

APPLICANT: Mr Eugene Gibbon, Collie Cottage,, Cardiff Road,, Dinas Powys,, Vale of Glamorgan., CF64 4LJ

AGENT: Mr Eugene Gibbon, Collie Cottage,, Cardiff Road,, Dinas Powys,, Vale of Glamorgan., CF64 4LJ

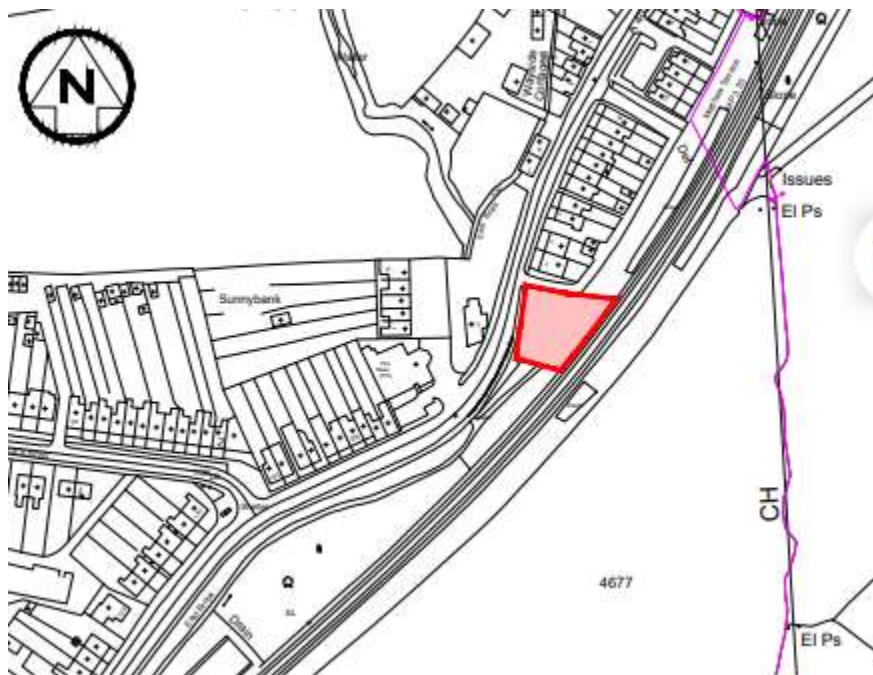
Collie Cottage, Cardiff Road, Dinas Powys

Retention of dwelling as built and alterations to access

SITE AND CONTEXT

The site is a roughly rectangular parcel of land within Dinas Powys located between the classified Cardiff Road (A4055) to the north-west, and railway line, to the south-east. The site is immediately adjacent to the Dinas Powys settlement boundary, although outside in planning terms. The site is also located within the Green Wedge Area.

Location Plan:



DESCRIPTION OF DEVELOPMENT

Planning approval was granted for the new dwelling, the subject of this application under planning application references 2012/00800/OUT and 2015/00713/RES. A further full application was granted under planning application reference 2016/00818/FUL for the extension of the residential curtilage and the erection of a detached garage. The development was not however carried out in accordance with this application and the current application therefore seeks to regularise the alterations undertaken which include the relocation of the dwelling within the plot, a slight increase in its dimensions, alterations to the external elevations and a change in the location of the access.

The alterations undertaken to the location and dimensions of the dwelling involve its relocation 1 metre closer to the northern boundary and increase in footprint by approximately 0.4 metres in both width and depth. The original proposed elevations featured a stonework front elevation and render finished side and rear elevations. This application seeks to retain the external finishes of the dwelling as constructed so that that the ground floor of the front and south side elevation remain finished in stonework, whilst the first floor is finished in render with a black tile in-between the two sections. The rear and north-side elevations will continue to be finished in render as detailed in the plans below:



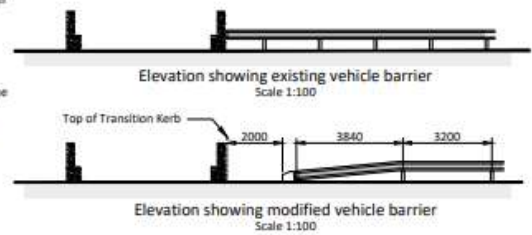
The appearance of the completed dwelling is illustrated in the photograph below:



