

# Agenda



## Planning Committee

Date: Wednesday, 6 April 2016 **MEMBERS TO NOTE THERE WILL BE A PRESENTATION FROM THE PLANNING INSPECTORATE FROM 9.00 A.M. – 9.45 A.M.**

Time: 10.00 am

Venue: Council Chamber, Civic Centre, Newport

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

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

| Item |   | Wards Affected       |
|------|---|----------------------|
| 1.   | <u>Agenda Page - Welsh Cym</u> (Pages 3 - 4)                                |                      |
| 2.   | <u>Apologies for Absence</u>  |                      |
| 3.   | <u>Declarations of Interest</u>   |                      |
| 4.   | <u>Minutes</u> (Pages 5 - 8)  | All Wards            |
| 5.   | <u>Development Management: Planning Application Schedule</u> (Pages 9 - 66) | All Wards            |
| 6.   | <u>Appeal Decisions</u> (Pages 67 - 74)                                     | Marshfield Langstone |

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Date of Issue: Wednesday, 30 March 2016

7. Planning Site Sub Committee - Appointment of Member

All Wards



# Agenda

## Pwyllgor Cynllunio

Dyddiad: Dydd Mercher, 6 Ebrill, 2016

Amser: 10.00 a.m.

Lleoliad: Siambr y Cyngor, Canolfan Ddinesig

At sylw: Y Cyngorwyr Huntley (Cadeirydd), Delahaye (Dirprwy Gadeirydd), Ali, Al-Nuaimi, Critchley, C Evans, Fouweather, Hutchings, Linton, Mudd a White

### **HYSBYSIAD GWE-DDARLLEDU**

*Gall y cyfarfod hwn gael ei ffilmio ar gyfer darllediad byw neu ddarllediad wedi hynny trwy wefan y Cyngor.*

*Ar ddechrau'r cyfarfod, bydd y Maer neu'r Person sy'n Llywyddu yn cadarnhau os yw cyfan neu ran o'r cyfarfod yn cael ei ffilmio. Efallai y bydd y delweddau a recordiad sain yn cael eu defnyddio hefyd at ddibenion hyfforddiant o fewn y Cyngor.*

*Yn gyffredinol, nid yw'r ardaloedd eistedd cyhoeddus yn cael eu ffilmio. Fodd bynnag, wrth fynd i mewn i'r ystafell gyfarfod a defnyddio'r ardal seddau cyhoeddus, rydych yn rhoi caniatâd i chi gael eich ffilmio a defnydd posibl o rhai delweddau a recordiadau sain ar gyfer gwe-ddarlledu a/neu ddibenion hyfforddiant.*

*Os oes gennych unrhyw ymholiadau ynghylch hyn, cysylltwch â Phrif Swyddog Gwasanaethau Democrataidd.*

**DS: Cliciwch ar y ddolen isod i weld y Cod Ymarfer Cynllunio:-**

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

**Bydd copïau o'r Cod Ymarfer Cynllunio ar gael yn y cyfarfod.**

| Eitem  | Wardiau dan Sylw      |
|--|-----------------------|
| 1. <u>Agenda Cym</u>                                   |                       |
| 2. <u>Ymddiheuriadau dros Absenoldeb</u>               |                       |
| 3. <u>Datganiadau Diddordeb</u>                        |                       |
| 4. <u>Cofnodion y cyfarfod (ydd) diwethaf</u>          | Pob Ward              |
| 5. <u>Rheoli Datblygu: Rhaflen Ceisiadau Cynllunio</u> | Pob Ward              |
| 6. <u>Penderfyniadau Apeliadau</u>                     | Langstone, Marshfield |

Cysylltwch â: Miriam Durkin  
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 Dyddiad Cyhoeddi: 30 Mawrth 2016



# Minutes



## Planning Committee

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Date: 2 March 2016

Time: 10.00 am

Present: Councillors P Huntley (Chair), M Al-Nuami, D Fouweather, R White, O Ali and K Critchley

T Brooks (Interim Development Services Manager), J Davidson (East Area Applications Manager), S Williams (West Area Applications Manager), C Jones (Principal Engineer), S Davies (Senior Traffic Transport & Development Manager), S Davies (Strategy & Development Manager), J Evans (Senior Solicitor) and M Durkin (Democratic Services Officer)

Apologies: Councillors C Jenkins and V Delahaye

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### 1. Minutes

The Minutes of the meetings held on 3 and 8 February, 2016 were submitted.

