

DELEGATED REPORT

Application No:	P/22/0280
Site Address:	Land Adjacent to Prospect Bungalow Slip Road, Cwm Blacks Merthyr Tydfil
Development:	Renewal of planning permission P/19/0257 for the residential development of 5 dwellings (outline renewal)
Case Officer:	Marlene Ferreira
Site Visit:	3rd November 2022
Application Expiry Date:	19th December 2022

APPLICATION SITE

The application site relates to an irregular parcel of land located to the west of the A4060 and to the east and south of Prospect Bungalow, a detached dwelling accessed off an existing lane from the A4060 highway. The grassed parcel of land is currently overgrown and measures approximately 0.4 hectares. It appears relatively flat in profile and is also accessed from the lane leading off the A4060 (Slip Road).

The application site lies at the edge of the settlement boundary – Primary Growth Area and adjacent to a protected open space as designated within the Merthyr Tydfil Replacement Local Development Plan 2016-2031.

PROPOSED DEVELOPMENT

This application seeks permission to renew outline planning permission P/19/0257 for the erection of five dwellings, which expired on the 29th October 2022. This application was submitted to the Planning Division on the 24th October 2022 and thus within the required timescale when renewal applications need to be made.

The outline application (P/19/0257) was granted with all matters reserved for future consideration. In accordance with the requirements for an outline application, an indicative site layout plan was submitted showing the position of the dwellings and garages, as well as their access provision comprising of a cul-de-sac development off the A4060. The maximum and minimum scale parameters of the proposed dwellings and garages would be:

Dwellings	7.5m minimum height and 9m maximum height; 8m minimum depth and 15m maximum depth;
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10m minimum width and 15m maximum width;

Garages 4m minimum height and 6m maximum height;
6m minimum depth and 8m maximum depth;
3m minimum width and 8m maximum width.

The indicative plans/scale parameters illustrate that the proposed dwellings could be two-storey developments, with large garden areas and a minimum of two parking spaces (in addition to the proposed garages) along their side elevations or to the front of the properties.

PLANNING HISTORY

P/19/0257	Renewal of planning permission P/16/0284 for residential development of 5 Dwellings – Approved: 29 th October 2019
P/16/0284	Residential Development for 5 houses (Outline) – Approved: 7 th November 2016
P/12/0191	Renewal of planning consent P/09/0090 (Residential Development – 5 houses) – Approved: 25 th June 2013
P/09/0090	Renewal of planning consent 05/0653 (Residential development - 5 houses) – Approved: 31 st July 2009
P/05/0653	Residential Development (Outline) 5 Houses – Approved: 25 th April 2006
P/05/0250	Detached dwelling (Outline) - Approved: 20 th June 2006
P96/0441	Erection of stable block (Full) – Approved: 28 th November 1996

CONSULTATION

Engineering and Traffic Group Leader	No objection, subject to conditions.
Town Planning Division Policy and Implementation Officer	No objection.
Environmental Health Manager	No objection, subject to conditions.
Natural Resources Wales	No objection.
Welsh Water	No objection.
The Coal Authority	No objection, subject to conditions.
Glamorgan Gwent Archaeological Trust	No objection.
Welsh Government Transport Division	No objection, subject to conditions.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, 2 notices were displayed within the vicinity of the site. No letters of representation were received following this publicity exercise.

POLICY CONTEXT

National Development Framework

- Future Wales: The National Plan 2040 (February 2021)

Policy 1 – Where Wales Will Grow

Policy 2 – Shaping Urban Growth and Regeneration – Strategic Placemaking

Policy 4 – Supporting Rural Communities

Policy 9 – Resilient Ecological Networks and Green Infrastructure

Policy 33 – National Growth Area – Cardiff, Newport and the Valleys

National Planning Policies

- Planning Policy Wales - Edition 11 (February 2021)

Paragraph 3.3 refers to good design and states that *‘...design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surroundings area...’*

Paragraph 3.9 refers to character and states that *‘...the special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations. A clear rationale behind the design decisions made, based on site and context analysis, a strong vision, performance requirements and design principles, should be sought throughout the development process and expressed, when appropriate, in a design and access statement...’*

Paragraph 3.14 refers to context appraisal and states that these *‘...should be used to determine the appropriateness of a development proposal in responding to its surroundings. This process will ensure that a development is well integrated into the fabric of the existing built environment...’*