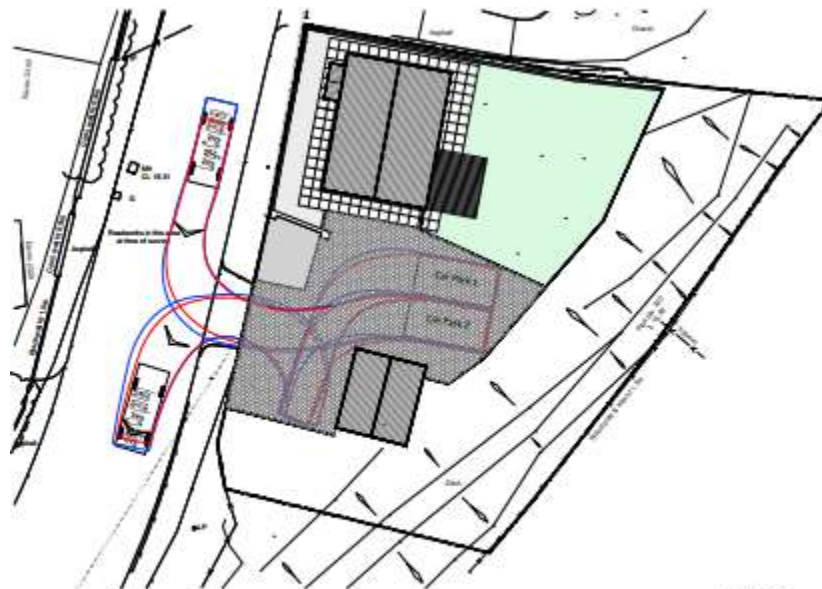
The access has also been altered and remains on Cardiff Road but has been moved further north along the western boundary of the property. Walls had been erected on either side of the access which were up to approximately 1.5 metres in height but were proposed to be cut down to 0.6 metres in height within the vision splay to the north and the walls removed to the south. As shown in the photograph above, the wall of the southern side of the access has now been removed in its entirety. The existing vehicle barrier on the footpath was proposed to be cut back and the hedge removed, as requested by the Highways department and this work has also now been undertaken.



Walls and piers as constructed either side of the access to be reduced in height to a maximum of 600mm above the adjacent carriageway channel edge for a distance of 2m from the boundary of the highway into the site.
 New screen to be constructed.
 Walls and piers to be removed.
 Existing vehicle barrier system located within the footway along Railway Terrace, immediately south of the access, to be altered to provide a minimum clear distance of 2m between the start of the barrier and top of transition kerb that forms the adjacent vehicular crossover. Barrier to be altered by Highways approved specialist contractor.



Following the submission of the application, it has been identified that the garden and parking areas did not accord with those shown on the submitted plan, in that the northern boundary splayed outwards, whereas that shown on the plan splayed inwards and also, the fence line between the rear garden / lawn and parking are splayed out at an angle, whereas that shown on the plan ran parallel with the side boundary. These discrepancies have been regularised through the submission of amended plans, but do not have any material impact on the determination of the application.



Site Plan
 Clip showing site access / egress
 Scale 1:200

CLIENT:
 ADDRESS:

PLANNING HISTORY

2016/00818/FUL: Land at Railway terrace, Dinas Powys – Extension/additional land added to garden curtilage and proposed detached garage – *Approved 12/10/2016*

2015/00713/RES: Land at Railway Terrace, Dinas Powys – Approval of Reserved Matters relating to one two bedroom single dwelling unit 2012/00800/OUT – *Approved 17/08/2017*

2012/00800/OUT: Land adjacent to 25, Railway Terrace, Dinas Powys - Outline proposal for single dwelling - *Approved 12/04/2013*

2000/00047/OUT: Land adjacent to 25, Railway Terrace, Dinas Powys - Detached two storey four bedroom house including garage and on-site parking - *Refused 03/03/2000*

1998/01140/OUT: Land adjacent to 25, Railway Terrace, Dinas Powys - Two storey four bedroom house including garage and on site parking - *Refused 08/01/1999*

1984/00115/OUT: Adjacent to Railway Terrace, Eastbrook, Dinas Powys - New access road, erection of one dwelling - *Refused 27/11/1984*

CONSULTATIONS

Dinas Powys Community Council was consulted on the 8th of June 2017. No response was received.

