) of all external finish materials to be used in the development hereby approved, including materials to be used in the surface finish of the paths, access and parking areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out strictly in accordance with the agreed details.

Reason:

In the interests of visual amenity and in order to preserve and enhance the character of the Llantwit Major Conservation Area, as required by Policies ENV17 and ENV20 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

4. Notwithstanding the submitted details, the roofs to each of the plots hereby approved shall be covered in natural slate, samples of which shall first have been submitted to and agreed in writing by the Local Planning Authority. The roofing material shall thereafter be retained in its approved form unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of visual amenity and in order to preserve and enhance the character of the Llantwit Major Conservation Area, as required by Policies ENV17 and ENV20 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

5. Large scale details at a scale of 1:20 of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges, ridge details and rainwater goods shall be submitted to and approved in writing by the Local Planning Authority prior to their use in the development hereby approved. The development shall not be carried out otherwise than in full accordance with such approved details.

Reason:

In the interests of visual amenity and in order to preserve and enhance the character of the Llantwit Major Conservation Area, as required by Policies ENV17 and ENV20 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

6. No development shall commence on the development hereby approved until such time as a contaminated land assessment and associated remedial strategy, to include measures for the mitigation of the contamination, measures for the protection of surface and ground water, and a timescale for their implementation, has been submitted to and approved in writing by the Local Planning Authority. The approved remedial strategy shall be fully implemented in accordance with its approved details and timetable and, upon completion of the approved works, a verification report shall be submitted to the Local Planning Authority for their written approval.

Reason:

In the interests of public safety, and to ensure compliance with Policy ENV7 of the Unitary Development Plan.

7. No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water regulation system has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be implemented prior to the construction of any impermeable surfaces draining to the system unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To prevent the increased risk of flooding, in accordance with Policy ENV7 of the Adopted Unitary Development Plan.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking or re-enacting that Order, no additional windows shall be inserted in the dwellings hereby permitted without the prior written consent of the Local Planning Authority.

Reason:

To safeguard the privacy of adjoining occupiers, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the dwellings hereby approved shall not be extended or altered in any way without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the character, scale and impact of development, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

10. Full details, to include materials and elevations, of all means of enclosure, including screen walls between plots and adjacent to the entrance driveway, shall be submitted to and agreed in writing by the Local Planning Authority prior to their construction on site. The means of enclosure shall be implemented in accordance with the approved details prior to first beneficial occupation of any dwelling hereby approved, and shall thereafter be retained as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of visual amenity and in order to preserve and enhance the character of the Llantwit Major Conservation Area, as required by Policies ENV17 and ENV20 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking or re-enacting that Order, no gates, fences, walls or other means of enclosure, other than those expressly authorised by this permission, shall be erected, constructed or placed on the application site without the prior written consent of the Local Planning Authority.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

12. A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to any work commencing on the construction of the dwellings hereby approved.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, 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:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

14. Notwithstanding the annotations on the approved drawings, the consent hereby granted shall not relate to, or infer acceptance of, the use of the existing building attached to Downcross House as a 'granny flat' or storage use associated with the residential use hereby granted.

Reason:

For the avoidance of doubt.

NOTE:

1. **You should contact the Council's Pollution Control Officer in the Environmental Health division to discuss the requirements of the land contamination and remediation report prior to any site surveys / investigations being conducted.**

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

2007/01635/FUL Received on 26 November 2007

Susan Sessions, Holm House, Marine Parade, Penarth, Vale of Glamorgan.,
CF64 3BG

Susan Sessions, Holm House, Marine Parade, Penarth, Vale of Glamorgan.,
CF64 3BG

Holm House, Marine Parade, Penarth

Amendment of conditions 5 and 7 of application 05/01728/FUL

SITE DESCRIPTION

The application site is located at Holm House, Marine Parade, within the settlement boundary of Penarth. The property currently operates as a hotel and is a large detached property, situated within the Penarth conservation area. Holm House is currently accessed from Marine Parade, with a separate access for the manager's accommodation from Cliff Hill/Road. The hotel is equipped with its own private car park.

DESCRIPTION OF DEVELOPMENT

The application seeks permission to remove Condition No. 5 and amend Condition No. 7 of planning application 2005/01728/FUL, granted consent on 20 January 2006.

Condition No. 5 states:

"The swimming pool, Jacuzzi, spa, bar and dining room hereby approved, shall be ancillary to main use as a bed and breakfast/hotel accommodation, for the sole benefit of residents and shall not be used at any time as a separate facility for wider public use.

Reason:

In the interest of amenity and in order to ensure that the facilities provided remain ancillary to the main use as a hotel."

Condition No. 7 states:

“The premises shall not be used for singing, dancing, the playing of any kind of music, or other forms of public entertainment other than the playing of background music.

Reason:

To ensure the amenities of adjoining occupiers are protected.”

The application is to amend Condition No. 7 to include the playing of occasional live background music.

The hotel is currently graded as five star guest house accommodation, as a result of the hotel being unable to accept non residents. The reason for the applicant requesting to remove the conditions is to enable the hotel to be graded as five star hotel.

PLANNING HISTORY

2007/01077/FUL – New pedestrian and vehicular access to manager’s accommodation. Approved 12 September 2007.

2006/01333/FUL – Provision of flat roof in gable valley in rear facing roof and amendment to existing roof lights (2 No.) on the roof plane facing the lane on the annex.

2005/01728/FUL – Amendments to previously approved application 03/01748/FUL including conversion of roof space of annex to bedroom/treatment rooms. Approved 20 January 2006.

2003/01748/FUL – Change of use from nursing home to boutique bed and breakfast with manager’s flat and spa in south east corner of site and conversion of loft space to four rooms. Approved 25 March 2004.

CONSULTATIONS

Penarth Town Council were consulted on 30 November 2007, their response received 18 December 2007 states no objection.

The Director of Legal, Public Protection and Housing Services (Environmental Health) was consulted on 30 November 2007, their response received 2 January 2008 states no objection subject to conditions.

The Head of Visible Services (Highway Development) was consulted on 19 December 2007, their response received 16 January 2008 states no objection

REPRESENTATIONS

Nos. 2, 10, 11 and 12, Marine Parade were notified on 30 November 2007.

New Skomer and South Lodge, were notified on 30 November 2007.

Flat Nos. 1, 2, 3, 4, 5 and 6, Awel-Y-Mor were notified on 30 November 2007.

Nos. 10, 11 and 12 Dros y Mor were notified on 30 November 2007.

43 representations were received in total; 30 letters and e-mails of support and 13 letters of objection. A sample of these letters and e-mails can be found in the Appendices A-Z, A1 and B1.

One letter of objection including a 66 signature petition against the development has been received, shown at Appendix C1.

A further e-mail from Councillor Kelly-Owen which includes a previous e-mail objection has been received.

A total of 8 letters of support were also submitted with the application although 2 of these wrote additional letters, included in the 15 letters of support.

An additional letter of support was received from the applicant along with a folder of information, which is available for Members to view. In addition a further e-mail has been received from an agent acting on behalf of the applicants expressing concern at the comments of Councillor Kelly-Owen. This e-mail is reproduced at Appendix B2.

The comments received are summarised:

Objections:

- There have been no changes since original consent was granted with conditions.
- Parking issues.
- Increase in traffic along Marine Parade.
- Noise disturbance.
- Crime and disorder.
- Most guests arrive by car not public transport.
- Cooking odours.
- Impact on residential amenity.
- Increase in problems if hotel was sold.
- Grading is irrelevant in planning terms.

Support:

- Much needed establishment within walking distance of Penarth town centre and other residents.
- Currently operates with regard to its environment.
- There has been no inconvenience or noise nuisance caused by the hotel.
- Impact on the area does not differ to that of the previous residential home, traffic is probably less.
- Sufficient parking.
- No affect to residents or the local area.
- Benefit to the community.

REPORT

Members will recall that this application was reported to the 21 February 2008 meeting of the Planning Committee and was deferred to allow a site visit to be undertaken.

Planning Policies

The relevant policies contained within the Vale of Glamorgan Adopted Unitary Development Plan 1996–2011 are as follows:

ENV6 – EAST VALE COAST

ENV17 – PROTECTION OF THE BUILT AND HISTORIC ENVIRONMENT

ENV20 – DEVELOPMENT IN CONSERVATION AREAS

ENV27 – DESIGN OF NEW DEVELOPMENTS

ENV29 – PROTECTION OF ENVIRONMENTAL QUALITY

Issues

The main issue in assessing this application is the effect of the use of the hotel by persons who are not residents and the playing of live music would have on the amenities of nearby residents.

In relation to parking provision within the site, a number of objections have stated that there are existing parking problems as a result of the use as a hotel. To allow the hotel to accept persons who are not resident at the hotel, could result in an increased number of people visiting the hotel either for the restaurant or spa facility and consequently may exacerbate the existing parking problem. The applicant has not proposed any additional car parking spaces to accommodate any increase. Notwithstanding the above, it is noted that Highway Development have no objection to the proposal and the site is located within walking distance of the town centre.

Taking into consideration the additional number of people visiting the site, it is necessary to take into account the increased noise and disruption this will cause for neighbouring properties. A number of letters of support state that the clientele visiting would be high class therefore are unlikely to be boisterous and noisy when leaving the establishment, however this does not take into account the noise and disturbance created by the starting up of car engines, manoeuvring of vehicles, the closing of car doors and the general noise of conversations. It is noted that the hotel is located in a predominantly residential area. It is also relevant to take into consideration that visitors to the restaurant would for the most part take place in the evening when a residential area is expected to be reasonably quiet. It is therefore essential to assess the impact of any relaxation of the conditions controlling the use in respect of the impact on the amenity of nearby residential properties. It should be noted that the current clientele is not a relevant consideration as the hotel could be sold and the prices reduced therefore it is unknown who may visit the hotel in the future.

The applicant has also stated, as part of this application that they wish to amend Condition No. 7 to allow the occasional playing of live background music for opera and jazz singers. It is difficult to define and restrict the playing of live music occasionally and also it is not possible to restrict the singers to opera or jazz therefore other forms of music, such as live bands would also be allowed by a variation of this condition. The playing of live music differs to background music therefore, for the purpose of this application, the removal of this condition to allow live music is being considered and not the amendment to allow occasional live background music of jazz and opera singers. The removal of Condition No. 7 could cause an increased disruption for occupiers of properties within the vicinity and this would primarily take place during the evening which could cause more noise and disruption for residents. The condition was originally imposed to protect these residents. However, the Environmental Health Department have not objected subject to conditions, these conditions require that doors and windows within the hotel are kept closed at all times when music is being played.

