

Pine fields Private Ltd

S73 Application

Brondeg, Merthyr Tydfil

by CarneySweeney

Date: May 2024





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1.0 Introduction

1.1 Opening

- 1.1.1 This planning statement has been prepared by CarneySweeney on behalf of Pine Fields Private Limited (“the Applicant”) in support of the accompanying Section 73 (S73) application.
- 1.1.2 This S73 application seeks to make amendments to the outline planning permission (LPA reference: P/19/0318) on land to the rear of Brondeg and west of Upper Colliers Row, Brondeg, Heolgerrig, Merthyr Tydfil (“the Application site”)

1.2 Approved Application

- 1.2.1 Merthyr Tydfil County Borough Council granted outline planning permission on 26th May 2021 (P/19/0318) for:

“Application to extend the period of time for the submission of reserved matters relating to outline planning permission P/16/0344”.

- 1.2.2 The above permission relates to an earlier outline planning permission (P/16/0344) which sought an extension to the period of time for the submission of reserved matters relating to outline planning permission P/06/0061, the description of development for which was listed simply as “Residential (Outline)”.
- 1.2.3 Only access was considered during the previous outline applications, with all other matters (layout, scale and appearance of building and landscaping) reserved for future consideration. The upper and lower scale parameters will remain the same as that previously approved with each dwelling measuring between 4m and 13m wide, 7m and 12m in length and 3.5m and 9.5m high.
- 1.2.4 In summary, this application is for the extension to the period of time for the submission of reserved matters and commencement of development, relating to the outline planning permission granted previously, for the third time.



1.3 Section 73 Application

1.3.1 The applicant is seeking some limited amendments to the relevant conditions attached to the above permission to:

1) Extend the period of time for the submission of reserved matters.

1.3.2 Accordingly, it is sought to vary condition 2 of the extant permission to allow for further time for reserved matters applications to be submitted. An extension of time is proposed to allow for a further period of three years from the extended date of permission for applications for approval of reserved matters to be submitted.

2) Extend the period of time for development to be begun.

1.3.3 Accordingly, it is sought to vary condition 3 of the extant permission to allow further time for the commencement of development. An extension of time is proposed to allow for a further period of five years from the extended date of permission (or two years from the approval of reserved matters) within which to commence development.

1.3.4 It is considered the most appropriate way to achieve the above is to attach conditions 2 and 3, unchanged, to a newly dated planning permission.

1.4 Application Documents

1.4.1 This planning application submission comprises:

- Application Form;
- Covering Letter;
- This Planning Statement;
- Green Infrastructure Statement;
- Ecology Appraisal; and
- Associated Application Drawings.

1.5 Planning Statement Structure

1.5.1 This statement takes the following form:

- Section 2 provides a description of the application site;
- Section 3 provides an assessment of the relevant national and local planning policy;



- Section 4 provides a planning assessment; and
- Section 5 provides a summary and conclusion.



2.0 Site Description

2.1 Baseline Description

- 2.1.1 This site is situated in the community of Heolgerrig which lies in the Primary Growth Area as defined in the LDP, located on land to the rear of Brondeg and west of Upper Collier's Row. The site lies within defined settlement limits and forms part of housing allocation SW3.4 – Brondeg, Heolgerrig. The site also lies adjacent to Cwm Glo Site of Importance for nature Conservation (SINC) and Cwm Glo a Glyndrys SSSI.
- 2.1.2 There are multiple local and region transport links located close to the site with close proximity to bus routes and Merthyr Tydfil train station located just over one kilometre away. The site is also in a good position for employment opportunities, services and facilities including schools available in Heolgerrig and Merthyr, therefore the site is well situated in a highly sustainable location.
- 2.1.3 As confirmed above, the application site has extant outline planning permission for residential development (P/19/0318). Outline permission was granted on the 26th May 2021.
- 2.1.4 The site is of irregular shape consisting of two connecting plots either side of an existing byway, covering an overall area approximately 1.78 hectares. The northern plot is broadly triangular and is bordered at its northern edge by the rear of dwellings on Brondeg. The plots are connected across a restricted byway which connects to public footpaths heading south and west away from the site. The larger rectangular plot extends to the south east to Upper Colliers Row.
- 2.1.5 Both plots are comprised of multiple habitats including plantation woodland, modified neutral-acidic grassland, neutral grassland, marshy grassland, scrub and ruderal, mature non-woodland tress and bare/disturbed ground. As the Ecology Appraisal shows, the site is not subject to any statutory or non-statutory nature conservation designations. Indeed, it forms part of an allocation for housing development that has been tested via two Local Plan examinations and several consented planning applications and remains part of adopted Development Plan policy.