Council's Housing Strategy Team was reconsulted on 30th June 2021 and confirmed that the current commuted sum requirement would be:

AHC x 0.4 of a 1 bed unit in a Zone 5 area (£119,700) = £27,770.40

Council's Highway Development Team was consulted on the original plans on 8th June 2017. They responded asking that the hedge should be removed to maintain visibility along the adjacent highway and that the plans clearly and accurately show the reduction of the barrier system and the pillars/walls beside the access. Amended plans were submitted on 6th of July 2017 and following re-consultation, the Highways department confirmed that details for the alteration and shortening of the barrier had been agreed, however further information from the contractor regarding traffic management was awaited. It has subsequently been confirmed that the proposed alterations to the barrier have been undertaken in accordance with the requirements of the Highway's department.

Ward Members for Dinas Powys were consulted on the 8th of June 2017. No responses were received.

REPRESENTATIONS

The neighbouring properties were consulted on 8th June 2017 and a site notice was displayed on 13th June 2017. No representations were received.

REPORT

Planning Policies and Guidance

Local Development Plan:

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

Strategic Policies:

POLICY SP1 – Delivering the Strategy

POLICY SP10 – Built and Natural Environment

Managing Growth Policies:

POLICY MG1 – Housing Supply in the Vale of Glamorgan

POLICY MG2 – Housing Allocations

POLICY MG4 – Affordable Housing

POLICY MG18 – Green Wedges

Managing Development Policies:

POLICY MD1 - Location of New Development

POLICY MD2 - Design of New Development

POLICY MD4 - Community Infrastructure and Planning Obligations

POLICY MD5 - Development within Settlement Boundaries

Future Wales: The National Plan 2040:

Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process. The following chapters and policies are of relevance in the assessment of this planning application:

Chapter 3: Setting and achieving our ambitions

- 11 Future Wales' outcomes are overarching ambitions based on the national planning principles and national sustainable placemaking outcomes set out in Planning Policy Wales.

Chapter 5 – The Regions

- The Vale of Glamorgan falls within the South East region.
- Regional policies provide a framework for national growth, for regional growth, for managing growth and supporting growth.
- In the absence of SDPs, development management process needs to demonstrate how Future Wales' regional policies have been taken into account.

Policy 1 – Where Wales will grow

- Supports sustainable growth in all parts of Wales.
- Development in towns and villages in rural areas should be of an appropriate scale and support local aspirations and need.

Policy 7 – Delivering Affordable Homes

- Focus on increasing the supply of affordable homes

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the determination of this application.

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

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

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

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

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Placemaking in Rural Areas
- Previously Developed Land
- The Best and Most Versatile Agricultural Land
- Development in the Countryside (including new housing)

Chapter 4 - Active and Social Places

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

Technical Advice Notes:

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

- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)

Supplementary Planning Guidance:

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

- Affordable Housing (2022)
- Parking Standards (2019)
- Residential and Householder Development (2018)

Other relevant evidence or policy guidance:

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

Well-being of Future Generations (Wales) Act 2015

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

Issues

The dwelling which is sought to be retained under this application is located adjacent to the settlement boundary and within a designated Green Wedge area, however the application previously approved under 2012/00800/OUT established the principle of siting a dwelling in this location and it was concluded that this would not have a detrimental impact of the character of the area.

Therefore, the main issues to consider with this application are whether the dwelling as constructed and located within the site has any additional design issues when compared with the reserved matters application 2015/00713/RES and subsequent full application 2016/00818/FUL, any highways issues arising from the proposed alterations to the scheme and whether the development complies affordable housing policies which have been adopted since the approval of the original scheme.

