

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **16 DECEMBER, 2020**

REPORT OF THE HEAD OF REGENERATION AND PLANNING

PLANNING APPLICATIONS

Background Papers

The following reports are based upon the contents of the Planning Application files up to the date of dispatch of the agenda and reports.

**2019/01194/FUL** Received on 31 October 2019

**APPLICANT:** Mr. & Mrs. Taylor 16, Tair Onen, Welsh St. Donats, Vale of Glamorgan, CF71 7LA

**AGENT:** Andrew Parker Architect, The Great Barn, Lillypot, Bonvilston, Vale of Glamorgan, CF5 6TR

### **16, Tair Onen, Welsh St. Donats**

Proposed granny annexe. Ancillary to main dwelling

#### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application has been called in for determination by Cllr M. Morgan, who would like the planning committee to determine the application because he is supportive of the application.

#### **EXECUTIVE SUMMARY**

The application site is a dwelling and associated curtilage in the countryside. For policy purposes and is not allocated for a particular land use in the Local Development Plan (LDP). The nearest defined settlements are Bonvilston (2.5 km to the east) and Aberthin (3 km to the north-west).

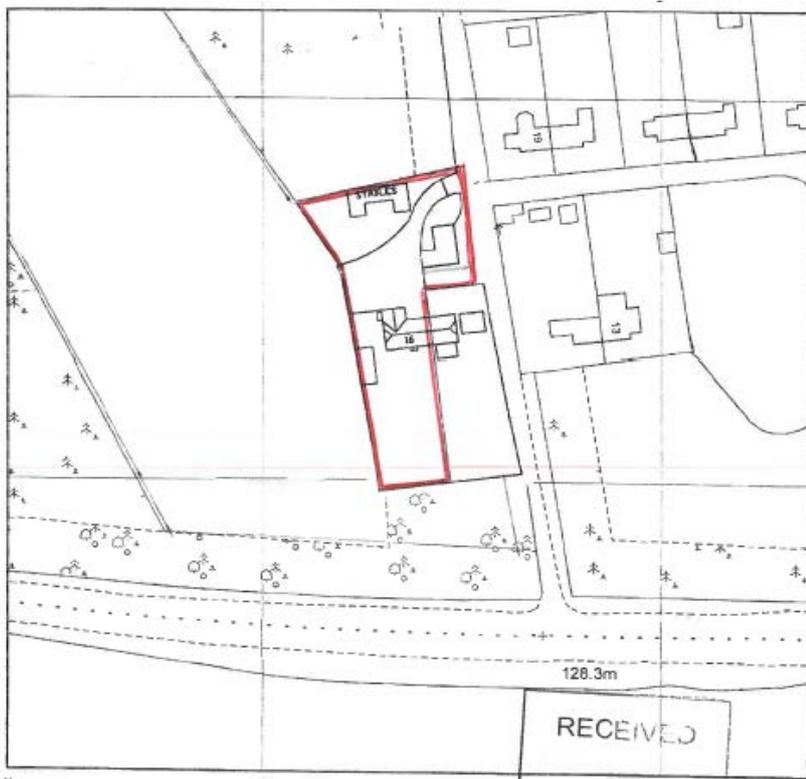
This is an application for full planning permission to demolish a stable block and to build an annexe to the main dwelling.

The application documents fail to demonstrate that the proposed annexe would be ancillary to the house, and the 'annexe' would be occupied as an independent, self-contained dwelling. As a result, the development proposal amounts to a new market dwelling (as distinguished from an affordable dwelling or a rural-enterprise dwelling) in an unsustainable location. It is, therefore, contrary to the Local Development Plan's settlement strategy and corresponding guidance in Planning Policy Wales.

The application is recommended for refusal.

#### **SITE AND CONTEXT**

Roughly 1,900 square metres in area, the application site consists of a house, front and back gardens and several outbuildings. It is next to a shared private drive and undeveloped land, and is part of a group of dwellings known as 'Tair Onen'. For policy purposes, the site is in the countryside, mineral safeguarding areas (limestone, categories one and two, and sandstone, category two) and Flood Zone A (little or no risk of flooding from rivers and the sea).



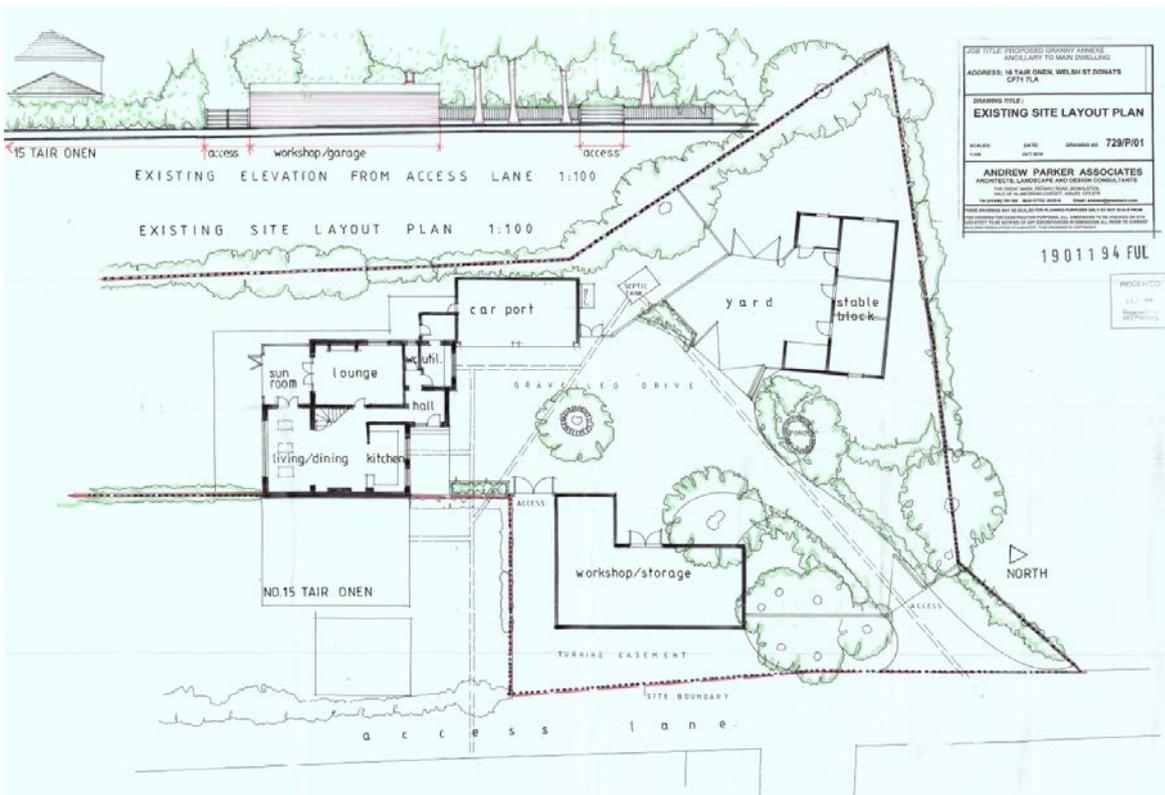
## DESCRIPTION OF DEVELOPMENT

This is an application for full planning permission to build a single-storey annexe to the main dwelling. The amended application documents indicate that:

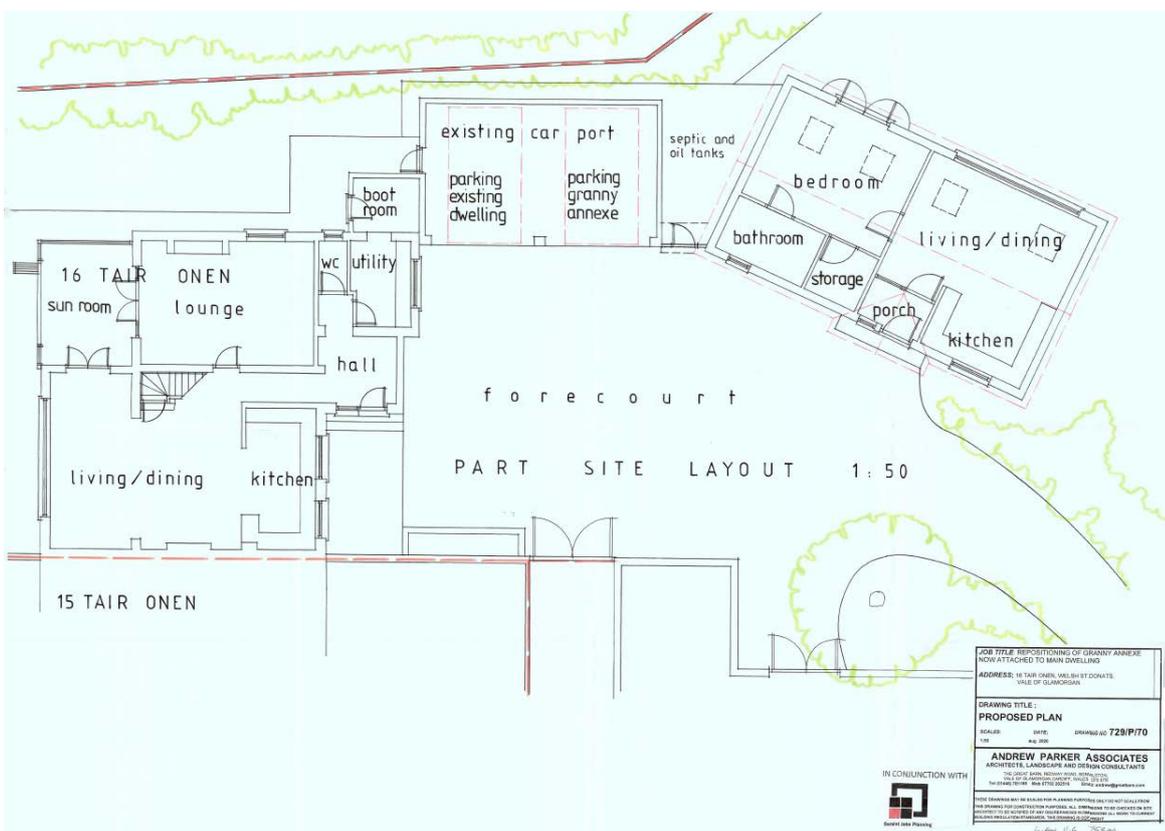
- The existing stables (see existing site plan, below) would be demolished;
- The annexe would join an existing carport;
- The annexe would take the form of a single-storey chalet-style building;
- The annexe would have a bedroom, a kitchen, a bathroom and a living/dining room;
- The annexe would be (roughly) 12.5 metres long, 7 metres wide and 5 metres tall;
- Occupants of the annexe would have one parking space in the adjacent carport;
- The annexe would not have its own defined garden;
- The annexe and the existing house would share an entrance on the private lane, a driveway and a forecourt.

Below are extracts from application documents:

*Existing site plan*



*Proposed site plan*



## Proposed elevations



The application documents include a 'statement of truth' about the part of the site occupied by the stable block. This statement indicates that:

- The applicants bought the property in October 1992;
- The piece of land in question is in the Land Registry title plan;
- The applicants built the stable block shortly after having bought the property;
- The whole of the application site has been used as a residential planning unit since 1992.

Supporting information states 'The proposals would involve the relocation of [the applicants] to the 'granny annexe', with immediate family members moving into the original part of the house. The principal purpose ... is to provide additional accommodation so that immediate family members are 'on hand for future support'. Such future support will include not just social interaction, but daily household needs and functions.'... 'Moreover, both buildings would remain in the same/single ownership and as such, the personal circumstances of the applicants demonstrate that the annexe will not be separate to the main dwelling, and will be closely associated and function with it.'... The annexe *might* have its own postal address, council-tax record and utility providers, but it would continue to be ancillary to the house.

## PLANNING HISTORY

1992/00694/FUL: Two storey extension and integral garage - decision: approved

2011/00181/FUL: Conservatory extension - decision: approved

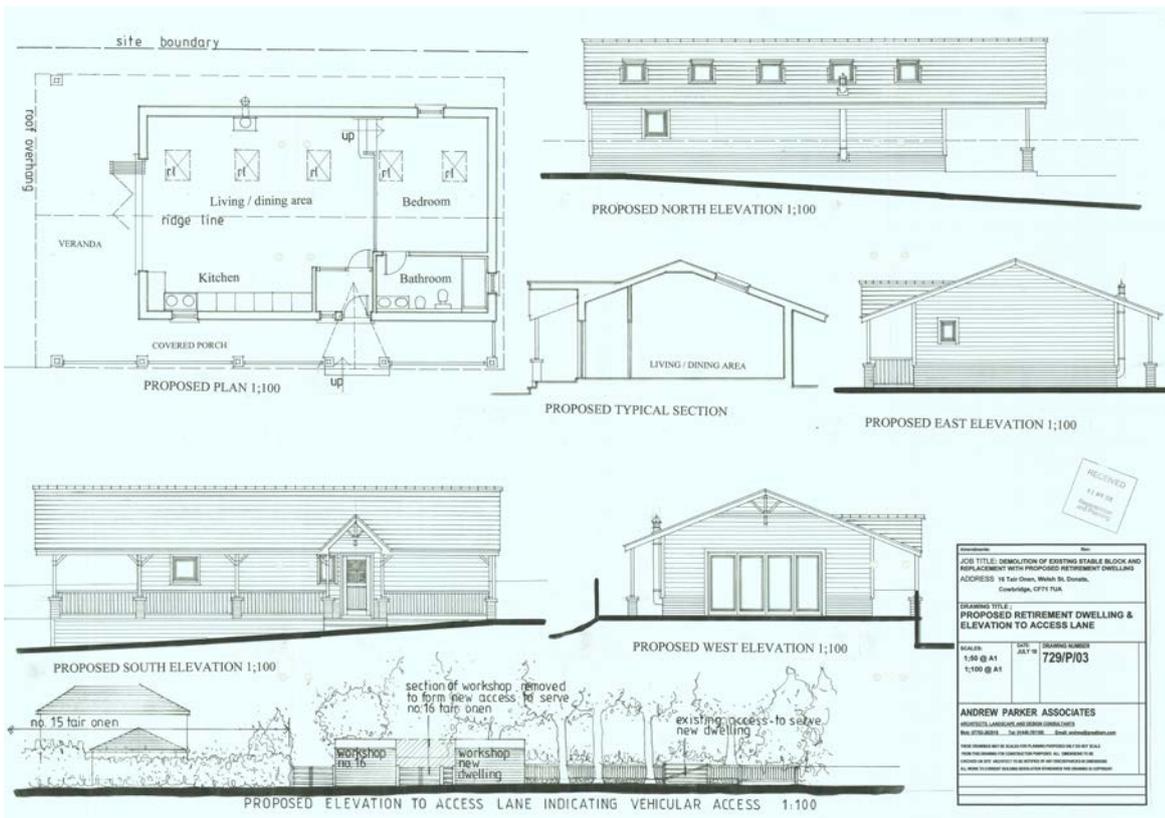
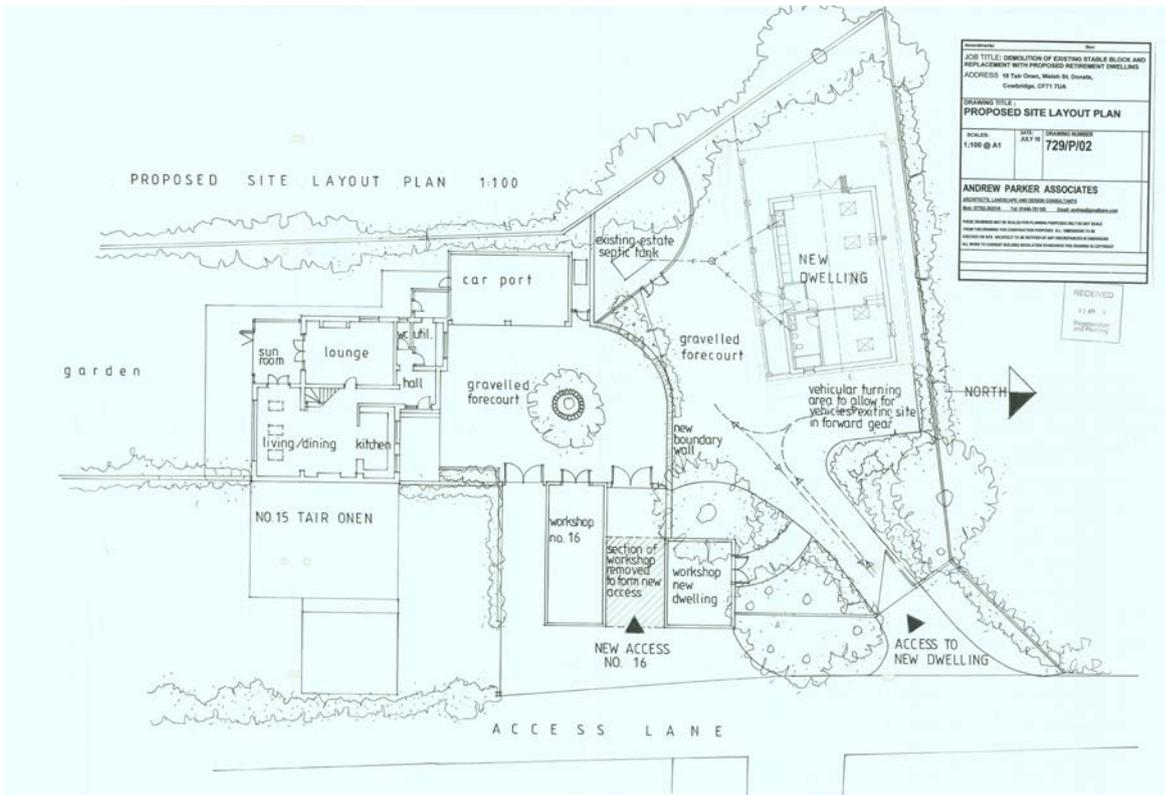
2018/00940/FUL: Demolition of existing stable block and replacement with proposed retirement dwelling - decision: refused for the following reasons:

1. *The proposed dwelling represents an unjustified development in an unsustainable, rural location which would prejudice the character and setting of the countryside. As such the proposals are considered to be contrary to policies MD1 – Location of New Development, MD2 – Design of New Development, of the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and the advice in Planning Policy Wales (Edition 9) 2016.*
2. *In the absence of the applicant agreeing to enter a Section 106 agreement towards off-site affordable provision within the Vale, the proposed development would fail to make adequate provision to meet affordable housing need, contrary to Policies SP4 - Affordable Housing Provision, MD1 - Location of New Development, MG4 – Affordable Housing and MD4 - Community Infrastructure and Planning Obligations of the Vale of Glamorgan Local Development Plan 2011-2026 and national guidance contained in TAN 2 (Planning and Affordable Housing) and Planning Policy Wales (Edition 9, 2016).*

2019/00385/FUL: Demolition of existing stable block and replacement with proposed retirement dwelling - decision: refused for the following reason:

1. *The proposed dwelling represents an unjustified development in an unsustainable, rural location which would prejudice the character and setting of the countryside. The proposal is contrary to policies SP1 (Delivering the Strategy) and MD1 (Location of New Development) of the Vale of Glamorgan Local Development Plan 2011 – 2026 and paragraphs 3.35 and 3.56 and the transport-related objectives of chapter four (Active and Social Places) of Planning Policy Wales (Edition 10, December 2018).*

The refused plans are shown below:



**CONSULTATIONS**

**Welsh St. Donats Community Council** was consulted and did not object to the proposal.

The **Highway Authority** was consulted and recommended that planning permission carry the conditions it suggested for application 2019/00385/FUL.

