

Agenda



Planning Committee

Date: Wednesday, 2 December 2015

Time: 10.00 am

Venue: Council Chambers, Civic Centre, Newport

To: Councillors P Huntley (Chair), C Jenkins, M Al-Nuami, V Delahaye, D Fouweather, M Linton, J Mudd, R White, O Ali and K Critchley

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<http://livepreview.newport.gov.uk/documents/Council-and-Democracy/About-the-council/Planning-Code-of-Conduct/Planning-Code-of-Practice-Final-version-27-May-2015.pdf>

Copies of the Planning Code of Practice will be available at the meeting.

Part 1

Item	Wards Affected
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meetings held on 4 and 19 November 2015</u> (Pages 3 - 12)	All Wards
4. <u>Development Management: Planning Application Schedule</u> (Pages 13 - 86)	All Wards
5. <u>Appeal Decisions</u> (Pages 87 - 100)	Allt-yr-yn

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Date of Issue: Wednesday, 25 November 2015

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Minutes



Planning Committee

Date: 4 November 2015

Time: 10.00 am

Present: Councillors P Huntley (Chair), C Jenkins, M Al-Nuiami, V Delahaye, D Fouweather, M Linton, R White and O Ali

S Williams (West Area Applications Manager), J Davidson (East Area Applications Manager), L Jones (Principal Planning Officer), S Herbert (Senior Traffic Transport & Development Officer), S Davies (Strategy & Development Manager), A Lowe (Planning Contributions Manager), J Evans (Senior Solicitor) and M Durkin (Democratic Services Officer)

Apologies: Councillors J Mudd and K Critchley

1. Minutes

The Minutes of the meetings held on 7, 14 and 22 October, 2015 were submitted.

Resolved

That the Minutes of the meetings held on 7, 14 and 22 October, 2015 be taken as read and confirmed.

2. Development Management: Planning Application Schedule

Resolved

(1) That decisions be recorded as shown on the Planning Applications Schedule attached as an Appendix.

(2) That the Development Services Manager be authorised to draft any amendments to/additional conditions or reasons for refusal in respect of the Planning Applications Schedule, attached

3. Appeal Decisions

Planning Application Appeal – Allowed

Application 14/1275 – Court Farm, Magor Road – proposed development of solar photovoltaic panel (-10mwp) and associated works, access tracks, security fencing and cameras, affecting public right of way 394/59 and 394/60 Llanmartin (resubmission following refusal of 13/1203)

Enforcement Appeal – Part Allowed/Part Dismissed

Application E13/0502 –Broad Towers, Broadway, Caerleon - High Hedge

Resolved

That the appeal decisions be accepted as a basis for informing future decisions of the Planning Committee.

4. S106 Planning Obligations and City Centre Residential Development

Members considered a report detailing progress of residential development within the City Centre (with associated S106 planning obligation requirements), as requested at a previous meeting.

At present, very few residential developments (with associated S106 planning obligations) had been implemented in the City Centre. Section 106 planning obligation requests were contributing to making development unviable. This was verified by both the Three Dragons Viability Toolkit and the Community Infrastructure Levy Viability Appraisal (April 2015).

S106 legal agreements generally required developers to either carry out works or contribute financially towards measures that mitigated the impact of the development i.e. to make an unacceptable proposal acceptable in land use planning terms. However, economic viability was a key influence on the potential scope and scale of planning obligations. As such, viability became an important material consideration in S106 negotiations.

In recent years, it had not been possible for City Centre residential developments to meet all the S106 planning obligation requirements and remain economically viable. Consequently, decisions on the level of S106 contributions had been based on reduced sums that could be demonstrated as reasonable.

When considering the requirement for S106 planning obligations, it was important to consider both the viability of the development and the wider benefits to the City Centre and whether these issues outweighed the harm caused by the loss of S106 planning obligations.

Resolved

To note the level of delivery of residential development in the City Centre (with associated S106 planning obligation requirements).

(Councillors Ali and Al-Nuaimi left the meeting during consideration of this item)

5. Additional Planning Committee

The Chair informed Members that there was a need for an additional Planning Committee meeting to consider Application 15/0803 relating to the demolition and redevelopment of the former Sainsburys site.

Resolved

That Members be consulted regarding their availability on 18 or 19 November 2015.

Appendix

PLANNING COMMITTEE – 4 NOVEMBER, 2015

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
14/1283	<p>Lysaght Development Site, Lysaght Way</p> <p>Construction of building containing 16No. apartments and associated works</p>	Lliswerry	<p>Ms C Banks spoke objecting to the proposal.</p> <p>Mr J Wilks, the Agent on behalf of the applicant spoke in support of the application</p> <p>Councillors Jeavons and Morris, Lliswerry Ward Members spoke on the proposal, having concerns regarding access and egress to the proposed site and requested a site visit.</p>	<p><u>Site Inspection</u></p> <p><u>Reason</u></p> <p>To observe access/egress to the proposed site</p>
15/0393	<p>Land to the west of Cefn Llogell Farm, Cardiff Road</p> <p>Construction of a ground-mounted solar PV generation project (3.8MW) and associated works (affecting public right of way 390/5 and 390/8)</p>	Marshfield	<p>HRIH referred to late representations previously circulated and that Committee had agreed to reconsider this application, refused on 7 October, 2015 in the light of the appeal decision relating to Court Farm, Magor Road for a proposed development of solar photovoltaic panels which was considered to constitute a material consideration to the determination of this application.</p> <p>Mr N Hallett, Keep us Rural spoke objecting to the proposal.</p> <p>Mr R Williams, the Agent on behalf of the Applicant spoke in support of the application.</p>	<p>Refused</p> <p><u>Reasons</u></p> <p>1. The proposal will result in the loss of the best and most versatile agricultural land without the applicant sufficiently demonstrating that viable brownfield sites are not available to accommodate the proposal. The</p>

			<p>Councillor White, Marshfield Ward Member spoke objecting to the proposal.</p>	<p>proposal is contrary to paragraph 4.10.1 of Planning Policy Wales and policy GP5 of the Newport Local Development Plan (2011-2026)</p> <p>2. The proposal will have a detrimental impact on the visual amenities of users viewing the site and the wider area from the adjacent public right of way (390/8), contrary to policy GP2 of the Newport Local Development Plan (2011-2026)</p>
15/0819	<p>Land north of and adjacent to 58 Clevedon Road</p> <p>Development of 17No. apartments and 1No. bungalow and associated works</p>	Beechwood	<p>HRIH referred to late representations previously circulated.</p> <p>Mr R Harper spoke objecting to the proposal.</p> <p>Ms L Hughson-Smith, the Agent on behalf of the Applicant spoke in support of the application.</p> <p>Councillors Davies and Spencer spoke on this application.</p> <p><i>(Councillor Jenkins left the meeting during consideration of this item)</i> <i>(Councillor Linton left the meeting after consideration</i></p>	<p>Granted with conditions subject to a S106 Legal Agreement with delegated powers to refuse the application in the event that the agreement is not signed within 3 months of the date of the decision.</p>

			<i>of this item)</i>	
15/0515	4-5 Market Street Change of use of ground floor from Sui Generis (nightclub) use to A3 use. Conversion of first, second, third and fourth floor from offices to 9No.flats and the construction of an additional floor to create 2No. flats (11No. on total)	Stow Hill	Councillor Al-Nuaimi, Stow Hill Ward Member welcomed the proposal in principle.	Granted with conditions including a condition on ventilation
15/0840	Land east of and adjacent to 14A Glen Coed Bungalow, Bank Street Erection of two dwellings	St Julians	<i>(The Chair, Councillor Huntley declared a personal interest in this application and left the meeting. Councillor Delahaye took the Chair)</i>	Granted with conditions subject to a S106 Legal Agreement with delegated powers to refuse the application in the event that the agreement is not signed within 3 months of the date of the decision.
15/1009	Bassaleg School, Forge Road Replacement boundary fence and gates	Graig	<i>(The Chair returned to the meeting after consideration of the above application and took the Chair)</i> <i>(Councillor White declared an interest as a Bassaleg School Governor and left the meeting for consideration of this item)</i> <i>(Councillor Fouweather left the meeting during consideration of this item)</i>	Granted with conditions

15/1141	Ringland Primary School, Dunstable Road Siting of storage container	Ringland Road		Granted with conditions (including a condition limiting the life of the permission to avoid the building falling into a poor visual state and becoming an eyesore).
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Minutes



Planning Committee

Date: 19 November 2015

Time: 10.00 am

Present: Councillors P Huntley (Chair), C Jenkins, M Al-Nuaimi, V Delahaye and R White

B Owen (Head of Regeneration, Investment & Housing), J Davidson (East Area Development Manager), G Roberts (Principal Planning Officer), S Herbert (Senior Traffic Transport & Development Officer), J Evans (Senior Solicitor) and M Durkin (Democratic Services Officer)

Apologies: Councillors D Fouweather, M Linton, J Mudd, O Ali and K Critchley

1. Development Management: Planning Application Schedule

Resolved

(1) That decisions be recorded as shown on the Planning Applications Schedule attached as an Appendix.

(2) That the Development Services Manager be authorised to draft any amendments to/additional conditions or reasons for refusal in respect of the Planning Applications Schedule, attached.

Appendix

PLANNING COMMITTEE – 19 NOVEMBER, 2015

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
15/0803	<p>Former Sainsbury site, Shaftesbury Street</p> <p>Demolition and redevelopment of the site to provide a mixed use development including student accommodation of up to 601 No. bedrooms, up to 142 No. dwellings (Use Class C3), a hotel incorporating up to 84 No. bedrooms (Use Class C1), up to 406M² convenience goods retail floorspace (Use Class A1), up to 186M² café/restaurant floorspace (Use Class A3), up to 464M² of Health facilities, including a pharmacy of up to 75M² (Use Class D1 and A1) with associated infrastructure including vehicular access and servicing areas, parking spaces for cars, cycles, motor cycles and mobility scooters, flood defence works including alteration of ground levels and landscaping and public realm works including pedestrian and cycle routes and</p>	Shaftesbury	<p>HRIH reported that:-</p> <ul style="list-style-type: none"> • The proposed number of dwellings was 142 and not 144 including 28 affordable units. • S106 contributions included a sum of £74,350 for Newport High School. • Tree conditions 2-3 were to be deleted and replaced by a directive condition and condition 4 (arboriculturalist) altered to reflect information submitted by the Applicant. • Gwent Wildlife Trust no longer objected to the development. <p>Mr M Clinton, the Agent on behalf of the Applicant spoke in support of the application.</p>	<p>Granted with conditions subject to a Section 106 Legal Agreement with delegated powers to refuse permission should the agreement not be signed within 3 months of a resolution to grant permission</p>

	connections (Outline)			
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Report

Planning Committee

Part 1

Date: 2 December 2015

Item No: 4

Subject **Planning Application Schedule**

Purpose To take decisions on items presented on the attached schedule

Author Head of Regeneration, Investment and Housing

Ward As indicated on the schedule

Summary The Planning Committee has delegated powers to take decisions in relation to planning applications. The reports contained in this schedule assess the proposed development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an Officer recommendation to the Planning Committee on whether or not Officers consider planning permission should be granted (with suggested planning conditions where applicable), or refused (with suggested reasons for refusal).

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Committee to make a decision on each application in the attached schedule having weighed up the various material planning considerations.

The decisions made are expected to benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

Proposal

1. To resolve decisions as shown on the attached schedule.
2. To authorise the Head of Regeneration, Investment and Housing to draft any amendments to, additional conditions or reasons for refusal in respect of the Planning Applications Schedule attached

Action by Planning Committee

Timetable Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

The Officer recommendations detailed in this report are made following consultation as set out in the Council's approved policy on planning consultation and in accordance with legal requirements.

Background

The reports contained in this schedule assess the proposed development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an Officer recommendation to the Planning Committee on whether or not Officers consider planning permission should be granted (with suggested planning conditions where applicable), or refused (with suggested reasons for refusal).

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Committee to make a decision on each application in the attached schedule having weighed up the various material planning considerations.

The decisions made are expected to benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

Applications can be granted subject to planning conditions. Conditions must meet all of the following criteria:

- Necessary;
- Relevant to planning legislation (i.e. a planning consideration);
- Relevant to the proposed development in question;
- Precise;
- Enforceable; and
- Reasonable in all other respects.

Applications can be granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). This secures planning obligations to offset the impacts of the proposed development. However, in order for these planning obligations to be lawful, they must meet all of the following criteria:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The applicant has a statutory right of appeal against the refusal of permission in most cases, or against the imposition of planning conditions. There is no third party right of appeal against a decision.

Work is carried out by existing staff and there are no staffing issues. It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where the Planning Committee refuses an application against Officer advice, Members will be required to assist in defending their decision at appeal.

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

Financial Summary

The cost of determining planning applications and defending decisions at any subsequent appeal is met by existing budgets and partially offset by statutory planning application fees. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

Risks

Three main risks are identified in relating to the determination of planning applications by Planning Committee: decisions being overturned at appeal; appeals being lodged for failing to determine applications within the statutory time period; and judicial review.

An appeal can be lodged by the applicant if permission is refused or if conditions are imposed. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with the type of major development being presented to the Planning Committee, which often requires a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low.

A decision can be challenged in the Courts via a judicial review where an interested party is dissatisfied with the way the planning system has worked or how a Council has made a planning decision. A judicial review can be lodged if a decision has been made without taking into account a relevant planning consideration, if a decision is made taking into account an irrelevant consideration, or if the decision is irrational or perverse. If the Council loses the judicial review, it is at risk of having to pay the claimant's full costs in bringing the challenge, in addition to the Council's own costs in defending its decision. In the event of a successful challenge, the planning permission would normally be quashed and remitted back to the Council for reconsideration. If the Council wins, its costs would normally be met by the claimant who brought the unsuccessful challenge. Defending judicial reviews involves considerable officer time, legal advice, and instructing a barrister, and is a very expensive process. In addition to the financial implications, the Council's reputation may be harmed.

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry and judicial review can be high.

Risk	Impact of risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect?	Who is responsible for dealing with the risk?
Decisions challenged at appeal and costs awarded against the Council.	M	L	Ensure reasons for refusal can be defended at appeal.	Planning Committee
			Ensure planning conditions imposed meet the tests set out in Circular 016/2014.	Planning Committee
			Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Development Services Manager and Senior Legal Officer
			Ensure appeal timetables are adhered to.	Development Services Manager

Risk	Impact of risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect?	Who is responsible for dealing with the risk?
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Planning Committee Development Services Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee Development Services Manager

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The Council's Corporate Plan 2012-2017 identifies five corporate aims: being a Caring City; a Fairer City; A Learning and Working City; A Greener and Healthier City; and a Safer City. Key priority outcomes include ensuring people live in sustainable communities; enabling people to lead independent lives; ensuring decisions are fair; improving the life-chances of children and young people; creating a strong and confident local economy; improving the attractiveness of the City; promoting environmental sustainability; ensuring people live in safe and inclusive communities; and making Newport a vibrant and welcoming place to visit and enjoy.

Through development management decisions, good quality development is encouraged and the wrong development in the wrong places is resisted. Planning decisions can therefore contribute directly and indirectly to these priority outcomes by helping to deliver sustainable communities and affordable housing; allowing adaptations to allow people to remain in their homes; improving energy efficiency standards; securing appropriate Planning Contributions to offset the demands of new development to enable the expansion and improvement of our schools and leisure facilities; enabling economic recovery, tourism and job creation; tackling dangerous structures and unsightly land and buildings; bringing empty properties back into use; and ensuring high quality 'place-making'.

The Corporate Plan links to other strategies and plans, the main ones being:

- Single Integrated Plan;
- Local Development Plan 2011-2026 (Adopted January 2015);

The Newport Single Integrated Plan (SIP) is the defining statement of strategic planning intent for the next 3 years. It identifies key priorities for improving the City. Its vision is: "*Working together to create a proud and prosperous City with opportunities for all*"

The Single Integrated Plan has six priority themes, which are:

- Skills and Work
- Economic Opportunity
- Health and Wellbeing
- Safe and Cohesive Communities
- City Centre
- Alcohol and Substance Misuse

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 all planning applications must be determined in accordance with the Newport Local Development Plan (Adopted January

2015) unless material considerations indicate otherwise. Planning decisions are therefore based primarily on this core Council policy.

Options Available

- 1) To determine the application in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate);
- 2) To grant or refuse planning permission against Officer recommendation (in which case the Planning Committee's reasons for its decision must be clearly minuted);
- 3) To decide to carry out a site visit, either by the Site Inspection Sub-Committee or by full Planning Committee (in which case the reason for the site visit must be minuted).

Preferred Option and Why

To determine the application in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate).

Comments of Chief Financial Officer

In the normal course of events, there should be no specific financial implications arising from the determination of planning applications.

There is always a risk of a planning decision being challenged at appeal. This is especially the case where the Committee makes a decision contrary to the advice of Planning Officers or where in making its decision, the Committee takes into account matters which are not relevant planning considerations. These costs can be very considerable, especially where the planning application concerned is large or complex or the appeal process is likely to be protracted.

Members of the Planning Committee should be mindful that the costs of defending appeals and any award of costs against the Council following a successful appeal must be met by the taxpayers of Newport.

There is no provision in the Council's budget for such costs and as such, compensating savings in services would be required to offset any such costs that were incurred as a result of a successful appeal.

Comments of Monitoring Officer

Planning Committee are required to have regard to the Officer advice and recommendations set out in the Application Schedule, the relevant planning policy context and all other material planning considerations. If Members are minded not to accept the Officer recommendation, then they must have sustainable planning reasons for their decisions.

Staffing Implications: Comments of Head of People and Business Change

Development Management work is undertaken by an in-house team and therefore there are no staffing implications arising from this report. Officer recommendations have been based on adopted planning policy which aligns with the Single Integrated Plan and the Council's Corporate Plan objectives.

Local issues

Ward Members were notified of planning applications in accordance with the Council's adopted policy on planning consultation. Any comments made regarding a specific planning application are recorded in the report in the attached schedule

Equalities Impact Assessment

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal

obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

An Equality Impact Assessment for delivery of the Development Management service has been completed and can be viewed on the Council's website.

Children and Families (Wales) Measure

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

Consultation

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

Background Papers

NATIONAL POLICY

Planning Policy Wales (PPW) Edition 7 (July 2014)

Minerals Planning Policy Wales (December 2000)

PPW Technical Advice Notes (TAN):

TAN 1: Joint Housing Land Availability Studies (2006)

TAN 2: Planning and Affordable Housing (2006)

TAN 3: Simplified Planning Zones (1996)

TAN 4: Retailing and Town Centres (1996)

TAN 5: Nature Conservation and Planning (2009)

TAN 6: Planning for Sustainable Rural Communities (2010)

TAN 7: Outdoor Advertisement Control (1996)

TAN 8: Renewable Energy (2005)

TAN 9: Enforcement of Planning Control (1997)

TAN 10: Tree Preservation Orders (1997)

TAN 11: Noise (1997)

TAN 12: Design (2014)

TAN 13: Tourism (1997)

TAN 14: Coastal Planning (1998)

TAN 15: Development and Flood Risk (2004)

TAN 16: Sport, Recreation and Open Space (2009)

TAN 18: Transport (2007)

TAN 19: Telecommunications (2002)

TAN 20: The Welsh Language: Unitary Development Plans and Planning Control (2013)

TAN 21: Waste (2014)

TAN 23: Economic Development (2014)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)

Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

Welsh Government Circular 016/2014 on planning conditions

LOCAL POLICY

Newport Local Development Plan (LDP) 2011-2026 (Adopted January 2015)

Supplementary Planning Guidance (SPG):

- Affordable Housing (adopted August 2015)
- Archaeology & Archaeologically Sensitive Areas (adopted August 2015)
- Flat Conversions (adopted August 2015)
- House Extensions and Domestic Outbuildings (adopted August 2015)
- Houses in Multiple Occupation (HMOs) (adopted August 2015)
- New dwellings (adopted August 2015)
- Parking Standards (adopted August 2015)
- Planning Obligations (adopted August 2015)
- Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)
- Wildlife and Development (adopted August 2015)

OTHER

The Colliers International Retail Study (July 2010) is not adopted policy but is a material consideration in making planning decisions.

The Economic Development Strategy is a material planning consideration.

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended by the Town and Country Planning (Environmental Impact Assessment) (Amendment) (Wales) Regulations 2008 are relevant to the recommendations made.

Other documents and plans relevant to specific planning applications are detailed at the end of each application report in the attached schedule

Dated: 2nd December 2015

APPLICATION DETAILS

No: 14/1243 Ward: GAER
Type: FULL
Expiry Date: 02-MAR-2015
Applicant: PASQUALE / SERGIO GEMELLI
Site: ROTHBURY HOUSE, 10, STOW PARK CIRCLE, NEWPORT, NP20 4HE
Proposal: PROPOSED CHANGE OF USE FROM NURSING HOME TO RESTAURANT WITH LETTING ROOMS TO UPPER FLOORS (NO MATERIAL ALTERATIONS)

Recommendation: REFUSED

1. INTRODUCTION

- 1.1 This application seeks full planning permission to change the use of a former nursing home to a restaurant on the ground floor and letting rooms on the upper floors. The building, known as Rothbury House, is a grade II listed building and is a large detached property in a Jacobean style. It is also located within the Stow Park Conservation Area. It was built around 1880 and was historically occupied as a dwelling. It was converted to a nursing home in the late 20th century. Planning permission was granted in March 2013 for the conversion to 7 No. residential units, this permission is extant.

2. RELEVANT SITE HISTORY

08/1357	CHANGE OF USE OF PROPERTY FROM RESIDENTIAL HOME (CLASS C2) TO 10NO. RESIDENTIAL FLATS (CLASS C3) INCLUDING PART DEMOLITION AND CONSTRUCTION OF TWO STOREY REAR EXTENSION AND EXTENDED CAR PARK	Refused
09/1247	CHANGE OF USE OF PROPERTY FROM RESIDENTIAL HOME (CLASS C2) TO CREATE 7NO.RESIDENTIAL UNITS (CLASS C3) INCLUDING DEMOLITION OF REAR COACHHOUSE / WORKSHOP AND PART DEMOLITION OF SINGLE STOREY REAR ANNEXE TOGETHER WITH NEW ROOF FORM TO ANNEXE AND CONSTRUCTION OF DETACHED SINGLE STOREY BUILDING, WIDENING OF FRONT DRIVEWAY, ALTERATIONS TO REAR BOUNDARY WALL AND PROVISION OF NEW BIN STORES	Granted with conditions
12/0281	LISTED BUILDING CONSENT FOR INTERNAL CHANGES AND REFURBISHMENT TO ALLOW CONVERSION TO APARTMENTS, DEMOLITION OF "LEAN-TO" TO REAR OF EAST PORCH, CONSTRUCTION OF NEW SIDE PORCH, DEMOLITION OF "COACH HOUSE / WORKSHOP", DEMOLITION OF FLAT ROOF ANNEXE AND ADDITION OF HIPPED PITCHED ROOF TO SINGLE STOREY FLAT ROOF ANNEXE	Granted with conditions
14/1282	LISTED BUILDING CONSENT FOR PROPOSED WORK TO ROOF OF LISTED BUILDING, TO INCLUDE REPLACEMENT SLATES, BATTENS AND ROOFING FELT, CEILING INSULATION ALSO TO BE INSTALLED	Under consideration

3. POLICY CONTEXT

3.1 *Newport Local Development Plan 2011-2026 (Adopted January 2015)*

Policy SP1 (Sustainability) favours proposals which make a positive contribution to sustainable development.

Policy SP9 (Conservation of the Natural, Historic and Built Environment) protects habitats and species as well as Newport's listed buildings, conservation areas, historic parks and gardens, scheduled ancient monuments, archaeologically sensitive areas and landscape designated as being of outstanding historic interest.

Policy SP18 (Urban Regeneration) supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.

Policy GP2 (General Development Principles – General Amenity) states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.

Policy GP4 (General Development Principles – Highways and Accessibility) states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

Policy GP5 (General Development Principles – Natural Environment) states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.

Policy GP6 (General Development Principles – Quality of Design) states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

Policy GP7 (General Development Principles – Environmental Protection and Public Health) states that development will not be permitted which would cause or result in unacceptable harm to health.

