

Mr. D. Williams, Doghill Farm, Dyffryn, Wenvoe. CF5 6SU  
(Adrian Jones Associates, The Cottage Studio, Gellifor, Rhuthun. LL15 1SB )

**LAND ADJACENT TO COED Y CRAIG, DOGHILL FARM, DYFFRYN, ST. NICHOLAS**

New farm buildings and access together with associated works

**SITE DESCRIPTION**

The site relates to part of a relatively large agricultural holding. The land is part of a field lying to the west of Dyffryn Gardens. The farmhouse, Doghill Farm, serving the holding is situated to the south of the site. The site slopes up away from the public highway running to the South.

**DESCRIPTION OF DEVELOPMENT**

The application seeks outline planning consent for farm buildings, to serve Doghill Farm and will serve as replacement buildings for those currently in existence at that farm. Siting, design and means of access are not reserved. Landscaping and external appearance are reserved.

The scheme entails the construction of 2525 sq. m of built development to house 100 cows in two herds. Buildings will also include 2 above ground slurry tanks, a general storage building, milking parlour, yard areas and a farm office.

The existing access track will be used.

Maximum building heights are shown as approximately 12m. The development will entail some cut and fill and therefore embankments are indicated around the built development including a proposed vehicle turning area. The group of buildings will include two buildings of 36m x 26m, two slurry tanks and a milking parlour of 30m x 12m.

The application has recently been amended to reflect extensive negotiations held between your officers and the applicant in respect of specific siting. It should be noted that the scheme as initially submitted provided for new farm buildings at a greater distance from the existing farm house.

**PLANNING HISTORY**

00/00983/FUL - Planning consent was granted to convert barns within the existing Doghill Farmyard into residential properties in November 2001.

**CONSULTATIONS**

The Head of Visible Services (Operational Manager, Engineering Design) - was re-consulted on amended plans 25<sup>th</sup> February, 2005. See Appendix A.

The Head of Visible Services (Highway Development) - was consulted on the amended plans 25<sup>th</sup> February, 2005. See Appendix B.

Glamorgan-Gwent Archaeological Trust – “Not likely that archaeological deposits would be disturbed during the proposed development.”

CADW – See Appendix C.

Historic Gardens Society – No comments received to date.

Council’s Ecologist – See Appendix H.

Council’s Agricultural Advisor – See Appendix D.

Environment Agency – See Appendix E. Were re-consulted on amended plans 25<sup>th</sup> February, 2005.

Dyffryn Gardens – Were consulted on 10th February, 2003. No comments received to date.

St. Nicholas and Bonvilston Community Council – See Appendix F. Were re-consulted on amended plans 25<sup>th</sup> February, 2005.

## REPRESENTATIONS

The development as originally submitted was advertised on site and in the press on 11<sup>th</sup> February, 2003. Three letters of representation are reproduced as Appendix G.

## REPORT

The development as originally submitted sought consent for a new farm buildings complex situated further north than the scheme as now amended. The development will replace modern farm buildings for those currently at Doghill Farm and which include barns with planning consent for conversion to residential properties.

The development falls to be assessed against relevant policies covering development in rural areas and these are set out below:

### Vale of Glamorgan Unitary Development Plan Deposit Draft (as amended) 1998:

ENV1 – Development in the countryside will not be permitted unless essential for agriculture.

ENV25 – Design of new developments seeks to guide all new development and outlines criteria against which this should be assessed.

ENV9 – Agricultural enterprise and associated development : Proposals for development on agricultural land will be permitted if the proposal:

1. is necessary for the purposes of agriculture within the unit;
2. is designed specially for agricultural purposes;

3. is compatible with the surrounding landscape, adjacent land uses and any existing related structures in terms of the scale, siting, design and external appearance of any new building or extension to existing buildings and (iv) does not have an unacceptable impact on areas of ecological, wildlife, geological and geo-morphological, archaeological and landscape importance.

ENVXXX Special Landscape Areas – New development within or closely related to the following special landscape areas will be permitted where, it can be demonstrated that it would not adversely effect the landscape character, landscape features of visual amenities of the Special Landscape area:

- (vi) Duffryn Basin and Ridge Slopes

ENVXXX – Protected Species. Permission will only be given for development which would destroy protected Species or their habitats if it can be clearly demonstrated that:

- (1) The effects will be minimised by careful design and work scheduling; or
- (2) Effective mitigation measures are provided by the developer.

If development is permitted, appropriate conditions and agreed planning obligations may be used to ensure that the impact on species or habitats is minimised.

### Issues

Due to the scale of the development and the location of what is a new farmyard and its distance from the farm dwelling, the Council's agricultural advisor was consulted. On the original scheme As will be noted from the report at Appendix D there is a "compelling argument for a new yard" but "if the new yard is permitted without control over the removal of the existing yard, it is conceivable that there will be an over capacity of agricultural buildings for the holding". In conclusion, the Council's agricultural advisor considered that as the yard as originally proposed would not be 'in sight and sound' of the farm dwelling there were concerns over animal welfare and the demands that this may impose for further development in the open countryside. This is a view which has apparently also been expressed previously by the agricultural tenant himself. The new location however is considered to be within sight and sound of the dwelling (see below). In addition extant consent exists for the conversion of the existing farm buildings.

Dyffryn Basin is recognised as an important area and the area falls within in the Special Landscape Area Study for the Basin under the Unitary Development Plan. The original scheme of development would have been visually prominent given its size and scale sited on rising land and thus more visible to the wider Duffryn Basin.

There was also a major concern regarding the divorced nature of the yard from the existing farmhouse as highlighted in the Agricultural Advisor's report. It was considered that the siting of the yard could be brought closer to the farmhouse, having a reduced visual impact (subject to landscaping) than that originally proposed and, in fact, rationalising the built development to a cluster around the existing road. This would be preferable to siting the development in a relatively isolated field location on rising land. It was considered that the isolated location could possibly give rise to applications for further development requests for residential development in the future. The application was reported to the Planning Committee of 7<sup>th</sup> May, 2003 but was deferred from that meeting at the request of the Applicants to enable discussion to take place regarding alterations for the scheme.

Since May, 2003 discussions have taken place with the applicant's representatives. Alternative locations have been proposed including land opposite the farmhouse (1), land to the southwest of the application site (2), and land to the south of the original application site (3).

Site 1 was rejected due to its proximity to proposed non-agriculturally tied residential barn conversions and the water main cutting through the site. Site 2 was rejected due to its significant distance from the farmhouse which was further than the original scheme and therefore did not meet the Local Planning Authorities agricultural advisor's requirement that the yard be within 'sight and sound' of the farmhouse. It was also located on rising land and therefore potentially visually intrusive.

Site 3 is that as now proposed. The siting lies closer to the farmhouse and is considered to meet the within 'sight and sound' requirements.

The location is on less elevated and more level land than the originally submitted scheme and with landscaping around the buildings and the existence of woodlands in the near vicinity is considered to be an acceptable scheme. Whilst the development is undoubtedly a relatively large scheme in a rural location the recognised need of the farm unit for modern facilities and buildings and the attempts to mitigate adverse effects it is considered that a conditional consent should be granted.

Conditions relating to details of reserved matters, site levels, excavations, external lighting and mitigation for protected species are considered appropriate. In respect of the latter matter this has been the subject of discussion with the agents and a report has been produced in relation to the presence of Great Crested Newts. As will be seen from Appendix H the Council's Ecologist supports the recommendation of the habitat survey for Great Crested Newts. A condition should be imposed in this respect. In relation to other issues raised in the Ecologist's comments the scheme no longer entails a new access but instead relies on the existing access being upgraded and details of this will be received before development can be commenced.

Reserved matters will be external appearance and landscaping.

03058

RECOMMENDATION (W.R.)

APPROVE subject to the following condition(s):

1. Approval of the external appearance of the buildings and tanks 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.
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.
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.
4. Plans and particulars of the reserved matters referred to in condition 1 above, relating to the siting, design and external appearance of any buildings to be erected, the means of access to the site and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
5. Notwithstanding the submitted plan full details of any work to the existing track, bridge and access and of any passing places shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and the development shall be carried out in full accordance with the works as approved in accordance with this condition prior to the first beneficial use of the buildings hereby approved.
6. Details of any proposed external lighting of the development shall be submitted to and approved in writing by the Local Planning Authority prior to its construction and only external lighting as approved by this condition shall be installed unless the Local Planning Authority gives prior written consent to any alteration.
7. Prior to the commencement of development details including cross-sections and existing levels, finished floor and finished ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.
8. The landscaping of the site shall include for screen tree planting and retention of existing hedgerows.
9. Prior to the commencement of any site clearance or development works a scheme of mitigation for the presence of protected species on the site shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter shall be carried out in accordance with the approved scheme.

10. The permission hereby granted shall relate to the amended plans, reference AL 100 received by the Local Planning Authority on 25th February, 2005.
11. Prior to the commencement of development details of the disposal of any waste material from excavations of the site relating to the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason(s):

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.
2. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.
4. The application was made for outline planning permission.
5. To ensure a satisfactory access to the site and in the interests of visual amenities and the ecology of the area.
6. In the interests of the visual amenities of the Duffryn Basin Special Landscape Area and the ecology of the area.
7. In the interests of the visual amenities of the Duffryn Basin Special Landscape Area.
8. In the interests of the visual amenities of the Duffryn Basin Special Landscape Area.
9. To safeguard and mitigate for the presence of protected species on the site.
10. For the avoidance of doubt.
11. In the interests of the visual amenities of the Duffryn Basin Special Landscape Area.

**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. You are advised that there are species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Countryside Council for Wales, 7 Castleton Court, Fortran Road, Cardiff; telephone number 02920 772400.

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.

Mrs. M. E. Edwards, Cwrt Newydd Farm, Llandow, Vale of Glamorgan. CF71 7PX  
(Mrs. M. E. Edwards, Cwrt Newydd Farm, Llandow, Vale of Glamorgan. CF71  
7PX )

**LAND WEST END OF LLANDOW VILLAGE, ADJACENT TO RAILWAY LINE  
AND TY DRAW**

Development of five dwellinghouses, garaging and associated access drives,  
landscaping etc.

**SITE DESCRIPTION**

The site, which has an area of 0.33 hectares, is situated at the western end of the  
village of Llandow. A railway line runs along the eastern boundary of the site.

**DESCRIPTION OF DEVELOPMENT**

This is an outline planning application to construct five detached dwellings on the  
site. Only means of access was initially included in the application, but following  
requests by this Department, matters relating to siting are also included for  
consideration at this stage. All other matters are reserved for subsequent  
approval.

A new vehicular access would be created off Ty Draw Lane. The layout indicates  
a total of five detached dwellings with two having a frontage onto Ty Draw Lane  
and three further properties being served off a private drive.

**PLANNING HISTORY**

88/01458/OUT – A planning application for the construction of one executive  
house and garage was refused planning permission on 3<sup>rd</sup> May, 1989 for reasons  
that it constituted development in the open countryside for which there was no  
justification on agricultural grounds.

**CONSULTATIONS**

Llandow Community Council - Has objected to the application on a number of  
grounds:

- The Council should be careful in the amount of weight it gives to the  
allocation in the Unitary Development Plan Proposed Modifications given  
the fact that the Inspector made his recommendations without considering  
other issues that can be considered as part of a planning application.
- The site is not a brownfield site but comprises pastureland. The proposal  
would not constitute rounding off, being separated from the village by the  
railway. It would intrude visually into the countryside.
- The site has a history of flooding and the development could increase this  
risk. There are doubts about the ability of the foul sewerage system to  
cope with additional demand.

- Planning permission has previously been refused for housing on the site.
- The proposal would not be sustainable, with limited facilities/services in the village to serve the development.
- The proposal comprises over development with a substandard layout and possible issues of highway safety. Noise from the railway is also an issue.

Glamorgan Gwent Archaeological Trust - Has no objection to the application.

Environment Agency - Objects to the application as the site lies within an area at risk of fluvial flooding and so the application should be refused.

Welsh Water - Has no objection.

The Head of Visible Services (Highway Development) – Was consulted on the 28<sup>th</sup> October, 2003. He has expressed concerns regarding the proposal to provide two access drives in addition to an access road, increasing vehicular turning movements onto the lane. No highway objection would be raised, subject to the following:

- The development being served by a single access road with turning facilities to ensure that access and egress onto the adopted highway in forward gear.
- Satisfactory vision splays (i.e. 2.4m by 65m in both directions).
- Parking provision in accordance with the Council's approved Parking Guidelines.
- The construction of a footway fronting the highway.

Director of Legal and Regulatory Services (Environmental Health) has no objection in principle but would suggest that no house should be sited within 15 metres of the railway line and no sensitive room should directly face the railway line.

The Head of Visible Service (Engineering Design) - Has recommended that the comments of the Environment Agency be sought, as the site is adjacent to main rivers that have been known to flood.

Network Rail - Has no objection to the application.

The Campaign for the Protection of Rural Wales - Has stated that the site is located in the open countryside, is divorced from the village by the embanked railway line and could not be considered as a 'rounding off' of Llandow village. The proposed development is therefore unacceptable at this location. It would neither enhance nor preserve the integrity of the village. It is also understood that there is a risk of flooding at the site.

## REPRESENTATIONS

Neighbouring occupiers have been consulted. The occupiers of The Lodge have objected to the application (see letter attached as Appendix A).

## REPORT

The development plan for the site comprises the South Glamorgan Structure Plan 1989. The application has been considered in the light of the emerging Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003) and with regard to relevant national planning policies. In addition, the application has been assessed with regard to the Council's approved Parking and Amenity Standards.

Further to the recommendation by the Inspector in his report on the objection to the Deposit Plan, the site has been included within the settlement boundary for Llandow as defined in the Proposed Modifications to the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003). In this respect, Policy HOUS2 of the Unitary Development Plan is relevant when it states that:

"Housing Infill, small scale development and redevelopment which meets the criteria listed in Policy HOUS 9 will be permitted within the settlement boundary of ...Llandow. Favourable consideration will be given, other than within areas identified as green wedges, to small scale development which constitutes the "rounding off" of the edge of settlement boundaries where it can be shown to be consistent with the provisions of Policy HOUS9 and particularly criterion i".

It is considered that there are three main issues with regard to this application:

- Flood Risk
- The Nature of Development and Site Context
- Highway Safety

### Flood Risk

The Environment Agency has objected to the application for the reason that the site lies within an area at risk of fluvial flooding. This issue has been discussed with the Environment Agency and the issues have been clarified as follows. The site is situated within a known floodplain that has flooded in the past. Whilst a 'soft' defence barrier does protect the site, the Environment Agency objects in principle to the proposals, given that people and property would be at risk if the barrier failed or was overtopped in the case of exceptional flooding.

If the development were to proceed, there is a danger that future occupiers of the site could inadvertently damage the flood defence barrier whilst undertaking alterations/works within their gardens. The development may also increase run-off, potentially exacerbating flooding downstream.

Paragraph 13.3.2 of Planning Policy Wales March 2002 states that "in areas of flood plain currently unobstructed, where water flows in times of flood, built development should be wholly exceptional and limited to essential transport and utilities infrastructure."