#### **Resolved**

That the Minutes of the meetings held on 3 and 8 February, 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 Appeal – Part Dismissed/Part Allowed**

Application 15/0361 – Church Lodge, Church Lane, Marshfield – retention of fencing and gates

#### **Application for Judicial Review**

Application 14/0337 – Land north of and adjacent to M4, Began Road – 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 of a period 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.

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. The Judge did not quash the planning permission and did not grant Keep Us Rural Leave to appeal. Keep us Rural had now applied to the Court of Appeal for leave to appeal and the Court of Appeal were currently considering whether to hear the appeal.

**Resolved**

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

## Appendix

### PLANNING COMMITTEE – 2 MARCH, 2016

#### DECISION SCHEDULE

| No      | Site/Proposal   | Ward       | Additional Comments   | Decision  |
|---------|---|------------|---|---|
| 15/1459 | Ty Hir Newydd, Michaelstone Road<br><br>Proposed retirement dwelling  | Marshfield | The Chair reported that this application had been withdrawn by the Applicant (late representations previously circulated referred)  |   |
| 15/1468 | Land north east of roundabout at junction of Spyty Road and Nash Road<br><br>Display of 2 No. Advertisement Hoardings (resubmission following refusal 15/0780)  | Lliswerry  | Mr A Virgo, the Applicant spoke in support of the application.<br><br>Councillor Morris, Lliswerry Ward Member spoke in support of the application and suggested that a site visit be undertaken.<br><br>Councillor Critchley, Lliswerry Ward Member suggested that a site visit be undertaken. | <u>Site Inspection</u><br><br>For Members to view the size and impact of the proposed development on highway safety grounds and the visual impact on the area.        |
| 15/1007 | Ebbw Bridge Club & Institute, 217 Cardiff Road<br><br>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 | Gaer       |   | 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 |

|         |  |          |  |                         |
|---------|--|----------|--|-------------------------|
| 15/1291 | Llanwern High School, Hartridge Farm Road<br><br>Installation of additional 2 No. floodlights to MUGA and extension of perimeter fence | Ringland |  | Granted with conditions |
|---------|--|----------|--|-------------------------|



# Report

## Planning Committee

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### Part 1

Date: 6 April 2016

Item No: 5

**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.

| <b>Risk</b>   | <b>Impact of risk if it occurs* (H/M/L)</b> | <b>Probability of risk occurring (H/M/L)</b> | <b>What is the Council doing or what has it done to avoid the risk or reduce its effect?</b>                                    | <b>Who is responsible for dealing with the risk?</b>  |
|---|---|--|---|---|
| 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-  | M   | L  | Avoid delaying the determination of applications  | Planning Committee                                    |

| <b>Risk</b>   | <b>Impact of risk if it occurs* (H/M/L)</b> | <b>Probability of risk occurring (H/M/L)</b> | <b>What is the Council doing or what has it done to avoid the risk or reduce its effect?</b> | <b>Who is responsible for dealing with the risk?</b>   |
|---|---|--|--|--|
| determination, with costs awarded against the Council             |   |  | unreasonably.  | Development Services Manager                           |
| Judicial review successful with costs awarded against the Council | H   | L  | Ensure sound and rational decisions are made.  | Planning Committee<br><br>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 Equalities 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 8 (January 2016)  
Minerals Planning Policy Wales (December 2009)

*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.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 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:** 15/1167      **Ward:** CAERLEON

**Type:** FULL

**Expiry Date:** 07-DEC-2015

**Applicant:** NEWPORT CITY HOMES

**Site:** SITE OF FORMER GARAGES, EASTFIELD ROAD, CAERLEON,

**Proposal:** **ERECTION OF TWO STOREY RESIDENTIAL BUILDING TO INCLUDE 8NO. ONE BEDROOM FLATS, ALTERATIONS TO EXISTING ACCESS ROAD, NEW BOUNDARY TREATMENTS, EXTERNAL LIGHTING AND ASSOCIATED LANDSCAPING**

