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Cyngor Bwrdeistref Sirol
Blaenau Gwent
County Borough Council

THIS IS A MEETING WHICH THE PUBLIC ARE ENTITLED TO ATTEND

16th July 2021

Dear Sir/Madam

PLANNING, REGULATORY & GENERAL LICENSING COMMITTEE

A meeting of the Planning, Regulatory & General Licensing Committee will be held in virtually via Microsoft Teams (if you would like to attend this meeting live via Microsoft Teams please contact committee.services@blaenau-gwent.gov.uk) on Thursday, 22nd July, 2021 at 2.00 pm.

Yours faithfully

Michelle Morris
Managing Director

AGENDA **Pages**

1. SIMULTANEOUS TRANSLATION

You are welcome to use Welsh at the meeting a minimum notice period of 3 working days is required should you wish to do so. A simultaneous translation will be provided if requested.

2. APOLOGIES

To receive.

3. DECLARATIONS OF INTEREST AND DISPENSATIONS

To consider any declarations of interest and dispensations made.

4. PLANNING APPLICATIONS REPORT 5 - 66

To consider the report of the Team Manager Development Management.

5. PLANNING APPEAL UPDATE: LAND REAR OF PARK HILL TREDEGAR REF: C/2017/0193 67 - 72

To consider the report of the Planning Officer.

6. APPEALS, CONSULTATIONS AND DNS UPDATE JULY 2021 73 - 74

To consider the report of the Service Manager Development and Estates.

7. LIST OF APPLICATIONS DECIDED UNDER DELEGATED POWERS BETWEEN 25TH MAY, 2021 AND 9TH JULY, 2021 75 - 82

To consider the report of the Senior Business Support Officer.

EXEMPT ITEM

To receive and consider the following report which in the opinion of the proper officer is/are an exempt item taking into account consideration of the public interest test and that the press and public should be excluded from the meeting (the reason for the decision for the exemption is available on a schedule maintained by the proper officer).

8. **ENFORCEMENT CLOSED CASES BETWEEN 25TH MAY, 2021 AND 8TH JULY, 2021** 83 - 88

To consider the report of the Senior Business Support Officer.

To: Councillor D. Hancock (Chair)
Councillor W. Hodgins (Vice-Chair)
Councillor D. Bevan
Councillor G. L. Davies
Councillor M. Day
Councillor J. Hill
Councillor C. Meredith
Councillor K. Pritchard
Councillor K. Rowson
Councillor T. Smith
Councillor B. Thomas
Councillor G. Thomas
Councillor D. Wilkshire
Councillor B. Willis
Councillor L. Winnett

All other Members (for information)
Manager Director
Chief Officers

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BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to	**The Chair and Members of Planning, Regulatory and General Licensing**
Report Subject	**Planning Applications Report**
Report Author	**Team Manager Development Management**
Report Date	**12th July 2021**
Directorate	**Regeneration & Community Services**
Date of meeting	**22nd July 2021**

Report Information Summary

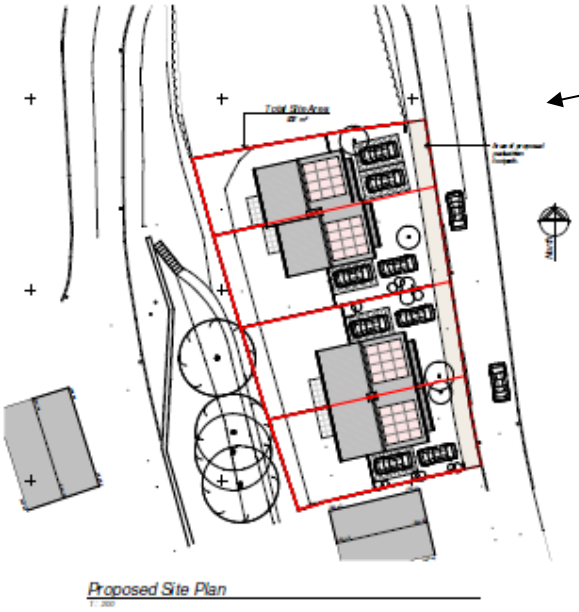
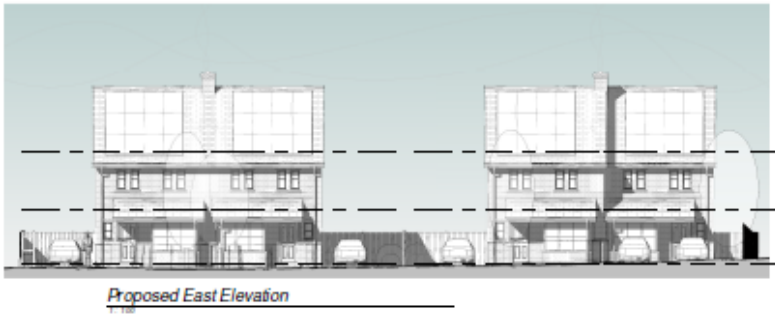
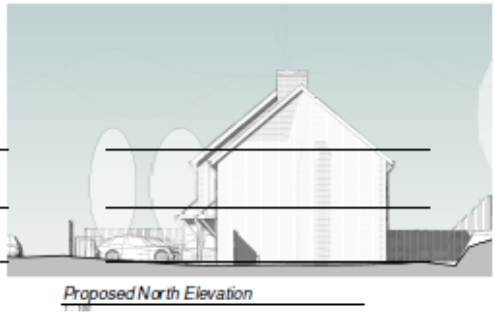
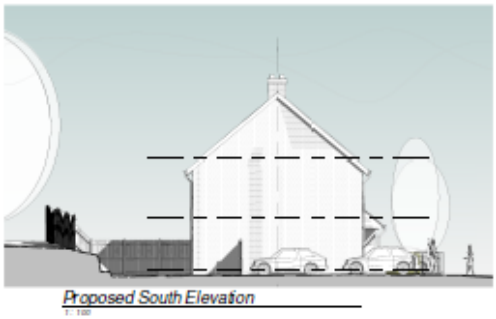
1. Purpose of Report	
To present planning applications for consideration and determination by Members of the Planning Committee.	
2. Scope of the Report	
Application No.	Address
C/2021/0160	Shop Row, Blaina, Abertillery, NP13 3DH
C/2020/0168	Rhes Yr Ysgol 1 - 7 Cwmcelyn Road, Blaina, NP13 3LT
3. Recommendation/s for Consideration	
Please refer to individual reports	

Planning Report

Application No: C/2021/0160	**App Type:** FUL
Applicant:	**Agent:**
Mr Antony Williams Unit 10, Crown Industrial Estate Dukestown Tredegar NP22 4EF	Mr Russell Pryce CDB Planning and Architecture Unit 5, Westwood Industrial Estate Pontrilas Herefordshire, HR2 0EL
Site Address:	
Shop Row, Blaina, Abertillery, NP13 3DH	
Development:	
Two Pairs of Semi Detached Dwellings and Replacement Accesses	
Case Officer:	Joanne White

Fig 1. Site Location

1. Background, Development and Site Context	
1.1	The site is a rectangle parcel of land located at the northern end of Shop Row, Blaina. A public footpath runs parallel to the rear (west) of the site and beyond that, at a higher level, is Railway Terrace. To the north is an area of trees and vegetation that separate the site from the access road. Shop Row is mixed in character with a combination of residential and commercial uses. The existing dwellings located at the southern end of the street were approved approximately 18 years ago (C/2003/0400) whilst the adjacent detached garage was approved in 2008 for storage of equipment and vehicles in relation to a window cleaning business (C/2008/0076 refers).
1.2	The site itself is predominantly level, with a slight incline to the north-west corner, and is currently bound by a high (approx.2m) close boarded timber fence and sections of Heras fencing. There are two existing vehicular accesses along Shop Row providing direct access onto the highway.
1.3	 Fig 2. Current view of the site looking north-east to south-west
1.4	Planning permission is sought to construct two pairs of semi-detached houses (4 in total). As part of the application an additional two new accesses will be provided off Shop Row.
1.5	The dwellings will be 3-bed, two storey properties which will be set back within the plot.
1.6	Parking for 2 cars will be provided within each plot in a tandem formation alongside the dwellings, with the exception of the most northern plot (Plot 4), which will feature parking across the plot frontage. Similarly, Plots 1-3 will

	feature hedgerow planting to the front boundary whilst the Plot 4 will be left open to accommodate the parking.
1.7	The supporting statement specifies that materials will be brick on the frontages with render to the sides and rear and a slate roof.
1.8	 Fig 3: Proposed Site Layout
1.9	  Figs 4-7: Proposed Elevations
1.10	 

2. Site History

	Ref No	Details	Decision
2.1	C/2009/0330	Residential Development	Approved 08.12.2009

2.2	C/2012/0365	Renewal of outline application (C/2009/0330) for residential development.	Approved 20.03.2013
2.3	C/2014/0298	Outline application for residential development (Plot 5)	Approved 05.12.2014

3. Consultation and Other Relevant Information

3.1 **Internal BG Responses**

3.2 Team Leader Building Control: Building Regulations Required.

3.3 Service Manager Infrastructure:
Highways:
No objections subject to conditions requiring visibility splays and that parking spaces are retained. Also require new 2m wide footway to be fully constructed prior to occupation.

3.4 Drainage: Surface water drainage will be subject to SAB approval.

3.5 Landscape: Object in current form.
Whilst the concept of hedgerow and tree planting indicated to the property frontages is acceptable there are no details regarding ground preparation and maintenance/ management that are required to ensure that this element of the development will be delivered to an acceptable standard. The use of additional hedgerow planting should also be applied to the rear boundary due to the visual impact upon the rear public footpath.

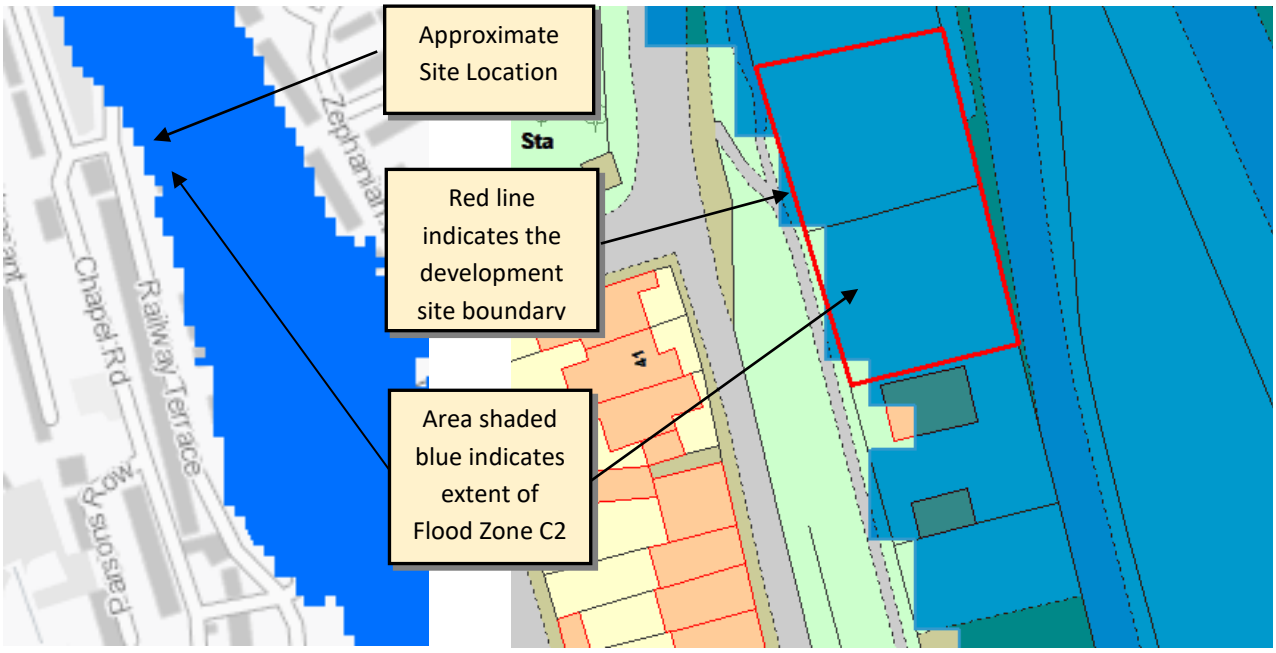
3.6 Ecology: Object in current form.
Even though ecology enhancements have been considered i.e. bird and bat box, consideration should be given to hedgehogs such as access points in the boundary fencing. Hedgehogs are priority species in Wales and is currently classed as vulnerable to extinction. Would also like to see more mixed native hedgerow as this will provide biodiversity enhancements. Request advisory notes for nesting birds as there are trees and scrubby habitat present on site.

3.7 Tree Officer: Holding Objection.
Trees on BG land to north of proposed development may be detrimentally impacted upon. Suggest a tree survey to BS 5837: 2012 is carried out.