Policy CE5 (Locally Listed Buildings and Sites) notes a Local List of buildings and sites of local significance will be produced and protected from demolition and inappropriate development.

Policy CE7 (Conservation Areas) sets out the criteria that development proposals within or adjacent to the conservation area must comply with in order to preserve or enhance the conservation area.

Policy T4 (Parking) states that development will be expected to provide appropriate levels of parking.

4. CONSULTATIONS

4.1 STOW PARK CONSERVATION SOCIETY: No response.

4.2 WALES AND WEST UTILITIES: Advise of apparatus in the area.

4.3 NEWPORT ACCESS GROUP: No response.

4.4 DWR CYMRU – WELSH WATER: No objection, request a condition to ensure no net increase of surface water is discharged to the public sewerage system.

- 4.5 WESTERN POWER DISTRIBUTION: Advise of apparatus in the area.
- 4.6 STOW HILL COMMUNITIES FIRST: No response.
- 5. INTERNAL COUNCIL ADVICE**
- 5.1 HEAD OF LAW AND STANDARDS (ENV. HEALTH): No objection subject to conditions restricting the noise from plant equipment and requiring the installation of an extraction system in accordance with details first agreed.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The property benefits from an existing access. It is considered that the proposal will likely lead to intensification of use of the access during certain times of the day such as the evening. This justifies a significant improvement to the access which should take the form of increased visibility and increased access width. The applicant must submit a plan which demonstrates the existing level of visibility and potential improvements to improve visibility. The access should also be increased in width to 4.5m for the first 10m and 4.1 m for the remainder of its shared length to allow for two way traffic flow in and out of the site.
- 5.2.1 In terms of the impact on Stow Park Circle itself, the property currently has a lawful use as a nursing home. Whilst the property is currently not in use in theory it could reopen as a nursing home at any time. As part of any application we have to consider the existing use and then determine whether there would be any detrimental impact on highway safety as a result of any changes. In this instance it's not considered that the proposal would have a detrimental impact on the local highway network subject to suitable access arrangements and all parking associated with the use being provided in accordance with current standards and being located solely within the boundary of the property.
- 5.2.2 *Following the submission of a parking layout plan:* In order to consider the parking layout I require full justification in how the number of spaces were determined. This should take the form of how the number of spaces were calculated based upon the requirements of the Newport City Council Parking Standards 2012.
- 5.2.3 The layout doesn't include any operational area for commercial vehicles and unless this can be provided I would oppose the application.
- 5.2.4 I acknowledge that the applicant proposes to widen the access to allow for two way traffic flow.
- 5.2.5 The alterations to the hedgerow will improve visibility however I cannot determine whether the improvement is sufficient without the submission of a drawing to an accurate scale which will allow me to determine the distance achievable.
- 5.3 HISTORIC BUILDINGS AND CONSERVATION OFFICER: Given the long term vacancy of the building, I am in principle supportive of attempts to find a new use for the building which would minimise alteration to its original fabric and create potential for sensitive repair and restoration works. The works described within the application are minor and would not affect the special character of the building, though I am mindful that further works are likely to be required and there is likely to be a need for future listed building consent applications. However, such applications can be assessed separately and it seems that considerably less alteration would be required than if previous approvals for residential apartments were to be implemented.
- 5.3.1 One aspect of the development which is unclear from the information submitted is whether amendments will be needed to access and parking arrangements. Given the importance of the garden to the setting of the listed building and the character of the conservation area; a detailed site plan needs to be submitted. I'm also unsure of the exact nature of proposals to use the kitchens for the production of cakes for other properties; the impact of delivery vehicles needs to be properly considered.

- 5.3.2 Aside from the above, I note local residents concerns regarding the potential for traffic generation, noise and disturbance. I can see that an improperly managed facility might give rise to problems in this residential area, and the residential nature of Stow Park is very much an important aspect of the historic character of the conservation area. However, the building was previously used as a nursing home so I cannot object to a commercial use in principle. I am hopeful that concerns can be addressed by appropriate conditions or other relevant legislation.
- 5.3.3 *Following the submission of a parking layout plan:* These suggest that the access to the site would be widened and a large new parking area provided to the front of the site. In principle, the relocation of parking from immediately in front of the listed building would be welcome as it could potentially enhance the setting of the listed building. If sufficiently well-screened from the road and adjacent properties, a new parking area to the front of the site might not significantly impact on the character of the conservation area. Unfortunately the plans submitted show little detail of landscaping and suggest very large areas of hard surfacing which would be highly visible from the road through the widened entrance. No space is shown for planting to mitigate this.
- 5.3.4 As such, whilst I do not feel that sufficient information has been provided to properly assess the impact of the development on the character of the conservation area and the setting of the listed building, I am concerned that both of these would be substantially harmed. This harm has not been justified as we have no clear proposals for the work required to the listed building. I am therefore unable to support this application.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No objection following reconsultation of parking and access plan, but refers to previous comments. If the scheme is agreed with the road widening what would the applicant propose for mitigation in terms of the loss of the horse chestnut, bearing in mind this is a Conservation Area and the chestnut tree is visible within the street scene.
- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): Satisfied with the bat mitigation strategy. If planning permission is granted they would need to apply for a licence from Natural Resources Wales (NRW) to undertake the works and a detailed method statement would be required to be submitted to NRW prior to the commencement of any works. If a licence is granted monitoring of the mitigation bat box would be required.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (46 properties), two site notices displayed; and a press notice published in South Wales Argus. One letter of support and 37 representations from 31 addresses objecting to the application.

6.1.1 SUPPORT

Pleased to see a good quality restaurant in this part of Newport, it would do no harm to the status of the City.

6.1.2 OBJECTION

Traffic:

- Increased volumes, including coaches, limousines, cars and taxis;
- Unsafe parking on the road;
- Late night vehicle movements;
- Vision splays should be provided for the increase in traffic volume;
- Existing problems in the area including Stow Park Circle and Cae Perllan Road being used as a short cut, speeding, traffic travelling in an anti-clockwise direction, illicit and unsafe parking and surges in volume due to events at the Registry Office. The proposal would add to these problems;
- The traffic associated with the former nursing home was limited to daytime and early evening hours, a restaurant would generate more traffic at night including taxi movements.

- Commercial vehicles would block the one way system;
- Lack of information to demonstrate adequate parking arrangements;
- The previous application required the access to be widened

Noise:

- Increased noise and disturbance in a peaceful and residential area as a result of late night revellers, vehicle revving and door slamming, people/smokers outside;
- Late night music;
- Car movements;
- Extractor fans and air conditioning units would be required, running on a 24/7 basis.

General:

- Smells and odour from cooking;
- Increase in litter generation;
- Increase in anti-social behaviour
- The proposal neither preserves or enhances the character of the Conservation Area;
- If the boundary between the application site a 8 Stow Park Circle is left open then it would lead to trespass and unsociable behaviour on the neighbouring property;
- Whilst the building has been used as a business premise before there is a difference between the former care home and a restaurant.
- Elderly care homes in the area, we should be mindful of their needs for peace and tranquility;
- The proposal would be contrary to the Councils own identified need for an additional 800 residences;
- The requirements to widen the access would result in a loss of residential garden fronting the property, it would be visible to passing public and place the protected Horse Chestnut on the front boundary at risk of loss;
- No details of signage, neon signs not appropriate in residential area;
- Existing problems with waste water and sewerage disposal resulting in odour/sewer/drain blockage complaints;
- No reference is made to the Victorian coach house;
- No lighting details are provided, it might cause a nuisance;
- Liquor and music licences will surely follow;
- No waste management proposals are provided;
- The use would generate large amounts of laundry, no indication of how this would be dealt with but it could lead to an increase in traffic levels;
- No disabled access, there are steps to the front of the property and no lift to the upper floors;
- Rothbury House is listed and the change of use application will have an effect on the exterior of the building;
- Neighbours in close proximity will find their privacy compromised;
- The site plan is inaccurate and not to scale;
- Works have been undertaken contrary to the application form;
- Why have CADW not been consulted;
- The existing lawn in front of the house would be converted to hardstanding to accommodate parking;
- Not enough space within the house for a dance floor so there would have to be a marquee within the grounds;
- If the property does not meet the applicants requirements then it could be sold on.

6.1.3 13 representations (1 address) raising queries on the following:

- Bat survey
- Activities on site
- Filming works by the BBC
- Owls
- Health and safety

6.1.4 A reconsultation was undertaken in September 2015, a further 14 responses were received and 4 letters of support were received in October/November.

6.1.5 SUPPORT

- Do not agree that conversion of the property to flats will be preferential to a luxury hotel. Residential accommodation would be occupied by a series of unknown families with traffic, disturbance and anti social behaviour;
- It is a hardly a commercial venture with few commercial comings and goings;
- This is an opportunity to have a grade II listed building restored to its former glory;
- Understand that dining would be for small numbers and expensive 4/5 star suites are unlikely to attract rowdy or undisciplined behaviour;
- The opportunity should not be lost to Newport as a growing city as opposed to travelling to Cardiff or Bristol;
- The City is lacking a prestigious exclusive hotel which this application offers;
- The area cannot be claimed as residential when the registry office is on the adjacent site and the area consists of nursing homes or offices;
- The proposal offers in house courses on cooking which will create a centre of culinary excellence unique to the local economy and compliments the regeneration of Newport;
- Those who graduate would be able to contribute to the success of other Newport hotels, restaurants or start their own new businesses;
- It could become a place of business dining bringing more success to the local economy.

6.1.6 OBJECTION

The following comments were received in addition to those raised in paragraph 6.1.2

- Car parking plan shows parking beyond the boundary wall. The parking location is on a steep gradient between the adjacent property. A new boundary wall would be required to support spaces 11 and 17;
- The removal of any hedgerow would be unsightly;
- No provision for large vehicles and there is no space for turning within the site;
- The removal of existing lawn would affect existing amenity;
- Access for emergency vehicles would be very difficult;
- Reference to problems experienced by residents of Llanthewy Road living close to the former Burleigh Academy. This should be taken into consideration when making a decision on this application;
- Question the reliability of the plans of the proposed parking area;
- Two lime trees on the Western edge of the driveway have been omitted from the plans;
- The new car park will create more surface water run off;
- No fire escape for the first and second floors is provided;
- Further issues could influence the effectiveness and adequacy of visibility from the left hand side of the access: 30 mph speed limit; car limousines, minibuses parked on the road and traffic emerging from Cae Perllan Road;
- Visibility splay should be provided for the right hand side of the access for the traffic travelling in the incorrect direction around the oneway system;
- Has an asbestos survey been undertaken?
- The car park of the nursing home was previously twice the size, so a comparison of the previous parking area is not appropriate;
- When vehicles exit the site they will turn left against the flow of traffic, a common occurrence from the registry office;
- When Rothbury House was a nursing home, commercial vehicles were unable to drive into the property as the turn was too tight, they would park on the road to unload goods.

6.2 COUNCILLOR Deborah Wilcox: I request that this application for change of use of the Rothbury goes to the full Planning Committee rather than being a delegated decision. I object on the planning grounds of:

- The impact on a residential amenity;
- The impact upon highway safety;
- The noise and disturbance of a commercial property – i.e. a restaurant in a residential area;
- The whole proposal is unclear;

- The combination of uses (restaurant, hotel and cake factory) and associated volume of people and traffic is an over-development of the site;
- The outline planning permission already granted for seven residential units is a much more acceptable use of the property.

6.3 WILLIAM GRAHAM JP AM: Objection. The proposal would appear to be contradictory to current policies for residential development within the Stow Park Circle Conservation Area and the intended use of the premises would conflict with any form of quiet enjoyment for the local residents. Licensed premises in the midst of a compact residential area is likely to lead to conflict over excessive noise particularly having regard to the proximity to the registry office when events are likely to take place at the Rothbury after formal proceedings at the registry office. Traffic in Stow Park Circle remains problematic and a substantial increase in traffic movements is again detrimental to the residential nature of the area. The proposed conversion would substantially alter the interior character of this former residential dwelling house and should be resisted. The proposed demolition of the coach house lacks justification.

7. ASSESSMENT

7.1 The site

7.1.1 The application building includes two outbuildings to the rear of the site. One of these buildings is substantial in size, consisting of a part single storey/part two storey building. This building abutts the neighbouring property (14 Stow Park Circle) along the shared boundary. It has two sets of garage doors in the front and side elevation, along with a number of windows and doors. The smaller outbuilding is a lean to structure, the rear elevation of which forms part of the rear boundary of the application site.

7.1.2 The primary access to the site is at its front (south) with a less established access from the rear of the site. To the front of the building is an area of hardstanding, in front of which is a grassed area. There are a number of trees and shrubs along the front boundary of the site. The site as a whole is fairly unkempt due to its vacant status.

7.1.3 The eastern boundary is shared with two properties (No's 8 and 16 Stow Park Circle). There is a level difference between these properties and the application site, with the application site sitting in a more elevated position. There is a retaining wall along the shared boundary with No 8 but no existing boundary treatment on top of this. As such there are un-interrupted views towards this property. There is some planting along the shared boundary with No 16 and also the side elevations of the rear annex building abutt the boundary in places. To the west No's 12 and 14 Stow Park Circle sit closely to the shared boundary and form part of the boundary respectively. Elsewhere an existing fence and brick wall denote parts of the shared boundary.

7.2 The Proposals

7.2.1 The proposals comprise the creation of two dining rooms, lobby, cloakroom and toilets within the ground floor of the main body of the house. The single storey rear annex (a later addition to the house) would house the kitchen, utility room, meeting rooms and toilets. The first floor would house four bedrooms, a linen store, communal bathroom and a staff bedroom. The second floor (roof space) would house a further three bedrooms and a small bathroom.

7.2.2 No external alterations are proposed which would require planning permission however, a listed building consent application has also been submitted for works to the roof to include replacement slates, battens and roofing felt; and ceiling insulation. The applicant has also stated that a further application is anticipated for alterations to the building.

7.2.3 It is proposed to create a parking area at the front of the site where a grassed area is currently. It is proposed to provide 20 parking spaces in this area and a further 3 spaces at the end of the drive; in front of the building. The site layout plan indicates that an area of landscaping would be created where there is hardstanding in front of the application

building. It is also proposed to widen the existing access at the front of the site to 4.5m in width. The applicant has also stated that they intend to use the rear access for use by commercial vehicles. The applicant has provided a plan showing a visibility splay from the front entrance and it is stated that hedgerow would be relocated on the visibility line which is bounded by the existing tree; the existing 400mm high boundary wall would be retained.

7.2.4 The original proposals included the conversion of one of the red brick outbuilding into a cake manufacturing area. This no longer forms part of this application.

7.3 **Impact of the Conservation Area**

7.3.1 The application site is located within the Stow Park Conservation Area and the building is grade II listed. Policy CE5 states that listed buildings should be protected from demolition or inappropriate development. Policy SP9 states that conservation, enhancement and management will be sought in all proposals. Policy CE7 requires development to preserve or enhance the character or appearance of the Conservation Area, having regard to the Conservation Area Appraisal where appropriate. Stow Park Conservation Area does not have an appraisal.

7.3.2 The Historic Buildings and Conservation Officer supports the principle of attempting to find a new use for the building which would minimise alteration to its original fabric and create potential for sensitive repair and restoration works. He is satisfied that the proposed works are minor and would not affect the special character of the building, although mindful that further works are likely to be required and there is likely to be a need for future listed building consent/planning applications. Such applications can be assessed separately and he is satisfied that considerably less alteration would be required than if previous approvals for residential apartments were to be implemented.

7.3.3 The Historic Buildings and Conservation Officer notes the concerns of local residents regarding the potential for traffic generation, noise and disturbance. It is acknowledged that an improperly managed facility might give rise to problems in this residential area, and the residential nature of Stow Park is very much an important aspect of the historic character of the Conservation Area. However, as the building was previously used as a nursing home an objection in principle to another commercial use would not be reasonable. He considers that concerns over these aspects can be addressed by appropriate conditions or other relevant legislation. These matters are discussed further in this report.

7.3.4 Following the submission of a parking and access improvements plan the Historic Buildings and Conservation Officer comments that in principle, the relocation of parking from immediately in front of the listed building would be welcome as it could potentially enhance the setting of the listed building. If sufficiently well-screened from the road and adjacent properties, a new parking area to the front of the site might not significantly impact on the character of the conservation area. However, the plans submitted show large areas of hard surfacing which would be highly visible from the road through the widened entrance. No space is shown for planting to mitigate this. The Historic Buildings and Conservation Officer is concerned that not only is there insufficient information to properly assess the impact of the development but the information submitted to date indicates that there would be harm to the character of the conservation area and the setting of the listed building. Given the importance of the garden to the setting of the listed building and the character of the conservation area it is not considered appropriate to deal with this matter by condition.

7.4 **Highways**

7.4.1 The relevant criteria of policy GP4 states that proposals should:

- Provide appropriate access for pedestrians, cyclists and public transport;
- Be accessible by a choice of means of transport;
- Be designed to avoid or reduce transport severance, noise and air pollution;
- Make adequate provision for car parking and cycle storage;

- Provide suitable and safe access arrangements;
- Ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.

- 7.4.2 Policy T4 requires development to provide the appropriate levels of parking within defined parking zones; in accordance with adopted parking standards. The Newport Parking Standards Supplementary Planning Guidance (SPG) (August 2015) sets out parking requirements according to land use and location, it lists requirements for commercial vehicles, cars, motorcycles and cycles.
- 7.4.3 The application site benefits from two existing accesses which could be used by cyclists and pedestrians. Whilst there are no bus stops along Stow Park Circle it would only be a short walk (around 270m) to the nearest bus stop on Bassaleg Road or Cae Perllan Road. The application site is considered to be in a sustainable location with a choice of means of transport available.
- 7.4.4 The application site has an existing lawful use as a nursing home and as such it could re-open at any time. The Head of Streetscene and City Services (Highways Engineer) does not consider that the proposed use would result in any additional harm in terms of traffic generation on the local highway network. As such it is considered that the proposal would avoid additional noise or air pollution as a result of vehicle movements.
- 7.4.6 Comments are made by a neighbouring occupier that Rothbury Nursing Home previously occupied a site twice the size as the application site and therefore it is not appropriate to consider the previous parking arrangements. It is noted that Rothbury Nursing Home did encompass the adjacent property (8 Stow Park Circle) and as such there would have been a larger area available for parking. However, the demand would have been greater as the nursing home would have also been larger. 8 Stow Park Circle has been converted into flats but Rothbury House still has a lawful use as a nursing home so it is appropriate to consider what the parking demand from that use would be.
- 7.4.7 Notwithstanding the above the Highways Engineer considers that the proposal would lead to an intensification of the use of the access during certain times of the day such as the evening. This justifies a significant improvement to the access which should take the form of increased visibility and increased access width. The applicant has provided a plan which demonstrates that an increased access of 4.5m in width would be provided; which the Highways Engineer is satisfied with.
- 7.4.8 The Highways Engineer also required a plan which demonstrates the existing level of visibility and potential improvements to visibility. The applicant has submitted a plan which shows a visibility splay (set back 2.4m from the back of the footway) for an unknown distance as it is not possible to scale from the plan submitted. The applicant has also indicated that the existing hedgerow would be replanted in line with the visibility splay. The Highways Engineer acknowledges that the alterations to the hedgerow would improve visibility. However, it is not possible to determine whether the improvement is sufficient without a drawing to an accurate scale which would allow the Highways Engineer to determine the distance achievable. It is acknowledged that sufficient visibility is likely to be achievable given that the previous residential approval included appropriate improvements to the access however, this is a different scheme with potential for greater vehicle movements at certain times of the day and without accurate information to demonstrate that the improvements proposed are sufficient it cannot be determined that the proposal would not be harmful to highway and pedestrian safety.
- 7.4.9 The Highways Engineer also requires all parking associated with the use to be provided in accordance with the Parking Standards SPG and to be located solely within the boundary of the property. The parking requirements require suitable provision for commercial vehicles, staff parking and customer parking (dining and hotel). The applicant has provided a parking layout which provides 23 parking spaces. The applicant has also provided information regarding the proposed staff numbers and dining floor area. In accordance with the SPG 23 parking spaces (including 2 spaces for commercial vehicles) is a sufficient

number and in this respect is in accordance with Policies GP4 and T4. The applicant hasn't identified on plan which of the spaces would be used for commercial vehicles however, those located closest to the building would be most appropriate and this could be secured by condition. The applicant has also stated that they intend to utilise the existing rear access for commercial vehicles. No information has been received to demonstrate adequate visibility however as this is an existing access its use by commercial vehicles is considered to be acceptable. However, the use of the access should not be intensified without suitable visibility being demonstrated. A condition restricting the use of this access to commercial vehicles could be imposed to control this.

- 7.4.10 A number of concerns have been raised regarding the existing problems associated with the operation of the registry office within Stow Park Circle, in terms of speeding traffic, illicit/hazardous parking and driving. There is concern that these activities would be increased as a result of the proposed development. The Highways Engineer is satisfied that should the applicant have demonstrated that suitable access could be provided and all parking demand provided within the site then there would not have been any greater impact on the local highway network than the lawful nursing home use. It would not be reasonable for the applicant to remedy the problems associated with the registry office as part of this application.
- 7.4.11 Following a reconsultation of the car parking and access improvements plan a number of comments have been received from neighbouring occupiers. Concerns have been raised that the plan shows parking beyond the boundary wall; it is on a steep gradient between the adjacent property; and a new boundary wall would be required to support spaces 11 and 17. The parking layout is contained within the application site. It is noted that the land does slope down towards the adjacent property (8 Stow Park Circle) and there is a difference in levels between the two properties however, the parking spaces would be located on the level part of the site. There does not appear to be any need for new boundary walls, although boundary treatments would be secured through a condition.
- 7.4.12 Concern is raised that the removal of any hedgerow would be unsightly and the removal of the existing lawn would affect existing amenity. There is also concern that two Lime trees on the Western edge of the site have been omitted from the plans. The applicant proposes to replant the hedgerow along the front boundary of the application site; to align with the proposed visibility splay. Whilst the applicant proposes to replace the existing grassed area with a car parking area the plans do indicate that landscaping would replace the existing hardstanding to the front of the building. Notwithstanding this, the Historic Buildings and Conservation Officer is concerned that there is a lack of detail to properly assess the impact of the proposed car park on the character of the conservation area and the setting of the listed building. In terms of the omission of the Lime trees, these are located within the front garden of 12 Stow Park Circle. It is not proposed to widen the access in this direction and therefore there would be no impact on these trees.
- 7.4.13 There is concern that there is no provision for large vehicles within the site, there is no space for turning within the site and access for emergency vehicles would be very difficult. The Parking Standards SPG does not require the provision of larger parking spaces for restaurants. Whilst there is no turning head provided within the layout the applicant proposes to utilise the rear access for commercial vehicles so they would be able to access or enter the site via either access point negating the need to turn within the site. The applicant also proposes to widen the access to 4.5m in width which would allow two vehicles to pass and is considered wide enough to accommodate emergency vehicles.
- 7.4.14 Concern is also raised that a visibility splay should be provided for the right hand side (west) of the access for the traffic travelling in the incorrect direction around the one way system. It is not considered reasonable to require the applicant to accommodate those road users not obeying highway direction. Furthermore the applicant does not control the land to the west and as such they could not provide a splay.

7.5 **Protected Species**

- 7.5.1 Criteria (ii) of Policy GP5 states that development will only be permitted where:
- the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including International, European, National, Welsh Section 42 and local protected habitats and species, and protecting features of importance for ecology.
- 7.5.2 The applicants commissioned a bat survey which reported no bats leaving the property, although several species were recorded foraging in the area. However, as a previous scoping report identified the potential for a roost in the building then a licence from Natural Resources Wales (NRW) would be required. A method statement detailing mitigation for the loss of a bat roost is required to support a licence application and is required prior to the determination of this application.
- 7.5.3 The applicant has produced a bat mitigation strategy which identifies that a bat box should be erected on mature trees within the site, this would provide short term mitigation. This could be secured through a condition. In the long term bats should be accommodated within the building in the same position and location. To do this access points would be secured under soffit boards and through modified roof slates. A listed building consent application for replacement slates, battens, roofing felt and ceiling installation is currently under consideration and discussion is ongoing regarding the design of the modified design of slate. It is not considered necessary to secure the roof slates by a condition as it would be sufficiently controlled under the listed building consent.

