

Agenda



Planning Committee

Date: Wednesday, 2 March 2016

Time: 10.00 am

Venue: Council Chamber, 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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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 3 and 8 February 2016</u> (Pages 3 - 16)	
4. <u>Development Management: Planning Application Schedule</u> (Pages 17 - 54)	
5. <u>Appeal Decisions</u> (Pages 55 - 64)	Marshfield

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Date of Issue: Wednesday, 24 February 2016

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Minutes



Planning Committee

Date: 3 February 2016

Time: 10.00 am

Present: Councillors P Huntley (Chair), M Al-Nuami, V Delahaye, D Fouweather, J Mudd, R White and K Critchley

B Owen (Head of Regeneration, Investment & Housing), T Brooks (East Area Applications Manager), S Williams (West Area Applications Manager), L Jones (Principal Planning Officer), G Roberts (Principal Planning Officer), C Jones (Principal Engineer), S Davies (Strategy & Development Manager), P Mackintosh (Senior Scientific Officer), A Chivers (Environmental Health Officer), J Evans (Senior Solicitor) and M Durkin (Democratic Services Officer)

Apologies: Councillors M Linton and O Ali

1. Minutes

The Minutes of the meeting held on 6 January, 2016 were submitted.

Resolved

That the Minutes of the meeting held on 6 January, 2016 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

Consideration was given to a report following recent appeals.

Planning Application Appeals – Dismissed

Application 15/0411 – 19 Old Hill Crescent – demolition of existing dwelling to allow replacement dwelling, new access road and 2 additional dwellings

Application 14/1127 – Site adjacent to Wentwood House, Hendrew Lane, Llandeud – demolition of existing workshop and the erection of a new single dwelling

Planning Application Appeal – Part Allowed/Part Dismissed

Application 15/0325 – Northern Hey Stables, Brickyard Lane - Variation of conditions 1, 2 and 4 of planning permission 12/0047 (for the retention of the mixed use of the land for the siting of a mobile home, siting of 5No. touring caravans and the keeping of horses together with the retention of hard standings, extension to stable block to create a utility/amenity room and the rebuilding of an ancillary building to create an amenity block) to allow for the siting of 9 No. additional touring caravans.

Resolved

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

Appendix

PLANNING COMMITTEE – 3 FEBRUARY, 2016

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
15/0646	<p>Land to south of and opposite Beverley, Magor Road</p> <p>Proposed crematorium plus car parking and memorial parkland</p>	Langstone	<p>HRIH referred to late representations previously circulated.</p> <p>Community Councillor E Jeffrey spoke objecting to the application.</p> <p>Mr A Williams, a local resident spoke in support of the application.</p> <p>Mr R Evans, the Applicant spoke in support of the application.</p> <p>Councillor Atwell, Langstone Ward Member spoke objecting to the proposal.</p> <p>Cllr Kellaway, Llanwern Ward Member spoke on the proposal</p> <p>The Senior Scientific Officer confirmed that the proposed cremation operation was subject to the Applicant obtaining an Environmental Permit issued by the Council.</p>	Granted with conditions
15/1103	Duffryn High School, Lighthouse Road	Tredegar Park	HRIH referred to late representations previously circulated.	Refused

	<p>Subdivision of existing Duffryn High School site to facilitate the provision of a Welsh Medium Secondary School. Construction of 1 No. 3 Storey teaching block to serve Duffryn High School and 1 no. 3 storey teaching block to serve Welsh Medium School. Creation of a new vehicular and pedestrian access points, amended parking/drop off areas, new sports pitches, playing fields and floodlighting of 3G pitches. Minor alterations and new access ramp to building 2.</p>		<p>Ms E Maher, Chair of Welsh Medium School Governors spoke in support of the application.</p> <p>Mr J Harris, Chief Education Officer, the Applicant spoke in support of the application.</p> <p>Councillor Watkins, Tredegar Park Ward Member spoke in support of the application.</p> <p><i>(Councillor Fouweather declared an interest in this application as a Duffryn School Governor and left the meeting)</i></p> <p><i>(Planning Committee was suspended for 3 minutes during consideration of this application)</i></p> <p><i>(Following consideration of Applications 15/0646 and 15/1103 Committee was suspended for 10 minutes. Councillor M Al-Nuaimi left the meeting)</i></p>	
15/1140	<p>11 Stow Park Avenue</p> <p>Change of use of residential care home (C2 use) into 12 No. one bed apartments (C3 use) and associated staff accommodation , demolition of conservatory and two storey front extension and conversion of coach house to form 1 No. dwelling</p>	<p>Stow Hill, Gaer</p>	<p><i>(Councillor Al-Nuaimi returned to the meeting for this and the following application)</i></p> <p>HRIH referred to late representations previously circulated.</p> <p>Ms L Hughson-Smith, the agent on behalf of the Applicant spoke in support of the application.</p>	<p>Granted with conditions subject to a S106 Agreement to include a requirement that occupants are restricted to those who need on site support to facilitate independent living, with delegated powers to refuse in the event that the agreement is not signed within</p>

			Cllr Al-Nuaimi, Stow Hill Ward Member spoke expressing concern regarding the proposed very limited car parking arrangements.	three months of the decision. (Should the Developer not agree to the additional requirement this application be referred back to Planning Committee)
15/1276	Gloucester Chambers, Skinner Street Conversion of listed building to 16 No. affordable homes residential units including alterations to ground floor frontage	Stow Hill	HRIH referred to late representations previously circulated. Cllr Al-Nuaimi, Stow Hill Ward Member spoke on this application.	Granted with conditions subject to a S106 Agreement with delegated powers to refuse in the event that the agreement is not signed within three months of the decision.

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Minutes



Planning Committee

Date: 8 February 2016

Time: 9.15 am

Present: Councillors P Huntley (Chair), M Al-Nuiami, V Delahaye, J Mudd, R White and K Critchley

T Brooks (East Area Applications Manager), G Roberts (Principal Planning Officer), C Jones (Principal Engineer), M McEwan (Traffic Management & Development), J Evans (Senior Solicitor) and M Durkin (Democratic Services Officer)

Apologies: Councillors C Jenkins, D Fouweather, M Linton and O Ali

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 – 8 FEBRUARY, 2016

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
15/0902	<p>Land to the west of Park Farm, Malthouse Lane</p> <p>Installation and operation of a 3.91 MW Solar Farm and Associated Infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, access tracks, fencing and pole-mounted CCTV cameras, affecting bridleway ST39SW-125 and footpaths ST395W – 131 and ST395W-132</p>	Caerleon	<p>The Committee having visited the site to gain a better understanding on the impact of the proposed development being built of the designated green wedge on the surrounding area gave further consideration to this application.</p> <p>Mr B Clarke, the Agent on behalf of the Applicant spoke in support of the application.</p> <p>Councillor Giles, Caerleon Ward Member attended the site visit and the Chair reported her objections to the application as detailed in the Report.</p> <p>Officers were recommending approval of the application with conditions.</p>	Granted with conditions
15/0903	<p>Land to the west of Park Farm, Malthouse Lane</p> <p>Installation and operation of a 3.41 MW Solar Farm and Associated Infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations,</p>	Caerleon	<p>The Committee having visited the site to gain a better understanding on the impact of the proposed development being built of the designated green wedge on the surrounding area gave further consideration to this application.</p> <p>Mr B Clarke, the Agent on behalf of the</p>	<p><u>Refused</u></p> <p><u>Reasons</u></p> <p>To ensure that the openness of the designated green wedge was protected having approved Application 15/0902 above i.e.</p>

	<p>communications building, access tracks, fencing and pole-mounted CCTV cameras (affecting footpaths ST395W – 131 and ST395W-132)</p>		<p>Applicant spoke in support of the application.</p> <p>Councillor Giles, Caerleon Ward Member attended the site visit and the Chair reported her objections to the application as detailed in the Report.</p> <p>Officers were recommending approval of the application with conditions.</p>	<p>the cumulative effect if both applications were approved, and the visual effect on Park Farm Cottage.</p>
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Report

Planning Committee

Part 1

Date: 2 March 2016

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
Appeal lodged against non-determination, with costs awarded	M	L	Avoid delaying the determination of applications unreasonably.	Planning Committee Development Services

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?
against the Council				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 and the Equality Act 2010

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.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5).

Objective 9 (Health and Well Being) of the adopted Newport Local Development Plan (2011-2026) links to this duty with its requirement to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

Planning (Wales) Act 2015 (Welsh Language)

Section 11 of the Act makes it mandatory for all Local Planning Authorities to consider the effect of their Local Development Plans on the Welsh language, by undertaking an appropriate assessment as part of the Sustainability Appraisal of the plan. It also requires Local Planning Authorities to keep evidence relating to the use of the Welsh language in the area up-to-date.

Section 31 clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. The provision does not apportion any additional weight to the Welsh language in comparison to other material considerations. Whether or not the Welsh language is a material consideration in any planning application remains entirely at the discretion of the decision maker.

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. Objectives 1 (Sustainable Use of Land) and 9 (Health and Well-being) of the adopted Newport Local Development Plan (2011-2026) link to this requirement to ensure that development makes a positive contribution to local communities and to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

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.

APPLICATION DETAILS

No: 15/1459 **Ward:** MARSHFIELD

Type: FULL

Expiry Date: 03-MAR-2016

Applicant: D DOBSON

Site: TY HIR NEWYDD, MICHAELSTONE ROAD, MICHAELSTON-Y-FEDW, CARDIFF, CF3 6XT

Proposal: PROPOSED RETIREMENT DWELLING

Recommendation: REFUSED

1. INTRODUCTION

- 1.1 This application seeks planning permission for the erection of a detached, single storey dwelling in the grounds of the property known as Ty Hir Newydd, Michaelstone Road, Michaelston-y-Fedw, Newport. A two storey dwelling was originally proposed, although this has since been amended to be a single storey bungalow. The development would be a 3No bedroom dwelling with a gross internal area of approximately 180m².
- 1.2 The application is brought before Committee at the request of Councillor White.

2. RELEVANT SITE HISTORY

03/1188	ERECTION OF TWO STOREY EXTENSION AND CREATION OF BALCONY	Granted with Conditions
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3. POLICY CONTEXT

The following are relevant to the determination of this application.

3.1 National Planning Policy – Planning Policy Wales (Edition 8, January 2016).

Paragraph 4.2.2 states that the planning system provides for a presumption in favour of sustainable development in taking decisions on planning applications.

