

**Application Number:** 20/0983/NCC

**Date Received:** 24.02.2021

**Applicant:** Mr J Newbury

**Description and Location of Development:** Vary conditions 3 and 4 of planning consent 11/0630/NCC (Vary conditions (3) and (4) of previous planning consent 06/0172/OUT (Erect residential development) to extend permission beyond expiration dates) to extend permission beyond expiration dates - Land West Of Coronation Terrace Senghenydd Caerphilly

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

### SITE AND DEVELOPMENT

Location: The site is located on a steeply sloping area of land to the north-west of Coronation Terrace, Senghenydd. The gradient of the site falls from east down to the western boundary.

The site is bounded by residential development to the north and east. To the west it abuts the main Aber Valley road, on the opposite side of which is B.S.W. Ltd (a large timber mill). To the south there is an allotment garden.

Site description: The land is currently overgrown and contains a number of trees. The most apt description for it would be rough grassland.

A defined footpath runs diagonally through the site, however this is not a registered right of way.

The site is roughly rectangular in shape and has a total area of 0.7 hectares (approximately 1.75 acres). It has a considerable gradient which falls roughly 20 metres over its width (measured east to west) which is approximately 30 metres.

Development: The proposal is for a variation of the two time limited conditions attached to an earlier consent for an outline application which was approved with access and siting not reserved for subsequent approval. The layout plan of that original approval shows an arrangement of eleven dwellings sited around a single cul-de-sac; of these dwellings five are detached with the remainder forming three pairs of semi-detached properties.

Access into the land is from a point in the north western corner of the site. Thereafter the road turns southwards through the site and ends in a turning head some 50 metres from the access. The road climbs approximately 4 metres from its access to the turning area.

Due to the sloping topography of the application site, approximately one quarter of the site area cannot be developed and is therefore to be landscaped after the slope is graded to 35 degrees.

Dimensions: Three potential house types have been identified. Type 1 would have scale parameters of 11-12m deep by 8-9m wide by 8.6-9.6m high. Type 2 has scale parameters of 8.5-10m deep by 7-8m wide by 8-9m high. Type 3 has scale parameters of 8.5-10m deep by 10-12m wide by 8-9m high.

Materials: As the application is in outline no construction materials are submitted.

Ancillary development: On site provision of a minimum of two parking spaces per dwelling is shown, along with visitor parking of three additional spaces.

The layout also shows that the footpath which crosses the site, albeit not a public one, will be retained on an amended line.

## PLANNING HISTORY 2010 TO PRESENT

11/0630/NCC-Vary conditions (3) and (4) of previous planning consent 06/0172/OUT (erect residential development) to extend permission beyond expiration dates-Granted-24.02.2016.

## POLICY

Local Development Plan: The site is within settlement limits and is an allocated housing site in the LDP - Land below Coronation Terrace, Senghenydd (HG1.73).

### Policies

Local Development Plan: SP3 (Development in the Southern Connections Corridor), SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW3 (Design Considerations: Highways), CW10 (Leisure and Open Space Provision), CW11 (Affordable Housing Planning Obligation) 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: Future Wales - The National Plan 2040.

Relevant guidance contained in Planning Policy Wales 11th Edition:-

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.

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? Yes.

#### CONSULTATION

CADW - No comments received.

CCBC - 21st Century Schools - No comments received.

Head Of Public Protection - No objection.

CCBC Housing Enabling Officer - No comments received.

Senior Engineer (Land Drainage) - No comments received.

Parks And Open Spaces - No comments received.

Head Of Public Services - Provide advice to be conveyed to the developer.

Transportation Engineering Manager - No objection subject to conditions.

Dwr Cymru - No objection subject to the re-imposition of the conditions attached to the previous consent.

Police Architectural Liaison Officer - No objection.

Western Power Distribution - Provide advice to be conveyed to the developer.

The Coal Authority - No objection.

Strategic & Development Plans - No objection.

### ADVERTISEMENT

Extent of advertisement: The site was advertised by way of site and press notices, as well as 21 letters to neighbouring properties.

Response: One objection was received.

Summary of observations: 1. Loss of view.

### 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 relevant to this proposed development.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? The site is not identified as an SSSI or a SIN, and there is no evidence that its development will affect any protected species. The original permission was granted on the basis that there were no such species present on site.

### COMMUNITY INFRASTRUCTURE LEVY

This is an outline application and the appropriate CIL will be calculated at the reserved matters stage.

## ANALYSIS

The application has been considered in accordance with national planning policy and guidance, local plan policy and supplementary planning guidance. This application seeks the renewal of outline consent for an allocated housing site within the defined settlement limits and as such the principle of development is considered to be acceptable.