7.6 **Residential Amenity**

- 7.6.1 Policy GP2 states that development will be permitted where:
- There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
 - The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
 - The proposal seeks to design out the opportunity for crime and anti-social behaviour;
 - The proposal promotes inclusive design both for the built development and access within and around the development;
 - Adequate amenity for future occupiers.
- 7.6.2 Policy GP7 states that development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or subsidence, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.
- 7.6.3 A significant amount of concern has been raised from local residents regarding noise and disturbance from late night revellers, music, vehicle movements and extraction equipment, There are also concerns regarding smells, odours from cooking, litter generation and anti-social behaviour. The resounding consensus from the representations received is that a commercial enterprise should not be permitted within a residential area.
- 7.6.4 It should be noted that the lawful use of the application building is a nursing home which is a commercial enterprise and therefore it could be returned to a commercial use at any point. Elements of food preparation and cooking would have been associated with that use, the proposed kitchen would be located in the same position as the existing kitchen. It is acknowledged that without control over the hours of operation or fume extraction there is potential for the use to cause harm to neighbouring residential amenity in terms of noise and odour. However, it is possible to control the hours of operation through an appropriate condition. The condition would require the applicant to submit and agree their hours of operation for the restaurant in liaison with Environmental Health Officers. Local residents

are also concerned that the proposed use would result in patrons generating noise when outside of the building. Whilst it is not considered that a restaurant use is synonymous with noisy congregations of patrons outside; there would be statutory controls under the Environmental Protection Act 1990 if a noise nuisance was established.

- 7.6.5 The Environmental Health Officer has also recommended that conditions are imposed requiring fumes from food preparation areas to be mechanically extracted, the details of which must first be agreed in writing; and a restriction on noise emitted from any plant equipment (such as the extraction system) in accordance with a British Standard. It is considered that with the imposition of these conditions the proposed use could be appropriately managed and controlled without an adverse impact on surrounding residential amenity.
- 7.6.6 In terms of noise associated with vehicle movements, including engine revving and door slamming, this is not considered to be so significant as to warrant a reason for refusal. The lawful nursing home use would have similar vehicle movements associated with its operation, due to visiting family and staff movements. Whilst it is accepted that some vehicle movements would occur later into the evening, a control on hours of operation would ensure these do not occur at unsocialable hours.
- 7.6.7 In terms of litter generation, aside from the food waste generated by the restaurant use, for which the applicant is expected to have a waste contract with a registered waste carrier, it is not considered that a restaurant use is a significant generator of waste which would litter the surrounding area.
- 7.6.8 The application site is surrounded by residential properties. No's 14 and 16 Stow Park Circle are located either side of the rear portion of the application site and No's 8 and 12 are located either side of the front portion. No's 12 and 14 are located to the west and have existing boundary treatments including a fence and wall which would prevent any loss of privacy to these properties. No 16 does have boundary treatments along the shared boundary which partly consists of deciduous shrubs that would bare their leaves during the winter months. During this time there could be views into the neighbouring garden and rear windows, this boundary would also be less secure. No 8 has no boundary treatments other than a retaining wall due to a difference in levels. In order to provide adequate privacy to these properties and to provide greater security, thereby reducing the opportunity for crime and anti-social behaviour, a condition requiring details of boundary treatments could be imposed.
- 7.6.9 Concern has been raised that neighbouring residents could experience the same problems which were experienced by residents of Llanthewy Road living close to the former Burleigh Academy; and this should be taken into consideration when making a decision on this application. Whilst all applications are considered on their own individual merits it should be noted that the Burleigh Academy previously operated as a D1 (non residential institutions) use and therefore it is not appropriate to make comparisons. It also operated without planning control as an established lawful use. Controls on hours of operation, fume extraction and noise emission could be secured by conditions for this proposal.

7.7 **Drainage**

- 7.7.1 Concerns have been raised that there are existing problems with waste water and sewerage disposal resulting in odour/sewer/drain blockage complaints. Dwr Cymru – Welsh Water has not raised any concerns regarding a foul drainage connection. However, they have requested a condition to prevent any net increase in surface water from discharging to the public sewerage system. Details of surface water drainage of the proposed parking areas could be secured through a condition.

7.8 **Other concerns**

- 7.8.1 Concern has been raised that the proposal goes against Objective 4 of the Newport Local Development Plan which is "to ensure that there is an adequate supply of land for housing in the most sustainable locations, and to ensure that the quantity, quality and variety of

housing provision meet the needs of the population. Also to foster the creation of places which contribute to local distinctiveness and thriving communities". The application site is not designated for any particular use in the Local Development Plan and as such there is no requirement to safeguard it for a particular use such as housing.

- 7.8.2 There is concern that there is no information regarding signage and that neon signage would not be appropriate. The applicant would be required to submit a separate advertisement consent application to consider any signage and therefore no details would be expected with this application.
- 7.8.3 Concern has been raised that the proposal would involve large amounts of laundry being generated which could lead to increased traffic movements. The Newport Parking Standards SPG requires 1 parking space for a commercial vehicle for the restaurant and another for the hotel/letting room use. These spaces would be used by a variety of commercial vehicles including delivery or collection of linen. As set out in paragraphs 7.18 and 7.19 the applicant has failed to provide information in relation to parking provision and this forms a reason for refusal.
- 7.8.4 There is concern that no disabled access is proposed and there are steps to the front entrance and no lift within the building. It is recognised that the principle entrance does not provide suitable access for some disabled people, nor is there a lift within the proposals. However, the special character of the listed building needs also to be considered. Building Regulations would determine whether disabled access is required and consideration would be given to the character of the listed building in liaison with the Historic Buildings and Conservation Officer. Should disabled access be required a further planning and/or listed building consent application would be required.
- 7.8.5 Concern is raised that the site plan is inaccurate and not to scale. The plans submitted have been checked and are considered to be a valid submission. No errors in accuracy or scaling have been detected.
- 7.8.6 Concern is raised that CADW has not been consulted on the proposal. CADW are not a statutory consultees for planning applications and will not comment on applications.
- 7.8.7 There is concern that there is not enough space internally to provide a dancefloor and this would lead to a marquee being erected within the grounds. It is not reasonable to assume that a dancefloor is a requirement sought by the applicants, the proposed use is a restaurant and not a nightclub/function room which fall into different use classes. Should a marquee be required on a permanent basis then separate planning permission would be required.
- 7.8.8 Concern is raised that there is no information regarding lighting and it might cause a nuisance. Should the application be recommended for a favourable decision then such details could be required through a condition.
- 7.8.9 There is concern that no fire escape for the first and second floors is provided. An existing external staircase is shown to be retained from the first floor. Notwithstanding this building regulations control means of escape in terms of fire. Should additional measures be required then a further application would be required.
- 7.8.10 It is considered that all other concerns are sufficiently addressed in the preceding paragraphs.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in

its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

8.2 ***Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development could give rise to inequality as a result of the absence of disabled access. A balanced consideration of this and the impact on the character of the listed building would be taken should a building regulations application be submitted.

8.6 ***Planning (Wales) Act 2015 (Welsh language)***

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

9. **CONCLUSION**

9.1 The proposed development is considered to be unacceptable and contrary to Policies SP1, SP9, GP2, GP4, GP5, CE5, CE7 and T4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015). It is recommended that planning permission is refused.

10. **RECOMMENDATION**

REFUSED

01 The applicant has failed to demonstrate that adequate access can be provided to serve the development in a manner that does not have a detrimental impact upon highway and pedestrian safety. This is contrary to Policy GP4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

02 The applicant has failed to demonstrate that car parking can be provided to serve the development in a manner that does not have a detrimental impact upon the character and appearance of the Stow Park Conservation Area and the setting of the Grade II Listed Building and to highway and pedestrian safety. This is contrary to Policies SP9, GP2, CE5 and CE7 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: KD1475/1, 2, Site Location Plan, Site Layout Plan, Design and Access Statement (K W Dorrington – 10 October 2015), Bat Emergence Survey (Sylvan Ecology – April 2015), Bat Survey (Sylvan Ecology – August 2015) and Bat Mitigation Strategy (Sylvan Ecology – October 2015).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP9, GP2, GP4, GP5, CE5, CE7 and T4 were relevant to the determination of this application.

03 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

APPLICATION DETAILS

No: 14/1243 Ward: **GAER**

Type: Full

Expiry Date: 02-MAR-2015

Applicant: **PASQUALE / SERGIO GEMELLI 1 SCHOOL HOUSES, HARTRIDGE FARM ROAD, NEWPORT, NP18 2LN**

Site: **Rothbury House, 10, Stow Park Circle, Newport, NP20 4HE**

Proposal: **PROPOSED CHANGE OF USE FROM NURSING HOME TO RESTAURANT WITH LETTING ROOMS TO UPPER FLOORS (NO MATERIAL ALTERATIONS)**

1. LATE REPRESENTATIONS

1.1 Representation has been received from a neighbouring resident commenting on the proposed use of the rear access for commercial deliveries. The concerns raised are:

- No visibility splay at the rear because of bushes and a telegraph pole;
- Vehicles accelerate as they come round the bend and travel downhill on a straight stretch of Stow Hill;
- The rear entrance is too narrow for vehicles apart from the smallest car.

1.2 Paragraph 7.4.9 in so far as it relates to the parking requirements has been reported incorrectly due to officer error. By way of correction the following clarification is provided:

1.2.1 The Highways Engineer requires all parking associated with the use to be provided in accordance with the Planning Standards SPG and to be located solely within the boundary of the property. The parking requirements require suitable provision for commercial vehicles, staff and customer parking (dining and hotel). The applicant has provided a parking layout which provides 20 parking spaces. The applicant has also provided information regarding the proposed staff numbers and dining floor area. In accordance with the SPG 25 parking spaces (including commercial spaces) would be required as follow:

Type of development	Operational	Non operational	Spaces required to serve this development
Hotel	1 commercial vehicle space	1 space per 3 non-resident staff & 1 space per bedroom	1 commercial space 1 staff space 7 bedroom spaces
Restaurant	1 commercial vehicle space	1 space per 3 non-resident staff & 1 space per 7 m2 of dining area	1 commercial space 4 non resident staff spaces 11 dining spaces
			23 spaces + 2 commercial spaces

1.2.2 The applicant has provided a parking layout plan which shows 20 parking spaces and no commercial vehicle spaces. As such the proposal fails to provide adequate parking provision in line with the SPG and is contrary to Policies GP4 and T4; and the SPG.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 An assessment of the use of the rear access is set out in paragraph 7.4.9 of the committee report.

3. OFFICER RECOMMENDATION

3.1 It is recommended that the application is refused for the reasons set out in the committee report and the following additional reason relating to inadequate parking provision:

3.2 The applicant has failed to demonstrate that adequate parking provision can be provided to serve the development. This is to the detriment of highway safety and is contrary to Policies GP4 and T4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and the Newport Parking Standards Supplementary Planning Guidance (Adopted August 2015).

APPLICATION DETAILS

No: 15/0725 **Ward:** LLANWERN

Type: FULL+ENV STATEMENT

Expiry Date: 11-OCT-2015

Applicant: MARTIN WEBBER

Site: CASTLE FARM, BISHTON ROAD, BISHTON, NEWPORT, NP18 2DZ

Proposal: **ERECTION OF 0.9MW WIND TURBINE OF 66 METRES IN HEIGHT (TO BLADE TIP) AND ANCILLARY EQUIPMENT AND ASSOCIATED INFRASTRUCTURE (AFFECTING PUBLIC RIGHT OF WAY 388/20 BISHTON AND 388/18 BISHTON) (RESUBMISSION OF APPLICATION 14/0713).**

Recommendation: **Granted with Conditions**

A. REASON FOR DEFERRAL AND CLARIFIED INFORMATION

- A1 *This section of the report addresses the reason for the deferral of this application at the September 2015 Planning Committee. Committee requested that the applicant clarify the following points:*
- *The power output of the proposed turbine,*
 - *That the Noise Assessment that accompanied the application dealt with the turbine model proposed for the site (there was a discrepancy between the turbine model cited in the Environmental Statement and that cited in the submitted Noise Assessment).*
- A2 *The applicant has confirmed that the power output of the proposed turbine is 900Kw (0.9Mw). The applicant has confirmed that the turbine model used in the Noise Assessment is the EWT DW52. This now corresponds with the model cited in the Environmental Statement. The applicant has revised the Environmental Statement to incorporate a new noise assessment which has been prepared since the September Committee. The Head of Law & Regulation has commented on this newly submitted noise assessment.*
- A3 *Two additional objections were received raising the following points:*
- *A second occupier in Bishton has Meniere's disease and is concerned the condition would be made worse by low frequency noise from the turbine;*
 - *The application is not in line with Newport City Council's Local Development Plan.*
 - *Siting a turbine in this location would have a negative impact on the surrounding landscape, the village homes and general quality of life.*
 - *There would be potential impacts to local residents from noise, flicker and vibration.*
 - *The turbine would be highly visible.*
 - *Allowing a turbine in this location would set a precedent for other local applications.*
 - *There would be a negative impact on the value of property in the village.*
 - *There are other more industrial sites better suited to the erection of a turbine which would have far less impact on residents.*
 - *A similar application in Llanwern in 2013 was refused by both Planning Committee and at appeal.*
- A4.1 *The applicant submitted a revised noise assessment based on the higher power output of the turbine. This document was prepared in September 2015 (post the September Planning Committee meeting at which this application was first presented). The*

assessment makes reference to the ETSU-R-97 criteria which relate to wind turbines. The Assessment then goes on to consider the impact of the turbine in noise terms on the nearest houses in-combination with the two existing turbines at the Tesco Distribution Centre.

A4.2 Existing background noise levels at the nearest residential properties were also measured. Using the data set an 'Apportioned Noise Limit' is set for each residential property, this noise limits 'caps' the acceptable noise limit at each property. This methodology shows the turbine to fall within the ETSU-R-97 limits for noise output at various wind speeds for all relevant dwellings. The report acknowledges that the simple $L_{A90}35\text{dB}$ noise limit will be exceeded at Castle Farm barns, Castle Cottage, The Old Rectory, Copsford and Heol Andrew but notes that when existing background noise levels are taken into account the turbine falls within acceptable levels in noise terms. It should be noted that the original noise assessment submitted with this application was based on a lower power output machine and it was not necessary to rely on background noise levels to achieve compliance with the ETSU-R-97 guidance (i.e. the turbine of lower power output was quieter).

A4.3 The Head of Law & Regulation (Noise) has reviewed the noise assessment and has not objected to the application subject to the application of the following conditions (which were accompanied by an extensive note which can be seen as an appendix to this report):

- 1) The level of noise immissions from the wind turbine (including the application of any tonal penalty) when calculated in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Table 1 or Table 2 (as appropriate). Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the Tables attached shall be those of the physically closest location listed in the Tables unless otherwise agreed with the Local Planning Authority. The coordinate locations to be used in determining the location of each of the dwellings listed in Tables 1 and 2 shall be those listed in Table 3.
- 2) Within 21 days from the receipt of a written request from the Local Planning Authority and following a complaint to the Local Planning Authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at the wind turbine operators expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind turbines at the complainant's property following the procedures described in the attached Guidance Notes.

The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 2 months of the date of the written request of the Local Planning Authority unless otherwise extended in writing by the Local Planning Authority.

Prior to the commencement of any monitoring by the independent consultant to be undertaken in accordance with these conditions the wind turbine operator shall submit to the Local Planning Authority for written approval the proposed measurement location(s) identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken.

- 3) Wind speed, wind direction and power generation data shall be continuously logged and provided to the Local Planning Authority at its request and in accordance with the attached Guidance Notes within 21 days of such request. Such data shall be retained for a period of not less than 24 months.

- 4) *No development shall commence until there has been submitted to the Local Planning Authority details of a nominated representative for the development to act as a point of contact for local residents (in connection with conditions 1-3) together with the arrangements for notifying and approving any subsequent change in the nominated representative. The nominated representative shall have responsibility for liaison with the Local Planning Authority in connection with any noise complaints made during the construction, operation and decommissioning of the wind turbines.*
- 5) *Once the Local Planning Authority has received the independent consultant's noise assessment required by conditions 2 and 3 and where satisfied of an established breach of the noise limits, upon notification by the Local Planning Authority in writing to the wind turbine operator of the said breach, the turbine operator shall within 21 days propose a scheme for the approval of the Local Planning Authority . The scheme shall be designed to mitigate the breach and to prevent its future recurrence. This scheme shall specify the timescales for implementation. The scheme shall be implemented as reasonably approved by the Local Planning Authority and according to the timescales within it. The scheme shall be retained thereafter unless otherwise agreed with the Local Planning Authority.*
- 6) *The hours of construction of the turbines and related infrastructure to be limited to between 8am to 6pm Monday to Friday and 8am to 1pm Saturday , other than in the event of an emergency or otherwise only with the prior written approval of the Planning Authority . No construction work to be undertaken on Sundays and Bank Holidays.*
- 7) *Prior to the wind turbine becoming fully operational a scheme providing for the avoidance of shadow flicker at any dwelling lawfully existing or with planning permission at the date of this permission shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter retained.*

A4.4 In the light of the Head of Law & Regulation's comments on the recently submitted noise assessment it is considered that the proposal complies with Policy GP2i (noise) since there will be no significantly adverse impact on local amenity via noise subject to the imposition of relevant conditions. Conditions relating to shadow flicker have already been accepted as necessary and are proposed to be applied. The site is rural and there is significant separation from most dwellings. Additionally some components will be delivered at unsocial hours to minimise the impact on the highway network. As such it is not considered necessary to limit construction hours under planning controls. Any construction noise nuisance can be acted against under the Environmental Health Section's statutory powers if prolonged nuisance is experienced.

A5 The Head of Law & Regulation (Contamination) has commented on the application noting there is no evidence that the site of the development is contaminated. The Contamination Officer then goes on to note conditions should be applied relating to unforeseen contamination and controlling the composition of imported material. Given there is no evidence the site is contaminated it is not considered necessary to apply the unforeseen contamination condition. A condition controlling the characteristics of imported fill material for the access track and the crane hard standing can be applied to read as follows:

Prior to import to site, soil material or aggregate used as clean fill or capping material, shall be chemically tested to demonstrate that it meets the relevant screening requirements for the proposed end use. This information shall be submitted to and approved in writing by the Local Authority prior to the importation of the material. No fill material other than the approved material shall be imported onto the site.

Reason: *to ensure chemically appropriate material is used to construct the access track and crane hard standing.*

A6.1 Two residents of Bishton have confirmed they suffer from Meniere's disease, a condition that affects the inner ear and can cause vertigo, tinnitus, hearing loss and feelings of pressure deep inside the ear. In terms of amenity, Planning Policy Wales (Edition 7) offers the following advice at Paragraph 3.1.7:

*'The planning system does not exist to protect the **private interests** of one person against the activities of another. Proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. The Courts have ruled that the individual interest is an aspect of the public interest, and it is therefore valid to consider the effect of a proposal on the amenity of neighbouring properties. However, such consideration should be based on general principles, reflecting the wider public interest (for example a standard of 'good neighbourliness'), rather than the concerns of the individual'.*

A6.2 As such the potential impact of the proposal on specific individuals is not a material consideration beyond the general amenity test i.e. a standard of amenity acceptable to the average person rather than someone with particular needs. The consideration should be whether the turbine will meet the 'good neighbour' test outlined in PPW. Since the turbine will not be unacceptably noisy and is in accordance with LDP Policy GP2i (noise) it is considered that this test is met and the turbine is acceptable in terms of both audible and sub-sonic noise and vibration. Even if the needs of specific individuals were held to be material in this case there is no clear evidence that the turbine would have an adverse impact upon their medical conditions. It has been established that 'fear' of an adverse impact is capable of being a material consideration but that fear must be based on reasonable probability. In this case there is no firm evidence that any adverse impact would accrue from the presence of the turbine and as such 'fear' should be given a very limited weight which would not be sufficient in itself or in combination with other harms to warrant withholding planning permission.

A6.3 In conclusion officers recommend that permission is granted subject to conditions.

1. INTRODUCTION

1.1 This application seeks planning permission for a single three bladed 900Kw (0.9Mw) wind turbine. The turbine would be 40m in height to its hub and 66m in height to its blade tip. The likely model to be used will be the EWT DW52.

1.2 The turbine would be located on a low hill to the east of Craig y perthi wood which lies approximately 600m ENE of Bishton village and 425m south east of Castle Farm and its associated complex of converted barns (Castle Farm Barns). The land is currently in agricultural use. The development also includes:

- A crane hardstanding measuring 35m by 15m
- An access track and turning head leading from the turbine site to the lane between Bishton and Underwood. The access track would open out onto the lane just north of the current access to Castle Farm Barns and would lead to the turbine site via Castle Farm. The track would be approximately 820m long. The track and crane hardstanding would be constructed from aggregate to be covered with a thin layer of topsoil.
- A switchgear cabinet with a footprint of approximately 5m by 3m and 3m high.

1.3 The turbine would generate 2,332 MWh/yr of electricity, enough to provide electricity to 585 average Welsh households. The turbine would have a lifespan of 25 years and will avoid the production of an estimated 25,069 tonnes of CO²e over the development's lifetime.

2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
14/0713	ERECTION OF A 900KW (0.9MW) WIND TURBINE MEASURING UP TO 77 METRES IN HEIGHT AND ANCILLARY EQUIPMENT AND ASSOCIATED INFRASTRUCTURE (AFFECTING PUBLIC RIGHT OF WAY 388/20 BISHTON AND 388/18 BISHTON)	R 04 February 2015 (at appeal)
13/1190	ENVIRONMENTAL IMPACT ASSESSMENT SCREENING	ES required

	OPINION FOR A SINGLE WIND TURBINE UP TO 77M HIGH AND ASSOCIATED WORKS	10 December 2013
12/0164	CONSTRUCTION OF NEW VEHICULAR / PEDESTRIAN ACCESS AFFECTING PUBLIC RIGHT OF WAY 388/3	GC 19 April 2012

3. POLICY CONTEXT

3.1 Planning Policy Wales (Edition 7)

Paragraph 6.5.1 - The desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application, whether that monument is scheduled or unscheduled.

Paragraph 6.5.9 - Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.

Paragraph 12.8.1 - The UK is subject to the requirements of the EU Renewable Energy Directive. These include a UK target of 15% of energy from renewables by 2020. The UK Renewable Energy Roadmap sets the path for the delivery of these targets, promoting renewable energy to reduce global warming and to secure future energy supplies. The Welsh Government is committed to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of our approach to tackling climate change whilst enhancing the economic, social and environmental wellbeing of the people and communities of Wales in order to achieve a better quality of life for our own and future generations. This is outlined in the Welsh Government's Energy Policy Statement *Energy Wales: A Low Carbon Transition* (2012).

Paragraph 12.8.6 - The Welsh Government's aim is to secure an appropriate mix of energy provision for Wales which maximises benefits to our economy and communities, whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies to underpin growth and prosperity in Wales recognising the importance of clean energy and the efficient use of natural resources, both as an economic driver and a commitment to sustainable development.

Paragraph 12.8.8 - The Welsh Government is committed to using the planning system to:

- optimise renewable energy generation;
- optimise low carbon energy generation;
- facilitate combined heat and power systems (and combined cooling, heat and power) where feasible; and
- recognise that the benefits of renewable energy are part of the overall commitment to tackle climate change by reducing greenhouse gas emissions as well as increasing energy security.

Paragraph 12.8.9 - Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change. Specifically, they should make positive provision by:

- considering the contribution that their area can make towards developing and facilitating renewable and low carbon energy, and ensuring that development plan policies enable this contribution to be delivered;
- ensuring that development management decisions are consistent with national and international climate change obligations, including contributions to renewable energy targets and aspirations.

Paragraph 12.8.10 - At the same time, local planning authorities should:

- ensure that international and national statutory obligations to protect designated areas, species and habitats and the historic environment are observed;

- ensure that mitigation measures are required for potential detrimental effects on local communities whilst ensuring that the potential impact on economic viability is given full consideration.