Paragraph 4.7.8 states that development in the countryside should be located within and adjoining those settlements where it can be best accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where it meets a local need for affordable housing, but new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate scale and design.

Paragraph 4.9.1 provides for a preference for the use of previously developed land over the use of greenfield sites.

Paragraph 9.1.2 states that LPAs should promote sustainable residential environments, including development that is easily accessible by public transport, cycling and walking, although in rural areas required development might not be able to achieve all accessibility criteria in all circumstances

Paragraph 9.3.2 states that sensitive infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area. It also states that significant incremental expansion of housing in rural settlements and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where travel needs are unlikely to be well served by public transport.

Paragraph 9.3.4 states that LPAs should ensure that a proposed development of new housing does not damage an area's character and amenity.

Paragraph 9.3.6 states that new house building and other new development in the open countryside, away from established settlements, should be strictly controlled. The fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area. Isolated new houses in the open countryside require special justification, for example where they are essential to enable rural enterprise workers to live at or close to their place of work in the absence of nearby accommodation. All applications for new rural enterprise dwellings should be carefully examined to ensure that there is a genuine need.

3.2 Local Planning Policy – Newport Local Development Plan 2011-2026 (Adopted January 2015).

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

Policy SP5 Countryside limits development outside of the settlement boundary.

Policy SP10 Housing Building Requirements states that provision is made for 11,623 units within the plan period in order to deliver a requirement of 10,350 units. The plan seeks to deliver 2,061 affordable units.

Policy SP13 Planning Obligations enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support 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 GP3 General Development Principles – Service Infrastructure states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.

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.

Paragraph 5.1 Housing in the Countryside

Policy H2 Housing Standards promotes high quality design taking into consideration the whole life of the dwelling.

Policy H6 Sub-division of Curtilages, Infill and Backland Development permits such development only where it does not represent an over development of the land.

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

Policy M1 Safeguarding of Mineral Resource states the Proposals Maps identifies areas safeguarded for minerals. The areas will be safeguarded unless the developer can demonstrate that working the resource is impractical; the minerals will be extracted prior to development; the development is temporary; there is an overriding need for the developments; or the development is limited householder development or would constitute limited infilling.

3.3 New Dwellings Supplementary Planning Guidance (Adopted August 2015).

3.4 Affordable Housing Supplementary Planning Guidance (Adopted August 2015).

4. CONSULTATIONS

- 4.1 WALES & WEST UTILITIES: There is no apparatus in the area.
- 4.2 WESTERN POWER DISTRIBUTION: Advise of apparatus in the area and safe working procedures.
- 4.3 NEWPORT ACCESS GROUP: No response.
- 4.4 DWR CYMRU/WELSH WATER: Recommend conditions/advisories.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No objection subject to conditions.
- 5.2 PUBLIC PROTECTION MANAGER: No objection.
- 5.3.1 PLANNING POLICY MANAGER: This application seeks full planning permission for the creation of one dwelling. The dwelling is proposed in the curtilage of the existing property Ty Hir Newydd which is located in Michealstone Y Fedw. The application site is located within the countryside and a sand & gravel mineral safeguarding area as designated by the Newport Local Development Plan.

5.3.2 National Planning Policy

PPW states that housing development outside of the settlement boundary should be strictly controlled. Development in the countryside should be located within and adjoining those settlements that is defined settlements identified within the development plan, where it can best be accommodated in terms of infrastructure, access and habitat and landscape conservation. The application site is not within an identified settlement and therefore the development is not considered compliant with national policy.

National planning policy is clear that when planning for housing in rural areas it is important to recognise that development in the countryside should embody sustainability principles, benefiting the rural economy and local communities while maintaining and enhancing the environment. There should be a choice of housing, recognising the housing needs of all, including those in need of affordable or special needs provision. The application will not result in a development that provides either affordable or accommodation for economic benefit to the locale. The isolated nature of the location will also result in an over reliance on unsustainable form of transport for basic services.

National planning policy does recognise that many parts of the countryside have isolated groups of dwellings. Sensitive filling in of small gaps, or minor extensions to such groups, in particular for affordable housing to meet local need, may be acceptable, but much depends upon the character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages. It is not considered that the proposal is in conformity with this policy direction.

5.3.3 Local Planning Policy

Of particular note is Policy SP5 Countryside, LDP text Housing in the Countryside and M1 Mineral Safeguarding each will be dealt with below.

SP5 Countryside

This policy is clear that development within the Countryside, that is the area beyond the settlement boundary, is strictly controlled. Housing proposals such as this will only be appropriate where they comply with national policy, which has been set out clearly in the text above.

The LDP provides an explanation as to its approach to Housing in the Countryside within chapter 5. There is no direct policy for housing in the countryside within the plan but the text clarifies that new dwellings in the countryside will be permitted only when it is essential for them to be on the site of a rural enterprise, or when they will provide affordable housing for which there is demonstrable need. In this case the application does not provide either

affordable accommodation or accommodation for a rural enterprise dwelling and therefore results in a strong policy objection.

M1 Mineral Safeguarding

A small section of the area is located within an area of Mineral Safeguarding; in this case it is for a sand and gravel resource. The policy seeks to safeguard the recognised mineral resources to ensure that the finite resource is not sterilised for future consumption. The proposal is within the curtilage of an existing residential property and therefore the proposal would not sterilise the mineral resource. It is considered on this basis that Policy M1 has been complied with.

5.3.4 Conclusion

The proposal is objected to on the basis that it does not conform with local or national planning policy in relation to housing in the countryside.

5.4 PLANNING CONTRIBUTIONS MANAGER: In accordance with the adopted Affordable Housing Supplementary Planning Guidance (August 2015), commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Rural Newport (based upon 40% provision). Based upon the proposal for a net increase of 1No. 3 bed unit, and subject to economic viability, a commuted contribution of £25,591 would be required for affordable housing provision. A Monitoring Fee of £29 will be required to cover the Council's cost of negotiations and on-going monitoring of the planning obligations. Payment will be due upon signing of the legal agreement.

5.5 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): In accordance with the design guide for infill and backland development a shared access should have a minimum width of 4.5m for the first 10m and 4.1m for the remainder of its shared length. This is clearly unachievable and whilst I acknowledge that the access currently serves 4 properties, the proposal will lead to intensification of use which justifies a significant improvement. Increased vehicle movements along the access road would increase the likelihood of vehicle conflict and would result in vehicles having to carryout reversing manoeuvres which is considered detrimental to highway safety. I must therefore oppose the application.

6. REPRESENTATIONS

6.1.1 NEIGHBOURS: All properties with a common boundary with the application site were consulted (12No properties). The following summarised comments have been received in relation to the original scheme;

- i) The application property would directly overlook the neighbouring properties.
- ii) The proposed dwelling, being sited on higher ground, would tower above Chapel Cottage and the surrounding community.
- iii) Concerned regarding the proximity of the proposal to the boundary with Chapel Cottage, and the proximity of the proposal to the existing property Ty Hir Newydd.
- iv) Providing access via the existing access, which already serves 4 properties, would exceed the capacity of the track and provide a nuisance to the other properties it serves.
- v) The proposal, as a result of its scale and materials, would be inappropriate and not blend in to its surroundings as all nearby properties are traditional or dormer bungalows.
- vi) The site location drawing does not accurately show the true layout of the plots and comments on other inconsistencies with drawings.
- vii) Question the rationale for having a two storey dwelling for retired persons.
- viii) The width of the driveway and access is inadequate, particularly for service vehicles.
- ix) The application property would reduce views of the countryside.
- x) It would be out of character with the area.
- xi) An application was refused a few years ago to transform a bungalow to a two storey property.
- xii) The property would have an impact on every day living by dirt and noise.
- xiii) Request cross-sections and datum levels be provided for the impact of the proposal to be fully appreciated.

- xiv) Query the distances from habitable rooms to the plot boundary being less than 10.5m.

6.1.2 The scheme has since been amended with the same 12No properties re-consulted. The following summarised comments were received in relation to the amended scheme;

- i) The proposal, despite being a single storey, would overlook all the living space at the neighbouring property at Chapel Cottage as that property is at a lower ground level. Particular objection is given to the windows and glass door on the west elevation due to the overlooking opportunities this would offer.
- ii) There is no proposal to screen the development from Chapel Cottage.
- iii) The proposal appears in close proximity to Bryn Derwen and Chapel Cottage's boundary wall (the graveyard wall).
- iv) The loss of mature trees along the western boundary would have an environmental impact and result in a loss of privacy.
- v) Providing access via the existing access, which already serves 4 properties, would exceed the capacity of the track, would not have passing places and would provide a nuisance to the other properties it serves.
- vi) The property would be out of keeping with its surroundings by virtue of the materials proposed.
- vii) The addition of a property on higher ground would have an impact on the surrounding community.
- viii) The floor plan and site plan show the property ending at slightly different points.
- ix) The change from a two storey to a single storey is welcomed, but its placement 1m from the boundary with Bryn Derwen would mean it is more imposing than if it were placed centrally in the plot.
- x) The height of the floor level of the property would be 2.3m higher than the driveway at Bryn Derwen. Considering the eaves height of the proposal, the property would be approximately 4.5m higher than the driveway and impact on their outlook and sunlight entering the garden at that point.
- xi) The access road is inappropriate. It does not meet the required 4.1m in width as it passes the three bungalows on its way to the site and is roughly 2.8m in width in places and tightly bordered by walls, hedges and fences. It also poses a risk to pedestrians as it passes in close proximity to a number of properties. If families own the properties that the access road serves in future, there could be a risk to children with as many as 20 large vehicles using it on a daily basis.
- xii) The building work would cause disruption and impinge on the ability to sell their property in the near future.
- xiii) It will reduce privacy.

6.2 COUNCILLOR WHITE: Request the application is determined by planning committee due to the apparent conflict between the LDP and National Planning Policy relating to buildings in the open countryside.

6.3.1 MICHAELSTON-Y-FEDW COMMUNITY COUNCIL: Michaelston-y-Fedw Community Council supports the principle of renewal through small scale residential development which conforms to local planning policy. Even though this planning application is within what is described as "open countryside" we feel that this development should be permitted as it would allow a small increase in village size, as the village is in danger of becoming moribund. However some residents in the immediate vicinity think a single storey dwelling would be more in keeping with the surrounding houses.

6.3.2 Comments on the amended scheme;

With reference to the revised application, our previous comments still apply. However the council is pleased to note that the applicants have responded to neighbours' concerns by adjusting the height and aspect of the dwelling.

