

<b>BLAENAU GWENT COUNTY BOROUGH COUNCIL</b>	
<b>Report to</b>	<b>The Chair and Members of Planning, Regulatory and General Licensing</b>
<b>Report Subject</b>	<b>Planning Applications Report</b>
<b>Report Author</b>	<b>Team Manager Development Management</b>
<b>Report Date</b>	<b>21<sup>st</sup> September 2020</b>
<b>Directorate</b>	<b>Regeneration &amp; Community Services</b>
<b>Date of meeting</b>	<b>1<sup>st</sup> October 2020</b>

### **Report Information Summary**

<b>1. Purpose of Report</b>	
To present planning applications for consideration and determination by Members of the Planning Committee.	
<b>2. Scope of the Report</b>	
Application No.	Address
C/2020/0148	The Bridge, Station Approach, Pontygof, Ebbw Vale
C/2020/0121	Plot adjoining Ty Croeso, Whitworth Terrace, Lower Georgetown, Tredegar
<b>3. Recommendation/s for Consideration</b>	
Please refer to individual reports	

## Planning Report

<b>Applic No:</b> C/2020/0148	<b>App Type:</b> Resubmission
<b>Applicant:</b> Mr Ryan Shepherd Brynderwyn Queens Square Ebbw Vale	<b>Agent:</b> As applicant
<b>Site Address:</b> The Bridge, Station Approach, Pontygof, Ebbw Vale	
<b>Development:</b> Change of use to nursery, bin storage, escape stair, landscaping and associated car park	
<b>Case Officer:</b>	Lesley Taylor

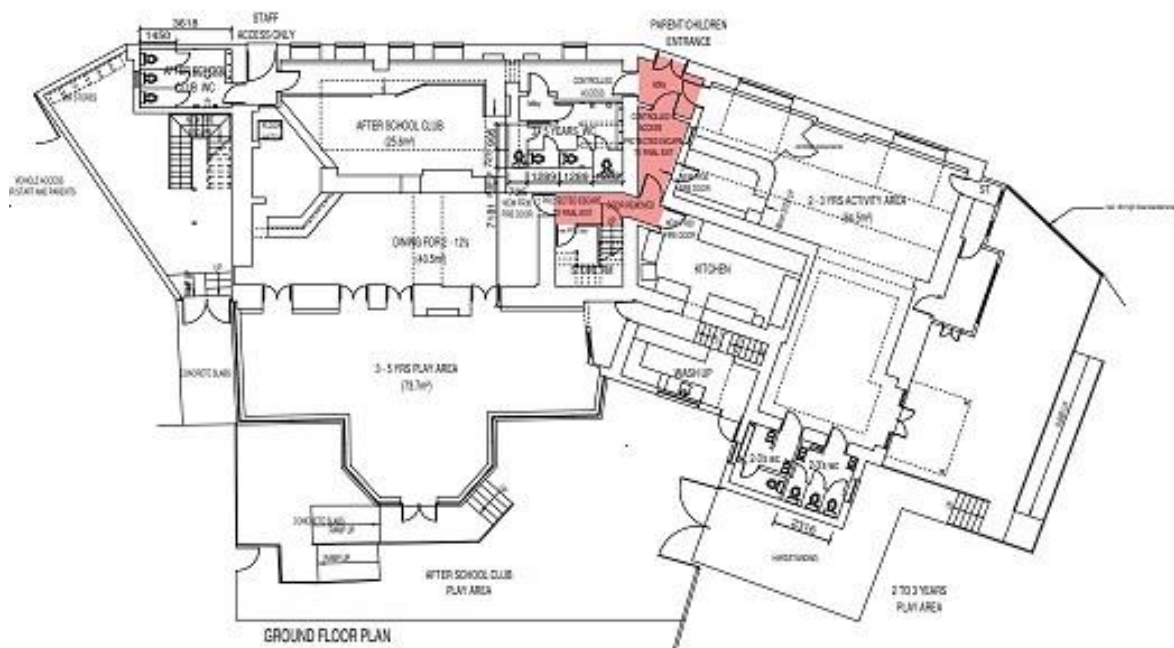


1.0	Background, Development and Site Context
1.1	Planning permission was refused by Planning Committee on 11 <sup>th</sup> February 2020 (C/2019/0273) for a proposed nursery.
1.2	The reason for refusal was that the site is located within a flood zone C2 as defined by TAN 15. National planning policy advises that a highly vulnerable use such as the proposed nursery should not be permitted in such an area.
1.3	The current application is a resubmission which seeks to overcome that reason for refusal. All application details are the same as those submitted for application ref C/2019/0273 apart from the addition of a Technical Note on Flood Risk for the site which has been commissioned by the Applicant.
1.4	This technical note is in the form of Flood Consequence Assessment (FCA) which examines the likely mechanisms which would cause flooding and the consequences of those floods.
1.5	The development site is a detached building that is understood to have been used for a number of years as a public house/restaurant with first floor residential accommodation. The application form indicates that the business ceased trading 3 years ago and the building is currently vacant.
1.6	The building is located on Station Approach, close to the access to Eugene Cross Park, headquarters to the Ebbw Vale Rugby Club.
1.7	The site enjoys a large curtilage comprising an area for parking and a garden/seating area.
1.8	The main building has two storeys and basement/cellar. It has single storey annexes on both sides, and a large conservatory at the rear.
1.9	In the immediate vicinity, there is a mix of buildings/uses that include dwellings, Ebenezer Chapel which is a Listed Building, the Rugby Club, the former Stewards House and Pontygof School (both of which now provide non-residential special educational needs services).

1.10 This application seeks permission to change the use of the building to a nursery. The plans show the conversion would require minimal external works, namely the provision of an external fire escape on the south elevation of the building and an enclosed bin storage area near the foot of the fire escape.

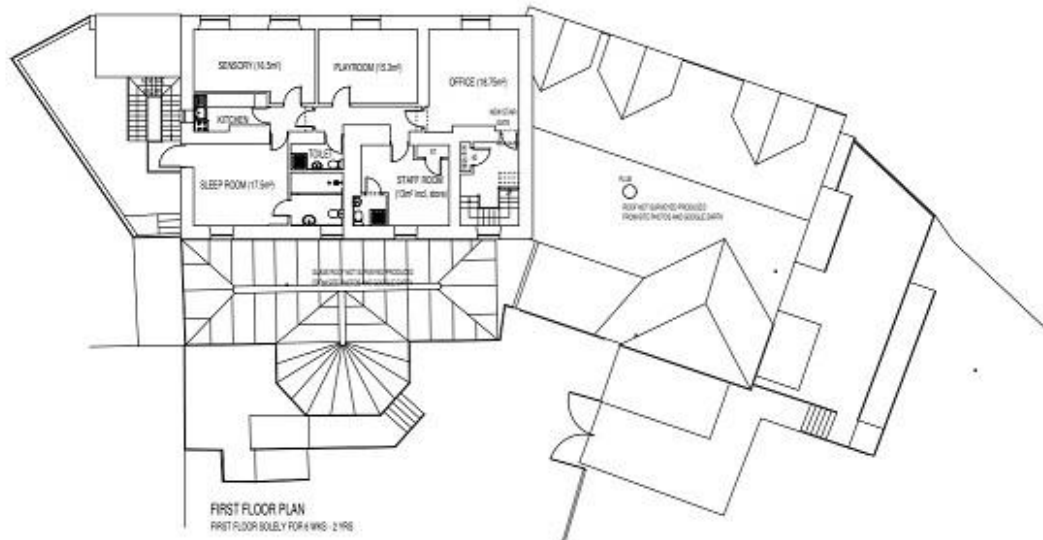
1.11 The proposed internal layout plans indicate there would be no changes to the basement area. The ground floor area would be altered to provide allocated play and activity areas for a range of age groups, toilets, a communal dining room, after school club, a kitchen and washing facilities

**Fig 1:**



1.12 The first floor would accommodate an office and staff facilities, a sensory room and sleep room.

1.13 **Fig 2:**



1.14 Externally, new timber fencing is proposed to enclose the north western boundary of the site. It is also proposed that land to the rear and side of the building would be used to provide two enclosed play areas, a woodland school area and a parking/turning area that can be accessed off Pontygof. This will be formally laid out to provide 17 spaces for motor vehicles and 5 for bicycles. The playing areas would be separated by chain link fencing.

1.15 The proposed nursery will provide spaces for up to 100 children between the ages of 12 weeks and 12 years and employ 25 staff (full time and part time).

**2.0 Site History**

There are a number of older applications concerned with alterations and improvements to the licensed premises not listed here. The more recent and relevant planning history is as follows.