**Recommendation:** REFUSED

### **1. INTRODUCTION**

- 1.1 The proposal is to erect a two-storey block containing 8 affordable one-bedroom flats on a site located within a residential part of Caerleon. The site was previously owned by Newport Council but transferred to Newport City Homes with the remainder of the Council's housing stock. Previously the site housed a number of garages but since the land was acquired by Newport City Homes, these were demolished and the site cleared of all vegetation prior to the application being submitted. The demolition of the garage buildings was investigated by enforcement officers but enforcement action to require their reconstruction was not considered to be expedient and the case was subsequently closed.
- 1.2 The site is linear, extending along Eastfield Road, and approximately 17m wide at its widest point. It is bordered by public highway to its western and southern boundaries and residential properties to the north and east. The size and shape of the site has therefore limited the size of the development and to some degree dictated its linear shape.
- 1.3 There is a height difference within the site with the levels decreasing toward the south-east. The maximum height difference is approximately 2.5m, adjacent to 2 Eastfield Road. Furthermore, the gradient of the land means that properties located adjacent to the south-eastern boundary of the site (103 to 115 Anthony Drive) will be positioned at a lower ground level than the proposed development.
- 1.4 The proposed building will measure 33.2m in length by 8.7m in depth. The Eastfield Road (north) elevation of the building will have a maximum height of 5.7m whilst the opposite elevation will have a height of 7.5m, owing to the difference in ground levels. The roof is of a pitched design with feature gables positioned at either end of the rectangular building.
- 1.5 The existing vehicular access from Anthony Drive is to be utilised and the southern elevation will provide access to the four ground floor flats. This area currently provides access to the rear of 115 to 103 Anthony Drive. Pedestrian access to the four first floor flats will be available via Eastfield Road.
- 1.6 The building is to be constructed from a mix of red brickwork with render and a grey slate roof. The entrances to the flat's access from Eastfield Road are recessed behind timber slated screens, which provide concealed external space to store refuse. Each entrance will have a flat-roofed canopy. Each flat will be served by at least 2 full height windows, some of which have Juliette Balconies. The majority of these windows will be located in the southern elevation, although two will be located in the west elevation, fronting Anthony Drive. 8 smaller windows will front onto Eastfield Road. No windows are proposed in the East elevation overlooking 2 Eastfield Road. Four 'sun-pipes' are to be located in the Eastfield Road elevation roof slope to provide daylight to bathrooms.



- 1.7 A Landscaped area is provided between the western-end elevation and Anthony Drive. This area will also house a refuse collection area.
- 1.8 A total of 13 parking spaces are to be provided within the site; 8 for the proposed flats, 1 visitor space and 4 spaces to serve 115 to 103 Anthony Drive.
- 1.9 The primary considerations of this application, which are echoed by the concerns of representations received, are: the impact on residential and visual amenity; highway safety; parking provision; landscaping; the need for affordable housing and the ability of the site to accommodate the proposal.

## **2. RELEVANT SITE HISTORY**

NONE

## **3. POLICY CONTEXT**

### **3.1 National Policy**

- Technical Advice Note (TAN) 2: Planning and Affordable Housing
- Technical Advice Note (TAN) 12: Design
- Technical Advice Note (TAN) 18: Transport

### **3.2 Adopted Local Policy – Newport Local Development Plan**

- Policy SP1 (Sustainability)
- Policy SP10 (House-building requirement)
- Policy GP2 (General Amenity)
- GP4 (Highways and Accessibility)
- GP5 (Natural Environment)
- GP6 (Quality of Design)
- GP7 (Environmental Protection and Public Health)
- H2 (Housing Standards)
- H4 (Affordable Housing)
- H8 (Self-contained Accommodation and Houses in Multiple Occupation)
- T4 (Parking)
- W3 (Provision for Waste Management Facilities in Development)

### **3.3 Supplementary Planning Guidance**

- Parking Standards
- Affordable Housing
- New Dwellings

## **4. CONSULTATIONS**

4.1 WALES AND WEST UTILITIES: No response.

4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: the application area lies outside of the Roman town and the later medieval development of Caerleon, within an area of modern housing development. There is no indication of archaeological assets from the Roman or later periods within the application area. It is unlikely that the proposed work will have an impact on the historic environment. Therefore as advisors to your members we have no objection to the positive determination of the application. Should archaeologically sensitive material be discovered during the work, the applicant should contact GGAT for advice.

4.3 DWR CYMRU WELSH WATER: Recommend that Conditions and Advisory Notes are included within any consent granted to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets. Conditions are recommended which require an attenuation device for surface water and to ensure that the position of the public sewer crossing the site is accurately marked out before works commence and no work should be carried out either side of it. No problems are envisaged with the provision of water supply for this development.

- 4.4 NEWPORT ACCESS GROUP: No response.
- 4.5 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): The Designing out Crime Unit at Gwent Police has no objections to the proposed development. The Developers have already made contact regarding the development and it will be built to the standards found within Secured by Design.

**5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF LAW AND REGULATION (PUBLIC PROTECTION): The contaminated land report submitted is reasonably sufficient to risk assess the site. However, given its previous land use (garages) a condition should be attached to any planning permission granted to require ground investigation and a remedial strategy in the event of unforeseen ground contamination being encountered during development.