7. ASSESSMENT

The site

7.1 The application site, Ty Hir Newydd, is part of a cluster of properties located on Michaelstone Road in Michaelston-y-Fedw. The Newport Local Development Plan 2011-2026 (Adopted January 2015) defines the settlement boundary across Newport;

Michaelston-y-Fedw is not within the settlement boundary as defined by the aforementioned plan – as such, it is considered to be in ‘the countryside’.

7.2 Michaelston-y-Fedw can be classed as two sections of ribbon development. The northern section, where the application site is located, comprises only residential properties and a graveyard; it has no access to local community facilities or services. The southern section, which is some 0.75km away (0.62km ‘as the crow flies’) from the northern section, is also primarily residential properties, although it does have access to facilities such as the Cefn Mably Arms Public House, St Michael’s Church and a village hall. The links between the southern and northern sections of Michaelston-y-Fedw are limited to the narrow highway between the two sections, which is not served by a pavement. The roads surrounding the development are not served by street lighting, which is considered a further deterrent to more sustainable forms of transport. Neither section is served by a bus service, with the nearest access to such a service on the A48 in Castleton.

7.3 The site itself forms part of the grounds of the detached single storey property known as Ty Hir Newydd. It is proposed to subdivide the extensive curtilage of Ty Hir Newydd in order to provide a plot for the proposed dwelling. It is considered that whilst it would reduce the level of outdoor amenity space at Ty Hir Newydd, more than sufficient amenity space would remain following development.

7.4 There are a number of properties surrounding the site, which comprise a mixture of bungalows, dormer bungalows and two storey properties.

Principle of development

7.5 As mentioned above, the site lies outside of the settlement boundary, as defined by the LDP. As such, an application for a new dwelling in the countryside is subject to policy SP5 of the LDP and the text of chapter 5, as well as Planning Policy Wales (PPW).

Local policy

7.6 Policy SP5 of the states;

“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”

7.7 The supporting text to this policy states *“[The Countryside] will rarely be the appropriate location for development, except where this is for the specific benefit of the rural economy or the use satisfies policies H10 (Conversions in the Countryside) and H12 (Replacement Dwellings in the Countryside) of the LDP”*.

7.8 Similarly, the text at paragraph 5.1 states *“In accordance with Policy SP5, Planning Policy Wales and Technical Advice Note 6: Planning for Sustainable Rural Communities (July 2010), new dwellings in the countryside will be permitted only when it is essential for them to be on the site of a rural enterprise, or when they will provide affordable housing for which there is a demonstrable local need”*.

National policy

7.9 Planning Policy Wales provides for a presumption in favour of sustainable development (4.2.2), the re-use of previously developed land (4.9.1) and states that development in the countryside should be located within and adjoining existing settlements where it can be best accommodated in terms of infrastructure, access and habitat and landscape conservation (4.7.8), and it requires LPAs to promote sustainable residential environments, including development which is easily accessible by public transport, walking and cycling (9.1.2).

7.10 It states that infilling or minor extensions to existing settlements may be acceptable where it meets a local need for affordable housing, but new building in the open countryside away

from existing settlements must continue to be strictly controlled (4.7.8 and 9.3.6). It explains that isolated new houses in the open countryside require special justification, for example where they are essential to enable rural enterprise workers to live at or close to their place of work in the absence of nearby accommodation (9.3.6). Similarly, it states that sensitive infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area and that significant incremental expansion of housing in rural settlements and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and the travel needs are unlikely to be well served by public transport (9.3.2).

7.11 As previously mentioned, the site in question is not located within or adjoining an existing settlement and is therefore in the countryside, where new buildings should be strictly controlled. National planning policy is clear that when planning for housing in rural areas it is important to recognise that development in the countryside should embody sustainability principles, benefiting the rural economy and local communities while maintaining and enhancing the environment. The application will not result in a development that provides either affordable housing or accommodation for economic benefit to the locale, nor it does not propose accommodation to support a rural enterprise.

7.12 It is acknowledged that the proposal would infill a gap within the existing cluster of houses in northern Michaelston-y-Fedw, so it would not necessarily result in an urban intrusion in to the open countryside as its impact would be contained to the existing settlement of dwellings. However, its isolated location would result in an over reliance on an unsustainable form of transport to access basic services (given the lack of public transport and walking/cycling infrastructure and the identified lack of local services), which is at odds with PPW, as well as policies SP1, SP5 and GP4 of the LDP and section ND3.1 of the New Dwellings SPG; which states that new development should occur in locations that are well served by local services and public transport, and also provide good pedestrian and bicycle links to local facilities and public transport.

The proposed dwelling and its design

7.13 The property has been designed as a 'courtyard' type development, with three walls of the property centered around a landscaped courtyard area. It has been designed to maximise its exposure to natural light and to minimise the impact on surrounding properties. There is a slight slope to the site towards the neighbouring properties at Bryn Derwen and New House. In order for the proposed dwelling to be level, the property would be slightly raised at its extremity in the north by approximately 0.7m. The dwelling itself would be of a single storey and have a modern appearance. Its footprint would measure a maximum of 18.5m x 17.5m and it would measure 2.6m in height to the eaves and 5m to the ridge. Its walls would be white render with a facing brick plinth below, grey aluminium glazing and a grey standing seam metal roof. It would provide an off-road parking area and its boundaries would comprise a mixture of beech hedging and stone walls, with some of the existing vegetation on site to be retained. It is not considered that it would result in an overdevelopment of the land.

7.14 In this section of Michaelston-y-Fedw, there is a mixture of property designs and materials, however on the eastern side they are primarily white render with slate or concrete tile roofing. The scale and appearance of the proposed dwelling is considered to sympathetically relate to a number of the surrounding properties and the general character of the area. Despite its proposed grey metal roof, the limited appearance of the proposed dwelling and its modern appearance would mean that it would not appear incongruous within the street scene or on the dwelling itself.

Amenity for future occupiers

7.15 The layout of the proposed dwelling would provide adequate internal amenity space for the proposed occupiers. Similarly, the property would benefit from a generous amount of outdoor amenity space including a section of landscaped gardens. There are also various mature trees within the grounds of the existing property. The proposal broadly complies with the amenity space requirements as set out by the New Dwellings SPG, which requires 1m² of private amenity space for every m² of the unit's footprint.

Amenity for neighbouring occupiers

- 7.16 Policy GP2 of the LDP and the New Dwellings SPG seeks to safeguard the amenity of nearby occupiers in terms of overbearing impact, loss of light and loss of privacy. The neighbouring properties will be considered in turn;

Ty Hir Newydd

- 7.17 The proposed dwelling would be located approximately 14m to the west of the existing dwelling. Its elevations facing the existing property would include a single high-level window serving the study and a rooflight serving the bathroom, with the window to bedroom 1 visible beyond that. There would also be a pathway between the proposed property and the plot boundary (semi-mature beech hedge) with Ty Hir Newydd. Given the scale of the dwelling, the separation distance and the limited openings facing Ty Hir Newydd, it is not considered that the proposal would have a detrimental impact on residential amenity at Ty Hir Newydd in terms of overbearing impact, loss of light or loss of privacy.

Kimberley

- 7.18 There would be a generous distance between the proposed dwelling and the property known as Kimberley of approximately 14m. Direct views between the proposed dwelling and Kimberley would be limited given the oblique angle of Kimberley to the application site and the screening offered by the existing and proposed vegetation. Considering this oblique angle, it is considered that only the window to bedroom 1 would be visible. Given the scale of the proposal, the distance between the application site and Kimberley, the level of visibility its front elevation already receives and the siting of the site to the north of Kimberley, it is not considered that the proposal would result in a loss of light, overbearing impact or loss of privacy to the occupiers of that property.

Good View, Orana and The Old Post Office

- 7.19 It is not considered that the proposal would result in a detrimental impact on residential amenity at these properties by virtue of the distance between them and the application site.

Chapel Cottage (labelled "Church Cottage" and "Talahena" on various submitted plans)

- 7.20 In terms of privacy, the proposed dwelling would have a limited number of openings facing on to the graveyard and Chapel Cottage. These openings would comprise 2 No windows serving a corridor and a door to the utility room. The nearest of these openings would be 1.7m from the boundary. Given the nature of these openings, not serving habitable room and the fact that they are located at ground floor level (as the proposed dwelling is single storey), it is not considered that these openings would have an unacceptable impact on privacy/overlooking to Chapel Cottage, despite being on a marginally higher ground level.

- 7.21 The proposed dwelling would be approximately 15m to the north-east of Chapel Cottage, at the higher ground level, and itself set approximately 2.4m away from the boundary. As a result of these distances, despite being on a higher level of ground, it is not considered that it would have an overbearing impact on Chapel Cottage, particularly given its single storey scale.

- 7.22 Despite being at a higher level, considering its single storey scale, its siting to the north-east of Chapel Cottage and the presence of an existing detached garage in the grounds of Chapel Cottage, it is not considered that a detrimental impact on natural or diffuse daylight would result at Chapel Cottage.

New House

- 7.23 The distance between the proposal and New House is measured as approximately 26m. Again, the proposal is on a higher ground level, although bearing in mind this distance and the scale of the proposal, it is not considered that an overbearing impact or impact on daylight would occur. There would be no openings in the elevation facing New House, which would prevent a loss of privacy, with the only openings being rooflights in the roof slope serving the kitchen and utility room.

Bryn Derwen

- 7.24 Bryn Derwen is located adjacent to New House, although is closer to the application site boundary than its neighbour. This property is a single storey and its long central section

extends towards the site boundary, on an angle. A section drawing has been provided to illustrate the higher ground level and the impact on Bryn Derwen. The nearest section of Bryn Derwen to the application site would be the gable end of its central section, which is a minimum of 2.9m from the boundary and contains no openings. Similarly, the front elevation(s) of the property have a limited number of smaller openings. The majority of its openings are located on the rear elevation, which would be screened from the proposed dwelling by the aforementioned gable end section. Given the lack of openings in both the gable end and the rear elevation of the proposed dwelling, it is not considered that a loss of privacy/overlooking would occur.

- 7.25 As a result of the relationship between the two properties, with the openings and amenity spaces primarily at the rear of Bryn Derwen, it is not considered that the proposed dwelling would result in an overbearing impact or loss of light.