3.0 Planning Policy Assessment

3.1 Introduction

- 3.1.1 This section sets out the relevant local and national Planning Policy and other material planning considerations for the proposed development.

3.2 Legislative Context

- 3.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 3.2.2 The application site lies within the jurisdiction of Merthyr Tydfil County Borough Council unitary authority and as such, the application is subject to its statutory Development Plan which is discussed in more detail below, along with Future Wales: the national plan 2040 which also constitutes the development plan. In addition the Planning Policy Wales edition 12 (PPW12) and Circular 016/2014 are material considerations for the determination of the application.

3.3 Development Plan

- 3.3.1 The development plan for the purposes of determining this planning application comprises:
- Future Wales: the national plan 2040 (February 2021)
 - Adopted Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031 (January 2020)

Future Wales: the national plan 2040

- 3.3.2 Future Wales is the Welsh Government's highest tier of development plan in Wales. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole. It was first published in February 2021.
- 3.3.3 Policy 1 of this document "Where Wales will grow" defines the area the Welsh Government supports sustainable growth. In the three National Growth Areas there will be growth in employment and housing opportunities and investment in infrastructure. The National Growth Areas include Cardiff, Newport and the Valleys, of which Merthyr Tydfil is a part.



- 3.3.4 Policy 2 “Shaping Urban Growth and Regeneration” notes the importance of strategic placemaking principles for urban growth and regeneration, including increasing population density especially in regard to sustainable transport options and local facilities.
- 3.3.5 Policy 33 “National Growth Area – Cardiff, Newport and the Valleys” refers to improving the coordinated regeneration and investment in the Valleys area to improve well-being, increase prosperity and address social inequalities.

Adopted Merthyr Tydfil County Borough Council Replacement Local Development Pla 2016-2031

- 3.3.6 The MTCBC Local Development Plan was adopted in January 2020 and establishes the long-term vision and strategic context to support growth within the area until 2031, including requirements relating to housing, employment, retail and other facilities and infrastructure.
- 3.3.7 The policies of most relevance to determining the planning application are listed below:
- Policy SW1 – Provision of New Homes: Targets 2,250 new homes by the end of the plan period (2031) with an additional flexibility allowance of 25%. The application contributes to this target (see SW3, below).
 - Policy SW2 – Provision of Affordable Housing: During the plan period, development proposals will be expected to deliver up to 253 affordable dwellings across the County Borough in order to contribute to the identified level of housing need. The application contributes to this target (see SW4, below).
 - Policy SW3 – Sustainably Distributing New Homes: New homes will be concentrated within the main settlement of Merthyr Tydfil. The application site (4. Brondeg, Heolgerrig) has been identified as a housing site within the ‘Primary Growth Area’ and allocated for 50 homes.
 - Policy SW4 – Settlement Boundaries: To encourage development within urban areas, support the re-use of previously developed land, and to protect and support the functioning of the rural economy and the countryside, urban development is only permitted within defined Growth Areas. The application site is within the settlement boundary and within the Primary Growth Area.
 - SW9: Planning Obligations: On site provision of affordable housing is required on sites of 10 homes or more at a level of 10% in the Primary Growth Area. This has been addressed by a planning condition in the permissions issued to date and we envisage a similar approach going forward.