In considering an application to renew outline consent it should be noted that the Welsh Government Development Management Manual confirms that Sections 73(2) and (4) of the Town and Country Planning 1990 Act restricts the Local Planning Authority in their determination of section 73 applications. The effect of the provisions is to limit the Local Planning Authority to considering the question of whether the conditions identified in the section 73 application should apply as originally stated, would be acceptable if modified or it would be acceptable to remove them. The Local Planning Authority cannot revisit the original permission and reconsider whether it should have been granted in the first place. However, as a section 73 application is a planning application in its own right, it is necessary to assess what material changes there may have been since the original permission was granted in order to ensure that all relevant material considerations have been assessed.

In that regard it is considered that there has been no material change in circumstances since the previous application was granted and no objections have been raised by consultees which would justify refusing the application. Whilst the Coal Authority have identified that the application site is located within a high risk area it also acknowledges that the proposal is exempt for the need for a Coal Mining Risk Assessment. Nevertheless, this advice should be brought to the attention of the applicant in order that they can consider this issue prior to the construction of any dwellings.

The indicative scale parameter plans submitted are considered to be acceptable and appropriate for this site and the dwellings should be in keeping with the character of the area.

With the exception of the land drainage condition, as that is now covered under separate legislation, it is considered that all of the conditions attached to the previous consent should be attached to this consent as they are still considered to be relevant and appropriate to the development.

In respect of Policy CW10 of the LDP, which requires the provision of open space on all sites with an area over 0.3ha or with 10 dwellings or more, it should be noted that the topography of the site does not allow for a formal area to accommodate play equipment to be provided on the site. However, the approved layout does provide for a large area of open space on the eastern boundary of the site. Whilst this area will be steeply sloping, subject to adequate planting it will provide excellent visual amenity to the application site and as such the proposal is considered to be acceptable in this regard.

In respect of Policy CW11 of the LDP, which requires the provision of affordable housing on the site, it should be noted that the topography of the site, together with the market conditions in the Aber valley dictate that such provision would not be viable in this instance. It should also be noted that this application seeks renewal of an existing consent where no affordable housing was secured previously. Bearing in mind that circumstances have not changed significantly since the approval of the previous application it is not considered that it would be reasonable to require affordable housing in respect of this application.

Comments from Consultees: No objections raised.

Comments from public: Loss of view is not a material planning consideration.

Other material considerations: None.

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.

Future Wales - The National Plan 2040 was published on 24 February 2021 and forms part of the statutory development plan for the county borough. In addition to this Planning Policy Wales (PPW) has been amended to take account of Future Wales and PPW Edition 11 has also been published on 24th February 2021. In reaching the conclusion below full account has been taken of both Future Wales and PPW Edition 11 and where they are particularly pertinent to the consideration of the proposals they have been considered as part of the officer's report. It is considered that the recommendation(s) in respect of the proposals is (are) in conformity with both Future Wales and PPW Edition 11.

**RECOMMENDATION that Permission be GRANTED**

This permission is subject to the following condition(s)

- 01) Approval of the details of appearance, landscaping 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) Plans and particulars of the reserved matters referred to in Condition 01) above, relating to the appearance, landscaping and scale, of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 03) 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.
- 04) 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.
- 05) The development shall be carried out in accordance with the following approved plans and documents: Site Location Plan, PLEW3001 Rev C and AL(00)1001 REV A.  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 06) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority to deal with the contamination of the site. That scheme shall include a ground investigation and a risk assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme.  
REASON: In the interests of public health.
- 07) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLGA document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their importation and testing for contamination shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.  
REASON: In the interests of public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.
- 08) No building approved by this permission shall be occupied or approved uses commence until a report has been submitted to and approved in writing by the Local Planning Authority which verifies that the required works have been undertaken in accordance with the remediation strategy.

REASON: To protect public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.