*Note: 2019/00385/FUL concerned a new dwelling as opposed to an annexe. The suggested conditions covered parking spaces and existing and proposed entrances for vehicles.*

**Peterston Super Ely ward members** were consulted. **Cllr M. Morgan** expressed his support for the application and requested that it be determined by the planning committee if officers were to recommend that planning permission be refused.

## REPRESENTATIONS

The neighbouring properties were consulted on 8 November 2019, and a site notice was displayed on 15 November 2019. The planning authority had not received any letters of representation at the time of writing.

## REPORT

### Planning Policies and Guidance

#### **Local Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

#### Strategic Policies:

POLICY SP1 – Delivering the Strategy  
POLICY SP9 – Minerals  
POLICY SP10 – Built and Natural Environment

#### Managing Growth Policies:

POLICY MG22 – Development in Minerals Safeguarding Areas

#### Managing Development Policies:

POLICY MD1 – Location of New Development  
POLICY MD2 – Design of New Development  
POLICY MD5 – Development within Settlement Boundaries  
POLICY MD7 – Environmental Protection  
POLICY MD9 – Promoting Biodiversity

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

## **Planning Policy Wales:**

National planning policy in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Placemaking in Rural Areas
- Previously Developed Land
- Development in the Countryside (including new housing)

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)
- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de-risking approach)

## **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 18 – Transport (2007)

## **Supplementary Planning Guidance:**

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Biodiversity and Development (2018)
- Minerals Safeguarding (2018)
- Model Design Guide for Wales
- Parking Standards (2019)

- Residential and Householder Development (2018)
- Sustainable Development - A Developer's Guide

**Other relevant evidence or policy guidance:**

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007)
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

**Well-being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Issues

**Principle of development**

The erection of an 'ancillary annexe' in an established residential planning unit is usually acceptable in principle where there is a clear physical and functional relationship between the main house and the annex. The planning authority must be satisfied that the whole of the application site is a lawful residential planning unit, and that the proposed annexe would truly be ancillary to the existing house rather than a dwelling capable of independent use and subdivision from main dwelling which would be assessed under a different planning policy framework.

Previous applications for similar proposals on this site have been refused (as set out in the planning history section above) because it was considered the 'annex' proposed was tantamount to a new dwelling having neither an 'ancillary' functional or physical relationship with the main house. The application has attempted to address the previous reasons for refusal by reducing the size of the building, moving it closer to the main house and physically attaching it to the car port, and having shared access / garden area.

However, the proposed annexe would be roughly 10 metres from the main house, connected only externally with a car-port between it and the main house and the annexe would have all the rooms and facilities required for independent living as a separate dwelling.

The point of principle has been recently considered under planning application ref. 2019/01246/FUL at Heol Las Farm, Llangan, which is material to the assessment of this application. This application was dismissed at appeal to convert an existing holiday let to a residential annexe. Whilst relating to a change of use and not new build, the Inspector considered whether the proposal represented a new dwelling as opposed to an annexe to an existing dwelling. The following paragraphs in the Inspectors are of particular relevance, which state:

5. *The application is for a residential annexe as set out in the banner heading on page 1 above. The intention is for the appellant to reside in the annexe, whilst allowing her son to continue to reside in the main house. Thus, both would have independence, whilst relying on the main house for day to day residential functions, it is argued. The works to block the separate access and remove the fence separating the holiday are also noted. In discussions with the Local Planning Authority the appellant was willing to accept any reasonable conditions or obligations considered necessary to restrict the use to an annex. She has offered to remove a washing line, washing machine and even one of the bedrooms. These plans are not before me nor has any planning obligation been submitted. The appellant indicates that the ability to live in the proposal would assist the farming business and meet the needs of a family of long-standing in the area.*

6. *The main issue of the nature of the proposal is before me and both parties have clearly presented their arguments. The building is subordinate in size to the farmhouse. However, the farmhouse is large and so this factor is not determining. It is proposed that the building would share a vehicular access with the separate access being removed. The building is within 10m of the farmhouse but is separated from it by the main access and farmyard. It reads as a separate unit well-enclosed by walls fences and buildings. It has its own parking and garden areas. In addition, the building has all the facilities needed for independent living comprising of a large lounge/dining room, a kitchen/ breakfast room, a bathroom and two bedrooms. There is no convincing explanation of what residential functions would be provided by the main house.*

8. *The proposal would create a self-contained residential unit with little functional relationship with the farmhouse. There would be a degree of separation by the main access and farmyard. There would be little functional inter-dependence. The only link would be that the new unit would be occupied initially by a member of the same family. In all the circumstances set out above, I conclude that the proposal must be considered as for the change of use of a holiday let to a new dwelling. This being the case then conditions restricting the use to an annexe would not be reasonable or enforceable.*

In concluding his report, the Inspector states that as the proposal was for a new dwelling rather than an annex, the site was not in a sustainable location and the proposed dwelling was therefore contrary to national policy and LDP Policies.

In particular and to summarise the key points in the dismissed appeal at Heol Las Farm, the Inspectors view was that where there are all the facilities needed for independent living and a degree of separation from the main dwelling, there would as a result, be little functional inter-dependence on the main dwelling which would create a self-contained residential unit.

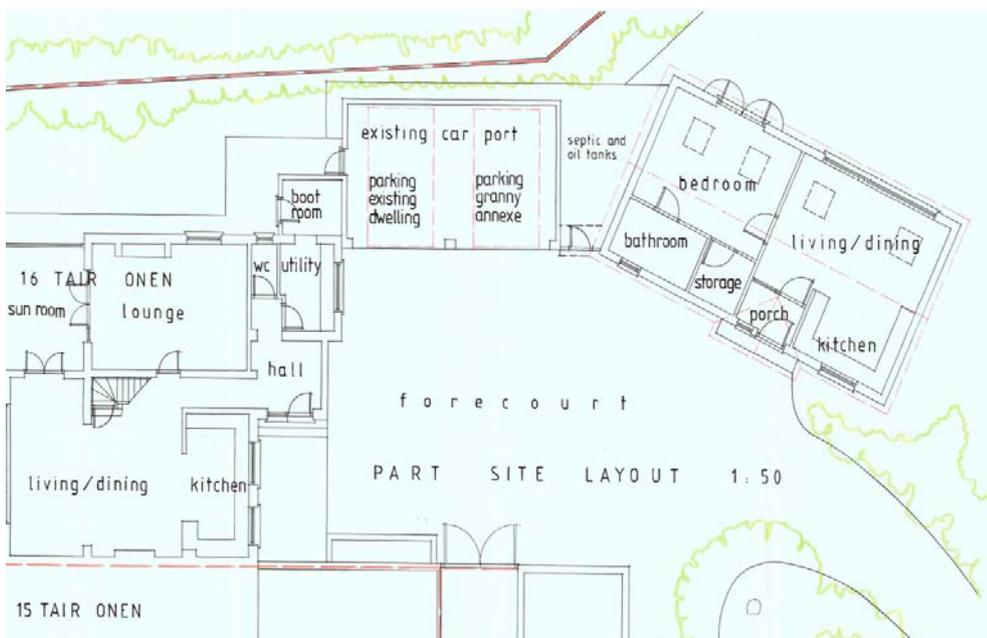
A similar appeal was dismissed at Poundfield Farm, Wenvoe (Ref 2018/01418/FUL) where the inspector stated:

*“Ancillary accommodation or a residential annexe should, by definition, be subordinate to its host dwelling in terms of its scale and design, and also have a functional link to it. In this case, the annexe would be clearly smaller in scale, but it would be physically separated from the main property and outside its curtilage. Furthermore, the unit would have a separate means of access and would have separate parking and garden areas.”*

*“In this case, the annexe would be clearly separate from Poundfield Farm and would contain residential accommodation that would not only be capable of being used for independent residential use, but also be of an extent that would be commonly found in a separate dwelling. Having regard to the nature of the proposed development, it appears to me that the proposal would not fall within the definition of an annexe which could be regarded as ancillary to the main dwellinghouse, but a separate residential unit. Taking account of these considerations regarding the physical detachment, size and free standing, self-contained nature of the development, the proposal is one which should in effect, and in practical terms, be considered as a development which is tantamount to the creation of a new dwelling.”*

In light of the above, this application should be considered having regard to these key considerations.

Whilst this application has been amended to re-site the annex closer to the main dwelling, the annex is only shown to be “connected” to a car port and is still some distance to the main dwelling.



However, such a physical connection to the open fronted car port (part of which is shown to be used for parking to serve the granny annex) would not in any way provide any meaningful direct link between the annex and the dwelling. Of particular concern, is that the car port could easily be removed to facilitate the future sub-division of the site into 2 separate dwellings when the applicant’s personal circumstances change. The siting of the ‘annex’ and the amount of accommodation within it means that there is no reliance on the functional connection between the two properties which could facilitate its subdivision, the same situation as considered in the above appeals.

Despite being in the same curtilage, the property has a large garden and has the ability to provide 2 accesses (as shown on the previously refused plans) with potential to divide the site to provide separate garden areas at a later date.

Joining the two houses via a car port does not overcome the concerns about lack of a physical relationship between them.

Despite stating that relatives of the applicants would live in the existing house, and that occupants of the two buildings would spend time together every day, the application documents fail to demonstrate a proper functional connection between the house and the 'annexe'. They do not indicate that occupants of the purported annexe would *depend* on those living in the house. The argument that occupants of the house might, occasionally, give (undefined) support to occupants of the annexe is not persuasive. Furthermore, the application documents state that occupants of the annexe might have their own postal address, council-tax record and accounts with utilities companies.

This kind of arrangement would not be typical of a single household in a single planning unit. The evidence indicates that the 'annexe' would be occupied as an independent, self-contained dwelling.

In view of the above, the proposal, having regard to the same considerations made by the Inspectors in the above quoted appeals, must be assessed as a new dwelling in the countryside.

The application site falls outside of a settlement as defined by the Vale of Glamorgan LDP 2011-2026, with the defined boundary of the nearest settlement being Bonvilston approximately 2.3 kilometres distant to the east.

As part of the background evidence for the Local Development Plan, the Council prepared a Sustainable Settlements Background Paper (2013) that ranks Tair Onen 45th of 72 settlements identified within the background paper, indicating the provision of a post box and bus stop whilst also indicating the provision of employment opportunities within the area. Given its low sustainability score the background paper identifies the site as a 'Hamlet and Rural Area'. The background paper states that these 'are generally small hamlets comprised of historic sporadic development of isolated individual houses or farm houses and barn conversions. Although these hamlets have a limited role and function many are important to the rural character of the Vale of Glamorgan and as such require protection from over-development through planning controls to safeguard these sensitive rural settlements and the rural character of the Vale.'

At paragraph 6.10 the document goes further to state that 'in order to conclude what is deemed suitable for future development in the way of sustainability, it is considered that many of the Vale of Glamorgan's rural settlements cannot realistically fulfil this role principally because they do not have the range of services and facilities necessary to meet this requirement. Furthermore, many of them are isolated and do not have access to public transport services or access to basic community services or employment opportunities. Given their location and limited role and function it is reasonable to conclude that there is likely to be a high reliance on the private car to access basic amenities. Therefore, these areas are considered to be unsuitable and unsustainable locations for further additional development.'

It also must be noted that since the time of the preparation of this document that the Natural Resources Wales depot adjacent to Tair Onen no longer provides the employment identified within the appraisal. This is considered to compound the lack of suitability of the hamlet to assimilate further residential development. The lack of physical proximity to local services within the immediate vicinity and to nearby settlements would result in the reliance of future occupiers on the private car to access everyday goods and services,

which indicates that this site represents an unsuitable and unsustainable location for additional residential development within the countryside.

Policy MD1 'Location of New Development' relates to new development on unallocated sites and provides a number of criteria which such proposals should meet including criterion 1 'having no unacceptable impact on the countryside'.

The supporting text contained at paragraph 7.2 states that 'new development will be directed to those locations that are accessible by sustainable transport and reduce dependence on the private car.'

Para 3.35 of PPW states "*...In rural areas most new development should be located in settlements which have relatively good accessibility by non-car modes when compared to the rural area as a whole. Development in these areas should embrace the national sustainable placemaking outcomes and, where possible, offer good active travel connections to the centres of settlements to reduce the need to travel by car for local journeys.*"

Para 3.56 of PPW States "*Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled.*"

Chapter four (Active and Social Places) of PPW states a key issue is: *[Reducing] reliance on travel by private car, and the adverse impacts of motorised transport on the environment and people's health, by prioritising and increasing active travel and public transport.*

The nearest bus stops are roughly 180 metres from the application site and rely on passengers having to cross the busy A48, unaided, at a point where vehicle speeds are fast. Bus services run along the A48, between Cardiff and Porthcawl (on weekdays, the X2 runs in each direction roughly every 30 minutes), but the presence and frequency of the bus service is not considered to facilitate direct and easy access to the full range of services provided in nearby settlements including access to basic community services, education or employment opportunities.

The LDP seeks to 'reduce dependence on the private car' (see paragraph 7.2) and says that 'all new development should be highly accessible' (see paragraph 7.8). It also says that development in the countryside should '[contribute] positively to the rural economy and the viability and sustainability of rural communities' (see paragraph 7.3 of the LDP).

Tair Onen lacks everyday shops, services, facilities, and a range of job opportunities. Cowbridge, a service centre settlement, may have a good range of shops, services and facilities, but is not easily accessible from this site. Manual for Streets suggests that a walking distance between 800 metres and two kilometres (roughly 1.2 miles) is comfortable for most people. Both Cowbridge and Bonvilston are outside this range. People could cycle to Cowbridge or Bonvilston, but the route along the A48 which lacks shared paths and segregated cycle lanes, and parts of which have the national speed limit (60 mph) is likely to deter many cyclists.

In summary, the development proposal would create what amounts to a self-contained 'market' dwelling in a rural location that lacks everyday shops, services, and facilities. The dwelling would not be highly accessible, and it would not help to meet the area's need for affordable housing, either. Nor would it make a noticeable difference to the rural economy or the social or cultural well-being of a rural community. For these reasons, the development proposal is unacceptable in principle.

### Visual impact

The proposed annexe would be smaller than the main house, and the application documents suggest that its external materials would include cladding and 'red plinth walls'. The introduction of a further residential use and associated paraphernalia would serve to further domesticate the site. Nevertheless, the site is not significantly visible from wider view, noting woodland to the north and vegetated boundaries to the east and west. Noting the scale of the proposed 'annexe' and mature vegetation adjacent to the site, whilst it will have some localised impacts, it would not result in an unacceptable visual impact on the wider rural character of the area.