3.8 Rights of Way: Holding objection.
To the rear of the development runs the Ebbw Fach Trail which is a popular /promoted walking route and the use of 1.8m high close board fencing to the rear boundary will have a poor visual impact on this sensitive receptor. The

	usage of additional hedgerow planting to this boundary should also be included.
3.9	The route must remain open for use by the public and unobstructed throughout the development of the proposal.
	External Consultation Responses
3.10	Town / Community Council: No response received to date.
3.11	Natural Resources Wales: Object.
3.12	The planning application proposes highly vulnerable development (housing).
3.13	NRW Flood Risk Map confirms the site to be within Zone C2 of the Development Advice Map (DAM) contained in TAN15.
3.14	The LPA is referred to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development and emergency services should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development or emergency services in Zone C2.
3.15	In the first instance, the LPA should make a planning policy decision on the application. Unless written confirmation is received from the LPA that there are overriding reasons to consider granting planning permission, despite the site's location within Zone C2, NRW will not comment on the risks and consequences of flooding and advise that the LPA should refuse the planning application on planning policy grounds.
3.16	The decision as to whether a development should be considered contrary to TAN15 policy is entirely a matter for the LPA. If the LPA provide overriding reasons and require advice from NRW, they would request sufficient time to review the Applicant's FCA. They would then provide technical advice on the acceptability of flooding consequences in accordance with Appendix 1 of TAN15.
3.17	If an FCA fails to demonstrate that the consequences of flooding can be acceptably managed over the lifetime of the development, then NRW would object to the application.
3.18	Welsh Water: It appears that the proposed development would be within the protection zone of a public sewer and therefore recommend the site layout is amended to take

	this into account. Alternatively, it may be possible to divert the sewer if the developer applies to Welsh Water. Suggest that the developer contacts Welsh Water to discuss and consider possible solutions.
3.19	Notwithstanding the above, a condition should be imposed requiring the submission of a foul drainage scheme prior to any development.
3.20	Western Power: Identified apparatus in the vicinity
3.21	W&W Utilities: Identified apparatus in the vicinity
3.22	**Public Consultation:** • 5 letters to nearby houses • 1 site notice • website public register of applications • ward members by letter • all members via weekly list of applications received
3.23	Response: No responses received to date.
3.24	The ward member has requested that the application be presented to the Planning Committee to consider the flooding implications.
4. Planning Policy	
4.1	LDP Policies: SP7 – Climate Change DM1 – New Development DM2 – Design and Place Making SB1 – Settlement Boundaries
4.2	Supplementary Planning Guidance Access, Car Parking and Design (March 2014)
4.3	National Planning Policy Technical Advice Note 15: Flood Risk and Development (July 2004) Planning Policy Wales 11: Development and Flood Risk (para 6.6.22) (February 2021) Future Wales: The National Plan 2040: Policy 8 – Flooding (February 2021)

5. Planning Assessment	
5.1	The planning assessment falls into two distinct parts; firstly, the principle of development, and secondly, all other material planning considerations.
5.2	Members are advised that the main consideration is the principle of highly vulnerable development in a C2 Flood Zone. The second part of the assessment discusses design and layout considerations but on balance raises no fundamental concerns that could not be addressed by the imposition of suitably worded planning conditions.
5.3	Member's consideration of the application should therefore be focussed on the acceptability of the proposed development in terms of national and local planning policies and guidance relative to flood risk followed by consideration of the design and layout.
5.4	<u>Principle of residential development</u> The site falls within the settlement boundary within which new development is normally acceptable subject to policies in the LDP and other material considerations.
5.5	The site falls **within** Flood Zone C2 as defined by the Development Advice Maps (DAM) which underpins national planning policy Technical Advice Note 15: Development and Flood Risk (Fig 8 below).
5.6	

5.7	Both TAN 15, and the subsequent Welsh Government letter to Chief Planning Officers regarding Planning Policy on Flood Risk and Industry Changes (January 2014) provide strict advice on residential development, which is classed as highly vulnerable development, in a C2 zone flood plain.
5.8	Para 6.5 of TAN 15 states that *"New development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue".*
5.9	It goes on to state that 'highly vulnerable development and Emergency Services in zone C2 should not be permitted'.
5.10	This stance has recently been strengthened in appeal decisions from The Planning Inspectorate, including the conversion of a garage to residential in Abertillery (APP/X6910/A/20/3252106) where only a small section of the garden would have been in Flood Zone C2. Unlike the appeal case, the majority of this application site falls within Zone C2.
5.11	Furthermore, as Members will note within Section 3.15 above, NRW have advised that the application should be refused on planning policy grounds unless there are overriding reasons why planning permission should be granted.
5.12	I fully acknowledge the argument outlined in the supporting statement that the latest NRW maps (referred to as the Flood Risk Assessment Wales map (FRAW)) show the site as not being at risk of flooding. However, these maps have not yet been nationally adopted for planning purposes. Until such time that they are, planning policy and advice from NRW is based on the DAM maps.
5.13	In order to illicit such changes to the DAM maps, the developer would need to present a flood map challenge to NRW. However, it is my understanding that NRW are not currently accepting challenges pending an update to TAN15 by the Welsh Government.
5.14	Members should note that the supporting statement refers to previous permissions granted on the site, with the latest being approved in December

	2014 (C/2014/0298). Whilst I acknowledge that the proposed development should not have been supported in a C2 flood risk area, the officer's delegated report at that time highlighted the fact that NRW did not object to the development subject to a condition requiring the finished floor level to be 0.2m above surrounding ground levels.
5.15	Since that time, the approach to flood risk has changed significantly and it is now the subject of far greater scrutiny at both national and local planning policy levels. National planning policy guidance (as supported by adopted LDP policies SP7 and DM1) is clear – **TAN 15 explicitly states that highly vulnerable development should not be permitted in Flood Zone C2.**
5.16	I therefore conclude that the development conflicts with both local and national planning policy and the principal of residential development is deemed unacceptable due to the risk of flooding.
5.17	If Members are minded to set aside the policy objection to this development and support the application contrary to TAN 15 advice and adopted local plan policy, I would strongly recommend that they request further technical advice from NRW on the suitability of the submitted FCA before the application is determined to enable the Authority to be satisfied that the consequences of flooding could be appropriately managed.
5.18	**Part 2 – Other Matters** Having discussed the acceptability of the proposal from a flood risk perspective I now refer to other planning policy and material planning considerations.
5.19	Land Use and amenity Having regard to the pattern on development, I am mindful that the proposed dwellings would be separated from the existing dwellings to the south of Shop Row by commercial/storage units and so land use compatibility could be questioned. However, the adjacent units, which include a garage serving a window cleaning business, are not significant in size and are not considered likely to have a harmful impact upon future occupants of the proposed dwellings in terms of noise, dust or odour nuisance. Nevertheless, in the event of any future statutory nuisance from the existing buildings, this would be

controlled via Environmental Health legislation. Moreover, the surrounding area is predominantly residential in character and thus the proposed development is compatible in land use terms in accordance with LDP Policy DM1(2)a.

5.20 In respect of neighbouring amenity, the properties will sit at a lower level comparative to Railway Terrace and are separated by a public footpath and vegetation. Moreover, the proposed dwellings will be in excess of 21m from the front elevations of 40-42 Railway Terrace. I therefore have no concerns regarding the impact of the proposed dwellings upon the neighbouring amenity, in accordance with LDP Policy DM1(2)c.

5.21 <u>Appearance and Design</u>

The dwellings are simplistic in design; featuring a front bay window with canopy extending along the frontage, small first floor windows and solar panels to the front roof plane. Whilst the design could be improved by adding a front gable to break up the roof/eaves line (as can be seen on the properties to the south of Shop Row), I do not consider the design is so unacceptable to warrant refusal on this basis.

5.22

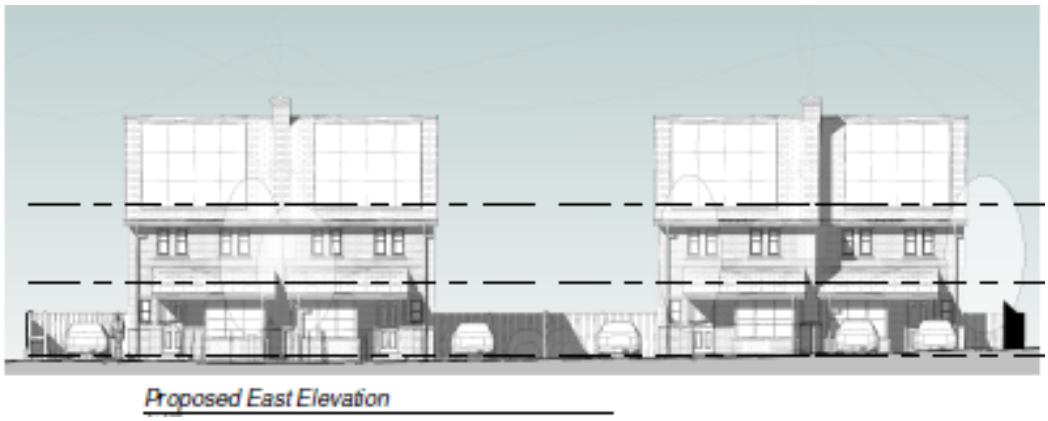
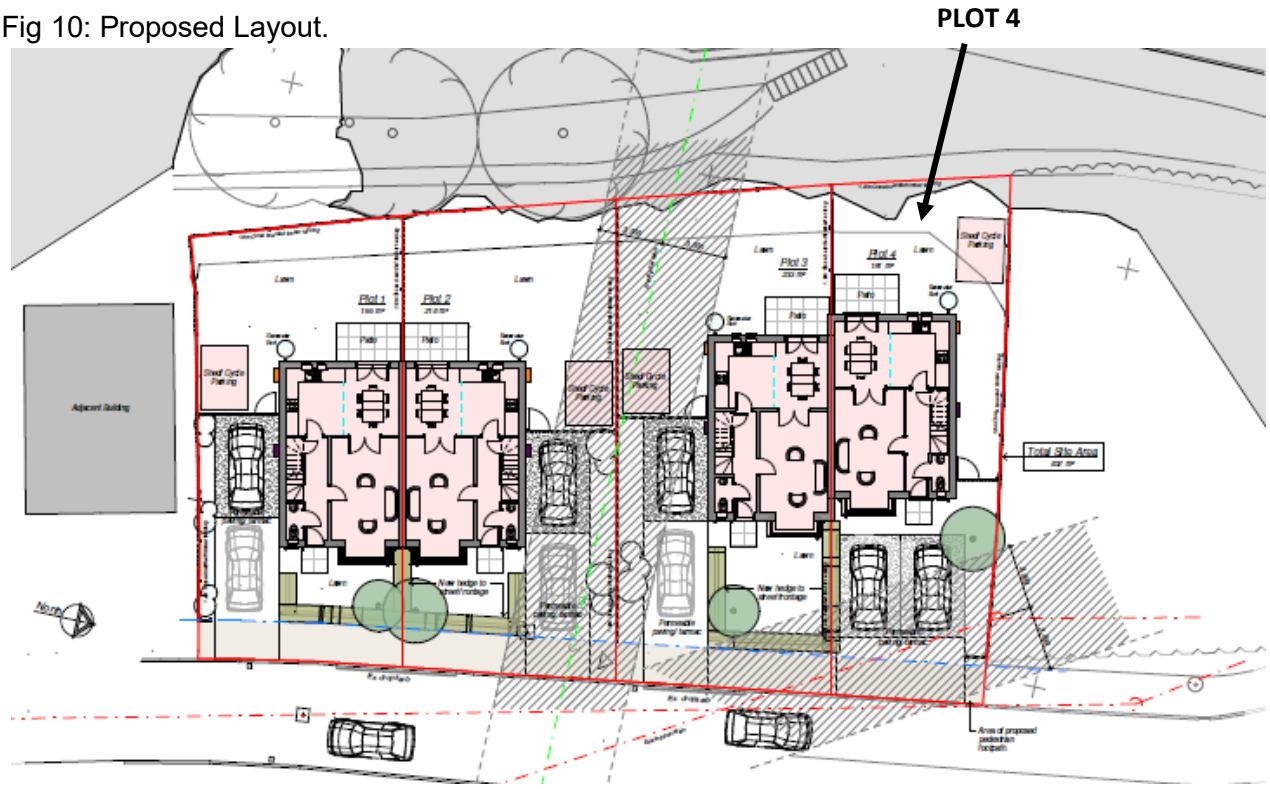


Fig 9: Proposed street scene

5.23

Fig 10: Proposed Layout.



5.24 Similarly, the layout and form is broadly acceptable. Dwellings are set centrally within their respective plots allowing for amenity space to the front and rear with parking to the side. The exception to this is plot 4. Unlike the other three plots, plot 4 appears somewhat unbalanced; parking is across the property frontage instead of to the side, which has resulted in the front building line being set back and the omission of a front boundary hedgerow. It could be questioned whether the development site would be more suited to 3 detached dwellings to allow for tandem parking on all plots and to be more in keeping with the existing dwellings to the south, or whether plots 2 and 3 could be located closer to each other to allow for a wider plot 4. However, I am mindful that there is a public sewer running through the site between plots 2 and 3 which would prevent any built development 3m either side of it (as shown by the thick hatched areas on the drawing above).

5.25 Given that the fundamental principle of development is considered unacceptable on flooding grounds, I have not sought any amendments to the scheme. Nevertheless, on balance, I do not consider the layout and form is so unacceptable to warrant refusal. If Members are minded to grant permission, enhancements could be sought via a condition to improve the soft landscaping on plot 4 by introducing a hedgerow to the northern side boundary

and/or the use of grass pavers (or similar) that have the appearance of a grassed lawn but are designed to accommodate moderate traffic use associated with a residential property.

5.26 Highways

The Highways Manager has confirmed that the development scores over 7 sustainability points when assessed against Appendix 5 of the adopted Supplementary Planning Guidance 'Access, Car Parking and Design'. Consequently, this allows for a reduction of 1 parking space per dwelling; meaning that 2 spaces per dwelling are required for the scheme. The development provides for 2 off-street spaces per 3-bed dwelling and therefore complies with the requirements of the SPG.

5.27 Should Members resolve to grant permission, the Highways Manager has requested that conditions are imposed requiring the proposed new 2m wide footpath to be constructed prior to occupation and for visibility splays and parking spaces to be provided and retained in perpetuity.

5.28 Landscape & Ecology

I acknowledge the comments made by the Landscape Officer regarding the fencing to the rear. However, this fencing is existing and is not uncommon on the rear of a property that is not visually prominent within the street scene or wider landscape. I would therefore consider it unreasonable in these circumstances to require a hedgerow to replace the existing fence. I also note that there is vegetation to the rear of the fence, along the footpath that softens its appearance (Fig 11 and 12 below).

5.29


Fig 11 & 12: Rear footpath and existing fencing to application site.

5.30	I am satisfied that the soft landscaping proposed as part of the scheme is sufficient. The use of cherry blossom trees and hornbeam hedgerows to the plot frontages, front and rear lawns and side borders will all contribute to a providing a visually acceptable development.
5.31	The Council's ecologist has advised that hedgehog passes should be incorporated into the scheme given that they are a priority species in Wales and vulnerable to extinction. This could easily be conditioned if Members were minded to grant permission.
5.32	Members are reminded that there are trees on land to the north of the site which could potentially be impacted upon if development were to take place. If Members are minded to grant permission, I would recommend that a condition is imposed to identify and protect any tree Root Protection Zones (RPZs) that may be affected by the development.
6. Legislative Obligations	
6.1	The Council is required to decide planning applications in accord with the Local Development Plan unless material considerations indicate otherwise. The planning function must also be exercised in accordance with the principles of sustainable development as set out in the Well-Being of Future Generations (Wales) Act 2015 to ensure that the development and use of land contributes to improving the economic, social, environmental and cultural well-being of Wales.
6.2	The Council also has obligations under other legislation including (but not limited to) the Crime and Disorder Act, Equality Act and Human Rights Act. In presenting this report, I have had regard to relevant legislation and sought to present a balanced and reasoned recommendation.
7. Conclusion and Recommendation	
7.1	Whilst the detailed aspects of the proposal have been found to be broadly compliant with other relevant LDP policies (subject to conditions), it has been clearly established that the proposed development conflicts with both adopted development plan and national planning policies relating to flood risk. The conflict and harm that would result from allowing this development would not be outweighed by matters argued in favour of the development outlined above. **The fact that the proposal represents a highly vulnerable development within a C2 Flood Zone is a compelling reason why planning permission should not be granted**.

7.2	It is therefore recommended that planning permission be **REFUSED** for the following reason(s): 1. The development site is located within a C2 Flood Zone, as defined by Development Advice Maps associated with Technical Advice Note 15: Development and Flood Risk (2004) (TAN 15). The proposed residential development represents highly vulnerable development. Para 6.2 of TAN 15 clearly states that highly vulnerable development should not be permitted within Zone C2. Permitting such development would be in direct conflict with TAN 15 and the in principle objection reaffirmed by The Chief Planning Officer letter from Welsh Government dated 9th January 2014 and Policy SP7 2 (b) of the adopted Blaenau Gwent Local Development Plan.
8. Risk Implications	
8.1	Approving a highly vulnerable development in a C2 Flood Zone would set an unacceptable precedent for development that conflicts with national and local planning policies. Such a decision would undermine the credibility of the LPA which has sought in recent years to advise all applicants and prospective developers in accordance with the requirements of flood risk related policy.

