

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
20/0469/NCC 30.06.2020	P&P Builders Ltd Mr T Crooks Unit 12A Gilchrist Thomas Industrial Estate Blaenavon NP4 9RL	Vary condition 14 (Construction method) of planning consent 16/0656/FULL (Erect a residential development of 10 no. dwellings and associated works) Land At Cae Shingrig Eastview Terrace Bargoed

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

#### SITE AND DEVELOPMENT

Location: The application site is located on the eastern side of Eastview Terrace, Bargoed.

Site description: The application site was a former horse grazing paddock, set down from the highway to the front of the site. There is a lane to the north and at a lower level that serves the train halt and country park to the east of the site. Planning permission has been granted for the erection of 10 residential units on the site and that development has progressed such that the shells of the dwellings are almost completed. The consent was granted subject to the following condition:-

14 Prior to the commencement of any work on site a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The plan shall provide all details in relation to construction on the site together with a scheme for the management of traffic associated with the construction activities at the site, including deliveries and workers vehicles and the construction of a temporary access from Angel Lane. The development shall be carried out in accordance with the plan.

REASON: In the interests of highway safety.

The condition was attached to the permission in response to concerns raised by local residents with regard to the adequacy of the highway network serving the site to deal with vehicles accessing the site and not in response to any objections raised by the Transportation Engineering Services Manager.

Cont

Application No. 20/0469/NCC Continued

The Construction Environment Management Plan (CEMP) submitted to discharge this condition states that all deliveries to the site will be carried out via the lane to the north with a temporary access road being created from the highway.

Development: This application seeks to vary the above CEMP in order to allow a number of deliveries and for works within the highway to be carried out from Eastview Terrace. In the revised CEMP submitted to support this application the applicant has provided the following comment:-

The topography of the site as mentioned is extremely steep, sloping from Eastview Terrace at the top (front) of the site down to the temporary road and rear site boundary. In allowing us to deliver direct to the development at street level we negate the need for potential issues in double handing materials and greatly reduce the complexity and volume of lifting operations that would otherwise be required from the rear of the site. There is insufficient space to do this effectively, efficiently or safely.

The following provides a summary of the delivery methods proposed:-

Bricks/Blocks : Delivery to site via Angel Lane, storage in the designated area. Just in time loading to the front of the plots via Eastview Terrace via telescopic handler forklift.

Trusses : Offloading at front of plots from Eastview Terrace. Loading onto the roofs via telescopic handler from front of site.

Roof tiles: All plots- front elevations only. Delivery to Eastview Terrace, offloaded directly onto site outside front of plots. Loading onto the scaffold via telescopic handler from front of site.

Plasterboards: Delivery to Eastview Terrace, offloaded directly onto site outside front of plots. Manually carried into final location.

Insulation: Delivery to Eastview Terrace, offloaded directly onto site outside front of plots. Manually carried into final location.

Windows & Front doors: Delivery to Eastview Terrace, offloaded directly onto site outside front of plots. Manually carried into final location.

Internal Doors: Delivery to Eastview Terrace, offloaded directly onto site outside front of plots. Manually carried into final location.

Cont

Application No. 20/0469/NCC Continued

Sanitary ware: Delivery to Eastview Terrace, offloaded directly onto site outside front of plots. Manually carried into final location.

Kitchens: Delivery to Eastview Terrace, offloaded directly onto site outside front of plots. Manually carried into final location.

Tiles : Delivery to Eastview Terrace, offloaded directly onto site outside front of plots. Manually carried into final location.

Timbers and other miscellaneous items: Delivery to Eastview Terrace, offloaded directly onto site outside front of plots. Manually carried into final location.

Paving material: Front of development. Delivery to Eastview Terrace, offloaded directly onto site.

It is proposed that all deliveries will be outside of school opening and closing times and that a banksman would be employed to control all deliveries to the site.

Dimensions: Not applicable.

Materials: Not applicable.

Ancillary development, e.g. parking: None.

#### PLANNING HISTORY 2010 TO PRESENT

16/0656/FULL - Erect a residential development of 10 no. dwellings and associated works - Granted - 15.12.2016.