### Impact on neighbours

The nearest dwellings – highlighted yellow, below – are 15, and 16, Tair Onen:

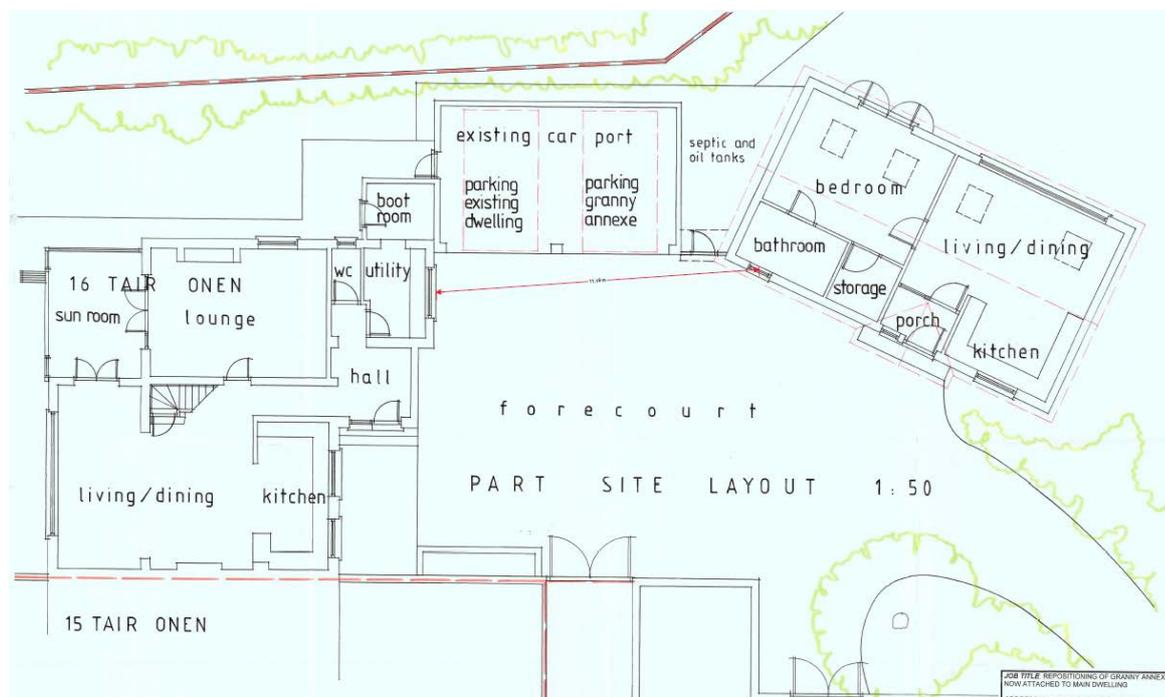


The main garden of each dwelling is to the south of the corresponding highlighted building.

The application documents indicate that the proposed 'annexe' (dwelling) would be at least 18 metres from no. 15, and the dwellings' respective elevations would not face each

other. As a result, the proposed 'annexe' (dwelling) would not have a noticeable effect on natural light, outlook or privacy at no. 15.

At no. 16, a habitable room appears to be above the ground-floor utility room. The application documents suggest that the nearest habitable-room window in the proposed 'annexe' (dwelling) would be roughly 11 metres away:



The windows in question do not face each other. The Residential & Householder Development SPG states that:

*Where habitable room windows of a neighbouring property are at an angle of less than 90° to the habitable room windows in new development (i.e. windows not directly opposing), the minimum distance between the opposing windows may be reduced.*

Measured from no. 16, the angle between the first-floor window and the proposed dwelling's bathroom window is roughly 80 degrees. Measured in the opposite direction, the angle is roughly 30 degrees. According to the SPG (see Figure 15 on page 38), the windows should be at least six metres apart to protect the occupants' privacy. The proposal exceeds this requirement.

Noting the single storey nature of the proposals, their modest mass and bulk and separation with neighbouring dwellings, it is considered that the proposals would not result in an unacceptable impact upon the amenity enjoyed by residents of 15, or 16, Tair Onen.

The additional activity, noise, and vehicle movements associated with one new dwelling would not have a noticeable effect on neighbouring amenity.

Given the separation with properties other than no. 15 and no. 16, it is considered that the proposals would not result in any discernible detriment to the amenity enjoyed by these properties.

## Highways

The proposal involves the use of the existing access serving the main dwelling and adequate parking can be provided within the site to meet the needs of the existing and proposed dwelling / annex. The highway authority does not object to the proposal and recommended that the proposal be controlled by conditions. For the above reasons, the development proposal would not have an unacceptable effect on highway safety.

## Affordable housing

The application documents present the proposed building as an annexe, but the purported annexe has the characteristics of a new dwelling (as discussed in 'Principle of development' section above). Therefore, it is relevant to consider other policy requirements for new dwellings in this location, including the requirement to contribute towards affordable housing.

TAN 2 defines Affordable Housing as housing provided to those whose needs are not met by the open market. It should meet the needs of eligible households, including affordability with regard to local incomes, and include provision for the home to remain affordable for future eligible households, or where stair-casing to full ownership takes place, receipts are recycled to provide replacement affordable housing. This includes two sub-categories: social rented housing where rent levels have regard to benchmark rents; and, intermediate housing where prices or rents are above social rented housing but below market housing prices or rents.

LDP Policy MG4 (Affordable Housing) states that residential developments (including mixed use schemes) will be required to contribute to meeting affordable housing need. In the area of Peterston Super Ely, based upon a net gain of 1 dwelling, the requirement is for 40% affordable housing to be provided. Based upon sites of 1-9 dwellings, the Council's Adopted SPG on Affordable Housing (2018) sets out how to calculate the level of off-site contribution using the following equation:

*Financial contribution (£) = Acceptable Cost Guidance (£) x Social Housing Grant (58%) x Number of affordable housing units*

*The Acceptable Cost Guidance band for the area of Peterston Super Ely is band 5. Based on a 1 bedroom dwelling as proposed the ACG figure would be £119,700.*

*The off-site affordable housing contribution would thus be:*

*£119,700 x 0.58 x 0.4 = £27,770.40*

For the previous applications on site (2018/00940/FUL and 2019/00385/FUL), the applicants indicated that they were willing to make the required contribution to affordable housing. Even so, to protect its position, the planning authority should use the lack of a formal agreement as a reason for refusing planning permission. If, however, planning permission were granted, the planning authority and the applicants would need to sign a legal agreement.

## Ecology

The amended application documents indicate that the stable block in the northern part of the site would be demolished, even though the land it occupies is no longer required for the proposed annexe. Demolishing the stable block is unlikely to harm protected species, but if the planning authority were to grant planning permission, a condition could be imposed requiring the applicant (or any subsequent developer) to install 'biodiversity enhancement measures' such as boxes for birds and bats.

## Minerals

Policy MG22 (Development in Mineral Safeguarding Areas) states that:

*Known mineral resources of sandstone, sand and gravel and limestone are safeguarded as shown on the proposals map. New development will only be permitted in an area of known mineral resource where it has first been demonstrated that:*

- 1. Any reserves of minerals can be economically extracted prior to the commencement of the development; [or]*
- 2. Extraction would have an unacceptable impact on environmental or amenity considerations; or*
- 3. The development would have no significant impact on the possible working of the resource by reason of its nature or size; or*
- 4. The resource in question is of poor quality / quantity.*

An attempt to extract minerals from the site would almost certainly have an unacceptable effect on occupants of the existing house (criterion two). In any case, given its size, the proposed annexe would have 'no significant impact on the possible working of a [mineral] resource' (criterion three).

## RECOMMENDATION

### REFUSE

1. The proposed annexe would, due to the scale of accommodation proposed, its siting and proposed use, be considered as a self-contained dwelling. The proposal therefore amounts to unjustified residential development in an unsustainable rural location where future occupiers would rely heavily on private motorcars to access everyday goods and services. The proposal is contrary to policies SP1 (Delivering the Strategy) and MD1 (Location of New Development) of the Vale of Glamorgan Local Development Plan 2011 – 2026 and paragraphs 3.35 and 3.56 and the transport-related objectives of chapter four (Active and Social Places) of Planning Policy Wales (Edition 10, December 2018).

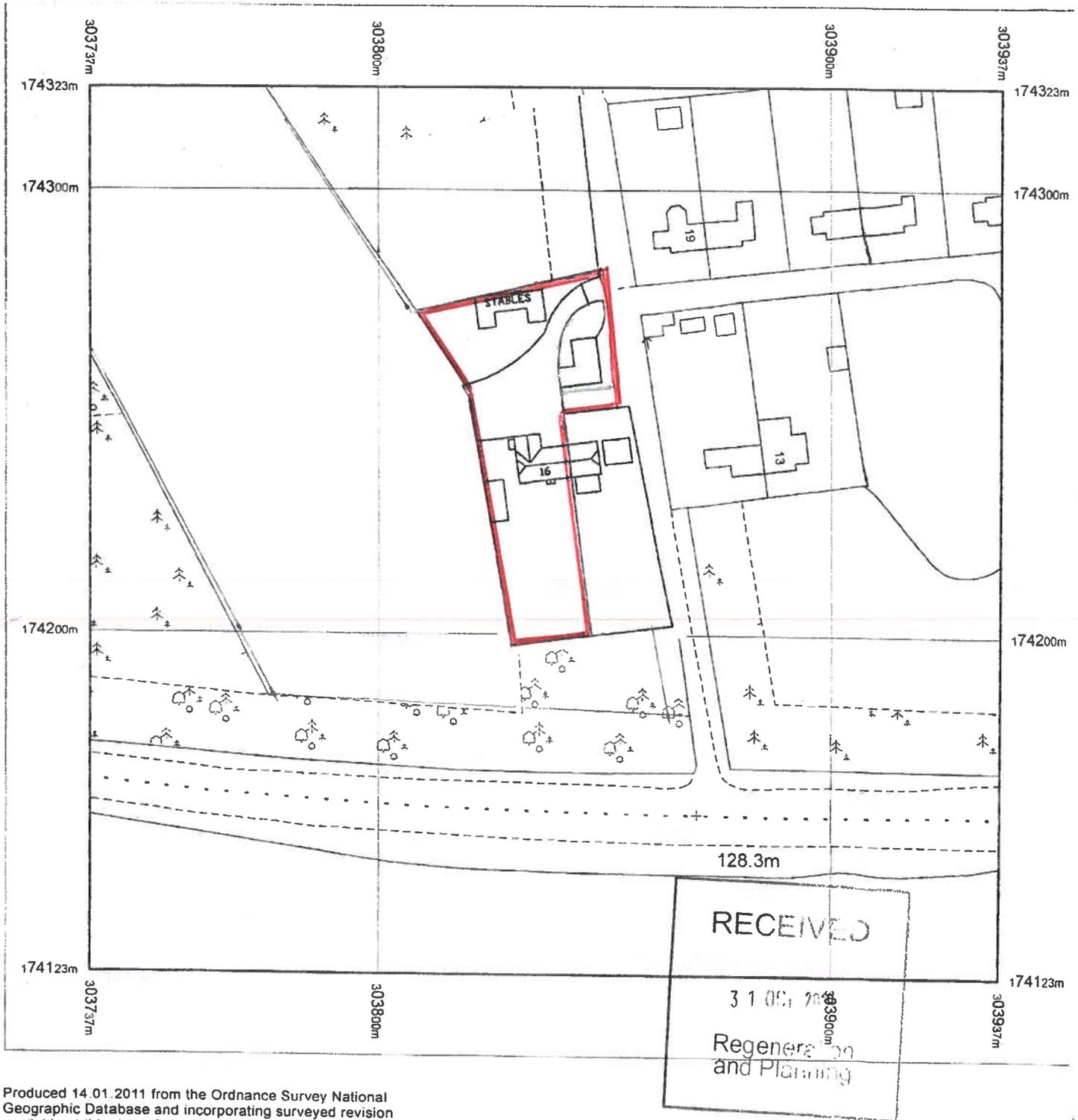
## REASON FOR RECOMMENDATION

The decision to recommend that planning permission be refused has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in

accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

The appropriate marine policy documents have been considered in the determination of this application in accordance with Section 59 of the Marine and Coastal Access Act 2009.



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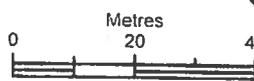
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**2020/00711/FUL** Received on 1 July 2020

**APPLICANT:** Mr. & Mrs. Swetman, 3, Dros y Mor, Penarth, Vale of Glamorgan CF64 3BA

**AGENT:** James Stroud Loyn and Co Architects, 88, Glebe Street, Penarth, Vale of Glamorgan CF64 1EF

### **Land off Rosebery Place / rear of 86, Stanwell Road, Penarth**

Demolition of existing pre-fabricated garages to be replaced by proposed new, low energy 3 bed dwelling with associated external works and replacement boundary walls

### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application has been called in for determination by Cllr. Mark Wilson due to considerable public interest in the application.

### **EXECUTIVE SUMMARY**

The application site relates to land at the rear of 86, Stanwell Road, Penarth which is accessed from Roseberry Place.

The application seeks planning permission for the demolition of the existing pre-fabricated garages and outbuilding, and their replacement with a low energy three bed dwelling with associated external works.

The existing garage has no particular architectural or historic value and is considered to be a minor detractor, therefore its demolition have a neutral effect on the character and appearance of the conservation area.

The proposed dwelling has a contemporary form using a mix of traditional and contemporary materials.

Subject to conditions, the proposal is considered to preserve the character and appearance of the conservation area and to have an acceptable impact in terms of its scale and design, impact on neighbours and future occupiers, and on highway safety. The application is recommended for APPROVAL subject to a section 106 agreement to make provision for affordable housing.

### **SITE AND CONTEXT**

The site is located within the Penarth Settlement Boundary, as identified within the adopted Vale of Glamorgan Local Development Plan (2011-2026). It is also located within the Penarth Conservation Area.

The application site, measuring approximately 290 square metres (0.029 hectares) comprises an outbuilding and block of single storey pre-fabricated garages and an area of amenity space serving Flat 4 at the rear of 86 Stanwell Road, Penarth. The site fronts onto Rosebery Place, and is situated adjacent to an adopted service lane providing access to the rear of properties along Stanwell Road. The site also currently houses a smaller outbuilding.



Figure 1: Site plan

The existing garage is approximately 6.25 metres deep, approximately 8.80 metres long and approximately 2.45 metres tall at its highest point. The roof has a gentle slope from front to rear which is approximately 2.35 metres high. It has a total volume of approximately 132 cubic metres.

The out building is approximately 6.10 metres long and has a maximum depth of approximately 3.65 metres. It has a maximum height of approximately 2.35 metres. It has a total volume of approximately 41 cubic metres.

### DESCRIPTION OF DEVELOPMENT

The application seeks planning permission for the demolition of the existing pre-fabricated garages and outbuilding, and their replacement with a low energy three bed dwelling with associated external works.