Report Date: July 2021
Report Author:

Planning Report

Application No : C/2020/0168	**App Type:** Retention
Applicant:	**Agent:**
Mr Williams D3 Property Developments 49 Somerset Street Abertillery NP13 1DL	Peter Barnes & Associates Mr Peter Barnes Rhys House James Street Ebbw Vale
Site Address:	
Rhes Yr Ysgol 1 - 7 Cwmcelyn Road Blaina NP13 3LT	
Development:	
Retention of one detached and six semi-detached 2 storey houses (not constructed in accordance with planning approval C/2014/0257)	
Case Officer:	Eirlys Hallett

1.0	**Background, Development and Site Context**
1.1	Background This planning application seeks permission to retain seven houses erected on the former Cwmcelyn School site located off Cwm Celyn Road, Blaina, directly opposite Cwmcelyn Pond. Planning permission was granted for the development on appeal in April 2015 subject to 12 conditions. (C/2014/257)

1.2	Following the granting of planning permission, 6 separate Discharge of Condition (DOC) applications were approved that intended to address matters covered by the conditions imposed by the Planning Inspectorate.
1.3	Development of the site proceeded thereafter. It is understood that during the construction phase of the development, officers from various Council departments were required to visit the site to routinely inspect the works and to deal with technical issues that were identified. The houses are now occupied by third parties who acquired the properties from the developers.
1.4	The current application has been submitted by the original developers in response to issues following investigation of an anonymous complaint received in November 2018**.** The complainant alleged: • that the approved houses should have been constructed of half brick and render but had been constructed in brick; • driveways had been finished in tarmacadam rather than brick paviors; • that frontage walls were higher than approved with raised front gardens which caused highway visibility issues; • that front walls should have been finished in natural stone rather than brickwork; • that the detached house on plot 7 should have been constructed of natural stone reclaimed from the site rather than artificial stone; and • that existing walls and railings had not been retained and substituted with close boarded fencing erected on top of the wall.
1.5	When these matters were fully investigated it was established that there were additional discrepancies between the development as approved and that implemented on site. By that stage, almost all the houses had been completed and sold to third parties.
1.6	The developers were approached in relation to identified breaches and it was agreed that they would work through the issues to establish if they could be resolved. They agreed to take the responsibility for advising the property owners of the issues at an opportune time.
1.7	The <u>additional</u> issues identified following a site visits were:- • that the gradients of the driveways provided exceeded that indicated on the approved plans and exceeded that which is required by the Highways Authority for new development. • that changes involving making some gardens bigger than indicated on the approved plans meant that the two parking spaces approved on the

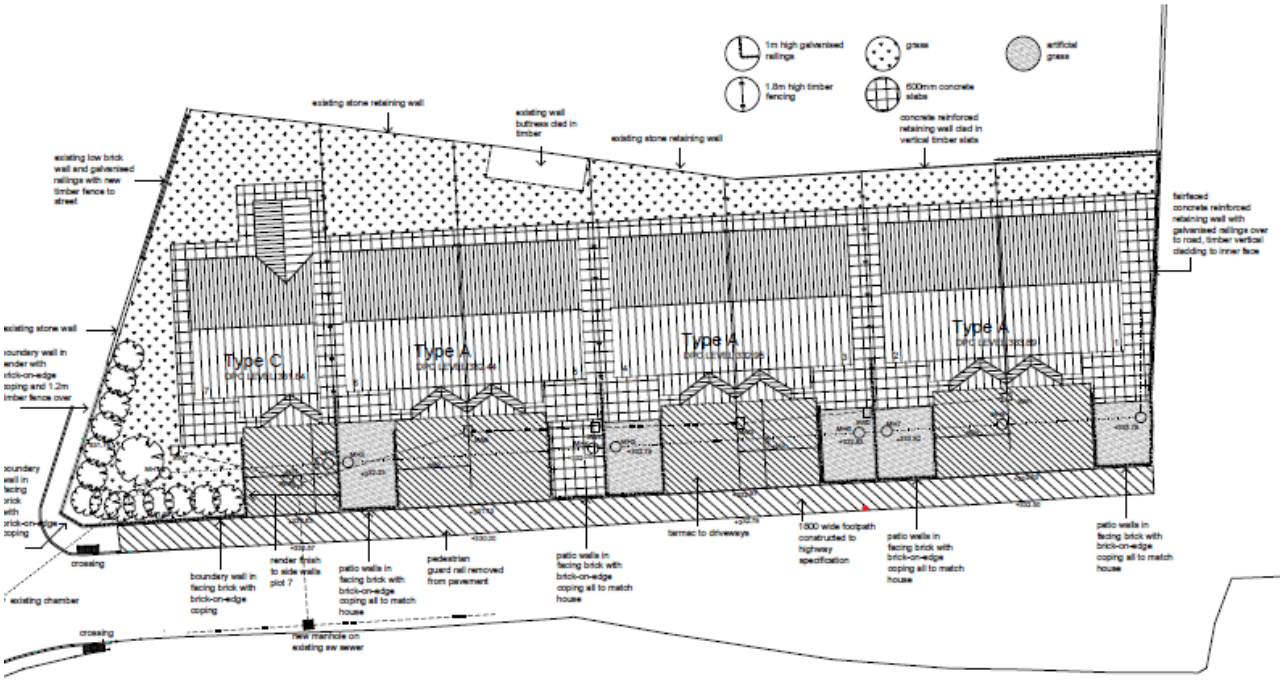
1.8	frontage of each property could no longer be accommodated. The length of some driveways was also questioned. • there was also some concern that the steepness of the driveways meant that accessing the garages would be difficult – that cars would ground. • the issue with the gradient of the driveways brought into question whether the dwellings had been erected at the correct level. During a site meeting with the Compliance Officer and a Highways Engineer one of the developers conceded that there might be a discrepancy of 400mm between the approved house levels and the 'as built' slab levels.
1.9	During the site meeting with one of the developers in November 2018 it was agreed that they would liaise with a local agent (a different agent to that used on the initial scheme and to discharge of conditions applications) with view to submitting an application to regularise the development.
1.10	Over subsequent months the appointed agent met and corresponded at length with officers from both the planning and highways divisions and prepared new plans and documentation to support the current application. This application was formally submitted to the Authority in July 2020.
1.11	It is for this Committee to now determine whether the application to retain the dwellings 'as built' should be approved.
1.12	Based on the fact that the dwellings are erected and well established I see little benefit in providing a detailed account of every aspect of the development, the description of the development is therefore brief. My assessment of the application (Section 5) will focus on identifying any failures to comply with planning conditions, the discrepancies between the 'approved' and 'as built' scheme and the implications of such discrepancies.
1.13	<u>The Site and Development as Implemented</u> The development relates to seven dwellings: three pairs of three bed semi-detached houses and one four bed detached house with ancillary access drives, gardens and associated retaining structures.
1.14	Six of the seven houses built on the land (as can be seen on photographs 1 and 2 below) have been constructed in red brickwork and spar render. The four bedroom detached property has been finished in reconstituted stone and spar render. All properties feature raised frontage gardens paired driveways and small back gardens which are bound by a high retaining walls. A new 1.7metre wide footpath with vehicular crossing points runs along the south facing frontage of the site. This footpath links to existing footways which run

along both the site's western and eastern boundaries. To the north of the site at an elevated level above an established and a more recently constructed section of retaining wall lie the garden curtilages of terraced properties at Garn Terrace located to the north.

Photo 1 – Showing development as viewed from highway approach near junction with Bryncelyn Hill.

Photograph 2 – Showing site as viewed from the south western corner of the site.

1.15	In terms of access and parking, each dwelling features an integral garage (excepting No 1 where recent works appear to have involved conversion of the garage into living accommodation), is fronted by an elevated garden area and a tarmac surfaced driveway. More detailed information regarding the size, gradient and visibility splays to these parking areas will be provided in the planning assessment section of this report.
1.16	The block plan provided below provides a general indication of how the site has been laid out. It shows the positon of the seven houses – one detached and three pairs of semi's. It should be noted in this regard that the whilst the plots were numbered from east to west the house numbers have been numbered conversely – west to east. For the purposes of this report and to avoid confusion I have chosen to use the street numbering rather than the plot numbers.



Block Plan representing the development 'as built'

1.17	In terms of appearance the three pairs of semis are identical, have been constructed on a shared level slab and have been finished in brickwork and spar render. The detached house on the western end of the site is of a different design and has been finished in reconstituted stone and spar render. All houses have a slate like roof covering.
1.18	The garden areas to the frontage of each plot are of similar size and shape, the exception being the detached house know as No 1 Rhes yr Ysgol which

	benefits from a side and a larger front garden area. The frontage garden areas which are elevated to varying extent are bound by brick walls of varying heights and slightly differing fencing styles. Whist some have galvanised steel railings others feature glazed enclosures with stainless steel supports.
1.19	In support of the current retention application the agents submitted the following :- • Application forms • Certificates of ownership (confirming that the applicants have served notices on the relevant landowners) • Plans that reflect the development <u>as implemented</u> on site including site location plan, block plan; elevation drawings of each house type; street scene drawings; sections through the site (north to south and east to west); forecourt section details, landscape finishes, tactile crossing details. A topographical plan was also provided. • A supporting statement which seeks to explain the context to the application. This statement includes :- i) a calculation of sustainability criteria to support the level of parking provided; ii) confirmation of internal garage measurements; iii) copies of correspondence which seek to affirm that the dwelling foundations were constructed as per the recommendations of the approved Site Investigation Report; iv) photographs showing extent of excavation works and the foundations at the initial construction stage; v) a signed certificate from a certified engineer confirming that the 2.0 and 3.5metre high retaining walls have been designed to required standards; vi) a copy of a signed agreement made under Section 104 of The Water Industry Act between the developer and Welsh Water relating to foul drainage arrangements for the site; vii) a copy of a signed agreement made under Section 104 of The Water Industry Act between the developer and the owners of 6 of the properties and Welsh Water relating to surface water drainage arrangements for the site; viii) a copy of a Geotechnical and Geo-Environmental Report Proposed Residential Development of the Former Cwmcelyn Infants School, Blaina dated June 2015; and ix) a letter from a geotechnical engineer addressing issues raised during the consultation stage.

2.0	**Planning History**		
	Ref No	Details	Decision
2.1	C/2015/02014	Demolition of existing building and replacement with 6 No semi-detached dwellings and one detached dwelling	Refused 04/12/2014 Appeal Allowed 29/04/2015
2.2	C/2015/0205	DOC - Landscaping details	Discharged 14/10/2015
2.3	C/2015/0204	DOC - Highway Improvement details	Discharged 06/07/2015
2.3	C/2015/0209	DOC - Site Investigation	Discharged 07/07/2015
2.4	C/2015/0210	DOC - Finishes and Structural Calculations of Retaining Structures.	Discharged 19/08/15
2.5	C/2015/0211	DOC - Boundary Treatment Plan	Partially Discharged 20/07/2015
2.6	C/2015/0213	DOC - External Finishes Materials	Discharged 06/07/2015
2.7	C/2015/0243	DOC – Demolition and Construction Method Statement	Discharged 19/8/2015

3.0 Consultation and other Relevant Information

Internal BG Responses

3.1 Team Leader Building Control:
Building regulations submitted and completed

Service Manager Infrastructure:

3.2 Highways:
Initially advised that in order to accurately determine the gradient of each driveway surveyed site levels as measured at back of public footpath were required for each of the site section drawings submitted. Having been provided with such details the highways engineer has advised as follows :-

3.3 Visibility splays: A 2.0m x 2.0m vision splay is acceptable for a driveway at this location, subject to there being no obstructions to visibility. This application proposes for the driveways to remain as constructed, immediately adjacent to walls/enclosures above 1.05m in height. This will result in drivers being unsighted to pedestrians/vulnerable road users when exiting the driveways. The introduction of some fencing or other landscaping is advised in order to retain the afore-mentioned splays, alternatively the existing

	enclosures reduced in height such that the driveway vision splays are not impeded.
3.4	Sustainability/Parking: The highway authority does not agree with the sustainability score of 12 points as submitted in Appendix 1. There is no cycle route within 200 metres of the development – yet one point has been scored. Six Points have also been awarded for local facilities, whereby it is the opinion of the highway authority that only 2 points should be awarded (for a food store/post office/health facilities at Blaina Town centre within 800 metres). This would give a total sustainability score of 8 points, which would justify a consideration of a reduction in parking from three spaces to two spaces per dwelling.
3.5	Gradient of driveways: Private drives should have a maximum gradient of 1:6 (in accordance with Building Regulations). Where the gradient is more than 1:10 and the gradient changes, suitable transition lengths should be provided to reduce the risk of vehicles grounding. Drives should also be designed to permit a motor car reasonable access to and from a garage or car parking area. This is not the case with this application, with gradients exceeding 1 in 6 for the majority of driveways (as clearly demonstrated by the as-built topographical survey). The highway authority has concerns as to the high risk of vehicles sliding off the drives in icy/inclement weather. It is also difficult to envisage that the garages for several plots are even accessible by a vehicle without grounding.
3.6	Tactile Pedestrian Crossing: The proposed location of the crossing point is not acceptable. The tactile crossing is positioned in line with an existing road gulley – the crossing point either needs to be repositioned or the gulley moved to accommodate the crossing. Additionally, the footway on the opposite side from the development must be widened such that it is a minimum 1.0m wide to comply with DDA requirements. Alternatively, the crossing point be relocated to an agreed location.
3.7	It is the recommendation of the highway authority that this application does not comply with Policy DM 1 (3 a, c & d), and should be refused planning permission.
3.8	<u>Drainage:</u> No Objection

3.9	Ground Stability: Confirmed that he had no objection to the development from a ground stability perspective and was satisfied on the basis of the further advice received from a certified geologist that past ironstone mining poses insignificant risk to the development.
3.10	**External Consultation Responses**
3.11	Nantyglo & Blaina Town Council: The comments initially received from the Town council were those forwarded by their Chair of Planning. Those comments were in the form of a number of queries • why they were being sent copies of a private agreement between DWR CYMRU and the applicant and or/house holders. He also queried what he considered discrepancies in the application regarding how foul sewerage would be dealt with. • concern that parking provision appeared to have been reduced on the basis of sustainability criteria and facilities that were some distance from the site especially as he was aware that there had been parking issues in the area especially when the nearby Pond was being used by anglers. • whilst the retaining wall appeared to be of a good specification there was no mention of a follow up safety inspection regime. • In noting that the application was for the retention of the houses he queried the planning authority and building control staff's involvement in the development of the site.
3.12	The queries raised on behalf of the town council were responded to. The Town Clerk subsequently confirmed that they wished the comments initially submitted on their behalf by their Chair of Planning to be recorded as their representations.
3.13	Welsh Water: Advised that the proposed development site is crossed by public sewers with their approximate position being marked on the attached Statutory Public Sewer Record. Confirmed that in accordance with the Water Industry Act 1991, Dwr Cymru Welsh Water requires access to its apparatus at all times in order to carry out maintenance and repairs. However, having regard to drawing, it appears the proposed development would be situated within the protection zone of the public sewers measured 3 metres either side of the centreline. They accordingly offered a **holding objection** and requested that the applicant provide evidence that the property was not situated within the 3 metre easement of the sewer. They queried whether it would be possible for

	the developer to carry out a survey to ascertain the location of this sewer and establish its relationship to the proposed development.
3.14	I have corresponded with Welsh Water querying the accuracy of the above response (bearing in mind that the application was for the retention of houses and that they had entered agreements with the developers et al in relation to foul water and surface water sewer connections from the development). Welsh Water have failed to respond to this correspondence.
3.15	Western Power: Advised on the presence of their apparatus in the area
3.16	W&W Utilities: Advised on the presence of their apparatus in the area
3.17	Coal Authority: Noted initially that the site fell within a High Risk Development Area, however the risk was non coal related and associated with the presence of recorded ironstone workings which their records suggested were present at shallow depths below the site. Advised on such basis that they raised no objection to the development form a coal mining legacy perspective. They noted however that the planning authority should consider the risks posed by ironstone workings in its wider assessment of ground conditions.
3.18	Having been subsequently been provided with a copy of a letter submitted in by the agent in support of the application by a certified geologist (which concluded that past ironstone mining poses insignificant risk to the development) the Coal Authority advised that they wished to make no further comment on the issue as such matters fall outside the remit of the Coal Authority as a statutory consultee
3.19	**Public Consultation:** • 7 individual letters sent to occupiers of dwellings on the site • 5 site notices erected along the sites periphery • website public register of applications • ward members by letter • all members via weekly list of applications received
3.20	Response: One e-mail of objection received from a local resident where the following issues are highlighted.