New planning guidance was issued by the National Assembly of Wales in July 2002 in the form of Planning Policy Wales Technical Advice Note 15 'Development and Flood Risk'. This advice has been accompanied by development advice maps that are based on the best available information considered sufficient to determine when flood risk issues need to be taken into account in planning future development.

The application site has been defined as falling within Zone C2, which comprises an area of flood plain without significant flood defence infrastructure. The new guidance advises that land falling within Zone C2 should not be developed for housing purposes, which is classed as 'highly vulnerable development'.

Paragraph 13.4.3 of Planning Policy Wales states that "where detailed information in respect of flood risk is not available, local planning authorities should require developers to carry out detailed technical investigations to evaluate the extent of the risk." Despite suggestions by this Council no such information has been submitted to date.

The Inspector in his report on the objections to the Unitary Development Plan Proposed Modifications is silent on the issue of flooding and so it does not appear that this issue was considered at that time. Whilst the Council accepted the Inspector's recommendations with regard to the site, the issue of flooding clearly constitutes a material planning consideration in the determination of planning applications.

It is considered that the proposal does not therefore accord with the national guidance outlined above or with Policy ENV 6 'Water Resources' of the Unitary Development Plan, which states that "development will be permitted where it would not... be potentially at risk from flooding, or increase the risk of flooding locally or elsewhere to an unacceptable level."

#### The Nature of Development and Site Context

The Inspector in his report on the objections to the Deposit Plan stated that "given the strengthening of the existing boundaries by additional landscaping, the visual effect of any development on the site on the countryside would also be minimal."

However, the application, which proposes 5 dwellings to be constructed on the site, fails to satisfactorily address the need for the site boundaries to be planted with adequate landscaping appropriate to its edge of countryside location. The landscaping shown would be nominal and the density of development would have little regard to the rural edge of village location. It is also considered that the application proposes a substandard and congested layout that does not accord with the Council's Amenity Standards to the detriment of the privacy and amenity of future residents on the site. The proposals would therefore amount to an over-development of the site and would have a detrimental impact on the rural character of the surrounding area.

Furthermore, the Director of Legal and Regulatory Services (Environmental Health) has pointed out the potential impact of noise from the railway on the future occupiers of the site. Environmental Health would require that the proposed dwellings be sited at least 15 metres from the railway line and that no 'sensitive' room (which is understood to be rooms that persons spend substantial time in such as bedrooms and living rooms) would face directly towards the railway line. The proposals fail to accord with these requirements, to the potential detriment of the amenities of future occupiers of the site.

The development does not therefore accord with Policies ENV 25 and HOUS 9 of the Unitary Development Plan, or the Council's Standard Planning Guidelines on 'Amenity Structures' which require that a development has full regard to the character of its surroundings and the need to provide adequate amenity space to serve future occupiers of a development. These issues have been raised with the applicant, but no revisions to the scheme have been submitted.

### Highway Safety

Finally, the Head of Visible Services (Highways Engineer) has expressed concerns regarding the proposal to provide two access drives in addition to an access road, increasing vehicular turning movements onto the lane. Amended plans to overcome these objectives have not been received, despite advice on how to ameliorate such concerns.

03724

### RECOMMENDATION (W.R.)

### REFUSE

#### Reason(s):

1. The site is located within an area at risk of flooding wherein residential development is considered unacceptable. The application has been accompanied by inadequate information to overcome the objections relating to flood risk associated with the development of the site and potential risk to people and property arising from it. The proposals do not therefore accord with Policy ENV6 'Water Resources' of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003), Planning Policy Wales Technical Advice Note 15 'Development and Flood Risk' and Planning Policy Wales March 2002.
2. The proposals would amount to an over-development of the site which would have an adverse impact on the rural character of the surrounding area at this edge of village location and be detrimental to the privacy and amenity of future residents on the site. Furthermore, the development would potentially have an adverse impact in terms of highway safety by reason of the additional movements created by three new residential accesses onto the lane. The proposal is therefore considered to be contrary to Policies ENV25 and HOUS9 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003) and the Council's Amenity Standards Supplementary Planning Guidance.

Mr David James, The Grange, Trepit Road, Wick, Vale of Glamorgan.  
(Davies Evans Partnership, Kingsway House, Bank Buildings, Bridgend Ind. Est.,  
Bridgend, Mid Glamorgan. CF31 3SB )

**LAND AT JUNCTION OF BROUGHTON ROAD AND WATER STREET,  
BROUGHTON**

Outline application for domestic dwelling and garage

The development/property is situated within the Broughton Conservation Area.

The application was advertised on 5th July, 2004.

**SITE DESCRIPTION**

The application site relates to a section of land at the corner of Broughton Road and Water Street, Broughton. The site is approximately 855m<sup>2</sup> and lies to the east of the village. Rough grazing land and an open drain to the east and the Royal Oak P.H. to the west bound the site.

It lies outside the revised residential settlement boundary of Broughton and is designated as open countryside. Part of the site lies within the Broughton Conservation Area.

**DESCRIPTION OF DEVELOPMENT**

The application seeks Outline Planning Permission for a single dwelling and garage. All matters (siting, external appearance, design, landscaping and means of access) are reserved for future approval. No indicative plans are included with the application.

**PLANNING HISTORY**

99/00715/OUT - Single domestic dwelling and garage. Refused 3<sup>rd</sup> September, 1999.

03/01756/FUL - Land at Broughton, Nr. Wick – 6 No. affordable houses.

**CONSULTATIONS**

Wick Community Council - Was consulted on 11<sup>th</sup> June, 2004. "As with a previous application for this site, the Community Council would like to stay with the observations made then including:

The site is outside the village 30mph and would therefore encourage an expansion of the village.

Any buildings would have to cross the natural brook."

The Head of Visible Services (Highway Development) - Was consulted on 22<sup>nd</sup> June, 2004. "The Highway Authority has no objection in principle, subject to the applicant satisfying the following conditions:

A turning facility and parking provision in accordance with the South Wales Parking Guidelines. Vehicles must be able to enter and exit in forward gear. Visibility splays of 2m x 60m in both directions. No surface water shall drain onto the adopted highway. Soakaways and/or septic tanks shall be sited a minimum distance of 5m from the highway boundary. The access shall be constructed with a 45 degrees ease of access splay which shall be a minimum of 3m either side of the driveway. Gates shall not open outwards and shall be set back a minimum of 6m from the highway boundary. The proposed access shall have a hard surface or bituminous material for a minimum distance of 6m from the highway boundary.”

The Head of Visible Services (Engineering Design) - Has confirmed that a watercourse passes through the proposed development and it may be affected by the proposals. The Developer will be required to maintain flows within the watercourse, 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. Any culverting/bridging of the watercourse will require the approval of the Environment Agency, as well as this Council as Land Drainage Authority, and the Developer should submit appropriate details of the necessary approvals prior to the commencement of works.

Dwr Cymru/Welsh Water - Were consulted on 7<sup>th</sup> July, 2004 and have no objection to the proposal provided that conditions and advisory notes are attached to any consent.

Environment Agency – Were consulted on 7<sup>th</sup> July, 2004 and replied with a copy of their standard advice to developers.

## REPRESENTATIONS

The application was advertised on site and in the press on 5<sup>th</sup> July, 2004.

The occupiers of Old College House and Broughton Court have objected to the scheme on the following grounds:

- (i) The site is outside the Residential Settlement Boundary of Broughton.
- (ii) The scheme, if approved, could set a precedent for further residential development outside the settlement boundary.
- (iii) Any development on this land would have a detrimental effect on the visual amenities of the Conservation Area.
- (iv) The development of this land would exacerbate the risk of flooding in the area by the creation of impermeable surfaces.

The applicant has confirmed in writing that drainage works have been carried out to prevent the flooding of Water Street and Chapel Road opposite the Royal Oak Public House.

These letters are retained on file for inspection by Members.

## REPORT

The application seeks outline consent for one private dwelling on land to the south east of the Royal Oak Public House, Broughton. The site lies outside the identified Residential Settlement Boundary and is described in the application as an area of land redundant to agriculture. The north-west corner of the application site is within the Broughton Conservation Area and the site acts as an important open area on the approach to the village.

As the site lies within the open countryside and is partially contained within the Conservation Area, the proposal can be assessed against Policies H10, H11, S3, S4 and LC13 of the approved Mid Glamorgan Structure Plan Proposals for Alteration No. 1 (June 1989); Policies H12, EV1, EV11, EV20 and EV21 of the Ogwr Local Plan (1995); Policies ENV1 – Development in the Countryside, ENV15 – Protection of the Built and Historic Environment, ENV18 – Development in Conservation Areas, ENV25 – Design of New Developments and HOUS3 – Dwellings in the Countryside of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003); Planning Policy Wales (March 2002); the Council's approved parking guidelines and the adopted Supplementary Planning Guidance on Amenity Standards (1999).

A previous Outline application (99/00715/OUT) for a single domestic dwelling and garage on this site was refused for the following reasons:

1. In the opinion of the Local Planning Authority the proposal represents residential development within the open countryside which is not essential for either agriculture or forestry. The proposal is not considered to represent either infilling or rounding off of Broughton and accordingly the proposal is considered to be contrary to Policies H12, EV1 and EV12 of the adopted Ogwr Local Plan 1995.
2. Notwithstanding reason 1 above it is the opinion of the Local Planning Authority that the proposal would have an adverse impact upon both the setting and character of the Broughton Conservation Area by virtue of the uncharacteristic pattern of the development which would result, the loss of open views into Broughton and the impact upon the road frontage necessary from the work to create vehicular access into the site.

As the proposal and site are identical to the previous application, the proposal is not justified in the interests of agriculture and forestry. The site lies within the open countryside and the Conservation Area and it is not considered to represent the "rounding off" of the residential settlement boundary (Policy HOUS2 refers), such that it is still considered that these reasons for refusal are valid. The proposal is therefore clearly contrary to Policies S3, S4 and LC13 of the approved Mid Glamorgan Structure Plan; Policies H12, EV1, EV11, EV20 and EV21 of the Ogwr Local Plan and Policies ENV1, HOUS2, ENV18 and HOUS3 of the emerging Vale of Glamorgan Unitary Development Plan.

Since all matters are reserved for future approval, there are no details on the application to enable the Local Planning Authority to fully assess the potential impact of the development on the character and appearance of the Conservation Area and this important approach to the village. Despite numerous requests for further information relating to the siting, design, means of access, external appearance and landscaping, no additional information has been received to date and it is recommended that the application also be refused due to insufficient information. Notwithstanding this, it is considered that the principle of developing the site would be to the detriment of the character and appearance of the Conservation Area.

#### RECOMMENDATION (W.R.)

#### REFUSE

#### Reason(s):

1. In the opinion of the Local Planning Authority, the proposal represents residential development within the open countryside which is not essential for either agriculture or forestry. The proposal is also not considered to represent either infilling or an acceptable rounding-off of the village of Broughton and accordingly the proposal is considered to be contrary to Policies S3 and S4 of the approved Mid Glamorgan Structure Plan proposals for Alteration No.1 (1989); Policies ENV1, HOUS2 and HOUS3 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004) and Policies H12, EV1 and EV11 of the adopted Ogwr Local Plan 1995.
2. Notwithstanding reason 1 above and in spite of the applicant's failure to provide fully detailed plans to allow a full assessment to be made, it is the opinion of the Local Planning Authority that the proposal would have an adverse impact upon both the setting and character of the Broughton Conservation Area by virtue of the uncharacteristic pattern of development which would result, the loss of open views into Broughton and the impact upon the road frontage necessary from the work to create vehicular access into the site. The proposal is therefore contrary to Policy LC13 of the approved Mid Glamorgan Structure Plan proposals for Alteration No. 1 (1989); Policies ENV15 and ENV18 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004) and Policies EV20 and EV21 of the adopted Ogwr Local Plan 1995.

Southgate Estates Ltd., 35, Augusta Crescent, Penarth, Vale of Glamorgan. CF64 5RL  
(Southgate Estates Ltd., 35, Augusta Crescent, Penarth, Vale of Glamorgan. CF64 5RL )

**THE LIMES, COWBRIDGE**

Erection of two and a half storey apartments for 10 no. retirement flats

The property is situated within the Cowbridge with Llanblethian Conservation Area.

The application was advertised on 28th July, 2004.

**SITE DESCRIPTION**

The application site relates to a piece of land formerly occupied by a small church hall, located in a prominent and slightly elevated position fronting The Limes, near its junction with High Street, in Cowbridge. The building was recently demolished and the site is overgrown. The property is situated within the Cowbridge with Llanblethian Conservation Area.

The site is some 0.12 hectares in area and roughly rectangular in shape, with the main frontage onto The Limes. The site is bounded by two storey dwellings on either side of The Limes frontage, (Nos. 9 The Limes and 10 Borough Close) and to the rear by Limes Court, a three storey pitched roof flatted development.

**DESCRIPTION OF DEVELOPMENT**

Following the withdrawal of a previous application (reference 04/0005/FUL) for the erection of 2 No. blocks of three storey apartments to provide 12 No. one bedroom retirement flats, this amended scheme now relates to the provision of 10 No. apartments which will be accommodated in two separate blocks in the form of 2 No. two storey linked cottage style units.

The main block is located along the western boundary of the site with a frontage onto The Limes, which will accommodate eight flats, four on each floor. The block will have the appearance of four linked cottages with varying roof heights. The block as a whole measures 28.5 metres in length by a maximum depth of 12 metres. Elements of the block will be set back in order to break up its scale and massing to reflect linked cottage style dwellings. The eaves and ridge heights will vary although they are generally set at 4.5 and 7.8 metres with a higher ridge height in the centre of the block at 9 metres. The first floor apartments will be served by balconies on the rear elevation accessed through patio doors located under gable eaves. The front block will be set back from the road line by some 5 metres, to the front of which will be a 3 metre wide forecourt to the flats with a new 2 metre wide pavement adjacent to the highway. The front forecourts will be enclosed by low level stone walls with railing, piers and gates.

The second block is located to the rear of the site and will accommodate two flats and will take the appearance of a detached dwelling, with accommodation for the second floor flat including the use of the roof void as two bedrooms and a bathroom. The block measures a maximum width of 13 metres by a depth of 11.5 metres.

The flats will be finished with painted render elevations and the roof finished in blue fibre cement slates with red ridge cappings. All windows and doors will be stained wood.

Proposed access will be from The Limes, off set to the southern part of the site adjacent to No. 10 Borough Close, leading to a parking area comprising of twelve car parking spaces and perimeter landscaped areas.

### PLANNING HISTORY

The site has been subject to the following relevant planning applications.

04/0005/FUL - Erection of 2 No. blocks of three storey apartments to provide 12 No. one bedroom retirement flats. Application withdrawn 26<sup>th</sup> February, 2004.

02/00087/CAC – Removal of debris and materials from vandalised and partially collapsed annexe and kitchen. Application held in abeyance pending approval of a planning application for the redevelopment of the site.

