

## **SECTION A – MATTERS FOR DECISION**

### **Planning Applications Recommended For Approval**

<b><u>APPLICATION NO:</u> P2021/0444</b>	<b><u>DATE:</u> 27/04/2021</b>
<b>PROPOSAL:</b>	4-bedroom detached dwelling plus parking located within the grounds of 5 Park Row, Cwmavon.
<b>LOCATION:</b>	5 Park Row, Cwmavon, Port Talbot SA12 9PW
<b>APPLICANT:</b>	Marie Rees
<b>TYPE:</b>	Full Plans
<b>WARD:</b>	Bryn and Cwmavon

### **BACKGROUND INFORMATION**

This application is being reported to Planning Committee in the interest of transparency and public interest given the nature of objections concerning historic issues related to subsidence and associated compensation. For transparency, Members should also be aware that the applicant is the wife of David Rees MS.

### **SITE AND CONTEXT**

The application site is located on land at 5 Park Row, Cwmafan.

The application site measures approximately 0.06 hectares in area and comprises a vacant grassed area currently used as garden area for Number 5. It is sloping in profile from the south up to the north. It is bounded by residential dwellings to the east and west, a block of flats to the south and storage sheds to the north.

### **DESCRIPTION OF DEVELOPMENT**

This is a full planning application for construction of a new 4-bedroom detached dwelling, plus parking, located within the grounds of 5 Park Row, Cwmafan.

The proposed dwelling would measure 10.5m wide by 9.5m in depth and will reach a height of 7.5m to ridge-level. It is designed with a gable-ended ridged-roof with glazed feature gable to the front elevation and oak-framed porch. Windows are proposed on all four-elevations, together with roof-lights to the front and rear roof planes. It is indicated that the dwelling would be finished with off-white rendered walls with grey roof-tiles. The dwelling would be sited so it is at an angle to the properties to the west and flats to the south. Externally, three parking spaces are proposed, together with associated garden areas.

All plans / documents submitted in respect of this application can be viewed on the [Council's online register](#).

It should be noted that the Case Officer has not viewed from within the site due to COVID-19 restrictions, however the site has been viewed from the surrounding streets, and detailed information provided by the agent and Google Street-view and

aerial images have been reviewed in detail and, combined with the case officer's local knowledge, are sufficient for a detailed assessment to be made of the impacts of the development.

### NEGOTIATIONS

Not Applicable.

### PLANNING HISTORY

The application site has the following relevant planning history: -

- P1987/6090      Infrastructure works to service 9 Residential Plots. Approved 02/08/87.
- P1986/5721      Erection of 9 Residential Dwelling Units. Approved 02/11/86.

### CONSULTATIONS

**Head of Engineering & Transport (Highways):** No objection, subject to conditions.

**Head of Engineering & Transport (Drainage):** No objection.

**Biodiversity Unit:** No objection, subject to a condition.

**Contaminated Land Unit:** No objection, subject to conditions.

**Welsh Water:** No objection, subject to a condition.

### REPRESENTATIONS

The neighbouring properties were consulted on 28/04/2021, with a site notice displayed on 27/04/2021.

In response, to date, 4 no. representations have been received, with the issues raised summarised as follows: -

- Concerns that there have been unethical and contradictory practices by Neath Port Talbot Council (NPTC) as the application site has been previously designated by NPTC for 'garden use only'. How has the planning proposal reached this stage as it is morally wrong, as previous owners and prospective owners of the land in question were denied such permission?
- Concerns regarding historic mining activity in the area and a subsidence event has occurred here. This resulted in a subsequent subsidence claim against NPTC, and there is also history of sinkholes in the area.
- Concerns regarding flooding as there was a flooding event in March 2008 when there was surface-water run-off from Mynydd Y Foel.
- Concerns regarding ground contamination and potential pollution.
- Concerns why the notification letter took 7 days to reach neighbours?

