

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
18/0547/NCC 14.06.2018	Mrs N John 16 Bryn View Avenue Ystrad Mynach CF82 7DB	Vary condition 02 (time period for permitted use) and 03 (hours of operation) of planning consent 17/0184/COU (Change the use of existing garage at ground floor to mixed residential/B1 Business use) 16 Brynview Avenue Tredomen Hengoed CF82 7DB

**APPLICATION TYPE:** Development without complying with conds

#### SITE AND DEVELOPMENT

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

Site description: The application relates to the former integral garage of the detached domestic dwelling on the site. The garage was built as part of the parking provision for the dwelling and faces out towards the lane. It has now been converted in order to provide a parlour for a person carrying out clinical procedures such as botox and fillers to members of the public and planning consent for the retention of the use for a temporary period of 12 months was granted under application reference number 17/0184/COU.

The consent was also subject to a condition that controlled the operating hours to 09.30hrs to 17.00hrs Monday to Friday and 09.30hrs to 13.00hrs on Saturdays with no working on Sundays or Bank Holidays. The condition was imposed to protect the amenity of the area as the application site is located within a residential area.

Development: This application seeks to remove condition 2 to allow the use to continue beyond the permitted 12 months. Consent is also sought to vary condition 3 of the consent to change the operating hours to 09.00hrs to 21.00hrs Monday to Friday and 09.00hrs to 17.00hrs on Weekends and Bank Holidays. The applicant argues that the new operating hours would better allow her to compete with other providers of similar procedures in the wider Hengoed area.

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Application No 18/0547/NCC Continued

### 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.

17/0184/COU - Change the use of existing garage at ground floor to mixed residential/B1 Business use - Granted 15.06.2017.

### 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.

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Application No 18/0547/NCC Continued

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.

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

Transportation Engineering Manager - No objection is raised on the basis that the hours of operation do not increase and remain in line with those granted in 17/0184/COU.

Head Of Public Protection - Raises objection to the increased opening hours in respect of the impact on residential amenity.

Gelligaer Community Council - Raises objection to the application on highway grounds.

#### ADVERTISEMENT

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

Response: Four letters of objection were received.

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Application No 18/0547/NCC Continued

Summary of observations:

1. The consent was granted on a 12 month basis due to the personal circumstances of the applicant. The use was only completed on the 1st January so has not been operational for 12 months. The impact of the business cannot be fully considered over such a short period and is considered to be unacceptable in a residential area.
2. The original consent stated that the hours of operation would only be for 41 hours per week. Approval of this application would increase this by 35 hours and this would be unacceptable in terms of residential amenity.
3. Whilst the applicant refers to the hours that her competitors are open, for business, none of them are open 7 days a week or late nights every weekday. The justification is also at odds with the applicant's suggestion when applying for the consent that the service would only be for a select client base and that a beauty salon was not proposed.
4. The justification for the numbers of parking spaces available during the day was that the applicant's husband would be in work between 09.00hrs and 17.00hrs. With the use being operational after 17.00hrs this would no longer be the case and as such there would be insufficient parking on site and an adverse impact on the access road.

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. 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.

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## Application No 18/0547/NCC Continued

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. Whilst the use may have only been operational for a period of 6 months out of the 12 months afforded to the applicant under the 2017 consent, it is considered that sufficient time has elapsed to enable the Local Planning Authority to assess whether the impact of the development is acceptable in planning terms. During that period the Council has not received any complaints in respect of the use either to its Planning Department or to Environmental Health. The case officer has also not experienced any issues with regard to the use in his frequent visits to the area to view this and other issues. In that regard it is considered that the operation of the business in accordance with the conditions originally granted would be acceptable in planning terms and as such there would be no objection to granting a permanent consent.

2. Whilst it is considered that a permanent consent would be acceptable in planning terms, it is not considered that any increase in the operating hours would be acceptable. The condition controlling the hours of operation was attached to the consent in order to protect the amenity of local residents as the site is in a mainly residential area. It would not be unreasonable for the occupiers of the neighbouring dwellings to expect some relief from business activities in a residential area in the evenings and at weekends. To allow the operating hours requested by the applicant in this instance would offer very little relief to the residents who could possibly be subjected to the business use for 76 hours per week. It is considered that this would be unacceptable in planning terms and would be contrary to Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

3. The applicant attempts to justify the additional hours by arguing that she cannot compete with other providers of similar services in the wider area. Whilst it is accepted that a number of beauty parlours in the area do operate longer working hours, they are sited within retail areas where longer working hours would be more acceptable. Again it should be noted that the application site is within a residential area and as such the hours worked by competitors would not be acceptable in this location.

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Application No 18/0547/NCC Continued

4. It is also considered that the increase in operating hours for the business would result in parking issues at the property. The justification for allowing the change of use with a reduced number of parking spaces was on the basis that the applicant's husband would be in work during the day and as such one parking space would not be used by a householder. If the business is operated during the evenings and weekends then it is likely that this space would be needed for the household and the business thereby causing a shortage of parking. This would be unacceptable in highway safety terms and is contrary to Policy CW3 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

In conclusion it is considered that the proposal to make the consent permanent is acceptable in planning terms subject to the imposition of conditions but the proposal to extend the operating hours is not. Therefore it is proposed that the application should be granted with the conditions attached to consent 17/0184/COU being attached to the new consent with the exception of condition 2. Also it would be prudent to restrict the use to the applicant only, with her being the sole operator on the premises.

Comments from Consultees: The concerns of Head of Public Protection and Gelligaer Community Council are addressed above.

Comments from public: These are addressed above.

Other material considerations:

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.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

01) The use hereby permitted shall not be open to customers outside the following times 09.30hrs to 17.00 hrs Monday to Friday and 09.30 hrs to 13.00 hrs on Saturdays with no use on Sundays or Bank Holidays.  
REASON: In the interests of residential amenity.

02) 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.

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Application No 18/0547/NCC Continued

- 03) The consent hereby granted shall enure for the benefit of the applicant only, and she shall be the sole operator of the business at the premises subject of this consent. There shall be no other persons employed at those premises in association with the business subject of this consent.  
REASON: In the interests of residential amenity.
- 04) The development shall be carried out in accordance with the following approved plans and documents: Drawing No 203 submitted with planning application 17/0184/COU.  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

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: policies CW2 and CW3.

