

Application No.
P/15/0259

Date
7th August 2015

Determining Authority
MTCBC

Proposed Development

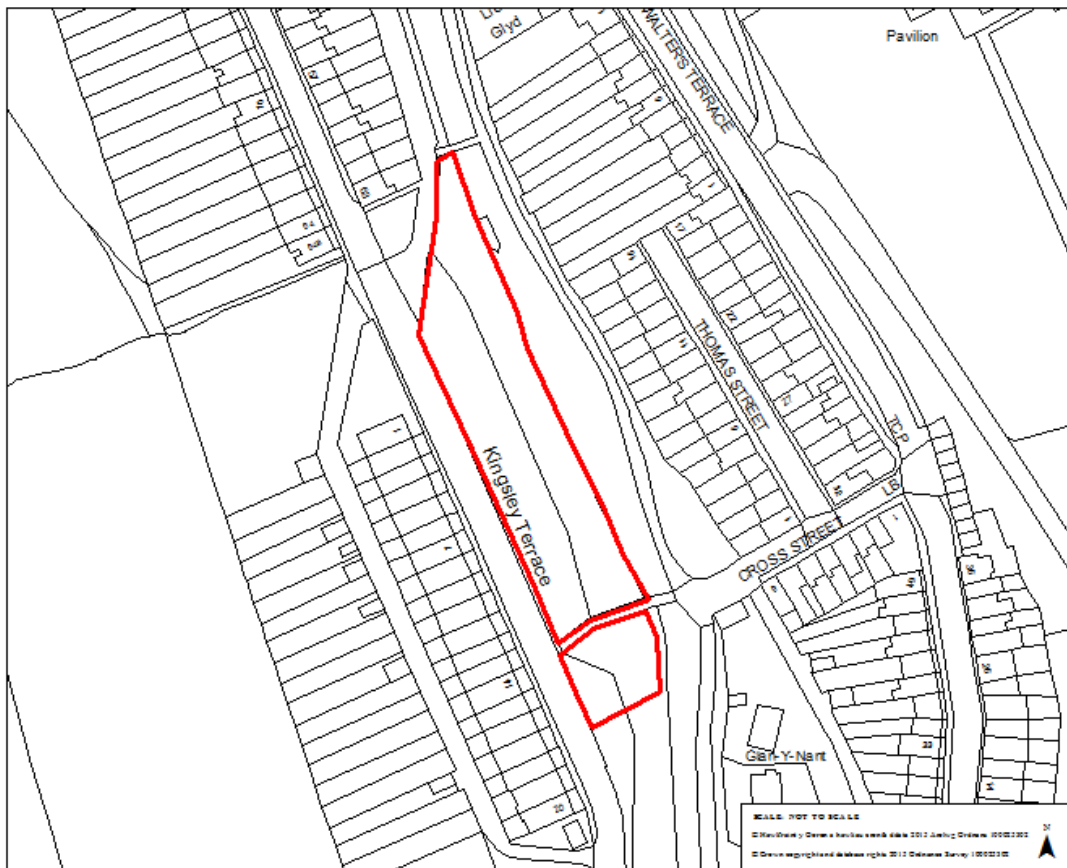
Location

Name & Address of Applicant/Agent

Variation of a condition attached to planning permission P/11/0294 for residential development to extend the period of time for the submission of reserved matters

Land Opposite 1-17 Kingsley Terrace Aberfan Merthyr Tydfil

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APPLICATION SITE

This application relates to an irregular plot of land measuring approximately 23m deep by 145m wide with an overall site area of approximately 0.271 hectares. It is bound to the north by an access lane that serves the rear of terraced properties that form part of Bryntaf and to the south is an area of scrub land, which is in the ownership of the applicant. To the west of the site is the main highway serving the site and a row of traditional style terraced properties that form part of Kingsley Terrace. To the east is a watercourse and the Taff Trail, which is also used as a rear access lane serving the nearby terraced properties forming part of Thomas Street and Perthglesion.

The western part of the site is reasonably level with the adjoining highway and slopes downwards steeply at the eastern part of the site towards the watercourse. Part of the

southern section of the application site is separated by an existing narrow footpath providing a link between the main highway (to the west) and the Taff Trail (to the east). There are also a number of existing trees along the eastern boundary that run the length of the watercourse adjoining the site.

PROPOSED DEVELOPMENT

Permission is sought to vary a condition attached to outline planning permission (P/11/0294) to extend the period of time for the submission of reserved matters.

The outline approval relates to the development of the site for residential purposes. All matters relating to access, appearance, landscaping, layout and scale were reserved (under permission P/11/0294) for future consideration. An indicative block plan has been submitted in support of the application, which illustrates a potential scheme comprising six detached dwellings in a linear form across the site fronting towards Kingsley Terrace. The block plan also illustrates that a 2m wide footway could be accommodated within the site along the edge of the existing carriageway. These are the same details submitted in application P/11/0294.

