

DELEGATED REPORT

Application No:	P/22/0293
Site Address:	5 Woodland Way Heolgerrig Merthyr Tydfil CF48 1SQ
Development:	Vary condition 1 (5 year time limit) and remove condition 9 (remedial works) of planning permission P/17/0085
Case Officer:	Marlene Ferreira
Site Visit:	16th November 2022
Application Expiry Date:	6th January 2023
Consultation reply date expired:	7th December 2022

APPLICATION SITE

The application site relates to a rectangular plot of land located to the rear of no. 5 Woodland Way, Heolgerrig, a detached residential dwelling sited in a street of large red brick detached properties. The rectangular plot measures approximately 51 metres long (largest length) and 34 metres wide (largest width). The site is located at a slightly lower ground level than the existing dwelling (no. 5 Woodland Way). The application site also includes a narrow strip of land, currently forming part of the residential curtilage of no. 5 Woodland Way. This strip of land measures approximately 32 metres long and 4 metres wide and links the application site to the adopted highway, Woodland Way.

PROPOSED DEVELOPMENT

This application seeks planning permission to vary condition 1 of planning permission P/17/0085, to extend the time period for the commencement of development and therefore allow for an additional 5 years for the development to start. Essentially, this application seeks to renew the previous permission for a detached two storey dwelling with a detached double garage. This application also seeks planning permission to remove condition 9 of planning permission P/17/0085, which relates to remedial works required on-site to ensure land stability.

In respect of the variation of condition 1, it should be noted that the details/plans of the approved application, P/17/0085, are not proposed to change as a result of this application. Thus, the development still relates to the erection of a two-storey rectangular property with a two-storey front central projection, which would measure 16.7 metres wide, 12.3 metres deep (including the two storey front projection) and 8.5 metres in height. The dwelling, which would be served by three living areas, a dining room, kitchen, utility room,

office, WC and cloak room at ground floor, and 4 bedrooms (each with en-suite and dressing rooms) at first floor, would be finished with rendered elevations, red brick front projection, slate roof tiles and grey aluminium windows. The double garage would measure 6.1 metres wide and 6.2 metres deep with a 4.3 metre ridge height. It would be finished with rendered elevations and slate roof tiles.

The dwelling would continue to be accessed off Woodland Way and as such, its front elevation would be west facing, fronting the rear of no. 5 Woodland Way and its rear elevation would be east facing. The proposed driveway would result in the demolition of the existing double garage serving no.5 Woodland Way. The submitted block plan illustrates that a new driveway off the adopted highway and a single garage would be constructed to serve no. 5 Woodland Way. The proposed single garage does not form part of this planning application. (Although consent may not be required for the proposed single garage, an informative would form part of any planning permission).

With regards to the removal of condition 9, this condition states that *'No development shall take place until a scheme of remedial works to stabilise the mine entry and any shallow mine workings has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Reason - In the interests of the safety and stability of the development'*. It should be noted that a report, Mining Relics Stabilisation Scheme, dated 31 July 2018 and prepared by Blandford Consulting was submitted under a former application, P/18/0103, to discharge condition 9 of planning permission P/17/0085. At that time, the Coal Authority were consulted and raised no objections provided that the works as stipulated in the report were carried out on-site. The discharge of condition application was approved on 24th September 2018. Thus, this application now seeks to remove condition 9.

PLANNING HISTORY

The following planning history is relevant to this site:

P/18/0103 – Discharge condition 9 of planning permission P/17/0085 (remedial works to stabilise mine entry and any shallow mine workings) – Approved: 24th September 2018

P/17/0085 – Erection of detached dwelling and detached garage – Approved: 23rd November 2017

P/15/0425 – Renewal of planning permission P/10/0228 for the construction of a detached house – Withdrawn: 9th August 2016.

P/10/0228 – Construction of detached house (renewal of planning consent 05/0333) – Approved: 16th December 2010.

P/05/0333 - Construction of 1 No. detached dwelling – Approved: 15th August 2017.

CONSULTATION

The following consultations were undertaken:

Policy Officer

No response.

Ecology Officer

No objection, subject to conditions.

The Coal Authority

No objection, subject to conditions.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to nearby properties and two site notices were displayed within the vicinity of the site. No letters of representation were received following this publicity exercise.

POLICY CONTEXT

National Planning Policy

- The advice contained in the Welsh Government Circular (WGC) 016/2014: The Use of Planning Conditions for Development Management (paragraph 5.21) is of particular relevance to the determination of this application.

Local Planning Policies

- The following policies of the Merthyr Tydfil LDP are relevant to the assessment of this application:

Policy SW1 Provision of New Homes

Policy SW3 Sustainably Distributing New Homes

Policy SW4 Settlement Boundaries

Policy SW11 Sustainable Design and Placemaking

Policy EnW1 Nature Conservation and Ecosystem Resilience

Policy EnW4 Environmental Protection

PLANNING CONSIDERATIONS

The advice contained within WGC 016/2014 (section 5.21) states that renewal applications should only be refused in the following circumstances;

1. There has been a material change in planning circumstances since the previous permission was granted;
2. The continued failure to begin the development will unacceptably contribute to uncertainty about the future pattern of development in the area, or;
3. The application is premature because the permission still has a reasonable time to run.

