

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
18/1059/NCC 17.12.2018	Gwent Holdings Limited Mr D Lewis C/o Barton Willmore Ms L Harry Greyfriars House Greyfriars Road Cathays Cardiff CF10 3AL	Vary condition 2 of planning consent 15/0252/OUT (Erect residential development, public open space, landscaping, highway improvements and associated engineering works with all matters reserved except for access) granted on appeal reference APP/K6920/A/15/3137884 to extend the period for the submission of reserved matters by a further three years Land At Gelli Farm Tredegar Road Cwmgelli Blackwood

APPLICATION TYPE: Development without complying with conds

SITE AND DEVELOPMENT

Location: Land at Cwmgelli, Blackwood, NP12 1BZ

Site description: This application site is located to the north of the A4048, immediately adjacent to the settlement boundary of Blackwood. The site is Greenfield and is approximately 5.89ha comprising a number of agricultural fields and two residential properties, both of which are Grade II listed buildings.

The site is bounded to the south/south east by the A4048 and residential properties that front onto the A4048, to the south west by boundary hedgerows and trees and residential properties in Cwm Gelli Villas, with more residential properties in Cwmgelli further beyond, including a more recent housing development within Coed Gelli Parc. To the north the site is bounded by open fields, the northern extent of which lie within the setting of the Grade II listed Maes Manor Hotel and its Historic Park and Garden.

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Development: A S.73 planning application to vary condition 2 of planning permission reference 15/0252/OUT granted 27th April 2016 on appeal, (reference APP/K6920/A/15/3137884) in respect of residential development, public open space, landscaping, highway improvements and associated engineering works with all matters reserved except for access to extend the period for submission of reserved matters for a further three years.

Condition 2 states: Application for approval of reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The appeal was allowed on 27 April 2016.

Dimensions: The site amounts to 5.89 hectares. The indicative housing layout shows 115 properties which gives an overall density of development of 30 dwellings per hectare (30 dph).

Dimensions (upper and lower limits for height, width and length of each building):

The proposed development will be a maximum of 2.5 storeys and will be a mix of detached, semi-detached and short rows of terraced houses at a density of 30dph.

Type 1 - 4m - 7m x 7.5m - 10.5m x 8m - 11m.

Type 2 - 8m - 11m x 6m - 9m x 8m x 10m.

Type 3 - 9m - 12m x 8.5m x 11.5m x 8m x 10m.

Materials: Reserved for subsequent approval but the following external materials indicated.

Walls - render, natural stone and some brick.

Roofs - plain tile, slate, either smooth man made thin profile slate or natural stone.

Boundary walls - render and buff brick. Natural stone walls to natural stone properties.

Windows - white upvc or white composite aluminium.

Doors - grey and soft heritage coloured front doors.

Ancillary development, e.g. parking: The indicative site layout plan submitted with the application indicates on-plot parking provision in respect of each dwelling.

PLANNING HISTORY 2005 TO PRESENT

15/0252/OUT - Erect residential development, public open space, landscaping, highway improvements and associated engineering works with all matters reserved except for access - Appeal - 27.04.2016.

14/0312/FULL - Erect stable extension to existing garage - Granted 07.07.2014.

07/1569/LBC - Carry out general refurbishment and front extension - Granted - 30.07.2010.

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POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: Outside of any settlement boundary and within the Blackwood, Oakdale and Penmaen Green Wedge as identified by Policy SI1.9 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010. The application site is a greenfield parcel of land in the Northern Connections Corridor (NCC) located to the north of Blackwood Town Centre.

Policies:

Strategic Policies

SP2 - Development Strategy in the Northern Connections Corridor, SP4 - Settlement Strategy, SP5 - settlement boundaries, SP6 - Place making, SP7 - Planning Obligations, SP8 - Minerals Safeguarding, SP10 - Conservation of Natural Heritage, SP14 - Total Housing Requirements, SP15 - Affordable Housing Target, SP21 - Parking Standards.