Design and Visual Impact

The visual changes to the dwelling in relation to its siting and external appearance have been considered within the context of Policy MD2 (Design of New

Development) of the Local Development Plan. This policy requires development proposals to be of a high standard of design that positively contributes to the context and character of the surrounding natural and built environment and protects existing features of townscape or landscape interest and respond appropriately to the local context and character of neighbouring buildings and uses in terms of use, type, form, scale, mix, and density.

The extent of the red edged area included with this application shown extending up to the railway was previously approved under application 2016/00818/FUL and was not considered to result in any additional visual impact. In respect of the siting of the dwelling, this has been constructed within the north-west corner of the site as originally approved. Whilst the footprint of the dwelling at 6.3m in width and 8.27m in length is slightly greater than that originally approved (5.9m by 7.9m) and the dwelling is located 1m closer to the side boundary, the dwelling remains set back from the public highway and is sufficiently separated from existing dwellings in Railway Terrace by the rear access to these properties. The amended size and siting are therefore considered acceptable in relation to its impact of the dwelling on the street scene and adjoining properties.

The original proposed road elevation submitted under the reserved matters application reference 2015/00713/RES was found to be 'in keeping generally with the adjacent Railway Terrace in terms of scale and materials' due to the fact that other dwellings in this setting had stone clad front elevations. Whilst the newly proposed half stonework half render elevations to the front and south side of the property are not typical of the area, they are considered to respond appropriately to the local context and character with regards to the materials used. As such, the proposed changes are not considered to have any unacceptable harmful impact on the character and appearance of the surrounding area and are considered to comply with Policy MD2 and the Residential and Householder Development SPG.

Highways Issues

At the time the previous application for the extension of the residential curtilage was determined (2016/00818/FUL), it was noted by Highways officers that the proposed means of access had been moved (south) from that which had been granted planning consent under both the outline and reserved matters consents (2012/00800/OUT and 2015/00713/RES). Boundary walls had also been built up either side of the access and appeared to restrict visibility along the adjacent highway. It was identified by officers that there were a number of issues with the unauthorised alterations which would need to be resolved, including the provision of visibility splays of 2.4m x 47m in both directions and that the necessary crossover would require the adjacent vehicular crash barrier to be reduced in length. As the alterations to the access did not form part of the application to extend the curtilage, it was however determined that this should be pursued under a separate application and is therefore now included within this application.

Following the submission of the original plans, it was confirmed by Highways officers that in order to provide and maintain visibility along the adjacent highway, the hedge along the site frontage to the north of the access should be removed and the existing and proposed barrier system located within the footway along Railway Terrace and the pillars/walls either side of the access clearly shown. Amended plans were subsequently received detailing the swept path of vehicles

turning left, in and out of the site, with the crash barrier located along the adjacent highway and cut back and the wall to the south removed in order to provide the required visibility. Following the agreement of these details, it has been confirmed that alterations to the barrier have been undertaken in accordance with the requirements of the Highway's department.

Affordable Housing

The approval of the original outline application 2012/00800/OUT in April 2013 preceded the adoption of the current LDP and therefore the requirement for the provision of affordable housing. The subsequent approval of application 2016/00818/FUL, resulted in additional land being added to the garden curtilage and a detached garage, however the development undertaken was not carried out in accordance with the approved plans.

At the time the current application was initially submitted in May 2017, its description was restricted to the 'alteration of approved dwelling and access', however following an assessment of the changes that had been undertaken, it was determined that the application description should be amended to include the 'retention of dwelling as built and alterations to access'. The applicant was therefore advised that the current application would need to be considered in the context of the Council's current affordable housing policy and a contribution would potentially need to be sought. It was confirmed that there were exemptions to the requirement for an affordable housing contribution, however it was not considered that the exemptions applied to the development. It was therefore suggested that the applicant consider how the affordable housing contribution would affect the viability of this development in order to establish whether it was appropriate to apply the affordable housing policy and it was confirmed that the viability information should be submitted to the Council for consideration.