Paragraph 12.8.12 - In the short to medium term, wind energy continues to offer the greatest potential (for activities within the control of the planning system in Wales) for delivering renewable energy. Wales has an abundant wind resource and power generation using this resource remains the most commercially viable form of renewable energy. The Welsh Government accepts that the introduction of new, often very large structures for onshore wind needs careful consideration to avoid and where possible minimise their impact. However, the need for wind energy is a key part of meeting the Welsh Government's vision for future renewable electricity production as set out in the Energy Policy Statement (2010) and should be taken into account by decisions makers when determining such applications.

Paragraph 12.10.1 - In determining applications for renewable and low carbon energy development and associated infrastructure local planning authorities should take into account:

- the contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy, including the contribution to cutting greenhouse gas emissions;
- the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development;
- the impact on the natural heritage, the Coast and the Historic Environment;
- the need to minimise impacts on local communities to safeguard quality of life for existing and future generations;
- ways to avoid, mitigate or compensate identified adverse impacts;
- the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so consider whether measures to adapt to climate change impacts give rise to additional impacts;
- grid connection issues where renewable (electricity) energy developments are proposed; and
- the capacity of and effects on the transportation network relating to the construction and operation of the proposal.

Paragraph 12.10.3 - Developers for renewable and low carbon energy developments should seek to avoid or where possible minimise adverse impacts through careful consideration of location, scale, design and other measures.

3.2 Technical Advice Note 8 – Planning for Renewable Energy (July 2005)

3.2.1 The TAN identifies 7 Strategic Search Areas which are more suitable for large scale electricity generation from wind power. Key paragraphs are:

Paragraph 2.13 - Most areas outside SSAs should remain free of large wind power schemes. Local planning authorities may wish to consider the cumulative impact of small schemes in areas outside of the SSAs and establish suitable criteria for separation distances from each other and from the perimeter of existing wind power schemes or the SSAs. In these areas, there is a balance to be struck between the desirability of renewable energy and landscape protection. Whilst that balance should not result in severe restriction on the development of wind power capacity, there is a case for avoiding a situation where wind turbines are spread across the whole of a county. As a result, the Assembly Government would support local planning authorities in introducing local policies in their development plans that restrict almost all wind energy developments, larger than 5MW, to within SSAs and urban/industrial brownfield sites. It is acceptable in such circumstances that planning permission for developments over 5MW outside SSAs and urban/industrial brownfield sites may be refused.

Paragraph 6.4 - Local planning authorities should consider including appropriate conditions for the decommissioning of wind farms or individual turbines and their restoration when

they reach the end of their design life, taking into account any proposed after-use of the site. In addition, operators should ensure that sufficient finance is set aside to enable them to meet restoration obligations. An authority may require financial guarantees by way of a Section 106 planning obligation/agreement, as part of the approval of planning permission to ensure that restoration will be fully achieved.

3.4 The adopted Newport Local Development Plan 2011-2026

Policy	Text
SP1 Sustainability	Proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. they will be assessed as to their potential contribution to: ii) the reuse of previously developed land and empty properties in preference to greenfield sites; iv) reducing energy consumption, increasing energy efficiency and the use of low and zero carbon energy sources;
SP5 Countryside	Development in the countryside (that is, that area of land lying beyond the settlement boundaries shown on the proposal and inset maps) will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Housing development, rural diversification and rural enterprise uses, beyond settlement boundaries, will only be appropriate where they comply with national planning policy.
SP8 Special Landscape Areas	Special Landscape Areas are designated as follows within which proposals will be required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features: v) Caldicot levels vi) Wentwood
SP9 Conservation of the Natural, Historic and Built Environment	The conservation, enhancement and management of recognised sites within the natural, historic and built environment will be sought in all proposals.
GP1 General Development Principles – Climate Change	Development proposals should: ii) be designed to minimise energy requirements and incorporate appropriate renewable, low or zero carbon energy sources, including on-site energy provision where practicable;
GP2 General Development Principles – General Amenity	Development will be permitted where, as applicable: i) there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality; ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
GP3 General Development Principles – Service Infrastructure	Development will be permitted where, as applicable: i) necessary and appropriate service infrastructure either exists or can be provided;
GP5 General Development Principles – Natural Environment	Development will be permitted where, as applicable: ii) the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national, Welsh Section 4233 and local protected habitats and species, and protecting features of importance for ecology; v) there would be no unacceptable impact on landscape quality;

GP6 General Development Principles – Quality of Design	General	Good quality design will be sought in all forms of development. the aim is to create a safe, accessible, attractive and convenient environment. in considering development proposals the following fundamental design principles should be addressed: i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area; iv) scale and form of development: new development should appropriately reflect the scale of adjacent townscape. care should be taken to avoid over-scaled development;
GP7 General Development Principles – Environmental Protection and Public Health	General	Development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or subsidence, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.
CE5 Historic Landscapes, Parks, Gardens and Battlefields	Historic	Sites included in the Register of Landscapes, Parks and Gardens of Special Historic Interest and identified historic battlefields should be protected, conserved, enhanced and where appropriate, restored. attention will also be given to their setting.
CE10 Renewable Energy	Renewable	Small scale micro-generation will be encouraged within the settlement boundary. Large scale proposals may be more appropriately located outside of the defined settlement boundary if no appropriate brownfield sites exist.

3.5 Other Local Documents

3.6 Wildlife and Development - Supplementary Planning Guidance (August 2015)

3.6.1 This Supplementary Planning Guidance provides specific direction on how biodiversity should be conserved and enhanced throughout the development control process. The primary objective should be to avoid negative impacts by designing the site around the wildlife features. Where avoidance is not at all possible then the design should aim to mitigate any negative impacts. Applicants should ensure that they take account of all the potential effects of a development and make sure that avoidance and mitigation are appropriate to the situation. In this case there is a potential to impact on bats and as such mitigation and monitoring measures have been identified and conditioned which complies with the approach set out in the SPG.

3.7 Archaeology & Archaeologically Sensitive Areas – Supplementary Planning Guidance (August 2015)

3.7.1 This Supplementary Planning Guidance seeks to protect the archaeological heritage and its setting by advising how development proposals can best take account of archaeological issues. Archaeological remains are an important finite source of information about the past. Their investigation and, where appropriate, preservation is important in its own right and can provide an invaluable educational and tourism resource. It is important to preserve this resource and to ensure that remains that maybe present are not destroyed through ignorance of their location and importance or through careless development.

3.7.2 Glamorgan Gwent Archaeology Trust (GGAT) Curatorial is the Council's archaeological advisors. It provides advice on the care of all archaeological sites in Newport. GGAT have advised as to the best course of action concerning archaeology on the site, i.e. conditioning a programme of archaeological works for the site which meets the approach set out in the SPG.

3.8 LDP Background Paper (Deposit Plan, April 2012) - Renewable and Low Carbon Energy Assessment (May 2013)

- 3.8.1 This document identifies opportunities for renewable and low carbon energy in Torfaen and Newport. In Newport a mapping exercise was undertaken to identify the constraints upon the implementation of electricity generation using wind. The application of the constraints identified areas where wind power was possible and adverse impacts would be minimised. One applied constraint was a 7Km separation distance from any existing wind turbines. Given the small scale of the LPA's area this excluded much of the land within Newport. However the Report acknowledged that this level of separation was overly pessimistic. The report noted most wind development in Newport had been of dispersed turbines feeding into consumer services by 'private wire'. It envisaged future development would be of a similar type and accepted that the currently installed capacity could be increased by a factor of five. The constraint modelling did not identify the site of this proposal as a wind power opportunity area
- 3.9 LDP Background Paper (Deposit Plan, April 2012) - A Technical Capacity Study for Wind Turbines within Newport County Borough
- 3.9.1 This identified that Newport had no capacity for a major wind farm but did identify areas where individual turbines could be sited. The mechanism involved identifying appropriate separation distances from other landuses for particular turbine types. This exercise identified industrial sites, parts of the Gwent Levels and a site near Bishton as appropriate for turbines.
- 3.10 LDP Background Paper (Deposit Plan, April 2012) - Special Landscape Areas
- 3.10.1 The Background paper identifies areas of local landscape significance within the Local Authority Area. The areas identified are:
- The Wentlooge and Caldicot Levels;
 - The River Usk corridor;
 - The Wentwood escarpment;
 - Land North of Bettws;
 - Land West of Rhiwderin
 - Tredegar Park.
- 3.10.2 The relevant Local Development Plan policy is SP8 (Special Landscape Areas) which reads as follows:
- Special Landscape Areas are designated within which proposals will be required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features:*
- The Policy amplification states at Paragraph 2.32 of the adopted Newport Local Development Plan:
- Developers will be required to ensure that proposals do not impact or affect the intrinsic character, quality, features or conservation value of the SLA. Designs will be required to be of a high standard, appropriate in scale and massing, integrated sympathetically into the landscape as well as ensuring long term management. Supplementary Planning Guidance will provide detail concerning the value, management and maintenance of the areas.*
- 3.10.3 The site of the proposal is outside any proposed SLA and is not considered to have any adverse effect upon any of the proposed SLAs, in particular the Gwent Levels given the distance between the designated landscape and the presence of the intervening Llanwern Steelworks which interposes large industrial structures between the turbine site and the protected landscape. NLDP Policy SP8 is complied with.

4. CONSULTATIONS

4.1 GWENT WILDLIFE TRUST:

Our concerns regarding the woodland and impacts on bats remain the same as for refusal 14/0713. It was agreed at that time that these could be overcome by:

- 1) Protecting the nearby woodland from disturbance during construction, such as a 30m buffer zone where machinery etc is excluded.
- 2) Changing the 'cut in' speed of the turbine to 6.0m/s during periods of high bat activity (April to October inclusive: for a period from one hour before dusk until two hours after, and for a period from two hours before local sunrise until one hour after.)
- 3) A monitoring scheme for bat activity and mortality, to be agreed with the Council Ecologist, with results submitted to SEWBReC and Bat Conservation Trust.

If these conditions can be applied to the current application, then we have no objections.

4.2 WELSH GOVERNMENT (ECONOMY, SCIENCE & TRANSPORT): Advises a 'Traffic Management Plan' should be required under condition and offers other advice points to the applicant.

4.3 CIVIL AVIATION AUTHORITY: Advise of varying requirements for consultation but make no specific comment on this application.

4.4 NATS SAFEGUARDING: No objection.

4.5 BRISTOL AIRPORT: No objection.

4.6 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST (GGAT): The trust notes the nearby location of Bishton Castle to the application site and that the proposed trackway will pass over some earthworks which are undated and of unknown nature. The Castle is a Scheduled Ancient Monument and the impact of the turbine on views of the monument are a material planning consideration. The Trust advises that a condition is attached to any permission requiring a programme of archaeological work to be submitted, agreed and then undertaken. This aligns with the advice of Welsh Office Circular 60/96.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE & CITY SERVICES (PUBLIC RIGHTS OF WAY): As the "Temporary Access Track for HGVs and Cranes" appears to cross PROW's, all details relating to the temporary PROW crossing points should be approved by the Council's Access Development Improvement Officer before any construction work begins. Other comments are as per application 14/0713, that is:

In terms of viewing enjoyment, there are numerous PROW's that would be affected by this proposal.

However, according to drawing reference MGE43 the application area highlighted in red only seems to cross 2 PROWs. These are footpath 388/2 and footpath 388/20.

As there are no bridleways in the vicinity that would be affected by the shadows from the blades of the wind turbine we would have no objection to this Planning Application. However, this is based on the following assumptions:

1. *The line of each PROW (as shown on the Definitive Map) must not be obstructed in any way and must remain clear and available for public use at all times (including during construction works – unless a temporary closure/diversion order is applied for and granted beforehand).*
2. *The users of any PROW must not be endangered or disadvantaged in any way by the proposals (during the works and following completion).*

3. *The surface material of any PROW must not be adversely affected in any way.*

5.2 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY): Repeats her comments in relation to application 14/0713, that is that the risk to the local Noctule bat population will need to be mitigated and that a mitigation strategy will need to be monitored to ensure it is successful.

5.3 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING): strongly objects to this proposal. The suitability of a turbine proposal very similar to this proposal has already been found unacceptable. This proposal is slightly 'smaller'.

Comments that the turbine will be perceived as a single vertical element in the landscape are misleading, as the turbine has a very wide blade diameter and the main visual disruption is caused by the rotational movement attracting the eye.

A major / moderate (adverse) effect on a 'very few' residential properties is acknowledged. These properties are very important and the turbine does not have to be built here thereby mitigating this adverse impact.

I do not accept a 25 year period as being described as 'temporary' it realistically amounts to almost a third of someone's lifetime.

It is admitted that, due to its scale and elevation, the proposed turbine would be visible over a very large area of countryside; that it would negatively affect the landscape character and visual amenity of receptors; have a negative impact on a number of historic landscape areas; that mitigation measures would be ineffective because of the turbine's height.

In conclusion this proposal is sited in an entirely inappropriate location within Newport, creating negative landscape effects, (landscape is a valuable natural resource), and causing negative visual effects on specific views and general amenity. This is well demonstrated by the Zone of Theoretical Visibility maps, which show the significant area over which this turbine would be seen. Its damaging visual impact is, again, very clearly demonstrated by the various photomontages which support reason for objection on visual and landscape grounds.

5.4 HEAD OF LAW & REGULATORY SERVICES (NOISE): The noise assessment is based on a 500kW EWT DW54 with a hub height of 40m. There is no objection to the proposal subject to the application of conditions to control the noise output, investigate complaints and provide for mitigation as necessary.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties within 100m of the application site were consulted (4 No. properties), 3No. site notices were displayed, and a press notice published in South Wales Argus on the 11 July 2015. 48 No. objections were received raising the following points:

- The turbine will have an adverse impact on the character & appearance of the area,
- The turbine will have an overbearing visual impact,
- The turbine will be too close to the village,
- The turbine will have an adverse impact on 9No. heritage assets,
- The application is the same as that refused under application 14/0713 and should be refused again,
- The application is motivated by a desire to get subsidies,
- The development is not 'temporary' and there could be subsequent applications for new turbines,
- An application for a similar turbine in Llanwern was refused permission,
- The planning balance should be heavily in favour of a proposal before it is granted,
- The application is contrary to the Newport Unitary Development Plan,
- The application is contrary to the Newport Local Development Plan,

- The local road network is inadequate to accept the delivery of the turbine and accidents may result,
- Bishton is rural in character and the turbine will industrialise the landscape,
- The turbine will have an adverse impact on landscape interests,
- The in-combination effects with other turbines are unacceptable,
- 21m of hedgerow would be destroyed,
- The proposed turbine will have a greater adverse impact than the refused scheme because it is smaller,
- Castle Farm barns are 4 properties and not one – the impacts of the turbine are greater than indicated in the application,
- Planning conditions will be inadequate to control shadow flicker,
- Noise will be greater in converted buildings which lack ceilings since they are not as soundproof,
- The turbine will be noisy,
- The access will not use an existing gateway,
- The turbine will adversely impact on public rights of way,
- The turbine isn't temporary – 25 years is a long time,
- The turbine will worsen existing health conditions,
- There will be an adverse impact on wildlife,
- There will be an adverse impact on house prices,
- This application was submitted because Planning Officers have already approved it (and the previous one),
- Brownfield sites are available and preferable for renewable energy generation,
- Policies in favour of renewable energy generation do not 'trump' policies that protect amenity and landscape,
- Subsidising renewables adds to energy bills and general taxation,
- Renewable generation should be built into on-going projects such as Glan Llyn.

6.2 COUNCILLOR KELLAWAY: Objects for reasons relating to the village landscape, ancient monuments and most importantly people's homes and their quality of life.

- The environment in Bishton should not be underrated due to the close proximity of the retained Llanwern Steelworks. The village is rural in character and setting.
- A turbine over 60 metres high plus a further 20 meters allowing for ground height will simply and radically change the whole village and its character.
- There is no overriding need for the development in this location which therefore conflicts with the adopted LDP which would lead to a change of use to industrial rather than its current farm or countryside
- Planning Committee rejected a very similar proposal;
- The Council's Landscape Officer continues to object to the proposal;
- The Zone of Theoretical Visibility maps show the massive area over which this turbine would be seen;
- The damaging visual impact is clearly demonstrated by the various photomontages submitted;
- The turbine will have an adverse impact on the visual amenity of nearby occupiers.
- The turbine will have an adverse impact on the setting of cultural assets which has been confirmed by CADW;
- The CPRW objected to the previous application due to its height, size and blade flicker;
- Conditions controlling adverse impacts will not be enforceable;
- The turbine will have adverse impacts on health due to perception of harm;
- Protected species (bats) are at risk;
- Notwithstanding any benefits of the scheme, on balance the application should be refused.

6.3 BISHTON COMMUNITY COUNCIL

6.3.1 Objects to the planning application for the following reasons:

- The proposal is contrary to the adopted Local Development Plan,
- The turbine will be near most of the houses in the village,

- The turbine will adversely impact on 9 heritage sites,
- The turbine will have significant adverse impact on the environment and local communities,
- Wind turbines can be accommodated on available brownfield sites and the greenfield location of this turbine is not sequentially preferable,
- The turbine will have an adverse visual impact on the residents of Bishton being widely visible. The impact is made worse because the turbine is on a hill,
- The revised proposal will be noisier than the original proposal,
- The shadow flicker may be worse than the original proposal,
- The turbine will be overbearing due to its scale,
- The impact on birds and bats has not been assessed properly and has been underestimated,
- The turbine will have an unacceptably adverse effect on Saint Cadwaladr's Church, Bishton Castle and Llanwern Park Historic Park,
- The turbine will be widely visible across the Gwent Levels, Eastern Newport and parts of Monmouthshire,
- The applicant should not have been allowed to resubmit the application.

7.0 THE ENVIRONMENTAL STATEMENT

7.1.1 Screening opinion 13/1190 determined the proposed wind turbine was EIA development and consequently an Environmental Statement (ES) was submitted with this application.

The ES consists of two main parts:

- Part I – A Non-technical Summary;
- Part II – An Environmental Statement and Appendices.

7.1.2 The Non-technical summary précis the ES and considers the following key issues:

- Access and Construction;
- Ecology;
- Noise;
- Landscape and visual Impact;
- Shadow Flicker;
- Historic Environment (in regard to settings);
- Electro-magnetic interference and Aviation.

7.2 Access and Construction

7.2.1 The proposed delivery and return route is via the M4 to Junction 23a (Magor) and then along the B4245 to Llanmartin. The trucks would then proceed along the road to Underwood and then along the lane to Bishton. One load (the generator) will stop in Underwood where the generator will be re-loaded so it stands on its long axis to enable delivery along the lane. A section of hedge would be removed and a new access track constructed to reach the turbine site. The route has been 'proved' using a swept path analysis and certain choke points identified where work will be required to get the abnormal loads along the route. These consist of works at:

Location A – B4245 Magor Road / Newport Road Roundabout (by the brewery): temporary removal of signs and disconnection of the electricity supply.

Location B – Llanmartin / Underwood junction: cut foliage, reinforce footway, temporary removal of road sign;

Location C – Underwood / Bishton Lane junction: temporarily remove road signs, reinforce verge, temporarily remove grit bin, cut foliage as required;

Location D – Bishton Lane: cut back hedge, reinforce verge;

Location E – Site Access: remove hedge, reinforce grass verge

7.2.2 The deliveries required will be:

4 abnormal loads to carry in the generator, blades and tower;

26 'normal' HGVs to deliver the crane, smaller turbine parts, earth movers, road materials and concrete for the turbine foundation.

7.2.3 Elements of the delivery will use both sides of the road and it is intended to deliver between 10:00 and 16:00 when the roads are quieter and to apply appropriate traffic management. The operational phase will generate little traffic but it is proposed to retain the crane pad and access road for the duration of the development. Erection of the turbine will take 2-3 days with the overall build being achieved over eight weeks.

7.2.4 The ES concludes that the site can be viably accessed subject to minor works at choke points and appropriate traffic management within Bishton Lane.

7.3 Ecology

7.3.1 An Extended Phase 1 Habitat survey has been undertaken and concludes that the development would not have a significantly adverse effect on ecological interests at the site. Proposed mitigation is to ensure no net loss of hedge and bank at the site and undertaking hedge removal outside the nesting season or otherwise following a visual inspection by a qualified person.

Superseded by the September 2015 Noise Assessment and Revised Environmental Statement. See Section A4 of this report.

~~7.4 Noise~~

~~7.4.1 A noise assessment was undertaken and it was concluded that the turbine is compliant with the appropriate guidance contained in ETSU R-97. Measurements were taken at the nearest non-financially involved properties, these being Castle Farm Barns, Castle Cottage, The Old Rectory, Copsford, Willow Drive, Llanwern Park Farm & Heol Andrew and it was found that the turbine noise would be less than the required L_{a90} 35.0dB limit at all of those properties.~~

~~7.4.2 Castle Farm as a financially involved property would need to achieve a noise target of below L_{a90} 45.0 dB, the predictions show the anticipated noise level as being well below this target.~~

~~7.4.3 The noise assessment concludes that noise levels will be within the ETSU guidelines and turbine noise will be at an acceptable level.~~

7.5 Landscape and Visual impact Assessment

7.5.1 A 10 Km study area was established in consultation with Newport City Council since turbines of this scale are not noticeable beyond 10Km. The study then went on to consider Landscape Character, Visual Impact on a variety of receptors and the cumulative impact of the proposal in combination with other turbines that are operation, consented or in the planning system.

7.5.2 The study notes the importance of professional judgement in the assessment and then goes on to note that the significance of any impact is a combination of the magnitude (scale) of the impact in combination with the sensitivity of the receptor. Significance can vary between major and negligible with major effects being considered significantly adverse.

7.5.3 A certain level of mitigation was sought through turbine choice (i.e. a smaller turbine was chosen), care in siting the turbine and careful routing of the track to reduce hedge loss and visibility. Cabling will be below ground and the track and crane pad will be allowed to vegetate reducing their prominence.

7.5.4 In Landscape terms the turbine will be in the Llanwern Park landscape character area as identified in NRW's 'Landmap' system. This is characterised as being a gently undulating rounded hills landscape rising from the lower levels to the south. The area is primarily pastoral and fields are small to medium scale. It is recognised by Natural Resources Wales (NRW) as being of 'medium' sensitivity, the 3rd lowest landscape sensitivity out of 4

definitions. The turbine site has no statutory landscape designations but there are statutory sites within the 10Km study area. The ES acknowledges that the turbine will affect landscape character and visual receptors during construction, operation and de-commissioning with the main impact being during the operational phase.

- 7.5.5 The ES notes that the turbine will be visible over a wide area but mainly to the south but that the enclosure provided by the undulating landscape and screening vegetation will mean that impacts on the landscape will mostly be neutral in significance and there will be no significant impact on any designated landscape including the Gwent Levels 'Special Landscape Area' designated in the Newport Local Development Plan.
- 7.5.6 The Landscape and Visual Impact Assessment considers impacts on the landscape character areas defined in 'Landmap'. The turbine would be in the Llanwern Park landscape character area. The LVIA suggests 'direct' impacts on the landscape would be limited and the turbine would support the management objectives for the character area including to 'strongly resist any further development or suburbanisation of the area'.
- 7.5.7 The LVIA goes on to suggest that the turbine will have limited direct affects on the Llanwern Park Character area. It will add a single vertical element which will have a moderately significant impact on the landscape (the magnitude of the turbine's impact is assessed as medium / high and the sensitivity of the landscape as being medium). The LVIA notes the *'the proposed wind turbine will be prominent in the landscape and will be difficult not to notice within close proximity'* but goes on to say the impacts will quickly diminish with distance due to the screening effects of topography and vegetation meaning the impact on other landscape character areas especially to the north will not be significant.
- 7.5.8 Combination effects are considered but the effect on landscape is not considered to be harmful due to the separation from, and distance to other wind turbines meaning the proposed turbine will be seen as a single turbine from most viewpoints.
- 7.5.9 In visual terms the ES accepts that a few residential properties in close proximity to the turbine will suffer effects that are 'major / moderate' in significance but for most viewers the turbine will be screened by vegetation and landform. Even in the worst instances the turbine will not be overbearing on any occupiers or dominate any views.
- 7.5.10 The LVIA looked at 14 varying viewpoints concluding that at close distance the turbine would have a high magnitude impact potentially leading to major / moderate effects in significance terms (dependent on the sensitivity of the receptor). In terms of Bishton village which is a high sensitivity receptor it was concluded that the turbine would have an impact of medium magnitude leading to an impact of major / moderate significance which the ES considers to be potentially significantly harmful. The ES also notes that some dwellings close to the turbine will experience visual impacts of major / moderate significance (high sensitivity in combination with medium scale of impact). Again it is concluded that the turbine will not dominate views or be overbearing on any occupiers. Similar conclusions are arrived at in relation to the users of the public rights of way that pass near the turbine with the caveat that the impacts on walkers will reduce rapidly with distance from the turbine.
- 7.5.11 In cumulative terms the turbine would be seen in combination with others that are operational, consented or in the planning process from certain views. However the ES considers that the addition of this single turbine would not lead to a 'wind-farm effect' meaning the impact on landscape character and visual amenity would not be significant.