	• noted that she objected to initial application because of parking issues and that this was now a major issue with residents blocking the so called pavements by parking on their driveways and taking up the spaces on the fishermen's car park opposite the site. Allege that local residents including mother with prams have to walk on the road which is a danger to users and that the evenings when all residents are home is an accident waiting to happen. • notes that there are two junctions on each side of the site coming out to one junction and that the wall which borders the detached dwelling on that junction is far too high and requires drivers to drive out past the junction to check the traffic to come out into the flowing traffic.
3.21	An anonymous objection referring to the Inspectors appeal decision letter highlighting condition No 12 of the approval which requires garage and car parking spaces provided to be kept available for the parking of motor vehicles at all times. In this context the objector(s) has also provided a plan highlighting that the garage to the detached house (No 1 Rhes yr Ysgol) has been converted into living accommodation in contravention of the planning permission and without building regulations approval.
3.22	Further anonymous e-mail in August 2019 sent to the then Chairman of Planning. The writer requested a 'planning close out survey' to establish compliance. The correspondence referred to the Inspectors decision letter and the responsibility of Blaenau Gwent as LPA to enforce the conditions of approval. The writer specifically referred to the developer's failure to implement the scheme as per the approved details, the failure to implement approved highways improvement works before the houses were occupied and the state that the adjacent roads and pavements had been left in post development. He specifically mentioned what he claimed to be a blind splay between Cwm Celyn Road and its junction with Bryncelyn Hill claiming it was an accident waiting to happen and asked that a highways engineer inspect this issue.
4.0	**Planning Policy**
4.1	<u>Team Manager Development Plans:</u> The development site falls within the settlement boundary as defined in the adopted LDP (Policy SB1) where development is normally permitted acceptable subject to other policies in the LDP. The acceptability of the development should therefore be assessed relative to material planning issues including visual impact, land stability, contamination, highway issues including car parking and landscaping.

5.0	**Planning Assessment**
5.1	Members will appreciate that in terms of principle there are no objections to the retention of dwellings on the application site. The land falls within the settlement boundary as identified on the adopted LDP. It is noted that having considered '*the effect of the proposed development on the character and appearance of the area; pedestrian and highway safety, local ecology and the living conditions of both neighbouring occupiers and potential future occupiers with particular reference to outlook and privacy'* the Inspector who determined an appeal against the refusal of an application for this development in 2015 concluded that there was '*compelling justification for the development'.* He accordingly granted planning permission subject to 12 planning conditions, most of which were to address the detailed and technical aspects of the development
5.2	Following the granting of full permission, the developer's agent proceeded to submit a number of discharge of planning conditions (DOC) applications which were approved. The submission of the current application is a direct consequence of the fact that what has been built on site does not conform with the initially approved plans and details and/or the details subsequently submitted and approved to discharge the relevant conditions.
5.3	In such context I feel the most appropriate way to consider this application is to initially advise Members of the conditions of consent and explain the various deviances and their implications from a planning perspective. I shall thereafter provide a detailed assessment based on various topic headings, focussing attention on those areas where the deviances are problematic and have not or cannot be addressed. Members should note that for the purposes of this report and in the interest of brevity I have not cited the full wording of the conditions as imposed on the Inspector's decision letter.
5.4	<u>Condition No 1</u> – A statutory time condition that required the development to commence within 5 years of the date of the decision letter
5.5	*There is no doubt that the development commenced within the prescribed timescale*
5.6	<u>Condition No 2</u> – Listed nine drawing numbers to which the approval related and required that the development be implemented in accordance with the details indicated on such plans.

5.7	*There are numerous instances where the development <u>does not</u> comply with the approved plans – these are referred to in detail in the planning assessment below*
5.8	<u>Condition No 3</u> – Condition requiring the submission of a Demolition and Construction Method Statement before works commenced on site
5.9	*A Demolition and Construction Method Statement was submitted and approved (DOC Application C/2015/0243 Approved 19/08/2015)*
5.10	<u>Condition No 4</u> – Condition requiring the results of an intrusive site investigation to assess stability of the land, the presence of any shallow mine workings and potential contamination to be submitted and approved before works commenced on site. The condition also required that no dwelling should be occupied until the recommendations of any site investigation approved were implemented and the Authority received a validation report that certified that such measures/works had been fully implemented.
5.11	*A Site Investigation Report was submitted and approved (DOC Application C/2015/0209, Approved 07/07/2015). No validation report was received – I shall refer to this issue later in the report – para's 5.59 - 63.*
5.12	<u>Condition No 5 -</u> Condition requiring submission an agreement of the external finishes and constructional details of any retaining walls required in association with the development which should be accompanied by a certificate signed by a suitable qualified engineer verifying the structural integrity of the proposed works. The condition also required that all works were to be completed in accordance with such approved details before the properties were brought into beneficial use.
5.13	*Structural Calculations and finishing details for retaining walls of a specified height were submitted and approved by the LPA. (DOC Application C/2015/0210, Approved 19/08/2015).*
5.14	*Investigations have established however that the retaining walls erected on site are of a different height and design to those approved by the LPA. I shall refer to this matter later in this report – para's 5.64 – 71.*
5.15	<u>Condition No 6</u> - Condition requiring that no dwelling should be occupied until surface water drainage works were implemented in accordance with a scheme to be submitted and approved by the Local Planning Authority and that the potential for a sustainable drainage scheme involving use of soakaways should be explored initially.

5.16	*No details were submitted by the developers to address the requirements of this planning condition. I shall advise further on this issue later in the report para's 5.54 – 58.*
5.17	Condition No 7 - Condition requiring submission of details of all external finishes to the approved dwellings and requiring dwellings to be erected in accordance with the approved details
5.18	*Details of all external finishes were submitted and approved by the LPA. (DOC Application C/2015/0257, Approved 06/07/2015).*
5.19	*The dwellings were not erected in accordance with the approved details. I shall comment further in relation to this matter later in the report para's 5.16 – 5.22.*
5.20	Condition No 8 - Condition requiring that no development should be undertaken until a scheme of landscaping was submitted and approved by the LPA and that the approved landscaping scheme be implemented before the dwellings were occupied.
5.21	*Details of proposed landscaping works were submitted and approved by the LPA. (DOC Application C/2015/0205, Approved 14/10/2015).*
5.22	*The works undertaken do not reflect those details approved by the LPA. This matter is covered n further detail later in the report – para 5.48 – 53.*
5.23	Condition No 9 - Condition requiring that no development took place until a scheme of highway improvements including the provision of a footpath with crossings on the site frontage and the provision of a tactile pedestrian crossing point at junction of Cwmcelyn Road were submitted to and approved by the LPA. The condition also required the approved works to be implemented before the dwellings were brought into use.
5.24	*Details of proposed highway improvements were submitted and approved by the LPA (DOC Application C/2015/0204 Approved 06/07/2015).*
5.25	*Whilst a 1.7metre wide footway to adoptable standards has been provided across the site frontage (which the highways engineer has confirmed as being acceptable) no tactile pedestrian crossing point has been provided on the junction near Cwmcelyn Road. This issue will be referred to later in the report para's 5.72 – 76.*

5.26	Condition No 10 - Condition requiring that no development took place until details were submitted to and approved of the position, design materials and type of all boundary treatments and that such boundary treatment as approved be carried out in accordance with the approved details.
5.27	*Details of proposed boundary treatments were submitted and approved by the LPA. (DOC Application C/2015/0211 Approved 20/0715)*
5.28	*Several of the boundary treatments provided are not in accordance with the approved details. This issue will be addressed in further detail later in the report para's 5.42 – 47.*
5.29	Condition No 11 - Condition requiring that the dwellings erected were not occupied until all access, driveway and parking areas relating to those dwelling were constructed surfaced and drained as indicated on the approved plans and that the areas provide be retained for their designated purpose at all times.
5.30	*Members are advised that the access, driveway and parking areas have not been constructed in accordance with the approved plans. This issue will be further addressed later in this report – para's 5.77 – 108.*
5.31	Condition No 13 - Condition requiring that the garage and car parking spaces provided be kept available for the parking of motor vehicles at all times
5.32	*This condition has not been complied with in so much as the parking areas provided are not as per the approved details and in one instance changes which appear to have been implemented by the current owner mean that the garage for the dwelling known as 1 Rhes yr Ysgol may not be available for parking of vehicles. This issue will be further explained in detail later in this report para's 5.77- 86.*
5.33	Having identified how the development as implemented either complies or fails to comply with various conditions I have framed the remainder of the report around what I consider to be **seven relevant topic areas**, namely:-
5.34	i. Visual – external finishes of houses and boundary treatments ii. Landscaping iii. Drainage iv. Geotechnical – Site Investigations v. Infrastructure works – retaining walls vi. Highway improvements – frontage footpath and crossing point vii. Parking provision - garages and driveways and associated visibility splays

5.35	**i) <u>Visual</u>** The design, scale and appearance of the properties that were proposed on the site were evaluated and approved by the Planning Inspector who determined the 2016 appeal. In considering the impact of the development on the character and appearance of the area the Inspector concluded that the development would not cause any harm. However, in the interest of safeguarding the character and appearance of the area he imposed conditions that specified the plans that were approved and required samples of external finishes of the properties and boundary treatment details (conditions 1, 7 and 10 respectively)
5.36	The details submitted and approved by officers to discharge conditions 7 and 10 indicated that all elevations of the 3 pairs of semis would be finished in half brick (ground floor, porches and garages) and half rough cast render painted cream (first floor) and that the front elevation, porch and garage of the detached property would be constructed in stone reclaimed from the demolition of the school building with all remaining elevations as per the semi's. All roofs were to be covered in fibre cement slates.
5.37	It will be seen from photographs 3 and 4 below that the entire front elevation of all the semi-detached properties were constructed in brickwork and the front elevation of the detached property has been finished in reconstituted stone. The side and rear elevations of all properties have been finished in cement/grey colour roughcast render.  Photograph 3; showing front elevations of 3-7 Rhes yr Ysgol finished in brickwork

Photograph 4: showing front elevation of 1 Rhes yr Ysgol finished in reconstituted stone.

5.38 There is no doubt in my opinion that a half brick and half render finish on the semi-detached properties and a detached dwelling partly finished in stonework retrieved from the original school would have resulted in a more attractive development; one that would have paid greater respect to other nearby built development and the heritage of the site and its surroundings. Members should note in this regard that the types of finishes on each elevation were not ones prescribed by officers but were but were those proposed by the applicants themselves in their initial application and reiterated by their initial agents in the DOC applications.

5.39 Planning Committee must now determine whether the finishes used on these properties are acceptable and whether they meet the requirements of policies DM1 and DM2 of the LDP. Policy DM1 2 b requires that for new development to be acceptable it should have *'no unacceptable adverse visual impact on townscape or landscape'* whilst Policy DM2 (a and b) requires development to be *'appropriate to the local context in terms of type, form, scale and mix'* and of *'good design which reinforces local character and distinctiveness of the area or they positively contribute to the area's transformation and raise density, where appropriate'*.

5.40 Whilst I am of the opinion that houses built in accordance with the approved materials (using brick, render and stone) would have resulted in a development which would have shown greater respect to its surroundings and the history of the site I am satisfied that the development as implemented is not visually unacceptable.

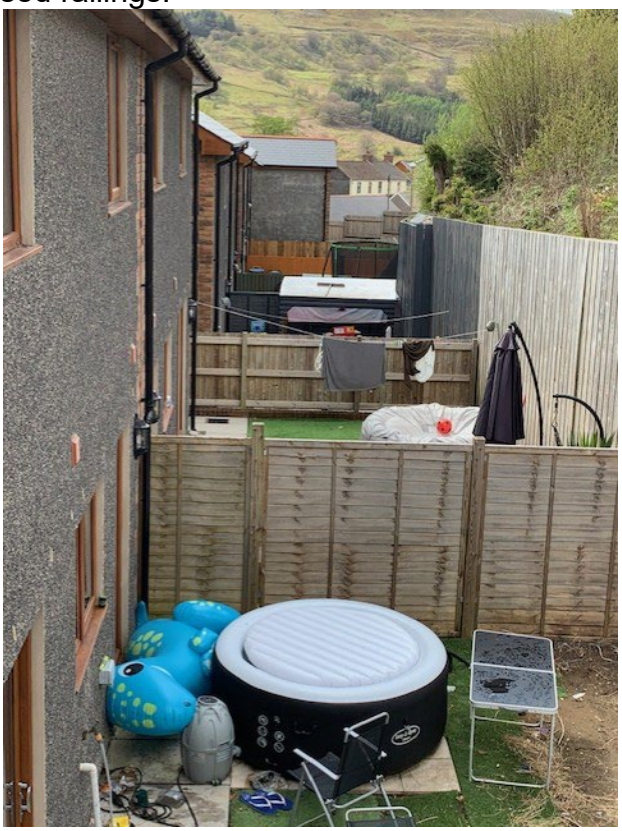
5.41	The change has inevitably had an impact in that red multi stock brick finishes are not characteristic of the immediate surroundings and the reconstituted stone is a poor substitute to the local stone that was to be reclaimed from the former school buildings. Whilst I do not accept the agent's contention that the use of red bricks on nearby development sites such as Tanglewood and Glanystruth might justify their use in this location, on balance, I do not feel that the impact of the change to the house elevations is such that it would justify refusal of the application on visual impact grounds.
5.42	Another element of the development which will have impacted significantly on its visual appearance is the positon, design and materials use for the boundaries.
5.43	The amount of detail on boundary treatments shown on the plans assessed by the Inspector was limited. The block plans approved showed that a new retaining wall would be required along parts of the sites northern boundary and the approved street view drawings indicated that very low stone walls would be provided along the frontage of the plots. It must be assumed that it was on the basis of the need for further detail that the Inspector imposed a condition (No 10) which required full details of all boundary treatments to be submitted and agreed before the development commenced.
5.44	The details subsequently approved as part of a DOC application indicated that :- • the existing stone wall and railings on the sites western boundary and along a short section of the southern boundary to the point of access to 1 Rhes yr Ysgol were to be retained, • that frontage walls along the south facing boundary would be 900mm high stonework walls, • that post and rail fences were to be provided between properties between the front boundary and the front building line of the houses; and • that 1.8 metre high timber feather edged fences were to be provided as side boundaries between properties from the front building line to the rear boundary.
5.45	The block plan approved indicated that there would be a new 2m high retaining wall along part of the site's north/rear boundary with the elevated gardens areas located beyond. It was not clear from the approved plan whether an existing retaining structure would be remain on the site's eastern boundary with the adjacent highway footpath or whether a new structure would be provided in this area. along this boundary.