The development is likely to increase the traffic burden within Caerleon. Caerleon is subject to an Air Quality Management Area, where levels of pollutants exceed the required standards. Any additional vehicular traffic will worsen the situation. New developments in Caerleon should be encouraged to positively contribute to air quality improvements by offering green transport alternatives, e.g. electric charging points etc.

- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE): No response.
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE): Having felled numerous trees on this site, there is a real need for mitigation. The landscaping scheme, including the planting of pleached trees to the parking area, is considered acceptable, however, the location of bin store fronting the street is an unacceptable afterthought, eroding the proposed planting. It is suggested that a space, or bin enclosure, be provided elsewhere, for example, somewhere along the boundary where the parking spaces are shown.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): Was going to ask for tree information in accordance with BS5837:2012, however, it transpires that all the trees and vegetation have been cleared. This was land previously in Council ownership and as such the Council looked after such areas. Newport City Homes agreed to employ the same positive tree management that we undertook when the Council owned the tree stock across Newport. Originally objected to the application owing to the loss of tree and vegetative cover, however financial compensation has now been negotiated with Newport City Homes for the loss of the trees to contribute to tree planting across Newport to help with the greening of the City.
- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The road which will serve the existing development is an adopted highway which served as access for both the garages and the existing residents. Previously 'stopping up' of the highway has been discussed. It's clear that part of the building/spaces will encroach into the existing adopted highway and therefore should planning permission be granted then part of the existing adopted highway will have to be stopped up by making an application to the Welsh Government under the Town and Country Planning Act. The applicant must note that 'stopping up' is not a guaranteed process as all relevant objections will be considered. Objects to the complete stopping up of the road and footway as they currently provide access for existing residents. Should the application be approved, the applicant must contact Streetscene to facilitate the appropriate highways agreement for any works which will take place within the adopted highway. Please also note that this will include the submission of all engineering/construction details to Streetscene for consideration and approval. Should planning approval be granted then a condition must also be attached which states that a construction management plan must be submitted for approval and include such information as wheel wash facilities, dust suppression and contractor parking/compound.

The proposed location of the bin store is acceptable subject to stopping up of the highway rights. The visibility splay towards Anthony Drive is now acceptable.

The applicant must demonstrate that spaces 1 – 4 are fully accessible/useable taking into consideration that vehicles are likely to be parked along the access road associated with the existing residents. The swept path analysis does not take into consideration the likelihood of parked vehicles along the existing road as requested. Based upon the information submitted it's clear that a vehicle parked on the road would cause an obstruction to vehicles wishing to use spaces 1 – 4 and the turning head meaning that vehicles would not be able to park on road resulting in a possible loss in on street parking availability. Visibility splays of 2.4 x 43m are required for the new access onto Eastfield Road. Banked parking spaces, as shown for spaces 5-8 and the visitor space, are not acceptable as parked vehicles will restrict visibility. The spaces must either be split into blocks of 2 or alternatively set back from the edge of the highway. Visibility splays are required to be shown for the new access (spaces 5-8 and the visitors spaces) and the splays must be shown in their entirety. The applicant has only shown the full splay for space 7 and not space 8 and therefore it cannot be determined whether the required level of visibility is achievable. No structures or planting can exceed a height of 600mm within the splay. Railings can be permitted however details must be submitted for consideration.

The visibility must be shown for the access to no.2 Eastfield Road heading towards the junction with Anthony Drive. It must be determined whether the proposal will have a negative impact in the visibility available at this access and also will identify whether any further boundary treatment or vegetation will need to be restricted to a maximum height of 600mm. The applicant has shown that the visitor space which was previously located adjacent to space 8 will be relocated along the access road. The access road is part of the adopted highway and therefore this area cannot be restricted to visitor parking only. This area also appears to already be used by the local residents for parking. The loss in on street parking availability for local residents is not acceptable and any additional parking demand created by the proposed development should be provided off street. On street parking can be considered however the applicant must submit a parking survey which demonstrates that adequate on street parking is available within close proximity of the site and that any increased demand would not have a negative impact on the free flow of traffic and highway safety. The survey must be carried out over several different times and include evening and weekends when the demand for on street parking is expected to be at its highest. The survey should also include photographic evidence.

5.6 HEAD OF REGENERATION AND REGULATORY SERVICES (HOUSING DEVELOPMENT MANAGER): Confirms the Housing Department's full support for the planning application at Eastfield Road submitted by Newport City Homes. The development of 1 bed room apartments fully contributes to addressing the housing need identified in this area. The properties will all be affordable housing, being owned and managed by a housing association, receiving social housing grant from Welsh Government and therefore allocated through the Common Housing Register administered by Newport City Council.