Highways and parking

- 7.26 The existing property, and the proposed development, would be accessed by a narrow access lane which runs from the application site, amongst the other properties of Kimberley, Good View and Orana and then joins Michaelstone Road at a point to the south of Orana. This access lane currently serves the three aforementioned properties and the existing dwelling Ty Hir Newydd. The lane varies in width along its length; being 3.7m in width at its junction with Michaelstone Road and at the section between Good View and Kimberley, 3m outside Good View and widening to 5.8m outside Kimberley; as such, in places, its width is only sufficient to accommodate a single vehicle. There are a few areas of hardstanding on either side of the road which could act as informal passing areas, however, these are used as parking areas to the various other properties along the road and are outside of the applicant's ownership – therefore their availability for use as a passing place can't be guaranteed.
- 7.27 The Council's Highways Officer has objected to the proposal as a shared access should have a minimum width of 4.5m for the first 10m and 4.1m for the remainder of its shared length, which is unachievable. He acknowledges that the access currently serves 4 properties, but the proposal will lead to intensification of use which justifies a significant improvement. Increased vehicle movements along the access road would increase the likelihood of vehicle conflict and would result in vehicles having to carry out reversing manoeuvres which is considered detrimental to highway safety. ND11.4 of the New Dwellings SPG also states that an access road that serves five or more dwellings should be designed and constructed to adoptable standards.
- 7.28 A response to these comments have been submitted by a transport planning consultant on behalf of the applicant. It explains that;
- there has been no history of highways issues on the access road,
 - the additional traffic generation during peak hours and throughout the day would be minimal from one additional dwelling, and states it *could* [emphasis added] mean 1 extra vehicle during the peak hour and 3-5 extra movements during a 24 hour period.
 - the character of the road is 'self-governing' in terms of vehicle speeds and driver behaviour and that it is not possible to drive at speeds above 10mph given the characteristics of the road and the rising gradient from Michaelstone Road.
 - All road users are familiar with its constraints.
 - The road can provide access for larger vehicles and HGVs when necessary, including a 10tonne oil delivery vehicle.
- 7.29 It also proposes to increase the width of the initial 30m section off Michaelstone Road from 3.7m to 4.1m, which will be at considerable expense, and that his width would be in line with Manual for Streets which states that 4.1m is appropriate to allow two vehicles to pass safely and that it would lead to a significant improvement of this section, which has no passing bays. It also states that to widen this section to 4.5m would only serve to increase vehicle speeds and hence create a highway safety issue. In reference to the narrow sections of the access, it claims that these sections act as natural traffic calming measures and that nearby passing bays allow for safe passing of vehicles and that to increase the width of the access to 4.1m would not be appropriate or achievable on land within the

applicant's ownership. However, they would provide a 'blind spot' mirror on the 90 degree bend of the access road to improve highway safety.

- 7.30 No response has been received to date on the comments and proposals of this report. These will be reported to committee in a 'late representations' report, although in its current form, it is considered that the proposal would be contrary to policy GP4 of the LDP as it would not provide access by public transport (or a choice of means of transport), would not provide suitable and safe access arrangements and would be detrimental to highway safety along the access road.

Landscaping

- 7.31 The applicant has provided a tree report in support of the application. The Council's Tree Officer has also visited the site to discuss the landscaping and has offered no objection to the application, subject to conditions. As part of the proposal, a selection of trees and vegetation is to be removed from the site. There have been concerns raised with regards to the loss of vegetation and screening, although officers do not consider that the loss of vegetation/screening would result in a loss of privacy given the layout/design of the property (as mentioned in previous sections of this report). The applicant has suggested that suitable replacements could be planted in their place. Further details of these could be secured by condition.

Planning contributions

- 7.32 In accordance with policy H4 of the LDP and the Affordable Housing SPG, commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Rural Newport (based upon 40% provision). Based upon the proposal for a net increase of 1 No. 3 bed unit, a commuted contribution of £25,591 (plus a £29 monitoring fee) has been requested for affordable housing provision. The applicant has agreed to these terms.

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 there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this

application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.7 **Wellbeing of Future Generations (Wales) Act 2015**

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. **CONCLUSION**

9.1 It is considered that the proposed dwelling would be acceptable in terms of its design, provision of amenity for its intended occupants, the impact on neighbouring residential amenity and in terms of trees/landscaping. However, despite it being an infill development to a cluster of existing dwellings in the countryside which PPW states can be acceptable in some instances, it is in an unsustainable location without access to basic services and is not served by a bus service. As a result of its location and the poor infrastructure on offer to pedestrians and cyclists, occupiers would be entirely reliant on the private car given its isolated location; as such, it is considered to be unsustainable and contrary to policies SP1, SP5 and GP4 of the Local Development Plan, the New Dwellings SPG and Planning Policy Wales. It would also be contrary to policy GP4 as a result of the proposed access route and its suitability. It is therefore recommended that planning permission is refused.

10. **RECOMMENDATION**

REFUSED

01 The proposed development is located in an isolated unsustainable location, in a village which lacks access to most local services and is not served by a bus service. The site is a considerable distance from the A48 via a narrow lane with no pavements, street lighting and few passing places, which does not encourage use by pedestrians or cyclists as a sustainable form of transport. This would result in occupiers of the development being entirely reliant on the private car. The proposal is therefore contrary to policies SP1, SP5 and GP4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015), the New Dwellings Supplementary Planning Guidance (Adopted August 2015) and Planning Policy Wales (Edition 8, January 2016).

02 The proposed development would be accessed via a narrow lane which has few passing places, resulting in additional reversing manoeuvres in close proximity to a bend. As a result, it would fail to provide appropriate access arrangements which would result in a detrimental impact on highway safety, contrary to policy GP4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Plan (Amended 22/01/2016), Section (Amended 22/01/2016), Ground Floor Plan (Amended 22/01/2016), South and West Elevations (Amended 22/01/2016), East and North Elevation (Amended 22/01/2016), Design and Access Statement, Design and Access Statement (Appendix One), Tree Report, Vectos highways report and Site Location Plan (Amended 12/02/2016).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP5, SP10, SP13, GP2, GP3, GP4, GP6, H2, H6, T4 and M1 were relevant to the determination of this application.

03 The Council's Supplementary Planning Guidance – New Dwellings (Adopted August 2015) was adopted following consultation and is relevant to the determination of this application.

04 The Council's Supplementary Planning Guidance – Affordable Housing (Adopted August 2015) was adopted following consultation and is relevant to the determination of this application.

05 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: 15/1459 Ward: **MARSHFIELD**

Type: Full

Expiry Date: 03-MAR-2016

Applicant: **D DOBSON TY HIR NEWYDD, MICHAELSTONE ROAD, MICHAELSTON-Y-FEDW, CARDIFF, CF3 6XT**

Site: **Ty Hir Newydd, Michaelstone Road, Michaelston-y-fedw, Cardiff, CF3 6XT**

Proposal: **PROPOSED RETIREMENT DWELLING**

1. LATE REPRESENTATIONS

1.1 The applicant has withdrawn the application so that he can consider the comments of the Council's highway engineer.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 Given that the application has been withdrawn, no decision can now be made on the application.

APPLICATION DETAILS

No: 15/1007 **Ward:** GAER

Type: FULL (MAJOR)

Expiry Date: 15-OCT-2015

Applicant: T BORLEY, BORLEY DEVELOPMENT

Site: EBBW BRIDGE CLUB & INSTITUTE, 217, CARDIFF ROAD, NEWPORT, GWENT, NP20 3AG

Proposal: DEMOLITION OF EXISTING BUILDINGS AND NEW MIXED DEVELOPMENT COMPRISING 21 FLATS (16 X 1 BED AND 5 X 2 BED) AND TWO RETAIL UNITS (TOTAL 482M2) AND ASSOCIATED CAR PARKING, CYCLE, REFUSE AND AMENITY FACILITIES

Recommendation: GRANTED WITH CONDITIONS SUBJECT TO A S106 AGREEMENT WITH DELEGATED POWERS TO REFUSE IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN THREE MONTHS OF THE DECISION.

1. INTRODUCTION

- 1.1 Full planning permission is sought for the demolition of the former Ebbw Bridge Club and Institute and the provision of a development comprising 21 flats (16x1 bed and 5x2 bed) and two ground floor retail units.
- 1.2 The Ebbw Bridge Club is a vacant three-storey, flat roof building occupying a position fronting Cardiff Road with Old Cardiff Road running to the rear. The rear element of the building facing Old Cardiff Road is single-storey. The site is bounded by residential properties to the north east and south west. Further residential properties are sited to the north and south. Cardiff Road Local Centre lies 100m to the north east.
- 1.3 The former club built in 1936 would be demolished and replaced with a building whose central section would be four-storey set between two wings that would be three-storey. At ground floor the two new retail units would be accessed from Cardiff Road. The larger unit would be 325sq m with the smaller unit being 157 sq m. At the front of the building 14 car parking spaces are proposed, while 22 spaces are proposed at the rear.
- 1.4 At first and second floor levels the accommodation would comprise 8 self-contained residential units per floor (6x1 bed and 2x2 bed). At third floor level, the accommodation would comprise a further 5 residential units (1x2 bed and 4x1 bed). The first and second floor flats facing Old Cardiff Road would all have a private balcony area with 1.8m high privacy screens. Additionally, a roof terraced area (105sqm) at the third floor will provide amenity space. A 1.8m high timber screen is proposed along the western edge of the roof terrace.
- 1.5 A bin store and cycle store is proposed at the rear.

2. RELEVANT SITE HISTORY

14/0031	Residential development comprising 1No. two bed flats and 2No. 1 bed flats	Granted with conditions
12/0941	Proposed residential development comprising 3No. two bedroom self contained flats	Refused
11/1316	Change of Use	Granted with conditions

3. POLICY CONTEXT

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

SP1 Sustainability: seeks to ensure the development takes into account sustainable development principles.

SP13 Planning Obligations: Proposals of this scale will be required to provide or make contributions to infrastructure.

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.

SP19 Assessment of Retail Need sets out the retail hierarchy for where retail development should be located. 1. Newport City Centre; 2. A Defined District Centre; 3. Local Centres; 4. Out of Centre.

GP1 General Development Principles – Climate Change: This policy seeks to ensure that the development is to withstand climate change over the lifetime of the development.

GP2 General Development Principles – General Amenity: There is to be no significant adverse effect on the amenity of the existing or new community.

GP3 General Development Principles – Services Infrastructure: This policy requires justification as to the suitability of the service infrastructure required by the proposal.

GP4 General Development Principles – Highways and Accessibility: The proposal must not detrimentally affect the highway capacity. There must be adequate public access and any new roads must be compliant with the Councils design scheme.

GP5 General Development Principles – Protection of the Natural Environment.

GP6 General Development Principles – Quality of Design. Good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment.