Given the above and the lack of any objections from the Environmental Health Section subject to conditions, it is considered that it may be possible to vary the relevant conditions of the original consent for a temporary period of a year, to allow the Local Planning Authority to properly assess if any harm is caused to neighbouring residential properties. However, it is considered that a further condition should be applied which would prevent the playing of music and the consumption of food outside the building.

Given the above, it is considered that the Council should be able to assess the implications of a temporary variation of the relevant conditions. Should it become apparent through complaints to either Environmental Health Department or Planning Enforcement that the use is causing a nuisance or detrimentally affecting the amenities of local residents, the Council could refuse to extend the consent any further.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV6 - East Vale Coast; ENV17 - Protection of the Built and Historic Environment; ENV20 - Development in Conservation Areas; and ENV27 Design of new Developments, the proposal is considered acceptable for a temporary period to allow the Local Planning Authority to assess the implications of the removal of Condition No. 5 and variation of Condition No. 7.

RECOMMENDATION

APPROVE subject to the following condition(s):

1. The removal of Condition No. 5 and variation of Condition No. 7 of permission 2005/01728/FUL regarding the use of facilities at the hotel shall be for a temporary period only and the conditions shall be reinstated in accordance with permission 2005/01728/FUL on 13 March 2009 unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure the privacy of nearby residential properties are protected and in order to ensure compliance with Policy ENV29 of the Unitary Development Plan and to prevent noise breakout from the premises.

2. The premises shall not be used for singing, dancing or other forms of public entertainment other than the playing of live or other forms of background music.

Reason:

To ensure the privacy of nearby residential properties are protected and in order to ensure compliance with Policy ENV29 of the Unitary Development Plan and to prevent noise breakout from the premises.

3. During the playing of any music, or any other kind of public entertainment, the windows and doors of the Hotel shall be kept closed in accordance with a scheme to be first submitted prior to the commencement of any of the above.

Reason:

To ensure the privacy of nearby residential properties are protected and in order to ensure compliance with Policy ENV29 of the Unitary Development Plan and to prevent noise breakout from the premises.

4. No food or drinks shall be served or consumed (and no music, singing or dancing or any other kind of public entertainment) outside of the hotel, at any time.

Reason:

To ensure the privacy of nearby residential properties are protected and in order to ensure compliance with Policy ENV29 of the Unitary Development Plan and to prevent noise breakout from the premises.

NOTE:

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

2007/01684/FUL Received on 3 December 2007

Llangoedmor Properties, 1-2, Park Road, Penarth, Vale of Glamorgan., CF64 3BD

Mr. T. F. Mathias, 17, Cherry Orchard Road, Lisvane, Cardiff., CF14 0UD

Parkside Residential Home, 1-2, Park Road, Penarth

2 storey rear extension to provide 10 en-suite rooms, extension to dining area and laundry

SITE DESCRIPTION

The application site comprises 2 units, Nos. 1 and 2, Park Road, in the residential settlement of Penarth. The current use of the two properties is a residential home (Class C2), and the site comprises on-site parking, a large garden area to the front of the site, and a coach house conversion to the rear. The application site is located within the Penarth Conservation Area.

The site adjoins large dwellings to the north and west, and Gardenhurst Resource Centre to the south.

DESCRIPTION OF DEVELOPMENT

The submitted application seeks planning consent to construct a two-storey extension to the rear of the property to create 10 additional new bedrooms, four on the ground floor with a sitting area and six on the first floor. At ground floor the extension will link with the existing coach house. Currently the residential property comprises 30 bedrooms (10 on each floor) and the extension will potentially allow for 40 bedrooms on the site.

The application also proposes an extension to the existing conservatory and a laundry area attached to the kitchen, both single storey extension and therefore only affecting the ground floor.

PLANNING HISTORY

02/01255/TCA – Fell one bay. Approved 24 September 2002.

92/00919/FUL - It is intended that Nos. 1 & 2 Park Road and which now form one unit and operate as a residential home for the elderly, should henceforth be run as a residential / nursing home with dual registration. Approved 23 October 1992.

86/00216/FUL – Change of use from dwelling to home for the elderly. Refused 24 June 1986.

85/00259/Ful – Garage. Approved 16 May 1985.

84/00502/FUL – Conversion of Coach House to dwelling and erection of garage. Approved 24 July 1984.

CONSULTATIONS

Penarth Town Council was consulted on the 7 December 2007 and comment that “the application should be refused for the following reasons:

- (a) The two-storey extension to the rear left hand wing is considered to comprise insensitive overdevelopment of the size by virtue of its size, scale and form which will adversely affect the setting of this pair of Victoria villas as well as the visual amenities of the surrounding area, the character of which is epitomised by large open garden surrounds and is an essential feature of the Penarth Conservation Area in this location.

- (b) The proximity of the two-storey extension to the rear garden coach house and its linkage by means of a small lobby is considered to adversely affect the intergity of the coach house in terms of its character, setting and appearance.
- (c) Notwithstanding the proposed car parking provision for 17 vehicles along both driveways to this pair of properties, concern is expressed that an additional 10 bedrooms will excacerbate on-street parking problems in the area, which is under severe pressure, given the nature of developments in this locality.”

The Head of Visible Services (Highway Development) was consulted on 12 December 2007 and comments that an objection to the development proposals cannot be sustained based on highway related issues.

The Director of Legal, Public Protection and Housing Services (Environmental Health) was consulted on 12 December 2007 and comments that this department has no comment to make regarding the above application.

REPRESENTATIONS

No. 1, Gardenhurst Resource Centre, Holmesdale Place, was consulted on the 12 December 2007.

First Floor Flat - `Tanglewood`; Ty Zaria; Pinefield; Raismere; Nos. 2, 3, 4, 5 Park Road; and Nos. 38, 40, 42 Plymouth Road, were consulted on 12 December 2007.

Two letters of support have been received from the applicants shown at Appendix B.

To date, 10 letters and e-mails expressing concerns and objections to the proposal have been submitted. They relate mostly to the overbearing nature of the scheme, its impact on the Conservation Area and the potential increase in parking issues (see Appendix A for a sample of the letters of objection).

A further 25 signature petition has also been received objecting to the development on grounds of:

- overdevelopment;
- heavy traffic; and
- loss of amenity space to local residents.

The petition is included at Appendix C.

REPORT

Members will note that this application was deferred at the 21 February 2008 meeting of Planning Committee to allow q site visit to be undertaken.

Planning Policies

ENV17 – PROTECTION OF THE BUILT AND HISTORIC ENVIRONMENT

ENV20 – DEVELOPMENT IN CONSERVATION AREAS

ENV27 – DESIGN OF NEW DEVELOPMENTS

HOUS10 – NURSING HOMES

The submitted application seeks planning consent to construct 10 new en-suite bedrooms to the rear of the site, in between the courtyard and the converted coach house. This will be a two-storey rear extension.

The proposed ground floor will comprise four new en-suite bedrooms with a sitting area, a lift, an enclosed cloister and a lobby area. These bedrooms will adjoin the existing building where there is currently a Fir tree (to be removed) and link in with the existing converted coach house at the rear of the property.

The existing conservatory leading to the courtyard and the existing kitchen, both at ground floor will also be extended.

At first floor, the extension will follow the same footprint, thus also including a cloister and lobby area, however with six new en-suite bedrooms. The extension does not link with the coach house at first floor.

As a result of the proposal, the extension is due to create 10 additional bedrooms to the property, and the residential home will therefore have the potential of accommodating a maximum of 40 residents.

The proposed works are not considered to cause significant detrimental harm to the character of the Conservation Area, particularly, as the development in its entirety, is to the rear area of the site, between the converted coach house and the existing courtyard. Therefore in terms of the street scene, the works will not be visible from outside the site, given the location of the property (set back approximately 20 metres from the front highway) and the elevation to Park Road will remain as existing.

Furthermore, in terms of the possible harm to trees in a Conservation Area, one tree in particular 'Austrian Pine' is the largest specimen on-site and has survived amongst all the work that has previously taken place, but is only visible from the street through gaps between the semi-detached properties. The excavations for the rear extension may potentially cause harm to this tree, however as there are to be new tree plantings (as indicated on the plans) for the courtyard, (which can be conditioned as part of the granting of planning permission) it is considered that the eventual loss of the tree will be compensated.

In considering the neighbouring amenity, given the distance between the dividing boundaries of the properties on either side, the proposal is not considered harmful in terms of overbearing impact or detrimental to the private amenities of the neighbouring adjacent premises.

Furthermore, although there is significant concern amongst residents in terms of the parking provision on-site, and the impact upon on-street parking, the existing layout submitted with the application has been considered acceptable, as it is to cater for the nursing home as extended, being in accordance with the Council's approved parking guidelines. On-street parking, this should not be affected, as there is adequate on-site parking to prevent any adverse harm in terms of highway and pedestrian safety. The relevant letters regarding parking constraints for residents have been forwarded to the highway department (maintenance section).

As a result the proposed development is considered acceptable, and therefore complies with the relevant planning policies and supplementary planning guidance.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV17 – Protection of the Built and Historic Environment; ENV20 – Development in Conservation Areas; ENV27 – Design of New Developments; and HOUS10 – Nursing Homes, the proposed development to include 10 new bedrooms, an extended conservatory and new laundry room is considered acceptable. The development is not regarded detrimental to the character of the property within the street scene, detrimental to the neighbouring private amenities or adversely affect highway or public safety. The proposal therefore complies with the relevant planning policies and supplementary planning guidance.

RECOMMENDATION

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Details of a planting scheme for the courtyard shall be submitted to the Local Planning Authority for their approval in writing.

Reason:

To ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

3. A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority which shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, 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:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

NOTE:

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

Pat Walsh, MEJ Developments Ltd, 47, Westcombe Park Road, Blackheath, London., SE3 7QZ

Pat Walsh, MEJ Developments Ltd, 47, Westcombe Park Road, Blackheath, London., SE3 7QZ

4 & 6, St. Nicholas Road, Barry

Conversion of redundant retail warehouse space into 2 x 2 bed flats and 2 x 1 bed flats at 6, St. Nicholas Road and replacement garage at 4, St. Nicholas Road

SITE DESCRIPTION

The application site is Nos. 4 and 6 St. Nicholas Road, Barry.

No. 4 is a semi-detached, 2 and a half storey property, located on St. Nicholas Road between its junctions with Park Road and Old Village Road. No. 6 is a larger non residential property, comprised of a Threshers store, a vacant flat at first floor above, a store room for the off licence and a vacant warehouse.

The building itself is made up of two 2-storey wings with a single storey central section. The original use of the building is unclear, however, historical maps indicate it was constructed around the turn of the 20th Century.