What has been provided as part of the development and the applicant now seeks permission to retain is best illustrated by photographs 5-9 below.

Photograph 5: showing brick walls and railings along the southern boundary fronting the properties. In two instances the railings have been replaced by glass screens.

Photograph 6: showing how side boundaries to the front of building lines have been demarcated by rendered walls and galvanised railings

Photograph 7: showing eastern boundary with a mass concrete retaining wall at lower level topped by galvanised railings.



Photograph 8: showing the timber fence side boundaries between properties and a section of the new retaining wall constructed along part of the northern boundary with elevated garden areas relating to Gwent Terrace above.

Photograph 9; Photograph of western boundary finishes where only a small section of the former school wall has been retained and the railings have been removed and the boundary has been demarcated by a rendered wall and close boarded fencing.

5.46 In assessing the acceptability of the boundary treatment provided from a planning (as opposed to a structural or highways) perspective the LPA must again determine whether they meet the requirements of policies DM1 and DM2 of the adopted LDP. Again, whilst I consider it regrettable that the railings and part of the stone boundary wall to the former school site along the western/southern boundaries have not been retained and that stone from the demolished school building were not used across the frontage of the site I do not feel that what has been provided is so unacceptable visually that it might justify refusal of this planning application.

5.47 In support of the current application the agent contends that the boundary treatments provided were changed to respond to the requests of existing householders. It is claimed that the limited size of the rear gardens and the manner they were overshadowed by high retaining walls meant that prospective purchasers wanted to maximize the useable garden area to the front of the properties. To facilitate this the developers increased the width of the frontage gardens (by reducing driveway widths) and increased the height of the boundary walls rather than grade the ground in order to provide larger level useable amenity areas. The developers also contend that they opted for brick rather than stone from demolition of the school building as this was stolen off site. Whilst I would not necessarily accept either of these explanations as

	justification for approving development that is not acceptable what is evident in this case is that what has been provided is not so unacceptable visually to justify refusal. Whilst it is also regrettable that the developer proceeded to make all these changes without any reference to the LPA Members will appreciate that such an omission would not of itself justify refusing the application on visual grounds.
	Landscape
5.48	In terms of landscaping the application site was a brownfield site which previously accommodated a relatively large school building and other associated structures and would have been largely surrounded by hard surfaced play areas and retaining structures. The density at which the site was to be developed (which the Inspector had deemed acceptable) would have left little land available for landscaping, particularly soft landscaping. Nevertheless the approved scheme indicated that grassed areas would be provided to the front and rear of each property and that an area along the sites western boundary (side curtilage of 1 Rhes yr Ysgol) would be similarly grassed. The Inspector however imposed a condition (No 8) which required the developer to submit a scheme of landscaping to include details of ground preparation, planting plans, number and details of specie and a phased timescale for implementation. The condition also required the approved scheme to be implemented before the dwellings were occupied.
5.49	Landscaping details were submitted and approved by the LPA in October 2015 (DOC application C/2014/0257). The approved details indicated that the frontage and rear garden areas would be grassed (as per the application plans) and that there would be hedgerow planting along the plot frontages and two trees – one on the sites south western corner and one on the frontage of 3/4 Rhes yr Ysgol.
5.50	Again, what has been provided and what the applicants seek to retain is best illustrated by photographs.
5.51	The plans submitted in support of the current application indicated that the frontage gardens of 5 of the 6 semi-detached properties are finished in artificial grass whilst the remaining semi has a hard surfaced paved finish. The plans show that the front garden of No 1 Rhes yr Ysgol is grassed and that the western side boundary features hedgerow planting and one tree.

Photograph 10 showing artificial grass and paved surfacing of the frontages of two of the properties

Photograph 11 showing grassed finish and hedgerow planting along the perimeter of 1 Rhes yr Ysgol

5.52 Whilst accepting that the landscaping provided does not comply with what was approved I am of the view that what has been provided is acceptable.

5.53	The scale of the site is such that it afforded limited scope for soft landscaping. In accepting that what has been provided is acceptable I am also mindful that individual house owners have different aspirations as to what type of landscaping best suits their lifestyle and interests and whilst the approved landscaping scheme would have set a template for how the site might have looked initially it was almost inevitable that the appearance of the site from a landscape perspective would have altered over time. It is also of note that the site itself falls within a relatively open area overlooking Cwmcelyn Pond which itself falls within a Special Landscape Area and is a Local Nature Reserve characterised by significant swathes of greenery. In summary whilst the landscaping evident across the site differs significantly from that approved I do not view this change as so problematic as to warrant refusal of the application.
	Drainage
5.54	The initial planning application approved by the Planning Inspectorate contained only limited information on drainage. It is likely that this was the reason for the Inspector imposing a condition (No 6) that required that no dwelling was occupied until surface water drainage works were implemented in accordance with a scheme to be submitted and approved by the LPA. The condition also stipulated the type and level of detail required if a sustainable drainage scheme was to be provided. On the basis that no condition in the Inspector's decision refers to foul drainage it is taken that the Inspector was satisfied with the foul drainage details indicated on the plans – that foul drainage would be taken to the existing main drain on the frontage of the site.
5.55	There was no information submitted to discharge Condition No 6 of the planning approval before the dwellings were occupied. This condition was therefore breached.
5.56	In seeking to overcome this issue the current agents have submitted copies of signed agreements entered into between Welsh Water, the developer and several of the house owners. In support of this retention application the agents contend that Welsh Water would not have entered into such agreements had they not been satisfied with the drainage arrangements for the site. There are two agreements – one relating to foul drainage and one relation to surface water drainage. I have consulted Welsh Water in relation to the current application in anticipation that they might have confirmed that they are satisfied with the drainage arrangements as implemented on site, however I have failed to get a definitive response from them on this issue.
5.57	In an attempt to further clarify the acceptability (or otherwise) of the drainage arrangements I also consulted the Council's drainage engineer. He has confirmed that he has no objection to this retention application.

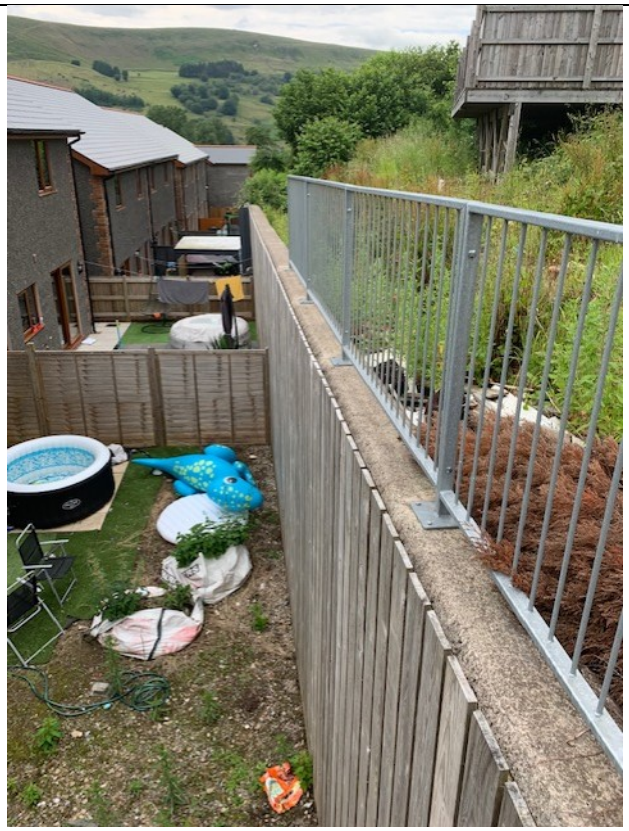
5.58	In the absence of any information to the contrary and with the benefit of knowing that Welsh Water have agreed the drainage proposals (agreements dated 2017 and 2019 respectively) I consider it reasonable to assume that the drainage arrangements made are acceptable. It is also of note that whilst the surface water drainage arrangements for the site might not conform with current surface water drainage requirements it is a matter of fact that this development was designed and built pre the legislative changes that saw the introduction of mandatory sustainable urban drainage systems. I my opinion it would be unreasonable of the Authority to impose present drainage requirements to a development that was first presented to the Authority nearly seven years ago and was substantially completed approximately 3 years ago. Notably if there are any drainage issues in relation to the site I am reasonably confident that it would be within the gift of other regulators to address such issues. Accordingly, I see no reason for this application to be refused for a drainage related reason.
	<u>Geotechnical</u>
5.59	In considering geotechnical issues the Planning Inspector dealing with the 2015 appeal imposed a condition requiring intrusive site investigations to assess the stability of the land, the presence of shallow mine workings and potential contamination. The condition (No 4) required such investigations to be undertaken before any development commenced and the submission of a validation report certifying that any identified measures had been implemented before the dwellings were occupied.
5.60	To accord with the requirements of condition No 4 the developers submitted a Geotechnical and Geo-environmental Report which the LPA deemed acceptable following consultation with the Coal Authority and the Council's Geotechnical Engineer and Environmental Health Officer. After the said information was considered the LPA confirmed in writing to the applicants that the condition had been fully discharged. Technically this overcame the need for the developer to submit validation reports at the pre-occupation stage, contrary to the wording of the actual condition.
5.61	However, in support of the current retention application the agents have sought to provide information that would demonstrate to the Authority that the engineering measures identified in Geotechnical report were fully implemented as part of the development. This information includes photographs taken during the foundation construction stage and correspondence from the Authority's Building Control Section confirming the properties were constructed off mass strip foundations, with the exception of the dwellings now known as 6-7 Rhes yr Ysgol which were constructed off a

	raft foundation. This effectively confirms that all properties were constructed off a foundation design that complied or exceeded the recommendations of the Geotechnical report.
5.62	Copies of the geotechnical report submitted originally to discharge condition No 4 and the further information provided by the current agents were forwarded to the Coal Authority and the Council's geotechnical Engineer as part of the consultation process on the current retention application. Whilst The Coal Authority confirmed that they had no objection to the development from a coal mining perspective they did advise that as part of its wider assessment of ground conditions the LPA should consider the potential risks that might be posed to the development from historic ironstone mining. This issue was specifically referred to the Council's geotechnical engineer who has since confirmed (following sight of correspondence from the applicant's specialist geologist) that past ironstone workings do not pose a significant risk to the development.
5.63	With regard to the evidence submitted which seeks to verify that the works undertaken were as per the recommendations of the report the Council's engineer is satisfied that the photographs provided by the Council's Building Control Officer and the fact that the construction of the foundations were overseen by officers from the Council's Building Control Section is sufficient on this occasion to satisfy him that the foundations have been constructed as per the recommendations of the approved Site Investigation Report. It should also be borne in mind that ultimately the responsibility for implementing a development in a safe and responsible manner lies with the developer and his advisors.
	Infrastructure works
5.64	Having regard to local topography (in particular the significant differences in site levels between the site and surrounding land) it was apparent from the outset that to facilitate the development there would be a need for a new retaining structure along part of the sites northern boundary. The approved site layout plans showed that a new 2.0 metres high retaining wall would be required along this boundary over a distance of approximately 25metres as measured from the sites north eastern corner. The plans also showed that an existing retaining wall along the remaining northern boundary would be retained.
5.65	In dealing with the 2015 appeal the Planning Inspector considered it appropriate to impose a condition that required the submission of the finishing and constructional details of any retaining wall or works required in association with the approved buildings (Condition No 5).

5.66	The DOC application submitted in 2015 provided structural calculations for reinforced pot block retaining walls of both 2 and 3 metres in height which the LPA approved. I have noted however that there was no plan submitted at that point that might have indicated the position and extent of walls of differing height.
5.67	I have become aware however from the investigations made into the implementation of this scheme and statements made by the current agent that when works commenced on site issues arose in relation to the retaining works required along part of the sites northern and eastern boundaries. Photographs 12-14 below show the extent of the excavation works undertaken at the initial development stage (circa 2018) and the mass concrete retaining walls provided as part of the development to retain the garden areas to the north and the highways footpath to the east.

Photograph 12: showing site excavations prior to construction works commencing

5.68	I understand that during this initial development stage the developers made contact with officers in Building Control and in the Engineers Section and that an agreement was reached regarding the revised height and structural design of the retaining walls that were required to meet the unexpected site circumstances. I can find no record of the changes required to the retaining structures being brought to the attention of staff in the planning division.