7.6 Shadow Flicker

- 7.6.1 Shadow flicker arises when the turbine blades cast shadows which can be seen as flickering light when viewed through windows. The impact is upon amenity since the frequency of flickering would be too low to induce epileptic attacks or other medical symptoms. Flicker effects are generally limited to within 10 rotor diameters of the turbine

(515m in this case). A total of 6 properties were considered to be at risk of shadow flicker effects, these being Castle Farm, the 4 dwellings at Castle Farm Barns and Castle Cottage.

7.6.2 The assessment indicated the worst case scenarios for these properties which were as follows:

Incidence of Shadow Flicker Effects				
House	Days per year	Max. hours per day	Mean hours per day	Total hours per year
Castle Farm	38	0.49	0.39	14.7
Castle Farm Barns (4 dwellings)	36	0.45	0.33	12.4
Castle Cottage	37	0.43	0.34	12.5

7.6.3 The ES notes that in reality the effects will be less than predicted due to weather conditions (cloudiness), turbine operation (not working) and intervening vegetation which will block shadowing.

7.6.4 In terms of timings the shadow flicker would be worst in spring and late summer / autumn between 16.45 and 17.10 for Castle Farm. For Castle Farm barns the effects are worst in spring and late summer / autumn between 17:00 and 17:35. For Castle Cottage the effects are worst between 18:15 and 18:25 in spring and for 4 days in late summer.

7.6.5 The ES acknowledges the risk of an adverse impact on amenity via shadow flicker at the identified properties but notes that in reality the effect may not cause any harm. However in the event that a problem is identified then the ES notes that it can be mitigated for by shutting down the turbine in the relevant parts of the year / day when the sun is shining. This can be achieved by automated systems and can be pragmatically achieved if found to be necessary.

7.7 Historic Environment

7.7.1 Southwest Archaeology undertook an assessment of the impact of the proposal on historic assets in the vicinity of the site. The study concludes that 9 Heritage assets would be impacted upon by the proposal in visual terms in negative terms varying between minor and negligible. Most other historic assets would be too far away to be effected or blocked from views that take in the wind turbine by topography. In addition to these 9 sites there would be greater impacts on the Church at Bishton (Saint Cadwaladr's), the castle site at Bishton and Llanwern Park. There would also be a negative / moderate impact on the Gwent Levels Historic Landscape.

7.7.2 The assessment notes the archaeological potential of the site is 'high' from the later Prehistoric through to the post-medieval period. The main impacts of the turbine on the historic environment are held to be 'direct' during construction and via visual impact during the operational phase. The study notes turbines are large and obvious modern additions to historic landscapes and their visual impact cannot be mitigated. The study closely considered heritage assets within 5Km of the turbine since this is where impacts are greatest but did give consideration to those further away.

7.7.3 The Parish Church of Saint Cadwaladr (Bishton) lies within 700m of the turbine and views of the church would take in the turbine. The impact on the church's setting was considered to be negative/moderate (where the turbine would have a pronounced impact on the setting of a heritage asset, due to the sensitivity of the asset and proximity of the turbine; it may be ameliorated by local blocking or mitigation).

7.7.4 Almost nothing remains of the Bishton Castle but its site is clearly identifiable and very close to the turbine (0.5Km). The relationship between the castle which may have been a former Palace of the Bishops of Llandaff and the likely planned medieval settlement of

Bishton is an important element of the historic landscape. The setting of the castle is relatively unaltered by the industrial development to the south which would tend to exaggerate the impacts of the turbine. The impact was held to be negative/moderate mainly due to the lack of survival of any features of the castle.

7.7.5 Llanwern Park has high to very high significance as a historic asset but its condition is noted as being fair to poor. The assessment accepts that the turbine will appear in certain views within the park but not the key view to the south east across the estuary. Views within the park that take in the turbine are mitigated by tree planting within the park (a coniferous plantation) and Longditch wood. Many views from the park already take in 20th century development including the Llanwern steelworks, other tall buildings and HT lines. The overall impact is held to be negative/moderate.

7.7.6 In terms of the Gwent Levels historic landscape the ES acknowledges that the impact of turbines is negative *(but temporary and reversible). It notes that the presence of the turbine will affect the interpretation of the historic landscape but notes that there is a clear separation of the Levels from the turbine site partly achieved by intervening modern development (the steelworks, the railway and Gwent Europark) so although negative the impact is held to be negative/minor and not significant.

7.7.7 The assessment concludes that the overall impact of the turbine on heritage assets will be moderately negative at worst meaning the turbine would have a pronounced impact on the setting of heritage assets, due to the sensitivity of the asset and proximity of the turbine; but the impact may be ameliorated by local blocking or mitigation.

7.8 Electro-magnetic Interference and Aviation

7.8.1 Wind turbines can interfere with electro-magnetic communications including: television and radio reception, scanning telemetry and microwave links. In some instances, radar and aviation services can also be affected by operational wind turbines.

7.8.2 The ES notes that relevant bodies were consulted:

- Office of Communications
- Joint radio Company
- Atkins
- Ministry of Defence
- Bristol International Airport

No objections were raised to the proposal.

7.9 Maintenance, Highways and Ice Throw

7.9.1 General maintenance will take approximately half a day per year and in-built monitoring systems will identify faults and close down the turbine if necessary. The turbine would be outside topple distance plus 10% from highways and buildings and no part would oversail public rights of way. In the event of ice build-up (an unlikely event given the normal winter weather conditions) the turbine can be shut down.

8. **ASSESSMENT**

8.1 The key issues relevant to the determination of this application are:

- Access and Construction;
- Ecology - European Protected Species (Noctule Bats);
- Noise;
- Landscape and visual Impact;
- Shadow Flicker;
- Historic Environment (in regard to settings);
- Other issues;
 - Availability of other sites
 - Hedgerow removal & rural character

- Public Rights of Way
- Property Values
- Electro-magnetic interference and Aviation
- Community Benefit
- Lifetime of the proposal

8.2 Access Issues

- 8.2.1 Concerns arose over the access to the site which would involve abnormal loads transiting 'B' roads and a final section of narrow lane between Underwood and Bishton. The Head of Streetscene raised issues in regard to highways, trees and ecology that stemmed from the delivery route and works necessary to make it achievable. The applicant has shown that the route works in highway terms and has agreed to a conditional regime that will necessitate a 'dry run' to prove the route and a road condition / repair condition. Monmouthshire have not objected as a Highway's Authority and Newport City Homes have agreed the use of the car park in Underwood for the generator load to stop and be re-loaded for the last section of the journey. The generator will be re-loaded from horizontal to vertical for the last phase due to the narrowness of the final road section.
- 8.2.2 Some concerns were raised over the works required in the lane to get the abnormal loads through. However the route has been walked and the necessary tree / hedge works have been agreed in principle with the Tree Officer who offers no objection. Some minor branch removal and hedge trimming will be required but these are not considered to have an adverse impact on rural character ensuring compliance with Policies SP5 since there will be no unacceptably adverse impact on rural character. Control over the extent of these works can be achieved under condition requiring an agreed scheme of works to be submitted and adhered to.
- 8.2.3 The Ecology Officer is satisfied that the hedgerow removal required to facilitate the new field access can be achieved without harm to any ecological interest if undertaken outside bird nesting season or otherwise following an examination of the hedge by a suitably qualified person to check no nesting birds are present.
- 8.2.4 As such the proposal is compliant with LDP Policies SP5 (Countryside) and GP5 (Natural Environment).

8.3 Ecology - European Protected Species (Noctule Bats)

- 8.3.1 Following concerns raised by the Council's Ecology Officer and the Gwent Wildlife Trust in regard to the woodland edge of Craig y Perthi wood which is more than 65m from the turbine site which is the recommended buffer zone. However there were concerns about bats foraging along the woodland edge and a Bat Survey was undertaken in September 2014. This identified that bats were flying in the vicinity of the turbine site. Consultees identified a particular risk to the local population of Noctule bats given their foraging style (flying quickly at some height around sunset and sunrise to catch insects). The risk to the Common Pipistrelle was considered to be lower given their foraging style and the relative robustness of the local population. The applicant proposes a mitigation strategy where the turbine will not 'cut-in' until the wind speed reaches 6.0m per second (at such speeds the bats are unlikely to be flying) for a period of one hour before sunset and two hours after and for two hours before sunrise and one hour after. The Ecology Officer has agreed this approach and requested monitoring for a period of 5 years to ensure the mitigation strategy is effective. It is considered that such a condition will protect the interests of the local Noctule bat population meaning that the proposal complies with LDP Policy GP5 since appropriate mitigation can be implemented to protect the bats and the development would not be detrimental to the protected species.
- 8.3.2 No other ecological issues of any significance were raised.

8.4 Noise

~~8.4.1 The ES considers the impact of noise from the turbine. It concludes that the turbine will not generate noise above the relevant noise targets identified in appropriate noise guidance and as such there would be no adverse impact on amenity. The Head of Law and Regulation has not objected to the proposal but advises that conditions relating to noise generation should be applied to any permission granted. As such the proposal accords with LDP Policy GP2 (General Amenity) in regard to noise since there would be no significant adverse effect on the amenities of local residents in regard to noise.~~

8.5 Landscape and Visual Impact

8.5.1 In landscape terms the application site lies within the Llanwern Park Character Area identified in NRW's 'Landmap' methodology. This is described as having '*Gently undulating rounded hills rising from the levels at 10m AOD to 60-80m AOD. The area is primarily pastoral and fields are small to medium scale enclosed by cut hedges and trees. Most fields have sinuous boundaries while others are rectilinear. Blocks of deciduous woodland are noticeable and give emphasis to the hillsides in places, and are prominent from the M4. Settlement is a combination of clustered villages, a relatively recent estate at Underwood, and scattered farmhouses. Llanwern Park Farm is surrounded by a parkland landscape. The M4 adjacent is a source of noise and movement in an otherwise tranquil area. This road allows views into the area making it an important approach to Newport. Views from the area to the south are dominated by the Llanwern complex. The area is generally well managed*'.

8.5.2 The ES acknowledges that the turbine will affect landscape character and visual receptors during construction, operation and de-commissioning with the main impact being during the operational phase. The ES concludes that the turbine will have a moderately significant impact on the landscape at worst. This is based on the immediately local landscape being of 'medium' sensitivity and the turbine having a 'medium / high' magnitude impact. In the LVIA methodology this would mean the turbine would not have a significantly adverse impact on the landscape in which it is sited. It is considered that these assessments are fair and comfortably fit within the matrices presented within the LVIA which describe landscape sensitivity and the magnitude of impacts on that landscape. Impacts are judged to quickly lessen with distance which is also considered to be a fair assessment.

8.5.3 In terms of designated landscapes the LVIA considers there would be no significant adverse impact upon any such landscape.

8.5.4 Overall it is considered that the proposal would not have an unacceptably adverse impact on local landscape character and relevant policies are complied with.

8.5.5 In visual terms the turbine was considered to have a major / moderate (adverse) impact at worse. This was in relation to Castle Farm and by extension to other nearby dwellings. Consideration was also given to other viewpoints including public rights of way, national cycle routes, major and minor roads, settlements and isolated farms / houses. In terms of Bishton village the significance of the visual impact was held to be major-moderate (adverse) which is capable of being significant in planning terms in the parameters set out by the ES. This was predicated on the dwellings as being of 'high' sensitivity and the magnitude of the impact of the turbine as being 'medium' when viewed from the village. In relation to other viewpoints the visual impact was held to be less than significantly adverse in planning terms. As such the LVIA acknowledges that the impact on amenity for primarily residential observers of the scheme is potentially sufficiently adverse to be material to a planning decision. This was also true in terms of the users of the Public Rights of Way in the immediate vicinity of the turbine site.

8.5.6 The submitted photomontages and wire frames in combination with the officer site visit confirm that the turbine would be prominent in views and would certainly be difficult not to

notice from the village of Bishton which would tend to identify the magnitude of the impact as greater than acknowledged in the LVIA (medium / high rather than medium) meaning the significance of the effect would also be greater (major rather than major / moderate). It is agreed that visual effects for other observers would be less and not significantly harmful. However it must be concluded that the turbine would have an adverse impact on the amenity of nearby houses and the village of Bishton in visual terms. This is confirmed by the advice of the Council's Landscape Officer. However consideration needs to be given to the extent of the harm caused. The turbine would clearly be visible but it is agreed that it would not be overbearing and as such it is concluded that the harm caused is limited and would need to be carefully balanced against the scheme's merits. The visual harm would not be automatically unto itself so great that a refusal of planning permission would be warranted. However the turbine can be assessed as being contrary to LDP Policy GP2ii due to its adverse impact on the visual amenity of residents of Bishton and the isolated dwellings nearer to the turbine site.

8.5.7 Cumulative effects were also considered with the turbine being looked at in combination with other turbines that are existing, consented or in planning. In landscape terms it was held that the degree of separation and distance in-combination with intervening vegetation meant that cumulative landscape effects would be minimal. In visual terms the turbine would tend to be seen in isolation for closer views and at distance although more turbines could be seen in the view the effect of distance and separation of the turbines would mean no noticeable 'wind farm' effect would be produced. This is considered to be a fair assessment and there is no reason to think that any in-combination effect would be unacceptable in landscape or visual terms.

8.6 Shadow Flicker

8.6.1 The ES considered shadow flicker and identified it as a risk to the nearest residential properties these being Castle Farm, Castle Farm Barns and Castle Cottage. However the ES notes that the effects are limited in duration by time of the day and season and can be effectively mitigated by shutting down the turbine at the relevant times when the sun is shining. An appropriate scheme of mitigation can be conditioned in the event permission is granted and a problem arises. Shadow flicker would not constitute a reason to refuse planning permission.

8.7 Historic Environment

8.7.1 The ES considered the impact of the proposal in terms of directly upon the archaeology and indirectly in terms of the impact on the settings of historic assets. Construction of the new track and the cable routing will mean there is a potential risk to archaeology. GGAT recommend the application of a condition requiring the completion of a programme of archaeological work. This is considered sufficient to protect the archaeological resource.

8.7.2 In terms of settings the ES concludes that the heritage assets most affected would be the site of Bishton Castle (Scheduled Ancient Monument), The Church of Saint Cadwaladr (Grade II listed) and Llanwern Park (CADW Register of Landscapes Parks and Gardens of Special Historic Interest in Wales). CADW consider that the impact on the setting of the SAM and registered historic park would be adverse but not sufficiently so to be significant. This is in agreement with the ES. In terms of the Listed Church the ES concludes that the impact would be negative / moderate (i.e. adverse) but that this is not significant and reduced by the relative lack of prominence of the church and surrounding vegetation. In effect the turbine and the church would be seen together from certain viewpoints and the turbine would have a pronounced impact on the setting of the heritage asset. However the photomontages and wireframes indicate that although the turbine would be visible it would not be unduly dominant when viewed in-combination with the church and the relationship would not be unacceptable.

8.7.3 As such it is concluded that LDP Policies SP9 & CE5 (Conservation of the Natural, Historic and Built Environment) are complied with since the proposal conserves the setting of the Listed Saint Cadwaladr's Church and Historic Park / Garden.

8.8 Other Issues

Other issues that have been raised are:

- Availability of other sites
- Hedgerow removal & rural character
- Public Rights of Way
- Property Values
- Electro-magnetic interference and Aviation
- Community Benefit
- Lifetime of the proposal

8.8.1 **Availability of other sites:** there is no requirement in national planning policy environment for renewable energy schemes to pursue a sequential approach to site selection other than having regard to the general preference for the reuse of previously developed land enshrined in Edition 7 of Planning Policy Wales (PPW). PPW also requires '*local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change*'. National policy does not specifically direct renewable energy schemes to brownfield and is generally supportive of renewable energy schemes.

As such the developer is not required to demonstrate other more preferable sites were not available under national policy.

However Policy CE10 of the adopted Newport LDP allows for the location of larger scale renewable generation proposals outside the defined settlement boundary if no appropriate brownfield site exists. The applicant has considered the area of wind power potential identified in the 'Renewable and Low Carbon Energy Assessment' (May 2013) which correspond with brownfield locations. These are principally Uskmouth and areas adjacent to the Llanwern Steelworks. The applicant notes that the Uskmouth locations are already developed and consequently have a limited potential for wind power developments in the short term. The Llanwern sites are under the control of Tata Steel who have confirmed via their land agent that the identified sites are currently unavailable for wind power proposals. As such the feasible brownfield sites as identified in the Renewable and Low Carbon Energy Assessment are currently unavailable and the area of search would default to areas outside the urban area.

The City Council has granted permission for wind turbines in rural areas previously and there is no implicit objection because the site is in the countryside. The inherent characteristics of turbines restrict opportunities for their provision in densely settled urban areas and most brownfield sites within Newport are identified for regeneration or are being regenerated (Pirelli Cables, Llanwern, Herbert Road, Alcan) leaving few potential sites outside industrial areas. Those which have been found to be potentially viable for wind power by the Council have been addressed by the applicant and found to be unavailable. In LDP terms Policy CE10 supports the provision of large scale schemes outside of the urban area if no appropriate brownfield sites exist and allows for the use of greenfield sites if there are no significantly adverse effects on the environment or local communities.

As such the proposal is considered compliant with LDP Policy CE10 since appropriate brownfield sites are not available.

8.8.2 **Hedgerow removal & rural character:** Provision of the access onto Bishton Lane will require the removal of a section of hedgerow. The Council has already agreed to a new access in the vicinity of that proposed under Permission 12/0164. In that instance the Council applied conditional controls to require hedge re-planting. As such there is no reason to think that a similar course of action could not be taken in regard to the proposed

access point. The condition would require hedge planting protecting rural character and appearance and controls could be imposed on hedgerow removal to protect bio-diversity interests.

- 8.8.3 **Public Rights of Way:** there will be no bridleways in the vicinity of the turbine so there is no risk to horse riders. Public Rights of Way 388/20 and Restricted by-way 388/2 would be directly affected by the scheme since the access track would cross them or pass near them. The turbine would be beyond topple distance from any public right of way and there is no reason to think the public using these rights of way would be at risk. The maintenance of the integrity of the public rights of way network can be assured under condition during the construction phase and through appropriate non-planning legislation thereafter.
- 8.8.4 **Property values** are not a material planning consideration.
- 8.8.5 **Electro-magnetic interference and Aviation:** there has been no objection from consultees with an interest in these issues and there is no reason to think these would amount to a reason to object to the proposal.
- 8.8.6 **Community Benefit:** The developer has raised the prospect of enabling local investment and shared ownership in the development. This would be achieved via a local share or a bond offer. In this case any community benefit offered would not meet the statutory tests identified in Planning Policy Wales and the CIL Regulations and would be entirely irrelevant to the determination of this application. The Council has not requested that any Community Benefit is provided and cannot take into account any benefit that might be offered. Should the developer wish to provide any benefit then that is a matter to be settled privately between himself and any community organisation that he may wish to endow.
- 8.8.7 **Lifetime of the development:** The development lifetime can be limited by condition and the conditional regime can also require the restoration of the site to its previous state. Welsh Government Circular 016/20 – Conditions is entirely clear that it is allowable to grant temporary permissions which are ended under conditional requirements and that conditions requiring site restoration can be legitimately applied where necessary. As such the condition of the land at the end of the permission would be as a restored site with the development removed. The land would in effect revert to its greenfield status – any further application to develop the land for wind power would be judged against the context of the restored site and the policy environment extant at that future point. The Council's hands would not be tied in the determination of any future application that might be submitted.
- 8.9 Benefits of the Scheme and the Planning Balance
- 8.9.1 The proposal enjoys a broad policy support at National and Local Level. Planning Policy Wales notes at Paragraph 12.8.12 the need for wind energy is a key part of meeting the Welsh Government's vision for future renewable energy production and should be taken into account by decision makers. Paragraph 12.10.1 also requires that LPAs take into account the contribution a proposal will play in meeting identified national targets for renewable energy provision. Paragraph 12.8.9 requires that LPAs facilitate the development of all forms of renewable low carbon energy. This is caveated by the need to protect other interests of acknowledged importance.
- 8.9.2 Policy CE10 of the adopted Newport Local Development Plan 2011-2026 is encouraging of the provision of renewable energy generation in all areas of the city whilst directing larger scale schemes to previously developed land if any appropriate site exists. Since no appropriate brownfield sites are available the Policy is complied with.
- 8.9.3 No significant harm caused by the proposal has been identified other than the impact on visual amenity to the closest dwellings and to the settlement of Bishton (major / moderate adverse effect has been identified). However it is agreed that the effect would be adverse but not overbearing and as such not unacceptably adverse in the context of the benefits

that the scheme will provide. Overall in the balance it is considered that the scheme is acceptable notwithstanding the harm identified.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

8.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

10. CONCLUSION

10.1 Whilst acknowledging the visual harm identified in the proposal to the occupiers of Bishton it is not considered that this harm is sufficiently great to outweigh the benefits of the scheme in terms of low carbon electricity generation. Overall the scheme is acceptable and planning permission should be granted subject to conditions.

11. RECOMMENDATION

GRANTED WITH CONDITIONS

Plans Condition

01 The development shall be carried out fully in accordance with the following plans and documents:

- Environmental Statement: Single Wind Turbine at Castle Farm, Bishton, Newport;
- Non-technical Summary: Single Wind Turbine at Castle Farm, Bishton, Newport;
- Design & Access Statement, Single Wind Turbine at Castle Farm, Bishton, Newport;
- Block Plan 1:500 Block Plan Rev. B;
- Site Plan 1:1250 Rev. B;
- Drawing 1000911 00 (General Arrangement, Directwind 52 – HH 40);
- Switchgear Housing Plan 14-07-15 Switchgear Plan_MGE43 V1;
- Location Plan 1:2500 Rev. B

Reason: to comply with Welsh Government Circular 016/2014, Paragraph 5.30.

Pre-commencement Conditions

02 Archaeology: No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include timetabled provision for a nominated archaeologist to

be given access to undertake a 'watching brief' during the excavation of access tracks, turbine foundations and other operational areas of the development site during the construction phase. The scheme shall include provision for remains to be recorded, removed or left in situ. The approved scheme of investigation shall be implemented as agreed.

Reason: to protect the integrity of any archaeological resources that may be found.

03 Road Condition Surveys and Repair Programme: Prior to works commencing (other than works relating to ground survey works or archaeological evaluation / investigation) and then within 3 months of the installation of the turbine blades, the developer (or any successor in title) shall undertake condition surveys of the agreed route to access the site. The surveys and a programme of necessary repair works including timings for the completions of those works shall be submitted in writing to the Council within 4 months of the completion of the turbine. Following the Council's written agreement the programme of repair works shall be completed fully as agreed.

Reason: to ensure the public highway is not damaged by the proposal.

04 Pre-commencement works to the highway: no work shall commence on the construction of the scheme hereby approved (other than works relating to ground survey works or archaeological evaluation / investigation) until a survey of the access route to the site including a 'dry run' to demonstrate the indivisible loads can be delivered to the site has been completed and a written programme of necessary works; including any works to culverts, works of road widening, works to overhead lines, telegraph poles & street furniture and any tree / hedge removal or trimming and any other necessary works (including a timetable for any works of restitution) to allow the agreed route to be used for deliveries to the site has been submitted to and agreed in writing by the Council. Thereafter the agreed scheme of works shall be completed fully as agreed prior to any works commencing on the site (other than in relation to works of restitution that cannot be completed until a later stage).