The property is served by a large hard surfaced area to the front, which is accessed directly from St. Nicholas Road and used for parking and servicing for the off licence. There are two points of access to no. 6 and access to No. 4 St. Nicholas Road is across this same hard standing.

This application relates specifically to the central and northern end sections of the building and does not relate to the off licence or the first floor flat. The warehouse is contained at two floors within the northern end section and its lobby within the single storey central section.

DESCRIPTION OF DEVELOPMENT

The proposed development is comprised of the following elements:

- The conversion of the warehouse to 4 flats (2 No. 2 bed units and 2 No. 1 bed units) and the warehouse lobby to an entrance hallway serving the flats.
- The demolition of the existing detached garage at No. 4 St. Nicholas Road and its replacement with a new attached garage.

The two-bed units are proposed over the ground and first floors and the single bed units are proposed within the roof space of the existing building. All the flats are accessed through the existing front door to the warehouse lobby and then via a new central staircase within the building.

In terms of external alterations to No. 6 St. Nicholas Road, the two ground floor windows on the north east facing elevation are to be changed to glazed doors to allow direct access to the areas of amenity space. On the rear elevation (south west facing), a new window is to be inserted into a blocked up opening at second floor. There are also blocked up window openings at first and second floors on this elevation and the applicant proposes to re-open these areas and construct new windows, set 1.2m back into the building. These are to be obscurely glazed in the main panel with high level clear glass above.

Two new obscurely glazed windows are proposed at first floor in the north west facing side elevation (towards No. 4 St. Nicholas Road) and 6 roof lights are proposed within each roof plane of the warehouse.

In order to provide amenity space to serve the flats, the applicant is negotiating with the owners of No. 4 St. Nicholas Road to acquire part of their curtilage and the proposed layout shows an area of 11.5m x 8m to the front of the building. This is segregated into two private areas to serve the two larger units (accessed directly from the flats), and a shared area for the two smaller units, accessed externally through a separate entrance.

Four parking spaces are proposed to serve the units, located along the south boundary of the site. The layout plan also indicates a covered bike shed and an area for bins, however, no details of any external structure have been submitted.

In order to provide the amenity space detailed above, the existing detached garage within the curtilage of No. 4 needs to be demolished. The application proposes a new attached garage, 4.3m wide x 5.5m deep x 4.6m in height with a pitched roof. The garage is to be finished in brick work with a slate roof.

PLANNING HISTORY

This application initially proposed 6 new flats within the warehouse. In order to achieve this level of development, a large dormer extension was proposed on the south facing roof plane of the warehouse. However, the developer was advised of a number of concerns in respect of the level and detail of the development and the application has subsequently been amended to that described above.

1979/00196/FUL - New shopfront. Approved.

1975/01210/FUL - New signage for the off licence. Approved.

1975/00168/FUL - New signage for the off licence. Refused.

CONSULTATIONS

Barry Town Council have raised a strong objection to the original scheme on the grounds that it was overdevelopment and insufficient in amenity space and parking. The Town Council therefore considered that it was contrary to Policies ENV27 and TRAN 10 of the Unitary Development Plan.

No comments have been received to date in respect of the amended plans.

The Head of Visible Services (Highways Development) raised an objection to the original scheme due to the conflict between the then proposed parking layout and servicing arrangements for the off licence.

“In respect of the amended scheme, there is no objection subject to the following requirements being made conditional of any consent:

- The proposed parking provision as shown on the amended site layout plan (Drawing No. 42/05 A) shall be provided and marked for the use of each dwelling unit before beneficial occupation and thereafter maintained and retained at all times for the use associated with the development proposals. Reason: To ensure adequate parking facilities are provided to serve the development proposals and in the interests of highway safety.
- The proposed reconfiguration of the existing parking facilities (3 vehicle spaces) serving the existing dwelling, No. 4 St. Nicholas Road, shall be completed before any works start at the development site and thereafter maintained and retained at all times for the use associated with the dwelling. Reason: To ensure adequate parking facilities are maintained to serve the existing dwelling in the interests of highway safety.
- The manoeuvring and servicing area in front of the existing retail use as shown on the amended site layout plan (Drawing No. 42/05 A) shall be maintained and retained at all times for the use of the development site. Reason: To ensure adequate manoeuvring and servicing facilities are maintained within the boundary of the development site, in the interests of highway safety.”

The Director of Legal, Public Protection and Housing Services (Environmental Health (Private Sector Housing)) have advised that the living areas for the single bed units would only meet their minimum standards for occupation by a single person. Advice has also been provided in respect of fire alarm systems.

Dwr Cymru/Welsh Water have raised no objection but advised that the site is crossed by a public sewer.

The South East Wales Transport Alliance (SEWTA) Travel Plan Co-ordinator has advised that cycle storage should be included in the development, in order to promote sustainable modes of transport.

Glamorgan Gwent Archaeological Trust have been consulted. No representations have been received to date.

REPRESENTATIONS

The neighbouring properties of nos. 2 and 4 St. Nicholas Road, Kington House and Kington Court were consulted in respect of the original application and a site notice was posted at the entrance to the site on St. Nicholas Road.

Seven letters of objection have been received and their grounds are summarised as follows:

- The development is an overdevelopment of the site.
- The development would adversely affect the residential amenities of neighbouring properties.
- There is a substandard vehicular access.
- The application would see the reduction in commercial viability of a key retail facility.
- An increase in traffic generation.
- An increase in noise.
- Insufficient parking to serve the units, resulting in pressure on street.
- The development would represent a danger to pedestrian safety.
- Insufficient amenity space.
- Increased pressure on local utilities.
- Renting tenants may be unneighbourly.
- There would be an adverse effect on property values.
- The appearance of the dormer.

These letters are attached as Appendix A.

In respect of the amended plans, the neighbouring properties of Nos. 2, 4, 1-31 (odds) and White Oaks- St. Nicholas Road and 1-19 (odds) Old Village Road, Kington House and Kington Court were consulted directly. No representations have been received to date in respect of the amended plans.

REPORT

Planning Policies

The site lies within the settlement boundary of Barry and accordingly, the application has been primarily assessed against the following Policies of the Vale of Glamorgan Adopted Unitary Development Plan 1996–2011 (UDP):

ENV27 - DESIGN OF NEW DEVELOPMENTS

HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA

STRATEGIC POLICY 2

Policy HOUS2 supports the principle of housing infill, small-scale development and redevelopment (including conversions) within the settlement boundary of Barry, subject to the criteria listed in Policy HOUS8 being met.

Policy HOUS8, states that subject to the provisions of Policy HOUS2, development will be permitted which is within or closely related to the defined settlement boundaries provided that it meets all the following criteria:

- (i) the scale, form and character of the proposed development is sympathetic to the environs of the site;
- (ii) the proposal has no unacceptable effect on the amenity and character of existing or neighbouring environments of noise, traffic congestion, exacerbation of parking problems or visual intrusion;
- (iii) the proposal does not have an unacceptable impact on good quality agricultural land (Grades 1, 2 and 3a), on areas of attractive landscape or high quality townscape or on areas of historical, archaeological or ecological importance;
- (iv) when appropriate and feasible the provisions of Policy REC3 are met;
- (v) the provision of car parking and amenity space is in accordance with the Council's approved guidelines; and
- (vi) adequate community and utility services exist, are reasonably accessible or can be readily and economically provided.

Policy ENV27 relates to all new forms of development and requires that new forms of development are of a high standard of design and have regard to the context of the environment within which they are proposed.

Strategic Policy 2 of the UDP states that proposals that encourage sustainable practices will be favoured.

Issues

It is considered that the primary issues involved in the assessment of the application are the visual impact of the external alterations, the impact on neighbouring properties, the level of parking and amenity space to serve the units and highway safety issues. In assessing the above, the core issue is therefore considered to be whether the scheme represents an appropriate level and arrangement of development for the site.

External Alterations at No. 6

The external alterations are limited to the addition of new glazed doors at ground floor on the front, new openings at ground and first floors on the rear and new roof lights in both planes of the main roof.

The new openings on the front are set well back off the highway and would be largely screened behind the new garage and enclosure to the amenity space. The new openings on the rear elevation would not be visible from public viewpoints and accordingly will also have no material impact on the character of the building. It is further considered that the roof lights, which would occupy a limited proportion of the roof planes, would have a negligible impact on the character and appearance of the building.

In order to create private gardens to serve the units, the developer will need to erect a new enclosure around the proposed amenity space. It is not considered that an enclosure in this location, approximately 12m back from the highway, would be unacceptable in principle, and a condition requiring details of its appearance to be submitted and agreed would ensure that it does not appear as visually incongruous within the wider street scene. The developer will need to excavate the existing ground level, which adjoins the building approximately 1.5m above the level of the proposed amenity space, however, this would have no impact on the wider street scene.

It is also considered that details of the covered bike shed can be appropriately agreed by condition should the development be considered acceptable in all other respects.

The large dormer extension has not been omitted from the scheme and it is considered that the proposal as a whole will sufficiently preserve the character of the building.

Impact on Neighbouring Properties

There are no new buildings proposed in close proximity to any neighbouring properties and therefore the primary issues in respect of neighbours' amenities relate to the new windows and the principle of the use.

There are new roof lights proposed in the roof plane facing towards No. 4 St. Nicholas Road, however, the section through the roof space indicates that the bottom of the opening will be 2m above floor level. It is therefore considered that these openings would not adversely affect the privacy of the neighbouring properties.

The new openings on the rear elevation are to be set back 1.2m into the building and obscurely glazed. However, this set back does create a small balcony area within the building, directly facing the side elevation of Kington Court Residential Home within a couple of metres. This elevation of Kington Court contains windows serving bathrooms and a staff night room and accordingly, it is considered that the use of these balcony areas would unacceptably impact upon the privacy of those within the home.

However, subject to the windows being non-opening and obscurely glazed, there would be no overlooking between these properties. The top high level panels can be openable to allow ventilation and the Council's Building Control Officer has confirmed that a satisfactory means of escape can be provided through the building without the need for escape windows from these rooms. However, this would necessitate swing fire doors as opposed to the slide doors shown.

The new window on the rear elevation at second floor would not overlook any neighbouring properties.

Objections have been raised in respect of the general noise and nuisance that would result from the use of the building, however, this site is located within a predominantly residential area and the proposed use is not considered to be of a nature or intensity that is out of character with the area or would cause harm to the amenities of neighbours. Whilst the area of amenity space would lie adjacent to the garden of No. 4 St. Nicholas Road, this is a conventional relationship between neighbouring garden areas and it is not considered that the proposal would give rise to an excessive or harmful level of use of the land. Subject to the provision of a 1.8m high enclosure between the area of amenity space and the remaining garden for no. 4, there would be no overlooking between properties.

