

**Application Number:** 21/0466/NCC

**Date Received:** 28.04.2021

**Applicant:** Mr & Mrs I Reed

**Description and Location of Development:** Vary condition 01 of planning consent 16/0453/FULL (Erect new dwelling with associated access) to extend the commencement by a further five years - Rosebank Cottage Brookside Bungalows Cwmgelli Blackwood NP12 1BQ

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

### SITE AND DEVELOPMENT

Location: The application site is located on the eastern side of the B4251 (High Street), north of the access into Blackwood Retail Park and south of The Chartists Bridge. It lies outside of the settlement boundary of Blackwood and is located at Brookside Bungalows, Cwmgelli, Blackwood.

Site description: The application site is garden area associated with the curtilage of Rosebank Cottage and would be accessed via the same narrow strip of highway land adjacent to the B4251 that serves Rosebank Cottage and Woodview (Isycoed Cottages).

Development: Planning permission is sought to vary condition 01 of planning consent 16/0453/FULL (Erect new dwelling with associated access) to extend the time period in which the development can commence by a further five years.

Dimensions: The proposed dwelling is arranged in a cross shape and has a maximum footprint measuring 10.8 metres in depth by 11.7 metres in width and a height of 7.0 metres to ridge level.

Materials: The external finishes comprise of render and timber cladding, slate roof tiles together with upvc doors and windows.

Ancillary development, e.g. parking: The proposed driveway is large enough to accommodate 4 cars.

### PLANNING HISTORY 2010 TO PRESENT

16/0453/FULL - Erect new dwelling with associated access - Granted 15.09.2016.

### POLICY

### LOCAL DEVELOPMENT PLAN

Site Allocation: The application site is located outside settlement limits and is also located within a green wedge designation (SI 1.9 Blackwood, Oakdale and Penmaen Green Wedge).

Policies: SP2 (Development Strategy - Development within the Northern Connections Corridor (NCC)), SP4 (Settlement Strategy), SP5 (Settlement Boundaries), SP6 (Place Making), SP10 (Conservation of Natural Heritage), CW2 (Amenity), CW3 (Design Considerations - Highways), CW5 (Protection of the Water Environment), Protection), CW15 (General Locational Constraints), CW20 (together with advice contained within LDP4: Trees and Development, LDP5: Car Parking Standards, LDP6: Building Better Places to Live).

NATIONAL POLICY Future Wales: The National Plan 2040 (February 2021), Planning Policy Wales Edition 11 (February 2021) and Technical Advice Note 12: Design (March 2016).

### 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? Yes the development is located in a high risk area. A coal mining risk assessment report was submitted with application 16/0453/FULL and the Coal Authority considered that the content and conclusions of the Coal Mining Risk Assessment Report were sufficient for the purposes of the planning system and met the requirements of Planning Policy Wales in demonstrating that the application site is, or can be made, safe and stable for the proposed development.

### CONSULTATION

Transportation Engineering Manager - No comments were received at the time of writing the report.

Head Of Public Protection - No objection raised.

Senior Engineer (Land Drainage) - No comments were received at the time of writing the report.

Dwr Cymru - No comments were received at the time of writing the report.

Principal Valuer - No adverse comments offered.

Strategic & Development Plans - No comments were received at the time of writing the report.

Ecologist - No comments were received at the time of writing the report.

Landscape Architect - No comments were received at the time of writing the report.

### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and two neighbours were notified by way of letter.

Response: No representations were received at the time of writing the report. Should any representations be received in the interim, those will be reported verbally to members.

Summary of observations: Not applicable.

### 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 application.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? In that the site the subject of this application is a domestic garden, based on current evidence, the proposal is unlikely to have a significant impact on biodiversity. However, Policy 9 of Future Wales - The National Plan 2040 states that action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature based approaches to site planning and the design of the built environment. Full planning permission (planning reference 16/0453/FULL) included a bird breeding clearance condition together with the provision for the developer to provide biodiversity enhancements within the site. It is therefore considered that the same conditions should be imposed if members are mindful to grant permission.

### COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? Yes the development is CIL liable and falls within the mid viability charging area for which CIL is charged at a rate of £25 per square metre of internal floor space plus indexation.

## ANALYSIS

Policies: The application has been considered in accordance with national policy and guidance and local plan policies.

The original scheme for consideration in respect of application 16/0453/FULL was reported to planning committee with a recommendation to refuse the application on the grounds that the proposed dwelling would have an unacceptable overbearing impact on the north facing windows of the adjacent property known as Woodview to an extent whereby the neighbouring occupiers would result in a loss of daylight and outlook. The application was subsequently deferred by members at the Planning Committee held on 3rd August 2016 to allow the applicant the opportunity to submit amended plans to address the concerns of Officers.

The applicant submitted amended plans to reposition the proposed dwelling further 2.1 metres away from the boundary of Woodview with the amended siting resulting in the dwelling being located 9.2 metres to the north of Woodview.

Having regard to the orientation of the neighbouring properties it was not considered that the proposed dwelling would result in any adverse overshadowing impacts to the occupiers on Woodview given the trajectory of the sun's movements throughout the day. Furthermore, it was considered that the shape of the proposed dwelling and its relationship to the ground floor north facing windows of Woodview would not result in an overbearing impact or loss of outlook from Woodview to a degree to warrant a refusal of planning permission. On that basis members resolved to approve the proposed dwelling at the Planning Committee held on 14th September 2016.

This application seeks to vary Condition 01 of planning consent 16/0453/FULL to further extend the period of time within which the development can commence. In this regard it should be recognised 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.

Therefore, the main consideration in the determination of this application is whether there has been any material change in circumstances since 2016. In that regard the application site remains outside of the settlement boundary of Blackwood and within green wedge designation SI1.9 Blackwood, Oakdale and Penmaen.

In terms of the above, whilst the application site is located outside the defined settlement boundary, it is located wholly within the curtilage of an existing residential property, and would adjoin the residential boundary of another residential property, Woodview.

In terms of the green wedge, the application site is currently garden curtilage and would therefore not extend into any open areas of the green wedge. On this basis, it is not considered that the proposed development will lead to the erosion of the green wedge and the coalescence of Blackwood, Oakdale and Penmaen. Furthermore, it should be noted that erection of three dwellings to the south of Woodview (the property adjoining the site) have been approved more recently (planning references 17/0431/OUT and 20/0217/RM), these too would lie outside of the defined settlement boundary of Blackwood and within green wedge designation SI1.9 Blackwood, Oakdale and Penmaen.

It should also be noted that Planning Policy Wales Edition 11 still supports infill development outside of settlement limits subject to where those developments can be best accommodated in terms of infrastructure, access, habitat and landscape conservation together with being of a scale and design that respects the character of the surrounding area. The merits of the application site were previously considered acceptable subject to national policy limitations. There has been no change to national policy limitations or local planning policies since and the extant permission would infill a gap in the existing street scene. Furthermore, the proposed dwelling would be located in a highly sustainable location on the edge of Blackwood Town Centre with all its services, amenities and excellent public transport links. On that basis the proposal would still comply with national planning policy.

Policy CW2 of the Local Development Plan (LDP) sets out the criteria relating to amenity. The impacts associated with neighbouring and visual amenity were previously considered. However, it is important to note that additional considerations was given to neighbouring amenity during the determination of planning consent 20/0217/RM and how the impact of this consented development, whilst not yet implemented (planning permission 16/0453/FULL) would have upon any future occupiers of the three dwellings associated with planning reference 20/0217/RM. On that basis the proposed development still complies with all of the criterion associated with Policy CW2

Policy CW5 explains that development proposals will only be permitted where they do not have an unacceptable adverse impact upon the water environment and where they would not pose an unacceptable risk to the quality of controlled waters (including ground water and surface water). In that respect 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.