Ref No	Details	Decision
C/2012/016	Outline application for proposed residential development with access road (10 dwellings)	Finally disposed of 16.12.14
PA/2019/142	Preliminary advice in relation to a proposal to change the use of the public house to a private full day	Advised there would be a policy objection as the use is highly vulnerable

	care setting	and that the majority of the site fell within C2 flood zone area
C/2019/273	Change of use to nursery, bin storage, escape stair, landscaping and associated car parking	Refused 11/02/20

<b>3.0</b>	<b>Consultation and Other Relevant Information</b>
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3.1	<b><u>Internal BG Responses</u></b>
3.2	<u>Team Leader Building Control:</u> Building Regulations consent required.
3.3	<u>Service Manager Infrastructure (Highways):</u> No objections subject to details of proposed cycle parking being submitted for approval and being installed in accordance with approved details before the property is brought into use. Car parking bays are to be clearly marked out and retained thereafter.
3.4	<u>Service Manager Public Protection:</u> Does not object to the proposed development but recommends that measures be put in place to ensure that noise from the outdoor playing space is controlled so as to avoid complaints from neighbours. Such measures may include the type of surface that would be used for the outside play area to reduce noise and timing/duration of outside play times.
3.5	<u>Early Years Childcare and Play Manager, Social Services:</u> Confirmed that the full assessment of childcare provision undertaken in 2016 identified no requirement for additional day nursery childcare places in Ebbw Vale but that childcare is driven by parental demand. Thus parents may be encouraged to use the proposed nursery if wraparound care with transport was provided.
3.6	An assessment carried out in 2017 showed other factors affecting demand for childcare in future years included the rollout of Childcare Offer, Universal Credit, new employers moving into the area, the City Deal.
3.7	Additionally, large new housing developments particularly within the northern corridor of Ebbw Vale offered a real prospect of significant increased demand in the Ebbw Vale area.

3.8	It was also noted that vacancy rates in the childcare sector have dropped significantly over the last three years with Day Nurseries seeing a drop in vacancy rates from 34% to 20% between 2017 and 2018. There are three Day Nurseries currently in the Ebbw Vale area; one is full, another can offer part-time places only and the third whilst having a reasonable number of full-time vacancies across its range of services has still seen a reduction in vacancies in the last three years.
3.9	The Childcare Offer is aware of a recent advertising campaign by the Welsh Government, and expects an increase in the demand for childcare. If the trend for increased childcare continues there is a real possibility that demand will outstrip supply in the next few years.
3.10	The Early Years Childcare and Play team has been successful in securing funding for a new build Day Nursery under the Childcare Offer Capital Grant and this is aligned to Band B proposals for a replacement school in the Ebbw Vale area on the same site. This scheme when completed is likely to offer in the region of 60 new childcare places in the Ebbw Vale area with high quality outdoor play and the opportunity to provide this childcare service will be put out for tender. There are plans in place to meet some of the growing demand in the medium term.
3.11	<b><u>External Consultation Responses</u></b>
3.12	<u>Welsh Water:</u> Issued standard advice on the need for SAB approval and discharge of surface water drainage.
3.13	<u>Natural Resources Wales (NRW) Flood Risk:</u> Indicate that the application site lies entirely within Zone C2 as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15).
3.14	Flood Risk Map confirms the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Ebbw.
3.15	Advise that it is for the Local Authority to determine whether or not the proposed development falls within the highly vulnerable development or less vulnerable development category based on the precautionary framework within TAN 15.



3.16	In doing so, the Local Authority should also consider whether the justification and acceptability tests in paragraph 6.2 of TAN 15 are applicable. If so, whether the proposal meets these tests.
3.17	Among other things, the tests include the need for the applicant to demonstrate through the submission of a FCA that the potential consequences of flooding can be managed to an acceptable level.
3.18	The applicant's FCA, has been reviewed and the following points are made:
3.19	1. The FCA demonstrates that the application site is predicted to be flood free during the 1% plus climate change allowance (CCA) fluvial event on the River Ebbw. On this basis, the proposal meets the criteria in paragraph A1.14 of TAN15.
3.20	2. The FCA indicates that the northern part of the building and the ancillary area to the east of the building are at risk of flooding during the 0.1% fluvial flood event. The predicted depths of flooding to the northern part of building during the 0.1% event is stated as 150mm is within the guidance in A1.15.
3.21	3. As no specific finished floor levels have been provided, there is uncertainty whether the basement/cellar area has been assessed. It is also noted that the wider site, indicated as play areas and car parking/dropping off, appears to have greater predicted depths of flooding where up to 1 metre of flooding could be experienced in the 0.1% event.
3.22	4. The FCA states that velocities within the application site are the maximum velocity of floodwater considered acceptable under TAN15. The FCA demonstrates that both the maximum rate of rise and maximum speed of inundation criteria under paragraph A1.15 have been met.
3.23	5. The FCA states that almost half of the access and egress route is flooded during a 0.1% event. Approximately 70m of this route is classified as a danger for some, including children and elderly, while approximately 10m of this route is classified as a danger for most, including the general public. When considering the maximum depths of flooding and maximum velocities to the access/egress route to the east, the FCA indicates maximum depths 440mm of flooding and a maximum velocity of 0.8m/s. The velocity of flooding



	<p>is predicted to be significantly greater than 0.3m/s, and as such, this does not meet the guidance within paragraph A1.15 of TAN15.</p>
3.24	<p>6. The FCA considers an alternative route to the west of the application site which crosses over the River Ebbw. However, this relies on the brick wall adjacent to the river reducing the consequences of flooding in the 0.1% event. The wall has not been included in the modelling, nor has the applicant assessed whether it is structurally adequate. Therefore, we would advise against considering this as an alternative route until it is fully modelled and shown to be structurally sound in the 0.1% event. It is, however, for the planning authority (in consultation with other appropriate bodies) to be satisfied on the operational effectiveness of emergency plans and procedures or measures to address structural damage that may result from flooding.</p>
3.25	<p>Based on the review of the FCA, no objection is raised to the proposed development.</p>
3.26	<p>However, the application site remains in Zone C2 and the submission of the FCA will not alter this fact. The Local Authority should therefore determine this application based on the location being within Zone C2.</p>
3.27	<p>To challenge the DAM zones, a flood map challenge would need to be submitted on completion of any proposed works. However, NRW are not currently accepting flood map challenges, pending an update to TAN15 by Welsh Government (WG).</p>
4.0	<p><b><u>Public Consultation:</u></b></p>
4.1	<ul style="list-style-type: none"><li>• 4 letters to nearby houses</li><li>• 5 site notices</li><li>• <del>press notice</del></li><li>• website public register of applications</li><li>• ward members by letter</li><li>• all members via weekly list of applications received</li><li>• <del>other</del></li></ul>
4.2	<p><u>Response:</u> An email was received from a Ward Member requesting that the application be presented to the Planning Committee for consideration. He noted that the development had previously been refused by the on</p>

4.3	<p>the basis that it was sited within a Flood Zone C2. The email questioned if this situation had changed and stated if it had not then in his view the recommendation should be the same.</p> <p>He also questioned whether further information been received from NRW confirming that it is no longer in Flood Zone C2. The application particulars were explained in a telephone call and it was explained that the site remains in Flood Zone C2, although in this case the applicant had provided a Flood Risk Assessment. I confirm that the Member has been informed of the response of NRW and that the site remains in Flood Zone C2.</p>
<b>5.0</b>	<b>Planning Policy</b>
5.1	<b><u>Team Manager Development Plans:</u></b>
5.2	<p>The Blaenau Gwent Local Development Plan (LDP) indicates that the proposed site lies within the settlement boundary within which development is generally permitted subject to policies in the Plan and other material considerations.</p>
5.3	<p>It lies within close proximity of the Ebbw River, which results in the majority of the site falling within a flood zone C2 area.</p>
5.4	<p>The site also borders the Ebbw River Site of Importance for Nature Conservation (SINC) (Policy ENV3.28).</p>
5.5	<p>Policy SP8 (c) of the LDP, states that employment in Health and Social care will be encouraged in town centres and in conjunction with the hospital at the works. The location of this development is within walking distance of the Works and the town centre of Ebbw Vale.</p>
5.6	<b><u>Flood Risk</u></b> <p>Planning Policy Wales (Edition 10, December 2018) states that planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding. Policy SP7 also aims to direct new development away from those areas which are at high risk of flooding, especially in light of recent climate change studies.</p>
5.7	<p>As indicated in an earlier pre application consultation, the site lies in a flood zone C2 which is defined as an area of the floodplain without</p>

	significant flood defence infrastructure in TAN 15 “Development and Flood Risk”.
5.8	In common with national and local policy, TAN 15 advises that new development should be directed away from Zone C recognising that highly vulnerable development in Zone C2 should not be permitted. NRW confirms that the site is within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Ebbw.
5.9	In this case the proposal is for a change of use from a mixed use (pub restaurant and flat or living accommodation), to a Nursey/education use. Both are highly vulnerable development as classified in TAN 15. However, the proposed change of use will lead to an increase in vulnerability.
5.10	This resubmission application contains a FCA. The FCA was sent to NRW to see if it would inform a change to the flood risk maps which would then enable the proposal to proceed. However, it is noted that NRW are not accepting flood map challenges, pending an update of TAN15 by Welsh Government (WG).
5.11	Added to this, in order to challenge the DAM zones, a flood map challenge would have needed to be submitted on completion of any proposed works such as increasing levels of the land or the presence of flood defences not previously included in NRW modelling.
5.12	According to NRW the application remains in DAM Zone C2. The submission of the FCA or flood risk information does not alter the DAM zones. The Council should determine the application based on the location being within Zone C2. Highly vulnerable development is not allowed in Flood Zone C2.
5.13	The justification test (section 6 of the TAN) and the assessment of the consequences of flooding (section 7 of the TAN) would only apply to <u>low vulnerable</u> development in Zone C2. Nevertheless, NRW did comment on the FCA submitted and acknowledged that the site is not at risk of flooding in the 1% CCA event and therefore would meet the criteria in A1.14 of TAN 15.
5.14	Whilst most criteria in A1.15 of TAN15 is shown to be within the indicative guidance, the velocities around the proposed access/egress