The Design and Access Statement indicates the upper and lower scale limits of each dwelling would be as follows:

	Width	Depth	Height
Minimum dimensions	6.075m	9.45m	8.35m
Maximum dimensions	10.9m	9.9m	9.50m

This application is being reported to Committee for determination as it has been submitted by an employee of the Town Planning Division.

PLANNING HISTORY

P/13/0048 - Removal of Condition 7 of Planning Permission P/11/0294, relating to the submission of a development phasing plan.

REFUSED permission on 03.05.2013 for the following reason:

'The removal of condition 7 would give rise to an unacceptable level of uncertainty and control over the phasing of the development within the application site. This could consequently lead to a piecemeal/sporadic form of development across the site with some plots remaining vacant indefinitely. This would result in a negative impact on the established pattern of development with unacceptable separation distances either between the dwellings built on site and/or the nearest existing properties within Bryntaf, which in turn would have a detrimental impact on the character and the visual amenities of the area, contrary to Policy BW7 of the Merthyr Tydfil Local Development Plan 2006-2021'.

The above application was subsequently ALLOWED at appeal on 25.09.2013 (ref: APP/U6925/A/13/2199131)

P/11/0294 - Erection of 6 No. detached dwellings.
Outline permission GRANTED on 19.10.2012

P/11/0158 - Erection of detached dwelling (outline with some matters reserved).
REFUSED permission on 21.10.2011 for the following reason:

'The erection of a dwelling on land opposite Kingsley Terrace would constitute an incongruous feature within the street-scene, which fails to conform with the established pattern of development within the vicinity of the site, resulting from its significant separation distance from the nearest existing properties within Bryntaf to the north and Pleasant View to the south of the site, to the detriment of the character and the visual amenities of the area, contrary to Policy BW7 of the Merthyr Tydfil Local Development Plan 2006-2021'.

CONSULTATION

Internal consultees

Engineering and Highways Manager - No objection.

Town Planning Division's Policy & Implementation Group Leader - No objection.

Town Planning Division's Countryside Officer - No objection subject to a condition relating to an ecological buffer zone.

Environmental Health Manager - No objection.

External consultees

Natural Resources Wales (NRW) - No objection.

The Coal Authority - No objection subject to a condition relating to ground stability.

Welsh Water - No objection subject to conditions relating to foul, surface water and land drainage.

Wales & West Utilities - No objection.

Western Power Distribution - No response.

PUBLICITY

In accordance with the Town & Country (Development Management Procedure) Order 2012, letters were sent to neighbouring properties and three site notices were displayed within the vicinity of the site.

As a result of this publicity exercise 9 letters of objection have been received which reiterate the concerns raised in the previous applications P/11/0294 and P/11/0158:

- The development of the site would be out of character with the surrounding area.
- The dwellings should be a minimum distance of 20-21m away from the existing dwellings along Kingsley Terrace.
- Concerns that the existing sewerage system would not be able to accommodate the development and would cause disruption to the area.
- The development would be at risk from flooding being within 20m of a watercourse.
- There are potential risks from subsidence, particularly due to the sloping nature of the site which may impact on the highway and neighbouring properties.
- The land within the site is potentially contaminated.
- Concerns that the potential self-build development of the site could lead to each dwelling looking quite different to each other and other properties along Kingsley Terrace.
- The need for additional housing in the area is questioned given the large scale Riverside development at the bottom of the valley which includes provision for 200 new dwellings.

POLICY CONTEXT

The following policies contained within the Merthyr Tydfil Local Development Plan (LDP) 2006-2021 are relevant to the determination of this application:

- Policy BW3 - Development Strategy – Other Growth Area
- Policy BW4 - Settlement boundaries/location constraints
- Policy BW5 - Natural heritage
- Policy BW6 - Built heritage
- Policy BW7 - Sustainable design and place making
- Policy BW8 - Development and the water environment
- Policy BW12 - Development proposals and transport
- Policy BW17 - Securing community infrastructure benefits
- Policy AS22 - Affordable housing contributions
- Policy TB11 - Access, parking and accessibility of local facilities

Other material considerations

- SPG 1- Affordable Housing, March 2012.
- SPG 2- Planning Obligations, March 2012.
- SPG 5 – Nature and Development, May 2015.
- CSS Wales Parking Standards, January 2008.
- Circular WGC 016/2014: The use of planning conditions for development management.

PLANNING CONSIDERATIONS

This application essentially seeks to renew outline planning permission Ref P/11/0294 for residential development, which was granted on the 19th October 2012.

The advice within Circular WGC 016/2014 (Section 5.21) clearly states that renewal applications should only be refused in the following circumstances:

1. There has been some material change in planning circumstances since the original permission was granted.
2. Continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area; or
3. The application is premature because the permission still has a reasonable time to run.

