

Our Ref: RD/FG/S23.197
Date: 28 September 2023

Neath Port Talbot County Borough Council
Development Control Section
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Neath
SA11 2HZ

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SA1 1NW

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Dear Sir or Madam,

Town & Country Planning Act 1990 (as amended)

Non-Material Amendment application to vary Conditions 2 (Soft and Hard Landscaping), 3 (Vehicle Access), and 4 (Ecological Enhancement) of planning permission P2020/0214

Land adjacent to Bryncoed Farm, Starvin Hill, Crynant, SA10 8PP

Planning Portal Reference: PP-12476169

Asbri Planning is acting as agent on behalf of Mr E. Davies and Mrs A. Davies in respect of a non-material amendment application to vary conditions 2 (Soft and Hard Landscaping), 3 (Vehicle Access), and 4 (Ecological Enhancement) of planning permission P2020/0214 at land adjacent to Bryncoed Farm, Starvin Hill, Crynant, SA10 8PP.

The following plans/documents are submitted in support of the application:

Document / Plan	Prepared by
Application Forms	Asbri Planning
Cover Letter	Asbri Planning
Site Location Plan	

Background

The site benefits from planning permission relating to the retention and completion of realignment and improvement of existing track, reduction of width and improvement of existing bridleway and associated drainage, landscaping and surfacing works including culverting and re-profiling of land at land adjacent to Bryncoed Farm, Starvin Hill, Crynant. Permission was granted on the 30th June 2023.

The Proposal

Condition 2 (Soft and Hard Landscaping) reads as follows:

"Notwithstanding the submitted information, unless a scheme of sort and hard landscaping has been submitted to and approved in writing by the Local Planning Authority within three months of the date of this planning permission, the use of the site shall cease until such a time as it has been. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development and provide details of any hard surfacing. All planting, seeding or turfing and surfacing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following its approval or the completion of the development, whichever is the sooner; and 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.

Reason: In the interests of maintaining a suitable scheme of landscaping to protect the visual amenity of the area, to maintain the special qualities of the landscape and habitats through the protection, creation and enhancement of

links between sites and their protection for amenity, landscape and biodiversity value, and to ensure the development complies with Policies SP15 and BE1 of the Neath Port Talbot Local Development Plan."

Condition 3, which relates to Vehicle Access, states:

"Within three months of the date of this planning permission, a scheme shall be submitted to and agreed in writing by the local planning authority detailing how vehicular access to the area of track shaded brown (drawing PLA1 attached to this decision notice) will be prevented. The scheme shall be implemented as agreed within 3 months of the date of the approval of details by the Local Planning Authority and retained as such thereafter."

Reason: In the interest of highway and pedestrian safety and residential amenity as this section of access is not suitable for use by vehicles having regard for its design and layout as well as its location adjacent to existing residential properties and to ensure the development complies with Policy TR2 and BE1 of the Neath Port Talbot Local Development Plan."

Finally, Condition 4 notes that:

"Unless a scheme of Ecological Enhancement Measures and an Implementation Timetable has been submitted to and approved in writing by the Local Planning Authority within three months of the date of this planning permission, the fence shall be removed until such time as it has been. The Ecological Enhancement Measures shall be undertaken in accordance with the approved scheme and Implementation Timetable and retained thereafter for the lifetime of the development."

Reason: In the interests of biodiversity and to provide Ecological Enhancement Measures on site in accordance with Policy 9 of Future Wales and so as to accord with Policy SP15 of the adopted Neath Port Talbot Local Development Plan."

Given that 3 months has now nearly passed since the approval of the planning application, it is respectfully requested that the applicant has an additional 3 months to submit the required information to discharge Conditions 2, 3, and 4.

The new conditions will therefore read as (text ~~struck through~~ represents text to be deleted and additions are in **bold**):

Condition 2

*"Notwithstanding the submitted information, unless a scheme of sort and hard landscaping has been submitted to and approved in writing by the Local Planning Authority within ~~three months~~ **six months** of the date of this planning permission, the use of the site shall cease until such a time as it has been. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development and provide details of any hard surfacing. All planting, seeding or turfing and surfacing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following its approval or the completion of the development, whichever is the sooner; and 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."*

Reason: In the interests of maintaining a suitable scheme of landscaping to protect the visual amenity of the area, to maintain the special qualities of the landscape and habitats through the protection, creation and enhancement of links between sites and their protection for amenity, landscape and biodiversity value, and to ensure the development complies with Policies SP15 and BE1 of the Neath Port Talbot Local Development Plan."