GP7 General Development Principles – Environmental Protection and Public Health: This policy seeks to ensure that there is no unacceptable harm to health from a development.

H2 Housing Standards: Housing developments will be required to be built to high standards of environmental and sustainable design.

H4 Affordable Housing: This policy requires sites of 10 or more units to provide on-site affordable housing provision.

R8 Small Scale Retail Proposals: This policy states new small scale retail proposals outside of the city and district centres will only be permitted when new residential development would be served or the proposals would cater for under-provision; the proposal is of an appropriate scale; there's no adverse effects on viability of any defined centre; and there are no unacceptable effects on the local amenities or general character of the area.

T4 Parking: This policy requires adequate level of parking to ensure there is no detrimental impact on the new site or existing community.

3.2 **Supplementary Planning Guidance**

Planning Obligations adopted August 2015

Affordable Housing adopted August 2015

Wildlife and Development adopted August 2015

New Dwellings adopted August 2015

Parking Standards adopted August 2015

4. CONSULTATIONS

4.1 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): Thank you for the opportunity to comment upon this matter, the Designing out Crime Unit at Gwent Police have no objections to the proposed development and demolition of existing buildings. I am pleased to see under the heading of Community Safety that the development will provide 'habitable windows positioned to afford natural surveillance at the entrances' as well as 'defensible space', all principles that are found within Secured by Design.

4.2 REGIONAL AMBULANCE OFFICER: No response.

4.3 SOUTH WALES FIRE AND RESCUE: No response.

- 4.4 WALES AND WEST UTILITIES: Apparatus in the area.
- 4.5 WELSH WATER: We would request that if you are minded to grant Planning Consent for the above development that the Condition and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.
- 4.5.1 No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.
Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

4.6 WESTERN POWER DISTRIBUTION: Apparatus in the area.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): No response.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): I do not object to this application.

I have visited the site and the roof is a flat roof with no obvious access points for bats. The edge trims are all intact there are no obvious gaps/holes in the brickwork.

Ecological enhancements should be incorporated into the design such as a green roof.

- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The proposed layout is now considered acceptable.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE): Planning Contributions Manager has commented in respect of leisure contributions.
- 5.5 HEAD OF LEGAL AND REGULATION (ENVIRONMENTAL PROTECTION): The site is a former commercial use that was the subject of occasional noise complaints in the area and was directly adjacent to a former petrol station. We would have no objection to the proposed development subject to the following conditions:

(1) Contamination – Unforeseen EH02

Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

(2) Road Traffic Noise – Internal
EH06

No development, other than demolition, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external road traffic noise in excess of 55dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 35dBA Leq 16 hour during the day and 30dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected.

- 5.6 HEAD OF REGENERATION, INVESTMENT AND HOUSING (HOUSING DEVELOPMENT MANAGER): The site triggers the requirement for onsite affordable housing as per the policy and should equate to 30%. There is considerable housing need within the area due to its sustainable location, and proximity to schools, and therefore I can confirm there is a need for both 1 and 2 bed apartments. 30% would equate to 6 units on site, preferably 4 x one bed and 2 x two bed, they would need to meet Welsh Government standards, Design Quality Requirement, Lifetime Homes, Secure by Design etc. The properties would need to be transferred to an RSL zoned to develop in Newport at a price not exceeding 50% of ACG (acceptable cost guidance) for this area of the City.
- 5.7 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING CONTRIBUTIONS MANAGER): The following planning obligations are required to mitigate the impact of the development and provide a sustainable development.
- 5.7.1 Please Note:
- Council policy stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations. This policy accords with national policy legislation.
- 5.7.2 Education
No education contributions are generated, reflecting the flatted nature of the development.
- 5.7.3 Leisure
There is a surplus of 'Formal' and 'Informal' play provision within the Gaer Ward. As such, no contributions are requested for these categories of play. However, owing to a deficit of 'Equipped' play provision within the Gaer Ward, a commuted sum of £5,551 is required to upgrade and maintain off-site play provision in the vicinity of the development. All Leisure Sums will be index linked to the RPI
- 5.7.4 Affordable Housing
6 affordable housing dwellings are required (equating to 30% provision), comprising 4 x 1 bed flats and 2 x 2 bed flats (at no more than 50% of the Acceptable Cost Guidance).
- 5.7.5 Properties will be offered on a 'neutral tenure' basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register. Properties will all achieve the Development Quality Requirement, Lifetime Homes Standards and Secure by Design as specified by Welsh Government (or such document updating or replacing the same). All properties shall be constructed to at least the same specification as the open market units, including all internal and external finishes.

5.7.6 Monitoring Fees
£2,772 will be required to cover negotiations and on-going monitoring of the planning obligations. The applicant will be expected to make payment upon signing of the legal agreement.

5.8 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING POLICY MANAGER): No policy objection.

5.9 CHIEF EDUCATION OFFICER: No response

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (36No. properties), a site notice displayed, and a press notice published in South Wales Argus. Three responses were received and summarised as follows:

- Design of the proposed building will not fit in with area, but good idea to have flats.
- Excessive number of dwellings will lead to increase in car numbers.
- Insufficeint parking.

6.2 COUNCILLORS: Cllr Wilcox: Request that the planning appication is heard at Planning Committee to enable a fuller range of responses to a significant change of use of the property.

7. ASSESSMENT

7.1 Principle of Development

7.1.1 The vacant property is located within the settlement boundary. Policy SP1 of the LDP expects proposals to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. In this case the proposed site is one that is considered to be a sustainable location. Moreover, Policy SP18 supports the provision of proposals that assist the regeneration of the urban area particularly where they contribute to the reuse of vacant, underused or derelict land and contribute to the provision of residential opportunities within the urban area.

7.1.2 The principle of the residential redevelopment and provision two retail units is considered to be acceptable, subject to other material considerations that will be discussed below.

7.2 Visual Impact

7.2.1 The proposal would result in the introduction of a four-storey building with three-storey wings. The four-storey element would be 3m higher than the building it replaces at a maximum height of 13.0m, while the three-storey elements adjacent to No.215 Cardiff Road and No.6 Old Cardiff Road would be 0.5m higher than the existing building, at a height of 10.4m. A contemporary design approach has been adopted and the building would be readily visible from Cardiff Road and Old Cardiff Road. From these vantage points, the proposal would be viewed in the context of the two-storey residential properties, but the variation in heights allow for the successful transition to these properties. The massing of the building is broken up by recessed areas and the palletete of materials help secure a high quality finish. Overall, the proposed building is considered to be an appropriate addition to this street scene and would enhance the character of the area.

7.3 Residential Amenity

7.3.1 In relation to the impact on the residential amenity of neighbouring properties, the nearest residential properties are No.215 Cardiff Road that forms the north eastern boundary and No. 6 Old Cardiff Road bounds the south western boundary. In respect of No.215 Cardiff Road, the existing building that is three-storey is set immediately adjacent to the boundary, and a single-storey structure extends along the entire boundary of this property. The

proposed building would be sited 1.4m off the boundary of No.215 Cardiff Road, but the nearest part of the building would be 0.5m higher than the building it replaces. The building would be stepped adjacent to existing properties and when applying the 45 degree test for natural light as set out in the Council's New Dwellings Supplementary Planning Guidance, there would be an improvement to the level of natural light as the built form would not extend along the entirety of this property as is currently the case. Additionally, no windows are proposed in the side elevation and the terraced areas to the rear would be provided with 1.8m high timber privacy screens. It is, therefore, considered that there would be no detrimental impact on the residential amenity of this property through loss of privacy or any overbearing impact.

7.3.2 Along the opposite boundary lies No. 6 Old Cardiff Road and the proposed building would be sited at its closest point 1.4m off the boundary. Given this situation and the fact that the existing single-storey structure would be removed it is considered that there would be an improvement to the existing situation. Furthermore, no windows are proposed in the side elevation and the terraced areas would be provided with a 1.8m high privacy screen to safeguard the amenity of this property. The proposal would therefore have no detrimental impact on the residential amenity of this property.

7.3.3 Turning to the properties that are sited 36m to the south and 40m to the north it is considered that given the presence of the highway and the separation distances involved (36m and 40m) there would be no detrimental impact on the amenity of these properties through loss of privacy and light.

7.4 Amenity for future residents

7.4.1 All of the units proposed are considered to provide sufficient internal space and each room within the units would have an adequate provision of day light. Concerns were raised in relation to the lack of amenity space for all residential units and this has been resolved through the provision of a shared roof terrace area. External bin storage and a bike store are proposed at the rear. Overall it is considered that adequate amenity space and facilities would be available for future residents.

7.5 Noise and Contamination

7.5.1 The Head of Law and Regulation (Environmental Health) advises that the site is a former commercial use that was the subject of occasional noise complaints in the area and adjacent to a former petrol station. They have no objection to the application subject to conditions relating to unforeseen contamination and a scheme of noise insulation to include glazing and mechanical ventilation where required.

7.6 Highways

7.6.1 Access to the site would be achievable off both Cardiff Road and Old Cardiff Road. Improvements are proposed to the access off Cardiff Road and a parking area for 14 vehicles and 2 delivery vehicles is proposed that will serve the two ground floor retail units. At the rear 22 spaces are proposed that would serve the residential units. The Head of Street Scene and City Services (Highways) is satisfied that when considering the existing use of the property the proposed level of parking is considered to be acceptable. Overall, it is considered that the level of off-street parking, the layout and traffic generation associated with the development would be acceptable and would not result in any detrimental impact on highway safety.

7.7 Ecology

7.7.1 The Council's Ecologist has confirmed that given the building has a flat roof with no obvious access points for bats the proposal would not have any significant effect on protected species.