5.15	<p>routes appear to be significant and above the guidance set out in TAN 15. It would be for this Council to satisfy itself that this is acceptable. NRW recommend consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. NRW advises against using an alternative route to the west of the application site until it is fully modelled and shown to be structurally sound in the 0.1% event.</p> <p>Planning policy objects to the application, which proposes highly vulnerable development in a flood risk area, as it is contrary to PPW, TAN 15 and SP7 of the Blaenau Gwent Local Development Plan.</p>
<b>6.0</b>	<b>Planning Assessment</b>
6.1	<p>My assessment of the current applications falls into two distinct parts. The first part deals with the principle of the development; the second section deals with other planning policy and material considerations.</p>
6.2	<p>Members are advised from the outset that I consider that the detailed plans and works to the building/curtilage are acceptable and there are no issues raised in the second part of this report that could not be addressed by the imposition of planning conditions.</p>
6.3	<p>Consideration of the application should therefore be focused on the issue of highly vulnerable development in Flood Zone C2 i.e. part 1 of the assessment of the issues.</p>
6.4	<p><b><u>Part 1 – The Principle of Development</u></b> The LDP confirms that the application site lies within the settlement boundary where subject to the satisfaction of the relevant policies, development is generally permitted.</p>
6.5	<p>The site falls largely <b>within</b> Flood Zone C2 as defined by the Development Advice Maps (DAM) associated with Technical Advice Note 15: Development and Flood Risk.</p>
6.6	<p>The Team Manager Planning Policy has objected to the development on the basis that it contravenes both local and national flood risk related planning policies.</p>

**Fig 3:**



- 6.7 The existing building had a mixed use comprising a public house/restaurant with first floor residential accommodation which incorporated elements of highly vulnerable development.
- 6.8 The current application relates to 'new development', which requires planning permission for a change to a nursery that would provide spaces for up to 100 children between the ages of 12 weeks and 12 years. It is proposed that all of the ground and first floor of the building would be used for the purposes of a nursery and associated accommodation.
- 6.9 It is the responsibility of the Local Authority to determine the development category in terms of the precautionary framework set out within TAN 15. The proposed nursery/educational facility represents 'highly vulnerable development'.
- 6.10 TAN15 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 would be less of an issue.*
- 6.11 It also states that 'highly vulnerable development and Emergency Services in zone C2 should not be permitted'.
- 6.12 This is further supported by advice published by the Welsh

	Government to all Chief Planning Officers dated 9 <sup>th</sup> January 2014.
6.13	The use of the building as a nursery therefore conflicts with national and local planning policy and TAN 15 advice.
6.14	The applicant had been made aware in pre-application advice to the first application (that was subsequently refused) and prior to this resubmission that the proposal contravened both local and national planning policy.
6.15	This resubmission is accompanied by a Flood Risk Assessment. This considers the flood risk at the site and is based on the detailed hydraulic model of the River Ebbw.
6.16	The report purports that the proposed change from the former mixed use to a nursery does not change its vulnerability. I do not share this view. This is new development and relates to an educational facility with increased vulnerability. Moreover, the proposed development has to be determined in light of current planning policy and guidance.
6.17	The FCA sought to demonstrate that in terms of flood risk, the development will meet the flooding acceptability test set out in TAN 15.
6.18	The key point is that the tests should only be applied to low vulnerable development in Zone C2. This is highly vulnerable development. The FCA and the tests in TAN 15 are not to be applied to highly vulnerable development. Therefore, consideration of the proposed development in relation to the justification and acceptability tests is a misinterpretation of the policy and the requirements of TAN 15.
6.19	Having made this critical point, I also acknowledge that the FCA concludes the threshold of flooding is largely (but not entirely) in accordance with the guideline values outlined in TAN 15.
6.20	The building would be flood free during A fluvial flood with a 100 to 1 chance of occurring in and year (including an allowance for climate change). The northern part of the building and associated area to the east of the building are at risk from flooding during a fluvial flood with a 1000 to 1 chance of occurring in any year but the depths, rate of floodwater rise and velocities are also generally tolerable and in accordance with the guidance TAN 15.

6.21	There is one exception to this general conformity. This relates to the flooding to the access/egress routes during 0.1% flood event. The FCA states that almost half of the eastern access/egress route is flooded during this event with approximately 70m of this route classified as a danger for some, including children and elderly.
6.22	Approximately 10m of this route is also classified as a danger for most, including the general public. The maximum velocity of flooding (0.8 m/s) along this route is predicted to be significantly greater than the velocity considered to be tolerable (0.3 m/s) in the guidance in paragraph A1.15 of TAN 15.
6.23	In order to address this, the FCA considers an alternative route to the west of the application site which crosses over the River Ebbw. However, this relies on the brick wall adjacent to the river reducing the consequences of flooding in the 0.1% event. NRW have confirmed that the wall has not been included in the modelling nor has the applicant assessed whether it is structurally adequate. NRW advises against considering this an alternative route until it is fully modelled and shown to be structurally sound in the 0.1% event.
6.24	NRW has not objected. They have provided advice on the technical aspects of the FCA and its acceptability in terms of meeting the TAN 15 tests. Their response confirms two issues i) it is the responsibility of this Authority to determine the vulnerability category of the development and ii) whether the justification tests set out in TAN15 are applicable to the development proposal.
6.25	NRW has not only reaffirmed that the development site lies in Flood Zone C2, they have confirmed that the submission of the current FCA will not alter the designated flood zones.
6.26	To illicit such changes, the developer would need to present a flood map challenge. NRW are not currently accepting challenges pending an update to TAN15 by Welsh Government (WG).
6.27	I would advise Members to give limited weight to the fact NRW have not objected to the application. It is the responsibility of this Committee to make an informed decision based on local and national planning policy.



6.28	In advocating this approach, I am mindful of decisions made by the Planning Inspectorate, (particularly over more recent years) in relation to appeals which deal with flood-risk and the requirements of TAN 15. The application seeks permission for new development which involves a highly vulnerable proposal in a C2 flood risk area which should not be permitted.
6.29	The application is also accompanied by a 'Design, Planning and Access Statement'. It claims that the FCA confirms that a 1:100 flood incident will not flood the building and sets out the extent to which safe access and egress will be possible. The document contends that the flood risk issue is addressed. Members will note from the content of this report that I disagree with this position.
6.30	The statement also seeks to justify the provision of a nursery by highlighting other buildings and uses in the locality where circumstances may be broadly similar. It is alleged that the Council ' <i>exercises flexibility</i> ' in interpreting policy.
6.31	The statement again cites the case of the former Stewards House (Canolfan yr Afon) located to the north and within the car park of Ebbw Vale Rugby Ground, and Ebenezer Church (Grade II Listed Building) which he claims houses a nursery. In this context I have reviewed the decisions referred to by the agent and can advise Members as follows: -
6.32	Planning permission was granted by this Authority on 7 <sup>th</sup> April 2015 for change of use of the Canolfan yr Afon building from residential dwelling to a specialist educational facility (C/2015/0011 refers). In that case, both the former and permitted uses were deemed to be highly vulnerable developments. The former Steward's house was clearly a residential use and the proposed use was an educational facility.
6.33	Whilst I acknowledge that the proposed development was one that should not have been supported in a C2 flood risk area, the officer's report to Committee at that time highlighted the fact that the proposal removed a residential use and proposed an alternative use (which does not include overnight sleeping accommodation).
6.34	Such a use would operate over a restricted number of hours by a relatively small number of teenagers. Having noted the lack of an

	<p>objection from NRW and the particular circumstances of the proposal it was deemed by officers and accepted by the Committee at that time, that the change of use could be supported.</p>
6.35	<p>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.</p>
6.36	<p>In this context I conclude that there are no justifiable reasons to recommend that a similar approach is taken to the current proposal, particularly as the use would involve the use of the entire building by potentially 100 children between the ages of 12 weeks and 12 years.</p>
6.37	<p>In the case of Ebenezer Chapel, planning advice was sought from officers (in 2008) in relation to the proposed change of use of the building to a pre-school nursery. Officers advised that as both the chapel and nursery uses fell into the same use class (D1 of the Use Classes Order) planning permission was not required. It is understood that whilst the building was used as a nursery for a short period the use has since ceased. Any use of the building as a nursery would therefore have been exercised as a result of permitted development rights rather than any specific permission issued by this Authority.</p>
6.38	<p>Neither of these cases set a reasonable precedent for allowing the current development of a day nursery in Flood Zone C2.</p>
6.39	<p>I am satisfied that the position that I am advocating in relation to the current application is consistent with the approach that has been adopted by this Authority over recent times in relation to a number of applications where highly vulnerable development in C2 flood risk areas have been proposed.</p>
6.40	<p>In the few exceptional instances where this Authority has supported development within C2 flood risk areas, one or more of the following circumstances would have applied:</p> <ul style="list-style-type: none"><li>• the proportion of those sites that fell within a C2 flood risk area was insignificant</li><li>• the footprint of buildings fell outside the flood risk area</li><li>• the topography of the particular site clearly demonstrated that flooding would not be an issue</li><li>• the sites were in areas that were known to be scheduled to be</li></ul>

