



15 December 2023

Our Ref: 19.145

Mr David Cross
The Planning Department
Merthyr Tydfil County Borough Council
Unit 5
Triangle Business Park
Merthyr Tydfil
CF48 4TQ

Dear David,

NMA/S96A APPLICATION IN RESPECT OF PERMISSION P/19/0323 – CONSTRUCTION OF 31 RESIDENTIAL UNITS ON LAND NORTH OF PANT INDUSTRIAL ESTATE, BRYNIA ROAD, MERTHYR TYDFIL

PLANNING PORTAL REF: PP- 12681450

On behalf of my client P&P Builders, please find enclosed a Non-Material Amendment application in respect of the above planning permission. The LPA submission fee of £115 will be paid directly by the applicant.

PROPOSED AMENDMENTS

The table below looks to set out the various changes proposed, identifying the area of the site or proposal that the changes relate together with an explanation for the proposed change.

AREA OF CHANGE	DESCRIPTION OF AMENDMENTS	REASON FOR CHANGE
Site Plan/Enclosures	Boundary between Plot 1 and site boundary indicated as 1800mm high timber fence with a 1m wide access strip	Gated path is required to provide access to the flood light on the adjacent land. Change in material for ease of construction.
	1200mm high timber fence indicated to top of retaining wall to rear of Plots 11-16.	As noted above the path is to be retained with graded land. Amendments to the boundary to suit the levels.
	Boundary type 6 repositioned to top of retaining wall to rear of Plots 8, 9 and 10 and extended to the front of the POS	Change made to avoid safety issues (falling from height)

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	Boundary between Plot 10 and POS indicated as 1800mm high timber fence	Changes made for ease of construction.
House & Apartments Designs	Brick Type change and amended canopies	Due to availability of materials a change in facing brick is required. A change to the canopies is also proposed for ease of construction.
Bungalow Plots	Brick Type change	Due to availability of materials a change in facing brick is required.

SUPPORTING PLANS

The table below looks to set out the proposed plans together with the previously approved plans which we intend to substitute as part of this application.

ORIGINAL PLAN (AS APPROVED)	PROPOSED PLAN (AS PROPOSED)
Site Plan (0004-P8)	Site Plan (0004-P10)
2B4P House -Plots 1-2 & 5-10 (0101-P5)	2B4P House -Plots 1-2 & 5-10 (0101-P7)
2B4P House -Plots 3 & 4 (0201-P4)	2B4P House -Plots 3 & 4 (0201-P6)
3B5P House -Plots 11 & 12 (0301-P3)	3B5P House -Plots 11 & 12 (0301-P5)
2B4P House -Plots 13 & 14 (0401-P3)	2B4P House -Plots 13 & 14 (0401-P5)
2B3P Bungalow -Plots 15 & 16 (0501-P3)	2B3P Bungalow -Plots 15 & 16 (0501-P5)
1B2P Walk up flat -Plots 17-28 (0601-P6)	1B2P Walk up flat -Plots 17-28 (0601-P9)
1B2P Walk up flat -Plots 29-31 (0701-P3)	1B2P Walk up flat -Plots 29-31 (0701-P6)

JUSTIFICATION

Section 96A of the Town & Country Planning Act 1990, allows non-material amendments to be made to an existing planning permission. Welsh Government has produced a guidance note entitled 'Approving Non-Material Amendments to an Existing Planning Permission'. This sets out a series of tests to be considered in determining whether or not an application qualifies as a non-material amendment.

Paragraph 2.4 of this guidance states the following:

"There is no statutory definition of a 'non-material amendment'. This is because it depends on a number of factors such as the context of the overall scheme, the amendments being sought to the original planning permission, the specific circumstances of the site and surrounding areas, which will vary from one application to another. What may be non-material in one context may be material in another."

Paragraph 2.6 further states:

"In deciding whether or not a proposed change is non-material consideration should be given to the effect of the change, together with any previous changes made to the original planning permission."

When assessing and determining whether or not a proposed change would qualify as a non-material amendment the tests set out below apply. For clarity, I have outlined against each of the tests in the guidance note why the proposed amendments to the existing planning permission can be deemed non-material.

Paragraph 2.18 confirms that multiple amendments (no limit is specified) can be considered under the process. However, at 2.35 it is noted that LPAs must have regard to the cumulative effect of the changes, together with any previous changes made to the original permission.

Tests 1 & 2 - (a)(i) is the scale of the proposed change great enough to cause an impact different to that caused by the original approved development scheme; and

(a)(ii) would the proposed change result in a detrimental impact either visually or in terms of local amenity?

It is considered that the alterations do not result in a scheme that is materially different from that already approved and therefore the amended scheme does not result in a conflict with national or development plan policies.

The changes to the enclosures are relatively minor in the context of the wider scheme proposals and would arguably be indistinguishable to most observers. Some of the changes proposed are out of necessity due to availability of materials and safety issues.

It is not considered that the scheme will result in any adverse or additional impact upon the visual or neighbouring amenity, compared to the scheme previously approved. Most of the changes are set into the main site away from public view.

Test 3 -(b) would the interests of any third party or body be disadvantaged in planning terms?

The changes proposed will not increase the parameters of the approved development and will therefore not have a detrimental impact on the interests of any third party or body in planning terms, over and above those matters previously considered.

Test 4- (c) would the proposed change conflict with national or development plan policies?

The original consented scheme was designed in accordance with the relevant national and development plan policies. The proposed amendments do not result in a scheme which is materially different from that already approved and therefore the amended scheme does not result in a conflict with national or development plan policies.

On this basis it is considered that the proposed changes are non-material and therefore the application can be determined under S96a of the Town and County Planning Act.

I look forward to receiving confirmation of the registration of this application. I trust the above is clear, but should you have any queries, please do not hesitate to contact me.

Kind regards



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