Condition 3

*"Within ~~three months~~ **six months** of the date of this planning permission, a scheme shall be submitted to and agreed in writing by the local planning authority detailing how vehicular access to the area of track shaded brown (drawing PLA1 attached to this decision notice) will be prevented. The scheme shall be implemented as agreed*

within 3 months of the date of the approval of details by the Local Planning Authority and retained as such thereafter.

Reason: In the interest of highway and pedestrian safety and residential amenity as this section of access is not suitable for use by vehicles having regard for its design and layout as well as its location adjacent to existing residential properties and to ensure the development complies with Policy TR2 and BE1 of the Neath Port Talbot Local Development Plan."

Condition 4

*"Unless a scheme of Ecological Enhancement Measures and an Implementation Timetable has been submitted to and approved in writing by the Local Planning Authority within ~~three months~~ **six months** of the date of this planning permission, the fence shall be removed until such time as it has been. The Ecological Enhancement Measures shall be undertaken in accordance with the approved scheme and Implementation Timetable and retained thereafter for the lifetime of the development.*

Reason: In the interests of biodiversity and to provide Ecological Enhancement Measures on site in accordance with Policy 9 of Future Wales and so as to accord with Policy SP15 of the adopted Neath Port Talbot Local Development Plan."

Appraisal

Section 96a of the Town & Country Planning Act 1990 allows non-material amendments to be made to an existing planning permission. This was brought into effect on the 1st September 2014. The Welsh Government has produced a guidance note entitled 'Approving Non-material Amendments to an Existing Planning Permission' which sets out four tests to be considered in determining whether an application qualifies as a non-material amendment.

It is, therefore, necessary to assess the proposed amendment against the four tests in turn:

(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?

(b) would the interests of any third party or body be disadvantaged in planning terms; or,

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

(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

The scale of the proposed changes is not great enough to cause an impact different to that caused by the originally approved scheme as they merely involve extending the allocated time to submit the information required to discharge Conditions 2, 3, and 4. No changes to plans are proposed.

In light of the above, the scale of development will not cause an impact different to that caused by the original approved development scheme.

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

The proposed changes will not result in a detrimental impact either visually or in terms of local amenity given that the amendments relate to the allotted time period to submit additional information in support of the approved planning application.

The proposal is therefore considered to constitute a non-material amendment and the alteration will not result in a detrimental visual impact or in terms of local amenity.

(b) would the interests of any third party or body be disadvantaged in planning terms; or

Similar to the points discussed under points (a) and (b), the proposed amendments will not affect any third party or body as they only relate to amending the trigger on the conditions. The changes to the submission deadline of Conditions 2, 3, and 4 will not impact the interests.

(c) would the proposed change conflict with national or development plan policies

Given the minor nature of the proposed amendment, there is unquestionably no conflict with planning policy on any scale.

The Welsh Government Planning Guidance for 'Approving Non-Material Amendments to an Existing Planning Permission' (2014) confirms that Section 96A of the TCPA enables existing conditions to be altered providing the resultant effect is non-material change. In this instance the proposals to amend the triggers and wording on the conditions as suggested above has been discussed with the LPA. The purpose of the amendment is to enable sufficient time to gather, submit and approve the requested information.

I have liaised with the previous agent, Mr. Ian Jones from Dimension Drawing, who has advised that the main reason for not being able to make the discharge of condition submissions to date, has been due to the lack of response from various consultants. As you will be aware, the summer months since this application was approved is the optimum time for undertaking ecological surveys, and therefore ecologists and landscape designers tend to be very busy during this period. The detail to prevent access of the section of highlighted track can be produced quickly, however the submission is delayed in order that all three conditions are dealt with together in a holistic and neat manner.

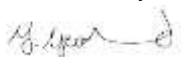
Since being instructed, Asbri has sought quotations and timescales from respective consultants with a view to commissioning the detail and submitting the discharge of condition applications as soon as we are in a position to do so. We are continuing to liaise with Mr. Ian Jones from Dimension Drawings to produce the required drawings also.

In light of the above, it is respectfully requested that Neath Port Talbot County Borough Council grant approval of the non-material amendment to vary Conditions 2 (Soft and Hard Landscaping), 3 (Vehicle Access), and 4 (Ecological Enhancement) of planning permission P2020/0214 at land adjacent to Bryncoed Farm, Starvin Hill, Crynant, SA10 8PP.

In terms of the planning fee, £115.00 will be paid to the Authority under separate cover.

I trust this, and the enclosed is satisfactory in order to approve the application. If you require any further information please do not hesitate to contact.

Yours Sincerely,



Ffion Goodland

Graduate Planner

Enc: As above