There has been no change in policy. However, it is acknowledged that the previous application P/11/0264 included three conditions (No. 4, 5 and 6) relating to the sustainable design of the dwelling. Since that application was approved, TAN 22 has been cancelled and Planning Policy Wales was revised on 31st July 2014, following changes to Part L of Building Regulations. As such, there is no longer a requirement to impose such conditions on new planning permissions as these matters would now be covered by Building Regulations. Furthermore, the remaining conditions attached to permission P/11/0294 should be reworded on any new permission to reflect the recent changes contained in Circular WGC 016/2014 relating to the use of planning conditions. Committee will also note that condition 7 (phasing of the development) attached to P/11/0294 is no longer required, following the applicants successful appeal to remove this condition (P/13/0048).

There have been no significant changes in the site circumstances which remain the same or are very similar to that when the previous application was determined. However, it is noted that the site is identified by the Coal Authority to be located in an area at high risk to past mining operations. Accordingly, a Coal Mining Risk Assessment was submitted in support of the application which concludes that the site would not be adversely affected by past mining works. The Coal Authority has not raised any objection subject to a condition requiring a site investigation to determine any necessary mitigation measures prior to works commencing on site.

The concerns raised as a result of the publicity exercise are acknowledged. However, it is considered that there has been no material change in planning circumstances since the previous permission and no new issues have been raised that warrant the refusal of this application.

Whilst the development works have not commenced since 2012, this absence of development on the site has not contributed to uncertainty about the future pattern of development in the area. The majority of land within the vicinity that lies within the settlement limits has already been developed, and hence the pattern of local development has already been established.

This application was submitted to the Town Planning Division on the 7th August 2015, which is 10 weeks and 2 days before the expiration of the P/11/0294 permission. As such, this application is not considered to have been submitted prematurely.

It is noted that as part of the previous application P/11/0294, a Section 106 agreement was signed by the applicant, which required a financial contribution of £12,000 towards the provision of affordable housing. Using the Three Dragon's Toolkit, the Town Planning Division's Policy and Implementation Group Leader has assessed the viability of the development and has confirmed that an affordable housing contribution for £12,000 should be secured.

CONCLUSION

For the above reasons, it is considered that the proposed development is acceptable and complies with the relevant circular advice and LDP policies. Accordingly, the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following **CONDITIONS** and the applicant (and anyone else with an interest in the land) **ENTERING INTO A SECTION 106 AGREEMENT.**

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

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

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

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

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

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

4. **In conjunction with the statutory 'reserved matters' details required by condition 1**, full construction details for the provision of a 2 metre wide footway along the western boundary of the site that abuts the main highway, shall be submitted to and approved in writing by the Local Planning Authority **before** works commence on site.

All works shall be carried out in strict accordance with the approved details and the footway shall be constructed up to base course level with appropriate kerb stone edging prior to the occupation of any dwelling and shall be completed to wearing course level prior to the completion of the development.

Reason - In the interest of highway safety in accordance with Policies BW12 and TB11 of the Merthyr Tydfil Local Development Plan.

5. **No development or site clearance shall commence** until the Local Planning Authority have been informed in writing of the name of a professionally qualified archaeologist who is to be present during the undertaking of any excavations in the location of the two northern plots of the development area (as illustrated in Dwg ORD/KT/A/MT/WE/3B) so that a watching brief can be conducted. No work shall commence until the Local Planning Authority has confirmed in writing that the proposed archaeologist is suitable. A copy of the watching brief report shall be submitted to the Local Planning Authority within two months of the archaeological fieldwork being completed.

Reason - In order that the archaeological operations are undertaken to an acceptable standard and that legitimate archaeological interest in the site is satisfied in accordance with Policy BW6 of the Merthyr Tydfil Local Development Plan.

6. Construction works shall not take place outside the hours of 08:00 to 18:00 Mondays to Fridays and 09:00 to 14:00 on Saturdays and at no time on Sundays or Public Holidays.

Reason - To ensure that the noise emitted/activities are not a source of nuisance to occupants of nearby properties in accordance with Policy BW7 of the Merthyr Tydfil Local Development Plan.

7. **No development shall commence** until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during demolition and construction; and
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason - In the interests of the highway safety and free flow of traffic and to protect the environment and so as to accord with Policy BW7 of the Merthyr Tydfil Local Development Plan.

8. **Before the commencement of development** a scheme for the provision and management of a buffer zone alongside the watercourse shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme. The scheme shall include a plan showing the context and layout of the buffer zone.

Reason - To protect the ecology of the land alongside the watercourse and prevent any damage to its ecological value in accordance with Policy BW5 of the Merthyr Tydfil Local Development Plan.

9. **No development shall take place** until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before development begins. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Reason - In the interest of health and safety and environmental amenity and so as to accord with Policy BW18 of the Merthyr Tydfil Local Development Plan.

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

Reason - The site may be unstable and as such in the interests of safety remedial measures may need to be carried out.