6.41	excluded from the DAM. The current application fails to meet these criteria.
6.42	<p><b><u>Part 2 – Other Matters</u></b></p> <p>The Design and Access Statement also provides an outline of how the proposed nursery will operate. It describes how parking will be provided and highlights there will be little change to the existing building. It explains that the developer has engaged with local residents, and elected Member (not a member of this Committee) and staff within the Children Services, Education and Social Services who it is claimed are supportive of the proposed nursery.</p> <p>The Statement highlights the number of jobs that will be created and how care for an additional 100 children will be provided. It argues that will be of ‘considerable gain’ to the community but would be lost if the site is left empty.</p> <p>I acknowledge that the proposed development would bring a redundant building into beneficial use and provide valuable childcare. These matters are not in dispute.</p> <p>My previous report to this Committee in February 2020 contained a detailed discussion of issues around amenity, highway issues, compatibility of uses and need. Given my previous finding in February 2020 that the development was acceptable in all these areas and this is a resubmission where no change is made to the plans, I do not intend to discuss these matters in detail. Suffice to say the development is acceptable in these respects.</p>
<b>7.0</b>	<b>Legislative Obligations</b>
7.1	The Council is required to decide planning applications in accordance 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.
7.2	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.
<b>8.0</b>	<b>Conclusion and Recommendation</b>
8.1	It is clear from this report that this is a complex matter. On the one hand, the scheme would bring a vacant building back into beneficial use and provide a nursery with the attendant employment benefits.
8.2	However, flood issues are critical and go the heart of whether this application should be approved.
8.3	The applicant claims that the FCA for (the most part) confirms that the flood risk associated with the scheme is within acceptable tolerances. However, it does not give a complete endorsement and there remain unanswered questions as confirmed by NRW.
8.4	My position is based on the guidance in TAN 15. This advocates a precautionary approach where highly vulnerable development is not allowed in high risk C2 areas. That is the case here and for that reason, my recommendation is again that planning permission is refused. The fact that an FCA addresses some of the issues is not relevant. This represents the wrong development in the wrong place because of flooding issues and unless the DAM map is changed, this remains the case.
8.5	The applicant has sought to address this fundamental policy objection through the submission of the FCA. Were the development not highly vulnerable and the site not in a C2 area, it would allow this Committee some discretion in applying tests set out in TAN 15.
8.6	However, in my view it is simply not within the gift of this Committee to apply these tests and in this respect the submission of the FCA changes nothing from the previous refusal.
8.7	Following the previous refusal of planning permission, the applicant sought advice from officers. 4 options were suggested:  <ol style="list-style-type: none"><li>1. To appeal that refusal to establish a Planning Inspectors view of the case.</li><li>2. Submit a new enquiry to the Council to allow further discussion with NRW on the flooding matter.</li><li>3. Resubmit the planning application</li></ol>

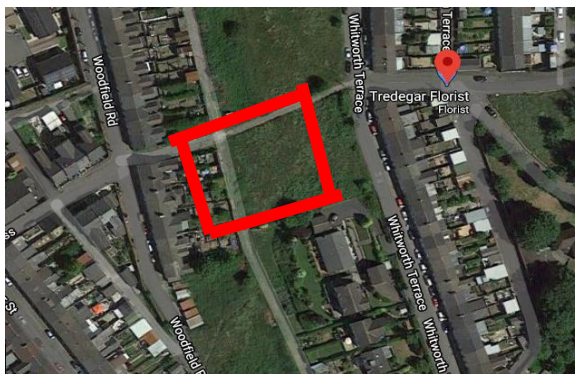
	<p>4. Submit an FCA to NRW with a view to amending the DAM maps thus removing the policy obstacle.</p>
8.8	<p>I understand that NRW are not currently entertaining challenges to the DAM map as they are reviewing TAN 15 policy. Whilst this was my preferred option, I understand the reasons for not choosing to pursue this option.</p>
8.9	<p>The applicant has chosen to resubmit the planning application with the new FCA. My advice at the time (June 2020) was that in the event of a re-submission, <i>“I have to make it clear that even with the FCA, this is not necessarily the key to unlocking the site for the reasons set out in the report that went to February Planning Committee. I’m making it clear that I’m not inviting the submission and you re-enter the process on that basis.”</i></p>
8.10	<p>In light of NRW’s position, perhaps the timely way to have achieved approval would have been to appeal and present the strongest possible case to a Planning Inspector. However, we now find that the scheme is again before this Committee.</p>
8.11	<p>Given the advice in national planning policy, the fact that the FCA is largely academic (regardless of its conclusions) I have no option but to recommend that planning permission be <b><u>REFUSED</u></b> for the following reason:</p>
8.12	<p>The development site is located largely 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 nursery represents highly vulnerable development. Para 6.2 of TAN 15 clearly states that highly vulnerable development should not be permitted within Flood Zone C2. Permitting such a use would therefore be in direct conflict with Technical Advice Note 15: Development and Flood Risk (2004), and the in principle objection reaffirmed by The Chief Planning Officer letter from Welsh Government dated 9<sup>th</sup> January 2014 and Policy SP7 2 (b) of the adopted Blaenau Gwent Local Development Plan.</p>
<b>9.</b>	<b>Risk Implications</b>
9.1	<p>The planning authority seeks to deal with planning applications in the Borough in an equitable and transparent manner having regard to relevant planning policy and other material planning considerations.</p>

*Report Date:*  
*Report Author:*

Approving a highly vulnerable development in a C2 Flood Zone would set an unacceptable precedent for development that conflicts with national planning policy and adopted local plan policy.
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## Planning Report

<b>Application No:</b> C/2020/0121	<b>App Type:</b> Full
<b>Applicant:</b> Mr Andrew Jenkins Rhyd Developments School House Llanellen Road Abergavenny	<b>Agent:</b> FTAA LTD Mr Roger Field 6 High Street Crickhowell NP8 1BW
<b>Site Address:</b>	
Plot adjoining Ty Croeso, Whitworth Terrace, Lower Georgetown, Tredegar	
<b>Development:</b>	
2 no. detached dwellings with detached garages, new access and associated works	
<b>Case Officer:</b>	Steph Hopkins



### 1. Background, Development and Site Context

- 1.1 This application relates to a parcel of land on the west side of Whitworth Terrace, Tredegar. It is an open grassed area with a significant fall in levels from the road frontage to the grassed lane running along the sites western boundary. This lane separates the site from the rear garden curtilages of terraced properties which front Woodfield Road. The site is bound to the north by a series of steps with sloping grassed land beyond and to the south by the curtilage of a detached bungalow known as Ty Croeso. The site has a narrow footpath along its frontage to the east with terraced properties on



the opposite site of the road.

1.2 This application is being considered on the basis of revised plans. Strong concerns were raised with the applicant following initial consultation regarding the height of the dwelling, mass of the roof, scale of the garage and the use of septic tanks for disposal of foul drainage without evidence to demonstrate alternative foul drainage disposal methods had been considered and discounted. Some other minor issues were also highlighted. Revised plans were submitted which have sought to address the concerns raised and I can confirm that a full re-consultation was carried out on receipt of those plans. The main changes being a reduction in the ridge height of the dwellings from 318.80m (AOD) to 316.30m, the roof pitch being reduced and the height of the garage being reduced from 316.50m to 315.80m (AOD). Some minor design revisions have also been made post second consultation however the changes were not to an extent where a third consultation was required.

1.3 Planning permission is sought for the erection of two, large detached dwellings. The site layout is shown below in Figure 1. Each dwelling will have its own vehicular access off Whitworth Terrace and will have a winding driveway that will lead down to a double garage. The dwellings will sit just below their respective driveways and garages, mid-way into the site. A semi-circular patio area will be created to the rear of the dwellings and the remainder of the garden will slope away down to the lane at the rear. The rear garden will be landscaped and will feature sustainable drainage systems and ecology enhancements. All site boundaries are indicated to be post and wire fencing with planted hedgerows.

1.4

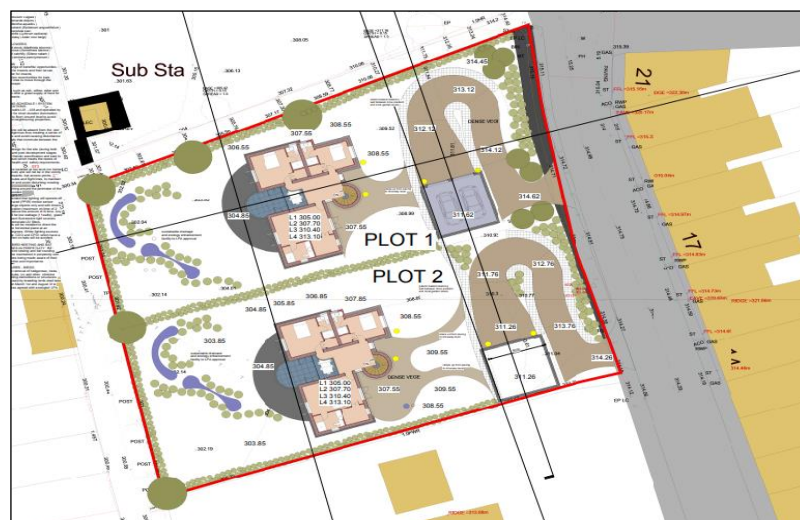


Figure 1. Site Layout

1.5 In terms of the dwellings themselves, they are of an almost identical design

with the exception of some window openings on side elevations. As you can see from the Figures 2 and 3 below they will appear as two storey from the front (facing Whitworth Terrace) and three storey from the rear (facing rear gardens on Woodfield Road). This is due to the dwellings being cut into the site.