Countywide Policies

CW1 - Sustainable Transport, Accessibility and Social Inclusion, CW2 - Amenity, CW3 - Design considerations - Highways, CW4 - Natural Heritage Protection, CW5 - Protection of Water Environment, CW6 - Trees, Woodland and Hedgerow protection, CW10 - Leisure and Open space provision, CW11 - Affordable Housing Planning obligation, CW15 - General locational constraints, CW22 - Locational constraints - Minerals, supplementary planning guidance contained in LDP1 - Affordable Housing Obligations, LDP4 - Trees and Development, LDP 5 - Parking standards, LDP6 - Building Better Places to Live.

NATIONAL POLICY

Planning Policy Wales, 10th Edition, December 2018.

TAN 1: Joint Housing Land Availability Studies (2015), TAN 2 - Planning and Affordable Housing (2006), TAN 5 - Nature Conservation and Planning (2009), TAN 11 - Noise (1997) TAN 12 - Design (2014), TAN 18 - Transport (2007).

There are also other policy related matters which require to be considered in respect to this submission. Such matters could constitute material considerations in respect to the determination of this proposal. They are:

The 5 year Housing Land Supply.

The Annual Monitoring Report.

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ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? Yes, because the proposal exceeds the threshold of 0.5 hectares for such developments.

Was an EIA required? No.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Yes, but The Coal Authority has not raised any adverse comments.

CONSULTATION

Blackwood Town Council - The development is visible from The Chartist Bridge and would represent a potentially damaging intrusion into open countryside, overdeveloping and eroding the green belt and blurring the boundary between Blackwood and Argoed.

Ecologist - No objection subject to previous conditions being transferred to any new consent.

Conservation & Design Officer - No objection.

The Coal Authority - There is no requirement under the risk-based approach that has been agreed with the Local Planning Authority for a Coal Mining Risk Assessment to be submitted with any planning application or for The Coal Authority to be consulted on this proposal.

Natural Resources Wales - No objection.

Strategic & Development Plans - Assesses the renewal of the application against the latest Joint Housing Land Availability Study 2018 and in terms of planning policy, Welsh Government's decision on 18 July 2018 to disapply Paragraph 6.2 of Technical Advice Note 1 (TAN1). On balance, there is a need for this development and when all factors are considered, it is considered that the need for housing and the requirement to maintain a 5 year housing land supply outweigh the conflict with the development plan policies previously referred to. On this basis no objection is raised on policy grounds.

Rights Of Way Officer - There is one public right of way: Footpath 379 in the Parish of Bedwellty which abuts the proposed. Footpath 379 starts at GR ST 317887 198376 or thereabouts and travels in a North-North-Westerly direction abutting the site as shown on the attached plan (18-1059-NCC-PROW.pdf).

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The proposed will not directly affect the public right of way, but the owner should be made aware of the existence of Footpath 379 in the Parish of Bedwellty (which was provided following a Public Path Order which Extinguished Footpath 109 Bedwellty) and the need to maintain public access and safety at all times. Advice is provided to be conveyed to the developer.

CCBC - 21st Century Schools - Confirm there is adequate room to take catchment children into the English and Welsh Primary Schools, and the English Secondary School.

There is limited availability for future years in the Welsh Medium Comprehensive at Fleur de Lys. This assumes that all planning applications received for this catchment area over the past 12 months will go ahead, and this may not be the case.

CCBC Housing Enabling Officer - Affordable housing delivered through the planning system is critical in helping the council meet the range of identified housing needs throughout the borough including homelessness and people living in unsuitable accommodation, either by virtue of its size and/or condition. No objection subject to the provision of 25% affordable housing as originally agreed.

Head Of Public Services - No adverse comments in relation to the variation of the condition referred to in this application provided all previous conditions recommended by the Environmental Health department are carried forward on any new planning consent granted.

Transportation Engineering Manager - No objection subject to highway conditions being transferred to any new consent.

Dwr Cymru - Have no objection to the Variation of Condition 2 and ask that any drainage Conditions on the original consent are brought forward. However, they note the applicant has not gained technical approval under Section 104 of the Water Industry Act 1991, and therefore drainage details may be subject to change if they are to be publicly adopted. this response is based on the information provided. Should the proposal alter during the course of the application process they request that they are re-consulted and reserve the right to make new representation.

Police Architectural Liaison Officer - Have no objections.

Wales & West Utilities - Confirm the existence of their apparatus within the vicinity of the site and provide advice to be conveyed to the developer regarding the same.

Glam/Gwent Archaeological Trust - Have no archaeological objection to the variation of the condition.