Photograph 13: showing the large retaining wall faced with timber boarding provided to the rear of properties 4-7 Rhes Yr Ysgol

Photograph 14: showing mass concrete retaining wall supporting the highway footway on the sites eastern boundary

5.69	In support of this retention application the agents have provided copies of revised structural calculations for retaining walls of the height and design constructed on site and a structural design certificate signed by chartered engineer which certifies that the 2.0 metre wall designed to support the footpath on the sites side (eastern boundary) and the 3.5metre retaining wall provided to support the elevated gardens along the northern boundary have been appropriately designed. The Council's structural engineer had previously confirmed that he was satisfied with the design details provided and has confirmed that he is satisfied that the walls provided were constructed as proposed.
5.70	Whilst I may have had no significant planning concerns regarding an increase in height and the change to design of the retaining wall that was provided what is of concern is that this was done without reference to the LPA and that in implementing this change it appears that the developer also opted raise the finished floor levels of the houses constructed on site. To construct the houses at the approved finished floor levels it is likely that the retaining walls would have needed to be even higher and this would have inevitably had financial implications. It is now become apparent that choosing to raise the finished floor levels of the houses without reference to the planning department has had significant impact on other aspects of the development and is likely to have been responsible for what now appear to be unsurmountable planning issues – namely unacceptable drive gradients, and raised frontage gardens and boundary treatment that impede visibility. I shall refer to this issue in greater detail later in the report.
5.71	In summary, whilst there may be no objection in principle from a planning perspective to changes that were required to infrastructure works to respond to on site circumstances i.e. increasing the height of and providing additional retaining walls to those approved the implications of the changes made on other aspects of the development are significant and raise fundamental planning concerns.
	Highway Works
5.72	The layout plan approved at appeal indicated that a new 1.8 metres footway with vehicular crossing points constructed to highway authority specification would be provided across the frontage of the site. The highways officer had also requested at the application/appeal stage that an informal tactile pedestrian crossing point be provided at the junction of Cwmcelyn Road. The Inspector supported the need for both these highways improvements and included a condition (No 9) requiring the submission of full details of these improvement works before development commenced on site. The condition also required all approved works to be implemented before the dwellings were

	occupied. Full details were submitted and approved by the LPA in 2015 (DOC App C/2015/0204) following consultation with the highway authority.
5.73	Whilst a 1.7 wide metre footpath which is acceptable to the highway authority has been provided across the frontage of the site the pedestrian crossing point on the Cwmcelyn Road junction has not been provided to date.
5.74	The plans submitted as part of this application by the current agent shows the position of a proposed pedestrian crossing point and if the application was to be approved a condition could be imposed that would require its provision within a specified timescale. However, the highways engineer has advised that the position shown on plan is unacceptable as it has been located in line with an existing road gulley. The officer has advised that the crossing point should either be repositioned or the gulley moved to accommodate the crossing. He has also advised that dependent upon where the crossing might be provided it is highly likely that the footway on the opposite side from the development will also need to be widened such that it is a minimum 1.0m wide over an appropriate distance to comply with mobility equality requirements.
5.75	Having been advised of these concerns the agent has confirmed that his client is prepared to install the accessible pedestrian crossing point and was of the opinion that matter has been previously discussed and resolved with the contractors.
5.76	It is apparent from the above that there is a general acceptance by the developer of the need to provide an informal tactile pedestrian crossing point on Cwmcelyn Road – it is the detail of its position and the extent of the associated works that need to be further discussed. In such context I consider that this issue is one that could be resolved by a suitably worded condition. The condition would need be specific in terms of a timetable for the submission and approval of details and subsequent implementation of approved works. In summary I see this as an outstanding issue that could be resolved.
	<u>Parking spaces, driveway gradients and associated visibility splays</u>
5.77	Condition No 1 of the planning approval required the development to be implemented as per the approved site layout plan and site sections. The approved plans indicated that • 3 garage/parking spaces would be provided relative to each property; • that driveways would be provided at acceptable gradients and surfaced in paviors; and that • acceptable visibility splays could be achieved relative to each point of vehicular access.

5.78 Condition No 11 of the Inspectors decision notice specifically required that the dwellings should not be occupied until the access driveway and parking areas relating to those dwellings were constructed, surfaced and drained as per the details shown on the approved plans and that the areas provided be retained for their designated purposes at all times.

5.79 I shall address the situation relative to each requirement separately below:

5.80 i) <u>Parking Spaces</u>
The initially approved site layout proposed that each dwelling to be erected would benefit from three parking spaces – one garage space and two driveway spaces per dwelling. This was the level of parking provision calculated as being necessary at that time to meet the needs of dwellings of the sizes being erected on the site.

5.81 The development as implemented is significantly different to that which was approved. The approved layout plan showed a double width parking space in front of each garage (6.4metres wide). The layout plan submitted as part of this application shows that each individual driveway has been reduced to widths varying between 4.4 and 5.5 metres. This reduced width has enabled the developer to provide gardens of increased width on the frontage of each dwelling. Photographs 15 - 16 below provide a visual explanation of the typical parking area that is available on site.

Photograph 15 : showing driveways fronting 2-3 Rhes yr Ysgol – width reduced from that indicated on the approved plans. Individual driveways capable of accommodating one vehicle rather that the two indicated on the approved layout plans..

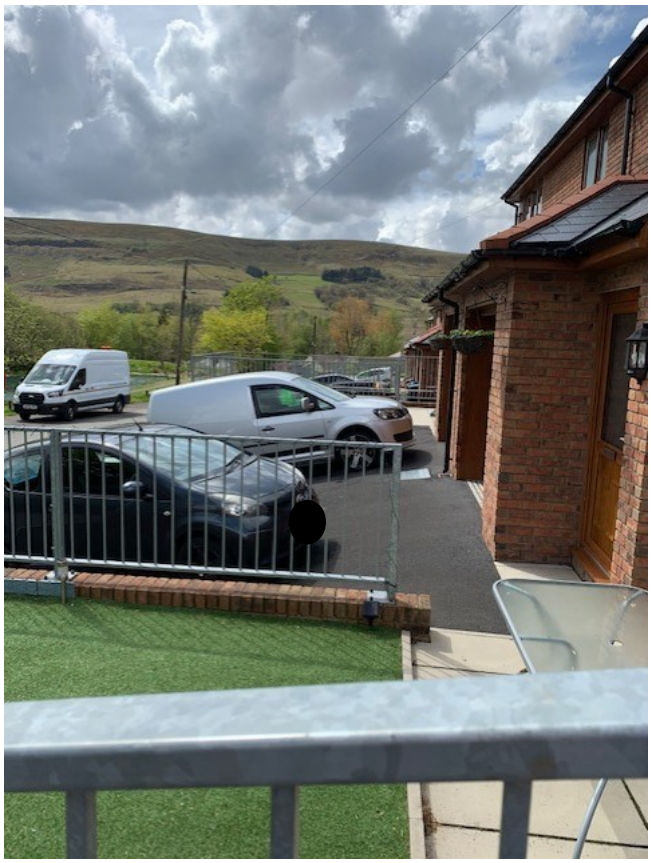
Photograph 16: showing reduced width of driveway to 1 Rhes yr Ysgol and an indication of changes which suggest that garage has been converted to living accommodation

5.82 In support of the current application to retain the houses the agent has argued that if the sustainability criteria listed in the Authority's approved Access Parking and Design SPG 2014 are applied the number of parking spaces required could be reduced from three to two per dwelling. He accordingly contends that one garage space per property and one driveway space would be sufficient.

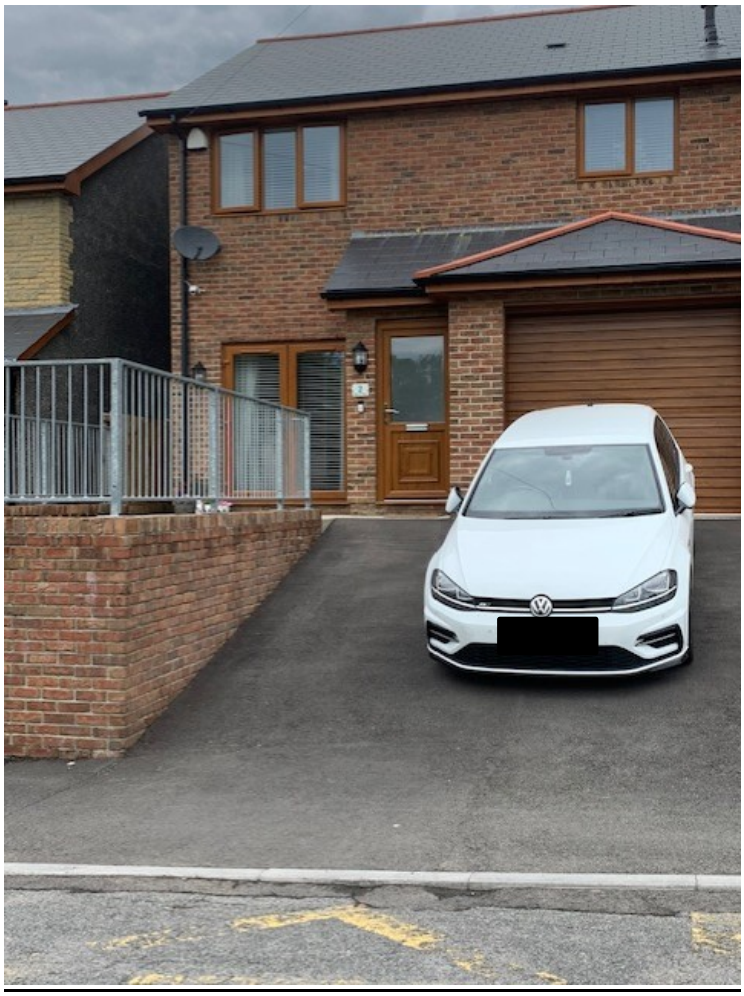
5.83 Having been consulted on this issue the Authority's highways engineer has advised that whilst he does not accept the sustainability score of 12 points as calculated in the agent's submission he is prepared to agree a sustainability score of 8 points which would justify the consideration of a reduction of parking from three spaces to two spaces per dwelling. Whilst the highways engineer and the agent do not necessarily agree on how and what scores are calculated I am content that there is now agreement on the number of parking spaces that are required – two spaces per property.

5.84 It should also be noted that during pre- application discussions the highways officer also questioned practicality of using the integral garages as garages for two reasons – he questioned their size and questioned whether all garages were accessible due to the gradient of the drives that served them, highlighting the likelihood that cars being driven into some of the garages would ground on the driveways. To counter such arguments the agents have provided an e-mail from the contractor that confirms the internal dimensions of garages of the semi's to be 2.950 x 5.950 and the detached house to be 3 x 6metres. At least

	one owner occupier has also indicated verbally that they can access the garage without grounding. The highways engineer accepts that garages of the dimensions indicated could be accepted as parking spaces however he remains unconvinced regarding the grounding issue and is concerned that in practice this could mean that the garages would be seldom used for parking purposes. Whist I understand and share such concern I am not entirely convinced that his scepticism regarding the practicality of using the garage spaces for parking would justify refusing the current application. It must be recognized that is quite common for property owners to use their garages for purposes other than parking of vehicles. In reality each property in this case would continue to have the option to park one vehicle on the driveway. I have also considered whether we should attribute some weight to the fall back position – that the site was occupied by a school which was likely to generate significantly higher parking requirements. However I have concluded that this would be inappropriate in this case. Whilst I feel that refusing the current application on the parking numbers issue alone may be viewed as being unreasonable I also have reservations regarding the LPA allowing development with only one parking space per dwelling when the use of sustainability criteria has already reduced the requirement from three to two.
5.85	Notably when the site was recently visited it was also noted that the garage at 1 Rhes yr Ysgol appears to have been converted into living accommodation. This issue was raised with the agent however he has asked that this be dealt with separately as in his opinion this it is not an issue that can be reasonably attributed to his clients. Whilst I initially thought that the use of this garage as living accommodation might be in direct contravention of any condition of planning approval that might require two parking spaces to be retained for each dwelling it has since been established that the driveway to this property is already wide enough to park two vehicles. From a <u>layout perspective only</u> therefore this is not an issue however the gradient and visibility issues relating to all other plots would continue to apply to this property and would need to be overcome.
5.86	In summary, on the issue of parking it is accepted by the highways engineer that two parking spaces per dwelling would be sufficient. Subject to the proviso that other related issues could be resolved (gradients and visibility) I have concluded that it is feasible that the car parking issue could be resolved if a condition was imposed on any approval that would require two no. parking spaces and/or garages spaces relative to each property to be retained for such purpose at all times.

5.87	ii) <u>Driveway gradients</u> The list of plans approved at appeal included a site layout plan which confirmed site levels and finishes floor levels of the proposed properties and site sections and street views that provided a scaled representation of differences in finished ground/floor levels across the site. Based on these details it was to be expected that all driveways (positioned between the garages and back of highways footpath) would be provided at an acceptable gradient.
5.88	The gradients evident on site however are far greater than what was anticipated Photographs 17-19 below provide Members with visual representation of the steepness of the driveways fronting some of the properties.  Photograph 17: showing vehicles parked on the driveways to 6-7 Rhes yr Ysgol

Photograph 18: showing vehicles parked on driveways at 6-7 Rhes yr Ysgol



Photograph 19: showing steepness of driveway on frontage of 2 Rhes yr Ysgol

5.89 When consulted on the current application the highways engineer requested a copy of the topographical survey drawing that had been prepared and used in pre application discussions by the agents. The agents agreed to provide such details and for them to form part of their submission. Having assessed such details the highways engineer advised as follows:-

> *Gradient of driveways: Private drives should have a maximum gradient of 1:6 (in accordance with Building Regulations). Where the gradient is more than 1:10 and the gradient changes, suitable transition lengths should be provided to reduce the risk of vehicles grounding. Drives should also be designed to permit a motor car reasonable access to and from a garage or car parking area. This is not the case with this application, with gradients exceeding 1 in 6 for the majority of driveways (as clearly demonstrated by the as-built topographical survey). The highway authority has concerns as to the high risk of vehicles sliding off the drives in icy/inclement weather. It is also difficult to envisage that the garages for several plots are even accessible by a vehicle without grounding.*

5.90 The topographical drawings provided by the agent confirm the driveway gradients of 4 of the properties to be as follows :-

Property	Driveway Gradient On topo plan
1 Rhes yr Ysgol	1: 5.6
3 Rhes yr Ysgol	1: 4.85
5 Rhes yr Ysgol	1: 5.8
7 Rhes yr Ysgol	1: 4.8

5.91 It is apparent however from examining the survey drawings that the agents have chosen to provide gradient information for three properties which have been calculated upon the surveyed levels at the centreline position between each pair of semi-detached properties. It is evident from visiting the site and noting how the road level drops from east to west that the gradient of the westernmost property of each pair will be marginally steeper again than the details provided. It will be seen from the above that the gradient of the driveways for every property listed above is steeper than the maximum gradient of 1:6 referred to in the Building Regulations – those relating to driveways to 2,4 and 6 are likely to be steeper again. Members may also recall that typically when dealing with planning applications this and other LPA's require gradients of 1:8.

5.92 What is also evident from the topographical survey is that the finished floor level and resulting ridge levels of the houses as erected all exceed the levels that were approved at appeal.

The differences can be best explained by the following table:-

Property	Approved FFL	As Built FFL (Topographical survey)	Difference (metres)
1 Rhes yr Ysgol	331.00	331.84	0.84
2 Rhes yr Ysgol	331.64	332,28	0.64
3 Rhes yr Ysgol	331.64	332.28	0.64
4 Rhes yr Ysgol	332.40	332.79	0.39
5 Rhes yr Ysgol	332.40	332.79	0,39
6 Rhes yr Ysgol	333.37	333.73	0.36
7 Rhes yr Ysgol	333.37	333.73	0.36

5.93 It will be noted from the above that the amount the finished floor levels of the houses have been raised above the approved level has varied between 0.36 – and 0.84m. Whilst I have no significant concern regarding this increase in height of properties from a visual perspective (having given particular regard to the topography of the area and the context of the site) the decision to raise the levels of the properties has obviously had an unintended consequence i.e driveways of an unacceptable gradient.