### CONSULTATIONS

Cowbridge Town Council - Were consulted on the original scheme and raised an objection to the application on the following grounds:

- (i) Although the application is for 2 storey apartments, the Committee considers the roofline to be too high and will dominate properties in the area. They are also concerned with the proximity of the proposal to the Cottage No. 3 The Limes.
- (ii) The application does not improve or enhance the Conservation Area.
- (iii) The proposed balconies are out of keeping with surrounding properties.
- (iv) The sewage system is at capacity and problems have already been experienced in this area.
- (v) Increased volume of traffic existing onto the Limes, which is very narrow and dangerous road and a main route to and from the local primary school.

In relation to the amended plans, the Town Council has made the following additional comments:

“Objection

The Committee opposes the application on the following grounds:

- The height of the roof, which will dominate the properties opposite and is considered to be out of proportion with the rest of the development. The dimensions of the roof mass appears to form almost half the size of that part of building.
- The Committee object to the balconies, which are out of keeping with the Conservation Area.
- The Committee would prefer the windows to have a white painted finish rather than a stained finish.
- Whilst the committee welcomes the provision of a footpath, they are concerned that there is adequate room allowed for the use of pushchairs, as this is a main route to and from the local primary school.”

Vale of Glamorgan Conservation Advisory Group - At their meeting on 1<sup>st</sup> December, 2004 recommended that the application should be refused on the grounds that the design and the materials are inappropriate for this part of the Conservation Area, representing also an over-development of the site, neither preserving or enhancing this part of the Conservation Area.

Glamorgan Gwent Archaeological Trust – “The Regional Sites and Monuments Record curated by this Trust shows the application area to be located just outside the known extent of both the Mediaeval town and the area occupied by the Romans. Although most of the evidence of activity appears to exist on the opposite side of the River Thaw from the application site, as Cowbridge has major Roman and Mediaeval remains there is clearly a possibility of archaeological material being located in the application area.

We therefore recommend that a condition requiring the applicant to appoint an archaeologist to conduct a watching brief is attached to any planning permission granted by your Members. This would ensure that any archaeological information revealed during the construction of the proposed dwelling was properly investigated and recorded. This recommendation is made following the advice given in Welsh Office Circular 60/96, Section 22.

We would suggest that the condition should be worded:

*The developer shall ensure that a suitably qualified archaeologist is present during the undertaking of any ground works in the development area, so that an archaeological watching can be conducted. The archaeological watching brief will be undertaken to the standards laid down by the Institute of Field Archaeologists. The Local Planning Authority will be informed in writing, at least two weeks prior to the commencement of the development, of the name of the said archaeologist.*

Reason:

*To identify and record any features of archaeological interest discovered during the works in order to mitigate the impact of the works on the archaeological resource.”*

Environment Agency - Was consulted and has stated that the Agency has no knowledge of flooding in the vicinity of the proposed site.

Campaign for the Protection of Rural Wales - Has stated the following:

“Whilst the proposed development is more reflective in scale to its surroundings than that previously submitted, we are of the opinion that the density is still too excessive. The site area not covered by the building is entirely given over to the provision of 12 car parking spaces together with an extremely small landscaped garden. This resultant amenity space provision is totally unsatisfactory. We also have concerns with regard to the apparent absence of any visitor parking provision for the proposed development as well as the suitability of the highway infrastructure to accommodate the traffic generated.

We are of the opinion therefore that the proposed development is not satisfactory and therefore planning permission should be refused.“

Welsh Water - Were consulted and have requested that conditions and an advisory note shall be attached to any planning permission granted, in order to ensure that foul and surface water are drained separately from the site.

Head of Visible Services (Highway Development) - Was consulted on the original scheme (12 units) on the 27<sup>th</sup> July, 2004 and raised an objection to the development. He required a turning facility and parking provision in accordance with the Parking Guidelines. The development required 16 No. car parking spaces, the current layout showing only 12 No. car parking spaces.

With regard to the amended plans, the Highway Engineer has commented further, as follows:

“Further to receipt of your fax with the amended access shown (drawing TL/01), we would be happy to accept this layout. We do have concerns about the width of the main carriageway that is being accessed, but there is little the applicant can do to remedy this! There is a ‘bottleneck’ at this location, which would mean drivers would be proceeding on the main carriageway at slower speeds than normal. The inclusion of a footpath, increases pedestrian safety at this point.”

## REPRESENTATIONS

Adjoining neighbours were notified on 28<sup>th</sup> July on the original scheme and on 18<sup>th</sup> January on the amended scheme. To date a total of 19 letters of representation have been received, although many of these are from the same occupiers. Two of the letters are attached as Appendix A and the general concerns are summarised below.

- The height of the main block, which whilst described as 2 storey appears as a 3 storey building.
- The potential impact in respect of loss of light, the proposed development would be too close to the road frontage.
- The restricted access for traffic along The Limes that would be made worse by the proposed development.
- The scale and form of the proposals represents over development of the site.

- The design appears as a pastiche of Cowbridge and the proposed balconies appear out of keeping with the character with Cowbridge.
- The application site falls within the floodplain.
- The inadequacy of off-street parking given the parking restrictions on The Limes.

Notwithstanding the above, several letters of objection did state that the current scheme was a significant improvement over the previously submitted scheme under application 04/0005/FUL, for 2 No. blocks of three storey apartments to provide 12 No. one bedroom retirement flats.

Councillor Clay has corresponded stating that she has been contacted by objectors. She also states that she hopes that the development will be set back in line with existing houses, making room for a footpath which is badly needed. In addition she stated that the No. of units proposed would generate increased traffic.

Councillor Cox has made the following comments:

“I appreciate that the proposal has been modified following discussions with the Council’s Planning Officers. However, I still have some concerns especially as The Limes at this point is an extremely narrow road. I request a site visit by the Planning Committee in order for Members to see the difficulties associated with this development.”

## REPORT

### The Issues

#### Relevant Policies

The site lies within the residential settlement boundary of Cowbridge and therefore residential development in principle is acceptable, subject to certain criteria.

#### Cowbridge Local Plan 1996

The policies contained within the above current adopted local plan for the area, are considered relevant in assessing this application, which relate to new residential development and development within the “Conservation Key Area”, which the application site falls within.

- *Policy 4* states that infilling with the key areas will not be permitted unless it can be shown to preserve or enhance the unique character of those area.
- *Policy 5* state that the scale of proposed infill development will be related to the scale of the site and surrounding buildings.
- *Policy 29* requires a high standard of design to be required for development in the Conservation Area and in the key areas, and development will not be acceptable unless it preserves or enhances the existing character.

More specifically the site itself is identified under Policy 7 (b), which states that favourable consideration will be given to a scheme of one or two bedroom dwellings on the site, subject to a satisfactory standard of high design.

#### Vale of Glamorgan Unitary Development Plan Deposit Draft (as amended) 2003

The site is also allocated in Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003) under Policy HOUS1 (17) for residential development. This policy states that the site has advantages for the development of small retirement homes, whilst stating that a high quality of design and layout will be required in any development proposal submitted.

Policy HOUS9, permits the principle of residential development within settlement boundaries subject to the following criteria:

- The scale and form of the proposed development is in keeping with surrounding uses.
- 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.
- 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.
- Open space is provided in accordance with the Council's Approved Standards.
- The provision of car parking and amenity space is in accordance with the Council's Approved Guidelines.
- Adequate community and utility services exist, are reasonably accessible or can be readily and economically provided.

In respect of the development within the Conservation Area, the relevant Policies are ENV15 (Protection of the Built and Historic Environment), ENV18 (Development in Conservation Area) and ENV25 (Design of new developments) contained within the Vale of Glamorgan Unitary Development Plan Deposit Draft (as amended) 2003. Consideration should also be given to the policies and guidance set out in the Amenity Standards Supplementary Planning Guidance.

The principle of the use of the site for residential redevelopment is acceptable given the sites allocation in both the adopted Local Plan and the emerging Unitary Development Plan. Whilst the principle of residential development of the site may be considered acceptable, the key issues that need to be assessed in relation to the Conservation Area are:

- The appropriateness of the scale, form, design and materials of the proposed development in relation to its impact on the existing dwellings fronting The Limes and its wider context.

- Whether the scheme as a whole preserves or enhances the character of the Conservation Area.

The previous scheme for the site submitted under application ref. 04/0005/FUL was for the erection of 2 No. blocks of three storey apartments to provide 12 No. one bedroom retirement flats. Strong concerns were raised in respect of the set back position of the blocks and their scale, where it was considered that the scheme as whole was out of keeping with the character of The Limes and the Conservation Area and resulted in over development of the site. Following discussions with the applicants, the scheme was subsequently withdrawn.

The current application has been submitted following further meetings between the Local Planning Authority and the applicant with regard to the appropriate scale and form of development. The scheme as now submitted, whilst still providing flatted development, now achieves this in the form of a linked cottage style development, with a principal frontage onto The Limes. The scheme as submitted has been amended with a reduction on the number of units from 12 to 10.

It is considered the layout of the proposed scheme as amended is acceptable and reintroduces a simple building form fronting The Limes on to the vacant site and reinforces the building line of the street. The placement of a secondary block to the rear of the site is considered acceptable given its secondary relationship to the principal block fronting The Limes. The site layout as a whole is considered to provide a traditional relationship of frontages to streets, in keeping with the street scene, by the provision of direct pedestrian access from the pavement with the use of small forecourts enclosed by low front walls, with gates, gate piers and iron railings.

In respect of the heights of the proposed scheme, concern has been raised from neighbouring occupiers with regard to the central ridge height of the main block and the fact that it appears as 3 storey accommodation. The central block does have a ridge height of some 9 metres and the roof space is indeed used for accommodation. However, the scheme as submitted has been subject to amendments, where the rooflights which were originally on the front roof plane, have been re-sited to the rear, less prominent roof-plane in order to simplify the roof detail. Whilst the ridge height is some 2.5 metres higher than the rest of the development, it is nevertheless of a similar height and scale as the converted Chapel on the other side of the Limes and in terms of the general street scene, does not appear incongruous. The varied ridge heights are characteristic of the Conservation Area. In addition this 'higher' element of the development is located centrally within the site frontage away from existing residential property either side of the site.

The design and detail elements of the scheme are relatively simple, echoing the Limes secondary position in relation to High Street. As such the applicant was requested to provide simple detailing to the buildings which reflect the simple cottage style dwellings found in The Limes. The submitted plans, whilst indicating window and door locations and proportions, have not provided full details and as such should be required by way of condition.

In terms of materials and finishes, the flats will be finished in painted render elevations and the roof finished in blue fibre cement slates with red ridge cappings, which is generally in keeping with the cottage style dwelling found in The Limes. Whilst the finishes chosen are acceptable in principle given the prominent location of the site and the scale of the proposed development, it will be considered necessary, if this application is approved, to require the submission of all materials, to be agreed prior to construction.

The proposed scheme provides a communal landscaped area to the rear of the main block in addition to the provision of balconies to the rear of the site. The Amenity Standards Supplementary Planning Guidance states that the size of any communal garden should relate to the number of people who have access to the space and are likely to use it. In flatted developments, developers should aim to provide a minimum of 20 square metres of amenity space per person, where the amount of space required will be calculated on the basis of the maximum amount of people which can be accommodated.

The landscaped garden provides some 350 square metres of amenity area in addition to the provision of reasonable sized balconies to all properties. The maximum number of people that could be accommodated in the development is 26, therefore the required level of amenity space would be 520 square metres. Whilst there is a shortfall, it is considered that the level of amenity space provided in addition to the balconies and the proximity to an area of public open space is nevertheless acceptable in this instance.

In terms of privacy and overlooking, it is accepted that the application site is generally overlooked on all sides from residential dwellings on The Limes, Borough Close and the Limes Court flats. However, the site has been designed both externally and internally to minimise overlooking of habitable windows to adjacent and nearby residential dwellings, with particular regard to the opposing properties on The Limes.

There is also considered to be sufficient distance between properties so as not to result in an overbearing form of development, whilst still maintaining the historic layout of Cowbridge, reflecting the character of the Conservation Area.

The proposed scheme indicates that the 10 No. flats will be served by 12 No. car parking spaces which will be accessed from The Limes. The proposed development has 7 No. one-bedroom apartments and 3 No. two-bedroom apartments, which would normally require a minimum of 13 spaces to serve the development in accordance with the Parking Guidelines. However, it is not considered that the deficiency of one space would result in any resulting parking congestion on street and the site itself is located just off the High Street with local shopping facilities, community facilities and accessibility to the public transport network.

In conclusion, it is considered that the redevelopment of the site for 10 No. flats based on the amended plans is in accordance with the above referenced policies, and is considered to enhance the character of the Conservation Area.

Consideration of this application was deferred at the previous Committee meeting to enable Members to inspect the site. It is currently anticipated that this inspection will take place on 17<sup>th</sup> March, 2005.

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.
2. The permission hereby granted shall relate to the amended plans, reference TL/01, 02, 03, 04, 05, received by the Local Planning Authority on 12th January, 2005.
3. The developer shall ensure that a suitably qualified archaeologist is present during the undertaking of any ground works in the development area, so that an archaeological watching brief can be conducted. The archaeologist watching brief will be undertaken to the standards laid down by the Institute of Field Archaeologists. The Local Planning Authority shall be informed in writing at least two weeks prior to the commencement of development, of the name of the said archaeologist.
4. The pavement fronting The Limes, access, turning space, car parking spaces and amenity space shown on drawing number TL/01 shall be fully laid out prior to the development hereby approved being brought into beneficial use and shall thereafter be maintained at all times to serve the dwellings hereby approved.
5. Notwithstanding the submitted plans, further details of all windows, doors, rooflights, sun pipes and balconies, to a scale of 1:10 or 1:20 as appropriate, including cross sections, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development and shall be laid out in full accordance with the details as agreed and thereafter maintained at all times.
6. Samples of slate and ridge tiles, brickwork, brick paviours, stone cappings, sills or window heads in addition to a sample render coloured panel where applicable, 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.
7. Notwithstanding the submitted details, details of eaves and verge and the porch canopy, including sections to a scale of 1:20 shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development and shall be constructed in full accordance with the details as agreed and thereafter maintained at all times.
8. Notwithstanding the submitted details, further details of the front forecourt boundary walls and railings, including sections to a scale of 1:20, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development and shall be constructed in full accordance with the details as agreed and thereafter maintained at all times.

9. Prior to the commencement of development, a landscaping scheme including details of any trees, plants and their species, size at planting and density, shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall thereafter be implemented in the first planting season following the completion of the development hereby approved.
10. 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.
11. Details of proposed finished floor levels in relation to the existing ground levels and the finished levels of the site, including cross sections, shall be submitted to and agreed in writing, with the Planning Authority before development commences.
12. Before the commencement of the development hereby permitted, a scheme showing the means by which foul sewage and surface water run-off are to be catered for 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(s):

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt.
3. To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.
4. To ensure satisfactory provision of on-site parking and amenity space to serve the development hereby approved.
5. In the interests of visual amenities of the Conservation Area.
6. In the interests of visual amenities of the Conservation Area.
7. In the interests of visual amenities of the Conservation Area.
8. In the interests of visual amenities of the Conservation Area.
9. In the interests of visual amenities of the Conservation Area.
10. To ensure satisfactory maintenance of the landscaped area.