Paragraph 3.55 states that *‘...previously developed (also referred to as brownfield) land should, wherever possible, be used in preference to greenfield sites where it is suitable for development. In settlements, such land should generally be considered suitable for appropriate development where its re-use will promote sustainability principles and any constraints can be overcome. It is recognised, however, that not all previously developed land is suitable for development...’*

Paragraph 4.2.17 goes on to state that *'...maximising the use of suitable previously developed and/or underutilised land for housing development can assist regeneration and at the same time relieve pressure for development on greenfield sites...'*

Paragraph 6.4.3 discusses biodiversity and states that *'...the planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement...'*

- TAN (Technical Advice Note)

TAN 12: Design (2016) – This TAN advises that the Welsh Government is strongly committed to achieving the delivery of good design in the built and natural environment, which is fit for purpose and deliver environmental sustainability, economic development and social inclusion at every scale throughout Wales.

TAN 5: Nature Conservation and Planning (2009) – This TAN provides guidance on how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation.

- TAN 18: Transport (2007) – This TAN provides advice on how to integrate land use planning and transport and how transport impacts should be assessed and mitigated.

Local Planning Policies

- The Merthyr Tydfil Replacement LDP 2016-2031

Policy SW1 - Provision of New Homes

Policy SW3 - Sustainably Distributing New Homes

Policy SW4 – Settlement Boundaries

Policy SW9 - Planning Obligations

Policy SW11 – Sustainable Design and Placemaking

Policy EnW1 - Nature Conservation and Ecosystem Resilience

Policy EnW4 - Environmental Protection

- Supplementary Planning Guidance (SPG):

Supplementary Planning Guidance Note 1: Affordable Housing (March 2011)

Supplementary Planning Guidance Note 2: Planning Obligations (March 2012)

Supplementary Planning Guidance Note 4: Sustainable Design (July 2013)

Supplementary Planning Guidance Note 5: Nature and Development (May 2015)

PLANNING CONSIDERATIONS

The advice contained in paragraph 5.21 of Welsh Government Circular (WGC) 016/2014 states that renewal applications should only be refused in the following circumstances;

1. There has been some material change in planning circumstances since the original permission was granted;
2. The continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area.

3. The application is premature because the permission still has a reasonable time to run.

Considerations

The Merthyr Tydfil Replacement Local Development Plan (LDP) 2016-2031 was adopted in January 2020. As such, there has been a material change in planning circumstances since the last planning permission (P/19/0257) was granted on the 29th October 2019. However, it should be noted that under the Replacement LDP, the application site is still located within the settlement boundary – Primary Growth Area. As such, new development in this location is supported in principle under LDP Policy SW4 provided it complies with other relevant policies. Indeed, LDP Policy SW3 states that new homes will be concentrated within the main settlement of Merthyr Tydfil. LDP Policy SW1 states that 2250 additional homes are required to sustainably grow our population. As such, the proposed 5 new dwellings in this location could represent a contribution to the 2250 units that are required during the plan period. It should also be noted that the site circumstances are still very similar to what they were at the time of the last application since the application site still relates to a relatively flat and overgrown grassed parcel of land, which continues to be undeveloped.

The indicative details submitted under planning application P/19/0257, demonstrate that the site would be capable of accommodating five appropriately sized dwellings, with adequate amenity space, car parking provision and turning facilities, which would not cause an adverse impact upon the amenities of nearby occupiers and highway safety. Thus, the proposal is capable of complying with other relevant policies.

It is acknowledged that the site has had outline planning permission for over three years without development works commencing and has also been renewed previously. 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 majority of land within the vicinity has already been developed and designated, and thus the pattern of local development has already been established with the adoption of the Replacement Local Development Plan 2016 -2031.

The application was submitted to the Planning Division on the 24th October 2022, less than a week before the expiration of the previous planning permission (P/19/0257). This application is therefore not considered to have been submitted prematurely.

Accordingly, after having regard to the scheme submitted and the advice contained within WGC 016/2014, it is considered that the application should again be approved.

Planning Obligations

Policy SW9 sets out the requirement for planning obligations. Given that the proposal is for 5 dwellings, on-site provision of affordable housing or open space would not be sought. However, a financial contribution towards affordable housing would normally be sought. In this instance however, a financial contribution would likely render the development financially unviable and has therefore not been pursued. In order to come to this conclusion, an assessment was carried out using the Three Dragons Toolkit.

CONCLUSION

The proposed development, for the reasons discussed above, is considered acceptable and should therefore be approved.

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.