1.6

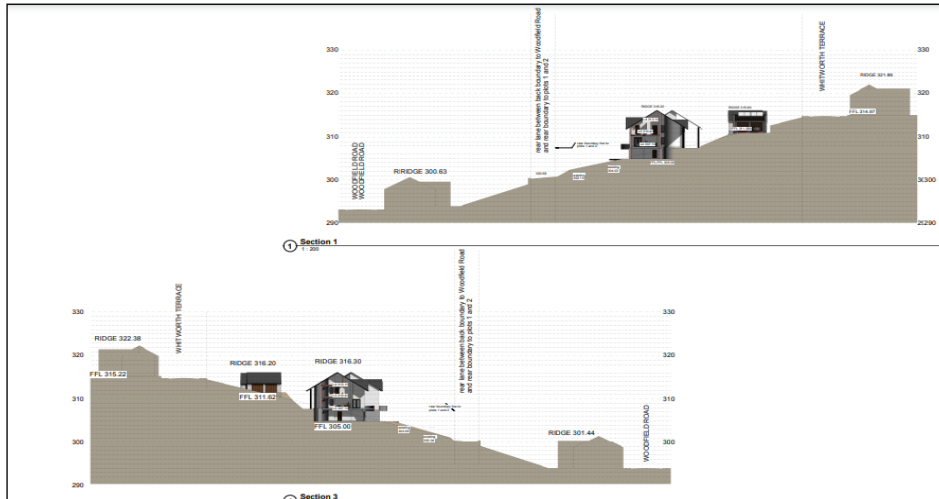


Figure 2. Site Sections

1.7

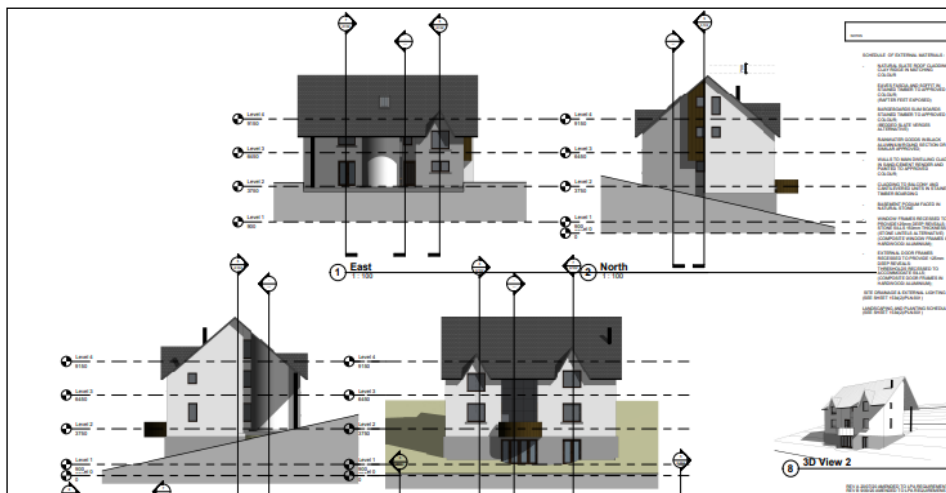


Figure 3. Elevations

1.8

As shown in Figure 3 above the dwellings have a pitched roof which comes down over the front elevation to provide a covered area over the entrance. The rear elevation features a large glazed window which spans ground and first floor levels with a balcony area. Lower ground level has 3no. sets of patio/bi-folding doors which lead out to a semi-circular patio area. With regards to materials, the roof will be natural slate, the walls at ground and first floor will be smooth painted render and the lower ground floor will be faced in natural stone.

1.9

The proposed floor layout is shown below in Figure 4. Each dwelling will

provide:

- A gym, study, tv room, toilet and utility room at lower ground floor level
- A living-room, kitchen, dining-room, toilet and utility room at ground floor level
- 3no. ensuite bedrooms at first floor level; and
- Storage space within the roof void

1.10

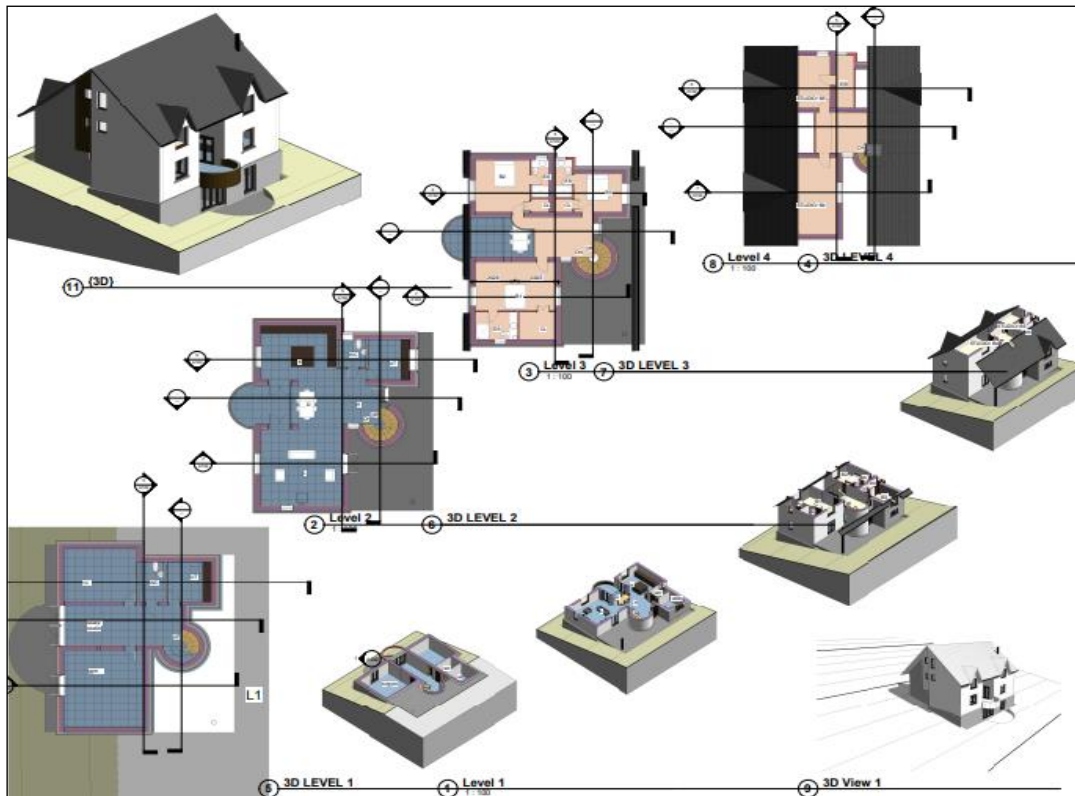


Figure 4. Floor Layout

## 2. Site History

	Ref No	Details	Decision
2.1	PA/2018/130 (Pre-app advice)	Single dwelling	Advice provided that the site has development potential. The amenities of houses above and below need to be protected so the slab level and subsequent siting/height of dwelling(s) are important.  22/07/2018
2.2	PA/2019/022 (Pre-app advice)	Proposed new detached dwelling with integral garage	Principle of residential development acceptable but concerns were raised

			regarding the mass of the proposed dwelling and its subsequent impacts on visual and residential amenity.  01/03/2020
2.3	C/2019/0127	Construction of new detached dwelling comprising basement level, ground, first and roof space levels as well as detached garage and utility link including new access from highway, parking/ turning on plot, landscaping and services	Withdrawn 12/06/19

### 3. Consultation and Other Relevant Information

3.1	<b><u>Internal BG Responses</u></b>
3.2	<u>Team Leader Building Control:</u> Building Regulations required.
3.3	<u>Service Manager Infrastructure:</u>
3.4	Highways: The proposal complies with Policy DM1(3a, c and d). No objections subject to conditions that seek to ensure the driveway and parking areas are fully constructed prior to occupation and retained thereafter, that no boundary treatments impede visibility and that the existing public footway is widened and extended along the full length of both plots.
3.5	Drainage: This application will require separate SAB approval to deal with surface water drainage.
3.6	Structures: No objections.
3.7	Landscape: No objections to the principle of development although visual concerns have been raised that the properties would have an overbearing and dominant impact on the local character.
3.8	Information provided in terms of landscaping provides some indication of the

	indented proposal but overall lacks sufficient information to provide an acceptable level of detail in terms of plant specification and quantities.
3.9	In terms of trees, there are no high value trees on site but there are opportunities for the introduction of tree planting as part of the landscaping scheme.
3.10	<u>Ecology:</u> The ecological enhancements shown on the proposed layout are welcomed and will result in net biodiversity gains. The applicant should be advised of his responsibility in terms of protected species during construction.
3.11	<u>Service Manager Public Protection:</u> No objection. Provisions should be made for charging of electric vehicles at the properties.
3.12	<u>Head of Estates and Strategic Asset Management:</u> The Council sold the land in 2018. No objections.
3.13	<b><u>External Consultation Responses</u></b>
3.14	<u>Town / Community Council:</u> No objections.
3.15	<u>Welsh Water:</u> SAB approval will be required for a scheme to deal with surface water drainage. Full details of a scheme to deal with the disposal of foul water are required prior to development commencing on site.
3.16	<u>Western Power:</u> Note position of apparatus.
3.17	<u>W&amp;W Utilities:</u> Note position of apparatus.
3.18	<b><u>Public Consultation:</u></b> <ul style="list-style-type: none"><li>• 21 letters to nearby houses</li><li>• 1 site notice(s)</li><li>• website public register of applications</li><li>• ward members by letter</li><li>• all members via weekly list of applications received</li></ul>