18/0575/NMA - Seek approval of a non-material amendment to planning consent 16/0656/FULL (Erect a residential development of 10 No. dwellings and associated works) to vary condition 02 (Approved Plans) to allow the replacement and addition of plans - Granted - 20.07.2018.

19/0413/COND - Discharge Condition 3 (Noise), Condition 4 (Tree Protection Plan), Condition 7 (Mitigation), Condition 8 (Hedgerow), Condition 9 (Bats), Condition 10 (Birds), Condition 12 (Control of Dust), Condition 13 (Materials), Condition 14 of planning consent 16/0656/FULL - Granted - 15.07.2019.

Cont

Application No. 20/0469/NCC Continued

19/0414/NMA - Seek approval of a non-material amendment to planning consent (16/0656/FULL Erect a residential development of 10 no. dwellings and associated works) for amendments to layout, materials, parking and landscaping - Granted - 17.06.2019.

19/0894/NMA - Seek approval of a non-material amendment to planning consent 16/0656/FULL (Erect a residential development of 10 no. dwellings and associated works) to amend condition 4 and to replace existing ash tree, suffering from ash die back disease with Betula Pendula extra heavy standard root balled - Granted - 26.02.2020.

## POLICY

Local Development Plan: Within settlement limits.

### Policies

Local Development Plan: SP1 (Development in the Heads of the Valleys Regeneration Area), SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW3 (Design Considerations: Highways) and CW15 (General Locational Constraints).

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

Supplementary Planning Guidance LDP 6 Building Better Places to Live gives advice on all levels of development.

National Policy: Paragraph 3.9 - The special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations. A clear rationale behind the design decisions made, based on site and context analysis, a strong vision, performance requirements and design principles, should be sought throughout the development process and expressed, when appropriate, in a design and access statement.

Cont

Application No. 20/0469/NCC Continued

Paragraph 3.16 - Planning authorities should through a process of negotiation seek to improve poor or average developments which are not well designed, do not take account of their context and consider their place, or do not meet the objectives of good design. Where this cannot be achieved proposals should be rejected. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions. If a decision maker considers that a planning application should not be approved because of design concerns they should ensure that these reasons are clearly articulated in their decision and justified with sufficient evidence. In the event of an appeal, in these circumstances, the Planning Inspectorate will need to examine the issues in detail and consider if the proposal meets the objectives of good design including the relationship between the site and its surroundings.

National Planning Guidance contained in Technical Advice Note 12 - Design.

#### ENVIRONMENTAL IMPACT ASSESSMENT

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

Was an EIA required? No.

#### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Not applicable.

#### CONSULTATION

Transportation Engineering Manager - Raises no objection to the application as the developer proposes the use of a banksman for deliveries and movement of vehicles on the highway is covered under other legislation.

#### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of neighbour letters.

Response: Three letters of objection and a petition against the application were received.

Cont

Application No. 20/0469/NCC Continued

Summary of observations:

1. Contrary to what is suggested in the Traffic Management Plan the street is too narrow to take the delivery vehicles proposed.
2. The suggested turning point in the lane between numbers 23 and 26 Eastview Terrace is not adequate for large vehicles to turn.
3. Vehicles parked in the highway to deliver to the site would block the road.
4. There would be increased noise, dust and fume pollution from the increased vehicular movements.
5. Residents have no confidence in the contractor to comply with the revised method statement.
6. The safety of residents should be taken into consideration over and above the desires of the applicant.

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? None.

Is this development Community Infrastructure Levy liable? No. The determination of this application would have no bearing on the CIL liability for this site.

Cont

## ANALYSIS

Policies: The application has been considered in accordance with national planning policy and guidance, local plan policy and supplementary planning guidance. This application seeks to vary a condition attached to an existing planning consent, which has been implemented, in order to enable deliveries to the site to be carried out from the public highway. In that the consent has been implemented the principal of the development has been established and the merits of the development to erect 10 residential units on this site are considered to be acceptable. As such the main point to consider in the determination of this application is whether the variation to the condition would have a detrimental impact on the highway safety of the area in line with the stated reason for imposing the condition on the original consent. The Authority must also consider whether the existing and proposed conditions meet the tests in Welsh Government Circular 016/2014 - The Use of Planning Conditions for Development Management.

