

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
17/0184/COU 18.04.2017	Mr & Mrs John 16 Brynview Avenue Tredomen Hengoed CF82 7DB	Change the use of existing garage at ground floor to mixed residential/B1 Business use 16 Brynview Avenue Tredomen Hengoed CF82 7DB

**APPLICATION TYPE:** Change of Use

**SITE AND DEVELOPMENT**

Location: The application property is located in the lane to the rear of Brynview Avenue and Brynmynach Avenue.

Site description: The application property is a large detached modern dwelling set on a relatively small plot on a parcel of former waste land between the dwellings at Brynmynach Avenue and the railway line that serves Ffos Y Fran Opencast site (formerly Cwm Bargoed washery). It is a two and a half storey dwelling with a double garage at ground floor level. There are two parking spaces to the front of the garage and a public turning facility to the front of that. The dwelling is accessed via a shared surface created in the rear lane serving the dwellings in Brynmynach Avenue.

Development: The application seeks full planning consent for the conversion and change of use of the double garage in order to create a clinic for the carrying out of Licensed Clinical Cosmetic Procedures. These procedures would include administering botox and semi permanent body colouring. The garage is proposed to be converted into four separate rooms with an entrance foyer, two treatments rooms and a bathroom with shower. The front of the garage will be blocked up in materials to match the rest of the dwelling. The proposal would change the use of the dwelling into a mixed use of residential and sui generis clinic.

The applicant has stated that the business will be operated on an appointment only basis between the hours of 09.30hrs and 21.00hrs Monday to Friday and 09.30hrs to 15.00hrs on Saturdays with no working on Sundays and Bank Holidays. The applicant has suggested that there would be a minimum of 15 minutes between each appointment and that only two parking spaces are required for her dwelling with one required for the business.

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There would be no employees with the business with the two treatment rooms being required to accommodate all of the equipment required for the different treatments. A third parking space is proposed on land to the rear of the garage making a total of three to serve the whole property.

### PLANNING HISTORY 2005 TO PRESENT

P/06/0391 - Vary Cond. (2) of P/03/0143 to extend time limit for reserved matters by one year and Cond. (4.2) to read 'the provision of a turning head within the site' - Granted - 22.06.2006.

07/0161/RM - Erect detached dwelling with associated car parking and access improvement works - Granted 31.05.2017.

### POLICY

Local Development Plan: Within settlement limits.

#### Policies

Local Development Plan: SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW3 (Design Considerations: Highways), CW15 (General Locational Constraints).

Supplementary Planning Guidance LDP 5 Car Parking Standards sets out parking requirements for all developments.

#### National Policy: Planning Policy Wales

Paragraph 4.11.9:- "The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions."

7.2.4 Mixed use development should be promoted in and adjoining existing settlements, where appropriate. Policies and supplementary planning guidance should support mixed use developments, including flexible workplace/dwellings and commercial premises, where these are appropriate.

7.6.3 Employment and residential uses can be compatible and local planning authorities should have regard to the proximity and compatibility of proposed residential development adjacent to existing industrial and commercial uses to ensure that both amenity and economic development opportunities are not unduly compromised.

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8.4.2 Car parking provision is a major influence on the choice of means of transport and the pattern of development. Local authorities should ensure that new developments provide lower levels of parking than have generally been achieved in the past. Minimum parking standards are no longer appropriate. Local authorities should develop an integrated strategy on parking to support the overall transport and locational policies of the development plan.

#### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not applicable.

#### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The site is in a low risk area but as this is a change of use application this is not an issue in any regard.

#### CONSULTATION

Gelligaer Community Council - Raises objection to the application.

Transportation Engineering Manager - No objection.

Head Of Public Protection - No objection.

#### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: Eight letters of objection have been received.

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Summary of observations:

- A business use is not acceptable in a residential area.
- The turning facility at the front of the application property is part of the highway and should not be used for parking for the dwelling, as is currently the case.
- There is insufficient parking in the area to serve the business use.
- The lane is too narrow to provide access to a business.
- There are no other businesses in Brynmynach, this could set a precedent for other businesses.
- The garage should be retained for the parking of vehicles as stated in the consent for the dwelling.
- The applicant already carries out some of these procedures from her property for 'family and friends'.
- Where will trade effluent be discharged to?
- Why are two treatment rooms required if the applicant intends to work alone with only one client at a time.
- Enforcement action has been taken against this use and an appeal against an enforcement notice was unsuccessful.
- An unauthorised parking space has been created to the rear of the garage, this should be investigated as it is not safe.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?  
None.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

Is this development Community Infrastructure Levy liable? No.

ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The application refers to the change of use of part of a residential property in a residential area to create a mixed use property encompassing a dwelling and a small business for the occupant of the dwelling.

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The application site is not allocated for any purpose in the local development plan and national planning policy set out in Planning Policy Wales at Paragraph 7.2.4 suggests that mixed use development should be encouraged in existing settlements. In that regard it is considered that the principle of a small business use in a residential area can be acceptable subject to compliance with normal development control criteria. Therefore the main points to consider in the determination of this application are the objections raised by local residents as these focus on the impacts of the proposal on the amenity and highway safety of the area. Consequently these will be considered in turn below:-

1. As stated above, national planning policy supports mixed use development in existing communities. Many small businesses co-exist with residential uses where the impact on the amenity of neighbouring dwellings is considered to be acceptable. It is for the Local Planning Authority to determine whether that is the case here.