5.7 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING CONTRIBUTIONS MANAGER): The application proposes 8 x 1 bed affordable apartments. Current Council policy (specified in the adopted Planning Obligations SPG 2015) stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations. This local policy accords with national policy legislation. Notwithstanding any highways/transportation requirements, no planning obligations would be requested.

5.8 HEAD OF EDUCATION (EDUCATION INFORMATION MANAGER): No response.

## 6. REPRESENTATIONS

6.1 NEIGHBOURS: 15 neighbours were consulted who share a common boundary with the application site, a site notice was displayed at the site. A number of objection letters and a petition with 15 signatures have been received. The following issues were raised within the objections received:

### Property values

- The proposal will reduce property values;

- The loss in the value of properties is likely due to the 'non ownership status' of the future occupants;
- Questions whether Newport Council will reimburse property owners for the reduction in the value of their properties;

#### Residential Amenity

- It will result in increased overlooking of gardens along Anthony Drive and reduce security;
- There will be loss of light to neighbouring residential properties
- The loss of privacy and increase in overlooking will be compounded by the gradient of the land; only 15m or less has been allowed between protected windows;
- No lighting plan has been provided and the proposal will result in light nuisance with constant external and internal illumination;
- The local telecommunication system is already overloaded and not likely to be improved and the proposal would further overload the system;
- 8 new properties will increase noise levels;
- The proposal will destroy the view from properties on Eastfield Road;
- The building will be overbearing;
- Local schools are near to full capacity and local medical facilities have waiting lists;
- The corner of Eastfield Road is prone to anti-social behaviour and this will be exacerbated by social housing;
- The proposal breaks the established building line of Eastfield Road;
- The construction of the proposal will cause disruption and construction vehicles will cause a safety hazard;
- The bin storage area doesn't account for the variety of bin types which are likely to overflow onto the pavement and the residents of Anthony Drive will not be able to store their bins outside the rear of their properties;
- A salt bin is in place currently on the corner of the site, this should be maintained;
- The blind resident of no. 2 Eastfield Road will be adversely affected as they will be forced onto the highway owing to the parking area adjacent to the property; it is not clear how the boundary with no. 2 will be reconstructed and a much needed parking space which was originally allocated for use by no. 2 has been re-allocated to serve the proposal;

#### Parking and Highway Safety

- The reduction in available parking will increase pressure on the surrounding area having an adverse impact on amenity and slow down emergency vehicles;
- The proposal will worsen the existing parking problem, which has partly been caused by the removal of the garages;
- Increased parking on Eastfield Road will cause a safety hazard as there have been several accidents involving buses here in the past;
- The use of the existing parking area has been established by the residents of Anthony Drive and provides parking for 8 to 10 vehicles, not 2 to 3 as specified in the application. The loss is not compensated for and only 4 replacement spaces have been provided; the proposal could result in 16 more vehicles; 1 visitor space is insufficient and access for emergency vehicles to Anthony Drive will not be possible;
- The parking proposal neither compensates for the loss of parking or provides additional parking;
- Visitor parking space blocks access to the hardstanding to the rear of 105 Anthony Drive;
- The increase in traffic flow will have a negative impact on road safety;
- Visibility splays are inadequate;
- The swept path analysis does not show provision for refuse or emergency vehicles and damage may occur to the boundary of Anthony Drive properties by vehicles using swept paths;
- Manoueverability has been sacrificed for landscaping;
- The development will be constructed on the adopted public highway;

- The loss of the verge will affect drainage;
- The doorways onto Eastfield road will represent a safety hazard as it is a busy bus route;
- The sight lines resulting from the parking at Eastfield Road in the direction of #2 Eastfield Road and beyond will be unsafe. The sightline proposals in this direction seem to anticipate vehicles parked in the bays being able to see over the development boundary between the parking bays to the entrance to #2. Reference is made to low planting / hit & miss fencing along that boundary. Any demarcation at this location will impede safe visibility of traffic which is heading along Eastfield Road towards the Anthony Drive junction. Therefore sight lines at this location should be calculated from the parking bays without looking over any shrubs or fencing along the development boundary.