- 09) Unless an endorsed Agreement under Section 38 of the Highways Act 1980 has been completed a detailed programme for the provision of the proposed highways and highway alterations including all stages in the statutory process for approval thereof together with a similarly detailed programme for the construction, completion and future maintenance of the proposed highways shall be submitted to and approved in writing by the Local Planning Authority before any works of construction are commenced on site.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 10) Notwithstanding the submitted plans, prior to the commencement of any work involving the construction of retaining walls on site full engineering details and structural calculations for the proposed retaining walls, together with certification from an independent chartered civil or structural engineer that the proposals are structurally adequate and fit for their intended purpose shall be submitted to and agreed by the Local Planning Authority. Following construction of the agreed retaining walls additional certification from an independent chartered civil or structural engineer confirming that the works have been constructed in an appropriate manner and that they are physically fit for their intended purpose shall be supplied to the Local Planning Authority prior to occupation of the approved development.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 11) As part of the detailed information required in Condition 02 above details of the proposed public footpath between the access road and Coronation Terrace shown on the submitted plans shall be supplied to show a footpath that will accommodate wheeled traffic (such as prams, shopping baskets etc.). The agreed scheme shall be implemented concurrently with the development.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 12) Parking throughout the development shall be provided in accordance with LDP5 Car Parking Guidelines.  
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 13) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority indicating full engineering details of the road layout with sections, street-lighting and surface water drainage and a detailed programme for the provision of the proposed highways. The development shall be carried out in accordance with the agreed details.



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) Access to individual properties shall be completed in materials as agreed by the Local Planning Authority before the property is brought into use.  
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) The development hereby approved shall not be occupied until a 2.0m wide footway has been constructed on the site frontage adjacent to plot number 1 over the length of the site in accordance with a scheme to be submitted to and approved 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.
- 16) Prior to the commencement of the development a scheme depicting hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. Those details shall include:
  - (a) Proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor structures including furniture, play equipment, refuse or other storage units; and
  - (b) Proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes etc.); and
  - (c) Planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.The development shall be carried out in accordance with the agreed scheme and all planting, seeding, turfing/hard landscaping works comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.  
REASON: In the interests of the visual amenity of the area in accordance with policies CW2 and SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 17) Prior to the construction of the foundations of the development hereby approved details showing the finished floor levels of the buildings hereby approved in relation to a fixed datum point off-site shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

REASON: In the interests of the residential amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 18) 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.
- 19) The demolition or site/vegetation clearance associated with the development hereby approved shall not take place during the breeding season for birds, from March to August inclusive in any given year, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that breeding birds are protected. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 in accordance with policies CW4 and SP10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 20) Prior to works commencing on site details shall be submitted for a minimum of 50% of the residential units to be constructed to make provision to allow for the installation of electric charging points for vehicles.

REASON: In order to ensure that adequate mitigation is provided in respect of air quality in the interests of residential amenity.
- 21) Before any development commences the developer shall carry out an investigation of the underground strata (the results of which shall be submitted to the Local Planning Authority) in order to satisfy themselves as to the stability of the site and the measures which should be taken to mitigate against the risk of subsidence. Details of the design of the foundations of the proposed building(s) and/or proposals for ground treatment shall take account of the result of the investigation and shall be submitted to and agreed with the Local Planning Authority before development commences. The foundations and/or ground treatment shall thereafter be completed in accord with such details as may be approved.

REASON: In the interests of health and safety

Advisory Note(s)

Please find attached comments from Dwr Cymru/Welsh Water and Western Power Distribution.

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: [www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries).

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Mature trees are potential bat roosts. All bat species and their roosts are protected by the Conservation of Habitats and Species Regulations 2010 and its amendment 2012, which transposes the EC Habitats Directive 1992 into UK legislation, and the Wildlife

and Countryside Act 1981. If bats are discovered, then all works should stop immediately and the Countryside Council for Wales should be contacted for advice on any special precautions, and whether a licence is required, before continuing.

**WARNING:**

**SUSTAINABLE DRAINAGE APPROVAL IS REQUIRED PRIOR TO COMMENCEMENT OF THIS DEVELOPMENT.**

Please note from the 7th January 2019, Schedule 3 of the Flood and Water Management Act 2010 commenced in Wales requiring all new developments of more than one house or where the construction area is of 100m<sup>2</sup> or more to implement sustainable drainage to manage on-site surface water. Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by Welsh Ministers.

The Sustainable Drainage Approval process is a technical approval independent of the need to obtain planning permission, and as such you are advised to contact the Sustainable Drainage Approval Body. Their details are provided below:

Phone: 01443 866511

Email: [drainage@caerphilly.gov.uk](mailto:drainage@caerphilly.gov.uk)

Website: [www.caerphilly.gov.uk/sab](http://www.caerphilly.gov.uk/sab)

#### Notification of initiation of development and display of notice:

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties include:

#### Notice of initiation of development:

Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the town and Country Planning (development Management procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details which must be given to the local planning authority to comply with this duty.

#### Display of Notice:

The 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 notice of this planning permission in the form set out in Schedule 5B to the Town and country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details the person carrying out development must display to comply with this duty. The person carrying out the development must ensure the notice is:

- (a) Firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
- (b) legible and easily visible to the public without having to enter the site; and
- (c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.