In that the proposed dwelling exceeds a construction area of 100m<sup>2</sup>, should members be mindful to grant planning permission to extend the time period in which the development can commence by a further five years, it would no longer be possible to impose a condition to any consent requiring a scheme for land and surface water to be submitted within the site and the developer would therefore be required to obtain Sustainable Drainage Approval from the SAB Authority prior to commencement of the development. Whilst no comments have been provided from the Senior Engineer (Land Drainage), any Sustainable Drainage scheme would need to demonstrate that there will be no adverse impacts to existing drainage systems and watercourses. Notwithstanding the above, members are advised that this is a technical approval independent of the need to obtain planning permission. Informative advice will however be provided to the applicant. Consequently, in that the need to obtain an independent Sustainable Drainage Approval is a legislative requirement, the proposal accords with policy CW5 of the LDP.

In conclusion, the proposed development is solely seeking to extend the period of time in which the development can commence. The principle of a dwelling within the curtilage of Rosebank Cottage has previously been established and there would be no changes to the previously approved plans, access and off-street car parking requirements. On that basis, where necessary, subject to imposing the same conditions as per the extant permission, the proposed development is considered to be acceptable in planning terms and therefore accords with the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

Comments from Consultees: No objections raised at the time of writing the report.

Comments from public: No representations received at the time of writing the report.

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.

Living Decision Document: Condition 01 of planning consent 16/0453/FULL has been varied by consent 21/0466/NCC dated 16.06.2021 granted by Caerphilly County Borough Council.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The development shall be carried out in accordance with the following approved plans and documents:  
Job No. 16\_037, Drawing No. AL(00)01 Rev. B, Location Plan, received 21.07.2016;  
Job No. 16\_037, Drawing No. AL(00)02 Rev. A, Proposed Floor Plans, received 21.07.2016; and  
Job No. 16\_037, Drawing No. AL(00)10 Rev. A, Proposed Elevations, received 21.07.2016.  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) Prior to the construction of the foundations of the development hereby approved details showing the finished floor levels of the building 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 visual of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 04) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the approved dwelling is first occupied.  
REASON: In the interests of the visual amenities of the area amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 05) 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.

- 06) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) with or without modification, no windows or dormer windows, other than those expressly authorised by this permission, shall be constructed without the approval of the Local Planning Authority.  
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 07) The building 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 written 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.
- 08) The proposed parking area shall be completed in materials as agreed with the Local Planning Authority, to ensure loose stones or mud etc. are 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.
- 09) The proposed vehicular driveway shall have a maximum gradient not exceeding 12.5% (1 in 8).  
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) Prior to the occupation of the development hereby approved, roosts and a means of access for bats shall be provided as part of the approved development.  
REASON: To provide additional roosting for bats as a biodiversity enhancement, in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, Policy 9 of Future Wales: The National Plan 2040 (2021), Planning Policy Wales Edition 11 (2021), Technical Advice Note 5: Nature Conservation and Planning (2009) and policies CW4 and SP10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 11) Prior to the occupation of the development hereby approved, nesting sites for birds shall be provided as part of the approved development.  
REASON: To provide additional roosting for birds as a biodiversity enhancement, in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, Policy



9 of Future Wales: The National Plan 2040 (2021), Planning Policy Wales Edition 11 (2021), Technical Advice Note 5: Nature Conservation and Planning (2009) and policies CW4 and SP10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 12) The development hereby approved shall make provision for gigabit capable broadband infrastructure capable of serving the approved dwelling. The necessary infrastructure required shall be installed prior to beneficial occupation of the dwelling.

REASON: To provide the necessary infrastructure to serve the development in accordance with Policy 13 of Future Wales: The National Plan 2040.

#### Advisory Note(s)

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

#### 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)

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)