Figure 2: Street scene



Figure 3: Proposed Front (Roseberry Place) elevation

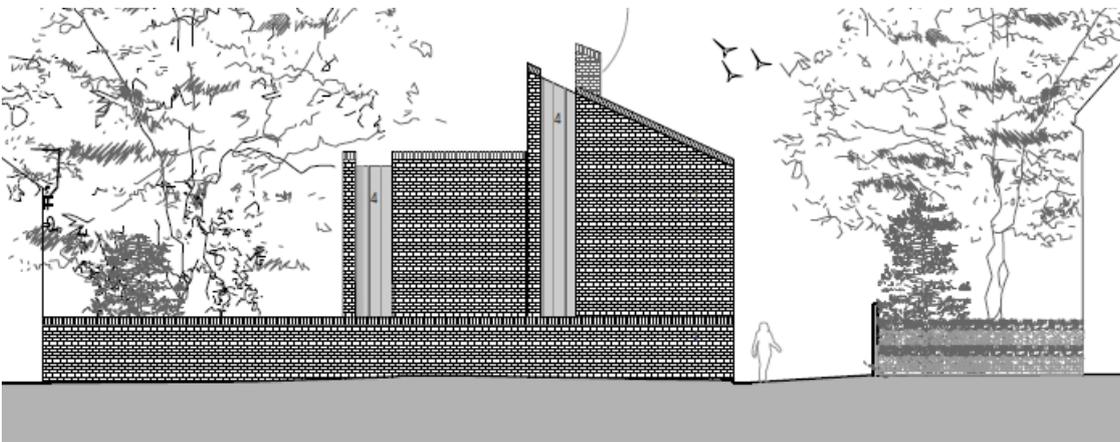


Figure 4: Proposed rear elevation

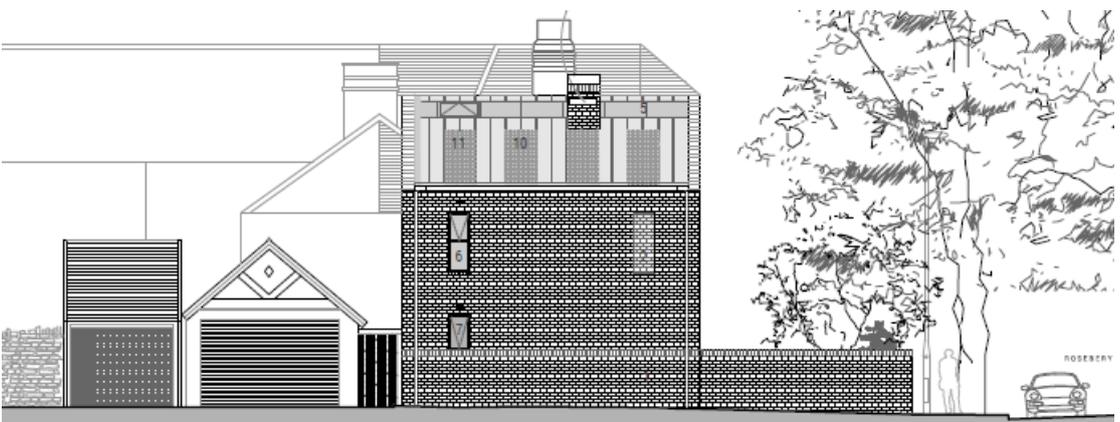


Figure 5: Proposed side (lane) elevation

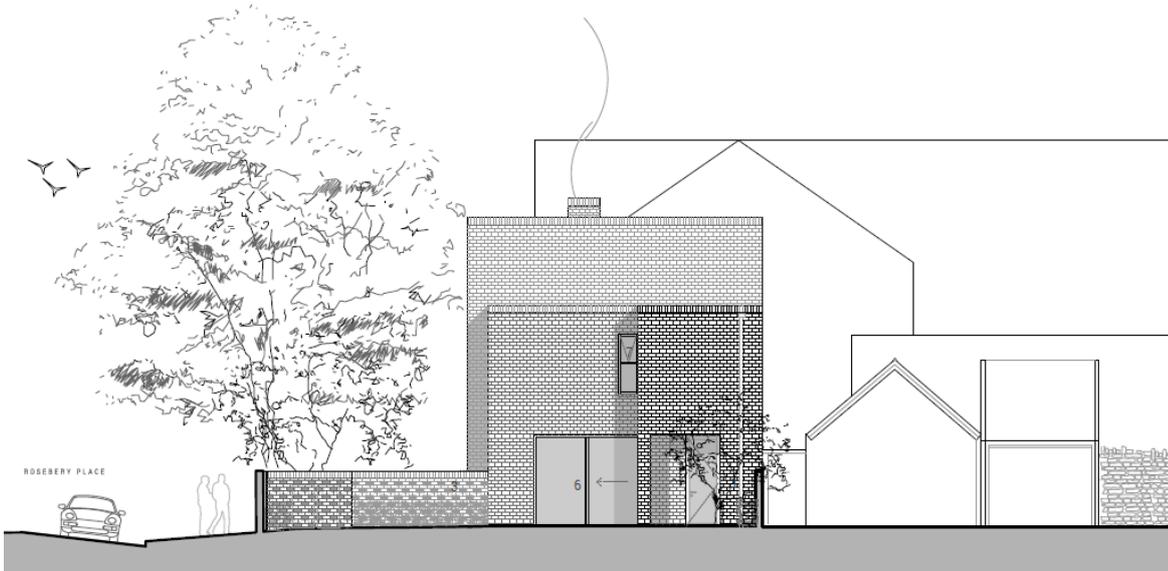


Figure 6: Proposed side (garden) elevation



Figure 7: Proposed site plan in context

The proposed dwelling measures 11.0 metres wide and 8.4 metres deep. It has an eaves height of approximately 6.1 metres and a maximum ridge height of approximately 8.85 metres. The flat roofed element is approximately 6.4 metres high.

The dwelling has a contemporary design and the materials are a mix of modern and traditional to reflect the character of the local area. The external materials proposed are predominantly red, imperial sized, brick with dark mortar joints. The pitched roof covered in a grey standing-seam cladding with solar thermal and photovoltaic panels attached. The flat roof is to be covered in a sedum roof.

The proposed building respects the building line of Roseberry Place, however, this means it is located at the rear of the site on the boundary with No. 88 Stanwell Road.

The proposed dwelling is located close to other, existing dwellings as shown in Figure 7 above. It is approximately 9.5 metres from the rear of 86, Stanwell Road, 13.4 metres from the rear of 88, Stanwell Road, 16.0 metres from the rear of 90, Stanwell Road, 10.0 metres from the side of 1A and 1D, Roseberry Place and 9.0 metres from the front of 1B and 1C, Roseberry Place.

There will be no change to the proposed access to the site. Parking will be provided on site.

The application is supported by a Design and Access Statement, a Heritage Impact Assessment and a Bat and Nesting Bird Survey Report.

## PLANNING HISTORY

1988/00758/FUL, Address: 86, Stanwell Road, Penarth, Proposal: Alterations and improvements to four existing flats: Decision: Approved

1991/01063/OUT, Address: 86, Stanwell Road, Penarth - Rear of - fronting Roseberry Place, Penarth, Proposal: Proposed two bedroomed house on site of redundant garage block, Decision: Refused

The reason for refusal was:

- The proposal would not preserve or enhance the environmental character of the Penarth Conservation Area.
- The proposal represents overdevelopment of a restricted site and would lead to a cramped form of development out of character with the locality.

Also under consideration is application:

2020/00712/CAC, Address: Land off Roseberry Place / rear of 86, Stanwell Road, Penarth, Proposal: Demolition of existing pre-fabricated garages to be replaced by proposed new, low energy 3 bed dwelling with associated external works and replacement boundary walls

## CONSULTATIONS

**Penarth Town Council** were consulted on 13 July 2020. In a response dated 5 August 2020, the Town Council requested additional time to consider the response due to the summer recess. A further response dated 19 August 2020 objected to the proposal stating "Objection, due to the application being incongruous and an overdevelopment of the site, inconsistent to height of neighbouring properties and loss of amenity space".

**Councils Highway Development Team** were consulted on 13 July 2020. No response has been received to date.

**Councils Drainage Section** were consulted on 13 July 2020. In a response dated 07 December 2020 they advised “This site is not located in DAM Zone at risk of tidal or fluvial flooding and NRW maps indicate that there is a very low risk of surface water flooding to the development site.”

Notwithstanding, the application is subject to SAB approval and the SAB have been engaged in Pre-application correspondence. It is advised the applicant submits a detailed design through the SAB process and is therefore not subject to further planning condition. An advisory note is recommended.

**Shared Regulatory Services (Pollution)** were consulted on 13 July 2020. In a response received on the 16 July 2020 they raised concerns about the potential for noise outside the hours of 0800-1800 hours Mondays to Fridays and 0800 - 1300 hours on Saturdays or at any time on Sunday or public holidays. Concerns were also raised regarding the burning of material on site.

**Local Ward Members** were consulted on 13 July 2020. In an email dated 5 August 2020 Cllr. Wilson requested the application be called in for determination by Planning Committee.

**Dwr Cymru Welsh Water** were consulted on 13 July 2020. In a response dated 29 July 2020 they noted “our records indicate the presence of a 225mm public combined sewer located in the lane to the south-east of the development site” and the development appeared to be “...within the protection zone of the public sewer measured 3 metres either side of the centreline.” and recommended the proposed development be repositioned. Notwithstanding the above, the response recommended the inclusion of a condition and advisory note relating to public sewage network.

## REPRESENTATIONS

The neighbouring properties were consulted on 13 July 2020 and letters of representation have been received from fourteen neighbours to date. The representations are summarised below:

- Concerns relating to the height, scale and mass of the building
- The building will negatively affect building density
- Loss of privacy and light
- Construction impacts
- Cumulative impact of modern development in the local area
- Building is not set away from the boundary
- Development unreasonably encloses the outlook of neighbouring properties
- The garages are one of Penarth’s quirks and charms
- Overshadowing of neighbouring properties
- Overbearing
- Loss of parking provision, street congestion and safety
- Combined adverse effect with application 2020/00737/FUL at 21 Victoria Square for ‘conversion of existing dwelling to create four number apartments with removal and replacement of the rear annex, replacement windows and associated works’ (Note: application undetermined to date)

- Fails the 'sensitive development test'
- Principle of backland development of rear lanes and concerns relating to precedent
- Effect on property values
- Lack of consultation from the LPA
- Lack of consultation with neighbours by developer
- The accuracy of the red line boundary
- Demolition of the garden wall

In addition, two separate solar studies have been submitted which are addressed in the main body of the report.

## REPORT

### Planning Policies and Guidance

#### **Local Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

#### **Strategic Policies:**

POLICY SP1 – Delivering the Strategy  
 POLICY SP4 – Affordable Housing Provision  
 POLICY SP10 – Built and Natural Environment

#### **Managing Growth Policies:**

POLICY MG4 – Affordable Housing

#### **Managing Development Policies:**

POLICY MD1 - Location of New Development  
 POLICY MD2 - Design of New Development  
 POLICY MD4 - Community Infrastructure and Planning Obligations  
 POLICY MD5 - Development within Settlement Boundaries  
 POLICY MD6 - Housing Densities  
 POLICY MD8 - Historic Environment

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

#### **Planning Policy Wales:**

National planning policy in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

The following chapters and sections are of particular relevance in the assessment of this planning application:

#### Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)

#### Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Accessibility
- Previously Developed Land

Para 3.16 states :

*Planning authorities should through a process of negotiation seek to improve poor or average developments which are not well designed, do not take account of their context and consider their place, or do not meet the objectives of good design. Where this cannot be achieved proposals should be rejected. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions.....*

#### Chapter 4 - Active and Social Places

- Living in a Place (housing, affordable housing and gypsies and travellers and rural enterprise dwellings )

#### Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)

#### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 24 – The Historic Environment (2017)

## **Supplementary Planning Guidance:**

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). Some SPG documents refer to previous adopted UDP policies and to ensure conformity with LDP policies, a review will be carried out as soon as is practicable following adoption of the LDP. The Council considers that the content and guidance of the adopted SPGs remains relevant and has approved the continued use of these SPGs as material considerations in the determination of planning applications until they are replaced or otherwise withdrawn. The following SPG are of relevance:

- Affordable Housing (2018)
- Model Design Guide for Wales
- Parking Standards (2019)
- Penarth Conservation Area
- Planning Obligations (2018)
- Residential and Householder Development (2018)
- Sustainable Development - A Developer's Guide
- Penarth Conservation Area Appraisal and Management Plan

## **Other relevant evidence or policy guidance:**

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007)
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 13/97 - Planning Obligations
- Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

## **Well-being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

### Issues

The main issues are considered to be:

- The principle of the development;
- The design and visual impact of the proposed development and whether it preserves or enhances the character or appearance of the conservation area;

- Whether the proposal will provide adequate amenity space and privacy for future occupiers and protect the amenity of neighbouring properties;
- Whether the proposal is acceptable in terms of impact on highway safety; and
- Whether the proposal makes adequate provision for affordable housing.

### Principle of development

The application site is in a defined settlement that has been identified as capable of accommodating additional residential development and the site is not allocated for a particular land use in the LDP. A dwelling would be compatible with the residential character of the area. Furthermore, the site is within walking and cycling distance of a range of goods and services and public transport. In principle, therefore, the proposal to build a dwelling here is acceptable.

Public concerns were raised about the development of rear gardens with several examples of planning applications being refused for that form of development in the local area. A material difference between the examples cited and the application site is the location of the site adjacent to a principal road as well as rear service lane with access derived from the principal road. On this basis, the proposed development is considered acceptable in principle.

### Design and impact on the Conservation Area

The Penarth Conservation Area covers a substantial part of Penarth and represents the development of the town which established rapidly following the opening of a tidal harbour on the River Ely in 1855, and a dock (completed in 1865) based upon the export of coal. This led to an initial development of a range of Victorian housing, and associated commercial development and later the growth of suburban housing and resort in response to the development of a rail link from Cardiff in 1887, and the establishment of public facilities.

Whilst there are variations in style and detailing, the Victorian architecture that defines the character and appearance of the area is prevalent throughout with a relatively limited palette of materials, predominately red brick with limestone, yellow brick and ashlar detailing also found. The site is within the Victoria Square/All Saints Character Zone as defined in the Penarth Conservation Area Appraisal and Management Plan ("the CAAMP") which includes substantial areas of speculative late Victorian/early Edwardian housing.

The site, and its neighbours, have undergone substantial alterations in the past, some of which detract from their individual character and present some harmful elements in the area. This is particularly visible at the rear of houses where there is substantial variation in the size, form and materials of extensions that have been added over time.

The contribution of the site to the identified character and appearance is limited to the aesthetic and evidential value of the boundary walls to the Roseberry Place frontage and the boundary wall between the site and No. 88 Stanwell Road.

The demolition of the garage building is considered separately under application 2020/00712/CAC, however, it is necessary to consider the effect of the demolition on the character and appearance of the conservation area in considering this application as well. The existing garage has no particular architectural or historic value and is considered to be a minor detractor. The demolition of the garage will therefore have a neutral effect on the character and appearance of the conservation area.

The proposed dwelling is set back from the road respecting the existing building line formed by Roseberry Place and Stanwell Road. It is subservient in scale to the terraced properties of these streets and will provide additional enclosure on Roseberry Place as illustrated in Figure 2.



Figure 2: Street scene

The proposed dwelling is unashamedly contemporary in its form featuring a mono-pitch roof to the principal part of the building reflecting the characteristic steeply pitched roofs of the area and a secondary, flat-roofed element which reduces the overall mass of the building. The use of a contemporary form is a long-standing tenet of design in the historic environment with this proposal using its materials to link with the conservation area. This form also allows the building to respect the height of the principal buildings that form Stanwell Road and Roseberry Place with the eaves and ridge height being subservient to the historic buildings. In respect of the proposed new boundaries, these are shown to match the proposed dwelling.

The use of imperial sized red brick with a dark mortar is one of the principal materials in the conservation area and its use reflects this important characteristic of the area.

This combination of materials and form are considered acceptable reflecting the broad characteristics of domestic buildings throughout the conservation area albeit in a contemporary manner.

Given the scale of the drawings, full details to an appropriate scale should be submitted by way of condition in relation to window/ doors, eaves and glazing (**Condition 03**). In addition, a sample panel of the brick work (**Condition 04**) and a full specification and schedule of materials should also be submitted by way of condition (**Condition 05**).

In respect of density, Policy MD6 requires residential development proposals within the key, service centre and primary settlements to have a net residential density of 30 dwellings per hectare. Taken by itself, the site will provide 34.48 dwellings per hectare meeting this standard. Overall, this part of the conservation area has a residential density of approximately 21 dwellings per hectare, the introduction of the proposed dwelling will marginally increase this.

### Amenity space

The Residential and Householder Development SPG requires a minimum of 20 square metres of amenity space per person to be provided, the majority of which should be private garden space. The SPG advises that typically, a three-bedroom house would be occupied by four people.

The proposed layout shows that there is in excess of 80 square metres which is considered to be usable and complies with this standard, with the main area of amenity space to the side and the front of the dwelling, set behind the boundary wall which will largely be private.

### Impact on the amenity of neighbouring properties

The application site is located at the rear of 86 Stanwell Road which comprises four flats. Two of these flats have windows which face the site. It is understood that these windows serve bedrooms and have additional windows facing Roseberry Place.

To the south west of the site is the rear garden serving 88, Stanwell Road. The proposal will be built up to this boundary adjacent to the garage that serves 88, Stanwell Road. No windows are proposed in this rear elevation on the boundary.

To the south-east of the site beyond the rear service lane is 1 Roseberry Place which comprises four flats. It is understood that the windows facing the site serve habitable rooms.

The application site includes part of the amenity space serving Flat 4 at 86, Stanwell Road. Currently, this flat benefits from 206 square metres of amenity space. The proposed development will reduce this to 80 square metres. Whilst this is a substantial reduction, it still complies with the guidance set out in the Residential and Householder Development SPG and is considered acceptable.

Windows in the side elevation serving the living/dining area are approximately 10.0 metres away from windows in the ground floor flat at the rear of No. 86, Stanwell Road. This does not comply with the standard set out in the Residential and Householder Development SPG which requires windows to be at least 21 metres apart. A condition requiring the side windows to be obscurely glazed and non-opening is, therefore, recommended (**Condition 06**) to mitigate this. Whilst this will reduce the principal living rooms to a single aspect in terms of outlook, it is considered that this is acceptable to ensure privacy to future occupiers and neighbouring properties. A further condition (**Condition 07**) is recommended removing permitted development rights for the insertion of new windows.

In respect of the first floor bathroom window overlooking the lane and 1 Roseberry Place, a similar condition requiring this to be obscure glazed and non-opening is recommended (**Condition 06**).

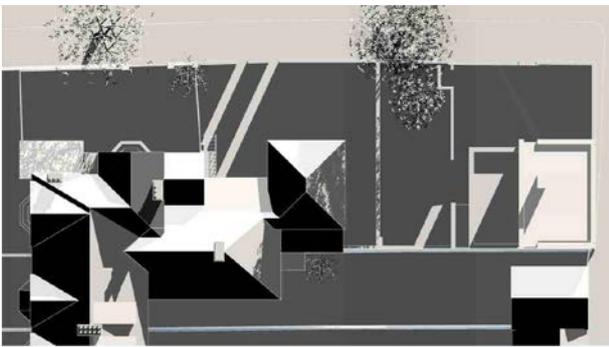
Locally, a degree of overlooking into neighbouring gardens is common and the proposal would be no different in this regard.

Turning next to the impact on neighbouring properties it is considered that the proposal will have the largest impact on the occupiers of No.'s 86 – 90, Stanwell Road and 1A – D, Roseberry Place.