The Council's adopted Local Development Plan (LDP), under Policy SP4 sets a target for the provision of 3,252 affordable dwellings over the plan period 2011-2026 to help address the identified affordable housing need. Policy MG4 of the LDP is the Council's primary means of securing of affordable housing through the planning system. The policy identifies three tiers of threshold and percentage requirements that were identified in the Council's development viability evidence prepared in support of the LDP. For the rural areas of the Vale Policy MG4 requires the provision of 40% affordable housing on sites resulting in a net gain of 1 dwelling. On small sites of less than 10 units the policy indicates that affordable housing contribution may be provided either on site or in the form of a financial contribution, or a combination of both. In all cases the policy indicates that the provision of affordable housing will be considered on a site by site basis taking into account development viability and local need.

Policy MD4 relating to Community Infrastructure and Planning Obligations also confirms that in cases where schemes are contended to be unviable, developers will be expected to produce properly sourced evidence. Any subsequent reduction is only likely to be justified where there is planning merit or public interest in the site being developed, however it is also suggested that it may not always be possible for developers to satisfy all planning obligation requirements. Further advice on reviewing development viability is also provided in the Council's SPG on Affordable Housing which includes the information required to be provided to

demonstrate how the viability of development has been assessed. It is emphasised that the burden of proof lies with the developer to demonstrate why there are extraordinary viability constraints on their development.

The Council has been engaged in correspondence with the applicant regarding this matter with the applicant and it was initially advised that an off-site contribution would be required based on the formula set out in the Council's SPG on Affordable Housing. As the Acceptable Cost Guidance band for Dinas Powys was Band 5, based on a 2-bed house, the offsite affordable housing contribution would be $£175,500 \times 0.58 \times 0.4 = £40,716$ and this resulted in a Development Viability Assessment being submitted by the applicant's agent in April 2018. This contained three valuations for the property from Burnett Davies, Peter Allan and Peter Mulcahy ranging between £185,00 and £205,000 (£197,500 average) and details of the estimated build costs which were £214,320.18, including the cost of the land of £70,000, which resulted in a residual value / loss of -£16,820.

It was submitted by the applicant's agent that the applicant was made retrospectively to deal with changes to the design of the development undertaken without consent and it would be wrong to apply the affordable housing policy where there was already an approved permission that had been implemented. Furthermore, the applicant had purchased the site with planning permission, but without the affordable housing policy applied at the time and this was a material consideration that should weigh against the application of the policy. He also noted that in the absence of the policy at the time of purchase, the applicant was unable to negotiate the provision of affordable housing when buying the land that occurred at full market value. It was submitted that the viability information demonstrated that the applicant had already suffered a loss of -£16,820 on the completed house based on construction costs compared to current sales values, even before the affordable housing requirement was added and even if the Council were to question some of the costs, they would still far outweigh any presumed sales value.

Following advice from the Council's Financial Services and due to the fact that the construction of the dwelling had subsequently been completed, it was determined that updated information should be sought to determine the actual construction costs, rather than the estimated costs which had previously been submitted. An updated figure for a commuted sum was also sought from the Council's Housing Strategy Team, which has been confirmed as £27,770.40

In response to the request for updated information, the applicant's agent has submitted revised details of the costs incurred in developing the site and an updated Development Viability Assessment based on the guidance contained in the Affordable Housing SPG. The submitted appraisal shows that the total construction costs have risen by £2500.00 to £216,820.18 because of the connection costs to the mains drain that were not previously factored in and taking account the average sales value of £197,500, this results in a residual value of -£19,320.18. The payment of an affordable housing contribution of £27,770.40 would therefore result in a loss of -£47,090.58.

It has also been suggested by the applicant's agent that according to the Office for National Statistics, average buildings costs from 2018 to December 2020 have risen by 10.7% which would mean the build cost would have risen to £242,233

and there has been a further rise in costs during the pandemic. In relation to house prices, it is suggested that there has been a 19% increase in Dinas Powys since 2019, which would result in the average price for the application property rising from £197,500 to £235,025. Therefore, based on these updated sales and costs projections, the residual value would be -£7208 and the payment of an affordable housing contribution of £27,770.40 would therefore result in a loss of -£34,978.40.