3.19	<u>Response to First Consultation:</u> Four letters of objection were received in relation to the initial consultation. The reasons for objecting can be summarised as follows:
3.20	<ul style="list-style-type: none"><li>• The proposal will have an adverse effect on the residential amenity of neighbours who live below and above the site due to overlooking and loss of privacy. The houses will have direct views into gardens and children's bedrooms in the properties below.</li></ul>
3.21	<ul style="list-style-type: none"><li>• The proposal would have an overbearing impact on the properties on Woodfield Road.</li></ul>
3.22	<ul style="list-style-type: none"><li>• Loss of views and light from the buildings themselves and the proposed landscaping.</li></ul>
3.23	<ul style="list-style-type: none"><li>• There are current on-street parking issues on Whitworth Terrace. By allowing two driveways on this road will further reduce the availability of on-street parking. If cars park on the narrowest part of this road busses and emergency vehicles struggle to pass. There is only ever enough room for one car to pass on Whitworth Terrace and there are concerns that the owners will have enough room to turn onto the road out of the driveways.</li></ul>
3.24	<ul style="list-style-type: none"><li>• The proposal will disrupt wildlife.</li></ul>
3.25	<ul style="list-style-type: none"><li>• Concerns regarding drainage issues due to water currently running down from the proposed site.</li></ul>
3.26	<ul style="list-style-type: none"><li>• The houses are out of character with the area traditionally being terraced mining houses.</li></ul>
3.27	<ul style="list-style-type: none"><li>• Can the Council provide information as to why the area of land in question was previously denied planning due to not having appropriate access off Whitworth Terrace, but is now being considered because an application has now been made by a local property developer? It is believed that the access was previously considered to be dangerous due to it being extremely close to a bend on Whitworth Terrace, as well as narrowing of the road.</li></ul>
3.28	<ul style="list-style-type: none"><li>• Parking and noise concerns during construction of the site.</li></ul>
3.29	<ul style="list-style-type: none"><li>• Residents were under the impression the land wouldn't be developed and was one of the reasons they purchased their property.</li></ul>
3.30	<ul style="list-style-type: none"><li>• Concerns for the safety of children walking to school.</li></ul>
3.31	A Local Ward Member also requested the application be presented to the Planning Committee due concerns of what impact the development will have on the drainage system which could have a detrimental effect on the residents living in Woodfield Road.
3.32	<u>Response to Second Consultation following amendments to scheme:</u> 2 letters of objection were received. The objections were of the same nature

	<p>as previously received. Additional comments were made that none of the alterations made are beneficial to the occupiers of Whitworth or Woodfield Terrace and that the photographs shown on the submitted plans are dated and do not accurately reflect the number of cars parked on Whitworth Terrace during the evening.</p>
<p><b>4. Planning Policy</b></p>	
<p>4.1</p>	<p><u>LDP Policies:</u> SB1 Settlement Boundary SP4 Delivering Quality Housing SP5 Spatial Distribution of Housing DM1 New Development DM2 Design and Placemaking</p>
<p>4.2</p>	<p><u>Supplementary Planning Guidance (SPG):</u> Access, Car Parking and Design SPG (March 2014)</p>
<p><b>5. Planning Assessment</b></p>	
<p>5.1  5.2  5.3  5.4  5.5</p>	<p><u>Principle of Development</u> The development site lies within the settlement boundary (Policy SB1) within which development is normally permitted subject to other policies in the LDP and material planning considerations.</p> <p>There are no known constraints or designations identified in the Blaenau Gwent LDP Constraints Map. The site is located in a well-established residential area and accordingly there are no issues of land compatibility.</p> <p>Policy SP4 provides a framework for the delivery of 3,907 new dwellings in Blaenau Gwent over the plan period. The LDP seeks to deliver a mix of dwelling types, sizes and tenure, including at least 335 affordable dwellings in order to meet the need of Blaenau Gwent’s current and future population.</p> <p>TAN 1 requires the Council to have a 5 year land supply for housing. TAN 1 states: <i>“The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study (see 8.2 below), the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies.”</i></p> <p>In July 2018, WG dis-applied this paragraph of the TAN. This was in</p>



	<p>response to a growing number of speculative housing schemes on unallocated sites across Wales where developers were justifying schemes on the lack of a supply of suitable sites. It is now for the Council as decision maker to take a rational and reasonable position on the weight to be attached to schemes on un-allocated sites on a case by case basis.</p>
5.6	<p>The current land supply for housing in the Borough is 1.28 years. It is not uncommon for LPA's to fail to meet the 5 year land supply requirement, particularly those without an up to date development plan. The method for calculating this figure is one that is often the subject of discussion with WG. However, it is undeniable that using this measure, the Council is short of readily deliverable housing sites. Windfall sites such as this one therefore become increasingly valuable as a means of meeting the needs of the Borough.</p>
5.7	<p>Policy SP5 criterion identifies the anticipated contribution of windfall developments, small sites and conversions will make to the overall housing requirement. This proposal complies with both SP4 and SP5 and would be welcomed in contributing to housing delivery in Blaenau Gwent.</p>
5.8	<p>The proposal is therefore considered to accord with adopted strategic policies and housing need, subject to meeting criteria outlined within relevant LDP policies, national planning policy and other material planning considerations set out below.</p>
5.9	<p><u>Layout, scale and appearance</u></p>
5.10	<p>Layout: As described earlier in my report there will be a single point of vehicular access of the western side of Whitworth Terrace for each dwelling. The driveway will then wind down into the site to a double garage.</p>
5.11	<p>The driveway will be constructed with gabion baskets. Whilst I have no concerns with this in principle, it is a significant engineering operation for which structural calculations will be required. This can be conditioned as part of any subsequent approval. I also sought clarification with the Team Manager Built Environment as to whether the driveway was wide enough for a car to turn to leave the site in a forward gear. The officer confirmed that whilst it was tight and a number of movements may be required, it is achievable for a vehicle to turn within the site. As Whitworth Terrace is not a classified road there is no requirement to provide a turning area within the site.</p>
5.12	<p>In terms of the garage being forward of the front elevation, this is not something that would normally be encouraged. However, given that the</p>

dwelling and garage will not be highly visible from within the street scene as viewed from Whitworth Terrace I am of the opinion that this is acceptable in this instance. I am also mindful that there is a garage forward of the front elevation at an adjacent property.

5.13 The creation of two access points off this road has given rise to objections from nearby residents for a number of reasons. These concerns are addressed under 'Access' further on in my report.

5.14 In terms of the building line, the proposed dwellings will sit slightly forward of the adjacent bungalow, Ty Croeso. As these properties will not be highly visible from close range within the street scene, the change in building line in my opinion is insignificant.

5.15 With regards to impact on occupiers of existing residential properties, a number of objections have been received in respect of the layout that refer to loss of privacy, loss of light and the dwellings appearing overbearing. In my opinion there are sufficient separation distances between the existing and proposed properties to ensure there is no unacceptable impact from overlooking, loss of light or the development appearing overbearing. This is illustrated in Figure 5 below:

5.16

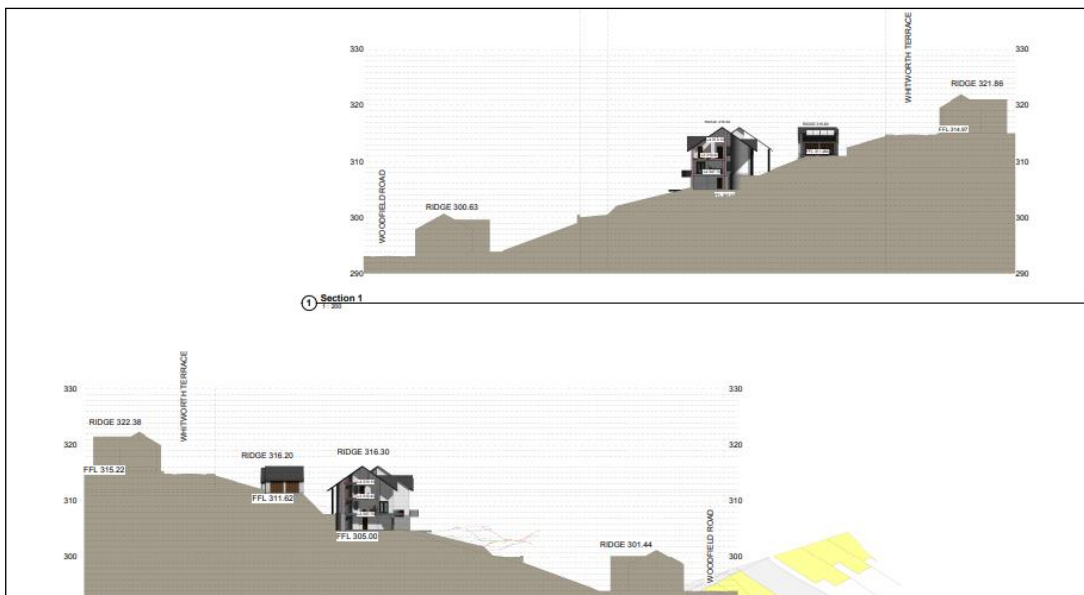


Figure 5. Site Section

5.17 The proposed dwellings will be a minimum of 31m away (as measured from the edge of the proposed semi-circular patio area) from the properties below on Woodfield Road. They will also have a finished floor level that is 5m above the ridge height of the dwellings below which will mean views from the proposed dwellings will be mainly over the top of the roofs of Woodfield