11. To ensure a satisfactory form of development.
12. To ensure satisfactory drainage of the site.

**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.**

Mr Michael Lewis, C/O the agent.  
(G Powys Jones, The Maltings, East Tyndall Street, Cardiff, CF24 5EA. )

**CROSSWAYS FARM, CROSSWAYS, COWBRIDGE 1004 CROSSWAYS,  
COWBRIDGE, SOUTH GLAMORGAN.**

To begin to execute the works to complete the erection of a dwelling

**SITE DESCRIPTION**

The site is located in the open countryside to the west of Cowbridge off the road to Llantwit Major. The site includes 10 acres of farmland of which 1 acre has been planted as a vineyard, and 1 acre for strawberries. It is proposed to use the remainder of the land for asparagus and other mixed vegetables.

**DESCRIPTION OF DEVELOPMENT**

This application is submitted under section 192 of the Act in respect of the lawfulness of implementing a planning permission 89/00189/OUT, for a house for an agricultural worker, approved on 6<sup>th</sup> June, 1989 and application 89/001136/RES for detailed reserved matters, approved 2<sup>nd</sup> February, 1990. It should be noted that the applicant recognises that the partially completed dwelling which currently exists on the site is unauthorised, however this application attempts to prove that the original consent could still be implemented.

**PLANNING HISTORY**

89/00189/OUT - House for agricultural worker. Approved 6<sup>th</sup> June, 1989.

89/001136/RES - House for agricultural worker. Approved 2<sup>nd</sup> February, 1990.

04/01935/FUL – Planning permission for an agricultural workers dwelling, currently undetermined (but see elsewhere on this agenda).

**CONSULTATIONS**

None.

**REPRESENTATIONS**

None.

**REPORT**

On 27<sup>th</sup> February, 1990 planning permission was granted for an agricultural dwelling at Crossways farm near Cowbridge. Subsequently the applicants attempted to confirm that work was commenced on this property prior to the planning permission expiring. The chronology of this site is set out below:

**6th June, 1989** - The Council granted outline planning permission (89/00189/OUT) for the erection of a "House for Agricultural Worker". This permission was subject to conditions including the following:

- "(1) *Details relating to the siting, design and external appearance of the proposed building(s), the means of access thereto, proposals for car parking and the landscaping of the site shall be submitted to and approved by the Council before any development is commenced.*
- (2) *Application for approval of the reserved matters hereinbefore referred to must be made not later than the expiration of one year beginning with the date of this permission.*
- (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 two years from the date of this permission, or*
  - (b) *the expiration of one years (sic) from the date of the final approval of the last such matters to be approved.*
- (4) *This consent shall relate to. plan reference 89/00189/OUT "A"...*

Condition 5 was an agricultural occupancy condition.

- (6) *All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be agreed with the Local Planning Authority before the development commences."*

**27<sup>th</sup> February, 1990** - The Council granted approval of reserved matters (89/01136/RES):

*"In respect of the detail plans received by the Council on 31<sup>st</sup> August, 1989 and submitted for the purposes of conditions imposed on the grant of planning permission (Application no. 89/00189/RES) on 1<sup>st</sup> June, 1989, subject to compliance with the outstanding conditions imposed and the conditions specified hereunder:*

- (1) *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 with the Local Planning Authority prior to the commencement of such development.*
- (4) *No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping ..."*

**6th June, 1991** - Apparently work commenced on site.

**1<sup>st</sup> August, 1991** - The Council's Chief Planning and Development Officer wrote to the then owner's agent in the following terms:

*"Re: TCP A 1990 Application No. 89/01136/RES House at Crossways Park Crossways, Nr. Cowbridge.*

*I would refer you to the above development which was granted full planning permission on the 27<sup>th</sup> February, 1990, in accordance with the application and plans received by the Borough Council.*

*Planning permission was granted subject to compliance with certain conditions. I would advise you that Conditions 01 and 04 attached to the above noted planning consent requires you to provide details of the following matters prior to the commencement of development,*

1. *Means of enclosure of the site and*
2. *A scheme of landscaping as you have now commenced works of construction at the site you are in breach of the terms of the planning consent."*

The reference at the head of the letter was "RJS/GLP/89/01136/RES". Apparently work ceased on site.

**14<sup>th</sup> August, 1991** –The officer wrote again, having received a reply on 9<sup>th</sup> August, 1991 to say that the details in it were insufficient seeking more information on the following:

- "1. *The height of the proposed fencing and its line.* 2. *The number of trees, their size and species and a plan showing their position within the site ..."*

The letter concluded "*I look forward to receiving the above information to discharge the Conditions 1 and 4 before development commences on site*".

**9<sup>th</sup> September, 1991** - A letter was received from Mr. Robbins under reference "No. 89/01136/RES" specifying the details sought and enclosing a hand-drawn plan showing the same.

**7<sup>th</sup> October, 1991** - The planning officer wrote under the same reference confirming that the details were acceptable.

**19<sup>th</sup> July, 1993**- The Chief Planning and Development Officer wrote to local agent saying "*It would appear that a specified operation in respect of the proposed construction of the dwelling was carried out before the expiry of the consent.*" The reference number on this letter was 89/00189/OUT.

**September, 2000** - The site was marketed. Before purchasing, the current owner, Mr. Lewis, had discussions with Building Control and Planning Officers with a view to establishing the status of the planning permission. All correspondence was signed on behalf of the Head of Planning and Transportation

**March, 2001** - Mr. Lewis bought the property.

**July, 2003** - Series of "*Minor Amendment Requests*". All of them were stated to relate to "*Planning permission ref 89/01136/RES*". One was declined, it being decided that the change would be significant and a new planning application required.

**January, 2004** - Partially completed dwelling noted on site, and also that it did not accord with the approved plans.

**May, 2004** - Works ceased following the threat of enforcement action.

#### LEGAL ANALYSIS AS TO VALIDITY OF PERMISSION

It is now clear that the sole question when considering whether development has been "begun" for the purposes of s.56 of the Town and Country Planning Act 1990 is whether it was permitted by the planning permission together with the conditions imposed on it. If operations contravened the conditions, they cannot properly be described as commencing the development authorised by the permission.

In this case, the submission of landscaping and means of enclosure details was not made until September 1991, that is three months after outline permission had expired (6.6.1991) and after the time limit for commencement of development.

The relationship of the outline permission and reserved matters approval in this case, leads to the situation where the development previously undertaken cannot be characterised as being in accordance with the planning permission. It is clearly established that successive reserved matters applications may be lodged under the same outline permission, but they must all be within the time limit. It has also been held by the Court of Appeal that where an outline permission requires that reserved matters approval be granted "for the development" before development is begun, then all reserved matters must be approved before development is begun.

The question then arises whether the Council's acceptance of late landscaping/enclosure details, was of any legal effect. This area of law has been considered in several recent cases. The outline permission lapsed in June, 1991. Up until this time, it would have been open to the then owner to apply under s.73 TCPA, for permission to proceed without complying with Condition No. 2 and Condition No. 3(a).

Until recently, it had been considered that there were some reasonably clear exceptions to the principle that works undertaken in breach of a condition cannot be taken to be works of "material development" for the purpose of Section 56 of the Act. One of these was where the Local Planning Authority has agreed that development could commence without full compliance. That case is distinguishable on the current facts because agreement was sought in advance of work but, more fundamentally, it must now be read subject to the following:

- (1) That estoppel has outlived its useful purpose in the field of Town and Country Planning Law.
- (2) That the procedures in Section 73 and Section 73A of the Act should be utilised when it is desired to justify a departure from conditions on a planning permission.
- (3) That the public/third party interest in Planning Law and the formal procedure is an important consideration in this area.

The planning officer's letter of 7<sup>th</sup> October, 1991, was of no legal effect, as by that stage, the outline planning permission had expired. The outline permission is always the operative consent, approval of reserved matters being parasitic upon it, and not a planning permission in itself. By that stage, therefore, even if an application under s,73 TCPA had been made to vary Condition Nos. 2 and 3 on 89/00189/OUT, it would have been impossible for the Council to have granted it because Section 73(4) would have prevented them.

In addition, the contemporaneous correspondence makes it clear that the Council and applicants were addressing the condition on the reserved matters approval (No. 89/01136/RES), not the outline (89/00189/OUT). The letters of 19<sup>th</sup> July, 1993 and September, 2000, are really the opinion of the officer concerned in regard to the life of the consent. However this could not reasonably have been taken as a binding representation that no further planning permission was required. If a binding determination was required, a formal application ought to have been made under Section 191 or 192 of the 1990 Act.

### IS THE DEVELOPMENT LAWFUL?

Following the conclusions above, it might be argued that the development which has taken place could be lawful by virtue of the four year rule, and if that were the case, the owner would be entitled to a certificate under Section 191 TCPA. However the House of Lords has held in previous cases that the four year period in Section 171B(1) TCPA did not start to run until the dwellinghouse (as opposed to the operations) was "*substantially completed*".

Applying these principles to the facts of this case, it is clear, both from the terms of the Section 192 application and, doubtless, by comparing the development already on the ground with the plans, that the "*totality of the operations*" has not been erected. Therefore, the building as it stands can properly be treated as an uncompleted building against which the four-year period has not yet begun to run.

### CONCLUSIONS

In light of the above and the recent changes in case law, it is considered that certificates could not be issued under either Section 191 or 192 of the Act and therefore the development that has been undertaken is not lawful and nor would it be lawful to implement the original 1989 outline permission and subsequent details as this expired in 1991 due to the failure to properly discharge the relevant conditions.

Accordingly the following recommendation is made.

03291

### RECOMMENDATION (W.R.)

#### REFUSE

#### Reason(s):

1. That the Council refuses to issue a Certificate of Lawful Development under either Section 191 or 192 of the Town and Country Planning Act 1990 as the applicant has failed to prove that Planning Permission Reference 89/00189/OUT or 09/00136/RES were properly implemented and therefore the relevant permission expired on 6th June, 1991.

Mr G. George, Mill Farm, Monknash, Vale of Glamorgan.  
(Bernard Clatworthy RIBA, 15, Denison Way, St. Fagans, Cardiff. CF5 4SF )

**MILL FARM, MONKNASH**

A, External garage and store. B, External stairs to first floor, C, Replace glass roof with traditional roof

The development / property is situated within/ adjoining the Monknash Conservation Area.

The application was advertised on 7<sup>th</sup> September, 2004.

**SITE DESCRIPTION**

A former barn conversion on the edge of Monknash.

**DESCRIPTION OF DEVELOPMENT**

A full planning application seeking to:

- Erect a garage and store building to the west of the converted barn adjacent to the main road. The building would have a pitched roof with a height of 4.5 metres to ridge and a floor area of 52.5 square metres. The building would be finished with a mix of stonework and timber cladding.
- Construct external stairs and a veranda to the west elevation of the two-storey element of the converted barn. A new doorway would be inserted at first floor involving the construction of a dormer to the roof.
- Replace the glass roof of the mid link glazed entrance to the main building with a traditional slate roof. These works would involve the roof of this mid link structure being raised to a height of 4.4 metres at ridge, approximately 0.4 metres above the height of the main building.
- Alter the access arrangements at the site, including the continued (currently unauthorised) use of a field access to the west of the property as the principal means of access to the property and the proposed blocking up of the authorised vehicular access and provision of a pedestrian gated door in its place.

**PLANNING HISTORY**

Planning permission (99/00671/FUL) - Was refused on 29<sup>th</sup> July, 1999 for the conversion of the barn subject of this application to a residential unit. This was due to the amount of rebuilding which had already taken place and was also proposed as part of the application, which was contrary to national and local planning policies relating to the reuse and adaptation of rural buildings.

A subsequent planning application (00/00577/FUL) was submitted which indicated a significant reduction in the amount of rebuilding required to implement the scheme and so planning permission was granted on 19<sup>th</sup> January, 2001 for the refurbishment of disused buildings to provide a dwelling.

However, the works did not proceed on site according to the approved plans, and accordingly it was considered that the previous consent had fallen. A new planning application (02/01276/FUL) was submitted to attempt to regularise the matter and planning permission was subsequently granted in November 2002 for the conversion of the barn.

### CONSULTATIONS

St. Donats Community Council - Has been consulted. However, no comments have been received to date.

Vale of Glamorgan Conservation Advisory Group - Has stated that the application should be refused, given the sensitive nature of the site. It is a visually prominent location in the open countryside and it is close to a scheduled monument. There is a need to ensure that rural buildings are converted in a manner that retains their integrity and character.

Glamorgan Gwent Archaeological Trust - Has stated that whilst a condition was imposed on a previous consent requiring a watching brief, it is noted that the conversion has been implemented without any such brief being implemented. A condition should therefore be imposed on this application requiring an archaeological watching brief during ground disturbing work.

Head of Visible Services (Highway Development) – Was consulted on the 7th September, 2004, and has indicated that there is no objection subject to the provision of satisfactory vision splays.

### REPRESENTATIONS

The application was advertised in the press and by site notice. Neighbouring occupiers have also been consulted. The occupiers of “Y Beudy” and “the Plough and Harrow” have no objection to the proposals. The occupiers of “New Mill Cottage” would support the replacement of the glass roof that would improve their privacy.

Comments from the applicant’s agent, in a letter dated 8<sup>th</sup> February, 2005, are attached at Appendix A.

### REPORT

The development plan for the site comprises the South Glamorgan Structure Plan (Alteration No.1) 1989. The application also needs to be considered with regard to the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003).

The agent has made the following comments in support of the application:

“The garage would be sited in the previously agreed landscaped area. An historical photograph provided by the applicant shows various outbuildings in this area, which were requested to be cleared.

The external stairs would allow for this part of the dwelling to have its own free access for tourists without disrupting the main house. It would also allow two rooms to be let separately or jointly.

The neighbours support the substitution of the mid link glass roof with a traditional roof for reasons of privacy.

The new access is required as it has better vision and would be safer than the authorised access for visitors/tourists.”

It is considered that the main issue with this application relates to the impact of the alterations to the former barn conversion including the proposal to construct a new garage building and new access arrangements, having regard to the Council’s policies relating to barn conversions and its countryside protection policies. The impact on the character of the building and on the surrounding area is of particular importance, given the location of the site within the open countryside, the Glamorgan Heritage Coastal Zone and the Monknash Conservation Area.

The application has been assessed with regard to the countryside Policies HOUS7 ‘Replacement and extension of dwellings in the countryside’ and Policy ENV7 ‘Small scale rural conversions’ of the Emerging Unitary Development Plan. It is considered that whilst the building has been converted to a dwelling, Policy ENV7, which aims to ensure that rural buildings are converted in a manner that retains their integrity and rural character, remains a central material consideration with regard to this proposal.

The draft Supplementary Planning Guidance ‘the Conversion of Rural Buildings’ elaborates on and is generally consistent with Policy ENV7 of the Unitary Development Plan. In particular, it states that “proposals to extend converted buildings are likely to detract from the character and amenity of the existing buildings and surrounding countryside, accordingly proposals to extend existing converted buildings are likely to be resisted.”

Furthermore, with regard to the residential conversion of rural buildings, Paragraph 7.6.11 of Planning Policy Wales states that “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.”