Reason: to ensure the delivery route is fit for purpose.

05 Construction method statement: Development shall not be begun (other than works relating to ground survey works or archaeological evaluation / investigation) until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The construction method statement shall set out details of all on-site construction works; post-construction reinstatement; drainage; Mitigation; and other restoration, together with details of their timetabling. It shall include details of, and measures to secure:-

- (a) the phasing of construction works;
- (b) the formation of the temporary construction compound;
- (c) dust management and suppression;
- (d) cleaning of site entrance, facilities for wheel washing and cleaning the adjacent public highway;
- (e) pollution control, including the protection of water courses and ground water; subsoil surface water drainage; bunding of fuel storage areas; sewage and foul water drainage and disposal; and emergency procedures and pollution response plans;
- (f) temporary site illumination during the construction period;
- (g) the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable levels and in accordance with BS 5228: Noise control on construction and open sites;
- (h) storage of materials and disposal of surplus materials;
- (i) the construction of the access into the site, the erection of any entrance gates and the creation and maintenance of associated visibility splays;
- (j) access tracks and other areas of hardstanding, including how existing Public Rights of Way will be accommodated during the construction process;
- (k) the construction of the crane pad;
- (l) the carrying out of foundation works;
- (m) method of working cable trenches;

(n) watercourse crossings;
(o) soils storage and handling;
(p) post-construction restoration/reinstatement of the working areas;
(q) the sheeting of all heavy goods vehicles construction materials to, or spoil from, the site to prevent spillage or deposit of any materials on the highway;
The works shall proceed in full accordance with the agreed construction method statement.
Reason: to protect the amenity of residents.

Other Conditions requiring Information to be Submitted

06 MOD Safeguarding: Prior to the installation of the turbine tower the Ministry of Defence shall be notified of the following in writing:

- the dates the tower is scheduled to be built (start date and end date);
- the maximum height of construction equipment; and
- the precise location of the turbine

Should any of this information change during the construction phase, the applicant shall provide the MOD with the updated information within 1 week of it becoming available.

Reason: To ensure the Defence Estates Safeguarding of the MOD are aware of the development.

07 Decommissioning and restoration: Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the wind turbine and the associated equipment and foundations. The scheme shall include details of:

- the extent of equipment and foundation removal and the site restoration to be carried out;
- the management and timing of any works;
- a traffic management plan to address likely traffic impact issues during the decommissioning period;
- an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats;
- identification of access routes;
- location of material laydown areas;
- a programme of implementation.

The approved scheme shall be fully implemented within 24 months of the expiry of this permission.

Reason: to ensure the character and appearance of the site is restored when the turbine is redundant.

08 Repair, replacement and removal of turbines: If the turbine hereby permitted fails to produce electricity for supply to the grid for a continuous period of 6 months, a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 6 month period for the repair or removal of the turbine. Where repairs or replacements are required the scheme shall include a proposed programme of remedial works. Where removal of the turbine is required the scheme shall include the same details required under condition 02 of this permission. The relevant scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: to ensure the turbine beneficially generates electricity or is otherwise removed to the benefit of the character and appearance of the area.

09 The impact of the turbine on the local Noctule bat population shall be monitored for a period of 5 years with surveys being undertaken 1, 3 and 5 years after the first export date. The findings of the surveys shall be provided to the City Council within 28 days of their completion. In the event an adverse impact on the Noctule bat population is identified by the survey effort the applicant shall submit a revised mitigation programme alongside any survey results. The revised mitigation scheme shall include a timetable for implementation.

Following the Council's written agreement the revised mitigation scheme shall be implemented fully as agreed (superseding condition 18 as necessary). In the event no scheme is agreed within 3 months of the submission of any relevant survey the turbine shall not operate within the times identified in condition 18 until such time a scheme has been agreed and implemented.

Reason: to protect the local population of Noctule bats from the risk of collision.

10 Hedgerow Replanting: Within 3 months of the creation of the new access, written approval of the Local Planning Authority is required for the replacement hedgerow (indicating the number, species, heights on planting and positions of all trees and shrubs). The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the creation of the access. Thereafter, the replacement hedgerow shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner.

11 Prior to the delivery of any abnormal load to the site a schedule of tree and hedge works to be undertaken in the highway between the new site access and the car park at Underwood (identified to be used to reload the generator) shall be submitted to and agreed in writing by the LPA. Thereafter all tree and hedge works shall proceed as agreed. No abnormal load shall be delivered to the site prior to the agreement of the schedule of tree and hedge works.

Reason: to protect tree and hedge features in the interests of rural character and general amenity.

Directive Conditions

12 Lifetime of the Proposal: the permission hereby granted shall expire 25 years from the date when electrical power is first exported ('First Export Date') from the wind turbine to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than one calendar month after the event.

Reason: the proposed scheme has a 25 year lifespan.

13 Delivery hours: The delivery of any construction materials or equipment for the construction of the development, other than turbine blades, nacelles and tower, shall be restricted to the hours of 08:00 – 18:00 on Monday to Friday inclusive and 08:00 – 13:00 hours on Saturdays with no such deliveries on a Sunday or Public Holiday.

Reason: to protect the amenity of neighbouring occupiers.

14 Appearance: The turbine shall have a semi matt finish and be a pale grey colour. Prior to the erection of the turbine, its exact specification of finish and colour along with details of its dimensions and the dimensions and finish and colour of any Electrical kiosks shall be submitted to and approved in writing by the Local Planning Authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbine or any Electrical Kiosks other than those required to meet statutory requirements. Thereafter the development shall proceed fully as agreed.

Reason: to confirm the details of the approved development and to protect the character and appearance of the area.

15 Turbine dimensions: the overall height of the wind turbine shall not exceed 66 metres to the tip of the blades when the turbine blade is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base.

Reason: to ensure the turbine is within the parameters approved under this application.

16 Permanent lighting: There shall be no permanent illumination on the site other than a

passive infra-red-operated external door light for the substation/transformer kiosk doors to allow safe access or any lighting as required for the purposes of aviation safety.

Reason: to protect the rural character of the site.

17 Cabling: All cabling between the turbine and the Electrical Kiosks and on the wider site shall be laid underground.

Reason: to protect the character and appearance of the area.

18 Aviation Lighting: Prior to the 'First Export Date' aviation lighting shall be fitted to the turbine and shall be retained in a working condition so long as the turbine is on site.

Reason: to reduce the risk of collision.

19 Noctule Bat Mitigation: The turbine's cut in speed shall be at least 6 metres per second between one hour before local sunset and one hour after and between two hours before local sunrise and one hour after during the period of April to October inclusive.

Reason: to protect the local population of Noctule bats from the risk of collision.

Shadow Flicker Condition

20 Shadow Flicker: Within 28 days from the receipt of a written request from the Local Planning Authority and following a complaint to the Local Planning Authority from any occupant of Castle Farm, Castle Farm Barns (The Byre, The Old Granary, The Long Barn & Windsong Barn) or Castle Cottage, the wind turbine operator shall, at the wind turbine operators expense, employ an independent consultant approved by the Local Planning Authority to assess the level of shadow flicker from the wind turbine at the complainant's property.

The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said shadow flicker complaint, including all calculations, video recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Local Planning Authority.

In the event the complaint is held to be valid a scheme to mitigate the impacts of the shadow flicker shall be provided including a timescale for implementation and following the Council's written agreement the scheme shall be implemented as agreed. In the event no scheme had been agreed within 3 months of the initial complaint the turbine shall cease to operate during the hours and times of the year identified as the times when shadow flicker might affect the above properties.

Reason: to protect residential amenity.

Noise Conditions – Deleted and Replaced by those shown at Paragraph A4.3

~~21 Noise from the proposed turbine (including the application of any tonal penalty) shall not exceed 35 dBLA90, 10 min as measured 3.5 meters from the façade of any noise sensitive property at any time, up to on-site wind speeds of 10 m/s measured at a height of 10m.~~

~~Reason: To safeguard residential amenities.~~

~~22 Within 21 days from the receipt of a written request from the Local Planning Authority and following a complaint to the Local Planning Authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at the wind turbine operators expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind turbines at the complainant's property following the procedures described in the attached Guidance Notes.~~

~~Reason: To safeguard residential amenities.~~

~~23 The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said noise complaint, including all~~

~~calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 2 months of the date of the written request of the Local Planning Authority unless otherwise extended in writing by the Local Planning Authority.~~

~~Reason: To safeguard residential amenities.~~

~~24 Prior to the commencement of any monitoring by the independent consultant to be undertaken in accordance with these conditions the wind turbine operator shall submit to the Local Planning Authority for written approval the proposed measurement location(s) identified where measurements for compliance checking purposes shall be undertaken.~~

~~Reason: To safeguard residential amenities.~~

~~25 Wind speed, wind direction and power generation data shall be continuously logged and provided to the Local Planning Authority at its request, within 21 days of such request. Such data shall be retained for a period of not less than 24 months.~~

~~Reason: To safeguard residential amenities.~~

~~26 No development shall commence until there has been submitted to the Local Planning Authority details of a nominated representative for the development to act as a point of contact for local residents (in connection with conditions 21 – 27) together with the arrangements for notifying and approving any subsequent change in the nominated representative. The nominated representative shall have responsibility for liaison with the Local Planning Authority in connection with any noise complaints made during the construction, operation and decommissioning of the wind turbines.~~

~~Reason: To safeguard residential amenities.~~

~~27 Once the Local Planning Authority has received the independent consultant's noise assessment required by conditions 2 and 3 and where satisfied of an established breach of the noise limit, upon notification by the Local Planning Authority in writing to the wind turbine operator of the said breach, the turbine operator shall within 21 days propose a scheme for the approval of the Local Planning Authority. The scheme shall be designed to mitigate the breach and to prevent its future recurrence. This scheme shall specify the timescales for implementation. The scheme shall be implemented as reasonably approved by the Local Planning Authority and according to the timescales within it. The scheme shall be retained thereafter unless otherwise agreed with the Local Planning Authority.~~

~~Reason: To safeguard residential amenities.~~

NOTES TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011-2026 (adopted January 2014). Policies SP1, SP5, SP8, SP9, GP1, GP2, GP3, GP5, GP6, GP7, CE5 & CE10 were relevant to the determination of this application.

02 The application was accompanied by an Environmental Statement.

03 The Welsh Government (Economy, Science & Transport) advise of the following:

- The County road bridges that cross the M4 between Llanmartin and Underwood has a 120 tonne limit and total vehicle weights should not exceed this;
- The overbridges at Junction 23A of the M4 are limited to 64 tonnes
- The generator must not be transported on its long axis on the M4 due to headroom limitations at the Llanmartin – Magor Underbridge;
- No 'Abnormal Indivisible Loads' should be transported prior to consultation with SWTRA and relevant 'roadspace booking';
- All loads inclusive of vehicles should not exceed 120 tonnes or 4.95m in height.

NOTES TO ACCOMPANY NOISE CONDITIONS SUGGESTED BY THE HEAD OF LAW & REGULATION

Note 1

- a) Values of the $L_{A90,10min}$ noise statistic shall be measured at the complainant's property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This shall be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.
- b) The microphone should be mounted at 1.2 - 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing from the Local Planning Authority), and placed outside the complainant's dwelling. Measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 3.5m away from the building facade or any reflecting surface except the ground at a location agreed with the Local Planning Authority.
- c) The $L_{A90,10min}$ measurements shall be synchronised with measurements of the 10-minute arithmetic mean wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the wind turbines.
- d) The wind turbine operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods on the wind farm site to enable compliance with the conditions to be evaluated. The mean wind speed at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c).

Note 2

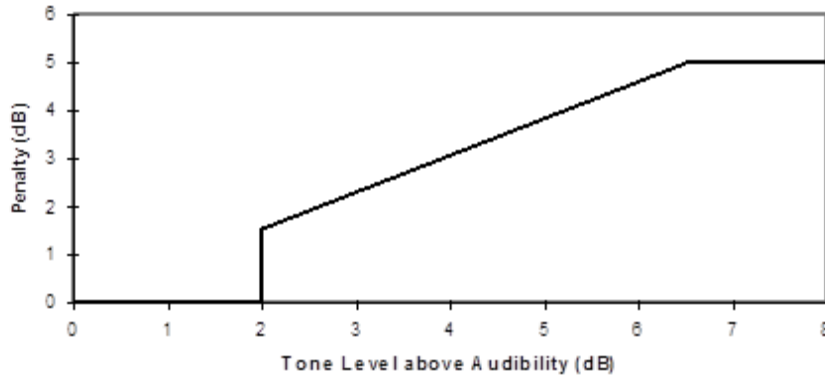
- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Local Planning Authority. In specifying such conditions the Local Planning Authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise. At its request the wind turbine operator shall provide within 28 days of the completion of the measurements all of the data collected under condition 2 to the local planning authority
- (b) Valid data points are those that remain after all periods during rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter.
- (c) A least squares, "best fit" curve of a maximum 2nd order polynomial or otherwise as may be agreed with the local planning authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured $L_{A90,10min}$ noise levels. The noise level at each integer speed shall be derived from this best-fit curve.

Note 3

Where, in the opinion of the Local Planning Authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used.

- a) For each 10-minute interval for which $L_{A90,10min}$ data have been obtained as provided for in Notes 1 and 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.
- b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} (Delta L_{tm}), shall be calculated by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97.
- c) The margin above audibility shall be plotted against wind speed for each of the 2-minute samples. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

- d) A linear regression shall then be performed to establish the margin above audibility at the assessed wind speed for each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic average shall be used.
- e) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind turbine noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



Note 4

If the wind turbine noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Notes 1 & 2 with the wind turbines switched off in order to determine the background noise, L_3 , at the assessed wind speed. The wind turbine noise at this wind speed, L_1 , is then calculated as follows, where L_2 is the measured wind turbine noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

The wind turbine noise level is re-calculated by adding the tonal penalty (if any) to the wind turbine noise.

TABLE OF NOISE LIMITS RELATING TO CONDITION 1

Table 1: The $L_{A90,10min}$ dB Noise Level from the Wind Turbines Between 23:00 and 07:00 hours:

Property	Standardised Wind Speed at 10 m Height, ms^{-1}									
	3	4	5	6	7	8	9	10	11	12
CASTLE FARM BARNS	43.0	43.0	43.0	42.9	42.9	42.9	42.8	42.9	42.9	42.9
CASTLE COTTAGE	43.0	43.0	43.0	42.9	42.9	42.8	42.8	42.9	42.9	42.9
WILLOW DRIVE	43.0	43.0	43.0	43.0	43.0	43.0	42.9	43.0	43.0	43.0
LLANWERN PARK FARM	43.0	43.0	43.0	43.0	43.0	43.0	44.3	44.3	44.3	44.3
THE OLD RECTORY	43.0	43.0	43.0	43.0	42.9	42.9	42.9	42.9	42.9	42.9
COPSFORD	46.8	46.8	46.8	46.8	46.7	46.7	46.7	46.7	46.7	46.7

HEOL ANDREW	45.5	45.5	45.5	45.4	45.4	45.5	45.9	46.3	46.7	46.8
CASTLE FARM	45.0	45.0	45.0	45.0	44.9	44.9	44.9	44.9	44.9	44.9

Table 2: L_{A90,10min} dB Noise Level from the Wind Turbines at all other times:

Property	Standardised Wind Speed at 10 m Height, ms ⁻¹									
	3	4	5	6	7	8	9	10	11	12
CASTLE FARM BARNES	45.6	46.7	47.5	48.2	48.6	49.1	49.8	50.9	50.9	50.9
CASTLE COTTAGE	46.0	46.7	47.3	48.1	49.1	50.0	50.9	51.5	51.5	51.5
WILLOW DRIVE	35.0	35.0	34.9	34.9	34.7	34.7	34.6	34.7	34.7	34.7
LLANWERN PARK FARM	34.8	34.8	34.8	34.7	34.6	34.5	34.4	34.4	34.4	34.4
THE OLD RECTORY	47.5	47.5	47.5	47.5	47.4	47.4	47.6	49.5	49.5	49.5
COPSFORD	47.3	47.6	48.0	48.4	49.0	49.5	49.9	49.9	49.9	49.9
HEOL ANDREW	47.5	47.7	48.1	48.5	48.8	48.9	49.1	49.4	49.5	49.8
CASTLE FARM	45.0	45.0	45.0	45.0	44.9	44.9	44.9	44.9	44.9	44.9

TABLE OF COORDINATE LOCATIONS OF PROPERTIES

Note to Table 3: The geographical co-ordinates references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Table 3: Coordinate locations of the properties listed in Table 1 & 2.

Property	Easting	Northing
CASTLE FARM BARNES	339147	188050
CASTLE COTTAGE	339161	187926
WILLOW DRIVE	338301	188664
LLANWERN PARK FARM	337355	188320
THE OLD RECTORY	338701	187440
COPSFORD	339195	187790
HEOL ANDREW	339131	187656
CASTLE FARM	339098	188080

APPLICATION DETAILS

No: 15/0725 **Ward:** LLANWERN

Type: FULL (MAJOR)

Expiry Date: 11-OCT-2015

Applicant: MARTIN WEBBER

Site: CASTLE FARM, BISHTON ROAD, BISHTON, NEWPORT, NP18 2DZ

Proposal: ***ERECTION OF 0.9MW WIND TURBINE OF 66 METRES IN HEIGHT (TO BLADE TIP) AND ANCILLARY EQUIPMENT AND ASSOCIATED INFRASTRUCTURE (AFFECTING PUBLIC RIGHT OF WAY 388/20 BISHTON AND 388/18 BISHTON) (RESUBMISSION OF APPLICATION 14/0713).***

1. LATE REPRESENTATIONS

1.1 For clarification the Head of Streetscene and City Services has commented on the application as follows:

The proposal does not alter my comments previously made as part of application 14/0713 which to summarise were as follows:

I'm satisfied that the TMP demonstrates that any physical obstructions along the delivery can be overcome with mitigating measures. On this basis it's considered that the TMP is sufficient for the determination of planning approval. A trial run will however be required prior to any development in order to fully identify any unforeseen issues and must be secured via a planning condition.

In addition the following conditions will also be required:

- Any works within the highway will require the developer to enter into the appropriate highway agreement.
- A condition survey of the route must be carried out before and after delivery to identify any highway defects. Any defects must be rectified at a cost to the developer.
- Temporary road closures will be required along the route and therefore the appropriate traffic regulation orders must be put in place prior to the trial run and subsequent deliveries.
- A construction management plan must be submitted for approval which details, contractor parking/compound, wheel wash facilities, dust suppression and advanced warning signage.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 The Head of Streetscene and City Services concerns have been addressed through the proposed conditional regime and the Officer Recommendation to grant the application subject to conditions remains unchanged.

APPLICATION DETAILS

No: 15/0749 **Ward:** MALPAS

Type: RENEWALS AND VARIATION OF CONDITIONS

Expiry Date: 20-AUG-2015

Applicant: JOHN EAGLES, EAGLES PROPERTIES

Site: CLAREMONT COURT CARE HOME, 56, PILLMAWR ROAD, NEWPORT, NP20 6WG

Proposal: VARIATION OF CONDITIONS 01 (PLAN NUMBERS) AND 03 (FENCE DETAILS) OF PLANNING PERMISSION 13/1300 TO ALTER LENGTH AND HEIGHT OF PERIMETER AND COURTYARD FENCING ASSOCIATED WITH APPROVED COURTYARD AND RAMP

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

1.1 This application seeks the variation of condition 01 (plan numbers) and condition 03 (fence details) of planning permission 13/1300 to alter the length and height of the perimeter and courtyard fencing associated with the approved courtyard and ramp at Claremont Court Care Home, 56 Pillmawr Road in the Malpas Ward.

2. RELEVANT SITE HISTORY

12/0887	CONSTRUCT 2NO. FIRST FLOOR SIDE EXTENSIONS TO EXISTING NURSING HOME TO PROVIDE DAYROOM ACCOMMODATION AND A RAISED WALLED COURTYARD AND ASSOCIATED SITE WORKS	GRANTED WITH CONDITIONS
13/1300	MODIFIED DESIGN OF COURTYARD AND PEDESTRIAN RAMP TOGETHER WITH EXTENSION TO SMALL LEAN-TO (AMENDMENT TO PREVIOUS APPROVAL 12/0887)	GRANTED WITH CONDITIONS

3. POLICY CONTEXT

3.1 Policy **GP2 General Development Principles – General Amenity** states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.

Policy **GP6 General Development Principles – Quality of Design** states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

4. CONSULTATIONS

4.1 None

5. INTERNAL COUNCIL ADVICE

5.1 THE HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection.

5.2 THE HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No objection.

6. REPRESENTATIONS

6.1

NEIGHBOURS: All properties sharing a common boundary with the application site were consulted (three properties). Two objections were received from the occupier of the neighbouring property at 54 Pillmawr Road. The first objection raised concerns with regards to the affect the reduced dimensions of the fence would have on the level of privacy previously agreed and whether or not it would be further compromised. Following negotiations and the submission of amended plans the following comments were received:

- The privacy to be provided by original decisions 12/0887 and 13/1300 would be further reduced.
- Questions how professional drawings could be approved by the Council on two occasions when the proposed fence construction was suspect.
- States that in April 2015 a contractor had informed the occupier of 54 Pillmawr Road that the fence was to be installed on his side of the boundary wall. The occupier of 54 Pillmawr Road refused consent for this work to go ahead which prompted the submission of the current application. Raises concern that the wall condition was only raised as an issue when the method of fixing was challenged.
- States that there is no reason to attach a fence to the wall and suggests an alternative fence design.
- Points out that the original design for the current application reduced the length and height of the fence. To balance this, the translucent screen around the courtyard was to be increased along the north side.
- The second amended plans reinstated the length of the fence, but the extension to the courtyard screen was removed so the overlooking issue from the courtyard screen had been reinstated.
- Points out that the purpose of the fence height as approved under 13/1300 was to reduce the overlooking factor from the vantage point created from the courtyard.
- Trees have been temporarily allowed to grow on the side of 54 Pillmawr Road to provide a level of privacy pending the outcome of the fence construction.
- Requests that the translucent screen extension is reinstated as per the original submission of the current application.
- The length of the currently proposed fence is the same as that previously granted, but as the fence is proposed to be lower privacy will be reduced.
- Questions whether a planning condition attached to 13/1300 relating to the replacement of the translucent courtyard fence is still the case.
- States that the access path is used much more than stated in the applicant's DAS. Due to over-zealous building work by the applicant's contractor (removing coping stones at the southern section) privacy has been further deteriorated so a further extension of the fence along the southern section should be undertaken.
- It is proposed that the fence should be at a height of 900mm above the wall and that the translucent courtyard screen should be extended if the fence was to remain at 800mm. The fence should be painted green as per the approved fence of 13/1300. The translucent screen should be replaced with Perspex Polar White Screen as per 13/1300. In the event that the translucent screen is not extended as per (c) above, then at least extend the Perspex Polar White Screen approx 0.5m on the north side to meet with the railing that separates the courtyard area constructed as a breach of the original approved application 12/0887.
- Requests that submitted photos are shown at the planning committee meeting as the photos shown at the committee meeting in March 2015 (13/1300) were from the applicant's DAS and did not truly reflect the actuality of the situation so did not allow committee to make an informed decision.

- The Council should include a sun set clause/condition in the Decision Notice for the completion of the fence and translucent screen.

- A condition that the work is undertaken between normal contract hours Monday to Friday should be imposed. In the past the applicant's contractor has started works on Saturday, Sunday and even Bank Holidays. Sometimes starting as late as 17:00.

- 6.2 COUNCILLORS CHRISTINE MAXFIELD AND DAVID MAYER: Requested that the application be formally determined by planning committee due to concerns regarding the potential detrimental impact on residential amenity.