	<p>Road. Views from the properties in Woodfield Road toward the proposed dwellings will be restricted due to level differences, existing boundary treatments and separation distances.</p>
5.18	<p>I am however mindful that if planning permission is granted, once the dwellings are completed they would benefit from Permitted Development Rights. This means certain forms of development could be undertaken without the need for planning permission. Whilst I am satisfied that the proposal currently being considered will not have an unacceptable impact on the occupiers of Woodfield Road, any enlargement of the dwelling, the construction of any outbuildings or further raising of ground levels to create additional flat areas of amenity space in the future might. Therefore in my opinion a condition is necessary to remove Permitted Development Rights for such works to ensure the amenity of the occupiers of Woodfield Road is protected.</p>
5.19	<p>With regards to the properties on Whitworth Terrace, the proposed dwellings and garages will be approximately 28m away and 15m away respectively at a lower level. There will be no risk of overlooking as the windows on the front elevation of the proposed dwellings will not be visible from inside the properties of Whitworth Terrace due to level differences, the slope of the roof and the presence of the garage. All that will be seen from ground floor windows on Whitworth Terrace of the proposed development will be approximately 1m of the roof of the garage and main dwelling at a distance of at least 15m away. It is likely that views from ground floor windows are already obstructed by on-street parking.</p>
5.20	<p>In terms of impacts on Ty Croeso I am satisfied that there is a sufficient separation distance from Plot 2 not to have an unacceptable overbearing or overshadowing impact. Windows have been carefully designed in side elevations to ensure there is no direct overlooking of habitable rooms between Plots 1 and 2 and Plot 2 and Ty Croeso. There is also a garage between Ty Croeso and the boundary of Plot 2 which provides some screening.</p>
5.21	<p>The scheme provides for adequate garden/amenity space and dedicated parking provision for both dwellings.</p>
5.22	<p>Scale: The proposed dwellings will be viewed in context with the existing properties to the west of Whitworth Terrace. These properties, along with the proposed dwellings are set below road level and are not highly visible within the street scene of Whitworth Terrace. They are most visible from the opposite side of the valley. The existing properties in this row are large,</p>

mainly detached, two storey dwellings with an inconsistent roof scape. The view from across the valley can be seen in Figure 6 below (*apologies for the quality, it is a zoomed in photograph*). The application site is marked by a star.

5.23

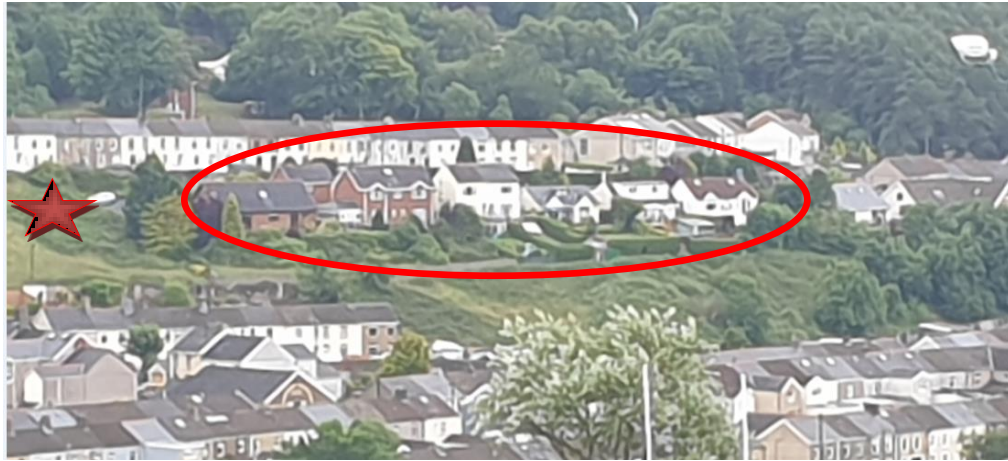


Figure 6: View from across the valley

5.24 The proposed dwellings are of a similar footprint to the adjacent dwellings. Whilst the proposed dwellings will be 2.4m higher than neighbouring Ty Croeso (shown in Figure 7 below), as described above the existing dwellings within this row have an inconsistent ridge height and they will be of a similar height to the taller dwellings within the row.

5.25



Figure 7: Site Section

5.26 Appearance: The appearance has been described in detail in Section 1 of this report and can be clearly seen in the Figures throughout this report.

5.27 Objections have been received that the design of the dwellings are unsympathetic to the character and appearance of the local area with properties being predominantly terraces. Whilst I wouldn't disagree that the predominant housing type in this area are terraces, it is also very clear that the row of existing dwellings to the west of Whitworth Terrace where the application site is located do not conform with the terraced character of the

	surrounding area.
5.28	The proposed dwellings will be viewed in context with the adjacent dwellings and not the terraced properties. The properties in this row have a varied design, roof and window style with a range of finishes. The dwellings proposed are in my opinion of a good design that will not be out of keeping with the adjacent dwellings. A condition will be required for the submission of the exact specification/colour of finishes.
5.29	The boundary treatments have also been described earlier in my report to be post and rail fencing with hedgerows. The properties adjacent to the application site also have landscaped boundaries. The proposed boundary treatments will, in time, create attractive frontages, rear and side boundaries whilst maintaining privacy for existing and proposed residential properties. Full details of the specification for the hedgerow boundaries will be required by condition.
5.30	Overall, I consider that the layout, scale and appearance of the proposed development complies with Policy DM1(2a, b, and c) and DM2 of the LDP which seeks to ensure that new development proposals enhance and respect their surroundings and contribute to local identity.
5.31	<u>Access</u> It is fundamental in terms of access that the highway network is adequate to serve the proposed development.
5.32	The creation of two access points off this road has given rise to objections from nearby residents for a number of reasons as outlined in Section 3 (Consultation and Other Relevant Information) of this report.
5.33	The Team Manager Built Environment has confirmed during the consultation process that he has no objections to the proposal subject to conditions.
5.34	I have discussed the safety concerns raised by residents with the Team Manager Built Environment in respect of Woodfield Road being a bus route and a road which has high levels of on-street parking which is exacerbated by road narrowing and a nearby bend in the road and that in their opinion it would be dangerous for additional access' onto this road.
5.35	The Team Manager acknowledges that on-street parking is an issue at peak times in this area. Whitworth Terrace varies from approximately 5.5 metres to 6.5 metres in carriageway width, with on-street parking predominantly along the eastern side of the road adjacent to the existing houses. Any vehicles

	<p>currently parking on the opposite side of the road adjacent to the development site would, due to the width of the road, have no option than to partially obstruct the public footway in order to park such that traffic could still pass along Whitworth Terrace. Any vehicles parking in such a manner are causing an obstruction and should not be doing so in the first instance. The proposed dwellings have their own off-street parking and will not be adding to on-street parking levels.</p>
5.36	<p>In terms of the opinion that the creation of two access points is dangerous due to the width of the road and close proximity to a bend, the officer confirmed that the width of the road at Whitworth Terrace adjacent to the development site complies with current highway design standards. The positioning of the driveways is acceptable to the highway authority and is not considered dangerous. The nearest driveway is at least 15 metres away from the junction which is acceptable.</p>
5.37	<p>In addition the officer confirmed that the proposed driveways are of sufficient width to allow safe access/egress to the plots. Any vehicles obstructing access to the driveways would be committing an offence. It is also worth noting that there two other vehicular access points in close proximity to the application site, who as far as I am aware have no issue exiting onto Whitworth Terrace.</p>
5.38	<p>As for concerns regarding safety of children walking to school, the developer will be required to provide a widened footpath for the full width of the application site which will be an improvement on the current circumstances. The vehicle movements associated with this development proposal are not considered to be a significant increase to the movements currently associated with the area.</p>
5.39	<p>I am satisfied that subject to conditions the highway network is capable of serving the development and satisfactory access can be provided for both pedestrians and vehicles and complies with Policy DM1(3).</p>
5.40	<p><u>Landscaping and Ecology</u> The Site Layout Plan indicates that all the site boundaries will be planted, with tree and shrub planting throughout both plots. The rear sloping garden area will also be grassed with some features to deal with surface water drainage, this may be in the form of swales/ponds.</p>
5.41	<p>The Service Manager Green Infrastructure has confirmed that whilst he is happy in principle with what is being proposed further detail regrading species and quantities is required. The applicant has requested this be conditioned. This is acceptable, especially as the landscaping proposal is</p>