The objections in relation to the possible type of tenant and the impact on surrounding property values are not planning matters and therefore cannot have bearing on the assessment of the application.

Amenity Space

The area of amenity space measures approximately 11.5m x 8m, amounting to approximately 90m² in size. Within this overall area, the space is separated into 2 private areas to serve the larger units and a further shared area for the two smaller units.

Whilst the two private patios are relatively limited in size, they constitute adequate and useable spaces that would enable the occupants to relax and carry out every day functional activities such as clothes drying, outdoor storage etc. The shared area to serve the smaller units is also considered to be more than adequate for the likely number of users.

Whilst the area does fall marginally below the level of space required by the Council's Amenity Standards Supplementary Planning Guidance, it should also be noted that the site is well located in terms of public amenity space, within 200-220m of Romilly Park.

Given the above points and that the proposal is to convert a vacant building in a sustainable location to a beneficial use, it is considered that the shortfall is acceptable in this case.

Parking and Highways Issues for No. 6

The Council's Highways Engineer has considered the level of parking to serve the development, namely four spaces for the four units, to be acceptable.

It should be noted that the Council's Parking Guidelines are post-dated by Planning Policy Wales (2002), which explicitly states at paragraph 8.4.2 that minimum parking standards are no longer appropriate and that Local Planning Authorities should ensure that new developments should provide lower levels of parking than have been achieved in the past.

Furthermore, the application site is located in very close proximity to regular bus routes and within 350m of Barry Train Station. It is, therefore, considered that the application site lies within a highly sustainable location and that the proposed level of parking is acceptable.

The Highways Engineer has considered the application in terms of both the level of parking and the acceptability of the access, and has raised no objection. In terms of highway safety, there is sufficient room for vehicles to enter, turn within the site and leave in a forward gear and the applicant has demonstrated that the parking area for the flats will not conflict with the servicing arrangements for the off licence. On this basis, it is not considered that the proposed conversion would not have any adverse impact on the safety or free flow of traffic.

Wider Sustainability issues

Strategic Policy 2 of the UDP states that proposals that encourage sustainable practices will be favoured. These include proposals that are located so as to minimise the use of the car, make beneficial use of derelict or degraded land, utilise high standards of design and contribute to energy efficiency.

It should be noted that this application represents the conversion of an existing but vacant building within a defined settlement boundary that at present makes no beneficial contribution to the town. The site is located close to sustainable transport options and a range of retail and other services at Park Crescent, High Street and Broad Street and preserves the character of the building. Accordingly, it is considered that the application meets the criteria of Strategic Policy 2.

New Garage at No. 4 St. Nicholas Road

It is considered that the proposed garage is of a scale, form and design that is in keeping with the character of the dwelling and the wider street scene, as required by Policy ENV27 of the Unitary Development Plan. It would replace an existing garage that makes little contribution to the street scene, and it is considered that the proposed structure would enhance the wider built environment.

The applicant has submitted a swept path plan that demonstrates the garage can be properly accessed via the existing arrangements, ensuring that at least three off street spaces would remain within the curtilage of this site. The Highways Engineer has confirmed that the proposal is acceptable in highways terms subject to the retention of this level of parking.

Other Objections

An objection has been received on the grounds that the proposal would adversely affect the commercial viability of the off licence. As stated above in respect of the proposed parking layout, it has been demonstrated that the servicing arrangements of the off licence would not be unduly affected and it is considered that the use of the warehouse would not adversely affect the shop in any other respect.

No objections have been received from any statutory consultees in respect of the impact on utilities.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Strategic Policy 2, Policies ENV27 - Design of New Developments; HOUS2 - Additional Residential Development; and HOUS8 - Residential Development Criteria, of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, it is considered that the proposal is acceptable in that the external alterations and new garage are in keeping with Nos. 4 and 6 St. Nicholas Road and the wider street scene, the development would not adversely affect the amenities of any neighbour and there is sufficient parking and amenity space to serve the new units.

RECOMMENDATION

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. This consent shall only relate to the amended plans reference 42/L1A, 42/01A, 42/02B, 42/03A, 42/04B, 42/05A, 42/06, 42/07, 42/08 and 42/09, received on the 18 February 2008 and the roof section drawing 42/06, received on the 11 February 2008, and the development shall be carried out strictly in accordance with these details.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

3. Notwithstanding the submitted details, further details of all windows, rooflights, doors, any new eaves and rainwater goods, including sections to a scale of 1:20 shall be submitted to and approved in writing by the Local Planning Authority, prior to their use in the development. The development shall be constructed in full accordance with the details as agreed and thereafter so maintained at all times.

Reason:

In the interests of local visual amenities and to ensure compliance with Policies ENV27 and HOUS8 of the Unitary Development Plan.

4. The new windows within the South West facing elevation at both ground and first floor levels shall be of fixed pane construction and obscurely glazed at the time of construction and shall be so maintained at all times thereafter. Details of any high level windows that may be required to be openable for ventilation shall be submitted to and agreed in writing by the Local Planning Authority prior to their insertion.

Reason:

To protect the privacy of those within the adjacent property and to ensure compliance with Policies ENV27 and HOUS8 of the Unitary Development Plan.

5. The new first floor windows contained within the north west facing elevation shall be obscurely glazed at the time of their insertion and so maintained at all times thereafter and the existing first floor windows within this elevation shall be fitted with obscure glazing prior to the first beneficial occupation of the building and so maintained at all times thereafter.

Reason:

To protect the privacy of the neighbouring properties and to ensure compliance with Policies ENV27 and HOUS8 of the Unitary Development Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking or re-enacting that Order, no windows shall be inserted into any elevation of the converted building without the prior written consent of the Local Planning Authority.

Reason:

To safeguard the privacy of adjoining occupiers, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

7. The area of amenity space shown on plan Morph 42/06, received on the 18 February 2008, shall be fully laid out prior to the first beneficial occupation of any of the units and shall be retained at all times thereafter for the use of occupants of the residential units hereby approved.

Reason:

To ensure a satisfactory level of amenity space is available to serve the units and to ensure compliance with Policies ENV27 and HOUS8 of the Unitary Development Plan.

8. Details of the means of enclosure of the amenity space, including all new retaining walls and fences, existing walls to be retained and the new access point for the occupiers of the single bed flats, shall be submitted to any agreed in writing by the Local Planning Authority, then erected and maintained at all times thereafter in accordance with those details, prior to the first beneficial occupation of any of the units.

Reason:

In the interests of visual amenities and to ensure compliance with Policies ENV27 and HOUS8 of the Unitary Development Plan.

9. Prior to the commencement of development full details, including cross sections, of the existing and finished levels of the area of amenity space, the floor levels of the building and the adjoining land shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that the amenities of the occupiers and neighbouring properties are safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

10. The proposed parking provision as shown on the amended site layout plan (Drawing No. 42/05 A) shall be provided and clearly delineated on the ground for the use of each dwelling unit, prior to the beneficial occupation of any unit and thereafter maintained and retained clear of obstruction at all times for their use associated with this development.

Reason:

To ensure adequate parking facilities are provided to serve the development proposals, in the interests of highway safety and to ensure compliance with Policies ENV27, HOUS8 and TRAN 10 of the Unitary Development Plan.

11. Notwithstanding the provision of the area of amenity space to serve the new residential units, a minimum of three number parking spaces shall be retained within the curtilage of No. 4 St. Nicholas Road to serve this property at all times.

Reason:

To ensure adequate parking facilities are provided to serve the dwelling, in the interests of highway safety and to ensure compliance with Policies ENV27, HOUS8 and TRAN 10 of the Unitary Development Plan.

12. Notwithstanding the terms of the Town and Country Planning (General Permitted Development) Order 1995 or any Order amending, revoking or re-enacting that Order no fence, wall or means of enclosure shall be erected, constructed, improved or altered on site without the prior consent of the Local Planning Authority.

Reason:

In the interests of visual amenities and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

13. Prior to its construction, details of the covered bicycle shed and bin store shall be submitted to and agreed in writing by the Local Planning Authority and the structure shall be provided in accordance with those details prior to the first beneficial occupation of any of the units.

Reason:

To ensure the provision of adequate bicycle and bin storage facilities, to encourage the use of sustainable forms of transport, in the interests of visual amenities and to ensure compliance with Policies ENV27 and HOUS8 of the Unitary Development Plan.

NOTE:

1. **The proposed development site is crossed by a public sewer. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone please contact Dwr Cymru Welsh Water's Network Development Consultants on 01443 331155.**

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

2008/00068/FUL Received on 17 January 2008

Mr. David Harris, Old Froglands, Llanmaes, Llantwit Major., Vale of Glamorgan., CF61 2XR

Mr. S. J. Williams, Hyder Consulting, HCL House, Fortran Road, St. Mellons, Cardiff., CF3 0EY

Pen-y-Bryn, Bottom Farm, Llanmaes

Temporary agricultural accommodation

SITE DESCRIPTION

The application site is Pen Y Bryn Bottom Farm, which lies approximately 1.75km north east of Llanmaes and 1km east of St. Mary Church. The application site is approximately 1 hectare in size and is comprised of a singular field parcel measuring approximately 100m wide x 100m deep.

The site presently contains a set of stables and a separate feed store building towards the south east corner, with an associated manege to the rear. Planning permission was also granted for a larger agricultural storage building towards the centre of the site, which has now been constructed - see planning history below. There is an existing vehicular access point at the south east corner of the field, which leads directly onto a large hard surfaced area.

The complete holding is some 32 hectares (79 acres) in size, and is comprised of land adjoining and directly north of the application site. The applicant currently accommodates 48 breeding ewes and 5 breeding mares within the site.

DESCRIPTION OF DEVELOPMENT

The application proposes a temporary agricultural dwelling to support this enterprise by allowing a full time agricultural worker to live at the site.

The dwelling is proposed towards the south of the site, approximately 20m back from the highway, adjacent to the existing hardstanding. It measures 12.19m long x 3.66m deep x approximately 3.5m in height. It is in the form of a log cabin and provides accommodation consisting of a lounge, kitchen, bathroom and two bedrooms.

The applicant has submitted a supporting statement, prepared by The Farm Consultancy Group, which attempts to provide a justification for the dwelling in respect of both the functional and financial tests.

PLANNING HISTORY

99/00514/FUL – Stables. Approved 15 October 1999.

03/00193/FUL - Construct food and equipment store and retain manege.
Approved 2 May 2003.

06/01190/FUL - New hay, machinery and livestock building. Approved 10 October 2006.

CONSULTATIONS

Llandow Community Council were consulted on 21 January 2008. No representations have been received to date.

Environment Agency Wales were consulted on 30 January 2008 and have raised no objection.