The application proposes alterations to the building, including a roof extension, a timber staircase and access platform and a larger and more ‘permanent’ link between the barns. The replacement link extension would be higher and have a larger footprint than the existing glazed link, protruding forward of the front building line and above the ridge of the roof of the existing barn.

These alterations, in particular those to the two storey element of the barn, would be highly visible from the adjoining road. It is considered that the staircase, platform and dormer would appear as obvious 'add on' features which would be out of character with the current simple form and design of the building. The application is therefore considered contrary to Policy ENV7 of the Unitary Development Plan, which aims to ensure that rural buildings are converted in a manner that retains their integrity and rural character. Granting planning permission would encourage similar proposals to the detriment of the rural character of the surrounding area.

The garage/store would constitute new build in the countryside. It would extend outside the authorised curtilage of the dwelling as previously approved. The garage would comprise a relatively large building that would be sited adjacent to the main road and have a significant visual impact on the surrounding area. The proposed garage would therefore be contrary to Policy EV3 of the South Glamorgan Structure Plan (Alteration No.1) 1989 and Policy ENV1 of the Unitary Development Plan), that seek to resist new development in the countryside that is not in the interests of agriculture. No such justification has been submitted with this application.

The garage would also encroach onto land that was previously proposed to be subject to woodland planting as part of previous planning permission 02/01276/FUL. At the time of granting planning permission the building was considered sufficiently large as not to warrant additional buildings on the site. A number of outbuildings have previously been demolished but it is not considered that the previous removal of these buildings justifies the development proposed.

In addition, the application proposes an extension of the authorised residential curtilage of the property in both a northward and westward direction. This represents approximately 1300 square metres of additional garden area. The presence of a statue and other domestic paraphernalia on the site indicates the domestic use of this land. The field access is outside the authorised curtilage of the dwelling. The retention of the unauthorised domestic access and driveway, together with the proposed re-siting of the domestic style gates all serves to increase the domestication of the site and the visual impact of the property on the surrounding area. It is considered that the authorised access is entirely satisfactory in highway safety terms and so does not justify the proposed alternative access arrangements.

The extension of the residential curtilage and revised access arrangements would be contrary to Policy ENV7 of the Unitary Development Plan, which states that "where residential use is considered acceptable, amenity space can be provided within the curtilage of the site without undue incursion into the rural landscape." This is considered to be crucial given the location of the site on the edge of the settlement within a conservation area and within the Glamorgan Heritage Coastal Zone. However, in addition, these proposals are also contrary to Policy EV3 of the South Glamorgan Structure Plan (Alteration No. 1) 1989 and Policy ENV1 of the Unitary Development Plan that seek to resist new development in the countryside that is not in the interests of agriculture.

To conclude, the proposals are contrary to Policy ENV7 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003), which seeks to protect the character of rural buildings. The proposals would not accord with Policy EV3 of the South Glamorgan Structure Plan (Alteration No.1) 1989 and Policy ENV1 of the Unitary Development Plan that seek to resist new development in the countryside that is not in the interests of agriculture.

The proposals would adversely affect the character of both the barn and the surrounding rural area that comprises part of the Glamorgan Heritage Coast. In this regard, the proposals would be contrary to Policy ENV4 of the Unitary Development Plan that seeks to conserve and enhance the special environmental qualities of the Glamorgan Heritage Coast. Furthermore, the proposals would fail to preserve or enhance the character and appearance of the Monknash Conservation Area, and so would be contrary to Policies ENV15 and ENV18 of the Unitary Development Plan and Policy EV19 of the South Glamorgan Structure Plan, which seek to secure the preservation and enhancement of conservation areas in the Vale. The proposals are also considered to be contrary to the advice contained in Planning Policy Wales March 2002, as outlined above.

A container has been placed in the adjoining field. Whilst this is outside the scope of this application, it is considered that enforcement action should be taken to secure its removal given its adverse visual impact on the surrounding area.

Consideration of this application was deferred at the previous meeting of Committee on 23<sup>rd</sup> February, 2005 to enable Committee Members to inspect the site. It is currently anticipated that this inspection will take place on 17<sup>th</sup> March, 2005.

03702

#### RECOMMENDATION (W.R.)

In the event of Committee agreeing to the recommendation to refuse the planning application, the Director of Legal and Regulatory Services be authorised to take all necessary action, including action under Section 172 of the Town and Country Planning Act 1990 (as amended) to ensure the removal of the container from the adjoining field, the removal of the driveway which has been created off the field access and reinstatement of the land to its former condition, the cessation of any residential use and removal of all domestic paraphernalia from the land outside the application site as defined by the previous planning permission 02/01276/FUL.

#### REFUSE

#### Reason(s):

1. The proposals, at this prominent location, would adversely affect the character of both the barn and the surrounding rural area and would therefore fail to preserve or enhance the special quality of this part of the Glamorgan Heritage Coast and the Monknash Conservation Area.

The proposals are therefore contrary to Policy EV19 of the South Glamorgan Structure Plan 1989 and Policies ENV4, ENV7, ENV15 and ENV18 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003), the Council's Draft Supplementary Planning Guidance relating to the Conversion of Rural Buildings and the advice contained in Planning Policy Wales March 2002.

2. The proposals amount to insensitive and unjustified new development within the countryside, contrary to Policy EV3 of the South Glamorgan Structure Plan (Alteration No.1) 1989 and Policy ENV1 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003), which seek to resist new development in the countryside that is not in the interests of agriculture.

Phoenix Neurologix, 60 Milan House Century Wharf, Cardiff. CF10 5AU  
(Phoenix Neurologix, 60 Milan House Century Wharf, Cardiff. CF10 5AU )

**WENTWORTH, BRADFORD PLACE, PENARTH**

Change of use from residential use to a nursing home

The property is situated within the Penarth Conservation Area.

The application was advertised on 19<sup>th</sup> October, 2004.

**SITE DESCRIPTION**

The application site relates to a large Victorian semi-detached dwellinghouse known as "Wentworth" located in Bradford Place near its junction with Clive Place in Penarth. The site is bounded by the residential dwelling of Belmont on Clive Crescent and along its side (south western) elevation by the access road leading to the Seaview Court flats. The application site lies within the Penarth Conservation Area.

The existing dwelling, which has previously been extended to the side has accommodation over four levels with a total of four bedrooms and two kitchens, including a self contained flat in the basement.

**DESCRIPTION OF DEVELOPMENT**

The application is for the change of use from a dwelling house to a nursing home, that is a change of use from Class C3 to Class C2 as set out in the Town and Country Planning (Use Classes) Order 1987.

The amended drawings indicate that the number of bedrooms will be six to provide care and support for neurological compromised residents.

No external alterations to the dwelling are proposed. Although internal changes are proposed, they are not subject to planning control and therefore do not form part of this application. The only external works to the garden will be the provision of a parking area to the front of the side garden to provide a total of 4 spaces with 2 further spaces adjacent to the driveway.

**PLANNING HISTORY**

The site has been subject to the following recent planning applications:

02/01095/FUL – Extension to rear and side of property. Approved 10<sup>th</sup> January, 2003.

02/00788/FUL – Extension to rear and side of property. Withdrawn 29<sup>th</sup> November, 2002.

01/01067/FUL – 4-5 bedroom detached dwelling. Refused 20<sup>th</sup> November 2001.

## CONSULTATIONS

Penarth Town Council - Were consulted on 8<sup>th</sup> October, 2004 and stated that the application should be approved on the basis that the proposed change of use is limited to the nature of the operations specified in the letter from the applicants outlining the proposal and furthermore, that consideration is given to alternative car parking arrangements which avoid the need to demolish a section of the boundary wall fronting Bradford Place. The Town Council is of the opinion that the current proposal will have an adverse effect upon the character and appearance of the Penarth Conservation Area given that the substantial and continuous stone boundary enclosures are a significant feature of the street scene.

Head of Visible Services (Highways Development) - Was consulted on the 26<sup>th</sup> October, 2004, and has no objection in principle subject to the provision of a turning facility and parking provision for six spaces within the site.

Director of Legal and Regulatory Services (Environmental Health) - Has no comment to make regarding the application.

Environment Agency - Were consulted on the application and has responded with a standard informative for developers.

Welsh Water were consulted and have requested that a condition and an advisory note should be attached to any planning permission granted, in order to ensure that foul and surface water are drained separately from the site.

## REPRESENTATIONS

Neighbouring residential properties were consulted and to date eleven letters of representation have been received, all of which raise concerns in respect of the application. Five letters are attached as Appendix A. In summary, the concerns raised relate to the following main issues:

- The introduction of a commercial use into a residential area out of keeping with the character of the Conservation Area.
- The increase in traffic to and from the site in respect of deliveries, visitors and staff parking.
- The increased parking on Bradford Place given the insufficient on-site parking provision given the number of staff proposed.
- The removal of the front boundary wall, to facilitate parking, would impact on the character of the street scene and Conservation Area.
- The nature of the occupants/residents and issues relating to security and safety.

Councillor Paul Church has made the following comments on the proposal:

"I have had objections to the planning application for the development of Wentworth, Bradford Place, Penarth to a nursing home.

In view of the bad feeling of local residents to this scheme can I request a site visit by the Vale of Glamorgan Planning Committee before making any final decision on this matter.”

The applicants have also submitted information in support of their proposal, and this information is attached at Appendix B.

## REPORT

This application relates to the change of use from a dwelling house (Use Class C3) to a nursing home (Use Class C2) as set out in the Town and Country Planning (Use Classes) Order 1987. More specifically, the proposed business is for the care of six individuals with neurological disorders.

The following policy context is relevant:

### East Vale Local Plan (1987)

The following policies contained within the above current adopted local plan for the area, which relate to development within Conservation Areas, are considered relevant.

Policy C1 states that it is the policy of the Borough Council to protect and enhance the character of the Conservation Areas in the East Vale.

Policy C2 states that all proposals for development, redevelopment, new buildings, alterations or extensions within or adjacent to the Conservation Area should reflect the character of their setting in terms of design, layout, scale, materials textures and colour.

Policy C4 states that the Borough Council will consider on their merits any proposals for change of use relating to listed buildings, proposed and existing county treasures and other prominent buildings in the Conservation Area, subject to Policies C1 and C2.

### Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2003)

The most relevant policy contained within the above emerging plan is Policy EMP3, which relates to new business and industrial development. This policy permits proposals for new business and industrial development including agricultural service industries and the extension, conversion and replacement of existing premises for such purposes, subject to the following criteria being met:

- (i) The proposal does not lie within the countryside except for those proposals acceptable under the terms of Policy ENV7 (rural buildings) or Policy COMM2 (redundant hospitals).
- (ii) The proposal minimises the loss of good quality agricultural land (Grades 1, 2 and 3a) and does not have an unacceptable impact on areas of attractive landscape and high quality townscape or on area of historical, archaeological or ecological importance.

- (iii) The size and relationship of any new building and / or alteration or extension is not disproportionate to its size and setting.
- (iv) Access and parking arrangements are in accordance with the council's approved standards.
- (v) Adequate landscaping is provided.
- (vi) The proposal does not have an unacceptable effect on residential amenity by virtue of traffic congestion, noise, smell, safety, health impacts and emissions.
- (vii) Adequate utility and infrastructure services exist or are reasonably accessible or capable of being readily and economically provided.
- (viii) Does not present additional risk to the health or safety of users of the site and does not unacceptably pollute air, water, or land; and
- (ix) Does not unacceptably affect the use of the adjoining land by virtue of the risk and impact of potential pollution.

In respect of the development within the Conservation Area, the relevant Policies are ENV15 (protection of the Built and Historic Environment), ENV18 (Development in Conservation Area) contained within the Vale of Glamorgan Unitary Development Plan Deposit Draft (as amended) 2003.

### The Issues

Given that the application only relates to a change of use of a dwelling within a settlement boundary and does not involve any new build, the most relevant criteria are (iv) and (vi) of Policy EMP3, which relates to the adequacy of access and parking arrangements in accordance with the Council's approved standards; and that the proposal does not have an unacceptable effect on residential amenity by virtue of traffic congestion, noise, smell, safety, health impacts and emissions.

With regard to the principle of the change of use, the existing building is used as a dwelling house with a self contained flat in the basement. However it would appear, given the covered fire escape on the rear elevation, that the building may have been used as a nursing home prior to its current use as a dwelling.

As to whether the proposed use is in keeping with surrounding uses, the application site is located at the northern end of Bradford Place within the Penarth Conservation Area. Bradford Place is a residential street which includes a mix of large Victorian Villas, new dwellings and a large complex of flats. Consideration must be given as to whether the proposed change of use would impact on the residential character of the road.

The change of use from Class C3 to (dwelling houses) to C2 (residential Institutions), whilst commercial, would nevertheless retain the residential character of the former use. Indeed, the number of patients now proposed has been reduced from seven to six, where the number would be no greater than the number of residents that would normally occupy a private dwelling house of this size.

With regards to the nature and type of the residents to be accommodated, the agent has confirmed that they will all have neurological deficit such as a brain injury resulting from road traffic accidents, and will normally be between the ages of 16-65. They will have short-term memory problems and will need guidance in carrying out their daily living. There will be 24 hour nursing care and medical staff will be available on call at all times. Several of the letters received raise strong concern with regard to the nature of the occupants, how they will be categorised and whether the patients are to be voluntary or detained. Whilst such concerns may well be valid to the neighbouring occupiers, however the operation and running of the home will fall under the Control of the Care Standards Inspectorate Wales.

With regards to potential noise and disturbance, it is noted that the Environmental Health Officer has not raised an objection. Given that the dwelling is situated in relatively large grounds, it is not considered that the incidental use of the garden by the residents would result in a level of noise and disturbance that would be above that which would normally be expected from such a dwelling, particularly given that the number of residents accommodated would be limited to a maximum of six.

In terms of staffing there will be 3 staff working during the day and 2 staff at night and there will only be two changeovers over a 24 hour period. It is accepted that the proposed use as a nursing home will increase the intensity of the use of the site and would no doubt result in an increase in on-site parking requirements. Whilst the forms indicate that there will be total of 18 staff employed, the supporting letter states that the actual number will only be 5 per day. The highway engineer following discussion in respect of the specific operations of the home, has accepted a provision of 6 spaces with a turning area. Amended plans have been submitted which indicate a parking area for 2 vehicles to the side of the main entrance and a bay for 4 vehicles which will be located directly behind the front boundary wall. The parking layout is now considered to accord with the Highway Authorities requirements and is considered sufficient to serve the proposal.

In terms of impact on the Conservation Area, letters of objection received have raised concerns over the removal of the stone boundary wall fronting Bradford Place to facilitate off street parking. The amended parking layout now retains this wall and access into the site will be via the existing cross over. The only demolition will therefore be the removal of a section of a concrete block wall at the top of the driveway to facilitate access into the proposed parking area. The main parking area will be against the inside of the front boundary wall, which itself is a retaining wall for the garden to the rear. Whilst any parked vehicle may in part be visible above the boundary wall, such impact on the street scene will be minimal given the height of the wall which is to be retained and therefore will not impact adversely on the character of the Conservation Area.

To conclude, it is considered that the change of use of the large existing dwelling to a nursing home to accommodate no more than six residents, would maintain the residential character of the dwelling and would not have an unacceptable effect on residential amenity by virtue of traffic congestion, noise and disturbance and would be in keeping with the character of the Conservation Area.