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Blackwood Town Council - The development is visible from The Chartist Bridge and would represent a potentially damaging intrusion into open countryside, overdeveloping and eroding the green belt and blurring the boundary between Blackwood and Arg

CADW - Having carefully considered the information provided with this planning application, there is no objection to the impact of the proposed development on the registered historic park and garden.

ADVERTISEMENT

Extent of advertisement: The application has been advertised in the press, on site and 30 neighbouring properties have been consulted.

Response: Five objections have been received, including those from the three local ward members.

Summary of observations:

- Objects to a further three years extension to the application suggesting that the development should have commenced.
- The development was previously approved on the basis of a shortage of housing land.
- This is an example of land banking.

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?

There are no specific crime and disorder implications material to the determination of this planning application.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? The application is for residential development and as such if granted it would be liable to pay the Community Infrastructure Levy. Blackwood lies within the Mid Viability Area and as such general market housing is liable to pay £25 per square metre. In order for the development to benefit from any social housing relief, any exemptions need to be claimed strictly in line with the Community Infrastructure Levy Regulations. The Community Infrastructure Levy would be payable following the submission and approval of reserved matters. The Blackwood Town Council would also receive 15% of the CIL levy collected.

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ANALYSIS

The application has been considered in accordance with national planning policy and guidance, local development plan policy and supplementary planning guidance.

Planning permission reference 15/0252/OUT was granted on appeal reference APP/K6920/A/15/3137884 on the 27th April 2016 subject to conditions and a Section 106 Agreement requiring the provision of 25% affordable housing. The applicant seeks to vary condition 2 of that consent to extend the period within which reserved matters may be submitted for a further three years.

Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' at paragraph 5.21 states: -

Planning permission can be renewed before the time-limit for the commencement of development has expired, under section 73 of the 1990 Act. As a general rule, such applications should only be refused where:

- (1) there has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant highway considerations, or the publication by the Government of new planning policy guidance, material to the renewal application);
- (2) continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area; or
- (3) the application is premature because the permission still has a reasonable time to run.

These criteria are considered in turn below.

(1) There has been a material change in planning circumstances which is considered below.

At the time of the Planning Inspector's determination of the appeal against the Council's refusal of permission for the original application, the application site lay outside the settlement boundary as identified in the Approved Local Development Plan and within a green wedge allocated in that Plan. Notwithstanding that policy conflict, the Planning Inspector allowed the appeal and granted planning permission. He concluded that the "The Council cannot demonstrate a 5 year housing land supply and has not been able to do so since the LDP was adopted. The latest Joint Housing Land Availability Study concluded that the Council could only demonstrate a 1.9 year housing land supply. Technical Advice Note 1; Housing (TAN 1) advises that where land supply falls below 5 years, considerable weight should be given to increasing supply subject to development plan and national policies being met.

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As stated above that is not the case here but, in my view, the extent of the shortfall weighs heavily in favour of development that can proceed without causing harm to its surroundings."

The latest Joint Housing Land Availability Study 2018 shows Caerphilly has a housing land supply of only 2.3 years, which is significantly below the minimum requirement of a five year housing land supply in accordance with Technical Advice Note 1. This Council's Housing Enabling Officer has confirmed that the site is situated in an area of high housing needs. Affordable housing delivered through the planning system is critical in helping the Council meet the range of identified housing needs throughout the borough including homelessness and people living in unsuitable accommodation, either by virtue of its size and/or condition.

In terms of planning policy Welsh Government decided on 18 July 2018 to dis-apply Paragraph 6.2 of Technical Advice Note 1 (TAN1) Paragraph 6.2 of TAN 1 stated:-

"The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies."

The effect of this paragraph was to give increased weight to the need for housing to address a deficiency in the 5-year land supply, over other material factors. Its dis-application removed the "considerable weight" that would otherwise have been given to the issue of a lack of a 5-year land supply. It should be noted that the WG decision to dis-apply Paragraph 6.2 only removes the considerable weight to be given to the land supply issue, but the requirement to maintain a 5-year land supply remains and is a material consideration in considering development proposals.

Policy SP14 Total Housing Requirements makes provision for 10,269 dwellings for the 15-year period 2006 to 2021. This represents 1,644 (19%) residential units more than the 8,625 units required to meet the dwelling housing requirement identified for the plan period. The 19% over-allocation allows for flexibility and choice in recognition of the fact that not all sites will be developed.