- Concerns why 5 Park Row was given planning permission which it is bordering the Coal Mining High Risk Area?
- Concerns why 1 Park Row was given Planning Permission when it is within the High Risk Area, contradicting NPTC's protocol on developing land which lies on top of a CA High Risk Area.
- Concern why was the Coal Authority not consulted on the recent flat development (ref. P2017/1145)? This would have reduced the possibility of NPTC having to use public money to compensate for any future subsidence issues.
- Concern why the land where the four flats have been constructed was sold off without a recompense to the Local Authority's purse?
- Query when the application be decided upon and whether public access to the meeting be permitted?
- Concerns regarding the close proximity of the proposed to the neighbouring properties and potential loss of light.
- Concerns regarding potential overlooking.
- Concerns regarding the loss of views to the mountains.
- Concerns that if this application is approved it would contravene the European Union Human Rights Act by treating people differently.

## REPORT

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.

### National Planning Policy:

[Planning Policy Wales](#) (Edition 11) was revised and restructured in February 2021 to coincide with publication of, and take into account the policies, themes and approaches set out in, [Future Wales - the National Plan 2040](#) and to deliver the vision for Wales that is set out therein.

Future Wales now forms part of the Development Plan for all parts of Wales, comprising a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. All Development Management decisions, strategic and local development plans, planning appeals and all other work directed by the development plan need to accord with Future Wales.

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, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations (Wales) Act 2015.

PPW11 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

PPW is supported by a series of more detailed [Technical Advice Notes](#) (TANs), of which the following are of relevance: -

- Technical Advice Note 12: Design

### Local Planning Policies

The Local Development Plan for the area comprises the [Neath Port Talbot Local Development Plan](#) which was adopted in January 2016, and within which the following policies are of relevance:

### Strategic Policies:

- **Policy SP7**                    **Housing Requirement**
- **Policy SP15**                **Biodiversity and Geodiversity**
- **Policy SP16**                **Environmental Protection**

### Topic Based Policies:

- **Policy SC1**                **Settlement limits**
- **Policy EN8**                **Pollution and Land Stability**
- **Policy TR2**                **Design and Access of New Development**
- **Policy BE1**                **Design**

### *Supplementary Planning Guidance:*

The following SPG is of relevance to this application: -

- [Parking Standards](#) (October 2016)
- [Design](#) (July 2017)
- [Biodiversity and Geodiversity](#) (May 2018)

### Issues

Having regard to the above, the main issues to consider in this application relate to the principle of development, together with the impact on the visual amenity of the area, the amenities of neighbouring residents and highway safety.

### Principle of Development

As the application site is located within the settlement limits defined by Policy SC1 of the adopted Neath Port Talbot Local Development Plan (LDP), the principle of a

residential development at this location is generally acceptable, provided there are no overriding highway, amenity or environmental objections.

Turning to Policy BE1 and the proposed density of the site specifically, criterion 8(a) requires the efficient use of land available through being of appropriate density taking into account the character and appearance of the area, with “*normally a minimum of 35 dwellings per hectare (dph) in the Coastal Corridor Strategy Area*” to be achieved.

It has been calculated that the site measures 0.06 hectares in area, which would equate to 16.6 dwellings per hectare. Whilst this is below the 35dph normally expected in this particular instance it would be considered acceptable. This is because the other existing dwellings in Park Row (off which access would be gained and the dwelling would ‘front’) are sited on large plots with extensive hard and soft landscaped gardens. The respective density for these plots would be calculated as follows:

Number 5: Site area of circa 0.13 hectares = 7.69dph.

Number 1: Site area of circa 0.13 hectares = 7.7dph.

Number 9: Site area of circa 0.06 hectares = 16.6dph.

This would equate to an average density of 10.6dph. It is also noted that the site is sloping in profile towards the northern boundary and this limits the potential ‘developable’ area. Although the properties along Heol Mabon and Tai Canol would have a higher density, as these would be read in a different context to the application site, and the application relates to Park Row itself, it is therefore considered that the density would be acceptable in this instance.