5.94 The agents to this application have fully acknowledged in correspondence that the gradients of driveways exceed those approved. They contend that '*this was as a result of having to install an unanticipated retaining wall to the rear and south of the site'.* What appears to have happened is that during the construction phase ground collapse to the rear (north) and side (east) of the site necessitated the construction of higher and additional lengths of retaining walls than those initially envisaged. In order to minimise the unplanned expense of such walls it appears that the decision was made to raise the slab levels of the dwellings. This in turn had the effect of increasing the steepness of the driveways.

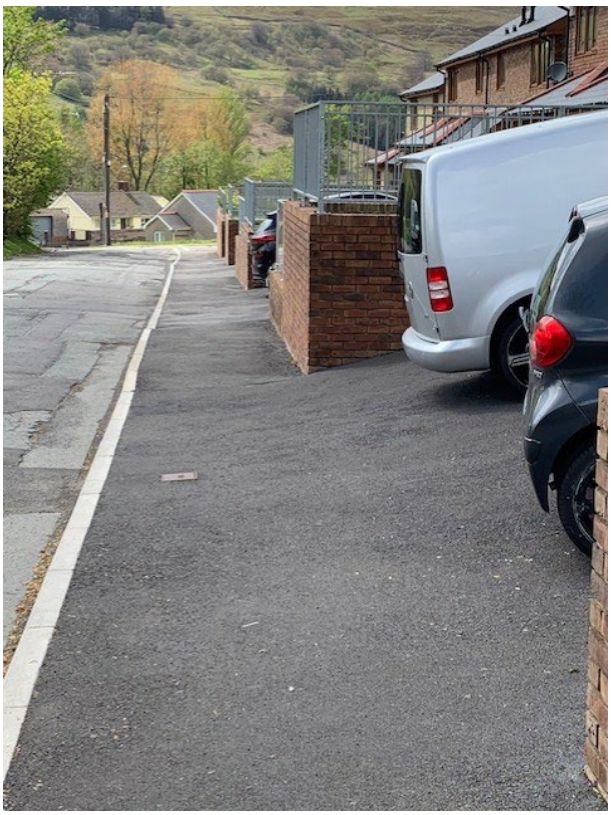
5.95 The LPA must now determine if the gradients of the driveways are so steep at to render them unacceptable from a highway safety perspective. The highways engineer's advice is clear – the gradients exceed the maximum gradient that is deemed acceptable under the Building Regulations and the configuration of the site is such that there is no opportunity to provide the transition lengths that should be provided where driveway gradients exceed 1 in 10 to reduce

	the risk of vehicles grounding. The highways engineer is concerned that the gradients of the driveways on site are such that '*there is a high risk of vehicles sliding off the drives in icy/inclement weather'* and that *'it is also difficult to envisage that the garages for several plots are even accessible by a vehicle without grounding'.* In taking a view on this issue I fully realise that Members may compare the gradients of these driveways with others private drives they may have seen elsewhere in the Borough or the steepness of gradients of some adopted highways in the Borough – including some which bound this site. I must highlight however that what the LPA is being asked to do in this instance is to approve retention of a new development that is clearly contrary to current standards and the advice of its professional officer. Those examples that may be evident across the Borough are highly likely to have resulted from past or possibly unauthorised development. It is my opinion that approving these driveways without modification would carry a high and unacceptable level of risk.
5.96	I am also mindful that excessive driveway gradients would be prejudicial to those using the properties as such standards have been introduced into the Building Regulations with view to safeguarding the interests of persons with mobility issues and there is no doubt that entering and disembarking from vehicles and accessing the properties concerned on foot where gradients are so steep are likely to cause significant problems to most users. Approval of such development would run counter to Policy DM1.3 c of the adopted LDP in that it would fail to make appropriate provision for people with special access and mobility requirements.
5.97	The agent has argued in his submission that the only solution to this breach is the wholesale demolition of the properties – what he terms a 'nuclear solution'. Whilst I fully accept that there may be no obvious solution to the gradient issue and the fact that the properties themselves are owned by third parties who would have to agree to any required works makes the situation further complicated, on balance I do feel that such difficulties can reasonably justify allowing a development that is viewed by the authority's professional highways engineer as being unacceptable for highway safety related reasons. **On such basis I conclude that the gradients of the driveways as constructed are unacceptable and retention of the development should be refused on such grounds**. iii) <u>Visibility splays</u>
5.98	The approved layout plans and the approved street view drawings indicated that visibility splays at the point of access/egress onto the frontage highway would be acceptable. The frontage boundaries would be demarcated by

	900mm stonework walls and the details subsequently submitted to discharge condition No 10 of the approval reiterated this.
5.99	The details now submitted indicate that the walls/enclosures which lie adjacent to the access drives exceed 1.05 metres in height. In some instances they extend to 1.5 metres. Whilst some boundaries are wholly demarcated by solid built brick walls, in other cases there are galvanised railings and glazed panels at upper levels. Photographs 20 – 23 below are considered helpful to explain the circumstances on site.

Photograph 20: taken from south west corner of site showing high brick walls adjacent to vehicle access points

Photograph 21: taken from south west corner of site showing high brick walls near junction of Cwmcelyn Road and Bryncelyn Hill.



Photograph 22: Photograph showing frontage of site where vehicles would access/ egress over highway footpath with limited visibility.

Photograph 23: Photograph showing frontage of site where vehicles would access/ egress over highway footpath in close proximity to high brick retaining walls.

5.100 During pre-application discussions with the agents the highways engineer has repeatedly raised the lack of adequate visibility splays as an issue of significant concern. In his formal response to this application he advised as follows:

5.101 *Visibility splays: A 2.0m x 2.0m vision splay is acceptable for a driveway at this location, subject to there being no obstructions to visibility. This application proposes for the driveways to remain as constructed, immediately adjacent to walls/enclosures above 1.05m in height. This will result in drivers being unsighted to pedestrians/vulnerable road users when exiting the driveways. The introduction of some fencing or other landscaping is advised in order to retain the afore-mentioned splays, alternatively the existing enclosures reduced in height such that the driveway vision splays are not impeded.*

5.102 What is clear from this response is that the highways engineer is not prepared to accept the access drives as constructed without some form of modification that would address the visibility issue – a physical barrier that would restrict where a vehicle could be parked within the constructed driveways or a reduction in height of the frontage boundary enclosures.

5.103	Having received the engineers comments I contacted the agents and asked them to clarify if their client wished to make any adjustments to their plans that might overcome his objections. The agent confirmed that his clients have requested that their application be presented to Committee as submitted/built. They have opted for this as they believe that they were told to proceed with the development by the Local Authority following a site inspection undertaken in relation to the height of the first two dwellings erected on the site.
5.104	There are no records of an officer from the planning section visiting the site or commenting on the height of any buildings erected on the site during the construction stage. The first record of any comment being made to a planning officer regarding the height of the slabs is a file note made after a site visit with the developers when the site was substantially finished. During that meeting one of the developers conceded that the dwellings had been erected at a level approximately 500mm higher than approved. The information provide in support of the current application demonstrates that the properties have been raised by between 360mm and 840mm. I this respect I would also wish to make clear that any building control or engineering personnel visiting the site would have been there to advise or inspect works from their own regulatory perspective only – the responsibility for ensuring that any changes made as a result of such discussions did not contravene or have implications in terms of other approvals e.g. conditional planning permission, rests with a developer.
5.105	In addressing the visibility splay issue the agent has cited the applicable standard as being Geometric Standards for Direct Access vol. 6 section 2, part 7 diagram 2/2. I am advised that the relevance of such standards to this case is questionable as the references made are from design guidance intended for Roads and Bridges and is commonly used for trunk road situations rather than roads of the classification which are applicable to this application. The advice used for cases of this nature would be Manual for Streets.
5.106	Notwithstanding the above, whilst the highways engineer has agreed to the use of the 2 x 2metre visibility splay standard argued by the agent what he does not accept is the agent's interpretation of how that standard can be met on site. The only manner which this could be achieved would be if physical restrictions were introduced that would restrict vehicles to parking on specified areas of each drive only. The agent has not presented details of any measures that might achieve this nor has he sought to mitigate the situation by proposing some reduction to the height of boundary walls. It would obviously be for the highways engineer to determine whether such measures might have alieved some or all of his concerns.

5.107	Notably one of the anonymous objections received highlighted what was alleged to be a lack of visibility on the junction of Cwmcelyn Road and Bryncelyn Hill. It was claimed that the high brick wall now evident on that junction caused a blind splay and *'was an accident waiting to happen'*. The highway engineer has checked this issue on site and is satisfied that having regard to the road alignment and priorities there is no visibility issue at this point.
5.108	On balance I have concluded that I am bound to concur with the highways officer in relation to the visibility splay issue. To approve development which fails to provide adequate visibility at the points of access/egress onto the public highway would in my view be reckless particularly as the officer advice is that such development would compromise the safety of users of the public highway. Such approval would run counter to the requirement of Policy DM1.3a which requires all development to have regard to the safe and effective and efficient use of the transportation network. **I accordingly conclude that the substandard visibility splays provided at the site render the development unacceptable and that the application to retain the dwellings should be refused on such basis.**
6. Legislative Obligations	
6.1	The Council is required to decide planning applications in accord with the Local Development Plan unless material considerations indicate otherwise. The planning function must also be exercised in accordance with the principles of sustainable development as set out in the Well-Being of Future Generations (Wales) Act 2015 to ensure that the development and use of land contributes to improving the economic, social, environmental and cultural well-being of Wales.
6.2	The Council also has obligations under other legislation including (but not limited to) the Crime and Disorder Act, Equality Act and Human Rights Act. In presenting this report, I have had regard to relevant legislation and sought to present a balanced and reasoned recommendation.
7.0	**Conclusion and Recommendation**
7.1	Members will appreciate from the above that this is a complicated and challenging case.
7.2	Planning permission was gained via appeal for a development of seven houses and all pre commencement conditions were discharged before works commenced.

7.3	The Local Planning Authority did not monitor the development – proactive monitoring of development sites was suspended when the number of staff in the enforcement/compliance section were halved to two a number of years ago. In any event, legally it falls on developers to be responsible for ensuring that they implement schemes in accordance with approved details.
7.4	Following receipt of a complaint regarding the development (received when the development was substantially complete and most of the properties sold to third parties) it was established that several elements of the development had not been implemented as approved.
7.5	When the site was audited and the extent of the discrepancies established it was agreed with the developer that the only practical means of addressing the issue was to submit a planning application for the retention of the houses – supported by as much information as they could provide that might address or overcome the identified issues.
7.6	The application has been considered carefully and relevant consultees have been given the opportunity to consider whether the application to retain the houses can be supported from their various specialist perspectives.
7.7	Of all the identified issues it is concluded that the development as implemented does not raise any significant visual, landscape, drainage, geotechnical nor infrastructure concerns. Whilst there are highway improvement works outstanding (the provision of a tactile pedestrian crossing point on Cwmcelyn Road) I am satisfied that this issue could be addressed by a suitably worded planning condition. I am also satisfied that the imposition of conditions that would ensure that two parking/garage spaces within the curtilage of each property would secure a level of parking provision that would be acceptable for this development.
7.8	**There remain however two substantive highway related issues - the gradients of the driveways and the inadequate visibility splays at the vehicular access/egress points.**
7.9	The highways engineer is of the opinion that ‘as built’ driveway gradients far exceed current standards and that there would be a high risk of vehicles sliding off the drives in icy/inclement weather. He also advises that the lack of adequate visibility splays at the point of access onto the public highway is of significant concern and would constitute a danger to highway users, particularly pedestrians that might be walking along the footpath.

7.10	Conversely the agent contends that of the eleven issues raised with his client that ten have been addressed and on the basis that what he considers is the only unresolved issue (driveway gradients - which considers can only be addressed by wholesale demolition of the properties) he requests that the LPA support this application.
7.11	On balance whilst appreciating the difficulties that this view might cause to a number of affected parties I cannot set such concerns aside. Accordingly, I consider I have no option but to support the highways officer and recommend that the development as implemented is unacceptable for highway safety reasons.
7.12	I fully acknowledge that Planning Authority is faced with making a very difficult decision which could have severe and long lasting consequences on the applicant company and the owners of the individual properties. The decision it takes will also potentially have significant implications for the Planning Authority in terms of its future credibility and its willingness (or otherwise) to challenge unacceptable development.
7.13	Members must carefully consider whether they are prepared to:- A. adopt a high risk approach by approving a form of development which clearly does not meet adopted standards and is viewed by the highways authority as being unacceptable on highway safety grounds (which in itself could be used by third parties in the future to argue over the justification and acceptance of further unacceptable development in the Borough) OR B. accept the advice of its highway officers and refuse the application on the basis that the potential consequences of approving a form of development that poses a potential danger to users of the adopted highway cannot be supported - irrespective of the consequences such a decision may have on the developer and other third parties concerned (the current owners of 1 -7 Rhes yr Ysgol).
7.14	Having considered this issue at length and having noted that no measures have been presented in this submission that might have overcome (or partially overcome) the identified concerns I have concluded that on balance that I have no option but to recommend to Members that in accordance with their responsibility as a planning authority to protect the public interest as opposed

	to the interest of any private individual they should follow the advice of their professional highways officer and refuse planning permission for the retention of the dwellings for the reason cited below.
7.15	Planning permission be **REFUSED** for the following reason(s): The application to retain the seven dwellings erected on the former Cwmcelyn School site is unacceptable on the basis that the development 'as built' fails to meet the requirements of Policy DM1.3 a and c. of the Adopted Blaenau Gwent Local Development Plan. The steep gradient of the driveways which provide parking for the dwellings and the inadequate visibility splays at the point of access/egress from the driveways fall significantly below recognised standards. Their continued use could cause significant dangers to users of the adopted highway.
8. Risk Implications	

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BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to	**Planning, Regulatory & General Licensing Committee**
Report Subject	**Planning Appeal Update: Land rear of Park Hill Tredegar** **Ref.: C/2017/0193**
Report Author	**Jane Engel**
Directorate	**Regeneration and Community Services**
Date of meeting	**22nd July 2021**
Date Signed off by Monitoring Officer	

Report Information

1. Purpose of Report

To advise Members of the decision of the Planning Inspectorate in respect of a planning appeal against the refusal of planning permission ref: C/2017/01930.

The appeal related to the proposed construction of 4 no, new detached dwellings served by a new private shared driveway with parking provision for 2 no cars on each plot, including landscaping and services as well as off-site highway improvement works on land adjoining Park Hill Road, Park Hill, Tredegar.

The application was refused under delegated powers on 24th November 2020.

2. Scope of the Report

Officers were of the view that erection of four dwellings of the size and in the positions proposed would constitute overdevelopment of the site. It was considered that due to configuration and topography of the land the dwellings would have limited amenity space and the development would have appeared cramped. It was concluded on such basis that the development would have had a detrimental impact on the visual amenities and character of the surrounding area. The development was therefore considered to be contrary to policies DM1 2b and DM2a of the adopted Blaenau Gwent Local Development Plan 2012.

The applicant appealed this decision on the grounds that planning permission should have been granted. The Inspector's decision was received on the 9th June 2021 (the decision letter is attached for Members Information).