- Policy SW11 – Sustainable Design and Placemaking: Development must contribute to the creation of attractive and sustainable places through high quality, sustainable and inclusive design. While this is an outline application, the site itself is in a sustainable location and achieving placemaking principles will be demonstrated at Reserved Matters stage.
- Policy CW1 – Historic Environment: Development proposals will only be permitted where it can be demonstrated they would preserve or enhance the architectural quality, character or the historic or cultural importance of our designated historical environmental assets.
- Policy EnW1 – Nature Conservation and Ecosystem Resilience: Proposals will be required to maintain and enhance biodiversity interests unless it can be demonstrated that the need for development clearly outweighs the biodiversity of the site, and that the impacts of the development can be satisfactorily mitigated and acceptably managed through future management regimes. Conditions were imposed on the extant permission in order to ensure the protection of the SSSI, SINC and protected species, and nothing has happened in respect of these designations in the interim to suggest that these conditions are not still fit for purpose.
- Policy EnW2 – Internationally and Nationally Protected Sites and Species: Sets out the relevant protections afforded to the conservation value of internationally or nationally designated sites. The site is not an internationally or nationally protected site. The accompanying Ecology Report considers the site's relationship to the nearby Cwm Glo a Glyndrys SSSI and no conflict.
- Policy EnW3 – Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species: Development must not create any negative adverse impacts on Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves or on Priority Habitats and Species. The accompanying Ecology Report considers the site's relationship to the nearby Cwm Glo SINC and find no conflict.
- Policy EnW4 – Environment Protection: Proposals are required to demonstrate they will not result in an unacceptable impact on people, residential amenity, property and / or the natural environment, or demonstrate that appropriate measures have been incorporated to reduce the impact to the lowest possible acceptable level. As for the extant permission, matters such as these can be suitably controlled as part of the Reserved Matters process.
- Policy EnW5 – Landscape Protection: Designates areas as Special Landscape Areas which have



protected characteristics from development such as, local distinctiveness and historic character. The site lies outside of the designated Special Landscape Area.

- 3.3.8 Application P/19/0318 was found to be in accordance with the above-mentioned policies and, given that the proposals now submitted present no significant differences in planning circumstances, the current proposals area also held to comply with Development Plan policy.

3.4 Material Considerations

Planning Policy Wales v12

- 3.4.1 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government and is supported by Technical Advice Notes (TANs). PPW sets out that, in order to maximise well-being and the creation of sustainable places, the concept of 'placemaking' should be at the heart of the planning system.
- 3.4.2 PPW establishes what development plans and decisions undertaken by the planning system must achieve and how development should be shaped to deliver the best possible outcomes. PPW sets out that the presumption in favour of sustainable development in accordance with the Development Plan unless material considerations indicate otherwise. Given the conclusion of the section above, this presumption in favour is engaged.
- 3.4.3 Green infrastructure statements are now required to be submitted with all planning applications to embed the benefits of biodiversity and ecosystem services into new development and places, to help to overcome the potential for conflicting objectives, and contribute to health and well-being outcomes. Design measures can have wider cumulative benefits, in relation to biodiversity and the resilience of ecosystems as well as in securing the other desired environmental quality of places. The enclosed Green Infrastructure Strategy fully meets the requirements of PPW, drawing on the substantial ecological information available, the significant potential for development to incorporate positive design measures within the outline parameters applied for.

Circular 016/2014 (The Use of Planning Conditions for Development Management)

- 3.4.4 This circular provides advise on extending time limits of planning permissions. Paragraph 5.21 notes that "Planning permission can be renewed before the time-limit for the commencement of development has expired, under section 73 of the 1990 Act. As a general rule, such applications should only be refused where:
- There has been some material change in planning circumstances since the original permission



was granted (e.g. change in some relevant planning policy for the area, or in relevant highway considerations, or the publication by the Government of new planning policy guidance, material to the renewal application);

- Continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area; or
- The application is premature because the permission still has a reasonable time to run.”



4.0 Planning Assessment

4.1 Change in planning circumstances

- 4.1.1 Although the development proposals have not changed since the previous application, and while it is recognised that the statutory Development Plan remains unchanged as well, it is recognised that material considerations in the form of national policy has been updated.
- 4.1.2 Planning Policy Wales v12 was published in February 2024, the principal changes contained in PPW v12 which are relevant to this application are the mandatory Green Infrastructure statement (which has been submitted along with this application) and the 'stepwise approach'.
- 4.1.3 In accordance with PPW para 6.4.12 and Figure 12 the enclosed GI Strategy (and the submitted ecology report which it refers to) provides evidence that the stepwise approach has been followed and that a scheme of enhancements can be provided to ensure a net benefit for biodiversity.