In making that assessment the background to the imposition of this condition should be noted. When the application was originally submitted there was significant opposition to the proposal from local residents for a number of reasons. One of those reasons being the impact that the proposal would have on the highway network serving the site, both with regard to the construction phase of the development and in terms of on street parking when the development was completed. In that regard a committee site meeting was held at the application site and these matters were also discussed at length at the subsequent Planning Committee. As a result of a parking survey carried out by the developer and having regard for the submitted plans, it was considered by the Transportation Engineering Services Manager that there was adequate off road parking proposed within the application site and adequate on street parking within the area to accommodate any overspill from the development and as such no objection was raised in that regard.

Turning to the issue of vehicular movements during the construction stage and whilst it should be noted that the Transportation Engineering Services Manager had raised no objection to the application, it was agreed in discussions with the applicant and their agent that it would be prudent to create a construction access to the site from Angel Lane to the south rather than using Eastview Terrace. Such provisions were subsequently controlled as part of a Construction Environment Management Plan (CEMP) required by condition and the application was approved on this basis. This access has been constructed and is still in use for deliveries to the site and for the parking of contractors vehicles.

Application No. 20/0469/NCC Continued

The applicant (United Welsh Housing Association) subsequently appointed P & P Builders as contractors to construct the dwellings and they have been working on site for approximately 12 months. The dwellings have now been constructed to the stage where they are level with the highway in Eastview Terrace and the contractors (the applicants for this application) have identified a number of operational issues with continuing to carry out all deliveries via Angel Lane. In that regard they have applied to vary condition 14 attached to the original consent to enable specified deliveries to be carried out from Eastview Terrace as set out above. Advice on such applications is set out in Paragraph 2.4 of Circular 016/2014 - The Use of Planning Conditions for Development Management which states:-

“Section 73 of the Act provides for applications to be made for planning permission to develop land without complying with conditions previously imposed on a planning permission i.e. to vary or remove a condition. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application.”

Paragraph 3.1 also sets out the 6 tests that should be applied when imposing any condition which must be:-

- (i) necessary;
- (ii) relevant to planning;
- (iii) relevant to the development to be permitted;
- (iv) enforceable;
- (v) precise; and
- (vi) reasonable in all other respects.

With particular regard to this application further advice on the imposition of conditions is provided at Paragraphs 3.2, 3.3 and 4.25 of that document:-

Paragraph 3.2 and 3.3 state that:-

“In considering whether a particular condition is necessary, local planning authorities should ask themselves whether planning permission would have to be refused if a condition were not imposed, or if it would be expedient to enforce against a breach of the condition. If it would not, then the local planning authority needs to carefully justify why the condition is being imposed in the first place. A condition should not be imposed unless it is considered necessary.

The same principles must be applied in dealing with applications for the removal of a condition under section 73 or section 73A. A condition should not be retained unless there are sound and clear reasons for doing so.”

Cont



Application No. 20/0469/NCC Continued

More specifically regarding access for deliveries Paragraph 4.25 of Circular 016/2014 provides that:

“planning conditions are not an appropriate means of controlling the right of passage over public highways and can be very difficult to enforce. Where it is essential to prevent traffic from using particular routes, the correct mechanism for doing so is an Order under the Traffic Management Act 2004.”

Moreover, it should also be noted that the Transportation Engineering Services Manager has raised no objection to this proposal as it is considered that the highway network serving the site is capable of accommodating these deliveries in a safe manner subject to the use of a banksman etc.

In view of the above considerations it is considered that a recommendation of refusal of this application can not be justified in highway safety terms and it should also be recognised that in approving the submitted amended CEMP the Local Planning Authority would not have control over some elements of the document including the movement of delivery vehicles.

Comments from Consultees: No objections raised.