In this instance, it is considered that the above criteria does not apply to this application. Since the approval of the previous planning permission P/17/0085, the Merthyr Tydfil Replacement Local Development Plan has been adopted. However, there has not been any substantial changes in the LDP policies relevant to this site. Thus, the application site still remains within the settlement boundary and there are no other new site constraints which would determine the application proposal to be unacceptable. Furthermore, the site circumstances are generally the same as they were at that time of granting the previous

permission (P/17/0085). Whilst the applicant has confirmed that the single garage (serving the existing dwelling no.5 Woodland Way) has been demolished, this can be carried out without planning permission and as such, would not have any implications for the development, as proposed.

It is acknowledged that the site has had planning permission for over five years without development works actually commencing. However, it is considered that the absence of development on the site has not contributed to uncertainty about the future pattern of development in the area. In essence, the areas surrounding the vicinity have historically been developed and hence the pattern of built environment is already well established.

The application was submitted to the Planning Department on the 11th November 2022, just less than one month before the expiration of the previous planning permission noted above and as such cannot be said to have been submitted prematurely.

In respect of condition 9, which the applicant seeks to remove, it is noted, as referred to above, that this condition was discharged on 24th September 2018, under planning permission P/18/0103. This current application has been supported by a copy of the Coal Authority's previous response (as submitted under P/18/0103). A copy of a Coal Authority permit, 'Permit to Enter or Disturb Coal Authority Interests', issued to the applicant on the 23rd February 2023, was also submitted in support of this application on the 1st March 2023. The permit grants consent to treat shallow mine workings by drilling and grouting and treatment of a single mine entry by pressure grouting and installation of geotextile membrane. The Coal Authority were consulted in respect of this application and have raised no objections provided that the remedial works, the subject of the permit, are carried out on site to ensure the stability of the development. As such, an appropriately worded condition would be included with any planning permission granted.

Other Considerations

- Ecology

Any ecological information submitted under the last application, P/17/0085, approved on the 23rd November 2017, is over 2 years old and therefore substantially out of date. As such, following consideration of this application by the Council's Ecologist, a PEA and PRA were requested to be submitted in support of the application. A preliminary ecological survey was undertaken on 9th May 2023 and submitted in support of the application. The survey report, received on 8th September 2023, confirmed the suitability of the onsite garage for roosting bats and the wider site for reptiles, amphibians, hedgehog and nesting birds. The report concluded that a single bat activity survey and a reptile survey be submitted in support of the application. However, following this time, the applicant demolished the garage on-site without undertaking the survey work. The Council's Ecologist has considered the removal of the garage and has determined that the bat survey is no longer required. Instead, the Council's Ecologist requests that a LEMP (Landscape and Ecological Management Plan) to be submitted prior to the commencement of development and prepared by a suitably qualified ecologist, which proposes compensation and enhancement measures, be submitted to include consideration for the following:

- Bats (including, for example, integrated bat boxes suitable for summer and winter use within the proposed onsite building, suitable planting that would benefit foraging

bats, dark routes to allow bats to move around/through/across the site and access the bat boxes);

- Reptiles (including, for example, creation of habitat suitable for reptiles and suitable habitat management measures, creation of gaps in boundaries to allow movement of reptiles into the garden, creation of hibernacula);
- Amphibians (including, for example, the creation of a pond and other habitat suitable amphibians in their terrestrial stage);
- Hedgehogs (and other mammals) (including, for example, protective measures during construction, suitable gaps in boundaries);
- Nesting birds (including, for example, integrated bird boxes within the proposed onsite building);
- Invertebrates (including, for example, planting to benefit invertebrates including pollinators, integrated 'bee bricks' within the proposed onsite building);
- Landscape – a landscape scheme using only native species of local (if not Welsh/UK) provenance. There must be an establishment, maintenance and management plan for the first 5 years of the scheme;
- Lighting - any onsite lighting (internal or external) must comply with the following guidelines:<https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>
- Compliance and Monitoring – there must be compliance and monitoring visit(s) by the commissioned ecologist to ensure the above measures have been satisfactorily undertaken. This will be reported to the LPA via a simple report or via e-mail.

As such, a suitably worded condition would be included with any planning permission granted. Thus, the proposal, subject to the submission of the above noted information, would comply with LDP Policy EnW1.

CONCLUSION

For the reasons detailed above, the variation of condition 1 and the removal of condition 9 of planning permission P/17/0085, are therefore considered acceptable.