In summary, the Inspector dismissed the appeal. She was of the opinion that the development would present as an anomaly given that the detached dwellings in the immediate vicinity of the appeal site occupy a much smaller portion of their plots, resulting in greater visual relief and spacing around them. In comparison the proposed dwellings would appear to be excessively large relative to the size of their plots and, with little spacing between would read as cramped.

In conclusion, the Inspector considered that the proposed development would conflict with the aims of Policies DM1 and DM2 of the LDP which require new development to have no adverse visual impact and to be appropriate to the local context.

Accordingly, she **DISMISSED** the appeal.

3. Recommendation/s for Consideration

1. That Members note for information the appeal decision for planning application C/2017/0193 as attached at **Appendix A**.

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 25/05/21

gan Melissa Hall, BA (Hons), BTP, MSc, MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 9/6/21

Appeal Decision

Site visit made on 25/05/21

by Melissa Hall, BA (Hons), BTP, MSc, MRTPI

an Inspector appointed by the Welsh Ministers

Date: 9/6/21

Appeal Ref: APP/X6910/A/21/3270862

Site address: Land adjoining Park Hill Road, Park Hill, Tredegar

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Andrew Jenkins against the decision of Blaenau Gwent County Borough Council.
- The application Ref: C/2017/0193 dated 3 May 2017, was refused by notice dated 24 November 2020.
- The development proposed is described as 'Construction of 4 no. new detached dwellings served by new private shared driveway with parking provision for 2 no. cars on each plot, including landscaping and services as well as off-site highway improvement works'.

Decision

1. The appeal is dismissed.

Main Issue

2. This is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

3. The appeal site is a narrow, linear plot, which is located between the rear of a car garage fronting Park Hill to the west and the private rear gardens of the dwellings on Cefn Parc to the east. Due to the topography of the area, there is a significant difference in the ground levels between the site and the neighbouring built form; there is a retaining wall of considerable height forming a significant part of the western site boundary whilst there is a vegetated bank sloping down towards the rear boundaries of the gardens of the dwellings in Cefn Parc.

4. The site is accessed off Morgan Terrace. Although there is a row of terraced dwellings fronting Morgan Terrace adjacent to the junction with Park Hill, its character becomes more akin to a rear service lane providing access to garages and off-street parking for the dwellings fronting Park Hill, Inkerman Terrace and Cefn Parc.

5. The surrounding area is predominantly residential in character. It is comprised of detached, semi-detached and terraced dwellings of varying design, scale and form but which, with the exception of the terraced properties, each have front and rear gardens for the most part. Whilst I note the appellant's contention that there are terraced properties on Morgan Terrace and at 2 Cefn Parc with a built form to amenity space ratio similar to that proposed, I do not consider these small gardens are directly comparable to the appeal proposal before me given that their layout and configuration differs. Neither do they detract from the character of the area or undermine the more generous plot sizes associated with the majority of the dwellings in closer proximity to the appeal site.

6. I do not dispute the appellant's contention that the site area for 4 dwellings is 0.17 ha, thereby achieving a density of 24 dwellings per hectare which is recognised as low-medium density. However, the siting of the proposed dwellings is constrained by the shape of the site and the need to provide a shared private driveway along its length. The result of which is that the dwellings on Plots 1 and 2 would adjoin the boundaries of the rear gardens of the closest Cefn Parc dwellings, with a minimum separation distance between each other, a limited amount of amenity space distributed around them and only a driveway width's separation from the western site boundary consisting, in part, of the retaining wall of considerable height. Meanwhile, the dwellings on Plots 3 and 4 would occupy almost the full width of the site at its southern end (where the site widens), resulting in the separation between the two almost indistinguishable when viewed from their principal front elevations. Whilst the dwelling on Plot 3 may have a more generous amount of private amenity space to the rear, it would not be read from within the wider site. Rather, when looking towards Plots 3 and 4 from the shared private drive, it would be mostly the hardstandings for the parking of vehicles that would be visible with the monolithic form of the dwellings in the background.

7. Overall, they would present as an anomaly given that the detached dwellings in the immediate vicinity of the appeal site occupy a much smaller proportion of their plots, resulting in greater visual relief and spacing around them. In comparison, the proposed dwellings would appear to be excessively large relative to the size of their plots and, with little spacing between them, would read as cramped. Whilst I do not dispute that a level of amenity space would be provided to serve each dwelling, its dispersal around each of the dwellings as small 'pockets' of garden would undermine its useability and effectiveness in providing visual relief to the built form.

8. To this end, the development would appear cramped leading to overdevelopment on this parcel of land. Whilst I accept that the site is not visible from the main road of Park Hill, it is nonetheless viewed from the public realm along Morgan Terrace which provides the context for the site's development.

9. Thus, the proposal would result in visual detriment thereby causing unacceptable harm to the character and appearance of the area. It would conflict with Policies DM1 and DM2 of the adopted Blaenau Gwent Local Development Plan 2012 which require new development to have no adverse visual impact and to be appropriate to the local context.

Other Matters

10. I accept that the site is located within the settlement boundary and would deliver much needed housing in the area. Be that as it may, I do not consider that this matter outweighs the harm to the character and appearance of the area in the balance of acceptability.

Conclusion

11. For the reasons I have given, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

12. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of building healthier communities and better environments.

Melissa Hall

INSPECTOR

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Report Date:
Report Author:

BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to	**The Chair and Members of Planning, Regulatory and General Licensing**
Report Subject	**Appeals, Consultations and DNS** **Update July 2021**
Report Author	**Service Manager Development & Estates**
Report Date	**12th July 2021**
Directorate	**Regeneration & Community Services**
Date of meeting	**22nd July 2021**

1.0	**Purpose of Report**
1.1	To update Members in relation to planning appeal and related cases.
2.0	**Present Position**
2.1	The attached list covers the “live” planning appeals and Development of National Significance (DNS) caseload.
3.0	**Recommendation/s for Consideration**
3.1	That the report be noted.

	Application No Appeal Reference Case Officer	Site Address	Development	Type Procedure	Sit Rep
1	C/2017/0193 APP/X6910/A/21/3270862 Jane Engel	Land at the rear of Park Hill Tredegar	Construction of 4 no new detached dwellings with associated parking. Landscaping and off site highway improvement works	Refusal of planning permission Written Reps	Decision received **Appeal Dismissed** Refer to separate report on this agenda
2	CO/2019/000101 APP/X6910/C/21/3268852 Jonathan Brooks	1 Hawthorne Glade Tanglewood Blaina	Without planning permission, the construction of steel framed raised decking	Enforcement Notice Written Reps	Awaiting Decision.
3	C/2021/0033 APP/X6910/A/21/3273885 Joanne White	Land rear of Newall Street & Gelli Grug Road, Abertillery	Outline for new build	Refusal of planning permission Written Reps	Awaiting Decision.
4	C/2020/0282 APP/X6910/A/21/3276988 Jane Engel	Maes y Dderwen Charles Street Tredegar	5 Bedroom supported living unit and associated works	Refusal of planning permission Written Reps	Questionnaire submitted.

BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to	**The Chair and Members of Planning, Regulatory and General Licensing**
Report Subject	**List of applications decided under delegated powers between 25th May 2021 and 9th July 2021**
Report Author	**Senior Business Support Officer**
Report Date	**12th July 2021**
Directorate	**Regeneration & Community Services**
Date of meeting	**22 July 2021**

1.0	**Purpose of Report**
1.1	To report decisions taken under delegated powers.
2.0	**Scope of the Report**
2.1	The attached list deals with the period 25th May 2021 and 9th July 2021.
3.0	**Recommendation/s for Consideration**
3.1	The report lists decisions that have already been made and is for information only.

Application No.	Address	Proposal	Valid Date Decision Date
C/2021/0057	Site of former primary school Queen Street, Brynmawr	Discharge of condition application to discharge condition 4 Landscape Layout and Plant and Maintenance Schedule of planning permission C/2020/0118 (Detached Dwelling and Garage).	04/03/21 16/06/21 Condition Discharged
C/2021/0102	104 Vale Terrace, Tredegar	Single storey rear extension.	20/04/21 10/06/21 Approved
C/2021/0088	Unit 26a Rassau Industrial Estate Rassau	A Non Material Amendment application to reduce the amount of acoustic fencing granted under the C/2015/0420 consent from 262m to 99m (62% reduction) and reduce its height from 4m to 3m.	01/04/21 25/06/21 Approved
C/2021/0052	The Walpole Commercial Road Llanhilleth, Abertillery	Change of use from former Rugby Club to six flats with associated alterations to windows/doors and demolition of single storey side extension	02/03/21 18/06/21 Approved
C/2021/0146	121 Lakeside Way Nantyglo,	Proposed single storey rear extension.	05/05/21 24/06/21 Approved
C/2021/0119	3 Honeysuckle Close Rassau Ebbw Vale	Single storey side extension comprising of shower room & utility space.	01/04/21 10/06/21 Approved

C/2021/0114	6 Tir-Y-Berth Glyncoed, Ebbw Vale	Single storey side and rear house extensions.	07/04/21 30/06/21 Approved
C/2021/0125	12 Cambridge Gardens Beaufort Ebbw Vale	Proposed replacement rear extension.	05/05/21 29/06/21 Approved
C/2021/0108	2 Cefn Parc Tredegar	Construction of an attic roof extension.	21/04/21 15/06/21 Approved
C/2021/0131	Kimberley Rassau Road Rassau Ebbw Vale	Proposed single storey side extension.	25/04/21 15/06/21 Approved
C/2021/0076	157 Worcester Street, Brynmawr	Construct two storey side extension to comprise of garage, two bedrooms and bathroom.	24/03/21 07/06/21 Approved
C/2021/0099	Beaufort Rugby Club Carmeltown Ebbw Vale	Erection of patio awnings.	09/04/21 26/05/21 Approved

C/2021/0097	Edgemoor Bungalow Big Lane, Beaufort Ebbw Vale	Extension to existing garage to provide a storage room.	14/04/21 26/05/21 Approved
C/2021/0118	Central Garage Marine Street Cwm Ebbw Vale	Variation of condition '6': Extend the life permission C/2016/0127, for Change use to A1 use and associated external alterations (including replacement of shop front).	27/04/21 21/06/21 Approved
C/2021/0110	25 & 26 Maes Morgan Nantybwch Tredegar	Proposed development for two detached dwellings, boundary enclosures & associated works.	23/04/21 29/06/21 Approved
C/2021/0109	Household Waste Recycling Centre Roseheyworth Industrial Estate Abertillery	Retention of the black bag area, sorting shelter & car parking spaces in association with the household waste recycling centre.	26/04/21 02/07/21 Approved
C/2021/0107	Garages (3) At Mayfield Terrace Beaufort Ebbw Vale	Variation of condition '1'. To extend the life of planning permission C/2016/0105 (permission to erect x1 starter home) for a further 5 years.	22/04/21 15/06/21 Approved

C/2021/0074	Former Sirhowy Infants School Rhoslan Sirhowy Tredegar	Application for Discharge of Condition 3 (Ground Contamination and Stability) of planning permission C/2014/0013 (Construction of 23 dwellings and associated works)	22/03/21 22/06/21 Condition Discharged
C/2021/0116	Rhyd Hall The Rhyd Tredegar	Proposed Change of use from redundant Public House to create a Single Family Dwelling House (Reinstating its Original Use), single storey extension, partial demolition of single storey structures, construction of canopy roof & associated alterations.	28/04/21 25/06/21 Approved
C/2021/0117	100 Ystrad Deri Dukestown Tredegar	Rear single storey extension.	08/04/21 26/05/21 Approved
C/2021/0122	12 Glyn Milwr Tanglewood, Blaina,	Raising of roof, change of roof design from hip to gable, and insertion of front & rear dormers.	29/04/21 02/07/21 Approved
C/2021/0147	33 Maes-y-Garreg Rassau, Ebbw Vale	Convert garage into utility room and provide new parking space.	18/05/21 24/06/21 Approved
C/2021/0060	1 Blaen Cendl Beaufort, Ebbw Vale	Construction of gabion baskets walls to retain garden & patio area; and screen planting (residential dwelling & garden).	09/03/21 26/05/21 Approved

C/2021/0062	Merthyr Road Tafarnaubach Tredegar.	Co working office hub	10/03/21 01/06/21 Approved
C/2021/0027	11 Hereford Road Beaufort, Ebbw Vale	Application for Lawful Development Certificate for existing rear extension	02/02/21 03/06/21 Lawful Development Certificate Granted
C/2021/0113	11 Surgery Road Blaina, Abertillery	Two storey side extension.	02/04/21 15/06/21 Approved
C/2021/0152	7 Cwm Glas Tredegar	Construction of boundary wall and fence and Change of use of land to garden (to include increase in levels)	07/05/21 24/06/21 Approved
C/2021/0142	Rockleigh Rassau Road Rassau Ebbw Vale	Proposed single storey extension to the rear & side of existing property to enhance existing kitchen and provide a study area.	10/05/21 16/06/21 Approved
C/2021/0151	38 Lilian Grove Glyncoed Ebbw Vale	Double & single storey rear extensions; and alterations.	05/05/21 16/06/21 Approved

C/2021/0167	19 Golwg y Mynydd, Nantybwch Tredegar	Non material amendment to change fenestration to extension with new openings to front and rear elevations of planning permission C/2008/0180 (rear single storey extension & side second storey extension).	26/05/21 28/06/21 Approved
C/2021/0140	The Badminton Beaufort Terrace Beaufort Ebbw Vale	Non material amendment application for the installation of cladding to southern elevation only and repositioning of some windows of planning permission C/2020/0212 (To retain the change of use from club to PH (A3). Demolition of the existing entrance lobby and toilets with construction of a new three storey annexe comprising entrance lobby, toilets (ground floor), kitchen, toilets (first floor) and 3rd storey function room.).	13/05/21 04/06/21 Approved
C/2021/0129	30 Garn Terrace Waunlwyd Ebbw Vale	Single storey side extension to end of terrace dwelling (reduction in size of existing approval)	19/04/21 05/07/21 Approved
C/2021/0085	Derwen House Church Street Tredegar	Works to extend existing extension to include the raising of the roof and other external alterations and garden building comprising a bicycle/storage/office/playroom.	01/04/21 26/05/21 Approved
C/2021/0162	Glanffrwd Court & adjacent land at Cae Melyn & Rhiw Wen, Ebbw Vale	Application for Non-Material amendment to change heights of boundary treatments and garden levels of planning permission C/2019/0346 (Affordable housing development of 23 dwellings including new access road, landscaping & associated engineering & drainage works).	10/05/21 11/06/21 Approved

C/2021/0138	28 Arnold Place Tredegar	Two storey extension to the rear.	13/05/21 07/07/21 Approved
C/2021/0134	Land between 32 King Street & 4 Gwalia Builings Nantyglo	Discharge of planning condition 3: Submission of site investigation of planning permission C/2019/0057 (Three bedroom house)	27/04/21 01/06/21 Condition Discharged
C/2021/0098	Land Opposite Troy Road, Llanhilleth Abertillery	Removal of existing garage to be replaced with a concrete garage.	15/04/21 09/06/21 Approved

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