#### Unauthorised Demolition of Garages

- There are factual inaccuracies in the application about when the garages were originally constructed;
- The garages were in a poor state of repair;
- Newport City Homes prevented the new renting of garages so this was a deliberate act to simulate low demand;
- The removal of the garages required prior notification which was not sought and retrospective planning permission has not been applied for;
- The removal of the garages was an act of vandalism and so the development should not be allowed to proceed.
- Asbestos was found during the demolition and caused risk to human health;
- Avoiding the demolition process has denied the opportunity to consider the ecological impacts;
- The site has been left in a poor condition with heras fencing;
- The integrity of the developer is in serious question and construction is unlikely to be responsibly managed;

#### Design

- The plot is very small for 8 flats;
- Construction so close to the footway and loss of the verge would be detrimental to the streetscape;
- The design is out of character and scale with neighbouring properties which are mainly comprised of low density bungalows and is more suited to an urban setting; other flats in the area are smaller with a greater amount of amenity space;
- The planters proposed are an urban feature and will cause a trip hazard and street clutter;
- Pleached trees are an urban landscaping solution and will result in leaf litter which can be a hazard;

#### Housing Type

- No evidence has been submitted to support the need for one bedroom flats in Caerleon;
- 450 rooms are available on the university site and other properties locally are available for shared housing and could be utilised to provide one-bedroom accommodation;
- New build properties should be limited within Caerleon which is a place of historical significance;
- Caerleon is not the location in Newport to provide affordable housing and it is struggling to sustain an increasing population and is likely to be subject to more development in the future;

#### Loss of Environmental/Amenity Space

- The development will result in the loss of the area as greenspace for residents and wildlife;
- The demolition has caused structural damage to the footpath along Eastfield Road;
- An ancient and historic boundary and hedge, which was required to be retained under the original planning permission, has been removed;
- No communication was received prior to felling of trees on site;

- Insufficient public and private amenity space is provided to serve the flats; no effort has been made to maintain any open space;
- An Environmental Statement is necessary to consider the effect of the development on the environment;

6.2 COUNCILLORS GILES, HUNTLEY AND SULLER: Councillor Giles has submitted objections to the application raising the following issues:

- Traffic and Parking – the site has been previously open with garages .This development will clearly involve more traffic going on and off site and although the allocated parking spaces are within the planning requirements, additional visitors will spill onto the adjacent narrow roads already suffering from intensive traffic and parking issues which adversely affect pedestrians, in particular the disabled and those with young children. This is a main route to local schools and should be a 'safe route to school'.
- Waste collection- it is vital that adequate arrangements are in place to ensure that bins do not cause a nuisance to the local environment and that collection does not have an adverse effect on traffic flow which is particularly heavy between 8.15 -9.30am. Any blockage would cause severe disruption, including for emergency vehicles, buses and local schools. Good visibility for safe ingress and egress is essential.
- Overdevelopment/ loss of amenity- This is already an overdeveloped area and the design must not be overbearing i.e. the proposed block of flats, and should keep in character and appearance of the area. The development will result in the loss of public open space and works so far have resulted in the ecology of the area being undermined including loss of wildlife. The landscaping should compensate local residents whereas the loss of trees, green verges and open space appears to be proposed to be replaced by a private courtyard area. This will carry no benefit to existing residents of Eastfield Road and Anthony Drive and their privacy should also be protected. Lighting for the development should not adversely affect neighbouring properties and the building line must be maintained. Eastfield Road is near the top of the Lodge estate, placed on a very steep hill. It is therefore essential that the salt bin is maintained for public use of all residents in the area.
- Affordable housing- Whilst Newport Council's LDP states that there is a need for affordable housing in Caerleon, unless local people are the ones to benefit they will remain on waiting lists while others from outside Caerleon will move in, increasing the number of cars and adding to pollution issues on the one-way system in High Street and Castle Street, identified as the highest air pollution in Newport. This could give the impression that this development is for the benefit of Newport City Homes and not Caerleon residents in need of affordable housing or those in close proximity.

6.3 CAERLEON CIVIC SOCIETY: The Society opposes the development on the grounds of serious local objections and the need for parking space in the area.

## 7. ASSESSMENT

### Unauthorised demolition of garages

- 7.1 Previously, the site contained a number of garages. The applicant and owner of the garages has stated that these garages were under-utilised and largely used for storage. Local residents have disputed this and believe that the correct prior-notification process should have been sought prior to their demolition, and as a result this should be a material consideration in the planning application.
- 7.2 The Town and Country Planning (General Permitted Development) Order 1995 requires that prior notification is sought in respect of the demolition of such structures. The Council's planning enforcement officers investigated the unauthorised demolition of the garages and as the garages and demolition debris had already been removed from site and their reconstruction was not considered expedient, no further action was taken.
- 7.3 Representations received suggest that asbestos was found during the demolition of the garages which may pose a risk to human health. The Head of Law and Regulation

(Environmental Health) has however suggested a condition is attached to any planning permission granted to tackle the discovery of any unforeseen contamination and require appropriate mitigation. The Head of Streetscene and City Services (Highways) has recommended that a condition is attached to any planning permission granted to require the submission and approval of a construction management plan, which should allay concerns of residents regarding whether the construction of the proposal will proceed in a responsible manner. The refusal of planning permission would not result in the reconstruction of the garages and so for the purposes of this application the demolition of these garages is not a material consideration. The loss of parking provision is addressed below.