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

RECOMMENDATION: APPROVED subject to the following **CONDITIONS**:

1. The development shall begin not later than five years from the date of this decision.

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

2. The development shall be carried out in accordance with the following approved plans and documents:

- Garage Plan, Drawing no: 787:P.10 - received 6th June 2017 (as approved under planning permission P/17/0085);
- Elevations, Drawing no: 787:P.07 Rev E - received 13th October 2017 (as approved under planning permission P/17/0085);
- Proposed Ground Floor Plan, Drawing no: 787:P.05 Rev E - received 13th October 2017 (as approved under planning permission P/17/0085) ;
- First Floor Plan, Drawing no: 787:P.06 Rev E - received 13th October 2017 (as approved under planning permission P/17/0085);
- Site Plan, Drawing no: 787:P.02 Rev F - received 24th October 2017 (as approved under planning permission P/17/0085);
- Site Location Plan - post Development, October 2017 - received 31st October 2017 (as approved under planning permission P/17/0085);
- Coal Authority Permit, 'Permit to Enter or Disturb coal Authority Interests', received on 1st March 2023.

Reason -To ensure compliance with the approved plans and clearly define the scope of the permission.

3. Prior to the construction of the dwelling hereby approved details/samples of the materials to be used in the construction of the external surfaces of the dwelling and garage shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason - To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity and to accord with Policy SW11 of the Merthyr Tydfil Replacement Local Development Plan.

4. **No development shall take place** until full engineering details and sections, including structural calculations and materials, of any retaining wall which exceeds 1 metre in height have been submitted to and approved in writing by the Local Planning Authority. The walls shall be completed in accordance with the approved details before the development hereby approved is brought into beneficial use.

Reason - In the interest of safety and visual amenity in accordance with Policies SW11 and EnW4 of the Merthyr Tydfil Replacement Local Development Plan .

5. Construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0900 to 1400 on Saturdays and at no time on Sundays or Public Holidays.

Reason - To ensure that the noise emitted/activities are not a source of nuisance to occupants of nearby properties in accordance with Policies SW11 and EnW4 of the Merthyr Tydfil Replacement Local Development Plan.

6. **Before the development** hereby permitted is brought into use, the first floor side facing dressing room windows on the northern and southern side elevations shall be fitted with obscured glazing, details of which shall first be submitted to and agreed in writing by the local planning authority. The window shall be permanently retained in that condition thereafter.

Reason - In the interest of residential amenity and to accord with Policy SW11 of the Merthyr Tydfil Replacement Local Development Plan.

7. Notwithstanding the submitted plans and **prior to the commencement of development** a plan indicating the positions, height, design, materials and type of boundary treatment to be erected, shall be submitted to and approved by the local planning authority. The boundary treatments shall be completed in accordance with the approved details before the occupation of the dwelling.

Reason - To ensure that the new development will be visually attractive and boundaries protected in the interests of amenity in accordance with Policy SW11 of the Merthyr Tydfil Replacement Local Development Plan.

8. The proposed site remedial works, to treat shallow mine workings by drilling and grouting and treatment of a single mine entry by pressure grouting and installation of geotextile membrane, shall be carried out in accordance with the Coal Authority Permit, 'Permit to Enter or Disturb coal Authority Interests', received on 1st March 2023.

Reason - In the interest of the safety and the stability of the development, in accordance with Policy EnW4 of the Merthyr Tydfil Replacement Local Development Plan.

9. Notwithstanding the submitted plans, **no development shall commence** until details of existing ground levels and proposed finished ground and floor levels (including relevant sections) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason - In the interests of visual amenity in accordance with Policy SW11 of the Merthyr Tydfil Replacement Local Development Plan.

10. **No development or site clearance shall take place** until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

Reason - To ensure that the new development will be visually attractive in the interests of amenity and to accord with Policy SW11 of the Merthyr Tydfil Replacement Local Development Plan.

11. 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 5 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.

Reason - To ensure that the new development will be visually attractive in the interests of amenity and to accord with Policy SW11 of the Merthyr Tydfil Replacement Local Development Plan.

12. **Prior to the commencement of development**, a Landscape Ecological Management Plan (LEMP) prepared by a suitably qualified ecologist, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

- Compensation and enhancement measures for on-site habitats to be retained, protected and enhanced for Bats, Reptiles, Amphibians, Hedgehogs, Nesting Birds and Invertebrates.
- Details of any external lighting to comply with the relevant guidelines: <https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting>).
- An implementation programme.

The development shall be carried out in accordance with the approved details.

Reason - To safeguard protected species and in the interest of biodiversity, in accordance with Policy EnW1 of the Merthyr Tydfil Replacement local Development Plan.

INFORMATIVES

1. This planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence.

All bats and their roosts are protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb a bat or to recklessly damage or destroy their breeding sites or resting places.

If works are planned on a building/tree in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/bat-licences/?lang=en>.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

2. All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended) while they are breeding.

If works to any trees, hedgerows and/or other nesting bird habitat (including buildings with suitable features) are to be undertaken, they will take place outside of

the bird nesting season. If the works must be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified ecologist. Any active nests identified will be protected until the young have fledged.

Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <https://www.legislation.gov.uk/ukpga/1981/69/schedule/1>) is involved, compensation for impacts, e.g., loss of nesting sites, will be devised and implemented.

3. The applicant is advised that the proposed garage to serve no. 5 Woodland Way may require planning permission. Details of the garage should be submitted to the planning department, prior to its construction, for further consideration.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE: 07.02.2024