In view of the above it is considered that there are no overriding reasons to refuse this application, subject to appropriate conditions and limitations in order to control the nature of the uses at the site, in order to protect both the amenity of the area and to preserve the character of the Conservation Area.

Consideration of this application was deferred at the previous Planning Committee meeting to enable Committee Members to inspect the site. It is currently anticipated that the site meeting will take place on 17<sup>th</sup> March, 2005.

03820

### 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.
2. The six car parking spaces and turning space as indicated on Drawing No. 01 received on 16th December, 2004, shall be laid out and marked on site prior to the development hereby approved being brought into beneficial use and the car parking spaces shall thereafter be so maintained at all times to serve the development hereby approved.
3. The development hereby approved shall be for a maximum of six residents as indicated on Drawing No. 03 received on 16th December, 2004.
4. Notwithstanding the terms of the Town and Country Planning (Use Classes) Order 1987 as amended and the Town and Country Planning (General Permitted Development) Order 1995, or any Order amending, revoking or re-enacting those Orders, the consent shall only relate to change of use to provide care for long term non-acute mental health needs and/or acquired brain injury and for no other use within Class C2.

#### Reason(s):

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. To ensure satisfactory provision of on-site parking to serve the development hereby approved.
3. In order to control the level of the use of the site.
4. In order to control the nature of use at the site in the interests of residential amenity.

**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.**

Philip Jones Properties, Rainbow Plaza, Boverton Road, Llantwit Major, Vale of Glam. CF61 1XZ  
(Anderson and Associates, 39, High Street, Cowbridge, South Glamorgan. CF71 7AE )

**THE OLD COAL YARD, LE POULIGUEN WAY, LLANTWIT MAJOR**

Outline application for the construction of 16 no. two bed town houses, parking and garage

**SITE DESCRIPTION**

The site relates to an area of land formerly in use as a Coal Yard and now overgrown and vacant. The site lies between the former Bus Station, the Vale of Glamorgan Railway line and Le Pouliguen Way. The site is roughly triangular in shape and extends to approximately 0.38 hectares (0.94 acres).

There are some trees on the boundaries of the site, including the boundary with properties on Boverton Road.

**DESCRIPTION OF DEVELOPMENT**

The application seeks outline planning consent for the erection of 16 two-bedroom properties with all matters reserved. Whilst all matters are reserved, illustrative plans have been submitted showing a site access, layout and parking and elevation and floor plans. The illustrative floor plans indicate a footprint of 37.2 sq.m with accommodation over three floors, showing two bedrooms but with a third study/office at first floor. The second bedroom is indicated in the roof space.

**PLANNING HISTORY**

Three planning applications for residential development have been considered on this site:

91/00534/OUT – Residential development approved 15<sup>th</sup> October, 1991, subject to access being from the existing point of access serving the site and the development meeting the Local Planning Authority's adopted amenity and privacy standards.

93/01237/RES – For ten semi-detached dwellings was approved on 8<sup>th</sup> March, 1994.

**CONSULTATIONS**

Llantwit Major Town Council – “No objection.”

Welsh Water – See Appendix A.

Environment Agency – Standard advice applies.

Director of Legal and Regulatory Services (Environmental Health) – “No objection.”

The Head of Visible Services (Highway Development) – See Appendix B. Further comments received in respect of the amended layout are:

“My previous comments still apply, i.e. no highway objections in principle subject to the highway requirements stated being satisfied.

The latest layout is an improved effort from the original but in my opinion a better parking layout could be achieved if the development was reduced by two units. The turning area for refuse/fire engines must be within the adopted highway and should preferably be hammer-head form rather than circular as circular turning heads tend to be come blocked more easily by parked vehicles.”

## REPRESENTATIONS

Two letters of representation have been received from adjoining landowners or residents.

Network Rail – See Appendix C.

A letter from the occupier of Suffolk House, Chapel Road, Broughton, is also attached at Appendix D.

## REPORT

The site lies within the development boundary for Llantwit Major as defined in the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004). The site is an allocated site being HOUS 1(II) allocation.

The allocation along with the previous, albeit lapsed, planning consent indicates the suitability of the site, in principle, for residential development.

The primary policy against which the proposal should be considered is Policy HOUS9. Policy ENV25 ‘Design of New Development’ is also of relevance as are the adopted Supplementary Planning Guidance ‘Amenity Standards, Trees and Development’ and the approved South Wales Standing Conference on car parking guidelines.

The scheme is in outline with all matters reserved for subsequent approval. The applicants agent has submitted indicative layouts of the site with sixteen dwellings with accommodation over three floors and providing three bedrooms (although it should be noted that one potential bedroom is referred to as a study/office).

The layout indicates the provision of dwellings and plots which do not meet the Local Planning Authority’s Amenity Standards, other than in respect of one unit. The Amenity Standards Policy 2 states: “The Council will ensure that usable adequate and appropriate private amenity space is provided as part of residential development.”

The overall scheme is deficient and several of the plots as indicated on the illustrative layout are substantially below the standard, in several cases providing approximately a third only of the required space. It is also noted that the quality of the space that is provided is poor in that the gardens back onto the railway line with only 10m rear gardens in close proximity to this line. Being north facing, the gardens are further reduced in quality and would also be overshadowed by dwellings illustrated as having a maximum height of 9 metres.

In respect of access and parking issues, the illustrative scheme would provide 32 spaces for the units. The units are actually three bedroom units and are approximately 106 sq.m floor area. Thus to meet the Local Planning Authority's adopted standards, two spaces per unit plus one space per 3 – 5 units for visitors should be provided. On this basis between 37 and 35 spaces would be expected. The development also falls short in respect of visitor parking. Given that the site adjoins the new railway interchange, bus routes and the 'commercial' centre of Llantwit Major, it is not considered that a shortfall of this scale would be sufficient alone to refuse the illustrative layout. However, the Highway Development Officer has objected to the layout given that, spaces are not particularly well related to the dwellings they serve and the on-site road layout is not acceptable in highway terms.

Given the assessment of the illustrative plans, it is considered that the number of units sought for the site would result in an over development and a substandard layout. Whilst the highway development officer has indicated that a reduction of two units could result in an acceptable highway layout, it is considered that the number of units should be reduced even further in order to allow for an acceptable overall layout.

Ten units have previously been considered and approved, allowing for better amenity space provision per unit, on-site parking for each dwelling whilst at the same time providing for screening between the development and the existing dwellings, including bungalow development to the south.

Whilst the principle of residential development has been accepted and remains acceptable, there being no material change in the planning circumstances of the site even taking into account the proximity to the new railway interchange, the scale of development sought is considered unacceptable.

03852

RECOMMENDATION (W.R.)

REFUSE

Reason(s):

1. Notwithstanding the fact that the submitted site layout plan is illustrative in nature, the proposal for sixteen dwellings represents an overdevelopment of the site resulting in a substandard layout that fails to provide adequate on-site parking, amenity space and access and therefore is development contrary to Policy ENV25 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004).

M. Lewis, C.o Agent.  
(G. Powys Jones, MSc.FRTPI, The Maltings, East Tyndall Street, Cardiff. CF24  
5EA )

**CROSSWAYS FARM, CROSSWAYS, COWBRIDGE**

Retention of dwelling (and works to complete)

**SITE DESCRIPTION**

The site is located in the countryside to the west of Cowbridge, off the road to Llantwit Major. The site includes 10 acres of farmland of which 1 acre has been planted as a vineyard, 1 acre planted for strawberries and it is proposed to use the remainder of the land for asparagus and other mixed vegetables. The owner of the building also has an interest in and manages a 36-acre woodland near Michaelston-le-Pit, which is to be managed and used to produce firewood.

**DESCRIPTION OF DEVELOPMENT**

This application seeks the retention of a dwelling constructed without planning permission following the expiration of consent for an agricultural workers dwelling in February, 1993.

The application has been submitted with an agricultural justification (included at Appendix 2) based on the limited land holding retained with the dwelling and a Forestry holding remote from the property.

**PLANNING HISTORY**

89/00189/OUT – House for agricultural worker. Approved 6th June, 1989.

89/001136/RES – House for agricultural worker. Approved 2nd February, 1990.

04/01258/LAW – Lawful Development Certificate for creation of a dwelling, recommended for refusal at this Committee.

**CONSULTATIONS**

Cowbridge with Llanblethian Town Council – “No objections in principle.”  
However, the Town Council queried when permission was originally granted and when the structure already in existence was constructed.

Environment Agency – No objection.

**REPRESENTATIONS**

A site notice was posted and local residents consulted on 6<sup>th</sup> December, 2004. To date two letters objecting to the development have been received. The first letter states that the holding is not large enough to generate an income, that no farming facilities are present on site, the existing husbandry is poor and insufficient income will be generated to support additional workers. A copy of the objection is reproduced at Appendix 1. The second letter supports the above objections.

## REPORT

Members may be aware that on 27<sup>th</sup> February, 1990 planning permission was granted for an agricultural dwelling at Crossways Farm near Cowbridge. Subsequently the applicants attempted to confirm that work had commenced on this property prior to planning permission expiring.

No formal application was ever made under Section 191 of the Town and Country Planning Act 1990 to confirm that work had commenced before the planning permission expired in February, 1993. Furthermore it would appear that construction had commenced on the property without discharging or complying with conditions attached to the original consent. Given recent case law, it would appear that any such works undertaken to commence the dwelling in 1991, would not serve the purpose of keeping the permission alive (conditions precedent), and were therefore merely unauthorised excavations.

Notwithstanding the above, the development of a dwelling on the site commenced again in 2003 with the site under new ownership. The new owner has attempted to implement the 1990 permission for an agricultural dwelling but has not constructed the dwelling in accordance with the plans approved in 1990. An integral garage has been included as living accommodation and a garage door removed from the front elevation.

The above changes and the fact that the previous permissions for dwellings on the site have long expired have the effect of rendering this development unauthorised. As such, it now consists of a dwelling in the countryside unfettered by planning conditions in respect of occupancy or any other matter.

The owner of the site was advised of this situation in January, 2004 and following legal advice a new application has been submitted (as was requested at that time), and works have ceased on site. However the dwelling has been constructed to the point where it is nearing completion.

## History of the Site

**6<sup>th</sup> June, 1989** – The Council granted outline planning permission (89/00189/OUT) for the erection of a "House for Agricultural Worker". This permission was subject to conditions, including the following:

- "(1) Details relating to the siting, design and external appearance of the proposed building(s), the means of access thereto, proposals for car parking and the landscaping of the site shall be submitted to and approved by the Council before any development is commenced.

- (2) Application for approval of the reserved matters hereinbefore referred to must be made not later than the expiration of one-year beginning with the date of this permission.
- (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 two years from the date of this permission, or
  - (b) The expiration of one years (sic) from the date of the final approval of the last such matters to be approved.
- (4) This consent shall relate to plan reference.... 89/00189/OUT'A' ... ..
- (6) All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be agreed with the Local Planning Authority before the development commences.”

Condition no. 5 was an agricultural occupancy condition.

**27<sup>th</sup> February, 1990** – The Council granted approval of reserved matters (89/01136/RES):

“In respect of the detail plans received by the Council on 31<sup>st</sup> August, 1989 and submitted for the purposes of conditions imposed on the grant of planning permission (application no. 89/00189/RES) on 6<sup>th</sup> June 1989, subject to compliance with the outstanding conditions imposed and the conditions specified hereunder.

- (1) 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 such development.
- (4) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping ...”

**6<sup>th</sup> June, 1991** – Apparently work commenced on site which involved the digging of foundations.

**1<sup>st</sup> August, 1991** – The Council’s Chief Planning and Development Officer wrote to the then owner’s agent in the following terms:

*“Re: TCPA 1990 Application No. 89/01136/RES – House at Crossways Park, Crossways, Nr. Cowbridge.*

*I would refer you to the above development which was granted full planning permission on the 27<sup>th</sup> February, 1990 in accordance with the application and plans received by the Borough Council.*

*Planning permission was granted subject to compliance with certain conditions. I would advise you that conditions 01 and 04 attached to the above noted planning consent requires you to provide details of the following matters prior to the commencement of development.*

1. *Means of enclosure of the site, and*
2. *A scheme of landscaping.*

As you have now commenced works of construction at the site you are in breach of the terms of the planning consent.”

Following this letter work appeared to cease on site.

**14<sup>th</sup> August, 1991** – The officer wrote again, having received a reply on 9<sup>th</sup> August, 1991 (not available to me) to say that the details in it were insufficient seeking:

- “1. *The height of the proposed fencing and its line.*
2. *The number of trees, their size and species and a plan showing their position within the site.*”

The letter concluded *“I look forward to receiving the above information to discharge the Condition Nos. 1 and 4 before development commences on site.”*

**9<sup>th</sup> September, 1991** – A letter was received from Mr. Robbins under reference no. 89/01136/RES specifying the details sought and enclosing a hand-drawn plan showing the same.

**7<sup>th</sup> October, 1991** – The planning officer wrote under the same reference confirming that the details were acceptable.

**19<sup>th</sup> July, 1993** – Chief Planning and Development Officer wrote to local agent saying “It would appear that a specified operation in respect of the proposed construction of the dwelling was carried out before the expiry of the consent.” The reference no. on this letter was 89/00189/OUT.

**September, 2000** – The site was marketed. Before purchasing, the current owner, Mr. Lewis had discussions with building control and planning officers with a view to establishing the status of the planning permission. All correspondence was signed on behalf of the Head of Planning and Transportation.

**March, 2001 to July, 2003** – A series of “Minor Amendment Requests”. All of them were stated to relate to “Planning permission ref. 89/01136/RES”. One was declined, it being decided that the change would be significant and a new planning application required.

**May, 2004** – Works ceased.

**11<sup>th</sup> December, 2004** – Application under Section 192(1)(b) “to execute the works to complete the erection of a dwelling”.

Legal Analysis as to Validity of the Previous Permissions

It is now clear that the sole question when considering whether development has been “begun” for the purposes of Section 56 of the Town and Country Planning Act 1990 is whether it was permitted by the planning permission together with the conditions imposed on it. If operations contravened the conditions, they cannot properly be described as commencing the development authorised by the permission.

In this case, the submission of landscaping and means of enclosure details was not made until September, 1991, that is three months after outline permission had expired (6<sup>th</sup> June, 1991) and after the time limit for commencement of development.

The relationship of the outline permission and reserved matters approval in this case, leads to the situation where the development previously undertaken cannot be characterised as being in accordance with the planning permission. It is clearly established that successive reserved matters applications may be lodged under the same outline permission, but they must all be within the time limit. It has also been held by the Court of Appeal that where an outline permission requires that reserved matters approval be granted “for the development” before development is begun, then all reserved matters must be approved before development is begun.

The question then arises whether the Council's late acceptance of landscaping/enclosure details, was of any legal effect. This area of law has been considered in several recent cases. The outline permission lapsed in June, 1991. Up until this time, it would have been open to the then owner to apply under Section 73 TCPA, for permission to proceed without complying with Condition No. 2 and Condition No. 3(a).