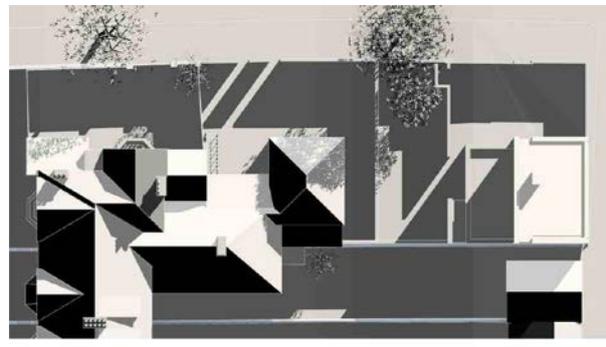
Several representations have been received citing concerns regarding overshadowing and two, separate, solar studies have been submitted by objectors to the proposal. Whilst it is acknowledged that there will be increased overshadowing of the site, it is necessary to consider whether this amounts to a harmful level.

Given the location of the building in relation to the Sun's path, no's 86-90 Stanwell Road will be affected to some degree from overshadowing. This will be most prominent between sunrise and approximately 09:00 between the Spring and Autumn Equinox. This is confirmed by the two solar studies indicating the impact of the proposed development on shadowing.

Figure 8, below, is an extract from one of the solar studies and demonstrates this showing the shadow impact on the Summer Solstice (taken to be 21 June).



Summer Solstice at 06:00



Summer Solstice at 07:00



Figure 8: Extract from solar study showing shadowing impact on 86 and 88, Stanwell Road. The site, as existing, is shown at the top of each image. The site, as proposed, is shown at the bottom.

Whilst it is accepted that there will be some overshadowing of these dwellings, it is considered that the impact of this will be limited to the early morning period and that this will not amount to an unacceptable impact to warrant refusal of the application.

It is inevitable that a building in this location and being built on two boundaries will, to some degree, enclose the street and neighbouring properties. The closest part of the proposed dwelling is located approximately 8.5 metres away from the rear elevation of the extended 86, Stanwell Road with the ridge set further back. This form allows for an unobstructed zone to be achieved and it is, therefore, considered that satisfactory levels of natural light and outlook will be achievable.

The impact of this reduces further where the building is not directly facing, so it is considered that the proposed dwelling will not have an unacceptable impact on the occupiers of other dwellings on Stanwell Road or Rosebery Place.

The proposed dwelling is located on the boundary of 88, Stanwell Road adjacent to the existing garage serving that property at the end of the garden. The flat roofed element being located approximately 15.0 metres, and the ridge being approximately 19.0 metres, away from the rear windows of that property. The location of the building is, therefore, considered acceptable in terms of the outlook and impact on the amenity of that property and is not considered to be overbearing.

For the reasons above, the proposal is considered to comply with policies SP1, MD2 and MD5 of the LDP.

## Highway Matters

The Parking Standards SPG places the application site in parking zone B ('Urban'). These maximum standard suggest one off-street parking space for every bedroom, up to a maximum of three.

In accordance with national policy and guidance, the parking standards should be 'interpreted as **maximum** rather than minimum standards'. It goes on to say that '[parking] provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport'. The provision of two parking spaces to serve a three bedroom dwelling within the site is, therefore, considered acceptable. A condition requiring the implementation of the parking prior to occupation is recommended (**Condition 08**).

It is noted that the proposal will result in the loss of some off street parking capacity, although it is understood that the site is currently used for storage with one car parked on the site. As a result, it is considered that the proposal will not result in an unacceptable additional demand for off-street parking.

Taking into account the above, it is considered that the proposal complies with Policy MD2 in this regard.

## Affordable Housing

Policies SP4, MG4 and MD4 requires all residential sites within this area resulting in a net gain of 1 or more dwellings to provide 40% affordable housing. Paragraph 5.10, page 11 of the SPG for Affordable Housing sets out that based on a net gain of 1 unit, the site should deliver a minimum of 0.4 affordable housing units, in the form of an off-site contribution that would be used towards off-site provision within the Vale of Glamorgan. Based on the identified need within the Stanwell Ward the contribution calculated in accordance with the formula set out within the SPG would be £27,770.40.

The applicant was advised of the required contribution and has confirmed their acceptance of this requirement. They will need to enter into an appropriate legal agreement to ensure the payment of this contribution.

From 1 January 2007 the Council introduced a separate fee system for progressing and the subsequent monitoring of planning agreements or obligations. The fee is calculated on the basis of 20% of the application fee or 2% of the total level of contributions sought whichever is the higher. In this instance the administrative fee would be £555.41.

## Other Matters

The contents of the consultation response from Dwr Cymru/Welsh Water is noted. The applicant's agent has provided copies of correspondence from Dwr Cymru's developer services account confirming they "...are comfortable with your proposals based on the information forwarded to us and are happy for any objection to be lifted due to the sewer being in 3<sup>rd</sup> part [sic] land and an adopted lane at that". The condition and advisory note relating to the public sewage network are recommended (**Condition 09** and **Advisory 02**).

The contents of the consultation response from Shared Regulatory Services are noted and conditions limiting the hours of construction and restricting the burning of materials are recommended (**Condition 10 and 11**).

The contents of the consultation response from the Council's Drainage Section are noted and an Advisory is recommended (**Advisory 3**).

Some representations raised concerns over a lack of consultation with neighbours from the development and the local planning authority. For development of the scale proposed, there is no requirement for developers to consult with neighbours prior to lodging a planning application. The local planning authority advertised the application in accordance with the appropriate Regulations.

A representation was received raising concerns over the accuracy of the red line boundary. The red line identifies the land to which the application relates, however, where land is now owned by the applicant, there is a requirement to serve notice on the relevant parties. The applicant's agent has confirmed that they are satisfied that all of the land shown in the red line is in the ownership of the applicant. Disputes relating to the accuracy of the boundary is a civil matter and lies outside the planning application process. Notwithstanding this, the development will be subject to the Party Wall Act.

One representation raised concerns about the effect on property values should the development be approved. Property values are not a material consideration in the determination of planning applications and no weight is afforded to this.

## RECOMMENDATION

Subject to the interested parties first entering into a Section 106 Agreement to secure the following:

- Provide an off-site contribution of **£27,770.40** towards affordable housing.

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

1. The development shall begin no later than five years from the date of this decision.

Reason:

To comply with the requirements of 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:

1087/S100 Site/Roof Plan  
1087/S101 Proposed Ground Floor Plan  
1087/S102 Proposed First Floor Plan  
1087/S200 Proposed Long Street Elevation  
1087/S201 Proposed Street Elevation  
1087/S202 Proposed Front Elevation

1087/S203 Proposed Rear Elevation  
1087/S204 Proposed Side/Lane Elevation  
1087/S205 Proposed Side/Garden Elevation  
1087/S300 Proposed Section AA  
1087/S301 Proposed Section BB  
Design and Access Statement

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. Notwithstanding the submitted plans and details, prior to their installation full details of:
1. Windows including reveals;
  2. Doors;
  3. Glazing; and
  4. Eaves

shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and shall thereafter be so retained.

Reason:

To safeguard visual amenity, as required by Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), Policy MD2 (Design of New Development) and MD8 (Historic Environment) of the Local Development Plan.

4. Prior to work commencing on the external facing of the development hereby permitted, a sample panel of a minimum of 1 square metre of the proposed brickwork and detail of the mortar type and pointing shall be prepared and made available for inspection and final written approval by the Local Planning Authority. Construction work shall only commence once written approval has been given, and the approved panel shall be retained throughout the period of development and shall form the basis of work to walls and external surfaces of the development.

Reason:

To enable the quality of the brickwork, coursing and pointing to be inspected in the interests of the visual quality of the work and to accord with the objectives of Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD2 (Design of New Development) and MD8 (Historic Environment) of the Local Development Plan.

5. Notwithstanding the submitted details, samples of all materials and finishes to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and shall thereafter be so retained.

Reason:

To safeguard visual amenity, as required by Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), Policy MD2 (Design of New Development) and MD8 (Historic Environment) of the Local Development Plan.

6. The window in the side/garden elevation shown on drawing 1087/S205 Proposed Side/Garden Elevation (ref window 7) and the windows shown on drawing 1087/S204 Proposed Side/Lane Elevation (ref window 6 & 7) shall be fitted with obscure glazing to a minimum of level 3 of the "Pilkington" scale of obscuration and shall be non-opening at the time of installation of the windows and shall be retained as such at all times.

Reason:

To ensure that the privacy and amenities of adjoining occupiers are safeguarded, and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

7. Notwithstanding the provisions of Class A Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission and shown on the plans in Condition 02 shall be inserted in the development.

Reason:

To safeguard the privacy of adjoining occupiers, and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

8. The dwelling shall not be occupied until the parking spaces have been laid out within the site in accordance with drawing no 1087/S100 Site/Roof Plan for two cars to be parked and those spaces shall thereafter be kept available for the parking of vehicles in perpetuity.

Reason:

To ensure that satisfactory vehicle parking and turning facilities is provided on site to serve the development, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

9. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the

environment and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

10. No construction work associated with the development hereby approved shall take place on the site on any Sunday or Bank Holiday or on any other day except between the following hours:

|                  |             |
|------------------|-------------|
| Monday to Friday | 0800 – 1800 |
| Saturday         | 0800 – 1300 |

Unless such work is:

(a) associated with an emergency (relating to health and safety or environmental issues);

(b) carried out with the prior written approval of the Local Planning Authority.

Reason:

To safeguard the amenities of local residents, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

11. During the construction of the dwelling hereby approved there shall be no burning of materials within the site.

Reason:

To safeguard the amenities of local residents, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

## REASON FOR RECOMMENDATION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

Having regard to Policy SP1 – Delivering the strategy, Policy SP4 – Affordable Housing Provision, Policy MG4 – Affordable Housing, Policy MD1 – Location of New Development, Policy MD 2 – Design of New Development, Policy MD4 – Community Infrastructure and Planning Obligations, Policy MD 5 – Development within Settlement Boundaries, Policy MD6 – Housing Densities and Policy MD8 – Historic Environment of the Vale of Glamorgan Adopted Local Development Plan 2011-2026, and the advice contained within the Council's Supplementary Planning Guidance on Affordable Housing, Model Design Guide for Wales, Parking Standards, Penarth Conservation Area, Planning Obligations, Residential and Householder Development, Sustainable Development - A Developer's Guide and the Penarth Conservation Area Appraisal and Management Plan, Planning

Policy Wales 10th Edition and Technical Advice Notes 12- Design and 24 – The Historic Environment, the development is considered acceptable in terms of its principle, effect on the historic environment, scale, design, impact on neighbours, parking, impact on highway safety and amenity space provision.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

**NOTE:**

- 1. Where the proposal requires both Planning Permission and Listed Building Consent or Conservation Area Consent work must not be commenced until both consents have been obtained.**
- 2. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)**

DCWW records indicate the presence of a 225mm public combined sewer located in the lane to the south-east of the development site. The applicant is also advised that some public sewers and lateral drains may not be recorded on DCWW maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

- 3. New developments of more than one dwelling or where the area covered by construction work equals or exceeds 100 square metres as defined by The Flood and Water Management Act 2010 (Schedule 3), will require SuDS Approval Body (SAB) approval prior to the commencement of construction.**

Further information of the SAB process can be found at our website or by contacting our SAB team: [sab@valeofglamorgan.gov.uk](mailto:sab@valeofglamorgan.gov.uk)

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.**



2020/00711/FUL

1807/L01A

ROSEBERY PLACE  
PENARTH

LOCATION PLAN

1:1250@A4      JUNE 20

LOYN + CO  
ARCHITECTS

02920 711432 | architecture@loyn.co.uk  
88 Glebe Street Penarth CF64 1EF | loyn.co.uk  
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**2020/00712/CAC** Received on 2 July 2020

**APPLICANT:** Mr. & Mrs. Swetman, 3, Dros y Mor, Penarth, Vale of Glamorgan CF64 3BA

**AGENT:** James Stroud Loyn and Co. Architects, 88, Glebe Street, Penarth, Vale of Glamorgan CF64 1EF

### **Land off Rosebery Place / rear of 86, Stanwell Road, Penarth**

Demolition of existing pre-fabricated garages to be replaced by proposed new, low energy 3 bed dwelling with associated external works and replacement boundary walls

### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application has been called in for determination by Cllr. Mark Wilson due to considerable public interest in the application.

### **EXECUTIVE SUMMARY**

The application site relates to land at the rear of 86, Stanwell Road, Penarth which is accessed from Roseberry Place.

The application seeks conservation area consent for the demolition of the existing garage building. The other outbuilding on the site and the boundary wall between the site and No. 88, Stanwell Road are exempt from the need for conservation area consent.

The existing garage has no particular architectural or historic value and is considered to be a minor detractor. The demolition of the garage will have a neutral effect on the character and appearance of the conservation area.

### **SITE AND CONTEXT**

The site is located within the Penarth Settlement Boundary, as identified within the adopted Vale of Glamorgan Local Development Plan (2011-2026). It is also located within the Penarth Conservation Area.

The application site comprises a block of single storey pre-fabricated garages located at the rear of No. 86 Stanwell Road, Penarth. The site fronts onto Rosebery Place, and is situated adjacent to an adopted service lane providing access to the rear of properties along Stanwell Road. The site also currently houses a smaller outbuilding.

The existing garage is approximately 6.25 metres deep, approximately 8.80 metres long and approximately 2.45 metres tall at its highest point. The roof has a gentle slope from front to rear which is approximately 2.35 metres high. It has a total volume of approximately 132 cubic metres.

The out building is approximately 6.10 metres long and has a maximum depth of approximately 3.65 metres. It has a maximum height of approximately 2.35 metres. It has a total volume of approximately 41 cubic metres.

The application is supported by a heritage impact assessment, design and access statement and ecology reports.

## DESCRIPTION OF WORKS

The application seeks conservation area consent for the demolition of the existing pre-fabricated garages and outbuilding, and their replacement with a low energy three bed dwelling with associated external works (which is the subject of a separate planning application).



Figure 1: The existing garage building from Roseberry Place.



Figure 2: The existing garage from the service lane.

## PLANNING HISTORY

1988/00758/FUL, Address: 86, Stanwell Road, Penarth, Proposal: Alterations and improvements to four existing flats. Decision: Approved

1991/01063/OUT, Address: 86, Stanwell Road, Penarth - Rear of - fronting Roseberry Place, Penarth, Proposal: Proposed two bedroomed house on site of redundant garage block, Decision: Refused

Also under consideration is the following application.

2020/00711/FUL, Address: Land off Roseberry Place / rear of 86, Stanwell Road, Penarth, Proposal: Demolition of existing pre-fabricated garages to be replaced by proposed new, low energy 3 bed dwelling with associated external works and replacement boundary walls.

## CONSULTATIONS

**Penarth Town Council** were consulted on 16 July 2020. In a response dated 19 August 2020 they objected “due to the application being incongruous and an overdevelopment of the site, inconsistent to height of neighbouring properties and loss of amenity space.”

**Local Ward Members** were consulted on 16 July 2020. No response has been received to date, although the accompanying planning application has been called in for consideration by Cllr. Wilson.

## REPRESENTATIONS

A site notice was also displayed on 27 July 2020. The application was also advertised in the press on 24 July 2020.

## REPORT

### Planning Policies and Guidance

#### **Local Development Plan:**

The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

#### **Strategic Policies:**

POLICY SP10 – Built and Natural Environment

#### **Managing Development Policies:**

POLICY MD8 - Historic Environment

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

#### **Planning Policy Wales:**

National planning policy in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

#### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 24 – The Historic Environment (2017)

#### **Supplementary Planning Guidance:**

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). Some SPG documents refer to previous adopted UDP policies and to ensure conformity with LDP policies, a review will be carried out as soon as is practicable following adoption of the LDP. The Council considers that the content and guidance of the adopted SPGs remains relevant and has approved the continued use of these SPGs as material considerations in the determination of planning applications until they are replaced or otherwise withdrawn. The following SPG are of relevance:

- Penarth Conservation Area
- Penarth Conservation Area Appraisal and Management Plan

#### **Other relevant evidence or policy guidance:**

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

#### **Well-being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

#### Preliminary Matters

This application is concerned solely with the demolition of the buildings on the site. The representations from neighbours and the Town Council are concerned with the merits of the proposed redevelopment of the site which are considered fully in the accompanying planning application (2020/00711/FUL). For the avoidance of doubt, the representations have been considered in that application.

#### Issues

The main issue is considered to be the effect of the demolition on the character and appearance of the conservation area.

The Penarth Conservation Area covers a substantial part of Penarth and represents the development of the town which established rapidly following the opening of a tidal harbour on the River Ely in 1855, and a dock (completed in 1865) based upon the export of coal. This led to an initial development of a range of Victorian housing, and associated commercial development and later the growth of suburban housing and resort in response to the development of a rail link from Cardiff in 1887, and the establishment of public facilities

Whilst there are variations in style and detailing, the Victorian architecture that defines the character and appearance of the area is prevalent throughout. The site is within the Victoria Square/All Saints Character Zone as defined in the Penarth Conservation Area Appraisal and Management Plan ("the CAAMP") which includes substantial areas of speculative late Victorian/early Edwardian housing

The contribution of the site to the identified character and appearance is limited to the aesthetic and evidential value of the boundary walls to the Roseberry Place frontage and the boundary wall between the site and No. 88 Stanwell Road.

Conservation Area Consent is required for the demolition of an unlisted building in a conservation area, though there are some exceptions. The existing garage has a volume of approximately 125 cubic metres and does not benefit from this exemption. The smaller outbuilding and the boundary wall between the site and No. 88 Stanwell Road are exempted from the requirement for conservation area consent. This application, therefore, is only concerned with the demolition of the garage.