RECOMMENDATIONS: BE APPROVED subject to the following **CONDITIONS:**

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason - To comply with Section 92 of the Town and Country Planning Act 1990 and Part (3)1 of the Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2012.

2. Any application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

Reason - To comply with Section 92 of the Town and Country Planning Act 1990 and Part (3)1 of the Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2012.

3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason - To comply with Section 92 of the Town and Country Planning Act 1990 and Part (3)1 of the Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2012.

4. In conjunction with the statutory "reserved matters" details required by Condition 1, the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and completed in full accordance with such approved details **BEFORE** the development hereby approved is brought into use.

- i) existing and proposed site levels including full cross sectional drawings;
- ii) the means of foul water drainage. No drainage from the

development site shall be connected to or allowed to drain into the trunk road drainage systems, and the improved access shall be constructed such that the access surface water does not drain into the trunk road;

- iii) the position, height and material of all walls, fences and other means of enclosure;
- iv) full constructional and facing material details of any retaining walls over 1 metre in height;
- v) a minimum of 2 no. off-street car parking spaces for each dwelling;
- vi) full engineering details of the road layout to include sections, and street lighting details;
- vii) Improvements to the existing access for a distance of at least 25 metres from the edge of the trunk road carriageway, over which it shall not exceed a gradient of 2.5% (1 in 40). This detail should be supplemented with vehicle swept paths, to evidence 2 way movement is achievable.

Reason - To ensure a satisfactory standard of development and protect local amenity interests.

5. 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 County Borough Council Replacement Local Development Plan.

6. **No development or site clearance shall take place** until there has been submitted to and approved in writing by the Local Planning Authority a Landscaping and Ecological Management Plan. The plan shall include details of the following:

- a. Retained existing habitat;
- b. New planting, which must use native species of local (or at least Welsh) provenance;
- c. Wildflower areas;
- d. A 5 year establishment, maintenance and management plan for retained and new habitat including the wildflower areas.
- e. Integrated bat box and bird box;
- g. Lighting, including dark routes to provide bat access to the integrated bat box;

- h. Mitigation strategy/method statement for nesting birds, bats, reptiles, invertebrates and hedgehogs;
- i. Gaps in all boundary fences (13cmx13cm) for passage of hedgehogs and other species;
- j. Reptile hibernaculum, including its position.

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

Reason - To protect the local landscape and In the interests of biodiversity, to accord with Policies EnW5 and EnV1 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

7. **No development shall take place** until a site investigation has been carried out in accordance with a methodology first submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be submitted to the Local Planning Authority before any development begins. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development shall be submitted to and approved in writing by the Local Planning Authority. Remedial measures shall be carried out prior to the first beneficial use of the development in accordance with the approved details and retained in perpetuity.

Reason - The site may be unstable and as such in the interests of safety remedial measures may need to be carried out to accord with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

8. If during the course of development, any unexpected land instability issues are found which were not identified in the site investigation referred to in condition 7, additional measures for their remediation in the form of a remediation scheme shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures which shall be retained for the period agreed in the remediation scheme.

Reason - The site may be unstable and as such in the interests of safety remedial measures may need to be carried out to accord with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

9. **No development shall take place** until a Phase 1 Land Contamination investigation has been carried out. The Phase 1 report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed receptors, i.e. humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments. The investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11"

The report shall be prepared by a "competent person" and shall be in accordance with BS10175:2011 Code of Practice for the Investigation of Potentially Contaminated Sites.

Reason - To ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in compliance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

10. Should the Phase 1 Contamination investigation carried out under condition 9 identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out.

A protocol for the investigation shall be submitted to and approved by the Local Planning Authority before the commencement of the Phase 2 investigation.

The completed Phase 2 investigation report together with any necessary outline remediation options shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out.

The report shall assess potential risks to present and proposed receptors, i.e. humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments. The investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR11"

The report shall be prepared by a "competent person" and shall be in accordance with BS10175:2011 Code of Practice for the Investigation of Potentially Contaminated Sites.

Reason - To ensure the risks from land contamination to future users of land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in compliance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan, in compliance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

11. Should Land Contamination Remediation Works be identified as necessary under condition 10, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, controlled waters, buildings, other property and the natural and historic environment, has been submitted to and approved by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures and details of any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.

Reason - To ensure the risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in compliance with

Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

12. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure the risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in compliance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

13. Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report (or validation report) that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval.

The approved monitoring and maintenance programme shall be implemented.

The verification report shall be prepared by a third party and a "competent person".

Reason - To ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in compliance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE:

22/2/23