Until recently, it had been considered that there were some reasonably clear exceptions to the principle that works undertaken in breach of a condition cannot be taken to be works of “material development” for the purpose of Section 56 of the Act. One of these was where the Local Planning Authority has agreed that development could commence without full compliance. That case is distinguishable on the current facts because agreement was sought in advance of work but, more fundamentally, it must now be read subject to the following:

- (4) That estoppel has outlived its useful purpose in the field of Town and Country Planning Law.
- (5) That the procedures in Section 73 and Section 73A of the Act should be utilised when it is desired to justify a departure from conditions on a planning permission.
- (6) That the public/third party interest in Planning Law and the formal procedure is an important consideration in this area.

The planning officer's letter of 7<sup>th</sup> October, 1991, was of no legal effect, as by that stage, the outline planning permission had expired. The outline permission is always the operative consent, approval of reserved matters being parasitic upon it, and not a planning permission in itself. By that stage, therefore, even if an application under Section 73 TCPA had been made to vary Condition Nos. 2 and 3 on 89/00189/OUT, it would have been impossible for the Council to have granted it because Section 73(4) would have prevented them.

In addition, the contemporaneous correspondence makes it clear that the Council and applicants were addressing the condition on the reserved matters approval (No. 89/01136/RES), not the outline (89/00189/OUT). The letters of 19<sup>th</sup> July, 1993 and September, 2000, are really the opinion of the officer concerned in regard to the life of the consent. However this could not reasonably have taken as a binding representation that no further planning permission was required. If a binding determination is required, a formal application must be made under Section 191 or 192 of the 1990 Act.

Members will note that in an attempt to establish that the original consents for the dwelling in the site were implemented, the owner submitted an application for a certificate. The Certificate of Lawful Development submitted by the applicant under reference 04/01258/LAW was in respect of the original permissions for house on the site (but not for the dwelling he has constructed) is also recommended to committee for refusal, as it is clear that the original permission was never implemented and therefore expired in June, 1991.

### The Policy Issues

Policy EV3 of the South Glamorgan Structure Plan and ENV1 of the Unitary Development Plan states that development in the countryside is only acceptable for, in the main, agricultural or forestry purposes. Furthermore Policy H10 of the South Glamorgan Structure Plan and HOUS3 and 5 of the Unitary Development Plan states that the construction of a dwelling in the countryside is only acceptable if justified in terms of need for agriculture or forestry. This is further supported by Planning Policy Wales and the supporting TAN6 Agricultural and Rural Development.

The dwelling that has been built, is thus unauthorised and if left on site unchallenged for in excess of 4 years would become lawful by virtue of Section 191 of the Town and Country Planning Act 1990. This would therefore lead to a dwelling in the countryside, which is not conditioned in any way.

Given the above and having regard to the fact that a dwelling in the countryside with unrestricted occupancy would be contrary to both national and local policy, it is considered that the current situation is unacceptable. The construction of an unjustified dwelling in this location would have a harmful effect on the character and appearance of this visible countryside location and would be contrary to the aims and objectives of these policies.

Notwithstanding the above, the applicant has submitted substantial supporting evidence with the current application in order to justify the retention of the property in its current form with the importance of a new occupying condition.

The ADAS report prepared for the applicant is included at Appendix 2 and this report details both the functional and financial need for the property. Members will note that a potential farming profit of some £30000 has been identified. However on the basis of the current operations and financial figures, a new dwelling does not appear to be justified. However it is clear that the applicants plans in respect of developing the holding to its full potential have been stalled by the uncertainty which has developed over the status of the dwelling.

In this regard further information has been sought on the personal circumstances of the applicant. It has been confirmed that the applicant is not and has not, for some time, been engaged in any other business other than agriculture, horticulture and forestry. It has also been confirmed that the applicant became aware of the sale of land at (Crossways Farm) in early 2001 and that having satisfied himself of the apparent status of the planning permission he purchased the property and proceeded to develop the site in accordance with what he considered to be a valid permission.

In terms of the specific details of the proposal, the development consists of a 2/3 bedroom property with a living/dining area and kitchen/utility area with associated storerooms and cloak rooms on the ground floor. The property is 2 storey in the main but, consists only of a single storey construction to accommodate a kitchen/utility area, this being the former proposed garage. Apart from some amendments to finishes and the fact that the integral garage now provides accommodation, there has been no changes to the footprint of the building from that previously approved in 1990 under 89/01136/Res.

Notwithstanding the above, the history of the site is considered to be a material consideration, especially in regard of previous correspondence to the current owner and previous owners confirming that the permission for a dwelling was extant on the holding. While this correspondence is not binding on the Council it would appear that, up until the recent changes in planning case law, the Local Planning Authority considered that the planning permission for this house was extant, and advised interested parties as such. The Authority also progressed requests for amendments at the site further compounding the view that the permission was both valid and extant.

The Local Planning Authority has sought Council's opinion in respect of the legal status and nature of the previous consents and the options for dealing with the currently constructed dwelling. This opinion concluded that there was no planning permission for the house, but also recommends that in the light of previous correspondence and the history of the site, the Authority should seek to regularise the position in respect of the house and re-impose an agricultural occupancy condition.

In this regard Counsel acknowledges the very complex planning history relating to the site. In particular the opinion offered clarifies the following:

- That relevant condition precedent condition details were sought and approved after development had commenced on site.
- That the Council has previously advised in writing that specified operations had been undertaken prior to the expiry of the consent, and it therefore appeared that the consent was extant, notwithstanding the fact that relevant Conditions had not been discharged.
- The current owner purchased the site following receipt of copies of previous correspondence relating to the above, and proceeded to develop the property, seeking and obtaining subsequent minor amendments.

- Counsel acknowledges that during the issuing of correspondence Case Law was, and still is continually evolving making the role of planning officers in offering general advice increasingly difficult, and requiring more formal procedures.

In terms of moving forward, the opinion offered acknowledges that what is critical in this case, given the history is the preservation of the agricultural occupancy condition relating to the site. The Council would have to consider whether it is expedient to enforce against the development given the previous permission relating to the site, the willingness of the applicant (confirmed in writing) to accept an agricultural occupancy condition and more importantly the extraordinary planning history.

Accordingly, having regard to the Policy context concerning the context of new dwellings in the countryside and the clear intentions of the owner of the site, it is considered that an attempt has been made to justify the erection of the property. In addition, the planning history of the site is also a highly material consideration, as is the legal advice the Local Planning Authority has received concerning this development.

Therefore on this basis, it is considered that subject to the following conditions the retention of this dwelling is acceptable, and appropriate and the following recommendation is put forward.

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### RECOMMENDATION

#### APPROVE subject to the following condition(s):

1. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependents.
2. Prior to the beneficial occupation of the dwelling hereby approved, a landscaping scheme shall be submitted to the Local Planning Authority for their approval in writing. The scheme shall include indications of all existing trees and details of any to be retained, together with measures for their protection in the course of development.
3. All planting, seeding or turfing comprised in the approved details of the landscaping scheme shall be carried out in the first planting and seeding season following the occupation of the dwelling and any trees or plants which, within a period of five years after being planted 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.
4. Prior to any further development relating to this consent, a scheme showing the means by which foul sewage and surface water run-off are to be catered for 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.

5. Prior to any further development relating to this consent, full details of the means of enclosure of the residential curtilage shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the first beneficial occupation of the dwelling hereby permitted and shall be retained and maintained thereafter at all times unless otherwise agreed in writing with the Local Planning Authority.
6. Prior to any further development relating to this consent, full details of the parking spaces and turning area, shall be submitted to and agreed in writing by the Local Planning Authority. The parking spaces and turning area shall be laid out in accordance with the agreed details before the first beneficial occupation of the dwelling hereby permitted and shall thereafter be maintained at all times within the curtilage of the site for use exclusively in connection with the dwelling hereby permitted.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the dwelling hereby approved shall not be extended or altered in any way without the prior written consent of the Local Planning Authority.
8. 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 dwelling hereby approved without the prior written consent of the Local Planning Authority.
9. Notwithstanding the terms of Conditions Nos. 3, 4, 5 and 6 the Local Planning Authority shall be notified in writing by the developer or his agent of the proposed commencement of further development in accordance with this consent. Such notification shall be provided not later than a period of 14 days prior to the commencement of further development at the site.

Reason(s):

1. A dwelling in this rural location would not be permitted unless justified on the basis of agricultural need.
2. To safeguard local visual amenities and to ensure the satisfactory development of the site.
3. To safeguard visual amenities and to ensure the satisfactory development of the site.
4. To ensure the satisfactory drainage of the site.
5. For the avoidance of doubt as to the extent of the authorised residential curtilage of the dwelling and in the interests of the rural character of the area.
6. In the interests of highway safety and to ensure adequate off-street parking for the development.

7. To enable the Local Planning Authority to control the scale of development.
8. To enable the Local Planning Authority to control the scale of development.
9. To ensure that the Local Planning Authority is made aware of the recommencement of development at the site and to enable conditions to be properly monitored.

**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.**

Learning and Development, Vale of Glamorgan Council, Civic Offices, Holton Road, Barry. CF63 4RU  
(Property Division, Vale of Glamorgan Council, Civic Offices, Holton Road, Barry. CF63 4RU )

**YSGOL IOLO MORGANWG, BROADWAY, COWBRIDGE**

Creation of new pedestrian access

The development is situated within the Cowbridge with Llanblethian conservation Area.

The application was advertised on 16<sup>th</sup> December, 2004.

**SITE DESCRIPTION**

The application site relates to land at Ysgol Iolo Morgannwg Primary School, located on Broadway in Cowbridge. The application site lies to the front of the existing demountable nursery unit, on the western side of the main school. The application site falls within the Cowbridge with Llanblethian Conservation Area.

**DESCRIPTION OF DEVELOPMENT**

This application is for the construction of a new pedestrian access adjacent to the recently constructed parking area to the front of the building. The pedestrian access will provide a direct pedestrian link from Broadway to the nursery unit.

The footpath will be a 1200mm wide tarmacadam path and enclosed on both sides by a 900mm high galvanised bar/looped fence painted black, linking to Broadway with a gate set back 1.5 metres from the pavement edge with a pedestrian splay.

**PLANNING HISTORY**

The site has been subject to the following planning applications:

00/01273/FUL – Siting of a steel container for storage purposes. Approved 20<sup>th</sup> December, 2000 subject to a 2-year temporary consent.

02/01551/REG3 – Erection of demountable nursery classroom. Approved 16<sup>th</sup> January, 2003, subject to conditions.

04/00078/REG3 – Erection of metal toy store. Withdrawn 20<sup>th</sup> January, 2005.

**CONSULTATIONS**

Cowbridge Town Council – Were consulted on the application on 20<sup>th</sup> December, 2004 and raised no objection to the application.

The Head of Visible Services (Highway Development) was consulted on the application on the 20<sup>th</sup> December, 2004 and raised no objection in principle and has not specified any conditions to be attached to any grant of planning permission.

## REPRESENTATIONS

Adjoining occupiers were notified on 20<sup>th</sup> November, 2004 and to date no letters of representation have been received.

## REPORT

This is an application made under Regulation 3 of the Town and Country Planning General regulations by the Director of Learning and Development (in accordance with the Constitution giving Chief Officers or Service Heads delegated authority).

The application has been submitted following the construction of the demountable unit and associated parking as approved under planning permission ref. 02/01551/REG3. Following the construction of the parking area and its operation, the applicant has submitted this application to provide a separate pedestrian access for nursery pupils to prevent conflict between pupils and vehicles, which exists in the current parking layout.

In assessing this application, the main issue is the impact of the proposal on the Conservation Area, given that the site is located within the Cowbridge with Llanblethian Conservation Area.

In this regard, Policy ENV18 of the Vale of Glamorgan Unitary Development Plan, Deposit Draft 1998 (as amended 2004) states:

“Proposals for new development of alternations to buildings or features within conservation areas will be permitted where they preserve or enhance the character of the conservation area. Such proposals will need to reflect:

- (i) The scale, design, layout, character, materials and setting of those buildings which establish the character of the area.
- (ii) The patterns of use which establish the character of the area.
- (iii) Important open space within and adjoining conservation area.
- (iv) Important trees and hedgerows; and ponds and streams.”

In addition Policy EV19 (Design of New Development) of South Glamorgan Structure Plan (Alteration No. 1) seeks to ensure high standards of development within Conservation Areas. The Cowbridge Local Plan also contains a similar policy (Policy 29).

The footpath is proposed along the western edge of the previously approved parking area. In order to accommodate the footpath, the 5 No. car parking spaces along the western boundary will be re-sited some 1.5 metres eastwards. The re-siting of the parking spaces is considered acceptable to the Highway Engineer.

In terms of impact on the street scene, the only alteration over and above the previously approved scheme will be the insertion of a gate and posts into the existing hooped top railings at the front of the site, which will exactly match the existing railings in terms of its height, design and colour. The addition of a small pedestrian visibility spay will not be out of keeping with the street scene and will partly be screened by the previously approved landscaping scheme as approved under planning permission ref. 02/01551/REG3.

To conclude, it is not considered that the proposed footpath within the previously approved parking area would detract from the character of the existing school, the street scene or the wider Conservation Area and therefore an approval is recommended.

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### RECOMMENDATION

Deemed planning consent be GRANTED 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.
2. The development hereby approved shall be carried out entirely in accordance with the approved plans and specifications.

Reason(s):

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. To ensure the satisfactory implementation of the development.

### 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.**

Summerhouse Point Dev. Ltd, The Byre, Penmark Farm, Penmark, Vale of Glamorgan. CF63 3PB  
(Noel Architects, Walters Buildings, Clarence Road, Cardiff. CF10 5FA )

**BOVERTON MILL BARN, BOVERTON, LLANTWIT MAJOR**

Conversion of existing barn to dwelling

**SITE DESCRIPTION**

The site relates to one of a group of barns situated adjacent to Boverton Mill Farm, Llantwit Major. The barn in question is Plot 2 and forms part of a grouping of former agricultural buildings at the site.

The barn is of stone construction with a slate roof.

**DESCRIPTION OF DEVELOPMENT**

The applicant seeks consent to convert the building into a dwelling. The proposal utilises the existing openings and entails a conservatory lobby to the rear elevation measuring 2.4m x 7m, in common with an earlier extant planning permission.

Three parking spaces are indicated, one to the front of the barn and two to the side of the barn.

**PLANNING HISTORY**

Planning consent granted for demolition of several barns and conversion of remaining barns to three dwellings – 02/01530/FUL (31<sup>st</sup> July 2004). Conditions include a requirement that barns on the opposite side of the lane be demolished.

**CONSULTATIONS**

Director of Legal and Regulatory Services (Environmental Health Officer) – “No comments.”

The Head of Visible Services (Highway Development) - Was consulted on 23<sup>rd</sup> October, 2004 and made the following comments:

“No objection in principle. Request deferral until a detailed drawing showing access and parking arrangements has been submitted.”

Defence Estates Safeguarding – “No safeguarding objection to this proposal, provided the overall height of the proposed development including superstructures (i.e. chimney's, TV Aerial etc.) is not increased.”

Glamorgan Gwent Archaeological Trust – See Appendix A.