In response to the Council's confirmation that the provision of an affordable housing contribution would apply to the current application, two Development Viability Appraisals have been submitted on behalf of the applicant, the second of which details the actual costs incurred in developing the site. Following the receipt of the second Development Viability Appraisal, the applicant was requested to provide the actual receipts obtained in respect of the costs incurred, however due to the time which had expired since the dwelling was constructed, these were no longer able to be provided. Notwithstanding the absence of this information, the position put forward by the applicant's agent is that whilst the Affordable Housing SPG confirms that Councils will expect applicants to have considered the overall cost of development including planning obligations when negotiating the purchase of land, the absence of the policy at the time the land was purchased meant that the applicant was unable to consider the affordable housing requirement on the land value and to enter into appropriate negotiations when buying the land. It is submitted on behalf of the applicant that it would be extremely punitive and prejudicial to apply the policy retrospectively in this case. It is also contended on behalf of the applicant that were current build costs and house prices be applied to the current viability assessment, there would still be a considerable loss (-£34,978.40) which demonstrates that the development cannot reasonably afford an affordable housing contribution.

In considering the application details and evidence submitted on behalf of the applicant, full consideration has been given to the requirements set out in Policies MD4 and MG4 of the LDP and guidance contained in the Affordable Housing SPG in relation to the viability of securing affordable housing. Although it is acknowledged that in this case the development of the site has not enabled the provision of an affordable housing contribution, this requirement has only arisen as a result of the dwelling not being built in accordance with the approved plans following its original approval. Furthermore, it should be acknowledged that at the time the requirement for affordable housing was identified, the dwelling was at an advanced stage of construction and it would therefore have been too late to have factored in the requirement for affordable housing.

Having considered the viability assessment details submitted with this application, it would appear that the inclusion of an affordable housing contribution would have resulted in the development being unviable. Given these circumstances and the fact that the dwelling has been completed and occupied, it is not considered that it would be appropriate for the Council to seek an affordable housing contribution and that the proposal complies with Policy MD4 which acknowledges that it may not always be possible for developers to provide contributions. As the dwelling is not significantly dissimilar to the one which was granted planning approval, there are no design or highway issues arising out of the changes undertaken and is considered to comply with policy MD2, it is concluded that the application should be approved.

REASON FOR RECOMMENDATION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and Future Wales – the National Plan 2040.

Having regard to Policies SP4 (Affordable Housing Provision), MG4 (Affordable Housing), MD2 (Design of New Development), MD4 (Community Infrastructure and Planning Obligations), of the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and Future Wales: National Plan 2040 and the relevant Technical Advice Notes and Supplementary Planning Guidance, the proposal is considered acceptable in respect of visual amenity, its impact of nearby properties, highway safety, affordable housing and in all other respects.

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

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

RECOMMENDATION

APPROVE

APPROVE subject to the following condition(s):

1. The development shall be carried out in accordance with the following approved plans and documents:

As Built Site Location Plan - 2017-00539-FUL Rev 7 - submitted 27.1.22
As Built Plans & Elevations - submitted 12.9.17

Reason:

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

2. Notwithstanding the provisions of schedule 2, Part 1, classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the development hereby approved shall not be altered in any way, no extensions shall be erected to the building other than those expressly authorised by this permission and no buildings shall be erected other than those expressly authorised by this permission.

Reason:

To enable the Local Planning Authority to control the scale of development and to ensure compliance with Policy MD2 (Design of New Developments) of the Local Development Plan.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of the dwelling house.

Reason:

To safeguard local visual amenities, and to ensure compliance with Policy MD2 (Design of New Developments) of the Local Development Plan.

4. The access, vision splay, parking and turning areas shall be retained in accordance with the approved 'As Built Site Location Plan' reference 2017-00539-FUL Rev 7 and kept free from obstruction at all times to serve the development hereby approved.

Reason: In the interest of highway safety and to ensure a satisfactory form of access and parking to serve the development, and to ensure compliance with the terms of Policy MD2 (Design of New Developments) of the Local Development Plan.

NOTE:

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