#### **Affordable housing need**

- 7.4 The proposal is for 8 x 1 bed affordable apartments. Policy H4 (affordable housing) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) identifies that the Authority will seek the provision of affordable housing in accordance with the relevant submarket area target, which is 40% for Caerleon and Rural Newport. This effectively means these areas have been identified as those in most need for affordable housing and 40% of new housing should be affordable or a commuted sum paid toward provision of such housing. The proposal is 100% affordable and so fully contributes to addressing the housing need identified in this area. The Planning Contributions Manager has stated that as a consequence the development is exempt from contributing towards leisure and education planning obligations.
- 7.5 Representations received express unease about the provision of social housing in this location and the impact of new housing upon public facilities in Caerleon. The Heddlu Gwent Police (architectural liaison officer) was consulted in respect of this application and has no objections to the proposed development and confirms it will be built to the standards found within Secured by Design. Furthermore, one representation received identified that the corner of Eastfield Road and Anthony Drive is already prone to anti-social behaviour. The open nature of the site may have contributed to this and it is considered that a residential development would deter this type of behaviour. As identified above the adopted Local Development Plan identifies a need for affordable housing in Caerleon and the property is within the urban boundary. Policy SP1 (Sustainability) states that developments should make a positive contribution to sustainable development. This site is in a sustainable location within the settlement boundary which is well serviced by public transport. The site is vacant a brownfield site and this proposal seeks to make an efficient use of the land. The creation of 8 no. 1 bedroom apartments is unlikely to place a strain on resources and is unlikely to be occupied by families requiring school places owing to the fact that the flats could only accommodate single individuals or childless couples. The proposal is considered to comply with Policy H4 of the Newport Local Development Plan and contribute towards the local housing supply.

#### **Design of development**

- 7.6 The site is limited in terms of its size and it is recognised that this has influenced the compact design of the proposal. Effort has been made to respect the scale of adjacent housing and utilise the gradient of the land by providing a single storey elevation to Eastfield Road, which is fronted by bungalows, and a two storey elevation to the rear opposite the two storey terraced properties at 115 to 103 Anthony Drive.
- 7.7 The New Dwellings SPG (Adopted August 2015) states that one-bedroom flats should have an internal floorspace of 50m<sup>2</sup> and have balconies providing a minimum amount of amenity space. The Juliette balconies serving the first floor flats of this proposal do not provide any usable amenity space, however, to create such features at first floor level would enhance the degree and perception of overlooking to neighbouring properties and so in this instance would be inappropriate. Furthermore, each flat will provide a minimum of 69 square metres of internal living space, 19 square metres more than required by the New Dwellings SPG. Only flat 4 will have access to external amenity space in the form of a court yard, however, all flats will have areas to store refuse and the lack of external amenity space is compensated for by the larger than required internal floor area. All flats have their main

habitable room windows facing south and so are likely to receive a sufficient amount of daylight into living areas. The proposal will be constructed in line with the Welsh Government's requirement for social housing, which ensures compliance with Policy H2 (Housing). The level of amenity for the occupants of the proposed flats is therefore considered to be acceptable.

- 7.8 Prominent gables are common in the area and are a feature which is reflected in the design of the proposal. Also canopies have been incorporated into the front elevation to provide a more residential appearance. The brick and render design of the building complements the materials used locally, although the introduction of timber slats to the Eastfield Road doorways does create a slight institutional character, although it is not considered to be detrimental to the appearance or character of the building or area. As identified within the representations received, the building will be located closer to the footway on Eastfield Road than other properties, which are characterised by greater setbacks. It is not possible to provide a greater setback from the highway owing to the limited depth of the site. A variety of housing types and designs are evident in the locality and landscaping in the form of planters are proposed to be used to in an attempt soften the street facing façade of the building. However, the landscaped verges and delineation of gardens makes for a pleasant amenity and specious appearance, particularly along Eastfield Road. This, in comparison, will appear cramped, filling to site to its north-west and south-east boundaries, contrary to Policy GP6 (Quality of Design) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) in these respects. The materials used in the development do however complement the existing properties in the area and it is considered to provide a sufficient level of amenity of for its occupants. It is therefore considered to be compliant with policy H2.