Paragraph 6.1.17 of PPW states:

“Conservation area designation introduces control over the total or substantial demolition of unlisted buildings within these areas, but partial demolition does not require conservation area consent. Procedures are essentially the same as for listed building consent. When considering an application for conservation area consent, account should be taken of the wider effects of demolition on the building’s surroundings and on the architectural, archaeological or historic interest of the conservation area as a whole. Consideration should also be given to replacement structures. Proposals should be tested against conservation area appraisals, where they are available.”

Paragraph 6.13 of TAN 24 provides additional guidance relating to the demolition of unlisted buildings in conservation areas:

“There should be a general presumption in favour of retaining buildings, which make a positive contribution to the character or appearance of a conservation area. Proposals to demolish such buildings should be assessed against the same broad criteria as proposals to demolish listed buildings (see 5.15). In cases where it is considered a building makes little or no contribution, the local planning authority will normally need to have full information about what is proposed for the site after demolition. Consent for demolition should not be given without acceptable and detailed plans for the reuse of the site unless redevelopment is itself undesirable. The local planning authority is entitled to consider the broad principles of a proposed development, such as its scale, size and massing, when determining whether consent should be given for the demolition of an unlisted building in a conservation area.”

The buildings proposed for demolition are not identified as making a positive contribution to the character or appearance of the conservation area. A site inspection has confirmed the buildings have little architectural or historic value. They represent a utilitarian development that is in poor condition and are a minor detraction to the overall quality of the area.

For this reason, there is no objection in principle to the demolition of the garage building, however, this is subject to the acceptability or otherwise of a replacement development scheme for the site. This has been considered separately under application 2020/00711/FUL.

## RECOMMENDATION

APPROVE subject to the following condition(s):

1. The works hereby permitted shall begin no later than five years from the date of this decision.

Reason:

To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## REASON FOR RECOMMENDATION

The recommendation to approve conservation area consent is made having regard to Section 16 of the Planning (Listed Buildings and Conservation Areas) Act, 1990. In consideration of whether to grant listed building consent, this requires the local planning authority to have special regard to the desirability of preserving the building, or its setting, or any features of architectural or historic interest which it possesses.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

## 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.**



2020/00712/CAC

1807/L01A

ROSEBERY PLACE  
PENARTH

LOCATION PLAN

1:1250@A4      JUNE 20

LOYN + CO  
ARCHITECTS

02920 711432 | architecture@loyn.co.uk  
88 Glebe Street Penarth CF64 1EF | loyn.co.uk  
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**2020/00950/FUL** Received on 8 September 2020

**APPLICANT:** J.E. Thomas & Son. Flemingston Court, Flemingston Road, Flemingston, CF62 4QJ

**AGENT:** Mr Jeremy Mead No 2 The Courtyard, Lion Street, Abergavenny, NP7 5PE

### **Flemingston Court, Flemingston Road, Flemingston**

New horse accommodation building

### **REASON FOR COMMITTEE DETERMINATION**

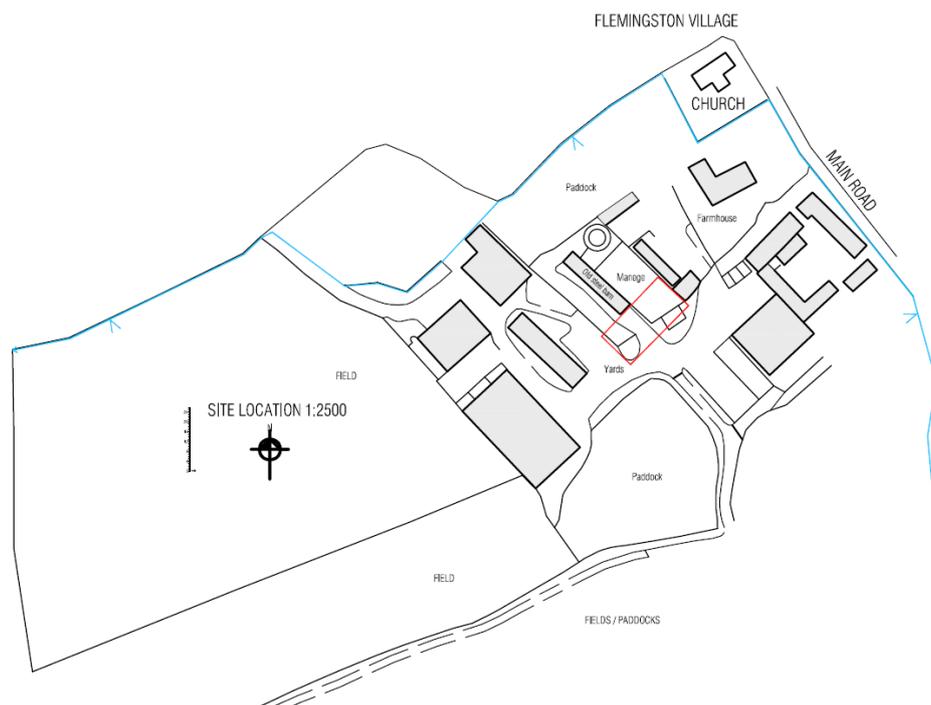
The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application has been submitted by a current Member of the Council.

### **EXECUTIVE SUMMARY**

The application seeks planning permission for the erection of new horse accommodation, located on the existing farm complex at Flemingston Court Farm, Flemingston. The proposed development is considered acceptable in relation to its siting, design and its impact on the rural area, the setting of the listed buildings and character and appearance of the conservation area, and neighbouring amenity. The application is recommended for approval.

### **SITE AND CONTEXT**

The site relates to an area within the existing farm complex at Flemingston Court. The main farmhouse is a large Grade II\* listed building and County Treasure within the Flemingston Conservation Area (CA). The site itself and the majority of the farmyard and more modern agricultural barns are located adjacent to the boundary of the CA, but not within it. The site is within the Upper & Lower Thaw Valley Special Landscape Area.



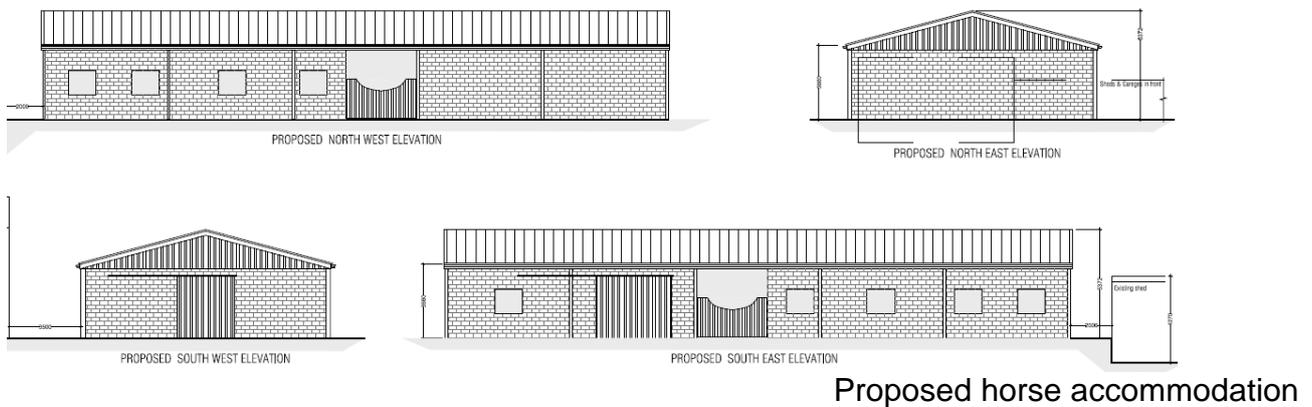
The site is located at the heart of the farm complex, adjacent to several existing barns, structures, paddocks, and horse exercise areas. The horse enterprise has run at the farm for over 20 years, Picketston Stud, and it is a breeding and breaking/training operation. Currently the horses are stabled in one of the existing barns on the site and the new accommodation, although smaller, will house the same number of horses.

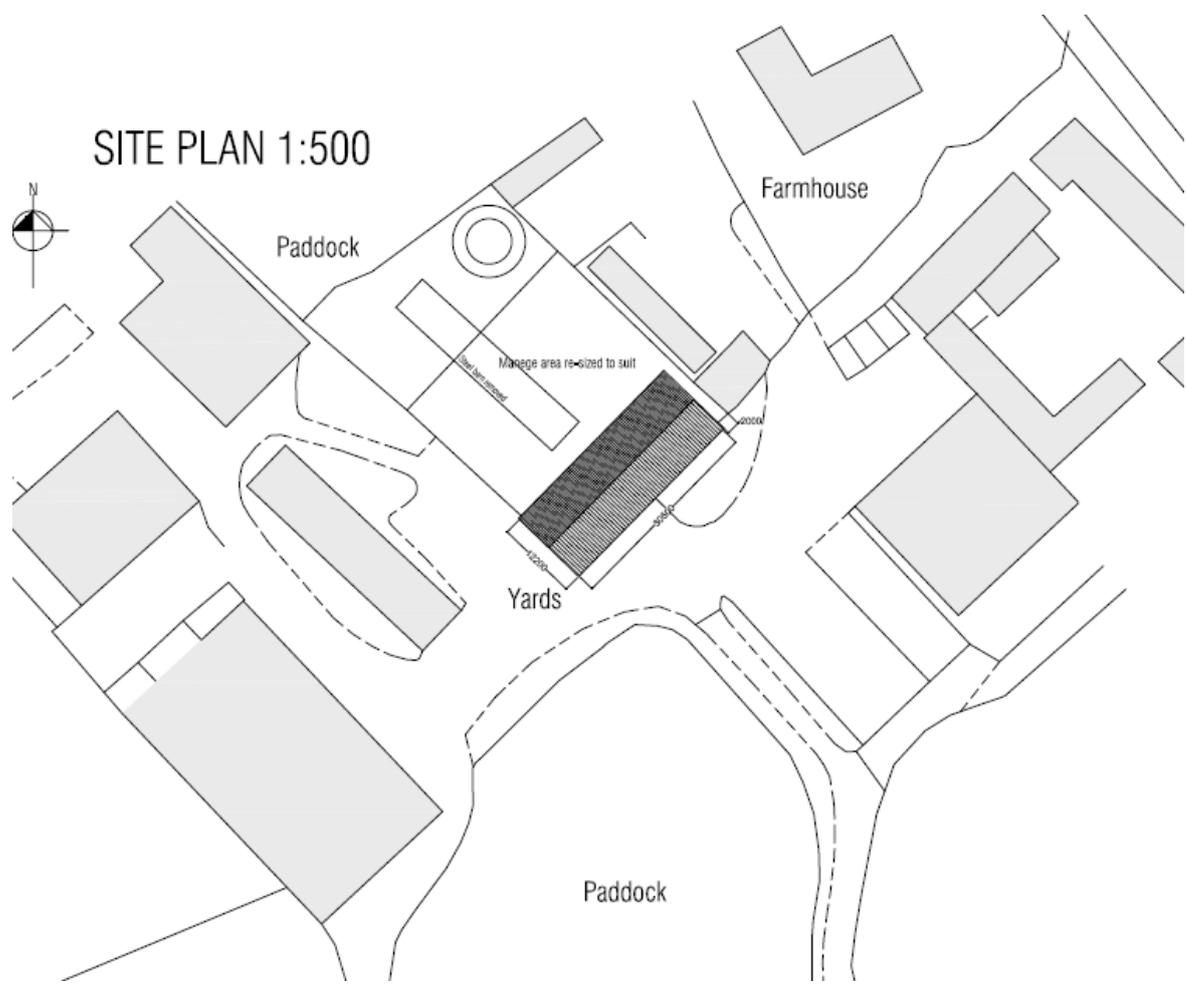
## DESCRIPTION OF DEVELOPMENT

The application seeks planning permission for the erection of new horse accommodation which comprises 8 horse boxes, tack room, store, feed store, washroom and solarium and a foaling box. The horse accommodation is of pitched roof design, constructed of masonry block walls with green coloured profile sheets above the eaves line, and a profile 6 cement fibre sheet roof.

The proposed building will measure 30.5m by 12.2m and an eaves and ridge height of 3.66m and 5.4 metres, respectively.

To accommodate the new horse accommodation an existing Dutch barn structure (in a poor state of repair) will be removed and the existing manege area will be resized. The new horse accommodation will be sited on the old manege and the current sand surface will be moved across to the cleared area. This area is bounded by the old stone rickyard wall which will be retained. The surface of the rickyard is loose stone so there will be no need for any groundworks.





Location of the horse accommodation within the farm complex

## PLANNING HISTORY

1991/00742/FUL, Address: Flemingston Court Farm, Flemingston, Proposal: Change of use of stone barns into four dwelling units, Decision: Approved

1991/00743/LBC, Address: Flemingston Court Farm, Flemingston, Proposal: Conversion of barns to residential units, Decision: Approved

1991/00744/CAC, Address: Flemingston Court Farm, Flemingston, Proposal: Conversion and change of use of stone barns - demolition of brick, steel, asbestos barns and animal sheds, Decision: Approved

1996/01127/FUL, Address: Flemingston Court Farm, Flemingston, Proposal: Variation of Condition 1 of permission 91/00742/FUL, Decision: Approved

1996/01128/FUL, Address: Flemingston Court Farm, Flemingston, Proposal: Variation of Condition 1 of permission 91/00743/LBC, Decision: Approved

2004/01462/FUL, Address: Flemingston Court Farm, Flemingston, Proposal: Agricultural building, Decision: Approved

2006/00025/FUL, Address: Flemingston Court Farm, Flemingston, Proposal: Conversion of three redundant agricultural buildings to create four holiday units, Decision: Approved

2006/00056/LBC, Address: Flemingston Court Farm, Flemingston, Proposal: Conversion of three redundant agricultural buildings to create four dwelling units and the construction of two new garages and five external car parking spaces to serve the new dwellings, Decision: Approved

2020/00938/FUL, Address: Flemingston Court, Flemingston Road, Flemingston, Proposal: New stock shed and feed storage space off existing stock/feed shed, Decision: Not yet determined

## CONSULTATIONS

**St. Athan Community Council** – No objection

**Shared Regulatory Services (Pollution)** – No response was received at the time of writing this report.

**St Athan Ward Member** – No response was received at the time of writing this report.

## REPRESENTATIONS

The neighbouring properties were consulted on 14 September 2020 and a site notice was also displayed on 5 October 2020. No representations have been received.

## REPORT

### Planning Policies and Guidance

#### **Local Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

#### **Strategic Policies:**

POLICY SP1 – Delivering the Strategy

POLICY SP9 – Minerals

POLICY SP10 – Built and Natural Environment

#### **Managing Growth Policies:**

POLICY MG17 – Special Landscape Areas

#### **Managing Development Policies:**

POLICY MD1 - Location of New Development

POLICY MD2 - Design of New Development

POLICY MD7 – Environmental Protection

POLICY MD8 – Historic Environment  
POLICY MD9 – Promoting Biodiversity

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

### **Planning Policy Wales:**

National planning policy in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 12 – Design (2016)

### **Other relevant evidence or policy guidance:**

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

### **Well-being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the

present are met without compromising the ability of future generations to meet their own needs.

### Issues

The main issues in the consideration of this application are the potential impact on visual amenity in this countryside location, the setting of listed buildings and Flemingston Conservation Area, impact on neighbouring amenity and other considerations.

### Visual Amenity

The proposed horse accommodation is located at the heart of the existing farmyard area and set in the context of several existing large and small agricultural sheds and buildings. The design of the horse accommodation is functional and the choice of materials appropriate.

The location of the new building is such that it will be viewed in the context of an existing operational farm and will not have an adverse impact on the visual amenity of the countryside location or on the special landscape area.

The proposal therefore complies with policies MG17, MD1 and MD2 of the Vale of Glamorgan LDP.

### Setting of listed buildings and conservation area

The primary consideration for any works affecting a listed building or conservation area is the statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses in the case of listed buildings and the desirability of preserving or enhancing the character or appearance of the conservation area in the case of conservation areas.

There will be no direct impact on any designated historic asset, however, the proposal will have some impact on the setting of several listed buildings and the Flemingston Conservation Area. It is, therefore, necessary to assess whether this impact will preserve or enhance the significance of the setting of the listed buildings and conservation area.

Taking account of the local topography and townscape it is considered that the setting of Flemingston Court (Grade II\*), Detached Kitchen and Flemingston Court (Grade II) and (Combination Farm Building) and the Conservation Area will be affected to some degree by the proposed development. The extent of the yard associated with Flemingston Court Farm has expanded progressively west from the house and listed outbuildings since the early 20th century. This has given the site an overtly agrarian character.

The proposed development is considered to reflect this and whilst the scale and materials are significantly different to those used in the historic buildings, they reflect changing agricultural practices and, as such, preserve this aspect of the identified character. It is considered that the proposal will preserve the setting of the listed buildings and the conservation area in accordance with Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

The proposal therefore also complies with policy MD8 of the Vale of Glamorgan LDP.