4.2 Ecological Appraisal

- 4.2.1 In April 2024 an Ecological Appraisal was updated and carried out on land to the rear of Colliers' Row, Heolgerrig. The appraisal identifies a number of habitats including: plantation woodland, modified neutral-acidic grassland, neutral grassland, marshy grassland, scrub and ruderal, mature non-woodland trees and bare/disturbed ground.
- 4.2.2 This updated Ecological Appraisal finds that all changes which have occurred on the site since the extension of time determination in 2020 are generally minor and non-material in planning terms. Therefore there has been no substantial change in the site's known or potential value to species of conservation importance.
- 4.2.3 There are no new or altered biodiversity considerations that are required to be taken into account by the Council in determining whether the time to implement the extant housing consent should be extended and no new factor that could cause the principle of the development to be revisited.
- 4.2.4 Subject to similar ecology conditions to those imposed on the extant permission, no ecology concerns are raised.



4.3 Green Infrastructure

- 4.3.1 In recognition of the requirement in PPW v12, a Green Infrastructure Statement accompanies this application. The document identifies the key retained and proposed landscape assets which constitute the green infrastructure on the site. This includes trees, scrub mosaic / ecotone, shrub planting, proposed SuDS features and proposed species rich grasslands. Each of these has been signposted against the Building with nature Standards to ensure it complies with current policy.
- 4.3.2 While landscape is a reserved matter, the landscape principles for this site are established within the GI Statement according to the step-wise approach, with the prevailing strategy to avoid and retain green infrastructure wherever possible. The proposal provides space for any unavoidable loss of green infrastructure to be mitigated and/or compensated for in order to enhance the green infrastructure overall. The statement also highlights the benefits of integrated sustainable drainage features, which will be integrated into the landscape strategy, to improve the biodiversity, amenity, drainage and to provide an area for landscape-based play.

4.4 Other matters

- 4.4.1 In terms of detailed considerations, the outline nature of the application means that these matters can be made subject of relevant conditions and the reserved matters process. The most recent 'renewal' application (P/19/0318) was submitted by the LPA to the following consultees for their consideration. Their responses were as follows:

Head of Engineering	No objection
Environmental Health Manager	No response
Planning Division's Policy Officer	No objection
Planning Division's Ecologist	No objection
Rights of Way Officer	No objection
Natural Resources Wales	No objection
Welsh Government Highways Division	No objection

- 4.4.2 The only change in circumstances since the past renewal relates to the making of a rights of way order on the route which bisects the two parcels such that it now forms a restricted byway No. 101/57. No part of the development will interfere with or obstruct this byway, as instructed by the previously



approved decision notice.

- 4.4.3 Accordingly, we do not consider there are any considerations which would result in alternative conclusions from the above consultees.



5.0 Summary and Conclusion

- 5.0.1 This planning statement has been prepared to support an application to amend permission P/19/0318 in order to extend the period of time for the submission of reserved matters and to extend the period of time for development to be begun.
- 5.0.2 The Ecological Appraisal confirms that all changes on the site since the previous extension of time are generally minor and non-material in planning terms. Furthermore, the Green Infrastructure Statement confirms that the green infrastructure proposals would accord with the six placemaking principles and contribute to the 12 Standards of Building with Nature.
- 5.0.3 There have been no changes to the Development Plan since the previous application and it is considered that the proposed development would remain in accordance with Development Plan policies. No material considerations have been identified which weigh against this compliance and thus the proposals remain an appropriate form of sustainable development to which the PPW presumption in favour applies.
- 5.0.4 Given the site remains allocated for residential development in the Development Plan, the failure to begin the development does not contribute unacceptably to uncertainty about the future pattern of development in the area.
- 5.0.5 Finally, the extant permission is due to expire in May 2024. This renewal application is not, therefore, premature.
- 5.0.6 Overall, there are no material alterations in planning circumstances since the previous application was approved on the site to prevent the renewal of the extant outline planning permission. It is therefore considered reasonable and appropriate to renew the previous permission for a further standard period of time.