The Head of Visible Services (Highways Development) was consulted on 30 January 2008 and has raised no objection subject to the dwelling only being used in conjunction with the existing agricultural use of the site and subject to parking being provided to meet the Council's Parking Guidelines.

Countryside Council for Wales was consulted on 30 January 2008 and has no objection.

Dwr Cymru/Welsh Water were consulted on 30 January 2008 and have no objection since the applicants are intending to utilise private drainage facilities.

REPRESENTATIONS

The neighbouring property Bryn Goleu was consulted and a site notice posted. No representations have been received to date.

REPORT

Planning Policies

The following policies of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 (UDP) are considered to be of primary relevance to the assessment of this application:

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE

ENV4 - SPECIAL LANDSCAPE AREAS

ENV10 - CONSERVATION OF THE COUNTRYSIDE

ENV27 - DESIGN OF NEW DEVELOPMENTS

HOUS3 - DWELLINGS IN THE COUNTRYSIDE

HOUS5 - AGRICULTURAL OR FORESTRY DWELLINGS

Policy ENV1 of the UDP permits new development in the countryside provided it is justified in the interests of agriculture or forestry, is for an appropriate recreational use, is for the re-use or adaptation of existing buildings or is for a form of development approved under other policies of the plan.

Policy ENV4 permits development within Special Landscape Areas (SLA's) provided it would not adversely affect the landscape character, landscape features or visual amenities of the SLA.

Policy ENV10 seeks to ensure that the countryside and in particular areas of high quality landscape, will be protected from inappropriate forms of development.

Policy ENV27 relates to the Design of New Developments and seeks to ensure that all new forms of development have regard to the context of the environment within which they are proposed.

Policy HOUS3 permits new dwellings in the countryside provided that they can be justified in the interests of agriculture or forestry.

Policy HOUS5 permits dwellings associated with agriculture or forestry provided:

- (i) An essential need is demonstrated, based on functional and financial necessity.
- (ii) The scale, siting, design, landscaping and external appearance are compatible with the surrounding landscape.
- (iii) An acceptable access to the dwelling can be provided.

National planning guidance is to be found in Planning Policy Wales (2002) (PPW) and Technical Advice Note 6 (TAN 6). Planning Policy Wales advises that a proposal for such a dwelling must demonstrate that the proper functioning of the enterprise requires a worker to be readily available at most times, and that the farming enterprise is economically viable (functional and financial tests).

Planning Policy Wales also states that it is important to establish the stated intentions of the applicant to engage in agriculture are genuine, and reasonably likely to materialise and are capable of being sustained. Planning Policy Wales goes on to state that where a case is not completely proven, the dwelling should take the form of temporary accommodation for the first three years, which could easily be dismantled.

Policy TAN 6 repeats this advice and states that an application for a temporary dwelling should satisfy the following criteria:

- (i) Clear evidence of a firm intention to develop the enterprise concerned.
- (ii) Functional need.
- (iii) Clear evidence that the enterprise has been planned on a sound financial basis.

- (iv) The functional need could not be satisfied by another dwelling within the unit, or other suitable accommodation in the area.
- (v) Other normal planning requirements, for example on siting and access, are satisfied.

Issues

It is considered that the primary issues in this case are whether the proposed dwelling satisfies the functional and financial tests and whether its siting is appropriate, also having regard to whether a permanent dwelling would be acceptable in this location, should the case for a temporary structure be proven.

Functional Test

The farming enterprise is described as presently supporting 48 breeding ewes and 5 breeding mares, however, it should be noted that the latter are not classed as agriculture. It is the intention of the applicant to increase this level to 80 breeding ewes and 8 breeding mares and to introduce a store cattle enterprise, selling 25 annually. The applicant's agricultural report also states that there is an intention to rent an additional 6 hectares of land once the planned enterprises are fully operational.

Whilst it is the applicant's intention to expand the enterprise along these lines, there has been no evidence submitted to suggest that these developments are realistically likely to materialise. In reality, the enterprise is in its infancy and at present there is clearly insufficient agricultural activity to support the need for a full time worker to be present at most times out of necessity. The applicant has provided a labour requirement analysis to attempt to justify the need for a full time worker. However, based on the existing stock levels (of agricultural related activities), there would be a requirement of approximately 50 man-days per year (plus 15% "maintenance and repairs").

Even should the enterprise be developed to the intended point, this would produce a requirement of only 110 man-days (plus 15%). These figures indicate that the both the existing and proposed levels of agricultural activity do not support the need for a worker to be present full-time within the site. It is therefore considered that the functional test fails.

In policy terms, equine uses generally do not fall within the terms of agriculture. The Welsh Assembly Government issued a report in January 2005 (Essential Dwellings in the Open Countryside). The report asked the question 'Should the scope for new dwellings in the open countryside be widened?' The response was 'There is a solid case for widening the current guidance for essential dwellings in the open countryside to apply to agricultural, forestry and other rural enterprises'. However, at present this has not been translated into policy and these equine related activities cannot be included within assessments of agricultural need.

Financial Test

There are no submitted accounts for the business. The financial information provided is based upon projections across the next three years and these budgets assume an expansion that is unsupported.

The projected accounts use as a basis a labour figure of £12,000, rising to £12,500 over the three years. However, the Council's Agricultural Consultant had advised that this salary is not sufficient to cover the minimum agricultural wage. The Consultant has also advised that even allowing for the proposed expansion, the profits would not cover the minimum wage.

Notwithstanding the above, it should be noted that whilst these projections identify marginal profits, when taking into account depreciation of machinery and fixtures, the figures indicate losses in years 1 and 2 and a very marginal profit in year 3.

It should further noted that this expansion takes account of cattle that do not yet exist, mares and additional mares that are not classed as agriculture and additional sheep that would reside on land not yet acquired.

Based on the above, it is clear that there is insufficient agricultural activity at present (and proposed) to financially sustain an agricultural worker and furthermore, the applicant has not demonstrated that the business will at any time will become financially viable to the extent that would justify a dwelling. This test therefore also fails.

Siting and Access

There is an existing access point into the field and an existing hardstanding to provide access to the position of the proposed dwelling. The proposed building lies approximately 20m back from the highway and would be partially visible from points along the highway, it is considered that the proposed building would be relatively prominent in this location, given its size and the lack of a defined curtilage to surround it.

Should the dwelling have been justified in all other respects however, it is considered that a different siting, further within the field and more closely related to the existing agricultural building or horse related buildings, would be more appropriate and less visually intrusive.

Nevertheless, whilst an application for a larger permanent dwelling and its associated curtilage would be assessed on its merits, it is considered likely that in the proposed location, where it would be highly visible from surrounding views at distance, the development would have a significant and adverse impact on the visual amenities and character of the Special Landscape Area, contrary to Policies ENV4, ENV10, ENV27 and HOUS5 of the UDP.

Other Dwellings In The Area That Could Serve The Purpose

There is no dwelling presently within the holding and the applicant's submitted report states that there are no other dwellings within a suitable distance from the holding. Whilst there does not appear to be any evidence to contradict this claim, the applicant lives just over one mile away from the site and the submitted functional and financial information does not justify a new dwelling in closer proximity to or within the site.

CONCLUSION

The decision to recommend refusal of planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV1 – Development in the Countryside; ENV4 - Special Landscape areas; ENV10 – Conservation of the Countryside; ENV27- Design of New Developments; HOUS3 – Dwellings in the Countryside; and HOUS5 – Agricultural or Forestry Dwellings, of the Vale of Glamorgan Adopted Unitary Development Plan 1996–2011 and advice contained within Planning Policy Wales (2002) and TAN 6 (2002), it is concluded that there is no proven justification for the proposed dwelling both in functional and financial terms. In addition, it is considered that siting a permanent dwelling in this location would cause harm to the visual amenities and rural character of the Special Landscape Area.

RECOMMENDATION (W.R.)

REFUSE

1. The existing agricultural enterprise fails both the functional and financial tests in that there is insufficient functional need for a worker to be present on-site on a full time basis and the financial basis of the enterprise would not support a full time worker. The proposal therefore represents an unjustified dwelling in the open countryside, which is contrary to Policies ENV1- Development in the Countryside, ENV4 - Special Landscape Areas, ENV10 - Conservation of the Countryside, ENV27 - Design of New Developments, HOUS3 - Dwellings in the Countryside; and HOUS5 - Agricultural or Forestry Dwellings, of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 and the advice contained within Planning Policy Wales (2002) and TAN 6 - Agricultural and Rural Development.

2008/00094/FUL Received on 23 January 2008

Mr. Mark Canning, West Ceffyl, Broughton, Vale of Glamorgan.
Chris J. Morgan, 4A Fontygary Road, Rhoose, Vale of Glamorgan., CF62 3DR

Land and buildings at Crofta Farm, Ystradowen

Change of use of agricultural building to 1 no. dwelling (barn 2 only)

SITE DESCRIPTION

The site comprises a group of redundant agricultural buildings, with associated yard and access track, located in the countryside to the north of Ystradowen.

DESCRIPTION OF DEVELOPMENT

This is an application for full planning permission for the conversion of one of the existing stone barns to provide a single dwellinghouse. The proposal entails the following:

- Conversion of an existing single storey, pitched roof stone dairy and store, Barn 2, located centrally within the complex of buildings, to provide for a two bedroom dwelling, with bathroom, en-suite and a lounge/kitchen area. The works will also entail excavation of land on the rear, north side of the building to provide a new retaining wall and 1m wide access strip.
- The demolition of a number of modern agricultural buildings within the immediate yard area, and the creation of three parking bays and a turning area.
- The retention and re-use of the two other existing stone barns located to the north and west of the proposed residential conversion for ancillary storage purposes for the new dwelling or existing farmhouse or garaging or stables subject to a further application.

Vehicular access will be via the existing track onto the adopted highway approximately 170m to the west.

The application is accompanied by a Structural Report, Wildlife Survey, and Sustainability and Access Statements.

PLANNING HISTORY

95/00512/PN - Pole barn. Approved 30 June 1995.

97/01085/PN - Fodder storage building. Approved 14 November 1997.

07/00078/FUL - Change of use of agricultural buildings to two dwellings.
Withdrawn 14 November 2007.