7.8 Retail Impact

- 7.8.1 The proposals include the provision of two new retail units. Policy SP19 Assessment of Retail Need of the Local Development Plan for Newport, 2011 to 2026 (Adopted January 2015) sets out the retail hierarchy for where retail development should be located as follows:
1. Newport City Centre;
 2. A Defined District Centre;
 3. Local Centres;
 4. Out of Centre.
- 7.8.2 Part (i) of Policy R8 relates to small scale retail proposals and identifies that such proposals outside the city and district centres will only be permitted where it would serve new residential development or cater for under provision in the area. Part (ii) of the policy require that the proposal is of an appropriate scale to the locality, while part (iii) requires that there would be no adverse effects on the viability and vitality of any defined centre.
- 7.8.3 In order to promote established town and district centres Planning Policy Wales 8th Edition advocates a sequential approach for new retailing and leisure uses. As such regard must be had to the availability of sequentially preferable sites. Planning Officers requested that a Retail Impact Assessment be provided to justify the retail element of the proposal. The Retail Impact Assessment defined the retail catchment area as Maesglas, which is readily defined by physical constraints including the Docks Way, the River Ebbw and the railway embankment. The Council's Planning Policy Section considers that the retail catchment area is reasonable to assess whether there are any sequentially preferable locations for the retail units. The nearest district centre is Commercial Road, some 2km to the east and so is not within the catchment area. Cardiff Road Local Centre is the only retail centre within the defined catchment area and all the units are currently occupied. It is, therefore considered that there are no preferably sequential sites and that the proposal accords with policy SP19.
- 7.8.4 With regards the requirements of policy R8 (i) the supporting information identifies that within the defined catchment area an additional 110 residential units (21 that form part of this application and 89 at the South Wales Argus site (known as 'Greenfield Court') would support the additional retail provision. Additionally, housing allocation Bideford Road for 35 residential units lies within the defined catchment area. The proposal therefore complies with part (i) of policy R8 as new residential development would be served.
- 7.8.5 In relation to policy R8(ii) 482m² gross retail floorspace is proposed within 2 units – unit 1,325 sq m and unit 2,157 sq m. This scale of retail development is considered to be of an appropriate scale in this locality, thus satisfying policy R8 (ii) of the LDP.
- 7.8.6 One of the objectives for retailing and town centres set out in PPW is to enhance the vitality, attractiveness and viability of town, district, local and village centres. It says that in determining applications for retail use, the impact on existing centres should be taken into account. This is also reflected in policy R8(iii) of the LDP. Although it was accepted that given the physical constraints confining the catchment area, it is accepted that a retail development in this locality is unlikely to have any adverse effects on the vitality and viability of any centres higher up the retail hierarchy (city and district centres) or the nearest Local Centre outside of the catchment area i.e. the Gaer Local Centre. However, no quantitative evidence was provided to demonstrate the need for the development and that there is a sufficient level of expenditure in the catchment to ensure that the proposal would not undermine the vitality and viability of the defined local centre. This applicant has provided this evidence and will be discussed below.
- 7.8.7 Within the defined catchment area there are currently approximately 1,035 homes which equates to 2,587 people. The applicant has sought to calculate the available expenditure based on the most up to date evidence contained within the Colliers Retail Study (2010). It is assumed that the average convenience goods expenditure that is available within the catchment area is £1,743/person. The total available convenience expenditure within the

catchment area taking into account the existing population (2,587) and proposed increase in population (363) is calculated to be £5.14m. It is assumed 40% of this figure would be available as “top up” convenience expenditure, which equates to £2.05m. Taking into account the turnover of the existing convenience stores (£520,000) in the Cardiff Road Local Centre the available expenditure in the catchment area is £1.53m. The turnover of the proposed store is estimated to be £1.04m. There would therefore be a surplus of £492,000 to be spent elsewhere. It has therefore been demonstrated that there is a shortfall between the available expenditure and supply within the catchment area. The proposal therefore accords with policy R8 (iii) of the LDP.

- 7.8.8 Overall, the proposal would bring a vacant site back into use in a prominent location on one of the main arterial routes into Newport. It would provide two small scale retail units that would be within walking distance from an established residential area, with further properties planned to be built. From the supporting evidence provided it is considered that the proposal would not harm the viability and vitality of the city centre, district centre or nearby local centre. The proposal therefore accords with policy SP19 and R8 of the LDP.

7.9 S106 Contributions

- 7.9.1 The comments of the Planning Contribution Manager are shown in full in section 5.7 of this report. In summary, a commuted sum of £5,551 is required to upgrade and maintain off play provision within the vicinity of the development and 6 affordable units (4x1 bed flats and 2x2 bed flats) are required. A monitoring fee of £2,772 is also required. The applicant has agreed to the Heads of Terms.

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 there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.6 **Wellbeing of Future Generations (Wales) Act 2015**

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. **CONCLUSION**

9.1 Having had regard to the development plan, and all other material planning considerations it is considered that the proposed development is acceptable. It is, therefore, recommended that planning permission be granted subject to the conditions listed below and subject to a Section 106 agreement.

10. **RECOMMENDATION**

GRANTED WITH CONDITIONS SUBJECT TO A S106 AGREEMENT WITH DELEGATED POWERS TO REFUSE IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN THREE MONTHS OF THE DECISION.

01 The development shall be implemented in accordance with the following plans and documents: AL (00) 01 Rev A Site location plan, A (90)01 Rev A Proposed site plan, AL (01) 01 Rev A proposed ground floor plan, AL (01) 02 Proposed first and second floor plans, AL (01) 03 Rev A proposed third floor and roof plan, AI (01) 10 Rev B elevations.

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 shall commence 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.

03 No development shall commence until a scheme of sound-insulation and ventilation measures, devised in the light of a comprehensive assessment of external noise, has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme must ensure that all habitable rooms exposed to external noise in excess of 55 dBA Leq 16 hour (free field) during the day (07:00 to 23:00 hours) or 45 dBA Leq 8 hour (free field) during the night (23:00 to 07:00 hours) achieve an internal noise level of 40 dBA Leq 16 during the day and 35 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows.

Reason: To secure an adequate level of residential amenity for future occupiers.

04 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;
- details of temporary lighting;
- details of enclosure of working areas;
- a drainage strategy to operate setting out controls of contamination, including controls to surface water run off, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures.

- pollution prevention and contingency measures.
Development works shall be implemented in accordance with the approved CEMP.
Reason: To protect the amenities of nearby residents

05 No development shall commence until full details of the foul and surface drainage systems has been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented fully in accordance with the approved scheme prior to the occupation of any dwelling.
Reason: To ensure adequate drainage is provided.

Prior to occupation

06 Prior to the beneficial occupation of any part of the development hereby approved, the car parking spaces hereby approved for that development shall be provided in accordance with the approved plans and retained at all times thereafter.
Reason: To ensure the provision of adequate parking in the interest of highway safety.

07 Prior to the first beneficial occupation of any part of the development hereby approved the bin storage shall be provided and be kept available for such use at all times.
Reason: In the interest of visual amenities.

08 Prior to the beneficial occupation of the flats hereby approved the secure cycle area shall be provided and retained for such use at all times.
Reason: In order to promote sustainable modes of transport.

09 Prior to the beneficial occupation of the flats hereby approved the privacy screens as illustrated on drawing number AL (01) 10 Rev B shall be provided and retained as such in perpetuity.
Reason: To safeguard the residential amenity of neighbouring properties.

10 Prior to the beneficial occupation of the retail units, details of opening hours and delivery times of the retail units hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The retail units shall operate strictly in accordance with the approved opening hours and delivery times.
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

General conditions

11 The proposed development hereby approved shall include two Class A1 retail units with a net internal floorspace permitted not exceeding 325sq m within the larger unit (Unit 1) and 157 sq m within the smaller unit (Unit 2) as proposed.
Reason: To limit the amount of floor space in the retail units in order to assess the impact of any future increases in retail floor area on nearby centres.

12 Notwithstanding the provisions of the Town and Country Planning (use Classes) Order 1987, or the Town & Country Planning (General Permitted Development) Order 1995, or any Order revoking, re-enacting or modifying those Orders, the retail floorspace hereby permitted within the larger unit (unit 1) shall be used restricted to convenience goods only.
Reason: To limit the amount of floor space in the retail units in order to assess the impact of any future increases in retail floor area on nearby centres.

13 Any unforeseen contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. An appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Validation Report, confirming the remediation has being carried out

in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

NOTE TO APPLICANT

01 This decision relates to the following documents: Design and Access Statement, Retail Impact Assessment, Retail Assessment Need Additional Information V5, AI (90)03 Indicative Vehicle tracking plan, On-street parking plan.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP13, SP18, SP19, GP1, GP2, GP3, GP4, GP5, GP6, GP7, H2, H4, R8 and T4 were relevant to the determination of this application.

03 As of 1st October 2012 any connection to the public sewerage network (foul or surface water sewerage) for the first time will require an adoption agreement with Dwr Cymru Welsh Water. For further advice contact Dwr Cymru Welsh Water on 01443 331155.

04 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.

05 Planning Policy Wales 8th Edition and Technical Advice Note 4: Retailing and Town Centres were relevant in the determination of this application.

APPLICATION DETAILS

No: 15/1291 **Ward:** RINGLAND
Type: FULL
Expiry Date: 21-JAN-2016
Applicant: P JENKINS
Site: LLANWERN HIGH SCHOOL, HARTRIDGE FARM ROAD, NEWPORT, NP18 2YE
Proposal: INSTALLATION OF ADDITIONAL 2NO. FLOODLIGHTS TO MUGA AND EXTENSION OF PERIMETER FENCE

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks planning permission for the erection of a perimeter fence around a playing surface and erection of two floodlights at Llanwern High School.
- 1.2 The existing tarmac area that is located to the south of an existing 3G artificial pitch is separated into two sections. One section is an open tarmac play area and the other section a Multi Use Games Area that is fenced off. The applicant wishes to lay an artificial 3G pitch on part of the existing tarmac area, extend the fencing around the boundary of the 3G pitch and erect two extra floodlights. As the new 3G pitch is on an existing tarmac surface planning permission would not be required for the change of surface. However, the extension of the perimeter fence and erection of two floodlights would need planning permission and are to be considered within this application.
- 1.3 The application is brought to planning committee as the council are the owners of the land.

2. RELEVANT SITE HISTORY

07/1575	ERECTION OF A THREE STOREY BUILDING FOR COMMUNITY AND EDUCATION USE WITHIN A REDUCED SITE AREA TO REPLACE EXISTING SCHOOL BUILDINGS AND GROUNDS	GRANTED WITH CONDITIONS
13/0366	ERECTION OF 8 X 15 METRE HIGH FLOODLIGHTS TO ACADEMY PITCH, 7 METRE HIGH BALL STOP FENCING ALONGSIDE RUGBY AND ACADEMY PITCHES, 5 METRE HIGH FENCING BETWEEN PITCHES, 3.5 HIGH SPORTS FENCING TO SECURE SPORTS PITCHES AND 2.4 METRE HIGH PERIMETER FENCING	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 the 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 DWR CYMRU: If planning permission is granted the following condition and advisory note should be included to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets:

Condition

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

Advisory Note

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection.
- 5.2 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): No objection.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: The site has no common boundary neighbours and therefore there were no neighbour consultations undertaken. A site notice was posted at the entrance to Llanwern High School.