### Neighbouring Amenity

The proposed stables are not to increase the existing enterprise on site, rather to move the horses into a modern and therefore improved level of accommodation. The stable building is located at the heart of the existing farmyard, so is sufficiently distanced and screened by existing farm buildings, from the main neighbouring properties to the north and east of the farm thereby safeguarding existing public and residential amenity.

The proposal therefore complies with policy MD2 and MD7 of the Vale of Glamorgan LDP.

### Other considerations

In conjunction with the proposal for the horse accommodation building, the applicant has recognised that these can be ideal for bird/bat nesting/foraging and that it can be beneficial in ecology terms to support the habitat of such creations by adding support features to the building scheme.

It is proposed that 2 classic RSPB type nesting boxes be installed at high level on the north east facing elevation of the proposed building.

This biodiversity enhancement is welcomed and supports policies MD2 and MD9 of the Vale of Glamorgan LDP.

### RECOMMENDATION

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

1. The development shall begin no later than five years from the date of this decision.

Reason:

To comply with the requirements of 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:

20-020 05 'Location and Site'  
20-020 07 'Proposed Site, Plan and Elevations'  
20-020 'Ecology Enhancement'

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. 2 classic RSPB type nesting bird boxes shall be installed at high level on the north east facing elevation of the proposed building, within 3 months of its erection.

Reason:

In the interests of biodiversity and to ensure compliance with Policy MD9 of the LDP.

### REASON FOR RECOMMENDATION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

Having regard to Policies MD1, MD2, MD7 MD8, MD9 and MG17 the proposed development is considered acceptable in relation to its siting, design and its impact on the appearance and character of the rural area, the setting of the listed buildings and character and appearance of the conservation area, and neighbouring amenity. Furthermore, the proposed ecological enhancement proposed is welcomed.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

The appropriate marine policy documents have been considered in the determination of this application in accordance with Section 59 of the Marine and Coastal Access Act 2009.

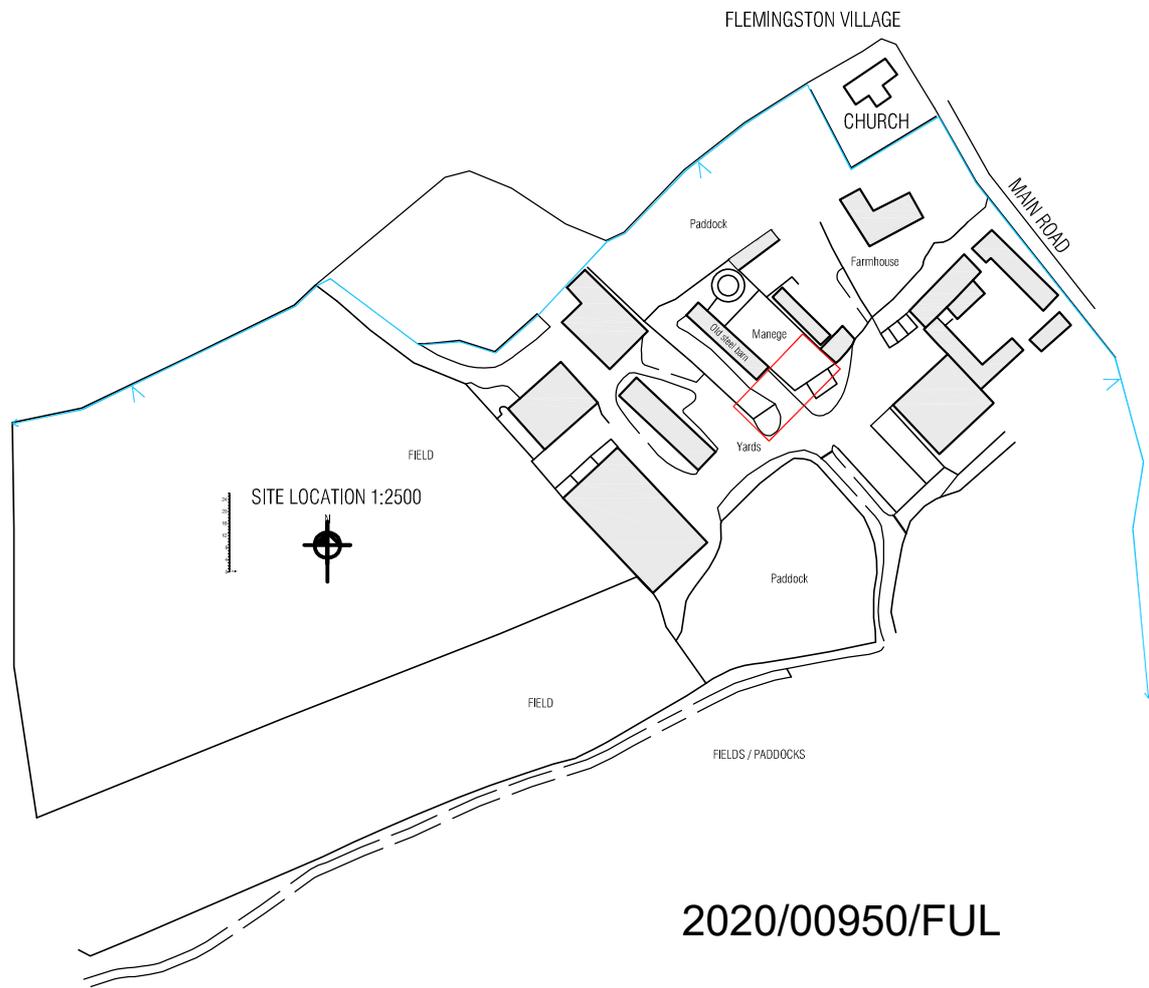
### NOTE:

**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.**



2020/00950/FUL



LOCATION MAP 1:25,000



P.58

REF DATE REVISION

**OnlineCAD** Ltd.  
ARCHITECTURAL SERVICES

No.2 The Courtyard  
Lion Street  
ABERGAUENNY  
MONMOUTHSHIRE  
NP75PE  
01873 840617 info@onlinecad.co.uk

CLIENT:  
J.E.Thomas and Son.

PROJECT:  
Flemingston Court  
Flemingston, Barry  
CF62 4QJ

SHEET TITLE:  
Location and Site

New Horse Accommodation Block

|                        |                 |               |
|------------------------|-----------------|---------------|
| SCALE:<br>1:2500 on A4 | DATE:<br>Aug 20 | DRAWN:<br>RAP |
|------------------------|-----------------|---------------|

|            |     |
|------------|-----|
| DRAWING No | REV |
| 20-020     | 05  |

**APPLICANT:** Mr Mathew, Pen Y Bryn, Llanmaes, CF61 2XR

**AGENT:** Mr Mathew, Pen Y Bryn, Llanmaes, CF61 2XR

### **Pen Y Bryn, Llanmaes**

Retention of change of use of an area of agricultural land temporarily for a period of 18 months for the purpose of a restoration of an ex British Railway Luggage Van body. The van body will rest on wooden sleepers and will have no direct contact with the floor as there is no running gear/wheel sets.

### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application is recommended for refusal, with a dual recommendation for enforcement action. The enforcement action, which also includes additional development that has not been applied for, is not covered by the scheme of delegation so committee authorisation is required.

### **EXECUTIVE SUMMARY**

This report considers an application for retrospective permission to change the use of part of a field, north of the dwelling known as Pen Y Bryn, Llanmaes. The application seeks permission to use the land, for 18 months, for the storage of, and works to, a former railway luggage van. The van is not attached to the ground, so the development is considered to be a change of use, rather than operational development.

It is concluded that the proposed change of use represents an unjustified and unacceptable form of development in the countryside, which fails to respond appropriately to the rural context and is harmful to the appearance and character of the immediate surroundings and the wider countryside setting, so is contrary to local and national policies.

Therefore, this report makes a dual recommendation that the application is refused, and enforcement action is authorised, so that an enforcement notice can be issued, to secure the ceasing of the unauthorised change of use and the removal of the former railway luggage van from the site.

In addition, during the assessment of the application it became apparent that an unauthorised outbuilding, had been constructed at the site, close to the railway van body. Consequently, in addition to the unauthorised change of use, for which retrospective permission is sought under this application, there is also unauthorised operational development at the site, for which retrospective permission has not been sought.

The unauthorised operational development resulting from the outbuilding has no bearing on the determination of the retrospective application for change of use. However, in recommending that enforcement action be taken following the refusal of the application, it is necessary to ensure that all breaches of planning control at the site are considered at the same time. Consequently, this report also considers the expediency of taking enforcement action to secure the removal of the unauthorised operational development.

It is concluded that the unauthorised outbuilding represents an unjustified and unacceptable form of development in the countryside, which is visible from surrounding public viewpoints, out of keeping with the context of the immediate setting, and serves to overly domesticate the land, so in contrary to local and national policy. It is considered expedient to take enforcement action to secure the removal of the harm created by the outbuilding. Therefore, this report makes a further recommendation that enforcement action is authorised, so that an enforcement notice can be issued, to secure the removal of the unauthorised outbuilding.

In addition, in the event of non-compliance with the enforcement notice, authorisation is also sought to take such legal proceeding that may be required.

## SITE AND CONTEXT

The application site relates to agricultural land located to the north of the dwelling known as Pen Y Bryn, Llanmaes. The land forms part of the wider land ownership of Pen Y Bryn, but is not within the residential curtilage or established garden.

The application site is located outside of any settlement boundary and is therefore located in the countryside as defined by the Local Development Plan (LDP). The site is largely enclosed by trees and hedgerow, and directly adjoins the adopted highway to the north, with a public footpath running parallel to the site approximately 75m to the west. The site is located within a Mineral Safeguarding Zone for Limestone (Category 2).

An extract of the submitted site location plan along with an aerial image (dated June 2018) can be viewed below.



## DESCRIPTION OF DEVELOPMENT

### *Background to the application*

Planning permission was granted under planning reference 2016/00323/FUL for the installation of a narrow gauge railway track, for private use only, located on land associated with Pen Y Bryn.

The Council's Enforcement Team were subsequently contacted in November 2018 because the track had been extended and was not located as approved. A retrospective application was then submitted, under planning reference 2019/00317/FUL, and permission was granted, for the retention of the narrow gauge railway track as laid. The approved track, with supporting timber and hard-core, measured approximately 1 metre wide by 300 metres in length, and ran partially within the established garden of Pen y Bryn and within field parcels to the north and south of the dwelling. The narrow gauge railway track was conditioned to be for private use only.

In August of 2020 the Council's Enforcement Team were again contacted regarding a large 'railway carriage' which had been placed on the land to the north of Pen Y Bryn, adjacent to the highway. An initial investigation concluded that this was unauthorised development. As the 'railway carriage' was not attached to the ground, the development was considered to be a change of use, rather than operational development. An application was therefore submitted seeking retrospective permission for the change of use.

### *The current application*

This application seeks permission to retain the change the use of an area of agricultural land, for a temporary period of 18 months, for the restoration of an ex British Railway luggage van body. The luggage van is approximately 9.75m by 2.5m and 2.7m high, plus supports. It rests on wooden sleepers and has no direct contact with the ground, as there is no running gear. It is located at the northern edge of the field, directly adjacent to the hedge which forms the boundary to the highway.

It should be noted that:

- Whilst the application form refers to the works as 'restoration', patio style doors and wooden flooring have been added to the luggage van, which appear to relate more to a 'conversion', rather than to a 'restoration' of the luggage van to its former condition.
- The works are already quite advanced, so it is likely that part of the requested 18 month period would be for the storage of the van body on the land. The change of use will therefore be referred to, and considered as use of the land for the storage of, and works to, a former railway luggage van.
- The luggage van is not of a scale that would run on the previously approved narrow gauge railway track, so is not considered to be linked to that existing permission.

Photos of the ex-railway luggage van body, taken from the highway and inside the site, are shown below.



#### *Additional matter for consideration*

During the site visit for the application it became apparent that an outbuilding had been constructed at the site, close to the railway van body. This does not benefit from permitted development rights and does not have planning permission. Consequently, in addition to the unauthorised change of use, for which retrospective permission is sought under this application, there is also unauthorised operational development at the site (i.e. the outbuilding) for which retrospective permission has not been sought.

The unauthorised operational development has no direct bearing on the determination of the retrospective application for change of use. However, it is necessary to consider the site as a whole because if any enforcement action is considered necessary, all identified breaches of planning control at the site need to be covered. Therefore, throughout this report, a box has been put around sections which relate only to the unauthorised outbuilding, which is not covered by the application, to distinguish them from sections which relate to the determination of the planning application.

Photos of the unauthorised outbuilding are shown below.



The outbuilding, which has a sign on the front saying “the Station” is domestic in its scale and design and has the appearance of a wooden summerhouse. It is located close to the luggage van and the highway, in the northern section of the site.

## RELEVANT PLANNING HISTORY

### *Application history:*

- 2016/00323/FUL: Pen Y Bryn, Llanmaes - Installation of narrow gauge railway for private use including a change of use of part of the site from existing meadowland. Decision: Approved
- 2016/00323/1/NMA: Pen Y Bryn, Llanmaes - Non-Material Amendment - Realignment and amendment to the track layout together with additional siding capacity to provide storage space for rolling stock. Decision: Withdrawn.
- 2018/00742/FUL: Pen Y Bryn, Llanmaes - Enlarged Oil Shed. Decision: Approved
- 2019/00317/FUL: Pen Y Bryn, Llanmaes - Realignment and amendment to the track layout of the private use narrow gauge (609mm) railway approved under Planning Permission ref. 2016/00323/FUL, together with additional siding capacity to provide improved safe operation and storage capacity for rolling stock. Decision: Approved.

### *Enforcement history:*

- ENF/2018/0124/PC: Pen Y Bryn, Llanmaes - Laying of further railway track and erection of a building to house a train. The case was closed after retrospective planning permission was granted under 2018/00742/FUL for retention of the building.
- ENF/2018/0351/PC: Pen Y Bryn, Llanmaes - Laying of additional track. The case was closed after retrospective planning permission was granted under 2019/00317/FUL for the revised and additional track.
- ENF/2020/0275/CLL: Pen Y Bryn, Llanmaes - Unauthorised use of agricultural land for the storage and renovation of a former railway carriage. The case led to the submission of the current planning application.

## CONSULTATIONS

**Llanmaes Community Council** were consulted on 20 October 2020. A response received on 05 November 2020 objects to the proposal on the following grounds:

1. It is a retrospective planning application relating to a series of railway developments in the area where the work has already been started, demonstrating a lack of good faith by the applicant.
2. This is an unauthorised development in open countryside on a green field site/agricultural land regardless of the recent actions of the owner and lack of recent farming activities (there are already agricultural structures in the field).
3. There are several structures in addition to the railway carriage that have been built this year; railway station/waiting room and signal box that seem to form part of the overall development but are not mentioned in the planning application.
4. The location of the carriage/shed in a highly visible location beside the road is an unnecessary intrusion into the rural landscape.
5. If this is ultimately to become a business operation there has been no demonstration of the sustainability of the business or business plan

**Llantwit Major Ward Members** were consulted on 20 October 2020. No response had been received at the time of writing this report.

## REPRESENTATIONS

The neighbouring properties were consulted on 20 October 2020 and a site notice was displayed on 22 October 2020. To date 2 letters of objection have been received. The objections are summarised below:

- The luggage van has been built from scratch not restored on site. It's now painted, roofed, glazed including French doors and watertight. I object to the application as it appears complete; internal restoration presumably should be no more than shelving.
- Concerns about cumulative impact of development at the site.
- Concerns that the luggage van would be sited for longer than the proposed 18 month period.
- Concerns about the reasons for the siting and that it will be a commercial venture close to neighbours, which would be unreasonable and disrupt their enjoyment of their land.
- Earlier applications were misleading as the site is used for commercial/charity events, and the site has been openly marketed online as a commercial leisure enterprise.
- Impact on wildlife/sites ecological interests.
- Not in keeping with the countryside location.

## REPORT

### Planning Policies and Guidance

#### **Local Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

## **Strategic Policies:**

POLICY SP1 – Delivering the Strategy  
POLICY SP9 – Minerals

## **Managing Growth Policies:**

POLICY MG22 – Development in Minerals Safeguarding Areas

## **Managing Development Policies:**

POLICY MD1 - Location of New Development  
POLICY MD2 - Design of New Development  
POLICY MD7 - Environmental Protection  
POLICY MD9 - Promoting Biodiversity

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

## **Planning Policy Wales:**

National planning policy in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales. The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking: Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking.

Chapter 3 of PPW deals with strategic and spatial choices, as well as placemaking in rural areas. It provides the following advice in relation to good design.

*3.9 “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.”*

*3.14 “Site and context analysis 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.”*

*3.16 “Planning authorities should through a process of negotiation seek to improve poor or average developments which are not well designed, do not take account of their context and consider their place, or do not meet the objectives of good design. Where this cannot be achieved proposals should be rejected.”*

3.34 *“The countryside is a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources”.*

3.56 *“Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.”*

4.2.24 *“In the open countryside, away from established settlements recognised in development plans or away from other areas allocated for development, the fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area.”*

#### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)

TAN 12 provides the following advice:

2.6 *“Design which is inappropriate in its context, or which fails to grasp opportunities to enhance the character, quality and function of an area, should not be accepted, as these have detrimental effects on existing communities.”*

4.5 *“In many cases an appraisal of the local context will highlight distinctive patterns of development or landscape where the intention will be to sustain character. Appraisal is equally important in areas where patterns of development have failed to respond to context in the past. In these areas appraisal should point towards solution which reverse the trend.”*

4.8 *“Appraising “character” involves attention to topography; historic street patterns, archaeological features, waterways, hierarchy of development and spaces, prevalent materials in buildings or floorscape, architecture and historic quality, landscape character, field patterns and land use patterns, distinctive views (in and out of the site), skylines and vistas, prevailing uses and plan forms, boundary treatments, local biodiversity, natural and cultural resources and locally distinctive features and traditions (also known as vernacular elements).”*

*5.8.1 “The special qualities of the rural landscape and coastline of Wales should be recognised. The qualities should be enhanced through conservation of the character of the countryside and by achieving quality in new development”.*

### **Welsh National Marine Plan:**

National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this application. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals within the Marine Plan Area for Wales.