The Annual Monitoring Report (AMR) is the main mechanism for reviewing the relevance and success of the LDP and identifying any changes that might be necessary. The main principle of the monitoring process is to identify when the revision of the LDP should take place.

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The Council has prepared seven reports to date, the most recent of which was considered by Council on 9th October 2018. It is evident from the AMR that new housing has not been delivered at the levels required in the first half of the plan period. Policy SP14 indicates that there is a housing requirement for 8,625 new dwellings to be delivered to meet identified need over the plan period. In order to meet this need an average of 575 dwellings needs to be delivered per annum. The 7th AMR indicated that 4,713 units had been delivered (55% of the total housing requirement) up to the end of March 2018. Therefore there is a need for a further 3,912 dwellings to be developed over the remainder of the plan period i.e. by 2021 to meet the total housing requirement for the plan period.

In light of the above, the 2018 Annual Monitoring Report (AMR), considers the need to address the five year land supply issue. Recommendation R3 of the AMR states that "the Council will need to continue to address the shortfall in the five year housing land supply through proactive action, including:

- To consider proposals for new residential development on their relative planning merits on a site-by-site basis and have due regard for the need to increase the housing land supply in line with national planning policy and guidance;"

Given the recent change in circumstances in respect of Paragraph 6.2, the merits of the proposed development need to be reconsidered.

The proposed development is considered to be contrary to the Adopted LDP on the following grounds:

The proposed development is located outside of the designated settlement boundary for Blackwood. As such the proposed development is contrary to the provisions of Policy SP5, particularly Criterion D, and is also contrary to Criterion C of policy CW15, which restricts the forms of development that are acceptable outside of settlement boundaries.

- The development is located within Green Wedge.

However, the following issues weigh in favour of the development:

Policy SP2 of the Adopted LDP promotes sustainable development on both brownfield and greenfield sites in this part of the borough.

There are no landscape or ecological designations associated with the site.

The council does not have the required 5-year land supply and the application proposes 115 dwellings, including circa 29 affordable homes (based on 25%).

The AMR recommends that each application should be considered on its merits having due regard to increase the housing land supply.

The proposed development would have significant knock-on economic and social benefits to the wider community.

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The key factor in considering the principle of this application is whether the lack of a 5-year housing land supply, and the consequent need to increase it, outweighs the conflict with the Adopted LDP policies. Section 38(6) of the 2004 Planning & Compulsory Purchase Act requires a decision on this proposal to be made in accordance with the development plan unless material considerations indicate otherwise. The Adopted Caerphilly County Borough Local Development Plan up to 2021 is the development plan for purpose of Section 38(6).

The proposed development is outside of the defined settlement boundary and is therefore contrary to the adopted development plan. However, given its proximity to the Principal Town of Blackwood, development of the land at Cwmgelli for housing would represent a sustainable extension to the town, providing much needed family and affordable housing for which there is an acknowledged need and an acknowledged shortfall.

On balance, there is a need for this development and when all factors are considered, it is considered that the need for housing and the requirement to maintain a 5 year housing land supply outweigh the conflict with the development plan policies previously referred to. On this basis no objection is raised on policy grounds. A recent appeal decision in a neighbouring borough supports this approach with the Inspector concluding in that case, "Following the dis-application of paragraph 6.2 of Technical Advice Note 1 'Joint Housing Land Availability Studies', it is now a matter for decision makers to determine the weight to be attributed to the need to increase housing land supply where a shortfall exists, provided that LDP and national policies are met ... given the extent of the shortfall I attach considerable weight to the benefit of the proposal in contributing up to 29 units to the County Borough's housing land supply. This weighs heavily in favour of development provided this could proceed without causing material harm to the strategic objectives underpinning the LDP."

The Inspector's conclusions in respect of the Cwmgelli site on countryside/green wedge, heritage, minerals, transport and landscape are all still relevant. He raised no objections in these respects. The principle of the development has been established and therefore significant weight has to be given to the previous decision granted approval on appeal. This Section 73 Application seeks an additional period to pursue the delivery of much needed housing including affordable housing. The applicant has confirmed that he does not wish to challenge the amount of affordable housing agreed. All technical and environmental matters capable of being addressed via conditions and the Section 106 Agreement are all still relevant.