7. ASSESSMENT

- 7.1 The property is a residential care home located in a suburban area in the mainly residential area of Malpas. The property shares boundaries with a junior and infant school to the south, the public highway at Yewberry Close to the east and a domestic property at 54 Pillmawr Road to the west.
- 7.2 The property was granted permission for an extension with a raised patio area in 2012 (ref: 12/0887). In 2013 the raised patio area (and adjacent access ramp) was found to have been constructed larger than originally approved and an application was subsequently submitted to retain and complete it (ref: 13/1300). After some negotiation the 2013 application was eventually granted permission by planning committee in March 2015. The 2013 application was granted permission under the condition that a fence (proposed to be installed along a section of the western boundary wall between Claremont Court and 54 Pillmawr Road) was installed within 2 months of the decision date. It was brought to officers' attention after the expiry of the permitted two month period that no fence had been erected.
- 7.3 The current application was submitted following informal enforcement action notifying the landowner of a breach of condition relating to the erection of the boundary fence. The applicant had initially proposed to alter the design of the fence to lower the height and to reduce the length in order to permit a fence that would have less of a potential adverse impact on the structure of the stone wall. Following some negotiation initiated by concerns raised by neighbouring occupiers and local ward councillors, amended plans proposing a fence of a greater length (but still lower in height) than that previously granted have been submitted for consideration.
- 7.4 The currently proposed fence would be at a maximum height of 0.82 metres from the top of the boundary wall and would span a length of approximately 15 metres. The height above the boundary wall varies along the length of the proposed fence as the wall is not of a uniform height. The top of the proposed fence would broadly run parallel to the top of the wall and would decrease in height towards the north (matching the height of the wall, but 0.8 metres above). The last panel at the northern end of the fence would taper down in height to meet the stone wall at a point where the wall height increases. The proposed fence is of a simple close board panel design attached to the boundary wall along the eastern side by aluminium brackets.
- 7.5 The previously granted fence was of a more ornamental design with bow topped trellised panels situated on top of a solid close board fence. The total height of the previously granted fence above the wall was approximately 1-1.1 metres along the length. The solid close board panels would have been at maximum heights of 0.55-0.65 metres above the height of the wall and would have staggered down in height as the wall height decreased. The previous fence was granted at a length of approximately 13 metres (from the south side of the courtyard extension to the point where the boundary wall kinks and begins to increase to 3 metres in height).
- 7.6 The applicant has stated that once construction began on the previously granted fence it was found that the approved design (with additional trellised panels on top of solid panels) would have been an impractical design to construct without undertaking significant wall stabilising works. Some wall stabilising works have taken place to repair the top of the boundary wall, but it was concluded by the applicant that significant further works would

have been likely to have been necessary in order to install the previously approved design. The proposed design would be much simpler to construct and would involve less work to the boundary wall. It is also considered that in practical terms a single panel design (rather than the approved two-panel design) would be far easier to maintain into the future and would be a more sustainable design. In terms of visual appearance it is considered that the new design, following the contour of the top of the wall, is a much less obtrusive design

than the staggered ornamental panels so is an improvement to the previously approved fence. The original fence was proposed to be dark green stained. The current proposal does not state that a particular colour stain would be used as a finish, but it is considered that either a dark brown or dark green colour would be most appropriate in order to blend the fence into the dark grey boundary wall. Members have the option to impose a planning condition to require the colour stain even though it is not currently proposed. Overall the currently proposed design is considered to be a much simpler and improved design in visual amenity terms (over that previously approved) and as such is in accordance with policy GP6 of the Newport Local Development Plan (NLDP).

- 7.7 The major concern with regards to this application is whether the proposed fence would protect the privacy of the occupiers of 54 Pillmawr Road to the level the previously approved fence design would. The additional screening along the boundary wall was required (under the previous application) as on the eastern Claremont Court side of the wall an access path has been constructed that raises in height towards the south. At a point adjacent to the southern end of the new extension the path level is approximately 1.5 metres lower than the boundary wall so the average person would be able to overlook the southern area of the neighbouring garden at 54 Pillmawr Road (itself approximately another 1 metre lower in ground level). The proposed 0.8 metre high fence would raise the height of the boundary screening to approximately 2.3 metres which would prevent any direct overlooking into the garden of 54 Pillmawr Road. At the northmost point of the fence it is proposed to extend the length beyond that previously approved and to taper the fence down in height to meet the section of the boundary wall that increases in height to approximately 3 metres. The only potential views over the boundary wall at this point are from the northern access ramp which is not directly adjacent to the wall (and are currently not significant views of the neighbouring garden even without a fence present). Several conifer trees and an apple tree within the neighbouring garden have grown over the height of the boundary wall. They provide adequate privacy screening to most of the garden and since they are within the control of the neighbouring occupier can be maintained at a height to suit the privacy sought from the neighbouring property. They can, however be removed and cannot be controlled through this current application. Overall it is acknowledged that the proposed fence is lower in total than the previously approved design, but in terms of a solid boundary enclosure is higher overall (by approx. 0.2 metres), since the top panel of the previously approved fence was trellised and partially open. On balance this would be an improvement over the previously approved design as it would infill an area where no fence would have been constructed (whilst not previously considered to be an issue with regards to overlooking it is considered to be a further improvement).
- 7.8 Very limited views of the southernmost section of the garden at 54 Pillmawr Road would remain from the southern access path at Claremont Court, but this area of the garden is mostly overgrown and is an area where several greenhouses are located. The applicant has stated that the access path is infrequently used by maintenance staff and would only be used by residents in the event of an emergency (such as an evacuation in the event of a fire). Regardless of the frequency of the use of the path it is considered that as only a small area of the neighbouring garden could receive some overlooking (and given the suburban context of the site where some mutual overlooking is expected) this is not a strong concern. Furthermore the area of the neighbouring garden that may receive some overlooking is also not a lawn or patio that would be in use as a private amenity area so any overlooking to that area of the property would not be harmful. As such privacy would be preserved and the proposed design would remain in accordance with policy GP2 of the NLDP.
- 7.9 Additional planning conditions attached to planning permission 13/1300 related to the installation of a planter on the raised courtyard and the replacement of an obscure glazed screen surrounding the raised courtyard. The conditions relating to these aspects of the

development both gave two months for the prescribed works to be undertaken. The planter has been installed so a condition purely requiring that it is retained in place can be imposed to this renewed consent (if committee are minded to approve the scheme). The screen surrounding the raised courtyard has not yet been replaced and (similar to the fence) the two months period has lapsed. Enforcement action can be taken to require the replacement of the screen, but for the purposes of this application it is proposed to re-impose the condition, effectively giving a renewed two month period for the replacement of

the screen. Should the screen not be replaced enforcement action would be able to be taken.

- 7.10 Initial comments received from the occupier of 54 Pillmawr Road raised the concern that the level of privacy previously agreed (through the original fence design) would be further compromised by the new proposal. Following concerns raised by ward councillors and the neighbouring occupier negotiations took place to have the length of the fence increased to match the length of the approved fence design. A further objection was made following the submission of the amended plans currently being assessed. Numerous concerns were raised and alternative desirable schemes proposed (such as using an alternative fence design avoiding the need to connect to the boundary wall and reinstating the extension to the translucent courtyard screen). The proposed alternative schemes that would be more desirable to the neighbouring occupier are not what members currently have presented before them so cannot form part of the current assessment. Issues with regards to the impact on privacy of the currently proposed fence have been addressed above and along with the improvements to the visual appearance of the fence it is considered that privacy would be preserved and no additional overlooking would be caused.
- 7.11 The neighbouring occupier questions why two previous decisions granting a boundary fence were approved when it was subsequently found that the approved fence could not be constructed. When assessing planning applications it is not the Council's role to prove that a proposed scheme can be constructed. In this case it is likely that the previously approved fence could have been constructed, but this may have involved costly works to secure the existing boundary wall. As assessed above the amended fence design is considered to maintain privacy and to pose an improvement to the visual appearance over the previous design so regardless of the motivation behind the application (which is not a material planning consideration) it is considered acceptable.
- 7.12 The neighbouring occupier on several occasions suggests that the originally proposed courtyard screen extension should be reinstated. A question is also raised regarding the replacement screen and the conditions attached to planning permission 13/1300. As detailed above the temporary screen was not replaced and so was in breach of condition. It is proposed to re-impose the condition to allow a further two months for the screen to be replaced as agreed under 13/1300. With regards to the extension to the screen, this was not part of the original planning committee approval which concluded that the location and height of the temporary (and replacement screen of the same height and location) was acceptable in privacy terms. The primary purpose of the proposed fence was to screen views over the boundary wall from the adjacent access path which the proposed design is considered to still do. As a secondary purpose the fence would offer some further screening from views from the raised courtyard, which it would also still continue to do. The views from the raised courtyard that remain are not directly over the neighbouring garden and are over significant separation distances to the rear of the house (approximately 23 metres which guidance states is acceptable). The views are also screened by the boundary wall, the trees within the neighbouring garden (which can be maintained at a height as desired by the neighbour in order to provide some extra screening) and would be further screened by the proposed fence so overall it is not considered that any additional screening is necessary in this case.
- 7.13 It is acknowledged that some of the concerns raised by the neighbouring occupier are material planning considerations. As assessed above the proposed scheme, whilst not providing the scheme as desired by the neighbour, would adequately address the material

planning concerns relating to privacy and visual appearance so the proposed scheme is considered to be acceptable, in accordance with relevant NLDP policies and planning permission should be granted.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in

its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

8.2 ***Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

8.6 ***Planning (Wales) Act 2015 (Welsh language)***

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

9. **CONCLUSION**

9.1 The proposed alteration to the boundary fence by reasons of the location, scale and design is considered to maintain visual amenities and privacy to neighbouring occupiers and would preserve the character and appearance of the property and the street scene.

9.2 The proposal is in accordance with policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

9.3 Planning permission is recommended to be granted.

10. **RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: 1766(90)01 Rev. J – Site Layout Plan; 1766(04)06 Rev. C – Existing and Proposed Boundary Wall Elevations; 080-AD(90)01 – Proposed Screens; material sample Perspex Frost Polar White (S2 030 3mm).

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based.

General conditions

02 Within two months of the date of this decision the boundary fence hereby approved shall be fully installed in accordance with the details of approved plan nos. 1766(90)01 Rev. J – Site Layout Plan; 1766(04)06 Rev. C – Existing and Proposed Boundary Wall Elevations and shall be stained either a dark brown or dark green colour.

Reason: To protect privacy to neighbouring occupiers and to ensure development that is compatible with its surroundings.

03 Within 2 months of the date of this decision the replacement privacy screen shall be fully installed on the raised courtyard in accordance with approved drawing no. 080-AD(90)01 – Proposed Screens and material sample Perspex Frost Polar White (S2 030 3mm) of planning permission 13/1300. The screen shall be retained in accordance with those details thereafter.

Reason: In the interests of residential amenity.

04 The planter installed on the raised courtyard shall be retained thereafter in accordance with approved drawing no. 080-AD(90)01 – Proposed Screens of planning permission 13/1300.

Reason: In the interests of residential amenity.

NOTE TO APPLICANT

01 This decision relates to plan Nos: 1766(Loc)01 Rev. A - Site Location Plan; 1766(90)01 Rev. J – Site Layout Plan; 1766(04)06 Rev. C – Existing and Proposed Boundary Wall Elevations; 080-AD(90)01 – Proposed Screens; Perspex Frost Polar White (S2 030 3mm) material sample.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2 and GP6 were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

APPLICATION DETAILS

No: 15/1026 **Ward:** LLISWERRY
Type: FULL
Expiry Date: 01-NOV-2015
Applicant: J CONIBEER, NEWPORT CITY COUNCIL
Site: CARNEGIE LIBRARY, CORPORATION ROAD, NEWPORT, NP19 0GP
Proposal: SITING OF METAL STORAGE CONTAINER
Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

1.1 This application seeks planning permission to locate a storage container and concrete base at Flying Start Little Hedgehogs, Carnegie Library. The container would be located within the south eastern area of the application site on the grassed area between the building and Hamilton Street.

2. RELEVANT SITE HISTORY

2.1

04/0236	ERECTION OF GALVANISED STEEL FENCE AROUND PERIMETER BOUNDARY	GRANTED WITH CONDITIONS
13/0701	DEMOLITION OF EXISTING SINGLE STOREY GARAGE AND STORE TO ALLOW EXTENSION TO EXISTING BUILDING TO CREATE SINGLE STOREY FYLING START UNIT AND CRECHE	GRANTED WITH CONDITIONS

3. POLICY CONTEXT

3.1 The adopted Newport Local Development Plan (2011-2026).

3.2 GP2 General Development Principles – General Amenity. States that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.

3.3 GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES: No Objection.

5. INTERNAL COUNCIL ADVICE

5.1 None.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties with a common boundary with the application site were consulted (2 properties). No objections were received.

7. ASSESSMENT

7.1 The proposed container would be 6.2 metres in length, 2.44 metres wide and 2.6 metres in height. It would contain a double door to the front elevation and it will be metal with a green painted finish. The container will be used for the storage of items used by the Flying Start nursery.

7.2 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the adopted Local Development Plan (2011-206) are relevant to the determination of this application.

7.3 The container would be located on a grassed area, setback approximately 2.5 metres from the south eastern boundary fence. It is considered that the proposed storage container, by virtue of its size, design and external materials would relate sympathetically to its surroundings. There will be no impact on residential amenity due to the siting of the container within the site and sufficiently separated from existing residential properties. However, in order to review the suitability of the container at the site, it is considered necessary to impose a temporary permission for 5 years.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

8.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

8.5 *Planning (Wales) Act 2015 (Welsh language)*

8.6 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

9. CONCLUSION

- 9.1 The proposed storage container is considered acceptable in terms of its size, design and impact on the amenity of the surrounding area.
- 9.2 The proposal therefore complies with Policies GP2 (General Amenity) and GP6 (Quality of Design) of the adopted Newport Local Development Plan 2011-2026 and it is recommended that planning permission is granted subject to the following conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents; Drawing No. GIB_1008STN02A; Design and Access Statement; Flying Start Proposed Container, Carnegie Library; Proposed Container Location; Proposed Container Location Elevation.

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based

02 This permission shall be for a limited period of 5 years from the date of this decision. After such a time, the container shall be removed and the land restored to its former condition, unless prior to that date a further consent has been granted.

Reason: To enable the Local Planning Authority to review the situation at the end of the temporary period.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2 and GP6 were relevant to the determination of this application.

02 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

APPLICATION DETAILS

No: 15/1154 **Ward:** STOW HILL
Type: FULL
Expiry Date: 11-NOV-2015
Applicant: I CUMMINGS, EVOL (WALES) LTD
Site: 22-23, HIGH STREET, NEWPORT, NP20 1FX
Proposal: INSTALLATION OF DOUBLE DOORS TO REPLACE GLAZED PANELS IN SHOPFRONT

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

1.1 This application seeks to replace existing glazed panels in the shopfront with aluminium double doors within the shopfront of 22-23 Market Street within the Stow Hill ward.

2. RELEVANT SITE HISTORY

12/0863	PARTIAL DISCHARGE OF CONDITION 1 (EXTERNAL DOORS, WINDOWS AND GATES) OF PLANNING PERMISSION 11/1305 FOR CHANGE OF USE OF 22, 23, 24 AND 25 HIGH STREET, THE REDESIGN, ENLARGEMENT AND RELOCATION OF MARKET ENTRANCE, THE CREATION OF 2NO. A3 UNITS AND 1NO. A1 UNIT SOUTH OF NEW MARKET ENTRANCE, NEW WINDOWS AND DOORS IN HIGH STREET ELEVATION AND THE CREATION OF A WINDOW IN GRIFFIN STREET ELEVATION	Approved
11/1306	LISTED BUILDING CONSENT FOR THE REMOVAL OF INTERNAL WALLS TO 22, 23, 24 AND 25 HIGH STREET TO CREATE 1NO. A3 UNIT, THE CREATION OF TERRACES AND SEATING ON HIGH STREET, THE REDESIGN, ENLARGEMENT AND RELOCATION OF MARKET ENTRANCE TO EXISTING ROYAL CHAMBERS ENTRANCE LOBBY, THE CREATION OF 1NO. A3 UNIT AND 1NO. A1 UNIT SOUTH OF NEW MARKET ENTRANCE, NEW WINDOWS AND DOORS IN HIGH STREET ELEVATION, RE-ARRANGEMENT OF MARKET COURT AND CREATION OF NEW OPENINGS TO COVERED MARKET	Granted with Conditions
11/1305	CHANGE OF USE OF 22, 23, 24 AND 25 HIGH STREET, THE REDESIGN, ENLARGEMENT AND RELOCATION OF MARKET ENTRANCE, THE CREATION OF 2NO. A3 UNITS AND 1NO. A1 UNIT SOUTH OF NEW MARKET ENTRANCE, NEW WINDOWS AND DOORS IN HIGH STREET ELEVATION AND THE CREATION OF A WINDOW IN GRIFFIN STREET ELEVATION	Granted with Conditions

3. POLICY CONTEXT

- 3.1 GP2 General Development Principles – General Amenity. States that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- 3.2 GP4 General Development Principles – Highways and Accessibility. States that development proposals should:
- i) Provide appropriate access for pedestrians, cyclists and public transport in accordance with national guidance;
 - ii) Be accessible by a choice of means of transport;
 - iii) Be designed to avoid or reduce transport severance, noise and air pollution;
 - iv) Make adequate provision for car parking and cycle storage;
 - v) Provide suitable and safe access arrangements;
 - vi) Design and build new roads within private development in accordance with the Highway Authority's design guide and relevant national guidance;
 - vii) Ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.
- 3.3 GP6 General Development Principles – Quality of Design. States that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout, preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
- 3.4 CE7 Conservation Areas. States that development within or adjacent to conservation areas will be required to:
- i) Be designed to preserve or enhance the character and appearance of the conservation area, having regard to the conservation area appraisal where appropriate.
 - ii) Avoid the removal of existing historic features, including traditional shopfronts and joinery.
 - iii) Use materials which are traditional, or appropriate to their context.
 - iv) Complement or reflect the architectural qualities of nearby buildings which make a positive contribution to the character of the area.
 - v) Pay special attention to the settings of the buildings, and avoid the loss of any existing domestic gardens and open spaces which contribute to the character of the area.
 - vi) Avoid adverse impact on any significant views, within, towards and outwards from the conservation area.

4. CONSULTATIONS

- 4.1 NEWPORT ACCESS GROUP: No comments received.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Objects to the proposal on the grounds that the doors open outwards onto the public highway and would therefore pose a detriment to highway safety.
- 5.2 HISTORIC BUILDING AND CONSERVATION OFFICER: No objection. In the context of the previously consented scheme for the refurbishment of this building, the proposals would not materially affect the character of the listed building or the conservation area in which it stands.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties with a common boundary were consulted (six addresses) were consulted. No responses were received.

6.2 PRESS NOTICE (Published 03 October 2015): No representations were received.

6.3 SITE NOTICE (Displayed 25 September 2015): No representations were received.

7. ASSESSMENT

7.1 This application seeks permission for the replacement of glazed panels within the existing shopfront with aluminium double doors to allow a level service access to a refuse/recycling store.

7.2 The section of the existing shopfront which fronts on to Market Street consists of 5no. windows. It is proposed to replace 2no. of these windows with a pair of aluminium framed doors with thermally insulated solid infill panels. They would be designed to have the same appearance as the adjacent windows. It is proposed to apply an opaque film to the windows to conceal the refuse/recycling store.

7.3 The appearance of the proposed doors is considered to be acceptable as they would be in keeping with the recently refurbished shopfront and do not detract from the character and appearance of the Market building. The Councils Historic Building and Conservation Officer has no objection to the proposals on these grounds. The proposals are therefore considered to comply with policies GP2, GP6 and CE7 of the Newport Local Development Plan 2011-2026.

7.4 It was initially proposed that the doors would open outwards on to Market Street which is currently utilised by both pedestrian and vehicular traffic with no formal footway. Head of Streetscene and City Services (Highways) objected to the proposal on this basis as it would result in a detriment to highway safety and would therefore be contrary to policy GP4 of the Newport Local Development Plan 2011-2026. Amended plans were received indicating that the doors would open inwards which is considered to be acceptable as it would not result in a detriment to highway safety.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

8.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

8.6 ***Planning (Wales) Act 2015 (Welsh language)***

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

9. CONCLUSION

9.1 The proposal is considered to be acceptable in terms of its design and would not result in a detriment to highway safety. The proposals are therefore considered to be acceptable when assessed against policies GP2, GP4, GP6 and CE7 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Proposed Market Street Elevation and Proposed Ground Floor Layout.

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Design and Access Statement

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP4, GP6 and CE7 were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

APPLICATION DETAILS

No: 15/1270 **Ward:** ROGERSTONE

Type: FULL

Expiry Date: 09-DEC-2015

Applicant: NEWPORT NORSE

Site: MOUNT PLEASANT PRIMARY SCHOOL, RUSKIN AVENUE, ROGERSTONE, NEWPORT, NP10 0AB

Proposal: DEMOLITION OF SINGLE AND DOUBLE DEMOUNTABLE CLASSROOMS TO FRONT ELEVATION OF SCHOOL. NEW THREE CLASSROOM EXTENSION TO REAR OF SCHOOL WITH WC FACILITIES. INTERNAL ALTERATIONS TO PROVIDE NURSERY CLASSROOM/FACILITIES WITHIN EXISTING PREMISES, NEW EXTERNAL DOOR/SCREEN OPENING AND 12METER EXTERNAL BLUE POWDER COATED ALUMINIUM CANOPY TO FRONT ELEVATION

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

1.1 This application seeks full planning permission for the demolition of single and double demountable classrooms to the front elevation of Mount Pleasant Primary School; and the construction of a new rear extension to provide three classrooms and WC facilities. New external doors/screen and a 12m external canopy to the front elevation are also proposed.

2. RELEVANT SITE HISTORY

08/1345	ERECTION OF SECURITY FENCING TO FRONT BOUNDARY, INCLUDING RENEWAL OF VEHICULAR GATES AND COURTESY GATES	Granted with conditions
13/0683	ERECTION OF 2M HIGH TRAVERSING WALL	Granted

3. POLICY CONTEXT

3.1 Newport Local Development Plan 2011-2026

Policy SP1 **Sustainability** favours proposals which make a positive contribution to sustainable development.

Policy GP2 **General Development Principles – General Amenity** states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.

Policy GP4 **General Development Principles – Highways and Accessibility** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

Policy GP6 **General Development Principles – Quality of Design** states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These

include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

4. CONSULTATIONS

4.1 DWR CYMRU – WESLH WATER: No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

4.2 WALES AND WEST UTILITIES: Advise of apparatus in the area.

4.3 WESTERN POWER DISTRIBUTION: Advise of apparatus in the area.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No objections however a condition should be added that the apple/fruit trees in the wildlife garden area adjacent to the proposed extension be lifted and replanted to another part of the school grounds.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection following confirmation that the proposal would result in two part time teachers employed for the nursery element of the school.

5.3 HEAD OF LAW AND REGULATION (ENV. HEALTH): No objection subject to a condition requiring the submission of a construction and environmental management plan; the CEMP should contain details of noise and dust mitigation measures.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All neighbours sharing a common boundary with the application site were consulted (27 properties). No responses.

6.2 ROGERSTONE COMMUNITY COUNCIL: No response.

7. ASSESSMENT

7.1 The school first opened in the early 1970's and is a 1 form entry school. It was later extended in the 1980's and 1990's. The school is located in a residential area and is surrounded by rear residential gardens along three boundaries.

7.2 It is proposed to construct a single storey flat roof extension to the rear of the existing school, it would replace a pond and apple trees. It is proposed to provide a new planted area to relocate or replace any trees removed during the development. The extension would house 3 individual classrooms each with external doors and windows in the south east elevation. The building would be finished with facing brickwork to match the existing school building, red, blue and yellow powder coated aluminium doors and white powder coated aluminium windows. It is also proposed to enclose an existing canopy over a rear internal courtyard with powder coated aluminium windows, door and screens. To the front of the school an existing classroom would have a new window and door and the existing canopy would be replaced with a larger 12m long canopy which would extend over the new openings. The area where the demountable classrooms are currently sited would be finished with soft landscaping.

