

DELEGATED REPORT

Application No:	P/22/0254
Site Address:	Land At Junction of Lansbury Road and Heol Parc Y Lan and Land off Heol Tai Mawr Lansbury Road Gellideg Merthyr Tydfil
Development:	Non-material amendment to planning permission P/20/0288 to vary the timing of condition 5 to allow the occupation of the dwellings/flats while the play area is being constructed
Case Officer:	Caroline Pulley
Application Expiry Date:	16th November 2022

APPLICATION DETAILS & PLANNING HISTORY

This is an application for a non-material amendment to an existing planning permission for the construction of four buildings comprising 2 bungalows, 8 flats and 2 dwellings with associated landscaping, car parking and a new play area off Lansbury Road in Gellideg. The original application was approved under application P/20/0288.

The proposed amendment seeks permission to amend the timing of condition 5 which currently states:

'Prior to the beneficial occupation of the residential units hereby approved, details of the off-site play area located off Heol Tai Mawr, Gellideg shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the following:

- i) The siting, design, appearance and scale of the proposed play equipment and any other features/equipment;*
- ii) Details of the design, height and appearance of any proposed boundary enclosures;*
- iii) Details of any means of lighting*
- iv) A scheme of landscaping*

The play area shall be completed in accordance with the approved details prior to the occupation of any residential unit.

Reason - To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual

amenity and to accord with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.'

This application seeks to amend the compliance part of condition 5 to allow the occupation of the approved residential units before the approved play area is completed. It is suggested that the timing of the condition be amended to state that the play area must be constructed as approved within 3 months of the first residential use.

SITE APPRAISAL

A full site appraisal was carried out at the time the existing planning permission was determined and it is considered that there are no changes that are relevant to the proposed amendment.

PUBLICITY & CONSULTATION

This is an application under Section 96a of the Town and Country Planning Act 1990 and the existing provisions relating to statutory consultation and publicity for planning applications do not therefore apply.

Welsh Government guidance on such applications, is that it is not expected that consultation or publicity will be necessary in the majority of cases.

POLICY CONTEXT

The Local Development Plan and national planning policies identified during the consideration of the existing planning permission remain relevant in the assessment and determination of this non-material amendment application.

Welsh Government Planning Guidance: Approving Non-material Amendments to an Existing Planning Permission (July 2014)

The guidance advises that a non-material amendment will depend on 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 the surrounding area, which will vary from one application to another.

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. The guidance also identifies four tests, which local planning authorities may wish to consider when assessing and determining whether a proposed change would qualify as a non-material amendment. These four tests have been used in the determination of this application, as set out below.

In respect of conditions, the guidance advises that Section 96a of the Town and Country Planning Act 1990 enables new conditions to be imposed or existing conditions to be removed or altered providing the resultant effect is a non-material change.

REASONS FOR REACHING THE RECOMMENDATION

Section 96a of the Town and Country Planning Act 1990 provides the mechanism to approve non-material amendments to an existing planning permission.

Main Issues:

The main issue in determining this application is whether or not the proposed change to the wording of condition 5 relating to the implementation of a new play area would constitute a non-material amendment to the development approved under application reference P/20/0288.

The change proposed to the wording of condition 5 would have no impact on the scale and nature of the approved development. Additionally, given that the application merely seeks to alter the timing for the implementation of the approved play area, the interests of third parties would not be disadvantaged as a result of this proposal. The main issue is whether the condition could still be enforced. In this respect, it is noted that the amended wording as suggested by the agent would still include an appropriate time limit which would ensure that the play area is completed within 3 months of the first occupation of residential use. Whilst the amended timing of the condition may prove a little more difficult to enforce in practice, records (i.e. Council tax, housing authority records) would demonstrate when the units were first occupied and this would allow a breach to be detected. As such, condition would still continue to be enforceable and meet the six tests of planning conditions.

Other Considerations:

The following other considerations have been taken into account in considering the application and in reaching the recommendation set out below.

1. Conditions on the existing permission

Apart from condition 5, there are no other conditions on the existing planning permission that would prevent the proposed change.

2. Previous Non-material Amendments

The existing planning permission has been the subject of a previous application for non-material amendment to alter the front porches/canopies on the approved buildings. This change was approved under application P/22/0223.

3. Previous Publicity / Consultation Responses

The existing planning permission was not the subject of any previous publicity / consultation responses that relate to the proposed changes.

Conclusion

Taking into account the assessment and any other considerations identified above, it has been concluded that the proposed change to the wording of condition 5 is acceptable as a non-material amendment to the existing planning permission.

RECOMMENDATION: BE APPROVED

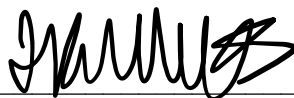
CONDITION:

1. Prior to the beneficial occupation of the residential units hereby approved, details of the off-site play area located off Heol Tai Mawr, Gellideg shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the following:
 - i) The siting, design, appearance and scale of the proposed play equipment and any other features/equipment;
 - ii) Details of the design, height and appearance of any proposed boundary enclosures;
 - iii) Details of any means of lighting
 - iv) A scheme of landscaping

The play area shall be completed in accordance with the approved details within 3 months of the first occupation of any residential unit.

Reason - To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity and to accord with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE:

28/9/22