Environment Agency – “Standard advice applies.”

Welsh Water – No comments received to date.

The Head of Visible Services (Engineering Design and Procurement) – No comments received to date.

## REPRESENTATION

Neighbours notified and site notice posted but no comments have been received to date.

## REPORT

The applicant seeks consent to amend the details of the conversion approved under application 02/01530/FUL in respect of one of the barns approved under that application. The application has been submitted following an earlier request that the alterations be progressed as a “minor amendment”.

The conversion is proposed to be undertaken without resorting to major alterations to the building as it stands. However, as previously, a lean-to part of the existing barn facing the lane will require a new roof and partial wall repair, whilst a small glazed rear lobby extension is to be provided.

The main changes from the ‘approved’ scheme relate to reconfiguration of the internal arrangements of the accommodation within the building and as a consequence, of the parking area. The proposed front porch with lean-to roof has a similar footprint to the ‘as approved’ one but is of a square form rather than the curved walls as previously proposed.

A flue is indicated in the elevation facing the highway as is an additional roof light to the four previously approved.

The garage will be omitted and utilised as living accommodation, with 3 No. parking spaces provided on site.

It is considered that the principle of conversion remains as approved and the details of the scheme, as was submitted, have been assessed against Policy ENV7 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004). The development, subject to the conditions as imposed on the 2003 consent, is considered acceptable. It is noted that a survey for the presence of bats was undertaken and none were found to be present on this site. No condition is proposed as a consequence, however an informative reminding the applicant of the need to protect species, should any be found during construction, is recommended.

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## 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.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the dwelling hereby approved shall not be extended or altered in any way without the prior written consent of the Local Planning Authority.
3. 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 dwelling hereby approved without the prior written consent of the Local Planning Authority.
4. 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 walls, fences or other means of enclosure shall be erected, constructed or placed within the site without the prior consent of the Local Planning Authority.
5. Before the commencement of the development hereby permitted, a scheme showing the means by which foul sewage and surface water run-off are to be catered for 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.
6. 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 with 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.
7. Prior to the commencement of development a method statement for the repair of the buildings, including mortar mix details, shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.
8. Prior to the commencement of development details of the windows and doors, including sections to a scale of 1:20 shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.
9. Prior to the commencement of development full details of the flue or any vents or means of external extraction shall be submitted to and approved in writing by the Local Planning Authority and 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 flue, vent or chimney other than as agreed in accordance with this condition shall be added to the dwelling hereby approved without the prior consent of the Local Planning authority.

10. No development shall take place until such time as the barns indicated in orange on the plan attached to this consent have been demolished and all resulting debris shall be removed from the site prior to the first beneficial occupation of any dwelling hereby approved.
11. The 3 No. car parking spaces indicated on Drawing P2812 (PA) 1001 'A' shall be laid out on site, in accordance with surface finish details which shall have previously been submitted to and agreed in writing by the Local Planning Authority, prior to the first beneficial occupation of the dwelling hereby approved and shall thereafter be so retained at all times to serve the dwelling hereby approved.
12. The developer shall ensure that a suitably qualified archaeologist is present during the undertaking of any ground works in the development area, so that an archaeological watching can be conducted. The archaeological watching brief shall be undertaken to the standards laid down by the Institute of Field Archaeologists. The Local Planning Authority shall be informed in writing, at least two weeks prior to the commencement of the development, of the name and address of the said archaeologist.

Reason(s):

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. To enable the Local Planning Authority to control the scale of development.
3. To enable the Local Planning Authority to control the scale of development.
4. To safeguard the visual amenities of this part of the Heritage Coast.
5. To ensure satisfactory drainage of the site.
6. To safeguard local visual amenities.
7. In the interests of the visual amenities of this part of the Heritage Coast.
8. In the interests of the visual amenities of this part of the Heritage Coast.
9. In the interests of the visual amenities of this part of the Heritage Coast.
10. In the interests of the visual amenities of this part of the Heritage Coast.
11. To ensure the provision of adequate on site car parking to serve the dwelling hereby approved.
12. To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

**NOTE:**

- 1. Please note that this application relates to a conversion of the building(s) only and does not imply any consent for demolition or partial demolition and rebuilding of the barn(s) other than as may be shown in the approved details. Should work not outlined in the application and the structural survey be required then you should immediately contact my department. Demolition or partial demolition of the barn(s) will not comply with the consent as granted and subsequent planning consent will not normally be forthcoming for rebuilding a new dwelling.**
- 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.**
- 3. The applicant's/developer's attention is drawn to the legislation relating to protection of the habitats of protected species under the Wildlife and Countryside Act 1981 and account must be taken for protecting such habitats if protected species are discovered during development.**

**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.**

The Vale of Glamorgan Council, Civic Offices, Holton Road, Barry, Vale of Glamorgan. CF63 4RU  
(Don Mitchell Associates, 39, High Street, Cowbridge, Vale of Glamorgan. CF71 7AE )

### **UNITS 2 & 3 AT 31 & 33, CRAWSHAY DRIVE, LLANTWIT MAJOR**

Internal alterations to combine shops 2 and 3 as one shop. Externally - infill existing windows to shop 2 with brickwork to match existing. New roller shutters to shop 3

#### **SITE DESCRIPTION**

Units 2 & 3 at Nos. 31 & 33 Crawshay Drive are located within a residential area in Llantwit Major. No. 33 Crawshay Drive is an existing shop. Unit 1, No. 29 Crawshay Drive, which is adjacent to the application site has consent for use as an office, resource centre and informal counselling centre. The building is of brick and render with a tiled roof. No. 31 (Unit 2) is currently boarded up from the front elevation, and in need of repair. The residential properties surrounding this building are of similar design and exterior finish. There is parking for cars at the front of the building.

#### **DESCRIPTION OF DEVELOPMENT**

The application seeks consent to combine Units 2 and 3 as one shop. External works involve the infill of existing windows and a door to Unit 2, with brickwork to match existing and a new roller shutter to Unit 3, replacing the existing window on the front elevation.

#### **PLANNING HISTORY**

Previous planning applications on site are as follows:

98/00024/REG3 - Was approved on the 12<sup>th</sup> June, 1998 for the installation of security shutters to main entrance of shop unit.

#### **CONSULTATIONS**

Llantwit Major Town Council - Was consulted on the 18<sup>th</sup> January, 2005. Representation was received on the 28<sup>th</sup> January, 2005 indicating that they have no objection to the proposal.

The Estates Department was consulted on the 19<sup>th</sup> January, 2005 but no representation has been received to date.

#### **REPRESENTATIONS**

The occupiers of nearby properties were notified on 18<sup>th</sup> January, 2005.

Representation has been received from No. 35 Crawshay Drive, indicating their support to the proposal.

A site notice has also been displayed on site.

## REPORT

The application seeks consent to externally infill the existing windows and door to Unit 2 at No. 31 Crawshay Drive, which will result in the combination of this unit and Unit 3, No. 33 Crawshay Drive. The external wall of Unit 2, for the first 3 metres adjacent to Unit 1, will also be projected 1.5 metre forward, to be in line with the external wall of Unit 1. All these external changes will have very little impact on the character of the street and wider area, and will have no impact on the amenity of adjoining properties. Indeed, all these changes should improve the external appearance of the building and the wider area, with the provision of a larger corner store for the community. All materials will match existing.

The application is therefore recommended for approval.

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## RECOMMENDATION

Deemed planning consent be GRANTED 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.
2. The external finishes of the development hereby approved shall match those of the existing building.

Reason(s):

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. To safeguard local visual amenities.

## 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.**

Mr. N. Wilson & Mrs. G. Jarmin Britannia House, 11, High Street, Cowbridge, Vale of Glamorgan. CF71 7AD  
(C. J. R. Construction, Unit 4 Driscoll Workshop, Ellen Street, Cardiff. )

**LAND EAST OF TAIR ONEN, ADJACENT TO A48, COWBRIDGE**

Construction of three detached houses

The application was advertised on 1<sup>st</sup> March, 2005 (Expires 22<sup>nd</sup> March, 2005)

**SITE DESCRIPTION**

The site is located in the open countryside to the north and adjacent to the A48 to the west of Bonvilston. Part of the site forms the forecourt of a former petrol station with fields adjoining and is located on the junction of the A48 with the road to Welsh St. Donats.

**DESCRIPTION OF DEVELOPMENT**

This is a full planning application for the construction of three detached two storey dwellings. A single point of access would be created off the road leading to Welsh St. Donats, which would serve three detached dwellings sited in a linear pattern adjacent to the A48.

**PLANNING HISTORY**

80/00120/OUT – Planning permission was refused in May 1980 to provide premises for the storage, sale and hire of agricultural machinery and plant hire for the following reasons:

- In order to preserve the countryside the Local Planning Authority considers that no additional development shall take place there other than is necessary for agriculture or forestry.
- There is insufficient justification on agricultural grounds for a departure from the policy of the Local Planning Authority as expressed in Reason 1.
- The proposal would constitute an undesirable expansion of commercial development in a predominantly rural area and development in this prominent location would detract from the visual amenities and rural character of the area.

80/01723/FUL – Planning permission was refused in November 1980 for a petrol filling station with attached land to be utilised as a market garden and garden centre for the following reasons:

- In order to preserve the countryside the Local Planning Authority considers that no additional development shall take place there other than is necessary for agriculture or forestry.
- There is insufficient justification on agricultural grounds for a departure from the policy of the Local Planning Authority as expressed in Reason 1.

- The proposal would constitute an undesirable expansion of commercial development in a predominantly rural area and development in this prominent location would detract from the visual amenities and rural character of the area.
- The application site is, by virtue of its location within the approved safeguarding zone around the nearby working quarry, unsuitable for the development proposed, and the proposal would therefore conflict with the policies of the County Structure Plan and the Pantyffynon Quarry Draft Local Plan.

92/00831/OUT – Outline planning permission was refused in January 1993 for a nursery for tree and shrubs with timber store building, for resale at garden centre Broad Street, Barry for the following reason:

“The proposal would represent an intrusive development on a visually sensitive site in a prominent countryside location.”

01/01439/FUL – An appeal was dismissed on 22<sup>nd</sup> July, 2002 for the proposed landscaping and levelling of part of the site to allow access to agricultural vehicles and the erection of temporary lighting standards.

There is also a history of enforcement action having been taken with regard to unauthorised development and activity at the site.

### CONSULTATIONS

Welsh St. Donats Community Council - Has been consulted. No comments have been received to date.

Environment Agency - Has been consulted. No comments have been received to date.

Welsh Water – Has been consulted. No comments have been received to date.

The Head of Visible Services (Highway Development) - Was consulted on the 18<sup>th</sup> February, 2005. No comments have been received to date.

Director of Legal and Regulatory Services (Environmental Health) - Has objected to the application on two grounds:

- The proximity of the site to a working quarry and the resulting impact of operations on future occupiers of the site, in terms of dust, traffic, noise and vibration from blasting.
- The site is potentially contaminated due to the previous use of the site as a petrol filling station. It is also possible that there are underground structures associated with the previous use of the site. No information has been submitted to address these issues.

## REPRESENTATIONS

The application has been advertised as a departure from the development plan and neighbouring property occupiers have been consulted. No comments have been received to date.

## REPORT

The development plan for the site comprises the South Glamorgan Structure Plan 1989. The application has also been considered in the light of the emerging Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004).

The site is located in the open countryside. The proposal would constitute development within the open countryside that would not be in the interests of agriculture. The site is in a prominent location adjacent to a primary route and it is considered that its development for residential purposes would have a detrimental impact on the rural character of the area. The proposal is therefore unacceptable in principle, being contrary to the guidance contained in Planning Policy Wales and to Policies H10 and EV3 of the South Glamorgan Structure Plan and Policies ENV1 and HOUS3 of the emerging Unitary Development Plan.

The site is located within the countryside away from local services. The proposed new residential development would therefore represent an unsustainable form of development, which would be contrary to guidance in Planning Policy Wales March 2002 which seeks to promote sustainable patterns of development. The proposal would also not accord with Policy 2 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004), which encourages sustainable practices.

The site lies within the Buffer Zone established under Policy MIN6 of the emerging Unitary Development Plan around Pantyffynnon Quarry, an active Carboniferous limestone quarry. Within the buffer zone, residential development will not be permitted unless it can be demonstrated that mineral working would not unreasonably affect the development. In this case, the site lies only 45 metres from the area with planning permission for mineral extraction and it is therefore considered very likely that unreasonable nuisance could be caused to residents of the site, particularly by the effects of blasting. The applicants have made no attempt to demonstrate that future residents of the site would not be adversely affected. An objection to the application has been received from The Director of Legal and Regulatory Services (Environmental Health) on the grounds of the impact of operations from the quarry on the amenities of future occupiers of the site. The proposal is therefore contrary to Policy MW10 of the South Glamorgan Structure Plan and Policy MIN6 of the emerging Unitary Development Plan.

Furthermore, the application site is classified as partly Grade 2 and Grade 3 Agricultural Land. The development of the land for residential purposes would be likely to result in the permanent loss of this land for agricultural purposes. No exceptional overriding need for the development has been demonstrated. The proposal is therefore contrary to Policies EV1 and EV2 of the South Glamorgan Structure Plan and Policy ENV2 of the emerging Unitary Development Plan, which carry a presumption against new development on land of high agricultural value, other than for the purposes of agriculture.

The Director of Legal and Regulatory Services (Environmental Health) has also raised the issue that there may be underground structures and the site may be contaminated in view of the previous use of the site.

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RECOMMENDATION (W.R.)

REFUSE

Reason(s):

1. The proposal constitutes development in the countryside in a prominent location which would have a detrimental impact on the rural character of the area. The proposal is therefore contrary to Planning Policy Wales March 2002, to Policies H10 and EV3 of the South Glamorgan Structure Plan Proposals for Alteration No. 1 (1989) and Policies ENV1 and HOUS3 of the emerging Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004). These policies all seek to resist new development in the open countryside, unless in the interests of agriculture or forestry. No such justification has been submitted with this application.
2. By reason of its location within the countryside, away from local services, the proposed new residential development would represent an unsustainable form of development, contrary to guidance in Planning Policy Wales March 2002 and Policy 2 of the Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004).
3. The proposal constitutes a sensitive form of development within the buffer zone of Pantyffynnon Quarry wherein it has not been demonstrated that mineral working at the quarry would not unreasonably affect the future occupiers of the proposed development. The proposal is therefore contrary to Policy MW10 of the South Glamorgan Structure Plan Proposals for Alteration No. 1 (1989) and Policy MIN 6 of the emerging Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004).
4. The proposed development would result in the irreversible loss of Grade 2/Grade 3 Agricultural Land. No exceptional overriding need for the development has been demonstrated and therefore the proposal is considered contrary to Policies EV1 and EV2 of the South Glamorgan Structure Plan Proposals for Alteration No. 1 (1989) and Policy ENV2 of the emerging Vale of Glamorgan Unitary Development Plan Deposit Draft 1998 (as amended 2004).
5. Notwithstanding the above reasons for refusal, no information has been submitted with the application to allow the Local Planning Authority to be able to assess whether there is any contamination or structures on the site which may pose a hazard to the health of future occupiers of the site.