CONSULTATIONS

Penllyn Community Council – “Members reiterate their previously expressed objections to this proposal, thus:

1. The building concerned is distant from the nearest settlement of Ystradowen. The transport link is firstly along a rough unmade single track farm track, thereafter it is by way of a single track “made” lane to Ystradowen. Scope for passing other traffic in this lane is quite limited. Planning Guidelines Policy ENV7 state that residential conversions in isolated locations are not considered suitable as they can have a detrimental effect upon the rural/ agricultural character and encourage private car use contrary to the principles of sustainability embodied in national policy and the Unitary Development Plan (UDP). The lanes concerned are quite unsuited to taking heavier traffic loads.
2. Policy ENV7 states that “the most frequent proposals are to convert rural buildings, in particular barns, to residential use. Whilst this can often be most financially attractive option it is generally the least desirable from a building conservation and sustainability point of view”.
3. Conversion of the barn to residential use will be likely to result in children having to walk along the lanes to catch the school bus. The lanes are not considered safe for children to walk, especially in dark winter mornings and afternoons. The alternative to walking is to be driven, resulting in increased traffic in the lanes which we are unhappy with as described above.

Objection.”

Environment Agency Wales has no objection and have submitted their generic information note for developers.

Dwr Cymru/Welsh Water has no comment to make as the applicant intends utilising private drainage facilities.

Glamorgan Gwent Archaeological Trust comment that there is potential for archaeological features relating to the medieval settlement of the area to be revealed during ground works and these could be damaged. It is recommended that an archaeological watching brief condition be attached to any consent.

The buildings also contain architectural features both internally and externally and it is recommended that a qualified building historian should make a record both by means of a drawn and photographic record prior to any conversion works and that a condition be imposed to require such works.

Countryside Council for Wales has no objection but recommend changes to reduce the impact of the scheme including a condition to allow for access by bats into any new buildings.

The Head of Economic Development & Leisure (Ecology) – The bat survey highlighted the area as having potential for roosting bats but no evidence was found on the buildings, though foraging bats were located within close proximity. As such they recommend the incorporation of features to allow access to bats along with informatives to highlight guidance and legal protection for bats as well as great crested newts and nesting birds. It is noted that on this occasion the Ecology team did not refer to the proposals for passing bays along the access track which is flanked by hedgerow and woodland.

The Director of Legal, Public Protection and Housing Services (Environmental Health – Pollution Section) has no comment to make on the application on provision that as previously discussed, the farm is no longer working.

The Head of Visible Services (Highway Development) - Initial comments – Confirmation is required as to whether the adjacent land edged in blue, identified as under the control of the applicant will be used in association with the proposed residential use or will be independently used in addition to the development proposals.

Furthermore, confirmation is required that the existing farming operation at the development site (and the adjacent land identified as under the control of the applicant) will cease.

Further comments – Based on the removal of the existing farm buildings at the site, it is considered that the development proposals (a single dwelling) would not increase the existing traffic generation above the existing site use.

However, as the nature of traffic visiting the site will change, the following details are made conditional to the planning consent.

1. The existing access to the development site shall be increased in width to 4.5m for the first 10.0m into the site from the adjacent adopted highway. Reason: In the interests of highway safety.
2. A passing bay shall be provided along the internal site access road within the development site to allow two vehicles to pass side by side. Reason: In the interests of highway safety.
3. Access gates, if any, shall be set back by a minimum of 10.0m from the adopted highway. Reason: To prevent vehicles queuing on the adjacent highway while gates are opened/closed, in the interest of highway safety.
4. The access to the development site shall be constructed from a bound surface for the first 10.0m from the adjacent highway. Reason: To prevent loose material becoming deposited on the adjacent highway.

The Head of Economic Development & Leisure (Public Rights of Way Officer) was consulted on 29 January 2008. No comments have been received to date.

Building Control Section were consulted on 29 January 2008. No comments have been received to date, however, it is noted that on the recently withdrawn application, for which the same structural report was submitted, that observations indicated that in respect of:

Barn 1 – Generally sound other than the two areas identified in the report, i.e. settlement cracks around window heads particularly to the main entrance (south elevation), and vertical crack on north west elevation. However, a section of the masonry wall above the main entrance and a further section on the north elevation which have been identified as requiring re-stitching and re-pointing, will in fact require demolition and rebuild.

Barn 2 – Externally the structure appears generally sound. Details are required of how the ground is to be retained in the north elevation when excavation of the ground abutting the existing structure has been carried out. Furthermore once the wall has been exposed a further assessment of the structure in this area should be carried out.

Barn 3 – Concur with report which indicates that the walls are structurally less sound than Barns 1 and 2 and does have two major structural defects, i.e. the wall above the main double door entrance and the external stair, with both areas requiring demolition and rebuild.

REPRESENTATIONS

The occupiers of neighbouring properties were notified on 29 January 2008. In addition the application was advertised on site and in the press on 6 February 2008. Letters of objection have been received from the occupiers of Ty'n-y-Pant and White Lodge. These are reproduced in full at Appendix A for Committee Members inspection. In summary, however, the main point of concern relates to increased use of narrow lane causing problems of highway safety and damage to property.

REPORT

The proposal entails the conversion of an existing farm building to provide for a single dwelling. The site is located in the open countryside to the north of Ystradowen. As such the following policy background applies.

Planning Policies

Policy ENV1 of the Vale of Glamorgan Adopted Unitary Development Plan 1996 – 2011 (UDP) relates to Development in the Countryside and states:

WITHIN THE DELINEATED COUNTRYSIDE PERMISSION WILL ONLY BE GRANTED FOR:

- (i) DEVELOPMENT WHICH IS ESSENTIAL FOR AGRICULTURE, HORTICULTURE, FORESTRY OR OTHER DEVELOPMENT INCLUDING MINERAL EXTRACTION, WASTE MANAGEMENT, UTILITIES OR INFRASTRUCTURE FOR WHICH A RURAL LOCATION IS ESSENTIAL;
- (ii) APPROPRIATE RECREATIONAL USE;

- (iii) THE RE-USE OR ADAPTATION OF EXISTING BUILDINGS PARTICULARLY TO ASSIST THE DIVERSIFICATION OF THE RURAL ECONOMY;
- (iv) DEVELOPMENT WHICH IS APPROVED UNDER OTHER POLICIES OF THE PLAN.

The policy most relevant to the assessment of the application is Policy ENV8 – Small Scale Rural Conversions. This states:

PROPOSALS WHICH INVOLVE SMALL SCALE CONVERSIONS OF RURAL BUILDINGS TO NEW USES WILL BE PERMITTED IF ALL OF THE FOLLOWING CRITERIA IS MET:

- (i) WHERE THE BUILDING IS OF ARCHITECTURAL OR HISTORIC VALUE, THE PROPOSED CONVERSION RETAINS THOSE ARCHITECTURAL OR HISTORIC FEATURES PRESENT IN THE BUILDING;
- (ii) IN THE CASE OF A CONVERSION TO BUSINESS USE THE BUILDING IN TERMS OF FORM, BULK AND GENERAL DESIGN IS IN KEEPING WITH ITS SURROUNDINGS;
- (iii) THE BUILDING IS STRUCTURALLY SOUND AND THE CONVERSION CAN BE ACHIEVED WITHOUT SUBSTANTIAL RECONSTRUCTION OF THE EXTERNAL WALLS, OR EXTENSION TO THE BUILDING. HOWEVER, EACH PROPOSAL WILL BE ASSESSED AS A MATTER OF FACT AND DEGREE, DEPENDING ON THE PARTICULAR CIRCUMSTANCES OF THE CASE;
- (iv) CONVERSION WORK CAN BE UNDERTAKEN WITHOUT UNACCEPTABLY ALTERING THE APPEARANCE AND RURAL CHARACTER OF THE BUILDING;
- (v) WHERE RESIDENTIAL USE IS CONSIDERED ACCEPTABLE, AMENITY SPACE CAN BE PROVIDED WITHIN THE CURTILAGE OF THE SITE WITHOUT UNDUE INCURSION INTO THE RURAL LANDSCAPE;
- (vi) VEHICULAR ACCESS IS AVAILABLE OR CAN BE PROVIDED FROM THE PUBLIC HIGHWAY WITHOUT ANY UNACCEPTABLE EFFECT UPON THE APPEARANCE OF THE COUNTRYSIDE;
- (vii) SATISFACTORY PARKING PROVISION CAN BE MADE WITHIN THE CURTILAGE OF THE SITE;
- (viii) IN THE CASE OF CONVERSION FOR SMALL SCALE COMMERCIAL, INDUSTRIAL, RECREATIONAL OR TOURISM USE THE PROPOSAL SHOULD NOT CREATE UNACCEPTABLE TRAFFIC OR OTHER ENVIRONMENTAL PROBLEMS;
- (ix) IN THE CASE OF CONVERSIONS FOR SMALL SCALE COMMERCIAL OR INDUSTRIAL USES, ANY RETAIL SALE OF PRODUCTS SHOULD BE ANCILLARY TO THE MAIN USE;
- (x) THE PROPOSAL IS NOT INCOMPATIBLE WITH ACTIVITIES CARRIED OUT ON ADJOINING LAND, APPLICANTS MAY BE REQUESTED TO ENTER INTO A LEGAL AGREEMENT TO CONTROL THE ACTIVITIES OF OTHER LAND IN THEIR OWNERSHIP;
- (xi) UTILITY AND INFRASTRUCTURE SERVICES CAN BE PROVIDED WITHOUT UNACCEPTABLE VISUAL INTRUSION AND WITHOUT DETRIMENT TO THE ENVIRONMENT;
- (xii) THE PROPOSED NEW USE WOULD PRESERVE OR ENHANCE THE SETTING OR CHARACTER OF ANY CONSERVATION AREA;
- (xiii) THE PROPOSAL WOULD PRESERVE OR ENHANCE THE ARCHITECTURAL OR HISTORIC QUALITY OF A LISTED BUILDING OR ITS SETTING.

This is supported by the Supplementary Planning Guidance on the Conversion of Rural Buildings (SPG). The SPG highlights the fact that isolated buildings are not appropriate for residential conversion and are contrary to sustainability principles.

“Proposals for the conversion of isolated buildings for residential purposes are generally unacceptable. Residential conversions are not considered suitable in such locations because isolated residential development can have a detrimental effect upon the rural/agricultural character of the landscape and encourage private car use contrary to the principles of sustainability embodied in national policy and the UDP.”

Indeed Strategic Policy 2 of the UDP favours proposals which encourage sustainable practices, including:

“(ii) Proposals which are located to minimise the need to travel, especially by car and help to reduce vehicle movements or which encourage cycling, walking and the use of public transport.”

Whilst Strategic Policy 8 states:

“Development will be favoured in locations which:

- (i) are highly accessible by means of travel other than the private car; and
- (ii) minimise traffic levels and associated unacceptable environmental effects.”

The Council also has a recently approved SPG on Sustainable Development which supports the above strategic policies.

Other policies of relevance include Policy ENV10 - Conservation of the Countryside and ENV11 – Protection of Landscape Features. These favour measures to maintain and improve the countryside, its features and resources, and only permits development if it does not unacceptably affect features of importance to landscape or nature conservation including trees, woodland, hedgerows river corridor, ponds, stone walls and species rich grasslands.