7.3 Policies GP2 (General Amenity), GP4 (Highways and Accessibility) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 are relevant to the determination of this application.

7.4 Criteria (i) and (ii) of Policy GP2 state that development will be permitted where:
(i) there will not be a significant adverse effect on local amenity in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
(ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area.

- 7.5. Criteria (iv) and (vii) of Policy GP4 states that development proposals should:
(iv) make adequate provision for car parking and cycle storage;
(vii) ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.
- 7.6 Policy GP6 requires good quality design in all forms of development.
- 7.7 The proposed rear extension would be located 6m from the shared boundary between the school and the neighbouring residential properties (10 & 12 Hensol Close). Significant and mature vegetation exists along this boundary which provides a good degree of screening. Notwithstanding this the proposed extension is of low scale with a maximum height of 3.175m with a flat roof and no windows are proposed in the elevation facing the residential properties. It is therefore considered that the proposed extension would not give rise to any harmful impacts in terms of loss of privacy, light or have an overbearing impact. No objections have been received from neighbouring occupiers.
- 7.8 It is not considered that the new canopy and new windows and door to the front elevation; nor the enclosure of the internal courtyard canopy would have any harmful impacts on neighbouring occupiers.
- 7.9 The design of the proposed extension and alterations are considered to be suitably in keeping with the design and palette of materials of the existing school. As such the overall design and appearance is considered to be acceptable.
- 7.10 The proposed new classrooms would generate the need for an additional two part time members of teaching staff. No additional parking provision is proposed and it is considered that there is sufficient car parking within the site to accommodate the small increase in staff. The Head of Streetscene and City Services (Highways) has no objection to the proposal.
- 7.11 The proposed classroom extension would replace a number of fruit trees. The Head of Streetscene and City Services (Tree Officer) has no objection to the proposed development subject to the fruit trees being lifted and replanted to another part of the school grounds. The applicant has agreed to undertake these works.
- 7.12 The Head of Law and Regulation (Environmental Health) has no objection to the proposal subject to a condition requiring the submission of a construction and environmental management plan. A condition is duly attached.
- 7.13 Welsh Water has commented that no surface water shall connect to the public sewerage system. The applicant has indicated that they propose to do this. As the proposed extension and larger canopy would increase the overall impermeable area it is considered appropriate that an alternative means to discharge surface water runoff is utilised. A condition requiring details of surface water drainage is imposed to secure this.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

8.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

- 8.3 Having due regard to advancing equality involves:
- removing or minimising disadvantages suffered by people due to their protected characteristics;
 - taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
 - encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

8.5 ***Planning (Wales) Act 2015 (Welsh language)***

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

9. CONCLUSION

9.1 The proposed development is considered to be acceptable and in accordance with Policies GP2, GP4 and GP6 of the Newport Local Development Plan 2011-2026. Planning permission is granted with conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans: 19-28-15-1-1034-PL01, PL02, PL03, PL04, PL05 and PL06.

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based.

Pre- commencement conditions

02 No development, to include demolition, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following during development:

- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities;
- noise mitigation measures;

Development works shall be implemented in accordance with the approved CEMP.

Reason: To protect the amenities of nearby residents.

03 No development shall commence until surface water drainage details of the classroom extension and canopy have been submitted to and agreed in writing by the Local Planning Authority. The drainage scheme shall be implemented in accordance with the approved details prior to the beneficial use of the development hereby approved.
Reason: To ensure adequate drainage is provided and to prevent overloading of the public sewerage system.

Pre – construction conditions

04 No work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings.

NOTE TO APPLICANT

01 This decision also relates to: Design and Access Statement (August 2015)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP4 and GP6 were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

Beverly Owen
Head of Regeneration, Investment and Housing



Report

Planning Committee

Part 1

Date: 2 December 2015

Item No: 5

Subject Appeal Decisions

Purpose To inform Members of the outcome of recent appeals

Author Development Services Manager

Ward Victoria, Marshfield, Allt-yr-yn

Summary The following planning appeal decisions are reported to help inform future decisions of Planning Committee

Proposal To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

Action by Planning Committee

Timetable Not applicable

This report was prepared without consultation because it is to inform Planning Committee of appeal decisions already taken.

Background

The reports contained in this schedule provide information on recent appeal decisions.

The purpose of the attached reports is to inform future decision-making. This will help ensure that future decisions benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

The applicant has a statutory right of appeal against the refusal of permission in most cases. There is no Third Party right of appeal against a decision.

Work is carried out by existing staff and there are no staffing issues. It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where the Planning Committee refuses an application against Officer advice, Members will be required to assist in defending their decision at appeal.

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

Financial Summary

The cost of defending decisions at appeal is met by existing budgets. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

Risks

The key risk relating to appeal decisions relates to awards of costs against the Council.

An appeal can be lodged by the applicant if planning permission is refused, or if planning permission is granted but conditions are imposed, or against the Council's decision to take formal enforcement action. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with the type of major development being presented to the Planning Committee, which often requires a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low.

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs

associated with a public inquiry can be very significant. These are infrequent, so the impact is considered to be medium.

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Decisions challenged at appeal and costs awarded against the Council.	M	L	<p>Ensure reasons for refusal can be defended at appeal;</p> <p>Ensure planning conditions imposed meet the tests set out in Circular 11/95;</p> <p>Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.</p> <p>Ensure appeal timetables are adhered to.</p>	<p>Planning Committee</p> <p>Planning Committee</p> <p>Development Services Manager and Senior Legal Officer</p> <p>Planning Officers</p>
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Development Services Manager

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Options Available

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

Preferred Option and Why

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

Comments of Chief Financial Officer

In the normal course of events, there should be no specific financial implications arising from the determination of planning applications or enforcement action.

There is always a risk of a planning decision being challenged at appeal. This is especially the case where the Committee makes a decision contrary to the advice of Planning Officers or where in making its decision, the Committee takes into account matters which are not relevant planning considerations. These costs can be very considerable, especially where the planning application concerned is large or complex or the appeal process is likely to be protracted.

Members of the Planning Committee should be mindful that the costs of defending appeals and any award of costs against the Council following a successful appeal must be met by the taxpayers of Newport.

There is no provision in the Council's budget for such costs and as such, compensating savings in services would be required to offset any such costs that were incurred as a result of a successful appeal.

Comments of Monitoring Officer

There are no legal implications other than those referred to in the report or detailed above.

Staffing Implications: Comments of Head of People and Business Change

Development Management work is undertaken by an in-house team and therefore there are no staffing implications arising from this report. Officer recommendations have been based on adopted planning policy which aligns with the Single Integrated Plan and the Council's Corporate Plan objectives.

Local issues

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Equalities Impact Assessment

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

An Equality Impact Assessment for delivery of the Development Management service has been completed and can be viewed on the Council's website.

Children and Families (Wales) Measure

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Consultation

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Background Papers

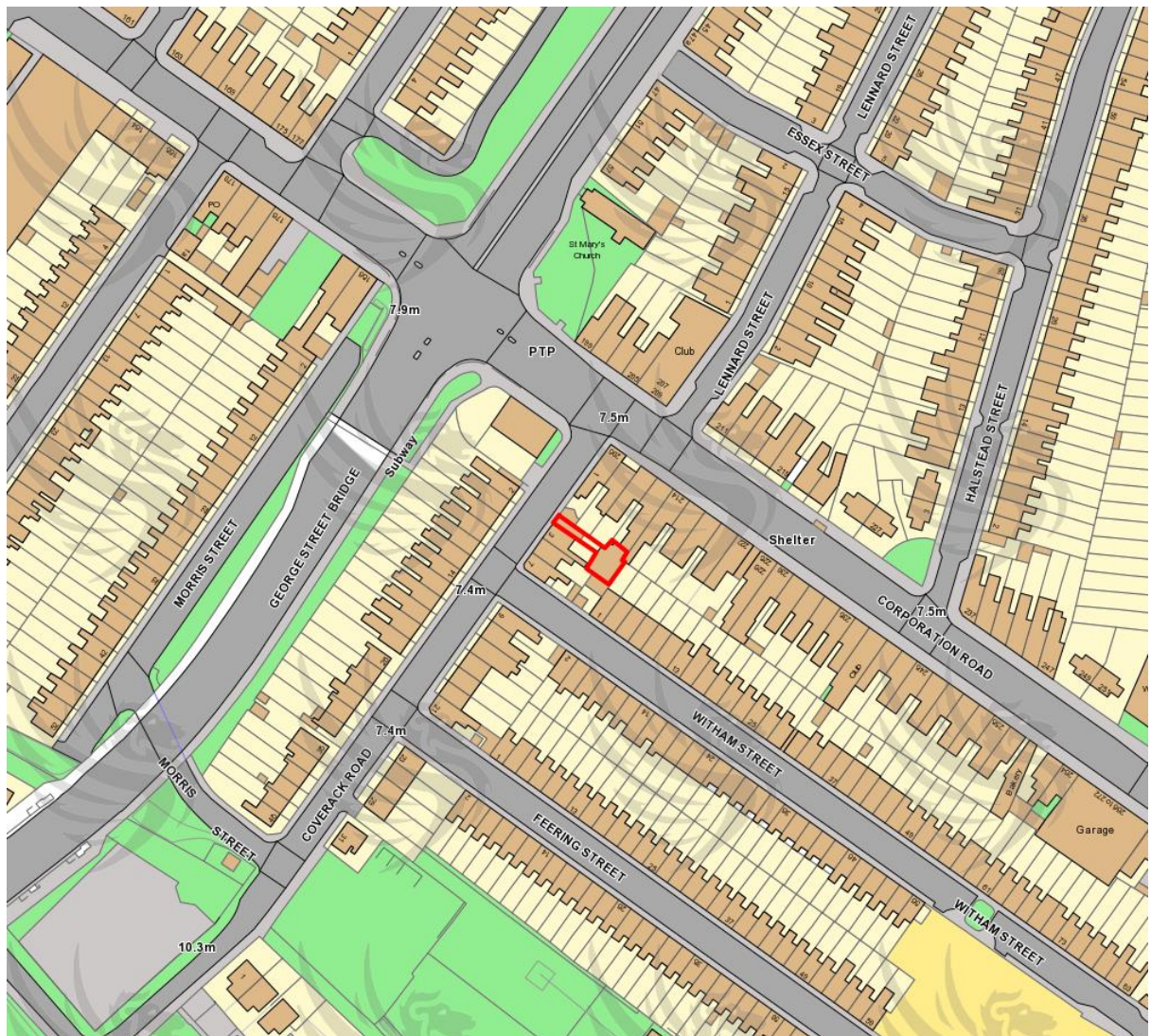
Not applicable

Dated: 2 December 2015

PLANNING APPLICATION APPEAL – DISMISSED

APPEAL REF: 15/0478
APPEAL TYPE: Written Representations
WARD: Victoria
SITE: 3 Coverack Road, Newport, NP19 0DS
SUBJECT: Change of use from lock-up workshop to dance studio
APPELLANT: Robert Miller
PLANNING INSPECTOR: Richard Duggan
DATE OF COUNCIL'S DECISION: 2nd July 2015
OFFICER RECOMMENDATION: Refused
COMMITTEE/DELEGATED: Delegated

DECISION: DISMISSED



SUMMARY

Retrospective planning permission was sought for the retention of the premises as a dance studio; the lawful use of the premises is a lock-up workshop. The appeal site is located

within a densely populated area of terraced housing and is surrounded by the gardens of residential properties.

The Inspector considered the main issues in the determination of the appeal to be the effect of the development on highway safety and whether the proposal represents an acceptable form of development within a flood zone.

The Inspector noted that there is a high demand for on-street car parking along Coverack Road and the surrounding streets. Therefore, in the absence of adequate on-site parking provision, the Inspector considered that the appeal proposal would likely lead to obtrusive and illegal parking close to the junction with Corporation Road. Furthermore, the likely illegal parking would create difficulties for vehicles entering Coverack Road from Corporation Road. The Inspector therefore concluded that the proposal would be likely to result in indiscriminate parking and an increased pressure on on-street parking to the detriment of highway safety and the convenience of local residents and nearby business premises, contrary to Policies GP2 and GP4 of the adopted Newport City Council Local Development Plan (LDP) 2015.

In terms of flooding, the Inspector noted that site lies entirely within Flood Zone C1. In accordance with TAN15, development can take place within such a designation, provided the proposal is justified and, if it is, the provision of evidence that the consequences of the flooding which will occur can be managed to an acceptable level. At the time of determination of the planning application, the appellant had not submitted a Flood Consequence Assessment (FCA). Advice from Natural Resources Wales (NRW) to the appellant suggests that in its opinion, an FCA was not required. However, the Inspector noted that the Council needs to be satisfied that the proposal is justified and that the consequences of flooding are acceptable. Therefore, in the absence of an FCA, the Council considered the proposal contrary to LDP Policy SP3.

TAN15 advises that whether a development should proceed or not will depend upon whether the consequences of flooding of that development can be managed down to a level which is acceptable for the nature/type of development being proposed. The appellant had not prepared an FCA, however, information had been submitted setting out some detail of an emergency flood plan for the site and the measures to be taken in the event of flood warnings being issued or flooding to occur. The Inspector considered that a more precautionary approach needed to be taken where an assessment should be undertaken to allow for proper consideration of the risks involved. The Inspector therefore concluded the proposal represents an unacceptable form of development having regard to its flood zone location and the provisions of PPW, TAN15 and Policy SP3 of the LDP.

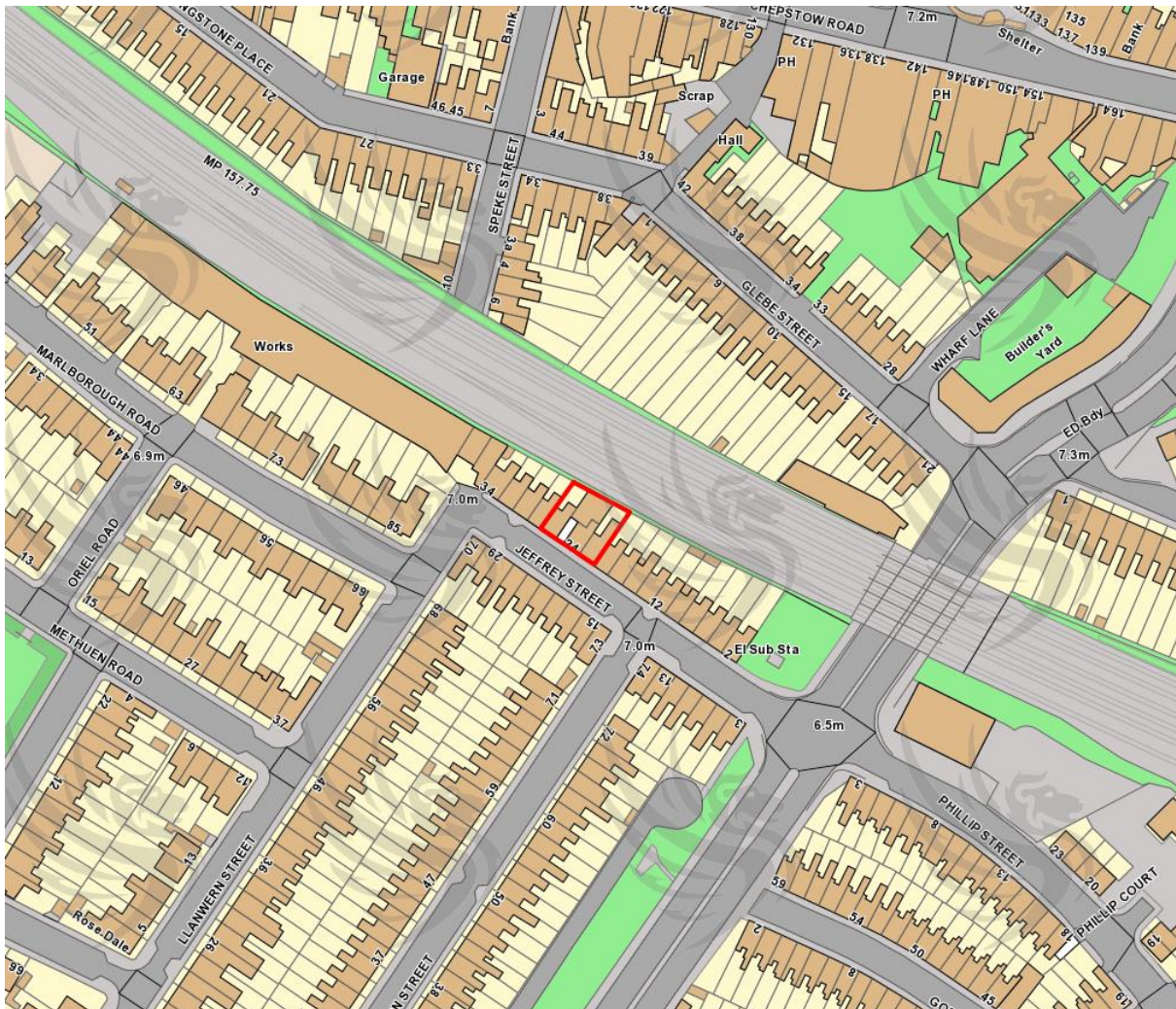
In view of the matters addressed above, the Inspector concluded that the appeal should be dismissed.

PLANNING APPLICATION APPEAL – ALLOWED IN PART

APPEAL REF: 15/0250
APPEAL TYPE: Written Representations
WARD: Victoria
SITE: 24-26 Jeffrey Street, Newport, NP19 0DA
SUBJECT: Variation of conditions 1 and 2 of permission 11/0825

APPELLANT: Mrs Parvin Ali
PLANNING INSPECTOR: Hywel Wyn Jones
DATE OF COUNCIL'S DECISION: 4th June 2015
OFFICER RECOMMENDATION: Refused
COMMITTEE/DELEGATED: Delegated

DECISION: ALLOWED IN PART



The appeal site is a commercial premises benefiting from an A1 (retail) use under planning permission 11/0825. Conditions 1 and 2 restricted the opening hours and delivery hours, respectively, between the hours of 09:00-18:00 on each day. Planning permission was therefore sought to vary the above conditions, to extend the opening hours until 21:00 and the delivery hours until 19:00.

The immediate vicinity of the appeal site is characterised primarily by terraced housing with some commercial premises. To the rear of the site lies a railway line. The wider area also includes more commercial streets such as a Corporation Road.

The Inspector noted that the main issue in this case, is the effect of varying the opening and delivery hours on the living conditions of nearby residents, in terms of noise and disturbance, and highway safety. The Inspector stated that, within this urban environment, there is no reason to believe that the comings and goings of customers to this convenience store would cause unacceptable levels of disturbance to nearby residents. However, the Inspector noted that there is a potential for greater noise disturbance from loading and unloading activities and the associated movement of a delivery lorry. The Inspector further noted from a site visit that delivery activity during the evening would increase pressure for on-street parking, which is when parking demand is at its highest, as local residents return home at night.

In view of the above, the Inspector concluded that the retention of Condition 2 (delivery hours) is necessary in the interests of highway safety and protecting the living conditions of neighbouring residents. The Inspector further concluded that the variation of Condition 2 would be contrary to Policies GP2 and GP4 of the Newport Local Development Plan 2011-2026. However, with regards to Condition 1 (opening hours), the Inspector concluded that the extended opening hours would not harm neighbouring amenities or result in a detriment to highway safety, and would accord with the applicable local planning policies. The appeal is therefore allowed in part, by varying condition 1 only.

PLANNING APPLICATION APPEAL – DISMISSED

APPEAL REF: 15/0511
APPEAL TYPE: Written Representations
WARD: Marshfield
SITE: 34 The Shires, Marshfield, Newport, CF3 2AZ
SUBJECT: Erection of first floor front extension and rear orangery
APPELLANT: Paul Bailey
PLANNING INSPECTOR: Richard Duggan
DATE OF COUNCIL'S DECISION: 25th June 2015
OFFICER RECOMMENDATION: Refused
COMMITTEE/DELEGATED: Delegated

DECISION: DISMISSED IN PART



The appeal site is a detached residential property which occupies a prominent corner plot within The Shires housing estate, Marshfield. Planning permission was sought for an extension over the garage to the front of the property and a single storey orangery to the rear.

The Inspector considered the main issues in this case to be the effect of the development on the character and appearance of the street scene, and on the living conditions of the occupiers of 36 The Shires, with regard to overshadowing and overbearing impact.

The Inspector noted that the appeal property occupies a prominent corner plot surrounded by detached dwellings which display a distinct uniformity in terms of architectural style and spacing. He considered that the effect of the proposed first floor extension would be to substantially increase the apparent bulk of the appeal building, and to change and obscure its original form. As the property occupies a large corner plot its' prominence serves to accentuate the incongruous nature of the front extension. Overall the proposed extension would not appear subservient to the existing house, would dominate its front elevation and would be a disproportionate addition to the existing house. The development would significantly harm the character and appearance of the existing property and of the street scene as a result.

In terms of the impact on the living conditions of the occupiers of 36 The Shires the Inspector considered that the extension would significantly reduce the sense of space and its additional height and massing above the garage would be brought unacceptably close to the boundary with No 36. As a consequence, the proposed development would have a dominating and overbearing effect on the occupants of this neighbouring property, resulting in an adverse effect on the living conditions of the occupants.

He concluded that the development would conflict with Policies GP2 and GP6 of the Local Development Plan.

The Inspector allowed the appeal insofar as it relates to the Orangery at the rear and planning permission is granted for this. This element of the scheme did not form part of the Councils' reasons for refusal of this application.

PLANNING APPLICATION APPEAL – DISMISSED

APPEAL REF: 15/0560
APPEAL TYPE: Written Representations
WARD: Allt-Yr-Yn
SITE: Bridge Chambers, 1 Godfrey Road, Newport, NP20 4NX
SUBJECT: Change of Use from 8 offices over 3 floors to student accommodation shared by six students. Resubmission following refusal of application 14/1213
APPELLANT: Debra Jeffs
PLANNING INSPECTOR: Richard Duggan
DATE OF COUNCIL'S DECISION: 9th July 2015
OFFICER RECOMMENDATION: Refused
COMMITTEE/DELEGATED: Delegated



The appeal building is a vacant three storey end of terrace property which extends over an archway at first floor. The archway provides vehicular access to an office building to the rear.

The Inspector considered the main issues in this case to be the effect of the proposed development on the living conditions of the future occupiers of the development through noise and disturbance and access to private amenity space; and whether the development would make appropriate commuted sum contributions towards affordable housing.

In terms of noise and disturbance the Inspector noted that the area surrounding the property is very busy and vibrant with a lot of traffic and pedestrians. He did not agree that the noise and disturbance and light spill from headlights associated with vehicles entering the office development to the rear would have a harmful impact on the living conditions of future occupiers. He considered that there is already high ambient noise levels associated with existing traffic movements and future occupiers would be subject to high levels of noise, disturbance and light spill from headlights as a result of vehicles passing along Godfrey Road. There would also be noise associated with doors slamming from the vehicles parking directly outside the front windows of the building. Any potential noise and disturbance from vehicles accessing the rear office building would not be so materially different to the current vehicular noise levels in the area.

In terms of amenity the Inspector did not agree that the lack of outdoor amenity space would be a critical requirement. He considered that the building would offer relatively spacious living space, reducing the need for outdoor space; and future occupiers would be able to make a balanced judgement on whether the proximity of the property to local facilities would outweigh the lack of outdoor amenity space. He considered that the sustainability credentials of the property (within walking distance to shops, local services and a range of public transport; and close to employment opportunities) coupled with its' vacant status with little interest for office use were significant material considerations in favour of the appeal.

In terms of affordable housing the Inspector agreed that as the Affordable Housing SPG had been adopted since the original application had been refused it is now a material planning consideration in the determination of the appeal. The Council requested a contribution of £20,641 towards affordable housing in accordance with the SPG during the course of the appeal. The appellant was allowed time to submit evidence to address this issue but they disputed whether it was appropriate to negotiate on such matters at this stage of the appeal process. As the Inspector agreed that it was appropriate he found the development to conflict with Policy H4.

Despite the Inspectors favourable conclusion with regard to living conditions and amenity space he did not consider that this outweighed his findings regarding affordable housing contributions. The appeal is dismissed.

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