7. ASSESSMENT

- 7.1 The application site comprises part of the grounds of the replacement Llanwern High School that was approved under planning permission of 07/1575. The proposal includes the extension of the existing MUGA perimeter fence and erection of two floodlights to create a larger area to serve the high demand for the use of sports facilities to serve both the school and the community.
- 7.2 The proposal will include removing the existing 36.5 metre long, 3.0 metre high fence from the eastern boundary of the existing MUGA and repositioning it 20.0 metres to the east. The 3.0 metre high fences on the northern and southern boundaries of the MUGA will then continue 20.0 metres to enclose and secure the overall proposed area. The continued fence will match the existing, with fence posts at 2.52 metre centres and green Weldmesh panel. The area of the MUGA will increase from 730 square metres to 1460 square metres but the new surface does not require planning permission. As the proposed 3G surface

does not require planning permission and is not being considered, the proposed condition by Dwr Cymru relating to surface water and/or land drainage connecting to the public sewer network is not relevant to this application.

- 7.3 On the new proposed western perimeter of the area there will be two new floodlights located to ensure that the area is adequately lighted. These proposed floodlights will be in operation within the following opening hours when there is not adequate daylight to service the playing area - Monday to Friday 07:00 – 22:00 and Saturday – Sunday 09:00 – 17:00. These two floodlights are the same specification and design as the existing two floodlights that currently serve the area from the eastern perimeter. Each column will measure 11.5 metres in height and will include 2no. of asymmetrical floodlights that will allow average horizontal illumination level of 100lux.
- 7.4 It is considered that the visual appearance of the proposed fencing would be in keeping with the use of the site for community leisure and education purposes. The various forms of welded mesh fencing across the site are common visual features surrounding sports pitches and would not impact on the visual appearance, setting or character of the school, community buildings and grounds. Furthermore the location of the fencing and floodlights surrounding the games area is within the south eastern area of the school site and there are no residential properties surrounding this boundary of the school. The visual appearance of the floodlights is considered acceptable as they would not present an uncommon feature surrounding a community leisure facility and the lighting would face directly onto the pitch.
- 7.5 The Head of Streetscene and City Services (Highways) and the Head of Law and Regulation (Environmental Health) were both consulted as part of the consultation for this application and neither have any objections to the proposal.

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 there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this

application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.7 Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

9.1 The proposed siting, design and scale of the proposed fencing and 2no. 11.5 metre high floodlights are considered acceptable and 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. CC4328; Existing Layout – LLAN 04; Proposed Layout – LLAN 05; Proposed Layout – LLAN 03; Drawing No. Fence 01 – 3m High Fence Elevation; Design and Access Statement.

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 The decision relates to the following plans: Proposed Layout – Llan 03; Existing Layout – Llan 04; Proposed Layout – Llan 05; Drawing No. Fence 01; Drawing No. CC4328; Design and Access Statement.

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.

04 As of 1st October 2012 any connection to the public sewerage network (foul or surface water sewerage) for the first time will require an adoption agreement with Dwr Cymru Welsh Water. For further advice contact Dwr Cymru Welsh Water on 01443 331155.

APPLICATION DETAILS

No: 15/1468 **Ward:** LLISWERRY
Type: ADVERT CONSENT
Expiry Date: 02-MAR-2016
Applicant: A VIRGO, EYECATCHERS
Site: LAND NORTH EAST OF ROUNDABOUT AT JUNCTION OF SPYTTY ROAD AND NASH ROAD, NEWPORT
Proposal: DISPLAY OF 2NO. ADVERTISEMENT HOARDINGS (RESUBMISSION FOLLOWING REFUSAL 15/0780)

Recommendation: REFUSED

1. INTRODUCTION

- 1.1 This application seeks consent to display two advertisement hoardings at the junction of Nash Road with Spytty Road. The hoardings would be located on the north-east bend of the roundabout adjacent to the egress from Nash Road and south of 115 Nash Road.
- 1.2 The advertisement hoardings would be positioned side by side on a 10.5m wide by 4.5m high board supported by steel channels. Each hoarding would measure 5m in width by 3m in height. The lower 1.5m of the supporting board structure would comprise of feather edge boards.
- 1.3 Planning permission was recently refused for a similar application in this location (15/0780) owing to highway safety and visual amenity derived from the size and location of the boards. The applicant was advised a significant reduction in size and the removal of one of the boards from the proposal would contribute towards addressing the reasons for refusal. The hoarding structure has subsequently been reduced from 12.9m wide by 5.5m in height.

2. RELEVANT SITE HISTORY

98/0495	RETENTION OF ONE 48 SHEET ADVERTISEMENT DISPLAY HOARDING	REFUSED
91/1357	ERECTION OF ADVERTISEMENT HOARDING WITH ASSOCIATED FENCING	REFUSED
15/0780	DISPLAY OF 2NO. ADVERTISEMENT HOARDINGS	REFUSED

3. POLICY CONTEXT

- 3.1 *National Policy*
 - Technical Advice Note (TAN) 7: Outdoor Advertisement Control
- 3.2 *Adopted Local Policy – Newport Local Development Plan*
 - Policy GP2 (General Amenity)
 - GP6 (Quality of Design)

4. INTERNAL COUNCIL ADVICE

- 4.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The applicant proposes to erect two advertising hoardings on the roundabout adjacent to the junction with Nash Road. An advertisement of this nature will result in an unacceptable distraction to drivers using the roundabout which is considered to be detrimental to highway safety. Therefore opposes the application and recommends refusal. Due to the scale of the drawing the location is not clear and suggest that the signs encroach into the adopted highway which would not be permitted.

5. REPRESENTATIONS

- 5.1 NEIGHBOURS: One neighbour was consulted in respect of this application. No representations have been received.
- 5.2 COUNCILLORS: Councillor Morris has requested that the application be put before committee to fully discuss the highways implications.

6. ASSESSMENT

- 6.1 The key considerations in relation to this application are visual amenity and the impact of the adverts on highway safety.
- 6.2 Historically, in 1991 and 1998, there are examples of advertisement proposals being refused in this location owing to highway safety issues and the negative impact on visual amenity. A recent application (15/0780) was also refused for the following reasons:

01 Owing to their size and prominent location the adverts would form an unacceptable distraction to drivers using the roundabout to the detriment of highway safety and contrary to Technical Advice Note 7 (TAN 7): Outdoor Advertisement and Control.

02 The proposed adverts would appear overly prominent and incongruous in this location to the detriment of its pleasant visual amenity contrary to Policies GP2 and GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and Technical Advice Note 7 (TAN 7): Outdoor Advertisement and Control.

- 6.3 Since the previous application the applicant has reduced the size of the proposal and has also submitted photographs of an advertisement hoarding nearby and adjacent to the Southern Distributer Road (SDR) to demonstrate that this form of development has been considered acceptable in the locality. Photographs of the site have also been submitted which show that the site that would effectively be screened by the proposal is not in a tidy condition. However, the nearby existing hoarding is not positioned on a roundabout. The Head of Street Scene and City Services (Highways) is of the opinion that this proposal would be of detriment to highway safety as it would cause a distraction to drivers using the roundabout. It is agreed that the site is not in a tidy condition however this can be resolved through other means via section 215 of the Town and country Planning Act if it is considered to be adversely harming amenity.
- 6.4 In addition, the Head of Streetscene and City Services (Highways) has commented that the site plan submitted suggests the proposal will encroach on the public highway. The applicant has since submitted photographs which would show the precise location of the hoarding and has demonstrated no encroachment into the public highway would occur.
- 6.5 Policy GP6 (General Amenity) of the Newport Local Development Plan 2011-2016 (Adopted January 2015) states that regard will be had to Technical Advice Note (TAN) 7: Outdoor Advertisement Control in considering applications for signs and advertisements. TAN 7 states that adverts should have regard to the general characteristics of the locality and that poster-panels should respect the scale of their surrounding location. Policy GP2 (Quality of Design) states that development will be permitted where there will not be a significant adverse effect on local amenity or detrimental to the appearance of the area.
- 6.6 Despite a slight reduction in size compared to the proposal refused under application 15/0780, the hoarding structure remains large and would be sited in a prominent corner location, used by both pedestrians and vehicles. Whilst this is a mixed residential /commercial area, this primary route has a pleasant visual amenity with grassed verges and landscaping that soften the traffic dominated roundabout and adjacent dual carriageway. Any harm caused by the appearance of the immediate site can be resolved through enforcement action and the service of an unsightly

land notice if considered necessary. The adverts would be overly prominent and incongruous to the detriment of the character and appearance of the area and contrary to the advice in TAN 7 and owing to their size would result in an unacceptable distraction to drivers using the roundabout.

7. OTHER CONSIDERATIONS

7.1 *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.

7.2 *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.

7.3 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.

7.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

7.6 *Wellbeing of Future Generations (Wales) Act 2015*

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

8. CONCLUSION

8.1 Owing to its size and location the advertisement hoarding would be both incongruous and be detrimental to highway safety. It is therefore contrary to Policies GP2 and GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and it is recommended that planning permission is refused for the following reasons.

9. RECOMMENDATION

REFUSED

01 Owing to their size and prominent location the adverts would form an unacceptable distraction to drivers using the roundabout to the detriment of highway safety and contrary to Technical Advice Note 7 (TAN 7): Outdoor Advertisement and Control.

02 The proposed adverts would appear overly prominent and incongruous in this location to the detriment of its pleasant visual amenity contrary to Policies GP2 and GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and Technical Advice Note 7 (TAN 7): Outdoor Advertisement and Control.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site plan, cover letter ref 53209, photographs 1 to 6 submitted with application, front elevation and plan of hoarding, letter addressed to 'members of Newport Highways committee', email from Adam Virgo dated 10 February 2016.

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 Technical Advice Note 7 (TAN 7): Outdoor Advertisement and Control was relevant to the determination of this application.

04 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.



Report

Planning Committee

Part 1

Date: 2 March 2016

Item No: 5

Subject Appeal Decisions

Purpose To inform Members of the outcome of recent appeals

Author Development Services Manager

Ward Marshfield

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 and The Equality Act 2010

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.