Comments from public:

1. As stated above, it is considered that the highway network serving the site is capable to accommodating vehicles associated with this development.
2. It is considered that the suggested turning point in the lane between numbers 23 and 26 Eastview Terrace is adequate for large vehicles to turn subject to the use of a banksman.
3. Any vehicles parked in the highway to deliver to the site that block the road would be a matter for the police or could be controlled under the Traffic Management Act 2004 as discussed above.
4. The increase in vehicular movements associated with this development would be relatively small in relation to the overall number of vehicular movements in this street and with particular regard for the advanced stage of construction of the site would be short lived and transient in nature in comparison to the lifetime of the development. As such any potential increased noise, dust and fume pollution from the small number of increased vehicular movements would not be sufficient to warrant refusal of this application.

Cont

Application No. 20/0469/NCC Continued

5. Enforcement powers exist to enable the Local Planning Authority to take action in respect of any breach in planning control where it is considered expedient to do so and as such the fact the residents have no confidence in the contractor to comply with the revised method statement would not justify the refusal of this application.

6. It is the role of the planning system to consider the merits and impacts of a development and come to a balanced decision as to the acceptability of a proposal in the wider public interest. It is the view of the Local Planning Authority that the safety of residents can be adequately protected as part of this development whilst also having regard for the health and safety of those constructing the development and the need for housing within the County Borough. Variation of the condition as suggested would allow the dwellings to be constructed in a more timely manner thereby providing 10 much needed affordable housing units within the area whilst also protecting the amenity and safety of residents to an acceptable level in planning terms.

Other material considerations: Condition 14 requires the submission of a Construction Method Statement and the CEMP that has been submitted with this application addresses a number of areas other than the movement of vehicles on the public highway. As such, and notwithstanding that the references within the document to the movement of vehicles on the highway would not be enforceable by the Local Planning Authority it is considered that such a document is required in order to control other elements of the construction operations on site. In that regard it is considered that a new condition requiring that the development is carried out in accordance with the submitted CEMP should be imposed on any consent granted.

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.

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

Living Decision Document:

Condition 14 has been varied by consent 20/0469/NCC dated 16.09.2020 granted by Caerphilly County Borough Council.

Cont

Application No. 20/0469/NCC Continued

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development shall be carried out in accordance with the following approved plans and documents: (90)001C - Site Location Plan; (SK)001E Proposed Site Layout - Lower Ground Floor, (SK)002U Proposed Site Layout - Ground Floor, (SK)003F Proposed Site Layout - First Floor, (SK)004B Proposed Floor Plans - Block 1, (SK)005C Proposed Floor Plans - Block 2, (SK)007C Proposed Elevations, (SK)008B Proposed Elevations, S.7400-10 T1 - Proposed Land Drainage Layout and S.7400-104 T3 - Section 104 Agreement.  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 02) Prior to commencement of development details of a scheme shall be submitted to and approved in writing by the Local Planning Authority for a glazing system which is to be fitted to all windows of habitable rooms facing the railway line. The glazing system shall be capable of achieving an internal LAeq level of 30 dB(A) measured over an 8 hour period (2300 - 0700) in bedrooms and 35 dB(A) in all other habitable rooms measured over 16hour LAeq (0700 - 2300). Development shall be carried out in accordance with the approved details before first use of the dwellings hereby approved.  
REASON: To protect the residential amenity from noise from the railway line in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 03) No development shall commence on site until such time as a scheme has been submitted for the approval of the Local Planning Authority which shall include:
  - a) a plan to a scale and level of accuracy appropriate to the proposal that shows the position of every tree on site with a stem diameter over the bark measured at 1.5 metres above ground level of at least 75 millimetres. In addition any tree on neighbouring or nearby ground to the site that is likely to have an effect upon or be affected by the proposal (e.g. by shade, overhang from the boundary, intrusion of the Root Protection Area (para. 5.2.2 of BS5837, 2005, Trees in relation to construction - Recommendations) or general landscape factors) must be shown.
  - b) the details of each tree as required at para. 4.2.6 of BS5837 in a separate schedule.
  - c) a schedule of tree works for all the trees in paragraphs (a) and (b) above, specifying those to be removed, pruning and other remedial or preventative work.