### **Supplementary Planning Guidance:**

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Biodiversity and Development (2018)
- Design in the Landscape including DG7 Roads- Rural and DG13-Rural Settlements.
- Model Design Guide for Wales
- Residential and Householder Development (2018)

### **Other relevant evidence or policy guidance:**

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Government Development Management Manual, including Section 14 Annex: Enforcement Tools

### **Well-being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council’s duty and the “sustainable development principle”, as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

### Issues

It is considered that the main issues relate to the principle of the development, the design and impact of the development on the surrounding countryside and the impact on neighbouring amenity.

### Principle of Development

The site falls outside of any residential settlement boundary as defined in the Vale of Glamorgan Adopted Local Development Plan 2011 – 2026 and as such is located in the countryside.

Policy MD1 – Location of New Development states that new development should, amongst other criteria, have no unacceptable impact on the countryside, reinforce the role and function of settlements within the Vale, have access to or promote sustainable modes of transport, benefit from or provide new infrastructure and have no unacceptable impact on the best and most versatile agricultural land. This local policy is guided by Planning Policy Wales Ed.10, which also promotes sustainable development.

Paragraph 3.34 of PPW (Edition 10) states: *“The countryside is a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources”*.

The predictive agricultural quality according to Welsh Government data is moderate – Grade 3b. This is not amongst the ‘best and most versatile’ as referred to within Policy MD1 of the LDP. The development is therefore considered acceptable in this respect.

Whilst not lying within a statutorily protected area or landscape designation, nevertheless, the application site is located in the countryside and it has a pleasant rural character and setting. The proposal seeks a change of use of the site for a period of 18 months, which would involve the siting of a former railway luggage van within an open field parcel and would be visible from the wider area. There is no agricultural need for the proposals, and the storage of and works to the luggage van in this field are not necessary to support an established rural enterprise.

Policies within local and national framework are generally restrictive of what should be allowed in the countryside. This is to protect distinctive rural character from unacceptable and unjustified new development. The change of use of the land for the storage of and works to the luggage van is unjustified insofar as there is no reasonable justification or need for this kind of land use to be in a rural location. The change of use harms the character and appearance of the surroundings and there are no overriding reasons for the storage and works to be carried out in the countryside. The only reason for the chosen location of the luggage van seems to be for the convenience and preference of the applicant.

The change of use of the land to use for the storage of and works to a former railway luggage van body, degrades the rural character of the area and whilst the use does not have an unacceptable impact on the best and most versatile land, the use does urbanise the field parcel. On this basis, it is considered that the proposal has an unacceptable impact on the countryside, so fails to meet criterion 1 of MD1, and is contrary to the advice within paragraph 3.34 of PPW.

### Visual Impact

Policy MD2 (Design of New Development) requires all development proposals to positively contribute to the context and character of the surrounding natural and built environment, and respond appropriately to the local context and character in terms of use and form. Policy MD1 (Location of New Development) states new development should amongst other criteria have no unacceptable impact on the countryside.

Policy DG13 of the 'Design in the Landscape' SPG provides design aims for the rural settlements stating '*to reduce, and wherever feasible, reverse the erosion of locally distinct rural character which results in suburbanisation.*'

This is supported by paragraph 5.5 of TAN12 which states: '*The way in which development relates to its urban or rural landscape or seascape context is critical to its success. Because of this, an understanding of landscape quality, including its historic character is fundamental to the design process.*'

This is emphasised for rural settings with paragraph 5.8.1 of TAN12 which states that...'*The special qualities of the rural landscape and coastline of Wales should be recognised. The qualities should be enhanced through conservation of the character of the countryside and by achieving quality in new development.*'

The site is enclosed by mature hedgerow which partially screens views of the development from the wider area. Nevertheless, the ex-railway luggage van body is clearly visible from the adopted highway. In addition, a public right of way runs close to the western boundary of the site from where there are views of the luggage van. Storage of and works to a former railway luggage van is not a use normally associated with a countryside setting and introduces an industrial feature which is considered to be damaging to the character of the countryside.

This view is also supported with national policy in PPW10. Paragraph 4.2.24 states "*In the open countryside, away from established settlements recognised in development plans or away from other areas allocated for development, the fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area.*"

Whilst every application is judged on its own merits, small incremental changes such as that being considered under this application undermine the character of the countryside, collectively resulting in long term harm to its setting. The use of this land for this essentially light industrial use, and the inevitable spill out around the carriage of associated paraphernalia and items associated with the works, is considered to be alien in this rural context and would be demonstrably harmful to the appearance of the paddock/field parcel.

In summary, the proposed use of the land is considered to be unjustified, and fails to respond appropriately to the rural context and character of the immediate site and its countryside surroundings. The visual impact of the railway van body, and associated paraphernalia, is considered to be demonstrably harmful to the appearance and character of the immediate surroundings and the wider countryside setting. The proposal therefore does not meet the aims and criterion set on in policies MD1 (criterion 1) and MD2 (criteria 1 and 2) of the LDP, or the aims of the Policy DG13 of the Design in Landscape SPG, paragraphs 5.5 and 5.8.1 of TAN12 and the advice in paragraph 4.2.24 of PPW edition 10 as outlined above.

The application seeks temporary permission for a period of 18 months. Whilst the proposed temporary period would reduce the length of time for which the detrimental impact would be experienced, it does nothing to reduce the intensity or extent of the detrimental impact. In addition, the application was not supported by any reasoning or

justification for the requested length of time, or any details on the procedure and arrangements to ensure the timescale could and would be met. Consequently, it is considered that the proposal for a temporary permission does not overcome the detrimental impacts set out above.

*Consideration of the principal and visual impact of the unauthorised outbuilding*

Whilst being domestic in its scale and design, the unauthorised outbuilding is located well outside of the residential curtilage associated with the dwelling, so does not benefit from householder permitted development rights. There is no agricultural or rural enterprise need for the outbuilding, so its construction in this location represents unauthorised and unjustified development. The outbuilding is visible from public vantage points and its presence significantly domesticates the field parcel and has an unacceptable impact on the rural character of the site and its countryside setting. For these reasons, had an application to retain the outbuilding been submitted, it would have been considered to be contrary to Policies MD1 (criterion 1) and MD2 (criteria 1 and 2) of the LDP.

### Neighbouring Amenity

Criterion 8 of policy MD2 requires that new development should safeguard existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. Additional guidance is contained in the Council's SPG on Residential and Householder Development (2018).

The ex-railway luggage van body would be located approximately 120 metres away from neighbouring dwelling and screened by hedgerow. Given this, the proposal is not considered to adversely impact the privacy or amenity of neighbours.

### Biodiversity

Policy MD9 of the LDP is most relevant in respect of ecology matters, and it states 'New development proposals will be required to conserve and where appropriate enhance biodiversity interests unless it can be demonstrated that:

1. The need for the development clearly outweighs the biodiversity value of the site; and
2. The impacts of the development can be satisfactorily mitigated and acceptably managed through appropriate future management regimes.

The Council's Biodiversity and Development SPG (2018) requires new development to provide ecological enhancements to promote biodiversity within the Vale of Glamorgan. The application has not been supported by a biodiversity scheme, however given the scale and nature of the development, it is considered that enhancements could be secured by way of condition should the application be acceptable in other regards.

### Mineral Safeguarding

Policies SP9 (Minerals) and MG22 (Development in Minerals Safeguarding Areas) seek to safeguard known mineral resources. Policy MG22 states that, in such areas with known resources, new development will only be permitted in an area of known mineral resource where it has first been demonstrated that:

1. Any reserves of minerals can be economically extracted prior to the commencement of the development; or
2. Extraction would have an unacceptable impact on environmental or amenity considerations; or

3. The development would have no significant impact on the possible working of the resource by reason of its nature or size; or
4. The resource in question is of poor quality/quantity.

In this case, having regard to criterion 2, given the proximity to dwellings, it is considered that any extraction of the mineral resource would have an unacceptable impact on the amenity of the occupiers of the neighbouring dwellings. Therefore, as extraction would be likely to have an unacceptable impact on amenity, the proposal is in line with Policy MG22 in that it would satisfy criterion 2.

#### *Consideration of other impacts of the unauthorised outbuilding*

It is considered that if an application for the retention of the outbuilding had been submitted, the conclusions set out above with regard to neighbouring amenity, biodiversity and mineral safeguarding, would apply to the outbuilding in the same way as they apply to the application for change of use.

#### DUAL RECOMMENDATION

It is recommended that:

- (1) The application for temporary planning permission for the change of use of the land be refused.
- (2) The Head of Legal Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) to require:
  - (i) The cessation of the use of the land for the storage of and works to a former railway luggage van body
  - (ii) The removal from the land of the former railway luggage van body and all items associated it
  - (iii) The removal from the land of the outbuilding
  - (iv) The reinstatement of the land to its former condition, by the laying of topsoil and the sowing of grass seed.
- (3) In the event of non-compliance with the Notice, authorisation is also sought to take such legal proceedings as may be required.

#### Implications of serving an Enforcement Notice

- Resources - Any costs involved in drafting and issuing Notices, attending enquiries and undertaking monitoring work can be met within the departmental budget. There are no employment issues.
- Legal - If an Enforcement Notice is served, the recipient has a right of appeal under Section 174 of the Town and Country Planning Act 1990 (as amended). The Action is founded in law and would not be considered to breach any of the rights referred to in the Human Rights Act.
- Equal opportunities - None.

## REFUSE AND AUTHORISE ENFORCEMENT ACTION

That in the event of the Committee agree to the following reason for refusal, the Head of Legal Services be authorised to serve an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) to require:

- (i) The cessation of the use of the land for the storage of and works to a former railway luggage van body
- (ii) The removal from the land of the former railway luggage van body and all items associated it
- (iii) The removal from the land of the outbuilding
- (iv) The reinstatement of the land to its former condition, by the laying of topsoil and the sowing of grass seed.

In the event of non compliance with the Notice, authorisation is also sought to take such legal proceedings as may be required.

## RECOMMENDATION

### REFUSED

### REASON FOR REFUSAL

1. By reason of its location and siting, the proposed change of use of the land to storage of and work on a former British Railway luggage van body, represents an unjustified (in terms of agriculture or rural enterprise) and unacceptable form of development in the countryside, which fails to respond appropriately to the rural context and character of the immediate site and its countryside surroundings. The visual impact of the railway van body, and associated paraphernalia, is harmful to the appearance and character of the immediate surroundings and the wider countryside setting. As such the proposal is considered to be contrary to policies MD1 (Location of New Development) and MD2 (Design of New Development) of the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and the advice in the Council's approved Supplementary Planning Guidance on Design in the Landscape and National guidance contained in Planning Policy Wales (Edition 10, 2018) and Technical Advice Note 12-Design.

### REASON FOR DUAL RECOMMENDATION

The decision to recommend refusal of permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

Having regard to policies MD1 (Location of New Development) and MD2 (Design of New Development) of the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and the advice in the Council's approved Supplementary Planning Guidance on Design in the Landscape and National guidance contained in Planning Policy Wales (Edition 10, 2018)

and Technical Advice Note 12-Design, by reason of its location and siting, the proposed change of use of the land to storage of and work on a former British Railway luggage van body, represents an unjustified (in terms of agriculture or rural enterprise) and unacceptable form of development in the countryside, which fails to respond appropriately to the rural context and character of the immediate site and its countryside surroundings; and the visual impact of the railway van body, and associated paraphernalia, is harmful to the appearance and character of the immediate surroundings and the wider countryside setting. Refusal of the application and the taking of enforcement action is therefore necessary to remove the harm to the countryside.

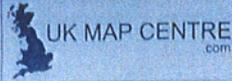
It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

The appropriate marine policy documents have been considered in the determination of this application in accordance with Section 59 of the Marine and Coastal Access Act 2009.

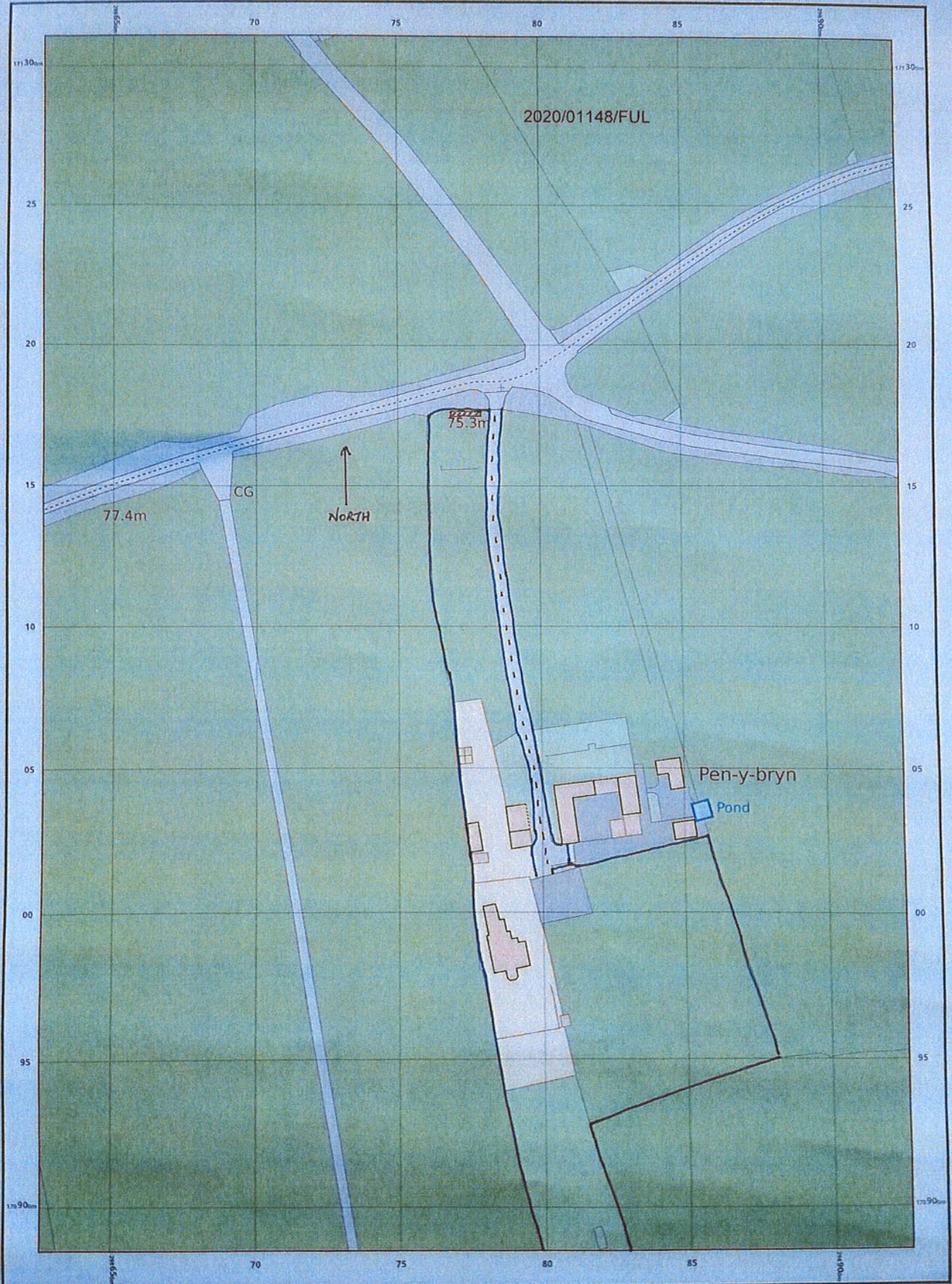
Also having regard to Policies MD1 (Location of New Development) and MD2 (Design of New Development) of the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and the advice in the Council's approved Supplementary Planning Guidance on Design in the Landscape and National guidance contained in Planning Policy Wales (Edition 10, 2018) and Technical Advice Note 12-Design, by reason of its location, siting and design, the outbuilding represents an unjustified and unacceptable form of development in the countryside, which is visible from surrounding public viewpoints, out of keeping with the context of the immediate setting, and serves to overly domesticate the land. Retention of the outbuilding would therefore have a detrimental impact on the appearance and rural character of the site and its surroundings. It is therefore expedient to take enforcement action to secure the removal of the harm created by the outbuilding.

SITE LOCATION PLAN

KEY: - PEN Y BRYN PROPERTY BOUNDARY  
- JOINT USE DRIVEWAY (OWNED BY PEN Y BRYN)  
- SITE OF PROPOSAL



Pen Y Bryn Plan



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50m  
Scale 1:1250



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