2. It is correct to say that the turning facility at the front of the application property is part of the public highway and is not a parking space for the dwelling. Whilst the applicant may be using the turning head as a parking space, there is no consent to do so but this would be a matter for the Police as obstruction of the highway. However, this application is being considered on the basis of the information submitted with it and the applicant's suggestion that three parking spaces (including the newly created space to the rear of the garage) is sufficient for the mixed use proposed. In this instance it is considered that the level of parking provided is sufficient.

The applicant has stated that clients will come to the property on an appointment basis only and that there would be 15 minutes gap between each appointment. A condition can be attached to any consent granted to control this and as such this is acceptable in planning terms.

The applicant has also stated that as she lives and works at the property there is no need to provide staff car parking in addition to resident parking and that her husband would be at work when her clients visit her property and as such the other space required for the dwelling would not be in use at the same time as clients would be visiting. It is considered that a condition limiting the use of the business to the applicant or the person residing at the property would control this. However it is considered that the hours of opening suggested by the applicant should be restricted to 17.00hrs in order to protect the amenity of residents but also to ensure that appointments are largely carried out when the applicant's husband is in work.

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3. This is largely discussed above. However it should also be noted that the rear lane serving the site is in fact a relatively wide lane, where vehicles are able to pass each other without causing an obstruction. In that regard it is considered that a number of vehicles could park in the lane in the same way that vehicles can park on any other highway. It is accepted that the roads in Brynmynach Avenue and Brynview Avenue are relatively narrow with wide pavements and that parking can sometimes be quite restricted. However, there is no evidence that such problems exist in this rear lane. Moreover, many of the properties that back onto this land have adequate off street parking and do not need to rely on on-street parking.

4. Again this is addressed above. It is not considered that this lane is too narrow to serve a business of this type.

5. The fact that there are no other businesses with planning consent in the Brynmynach area does not in itself warrant the refusal of this application. As stated above a number of small businesses may exist in the area that do not require planning consent and are perfectly acceptable in a residential area. Moreover, approval of this application would not set a precedent for any future businesses as each application is determined on its own planning merits.

6. When consent is granted for new dwellings conditions are attached to prevent the conversion of integral garages in order for the Local Planning Authority to ensure that adequate parking is maintained at that property in perpetuity. This does not mean that these garages have to be kept for that purpose however as it is perfectly legitimate for an occupier to convert the garage to another use provided that either adequate parking is provided elsewhere, or a case is made to argue that a reduction in the required number of spaces is acceptable. In this instance both of these is true. A dwelling of this size requires three parking spaces and with the addition of the new space to the rear of the garage three spaces would be retained. Whilst no additional spaces are provided to serve the business use, for the reasons stated above, this is considered to be acceptable in planning terms.

7. The fact that the applicant already operates this business from her property has no bearing on the acceptability of this application.

8. Discharge of trade effluent is a matter for the Head of Public Protection.

9. The applicant has stated that two treatment rooms are required in order to accommodate all of her equipment to carry out the range of treatments that she offers. All of this equipment cannot be accommodated within one room and a separate bathroom is also required.

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10. It is correct to say that an Enforcement Notice has been served in respect of this use. It is also true that an appeal was made against that notice and was dismissed. However, the applicant only appealed on the ground that the development did not require planning consent and did not appeal on the ground that consent should be granted. In that event the Inspector did not consider whether the use was acceptable in planning terms, he only established that planning consent was required. The Enforcement Notice was subsequently complied with in that a reception area created within the dwelling was removed and operations were reduced.

11. The parking space to the rear of the garage, whilst part of this application, does not require planning consent as it is permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended). It is only for the Local Planning Authority to determine whether it is acceptable to serve as an additional parking space for this development and in this instance it is considered to be so.

Comments from Consultees: No objections raised.

Comments from public: These are addressed above.

Other material considerations: It is considered prudent, in line with other applications for mixed use development in residential areas, to grant any consent on a temporary basis to enable the Local Planning Authority to monitor the impacts of the use on the area and as such a suitably worded condition should be added to any consent granted.

In conclusion it is considered that the proposal is acceptable in planning terms subject to the imposition of conditions.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

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RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The use hereby permitted shall be carried on only by the applicant and shall be for a limited period being the period of 12 months from the date of this permission, or the period during which the premises are occupied by the applicant whichever is the shorter.  
REASON: The permission is granted in the light of the extenuating personal circumstances of the applicant and would allow the impacts of the use to be fully assessed.
- 03) The use hereby permitted shall not be open to customers outside the following times 09.30hrs to 17.00hrs Monday to Friday and 09.30hrs to 13.00 hrs on Saturdays with no use on Sundays or Bank Holidays.  
REASON: In the interests of residential amenity.
- 04) The business use hereby approved shall be operated on an appointment only basis with a minimum period of 15 minutes between each appointment. A log shall be kept of the appointments made and this shall be provided to the Local Planning Authority within 7 days of any request.  
REASON: In order for the Local Planning Authority to retain control over the future use of the property in the interests of residential amenity.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2 and CW3.

Please find attached information from the Council's Health and Safety Team.