Cont

Application No. 20/0469/NCC Continued

d) the details of any proposed alterations to the existing ground levels or the position of any proposed excavations within 5 metres of the Root Protection Area (para. 5.2.2 of BS5837) of any retained tree, including those on neighbouring ground.

e) the details of all the appropriate tree protection measures for every retained tree before and for the entire duration of the course of the development.

f) a statement setting out the principles of arboricultural sustainability in terms of landscape, spatial integration and post development pressure.

g) No tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998. In this condition a "retained tree" means an existing tree that is to be retained in accordance with the plan referred to at paragraph (a) above.

The development shall be carried out in accordance with the approved scheme.

REASON: To safeguard the vegetation that is considered to be worthy of retention in the interests of visual amenity of the area.

- 04) The development hereby approved shall be carried out fully in accordance with the Bat and breeding Bird Method Statement prepared by Dusk to Dawn Ecology Ltd dated July 2016. The development should be undertaken fully in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure adequate protection and mitigation for protected species in accordance with Section 40 Natural Environment and Rural Communities Act 2006, and policy contained in Welsh Assembly Government's Planning Policy Wales and TAN 5 Nature Conservation and Planning.

- 05) Prior to the commencement of development details of the lighting of the development shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.

REASON: To ensure adequate protection to protected species in accordance with Section 40 Natural Environment and Rural Communities Act 2006, and policy contained in Welsh Assembly Government's Planning Policy Wales and TAN 5 Nature Conservation and Planning.

Cont

Application No. 20/0469/NCC Continued

- 06) Prior to the commencement of works on site, details of the garden boundary fence to be erected along the inside of the existing hedgerows in order to exclude the hedgerows from within the garden boundaries, shall be submitted to the Local Planning Authority for approval. The approved details shall be complied with and shall be implemented before the new dwellings hereby approved are first occupied.  
REASON: In the interests of biodiversity conservation and enhancement in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, and policy contained in Welsh Assembly Government's Planning Policy Wales (2016) Tan 5 Nature Conservation and Planning (2009).
- 07) Prior to the commencement of any works associated with the development hereby approved, a plan showing details of the provision of roosts and a means of access for bats in the new properties at Land to the east of Eastview Terrace, Bargoed, shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented before the new properties hereby approved are first occupied.  
REASON: To provide additional roosting for bats as a biodiversity enhancement, in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, and policy contained in Welsh Assembly Government's Planning Policy Wales (2016) and Tan 5 Nature Conservation and Planning (2009).
- 08) Prior to the commencement of any works on site, details of the provision of nesting sites for bird species (House sparrow, House martin, Starling, or Swift) in the new properties at Land to the east of Eastview Terrace, Bargoed, shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented before the new properties hereby approved is first occupied.  
REASON: To provide additional nesting opportunities for birds as a biodiversity enhancement, in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, and policy contained in Welsh Government's Planning Policy Wales (2016) and Tan 5 Nature Conservation and Planning (2009).
- 09) No works in relation to the approved development shall take place outside the hours of 08.00 to 18.00 Monday to Friday, 09.00 to 13.00 on Saturdays and no work at all on Sundays and Bank Holidays.  
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

Cont

Application No. 20/0469/NCC Continued

- 10) Prior to the commencement of the development hereby approved a scheme for the control of dust arising from construction works shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the agreed scheme shall be implemented at all times to control dust at the site.  
REASON: To prevent pollution in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 11) Prior to the construction of the external surfaces of the development hereby approved details of the materials to be used, in electronic or printed format shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.  
REASON: In the interests of the visual amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 12) The development hereby approved shall be carried out in accordance with the revised Construction Environmental Management Plan submitted on 16th July 2020.  
REASON: In the interests of residential amenity.
- 13) The dwellings hereby approved shall not be occupied until the area indicated for the parking of vehicles has been laid out in accordance with the submitted plans to the satisfaction of the Local Planning Authority and that area shall not thereafter be used for any purpose other than the parking of vehicles.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 14) The proposed parking areas shall be completed in materials as agreed with the Local Planning Authority, to ensure loose stones or mud etc. is not carried on to the public highway.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 15) No surface water run-off shall drain on to the public highway.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 16) Notwithstanding the submitted plans there shall be no vehicular access to the rear of the site along the lane to the rear of number 1a to 7A Eastview Terrace unless otherwise agreed in writing by the Local Planning Authority.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