#### Impact on Visual Amenity

It is noted that the proposed dwelling would be two-storey in design and detached, which is similar to the other properties at Park Row. It is therefore considered that the size, siting and design of the proposal would not have a detrimental impact upon the character and appearance of the surrounding area or street-scene.

#### Impact on Residential Amenity

In respect of potential overlooking, it is noted that windows are proposed on all four elevations. In respect of the windows to the eastern (front) side, as these would overlook the driveway area and turning head, and there would be a separation distance of approximately 35m to Number 9, it is considered that they would not create any unacceptable overlooking issues. Turning to the windows to the northern side, as these would overlook the proposed garden area and part of the garden area of Number 5, it is considered that these would not create any unacceptable issues.

In respect of the windows to the southern side, as there would be a separation distance of over 21m to the flats (which are set at a lower level), it is considered that this would not create any unacceptable issues. Finally, in respect of the western side, it is noted that the ground-floor windows would be screened by the existing boundary treatments (hedging). However, a boundary treatment scheme will be imposed on the application to ensure adequate protection. In respect of the velux windows, it is noted

that they sit low within the roof, and therefore there is potential for some overlooking if they were open. A condition will therefore be imposed on the application requiring an amended scheme to be submitted illustrating that they are positioned a minimum of 1.7m from the floor level to prevent any unacceptable overlooking issues.

With regards to potential overbearing and overshadowing, due to the position of the proposed dwelling relative to the properties to the east, south and west, it is considered that there would be sufficient separation distance to ensure that the development would not create any unacceptable overbearing or overshadowing issues.

#### Parking and Access Requirements and Impact on Highway Safety

It is noted that the proposal would provide three off-street car parking spaces accessed off Park Row. The Head of Engineering and Transport (Highways Section) has assessed the proposal, and offer no objection subject to conditions. Provided these are imposed on the application, it is therefore considered that there would be no detrimental impact upon highway or pedestrian safety.

#### Biodiversity / Ecology

It is noted the proposed dwelling is to be fitted with bird boxes to the outside as Biodiversity enhancement. As the Biodiversity Unit offers no objection to the proposal, it is therefore considered acceptable in terms of ecology.

#### Contaminated Land

It should be noted that the site has been identified as potentially contaminated land and also noted that there a strong likelihood of made up ground being present. Nevertheless, as the Contaminated Land Unit offers no objection to the proposal, subject to conditions, it is considered that existing and future users of the site would not be adversely affected by ground contamination in terms of exposure to pollution.

#### Coal Mining Legacy

It should be noted that the site is located within a Low Risk Coal Mining Area, as defined by the Coal Authority. This means that there is no requirement under the risk-based approach that has been agreed with the LPA for a Coal Mining Risk Assessment to be submitted, or for The Coal Authority to be consulted. Whilst it is understood that there are potential legacy issues in the wider Park Row area, it is considered that the proposed development would be acceptable in terms of coal mining legacy, and refusal of the application on these grounds cannot be justified. However, in line with the Coal Authority's agreed procedure, a suitably worded informative will be attached to any planning permission in respect of potential Coal Mining Legacy.

## Other Matters

As identified earlier in this report, a number of objections were received in response following the publicity exercise. In response to the main issues raised, which have not been addressed elsewhere in this report, the following comments are made:

- In respect of the concerns that there have been unethical and contradictory practices by NPTC, it should be noted that any covenants placed on the land by the Authority's Estates Section would be a completely separate matter from planning, and does not prejudice the submission and determination of this application in any way. The Estates Section have also confirmed that the landowner would need to apply separately to the Estates Section to lift the covenant and pay any respective fees.
- With regards to the concerns regarding historic mining activity in the area this has been dealt with in the report.
- Turning to the concern regarding past flooding issues, it should be noted that these relate to land outside the application site. Furthermore, it should be noted that, in addition to planning permission, the developer would be required to apply for SAB Drainage Consent which would deal with drainage issues on the site.
- In respect of the concerns relating to ground contamination these have been dealt with in the report.
- With regards to the concern why the neighbour notification letter took 7 days to reach neighbours, it should be noted that letters are posted by Royal Mail 2<sup>nd</sup> Class, and any delays would be outside the control of the LPA.
- Turning to the concerns why Numbers 1 and 5 Park Row were given planning permission as they are bordering or within the Coal Mining High Risk Area, it should be noted that this is unrelated to this planning application and would not be a material planning consideration for this application. Each application is considered on its individual merits at the time of the application. It should be noted that being in a Coal Mining High Risk Area does not preclude planning permission being granted, but it is a material consideration.
- In respect of the query why the Coal Authority was not consulted on the recent flat development (ref. P2017/1145), it should be noted that there is no requirement to provide a Coal Mining Risk Assessment or consult the Coal Authority in Low Risk Areas.
- With regards to the query regarding the determination process of the application, as Officers have decided to report the matter to Committee, public access is afforded to the meeting and the opportunity available for public to address members.
- Turning to the concern regarding the loss of view to the mountains, it should be noted that this is not a material planning consideration, so cannot be taken in account when determining this application.
- Finally, in respect of the concern that this application would contravene the European Union Human Rights Act by treating people differently, it should be noted that the application is determined on its merits in a transparent way and in accordance with Future Wales and the Well-being of Future Generations (Wales) Act 2015.

## CONCLUSION

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 comprises Future Wales - the National Plan 2040 and the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

It is considered that the proposed development would not have a detrimental impact upon residential amenity or upon the character and appearance of the surrounding area, and there would be no adverse impact upon highway and pedestrian safety. Hence, the proposed development would be in accordance with Policies SC1, EN8, TR2 and BE1 of the Neath Port Talbot Local Development Plan.

It is further considered that the decision complies with Future Wales - the National Plan 2040 and 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.

**Recommendation** - Approved

### **Conditions:-**

#### Time Limit Conditions

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

Reason:

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

#### List of Approved Plans

- 2 The development shall be carried out in accordance with the following approved plans and documents:  
Dwg. No. S002 P1.  
Dwg. No. S003 P2.  
Dwg. No. S004 P1.  
Dwg. No. S006 P1.  
Dwg. No. B001 P1.  
Dwg. No. B002 P2.

Reason:

In the interests of clarity.

## Pre-Commencement Conditions

- 3 No development shall commence on site until an assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the Local Planning Authority. This assessment must be carried out by or under the direction of a suitably qualified competent person in accordance with BS10175 (2011) 'Investigation of Potentially Contaminated Sites Code of Practice' and shall assess any contamination on the site, whether or not it originates on the site. The report of the findings shall include:

(i) a desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and assesses all identified potential source, pathway, and receptor linkages;

(ii) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;

(iii) an assessment of the potential risks to:

- human health,
- groundwater and surface waters
- adjoining land,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,- ecological systems,
- archaeological sites and ancient monuments; and
- any other receptors identified at (i)

(iv) an appraisal of remedial options, and justification for the preferred remedial option(s).

Reason:

To ensure that information provided for the assessment of the risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems is sufficient to enable a proper assessment, and to ensure compliance with Policies SP16 and EN8 of the Neath Port Talbot Local Development Plan.

- 4 No development shall commence on site until a remediation scheme to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, buildings, other property and the natural and historic environment shall be prepared and submitted to and approved in writing with the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives, remediation criteria and site management procedures. The measures proposed within the remediation scheme shall be implemented in accordance with an agreed programme of works.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters,

property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, and to ensure compliance with Policies SP16 and EN8 of the Neath Port Talbot Local Development Plan.