Policy ENV16 of the UDP relates to Protected Species with permission only given for development that would harm or threaten the continued viability of a protected species if it can be demonstrated that there are exceptional circumstances that justify the proposal; there is no satisfactory alternative; and effective mitigation measures are provided.

Policy ENV18 refers to Archaeological Field Evaluation and requires that where development is likely to affect a known or suspected site of archaeological significance an evaluation should be carried out at the earliest opportunity.

Policy ENV27 of the UDP relates to the Design of New Developments and requires that it has full regard to the context of the local, national and built environment and its special features.

Policy HOUS3 of the UDP refers to Dwellings in the Countryside and is a policy that seeks to restrict new house building in the countryside to those that can be justified in the interests of agriculture and forestry.

TRAN10 refers to Parking and requires that parking facilities are in accordance with the Council's guidelines and related to the type of land use, its density and location; accessibility to public transport; and the capacity of the highway network.

In addition to the previously mentioned Supplementary Planning Guidance the Council also has an SPG on Amenity Standards. This contains policies not only in relation to the level and quality of amenity space but also covers issues of privacy, overshadowing and visual amenity.

Planning Policy Wales March 2002 contains national guidance on the residential conversion of rural buildings and states at paragraph 7.6.11:

"If the existing building is unsuitable for conversion without extensive alteration, rebuilding or extension, or if the creation of a residential curtilage would have a harmful effect on the character of the countryside, similar control to that over new house building in the open countryside will apply."

In addition paragraph 9.3.6 states:

"New house building and other new development in the open countryside, away from established settlements, should be strictly controlled."

Issues

In assessing the proposal against the above policies and guidance the following points are noted.

It will be noted from the planning history that an earlier application for the conversion of the stone barns to two dwellings, which itself had been amended from three to two, was withdrawn in November last year. In assessing that application it was concluded that the proposal did not comply with criterion (iii) of Policy ENV8 nor the Council's SPG which states that proposals which require the substantial reconstruction of the external walls or roof will not be permitted since the scheme will be tantamount to allowing new development in the open countryside which would otherwise be refused. The Council's Building Control Section highlighted that there were structural problems with both Barn 1 and 3 with demolition and new build required.

The current application has been submitted for the conversion of only one of the barns, i.e. Barn 2 which was identified as the more structurally sound of the original buildings. However, even this barn is a concern as it is still not clear from the submitted plans how much work would be involved in relation to the proposed excavation works on the north elevation.

The SPG also recognises that there is no planning merit in preserving unsightly buildings and whilst the barn currently proposed for conversion is a traditional stone farm building, nevertheless it is of little quality and its loss would not detract from the rural character of the area. In addition it is considered that the existing building is the smallest of the stone barns and would provide very limited residential floor space such that any future occupiers would seek to increase their accommodation with unacceptable extensions to the building.

Criteria (iv) and (v) of Policy ENV8 requires that the conversion work can be undertaken without unacceptably altering the appearance and rural character of the building, and that amenity space can be provided within the curtilage of the site without undue incursion into the rural landscape. It is noted that the conversion of Barn 2 can be undertaken without undue alteration to its appearance. However, as with the previous application there is a concern in relation to the proposed curtilage. Once again the proposal entails a significant area of residential curtilage for the dwelling, and whilst it is appreciated that this is mostly the existing farmyard, nevertheless it will represent a considerable change in the appearance of the area and have a harmful affect on the rural character of the surrounding countryside. In addition it is not clear what will happen to the two other stone buildings to be retained. There is the suggestion that they will be utilised for other domestic uses, such as storage, garaging or stabling. These could potentially affect the character of the buildings and there is doubt as to how these would be integrated within any residential curtilage. The provision of the domestic curtilage and works to the building will all be highly visible from the nearby public right of way that passes to the south of the site and will all serve to urbanise the area to the detriment of the rural landscape setting. In addition it is clear in this revised application that existing farm buildings located to the east will be retained, with a field gate entrance adjoining the proposed residential curtilage providing agricultural access. From the submitted edged red and blue plan there appears to be a sizeable area of agricultural land that could be prejudiced by the introduction of a new dwelling in this location. Indeed the Council's Environmental Health Section have indicated that they have no comment on the proviso that agricultural operations cease. Criterion (x) of Policy ENV8 requires that the proposal is not incompatible with activities carried out on adjoining land. It would appear that the agricultural field gate indicated is the only way to access the existing agricultural building to be retained and associated land.

It is this issue of access and location of the site in relation to sustainability that is considered to be one of the primary concerns with the proposed development. The site is an isolated location with no local facilities within walking distance and no public transport option. Any occupiers of the proposed dwelling would have to rely on gaining access to community and other facilities by means of private car and along a narrow, often difficult, road network. Once again this is the principal concern expressed by the objectors. It is considered therefore that an additional dwelling in this location will represent the unacceptable form of unsustainable development. In addition once off the adopted highway network the site can only be accessed via a very narrow and difficult track. It is noted that the Council's Highway Engineer has indicated that based on the removal of the existing farm buildings the development proposals would not increase the existing traffic generation. However, as the nature of the traffic visiting the site will change certain works are required.

These include the increased width of the existing track to 4.5m for the first 10m; its surfacing in a bound material; and the provision of a passing bay. It is noted that the existing track is surrounded by vegetation and there is also a significant drop in levels to one side. Such works would therefore result in the loss of existing planting and will require engineering works that will further serve to urbanise the area.

On the issue of wildlife protection and ecology, the application is supported by a wildlife survey and the Council's Ecologist is satisfied that a license will not be required. It is noted however that on the previous application they requested to be consulted further in relation to any proposed passing bays as the track is flanked by hedgerow and woodland.

As regards archaeology the Glamorgan Gwent Archaeological Trust have indicated that there is an archaeological interest in the site and a watching brief condition is required, along with a record of historical features.

Finally, in terms of the infrastructure it is noted that both Dwr Cymru/Welsh Water and the Environment Agency have raised no objections.

CONCLUSION

The decision to recommend refusal of planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

In conclusion it is considered that the proposal due to its isolated location and associated new works, will amount to the creation of a new and unsustainable dwelling in the countryside unjustified for agricultural purposes. The works to improve the vehicular access to the site and the amenity space provision, all on this highly visible location, with the nearby public right of way, will result in the urbanisation of the site that will have a significant adverse affect on the character and appearance of the surrounding rural landscape. The proposal is also likely to prejudice any agricultural activities on the surrounding land. The Council's SPG on The Conversion of Rural Buildings states that residential reuse is the least desirable from a building conservation and sustainability point of view. The proposal is therefore contrary to the Council's strategic aims and national guidance and the generally restrictive strategy of new housing in the countryside.

RECOMMENDATION (W.R.)

REFUSE

1. In the opinion of the Local Planning Authority the proposal, due to its isolated location and associated new works, represents the introduction of an unsustainable new dwelling in the countryside, unjustified for agricultural or forestry purposes. The proposal will serve to urbanise the site and prejudice the use of adjoining agricultural land all to the detriment of the character and appearance of the surrounding countryside contrary to Policies ENV1 - Development in the Countryside, ENV8 - Small Scale Rural Conversions, ENV10 - Conservation of the Countryside, ENV11 - Protection of Landscape Features, ENV27 - Design of New Developments, HOUS3 - Dwellings in the Countryside, and Strategic Policies 2 and 8 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on the Conversion of Rural Buildings and Sustainable Development; and national guidance contained in Planning Policy Wales March 2002.

2007/01753/RG3 Received on 19 December 2007

The Vale of Glamorgan Council, Docks Office, Barry, Vale of Glamorgan., CF63 4RT

Mark White, Project Mgt Unit, Dept of EER, Docks Office, Barry., Vale of Glamorgan., CF63 4RT, ,

The Innovation Quarter, Hood Road, Barry

Outline planning application for A 14-19 Learning Centre

SITE DESCRIPTION

The application site comprises a roughly triangular area of undeveloped land, some 0.85 hectares in size, located between Hood Road and Ffordd y Mileniwm, adjacent to the existing roundabout and opposite the pump house. To the immediate east are the houses on Ffordd Sealand, while Hood Road to the western boundary also serves the BSC and other development to the north and west. The site comprises part of the comprehensive redevelopment area known as "The Waterfront".

DESCRIPTION OF DEVELOPMENT

This is an application under Regulation 3 of the Town and Country Planning General Regulations 1992 (Minute No. 1975 refers), seeking outline planning permission for the construction of an education facility. All matters are reserved for subsequent approval.

The supporting information indicates that the Council's Learning and Development Department envisage a high quality purpose built "learning centre" providing new learning pathways for 14 to 19 year olds. It is anticipated that the proposed building would be approximately 1,500 sq m floor space providing a range of vocational and academic courses to address specific areas of need identified by local employers, plus training of young people with skills needed to take advantage of the opportunities for training and employment brought to the area through the Defence Training Academy at St. Athan.

The site forms part of the Vale's 'Innovation Quarter', a 19 acre mixed use regeneration project being facilitated by the Welsh Assembly Government, its objective being to establish a critical mass of synergistic education, business, community and tourism uses. To date this has seen the delivery of a skill training centre and entrepreneurship centre (The BSC) with other projects prepared such as a primary Care centre.

The application is supported by a Sustainability Statement, design and Access Statements.

PLANNING HISTORY

There is a considerable history of applications relating to Barry No. 1 Dock. Of particular relevance to the current application are:

94/00144/OUT – Comprehensive redevelopment of No. 1 Dock. Approved 29 May 1997 subject to a Section 106 Legal Agreement and 21 conditions.

00/00265/FUL – Variation of Condition No. 3 of planning permission 94/00144/OUT to extend time period for approval of reserved matters from three to seven years. Approved 28 April 2000.

01/00132/REG3 - Extension of Skills Training Centre/Workshop. Approved subject to conditions 1 November 2001.

01/01573/REG3 - Proposed Entrepreneurship Centre. Approved subject to conditions 28 February 2002.

2007/00172/RG3 – Site W3, The Waterfront, Barry Docks. Outline planning application for the site to be used for an education facility. Approved 29 March 2007.

CONSULTATIONS

Barry Town Council states that the intention to develop a "14-19 learning Centre" within the innovation quarter at the Waterfront Barry is welcomed, and raise no objections in principle.

Environment Agency Wales initially advised that the application site lies within Zone B as defined by the development Advice Maps (TAN 15), and that although TAN15 indicates that flooding is unlikely to constrain development in this zone, they need to ensure that the new building is set at a level that ensures it is not subject to tidal flooding. Accordingly they required a Flood Consequences Assessment to be undertaken prior to determination of the application.