Wellbeing of Future Generations (Wales) Act 2015

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

Planning (Wales) Act 2015 (Welsh Language)

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

Crime and Disorder Act 1998

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: 2nd March 2016

PLANNING APPLICATION APPEAL – PART DISMISSED/PART UPHELD

APPEAL REF: 15/0361

APPEAL TYPE: Written Representation

SITE: Church Lodge, Church Lane, Marshfield, Cardiff, CF3 2UF

SUBJECT: Appeal against the Council's refusal of planning permission for the retention of fencing and gates

APPELLANT: Ms L Dovey

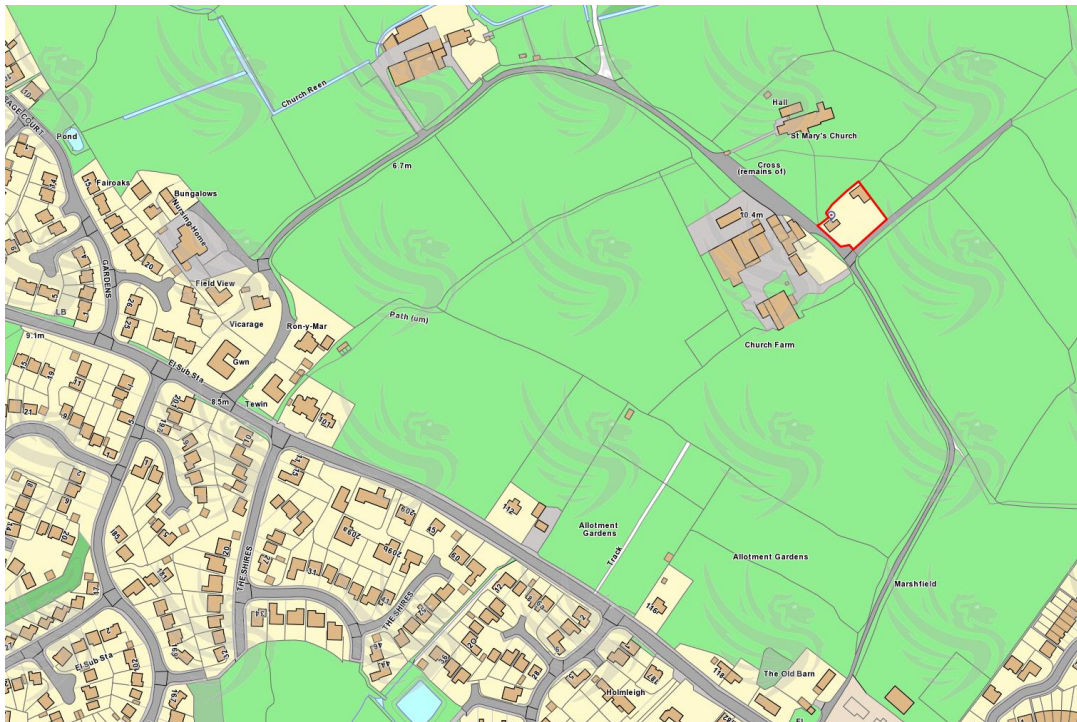
PLANNING INSECTOR: Anthony Thickett

DATE OF COUNCIL'S DECISION: 30th March 2015

OFFICER RECOMMENDATION: Refuse

COMMITTEE/DELEGATED: Delegated

DECISION: PART DISMISSED/PART UPHELD



SUMMARY

Planning permission was sought for the retention of fencing and gates at Church Lodge, one of a small group of buildings including the listed St Mary's Church, which lie to the east of and separated from the main village of Marshfield by fields. Church Lodge adjoins the southern boundary of St Mary's Church.

It was proposed to retain a fence consisting of curved top fence panels ranging from 1.3 metres to 1.8 metres and timber gates set between stone piers.

The application was refused on the grounds that the retention of the suburban style close boarded fencing and gates would have an unacceptable impact on the character and

appearance of this rural area and would have a detrimental impact on the setting of the Grade II* listed St Mary's Church and the amenity of surrounding occupiers. As such, the proposals were considered contrary to policies SP5, GP2 and GP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

The Inspector considered that the appearance and design of the fence is in keeping with a modern suburb rather than a historic rural setting. It contrasts sharply with the traditional walls enclosing the churchyard and Church Farm and comprises a feature wholly unsympathetic to its attractive rural surroundings. He also considered that the gates are set back from Church Lane, and subject to staining them a darker colour, are of a design more sympathetic to their surroundings. They are also separated from the church by Church Lodge.

The Inspector concluded that the appeal should be dismissed insofar as it relates to the fence and allowed insofar as it relates to the gates and piers.

APPEAL PART DISMISSED/PART ALLOWED

APPLICATION FOR JUDICIAL REVIEW

APPLICATION REF: 14/0337

SITE: Land North Of And Adjacent To M4, Began Road, Cardiff

PROPOSAL: Installation Of A Ground Mounted Photovoltaic (Solar Electricity) Plant (4.85mw), Including The Erection Of Transformers And Other Ancillary Equipment, Tracks, Drainage, Fencing, Cctv, Landscaping And All Associated Building And Engineering Operations, For Use For A Period Of Up To 25 Years Affecting Public Rights Of Way 400/61, 400/62 And 400/63. Amendment To Original Proposal, Comprising A Reduction In Site Area And Amendment To Proposed Access Point.

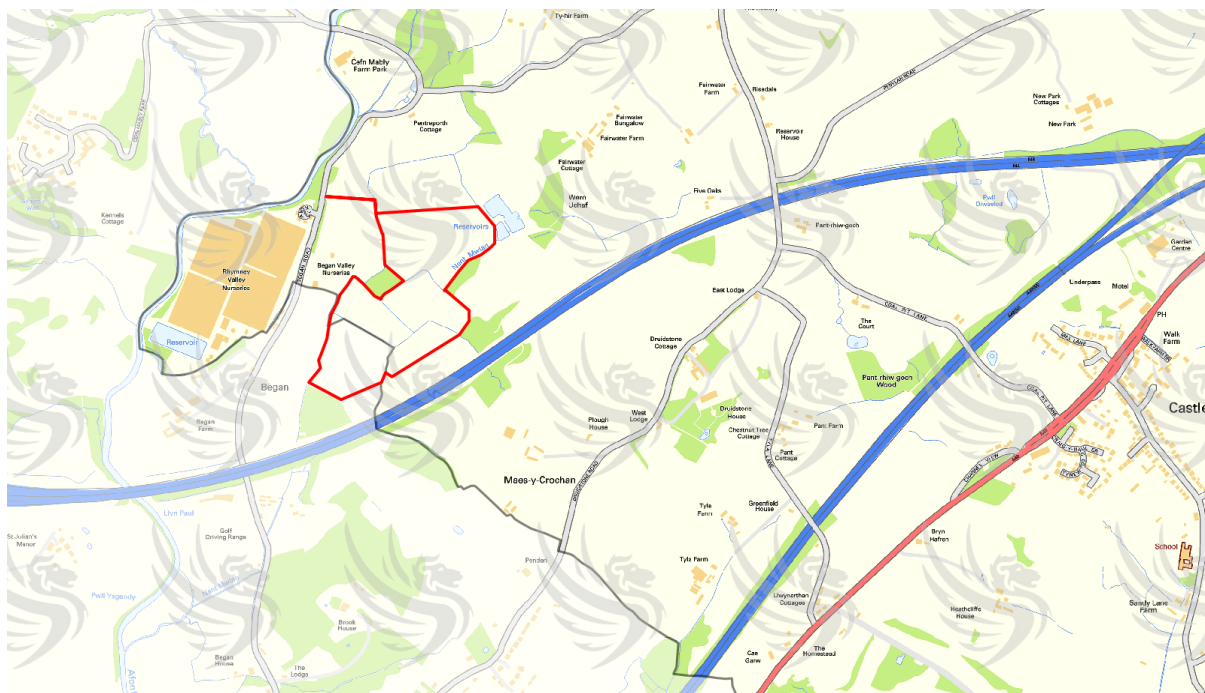
DATE OF COUNCIL'S DECISION: 22nd October 2015

OFFICER RECOMMENDATION: Granted with conditions

COMMITTEE/DELEGATED: Committee

DECISION: By Court not sufficient grounds to quash Newport Council's decision to grant planning permission.

DATE: 19th January 2016



SUMMARY

The Application related to a 4.85MW solar development on 17.5ha of agricultural land, comprising the installation of 19,400 no.250kW solar panels, the construction of 5 transformers, the construction of a switchroom, and ancillary equipment and fencing,

connected to the grid via a 33kV single circuit to the St Mellons primary substation approximately 2km away.

Following the decision of Planning Committee to grant planning permission in October 2015, the action group known as Keep us Rural applied for Judicial Review. A “Rolled Up” hearing (a fast tracked hearing which deals with the permission to review and the hearing in one process) took place in January 2016. The Judicial Review application was condensed into four grounds which were as follows :

GROUND 1 refers to an “Error of Fact” with regard to the need for an Environmental Impact Assessment. The Screening Opinion Application reference 13/1072, was incorrect in that the section which refers to Flooding states that the application site is not within a flood zone when part of the site was within a flood risk zone.

GROUND 2 refers to potential alternative sites Policy CE10 (Renewable Energy) of the Newport Local Development Plan Adopted January 2015 which states that large scheme “may” be more appropriately located outside a settlement boundary, if no “appropriate” brownfield sites exist. A sequential test was applied which only restricted its scope to four brown field sites and that the council rejected the proposed alternative Alexandra Dock site.

GROUND 3 Flood Risk, there was an “Error in Fact” in the assessment of flood risk. The Flood Consequence Assessment stated that there were no sewers which crossed the site which was incorrect. The flood risk arising from sewers was not considered.

GROUND 4 the decision was irrational in that the application put before Planning Committee had no access to the southern part of the site and in order for the application to proceed , a further access point would need to be created.

The Judges decision was that :

GROUND 1 whilst there was an error it did not justify an exercise of discretion to quash the decision. The error of fact was inconsequential in the determination of whether there were likely to be environmental effects from the proposed development. The outcome of the screening opinion would not have been substantially different.

GROUND 2 there was no error of law. The council rejected the Alexandra docks site and whilst the claimant disagreed with this judgment, there was no error of law.

GROUND 3 whilst at one point in the consideration of the planning application, there was an error in relation to the presence of sewers on the site, that error was perfected, the other criticisms over flood risks, were disagreements over planning merits.

GROUND 4 reached a decision without the inclusion of the short link road which interested parties sought to introduce at a late stage. There was no error in law and it was not unreasonable for committee to proceed to approve the application leaving to subsequent determination any application if needed, to be considered on its merits.

Outcome

The Judge did not quash the planning application and did not grant Keep Us Rural Leave to appeal. Keep us Rural have applied to the Court of Appeal for leave to appeal and the Court of Appeal are currently considering whether to hear the appeal.

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