- 5 Notwithstanding the details submitted and prior to the commencement of any works on site a detailed scheme shall be submitted to and approved in writing in respect of the roof-lights to the rear elevation. These shall be re-positioned so that they are a minimum of 1.7m above the floor level of the room and shall be constructed in accordance with the approved scheme, and retained as such thereafter.

Reason:

In the interest of the amenities of the adjoining properties, and to ensure accordance with Policy BE1 of the adopted Neath Port Talbot Local Development Plan.

#### Action Conditions

- 6 Prior to beneficial use of the proposed development commencing, a verification report which demonstrates the effectiveness of the agreed remediation works carried out in accordance with Condition 4 shall have been submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to ensure compliance with Policies SP16 and EN8 of the Neath Port Talbot Local Development Plan.

- 7 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease immediately and shall be reported in writing to the Local Planning Authority. A Desk Study, Site Investigation, Risk Assessment and where necessary a Remediation Strategy must be undertaken in accordance with the following document:- Land Contamination: A Guide for Developers (WLGA, WAG & EAW, July 2006). This document shall be submitted to and agreed in writing with the Local Planning Authority. Prior to occupation of the development, a verification report which demonstrates the effectiveness of the agreed remediation, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors, and to ensure compliance with Policies SP16 and EN8 of the Neath Port Talbot Local Development Plan.

- 8 The car parking spaces and driveway (which shall have a maximum gradient of 1 in 9), as shown on the approved plans, shall be provided prior to the first beneficial use of the development hereby permitted commencing, and shall thereafter be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such.

Reason:

In the interest of highway safety and to ensure the development complies with Policy TR2 of the Neath Port Talbot Local Development Plan.

- 9 Prior to the first beneficial occupation of the dwelling hereby approved, a scheme indicating the positions, height, design, materials and type of boundary treatment to be erected to all boundaries shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed on site, as approved, prior the first beneficial occupation of the dwelling, and retained as such thereafter.

Reason:

In the interest of visual amenity and residential amenity, and to ensure compliance with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 10 Prior to their use in the construction of the development hereby permitted, details and samples of the materials to be used in the construction of the external surfaces of the development shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

In the interest of the visual amenity of the area and to ensure the development complies with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 11 Prior to the first beneficial occupation of the dwelling hereby permitted, artificial nesting sites for birds shall be erected on the dwelling, as detailed on the approved plans, and retained as such thereafter.

Reason:

In the interest of biodiversity, and to mitigate to loss of bird nesting/foraging habitats under the Habitats Regulations (as amended) and to accord with Policy SP15 of the adopted Neath Port Talbot Local Development Plan.

- 12 Any gates provided across the access drive shall be of a type which open inward only and can be seen through, and shall be retained as such thereafter.

Reason:

In the in interest of highway and pedestrian safety and to ensure compliance with Policy TR2 of the Neath Port Talbot Local Development Plan.

## Regulatory Conditions

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

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, and to and ensure the development complies with Policy SP16 and BE1 of the Neath Port Talbot Local Development Plan.

- 14 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), there shall be no extension or external alteration to any building forming part of the development hereby permitted without the prior grant of planning permission in that behalf.

Reason:

In order to safeguard the amenities of the area by enabling the Local Planning Authority to consider whether planning permission should be granted for extensions, having regard to the particular layout and design of the development and need to protect the amenity of nearby properties, and to accord with Policies BE1 and SC1 of the Neath Port Talbot Local Development Plan.

- 15 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 doors, windows or dormer windows (other than those expressly authorised by this permission) shall be constructed without the prior grant of planning permission in that behalf.

Reason:

In order to safeguard the amenities of the area by enabling the Local Planning Authority to consider whether planning permission should be granted for such additional alterations, having regard to the particular layout and design of the development and need to protect the amenity of nearby properties, and to accord with Policies BE1 and SC1 of the Neath Port Talbot Local Development Plan.