	likely to be influenced by any SAB approval (surface water drainage).
5.42	Concern has been raised by a resident that the trees being proposed will result in loss of light. This can be given due consideration on the submission of a landscaping scheme, however in principle I am satisfied that the surrounding properties are of a sufficient distance away to be unaffected.
5.43	An objection has been received regarding loss of wildlife. The Council's Ecologist has not raised any concern in this regard. She has however noted that the proposed biodiversity enhancements shown on the Site Layout Plan are welcomed and acceptable. These will need to be included as part of any subsequent landscape scheme. Informatives are also required to remind the developer of their legal obligation in protecting any protected species they may come across during construction.
5.44	I am satisfied that subject to conditions and informatives the application complies with Policy DM2.
5.45	<u>Ground Conditions</u>
5.46	Stability: The application site falls within the Coal Authority's defined Development Low Risk Area. As such no Coal Mining Risk Assessment Report (CMRA) is required to be submitted with the application. Suitable foundation design for the prevailing ground conditions will be controlled by Building Regulations.
5.47	Contamination: Environmental Health has not made any objections to this application nor has it required further information in this regard.
5.48	<u>Drainage</u> The plans initially suggested that foul drainage would be discharged to a septic tank. In order to use a septic tank the developer must first prove that they have first exhausted all other potential options, in particular connecting to an existing sewer. The developer has subsequently requested that the disposal of foul drainage be conditioned should planning permission be granted.
5.49	Since 7 <sup>th</sup> January 2019 development proposals that have a hard surface area that exceeds 100m <sup>2</sup> require separate SAB approval to deal with surface water drainage. This development exceeds this threshold and accordingly requires approval of Sustainable Drainage Systems (SuDS).
5.50	It is noted that there are concerns regarding current surface water drainage



	by residents and a Local Ward Member. As part of the SAB application the developer would have a duty to provide betterment in terms of surface water run-off from the site in addition to biodiversity, ecology and amenity benefits.
5.51	SAB applications in this borough are dealt with by Caerphilly CBC, however Welsh Water and the Council's Drainage Officer are statutory consultees on such applications.
5.52	I am satisfied that surface water drainage will be addressed through the SAB process and the imposition of a suitably worded condition will deal with foul drainage.
5.53	<u>Noise/Dust/General Disturbance</u> The impact of noise, parking and general disturbance on residents during the construction phase has been raised by an objector.
5.54	The construction phase of the development can be controlled through a condition requiring a Construction Environment Management Plan (CEMP). An approved CEMP will ensure that the day to day operation of the site can be controlled.
5.55	In terms of noise from the day to day living of the occupiers of the proposed dwellings I do not consider that two additional dwellings in an existing residential area will give rise to a level of disturbance that could be considered unacceptable.
5.56	<u>Other Matters</u> Objections have been received in respect of the loss of a view. There is no right to a view, however the impact of the change in outlook of residents has been considered within my report under 'Layout and Scale'.
5.57	One resident claims that a previous application was refused on access grounds and questions why the Council are treating this application differently because it has been submitted by a local property developer. There is no record of a refusal of planning permission on this site. I have viewed comments from the Highway Authority on pre-application advice and the planning application that was withdrawn and their advice has been consistent. <u>The identity of an applicant or the fact that they may be a local developer has no bearing on the acceptability of a development proposal.</u>
5.58	Residents claim to have been under the impression that the land subject to this application would never be developed. This is not a material planning consideration. The land is privately owned and the applicant is within his

5.59	<p>own right to submit a planning application for consideration by this Council.</p> <p><u>Conclusion</u></p> <p>In summary, the proposed residential development is, subject to conditions, considered to be acceptable in land use terms and would not have an unacceptable impact on the character and appearance of the surrounding area, the amenity of the surrounding properties or the safe, effective and efficient use of the highway network.</p>
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## 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	<p>Planning permission be <b>GRANTED</b> subject to the following condition(s):</p> <ol style="list-style-type: none"><li>1. The development shall not be carried out except in complete accordance with the details of the following approved plans, except where amended by conditions attached to this planning permission:<ul style="list-style-type: none"><li>- Existing Site Layout &amp; Location Plan, 1534(2)/S/001, stamped received 15/05/2020</li><li>- Proposed Site Layout, 1534(2)/PLN/001 Rev AB, stamped received 09/09/2020</li><li>- Proposed Site Sections, 1534(2)/PLN/0002 Rev ABC, stamped received 16/09/2020</li><li>- Proposed Dwelling Plot 1 – Elevations, 1534(2)/Plot 1/PLN/02 Rev AB, stamped received 09/09/2020</li><li>- Proposed Dwelling Plot 1 – Floor Layouts, 1534(2)Plot 1/PLN/01 Rev AB, stamped received 09/09/2020</li><li>- Proposed Dwelling Plot 2 – Elevations, 1534(2)/Plot 2/PLN/02 Rev AB, stamped received 09/09/2020</li><li>- Proposed Dwelling Plot 2 – Floor Layouts, 1534(2)Plot 1/PLN/01</li></ul></li></ol>
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Rev AB, stamped received 09/09/2020

- Proposed Detached Garage for Plots 1 & 2, 1534(2)/PLN/007 Rev AB, stamped received 09/09/2020

Reason: For the avoidance of doubt and to ensure compliance with the approved plans and documents.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any Order revoking or re-enacting that Order with or without modification), no enlargements, improvements or other alterations to the dwelling shall be constructed other than those expressly authorised by this permission.

Reason: In view of the topography of the site and the need to retain effective planning control of the site in the interest of visual and residential amenity considerations.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any Order revoking or re-enacting that Order with or without modification), no changes to ground levels shall be made, garages or other outbuildings shall be erected other than those expressly authorised by this permission.

Reason: In view of the restricted nature of the site and the need to retain effective planning control of the site in the interests of amenity

4. Prior to commencement of development shall a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall provide details of:

- hours of working;
- the parking of vehicles of site operatives and visitors;
- delivery of materials;
- wheel washing facilities;
- storage of plant and materials used during construction;
- the erection and maintenance of any security hoarding;
- measures to control the emissions of dust and dirt during construction;
- a scheme for the recycling/disposal of waste resulting from construction; and
- the siting and details of any construction compound.

Such details and measures as contained in the approved Statement shall be adhered to throughout the construction period.

Reason: To safeguard local amenity interests and to ensure that the

impacts of the construction phase of the development are appropriately and adequately addressed.

5. Prior to commencement of development details shall be submitted to and approved in writing by the Local Planning Authority of the constructional details of the gabion basket retaining walls. Such details must also include a certificate signed by a suitably qualified engineer that shall verify the structural integrity of the proposed structure. All works implemented shall be undertaken in full accordance with such details and specifications as may be approved by the Local Planning Authority and completed before the hardstanding is brought into beneficial use.

Reason: To safeguard the integrity of any retaining works required in association with the approved development.

6. No development shall commence on site until details are submitted to and approved in writing by the Local Planning Authority showing how foul water drainage will be dealt with. None of the dwelling(s) hereby approved shall be occupied until all drainage works relating to that property and its connection to the wider drainage network are completed in accordance with the approved details.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system.

7. Development shall not proceed beyond laying of the slab of any dwellings until samples of all external facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be brought into beneficial use until all external finishes are completed in full accordance with such details as may be approved in writing by the Local Planning Authority.

Reason: To safeguard the visual amenities of the area.

8. Development shall not proceed beyond laying of the slab of any dwellings until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The submitted scheme shall include :-

- a) indications of all existing trees (including spread and species) and hedgerows on the land clearly identifying those to be lost or retained;
- b) measures for the protection of retained trees or hedges throughout the course of development;

- c) details of ground preparation, planting plans, number and details of species throughout the site and for the hedgerow boundaries;
- d) maintenance details for a minimum period of 5 years; and
- e) a phased timescale of implementation

Reason: To ensure submission of an appropriate landscaping scheme and to secure a development that makes a positive contribution to the landscape and visual amenities of the area.

9. Development shall not proceed beyond laying of the slab until full constructional details are submitted to and approved in writing of the widening of the public highway to 1.5m along the entire frontage of the two plots hereby approved. The footway shall be constructed in full accordance with such details as may be approved prior to occupation of the dwelling the footway serves.

Reason: In the interest of highway safety.

10. No dwelling hereby approved shall be occupied until the access, driveway and parking areas relating to that dwelling are constructed as indicated on the approved plans. The areas provided shall be retained for their designated purposes at all times.

Reason: To ensure the parking needs of the development are adequately met and to safeguard highway interests.

11. No frontage/side boundary treatments within the driveway vision splays of 3.0m x 3.0m are to exceed 0.9m in height.

Reason: In the interest of highway safety.

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

Reason: To comply with the requirements of Section 91 of The Town and Country Planning Act 1990.

Informatives:

1. The applicant/developer should note that the development hereby approved also requires SuDS approval before work commence. Further guidance can be found at <https://www.blaenau-gwent.gov.uk/en/resident/planning/how-to-apply-for-planning-permission/permission-for-drainage/> On such basis any surface water drainage details submitted as part of your application have not been considered. Should it be necessary to amend your development to meet the requirements of the SAB (SuDS Approval Body) you should seek further advice from the Local Planning Authority.
2. The applicant is advised to include the proposed biodiversity

	<p>enhancements as shown on the approved Site Layout Plan in preparation of the Landscaping Scheme required by condition 8.</p> <p>3. All wild birds, their nests and their eggs are protected under the Wildlife and Countryside Act 1981 (as amended). All British reptiles are protected from intentional killing, injuring and sale under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Badgers and their sets are fully protected under the Protection of Badgers Act 1992. In addition they are listed on Schedule 6 of the Wildlife and Countryside Act 1981 (as amended), which prohibits certain methods of killing and capture.</p> <p>4. The applicant is advised to consider the installation of electric vehicle charging points at each dwelling in the interests of working towards a shift to low or zero emissions means of road transport.</p>
<b>8. Risk Implications</b>	
8.1	In the event planning permission is refused the applicant may appeal to the Planning Inspectorate.