Following discussions, they have since stated that a condition would be acceptable requiring that the finished floor levels of the development are agreed in writing to protect the building from flooding.

The Director of Learning and Development was consulted but to date no representations have been received.

The Head of Economic Development was consulted but to date no representations have been received.

Dwr Cymru/Welsh Water have no objections and request that Conditions and Advisory notes are included, relating to foul water and surface water drainage and land drainage run-off, to ensure no detriment to existing residents or the environment and to Dwr Cymru/Welsh Water's assets. They also advise that the site is crossed by a trunk/ distribution water main, any charges for diversion of which would be re-charged to the developer.

The Director of Legal, Public Protection, and Housing Services (Environmental Health (Pollution Control)) does not object but due to the previous land uses of the site, request a contaminated land condition.

The Head of Visible Services (Highway Development) advises that there is no objection in principle to the development proposals, however vehicle access to the development site will only be permitted from northern quarter of the development and forward visibility along the adjacent highway will need to be maintained, which will require the site boundary to be realigned accordingly. Additionally, the land within the vision splays will be required to be offered to the Highway Authority for adoption. Furthermore, it is noted from previous discussions, that the parking provision within the Triangle site may also serve visitors of the Pumphouse. Therefore, the parking provision should possibly take account of both uses.

REPRESENTATIONS

Nos. 5 to 25 (all) Clos Mancheldowne, and Barry College, were consulted, with the application also advertised in the press and on site on 16 January 2008 as a major development. To date no representations have been received.

REPORT

This application follows an earlier granting of planning permission (2007/00172/RG3) for a 14-19 learning centre on the 1ha of land safeguarded as part of the Barry Waterfront Redevelopment for educational purposes. It is understood at this stage that that land may now form part of the provision of alternative education facilities associated with the wider redevelopment of the Waterfront as a whole, including the prospective application for Barry Waterfront Phase 2.

Within this context, and given the site's location within the Barry Waterfront Comprehensive Redevelopment Area, the following policy background is relevant.

Planning Policies

The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 (UDP), which was formally adopted by the Council on 18 April 2005, and within which the following policies are of relevance:

Strategic Policy 2 of the UDP favours proposals that encourage sustainable practices, whilst Policy 8 favours development in locations highly accessible by means of transport other than the private car and that minimise traffic levels and associated unacceptable effects. Strategic Policy 14 permits developments associated with community and utility services subject to no unacceptable impact on interests such as landscape and residential amenity.

Policy ENV25 of the UDP refers to the Regeneration of Urban Areas with particular attention to the regeneration of the former dockland of Barry and Penarth.

Policy ENV 27 relates to the Design of New Developments and is a criteria based policy that requires that new development has full regard to the context of the local natural and built environment and its special features.

In addition to the above policies the Council has adopted Supplementary Planning Guidance including Supplementary Planning Guidance on Sustainable Development and Public Art and the Barry Development Guidelines. The Barry Development Guidelines identifies the Waterfront as an Area of Special Identity. It outlines development and design objectives one of which aims to provide a high quality environment which will contribute toward improving Barry's image.

National guidance is contained within Planning Policy Wales March 2002.

Issues

The main issues relating to this application concern the principle of development on this site, and expectations for high quality development, given its important location in Barry Waterfront and the relationship with adjacent land uses. Matters relating to highway safety, flood protection and land contamination are also of relevance.

The application is submitted in outline with all matters reserved for subsequent detailed approval. As such it is only the principle of the development of the site for an education facility that is being considered at this stage.

The submitted Sustainability Statement, in addition to highlighting a number of sustainable objectives in relation to renewable energy sources, water conservation and drainage, also points out that the aim of the proposal will be to integrate the site with the Innovation Quarter, the vision for which is to establish a integrated critical mass of mixed uses such as education, business, tourism and community uses that would have a common synergy. This mixed use approach accords with Planning Policy Wales which states:

“Integration of different uses in accessible locations can increase social inclusion, reduce the need to travel and make towns safer for people both day and night.”

The statement also goes on to indicate that the proposed education facility will be designed in line with the aims and objectives of the existing master plan for the Innovation Quarter, and to integrate the new centre as a flagship development within the Innovation Quarter.

This site is considered to be important in the wider context of the Phase 2 of Barry Waterfront's redevelopment, given that it occupies a prominent location adjacent to the main road and with open views of and from the Docks. Accordingly, although the application is in outline, it is emphasised at this stage that a high quality, bespoke design according with the expectations for the scale and form of development for Phase 2 will be of critical importance. There is no objection to the principle of the proposed use, however, given that detailed matters, together with the relationship of the education use with surrounding land uses such as the houses to the east, can be acceptably managed through the detailed design stage.

Although access is reserved for subsequent approval, the application site red line meets the highway in its north-western corner where Hood Road bends to the west to serve the BSC and Barry College. In this respect, it appears likely that the access will be located in the northern quarter of the site where the Highways Officers advise it should be located. Matters relating to visibility splays and parking will be considered at reserved matters stage.

As regards the observations received to date it is noted that no objections have been raised. The Council's Pollution Officer has requested conditions in relation to possible land contamination and Dwr Cymru/Welsh Water have referred to the line of an existing public sewer.

In addition, given that the land is controlled by the Vale, a Legal Agreement cannot be entered into requiring the usual sustainability and public art contributions for such a major development. For a development of this size, these would amount to the provision of public art on site to a value of at least 1% of the build costs of the development (or a financial contribution to the same value) plus contributions in respect of sustainable transport facilities. In this respect, such matters are to be the subject of appropriately worded conditions.

Flooding Matters

In response to the Environment Agency's initial submissions, the applicant has been requested to commission a Flood Consequences Assessment, which they have done, but for which the results are not available at the time of writing. Nevertheless, given that such a FCA will inform the reserved matters application, rather than have a direct bearing upon whether outline planning permission should be granted, it is considered sufficient for a condition to be imposed at this stage requiring that the finished floor levels of the development are agreed in writing by the Local Planning Authority, such levels being informed by the Flood Consequences Assessment.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV25 - Regeneration of Urban Areas; ENV27 – Design of New Developments; and Strategic Policies 2 - The Environment, 8 - Transportation and 14 - Community and Utility Services of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Sustainable Development, Public Art and Barry Development Guidelines, and national guidance contained in Planning Policy Wales March 2002, it is concluded that the principle of educational use of the site would be acceptable, and would reflect the expectations of the regeneration of this part of Barry Waterfront, with the impact of the use and buildings being able to be controlled by condition and acceptable managed through the submission of reserved matters.

RECOMMENDATION

Deemed planning consent be GRANTED subject to the following condition(s):

1. Application for approval of the reserved matters hereinbefore referred to must be made not later than the expiration of three years beginning with the date of this permission.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development to which this permission relates must be begun not later than whichever is the later of the following dates:
 - (a) The expiration of five years from the date of this permission.

- (b) The expiration of two years from the date of the final approval of the reserved matters or, in the case of approval on different dates the final approval of the last such matters to be approved.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3. Approval of the details of the siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called `the reserved matters`) shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 4. No development shall take place until such time as finished floor levels of the development have been submitted to and approved in writing by the Local Planning Authority, such details to be informed by the preparation of a Flood Consequences Assessment.

Reason:

In order to protect the development from flooding, as required by Policy ENV7 of the adopted Unitary Development Plan.

- 5. No development shall commence until a contaminated land assessment and associated remedial strategy have been submitted to and approved in writing by the Local Planning Authority. The assessment shall follow the guidance contained in `Contaminated Land a Guide for Developers and shall include:
 - a) A Phase 1 Preliminary Risk Assessment (Desk Study) which shall detail the history of the site uses and identify and evaluate all potential sources and impacts of land and/or groundwater contamination.
 - b) Where the preliminary risk assessment identifies potentially unacceptable risks at the site, a suitably qualified and accredited person shall carry out a site investigation, the requirements of which shall be agreed with the Local Planning Authority in writing before any site surveys are commenced.
 - c) A site investigation report detailing all investigative works and sampling on site.

Any approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works additional unidentified contamination is encountered this shall be fully assessed and an appropriate remediation scheme agreed in writing with the Local Planning Authority. Upon completion of the works a verification report shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

In the interests of public health and safety in accord with Policy ENV27 - Design of New Developments of the Unitary Development Plan.

6. Any soils or materials to be imported onto the site shall be assessed for chemical and other potential contaminants in accordance with a scheme of investigation to be submitted to and approved in writing with the Local Planning Authority prior to the soils being imported. The development shall be implemented thereafter in accordance with the agreed scheme.

Reason:

In the interests of public health and safety in accord with Policy ENV27 - Design of New Developments of the Unitary Development Plan.

7. The submitted reserved matter details shall be in line with the aims and objectives of the Statement of Sustainability submitted in support of the application.

Reason:

To ensure a sustainable form of development in accordance with the Supplementary Planning Guidance on Sustainable Development.

8. The reserved matters details shall provided for a public artwork feature on the site, equivalent to one percent of the total build costs, details of which shall first be submitted to and agreed in writing by the Local Planning Authority.

Reason:

In the interests of quality design and enhancement of public places in accordance with the Supplementary Planning Guidance on Public Art.

9. Prior to first beneficial use of the development hereby approved, details of the manner by which the development will contribute to sustainable public transport in the locality shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into beneficial use until such provision as been made in full accordance with such agreed details.

Reason:

To ensure the development meets the Council's expectations for sustainable transport, in accordance with Policies 2 and 8 of the Adopted Unitary Development Plan.

10. Prior to the beneficial occupation of the development hereby approved, a Travel Plan shall be prepared to include a package of measures tailored to the needs of the site and its future users, which aims to widen travel choices by all modes of transport, encourage sustainable transport and cut unnecessary car use. The Travel Plan shall thereafter be implemented in accordance with the approved details.

Reason:

To ensure the development accords with sustainability principles and that site is accessible by a range of modes of transport in accordance with Unitary Development Plan Policies 2, 8 and ENV27 - Design of New Developments

11. Foul water and surface water discharges shall be drained separately from the site, with no surface water or land drainage run-off allowed to connect (either directly or indirectly) into the public sewerage system.

Reason:

To protect the integrity, and prevent hydraulic overloading, of the Public Sewerage System, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

NOTE:

1. **If a connection is required to the public sewerage system, you are advised to contact Dwr Cymru Welsh Water's Network Development Consultants on 01443 331155 for further information.**
2. **The proposed development site is crossed by a public sewer and rising main. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone please contact Dwr Cymru Welsh Water's Network Development Consultants on 01443 331155.**
3. **Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.**

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.