There has been no change in the highway considerations (The Transportation Engineering Manager has raised no objection) or the publication of any new relevant national policy guidance.

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(2) The Local Planning Authority are entitled to have regard to the likelihood of the existing permission being implemented i.e. whether implementation is theoretical or real. For the local planning authority to give additional weight to an existing permission, the developer will need to provide evidence that the implementation of such permission is a real possibility. The lack of progress in beginning the development to date is not sufficient to contribute to uncertainty, particularly bearing in mind that the developer has stated that he is currently progressing discussions with development partners with a view to implementing the existing planning permission although these discussions will not be concluded in time to submit reserved matters before the deadline of 27th April 2019. The circular refers to 'continued' failure to implement a permission. This current application only represents the first renewal of the permission.

(3) The three years for the submission of reserved matters expires on 27th April 2019 so that part of the permission only has a short time to run and as such the application for renewal is not premature.

The policy context that should apply to the application (see above) has been fully considered and it is concluded that there is no policy objection to permitting another three years in respect of the submission of reserved matters subject to the provisions of the Section 106 Agreement being varied by way of a Deed of Variation to repeat the requirements of the earlier obligation i.e. the provision of 25% affordable housing.

RECOMMENDATION (A) that the application be DEFERRED to allow the applicant to vary the Section 106 Agreement as set out in this report. On completion of the Agreement (B) that Permission be GRANTED.

This permission is subject to the following condition(s)

- 01) Approval of the details of appearance, landscaping, layout and scale(hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before development is commenced and shall be carried out as approved.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 02) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

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- 03) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 04) No development shall take place until a site investigation has been carried out to assess land stability, the details of which shall have been submitted to and approved in writing by the Local Planning Authority. If any land instability issues are found a report specifying the measures to be taken to render the site suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
REASON: To ensure the stability of the site and to protect the dwellings from the effects of previous mine workings.
- 05) If during the course of development, any land instability issues are found which were not identified in the site investigation referred to in condition 4, a report specifying the measures to be taken to render that part of the site affected suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
REASON: To ensure the stability of the site and to protect the dwellings from the effects of previous mine workings.
- 06) No development shall take place until details of a scheme for the disposal of surface water and land drainage flows from the site has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
REASON: To ensure the development is served by an appropriate means of drainage.
- 07) No development shall take place until details of a scheme to provide public open spaces and play areas, including a Locally Equipped Area of Play (LEAP) and Local Area of Play (LAP) have been submitted to and agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.
REASON: To ensure that the site is provided for in respect to formal play provision.

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- 08) No development shall take place until details of a scheme to install secondary glazing capable of achieving an internal L_{max} level of 45 dB(A) to windows to habitable rooms has 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 interests of residential amenity.
- 09) The proposed development hereby permitted shall not be occupied until the ghost island road junction shown on Transport Planning Associates Drawing No. SK01/A (dated 19/10/15) has been completed.
REASON: In the interests of highway safety.
- 10) The proposed development hereby permitted shall be not be occupied until the access and visibility splays shown on Transport Planning Associates Drawing No. SK01/A (dated 19/10/15) are in place. No structure or erection exceeding 0.9 metres in height shall be placed between the visibility splays shown on Drawing No. SK01/A and the A4048 nor shall any planting within the visibility splays be allowed to exceed 0.9 metres in height.
REASON: In the interests of highway safety.
- 11) Prior to the commencement of the development hereby approved a notice shall be given to the Local Planning Authority.
- (a) stating the date on which the development is to begin;
 - (b) giving details of the planning permission and of such other matters as is required by Schedule 5A to The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 as amended ("the Order").
- Any person carrying out the development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a copy of any notice of the decision to grant it. That decision notice shall be in the form specified by, and must be displayed in accordance with, Schedule 5B of the Order.
REASON: To comply with the requirements of Section 71ZB of the Town and Country Planning Act 1990 as amended by Section 34 of the Planning (Wales) Act 2015.

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: SP6, CW2, CW3.

The applicant is advised of the comments of this Council's Public Rights of Way Officer, Dwr Cymru/Welsh Water and Natural Resources Wales.