#### **Impact on residential amenity**

- 7.10 A number of representations have raised concerns in respect of the impact the proposal will have on residential amenity through means of overlooking, loss of light, overbearing impact, light pollution and increased noise. The loss of outlook and view and likely reduction in property prices have also be sited as objections against the proposal. The New Dwellings SPG states that new developments should maintain adequate natural daylight, privacy and perceived space for occupants of neighbouring dwellings. Policy GP2 (General Amenity) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2016) states that development will be permitted where there will not be a significant adverse effect on local amenity including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality.
- 7.11 The impact of a development on property values is not a material planning consideration and neither is loss of view. The outlook however is material to the determination of this application and this is addressed in respect of loss of open space below.
- 7.12 The test for natural light is set out in the New Dwellings SPG. Given the height of the proposed building and its distance from the windows of these properties it can be said with certainty that the proposal does not fail this test and, also taking into account the orientation of the proposal to the north, it is therefore unlikely it will impede natural daylight from the windows of neighbouring residential properties. Furthermore, owing to the two-storey height of the proposal and distance from the rear of these properties it is not considered that its impact will be overbearing.
- 7.13 The New Dwellings SPG also specifies that in order to ensure that all residents have sufficient privacy in their homes, a 21m separation distances must exist between protected windows in existing and proposed dwellings. In order to prevent overlooking between existing and proposed properties, suitable separation distances must exist between high-level protected windows and adjacent back gardens. The applicant has demonstrated that a minimum distance of 21m will exist between the rear elevation windows of the proposal and the properties at 103 to 115 Anthony Drive and so the proposal will not have an adverse impact on the privacy of neighbouring residents in their homes. However, separation distances of 10m only exist between their rear boundaries and the proposal



which will occupy an elevated position in respect of the rear gardens of the properties along Anthony Drive. The proposal is therefore likely to result in overlooking of the gardens of neighbouring properties from high level protected windows, contrary to the advice in the SPG and to the detriment of the residential amenities of these properties.

- 7.14 Representations received identify that the separation distances specified in the SPG not apply to distances applicable between protected windows on Eastfield Road. Indeed the distances between the windows in the front elevation of the proposal and properties on Eastfield Road is as low as 17m at certain points. However, owing to the orientation and lack of protected windows in the eastern elevation of 101 Anthony Drive it is considered that there will be no loss of privacy to this property. Number 1 Eastfield Road does however contain protected windows in the elevation facing the proposal. It is therefore likely that the residential amenities of the property will be adversely affected by loss of privacy.
- 7.15 The Head of Law and Regulation (Environmental Health) has not objected to the proposal on the basis of light pollution although a condition can be attached to any planning permission submitted to require the submission of details for consideration before the installation of any external lighting. Neither has any objection been received in respect of noise. The proposal will be required to meet minimum sound insulation standards through Building Control Regulations and this is considered to be sufficient control. An increase in external noise through use of the external amenity space serving flat 4 and of the parking areas is within what would reasonably be expected in this location within the urban boundary of Newport. Any anti-social noise levels cannot be anticipated and if they do occur can be tackled under other legislation. Similarly, disruption during construction is controlled through other legislation although a condition can be attached to any planning permission granted to require a construction management plan to be submitted and approved prior to the commencement of development. The approved details will then have to be complied with.

#### **Landscaping and loss of open space**

- 7.16 Prior to the submission of the application, the site was cleared of all vegetation. A number of neighbours consider that this has had an adverse impact on the character and appearance of the locality and upon the 'rural outlook'. This area is suburban and within the urban boundary. The site was previously occupied by dilapidated garages and it cannot be said the outlook was rural. Despite this, the appearance of the site was softened by the greenery, which apparently formed an original boundary when the housing estate was developed. It has not been possible to locate the original planning permission and so whether its removal represents a breach of the original consent cannot be determined. The landscaping proposals have been assessed in terms of whether they provide adequate mitigation for the loss of the vegetation.
- 7.17 One neighbour representation received considers that the application should be accompanied by an environmental impact assessment (EIA). The application has been screened, does not exceed the applicable thresholds, and the proposal is not EIA development and does not therefore require an environmental impact assessment.
- 7.18 The Head of Streetscene and City Services (Tree Officer) originally objected to the proposal on the basis of the loss of trees, however financial compensation has now been negotiated with Newport City Homes for the loss of the trees to contribute to tree planting across Newport to help with the greening of the City and the objection has been removed. This agreement cannot be secured through the planning application and the Head of Streetscene and City Services will seek to secure this.
- 7.19 The Head of Streetscene and City Services (Landscape Officer) has received several iterations of the landscaping plan before being satisfied that adequate mitigation had been provided. The acceptable scheme included pleached trees along the retaining wall between the parking areas, planters to the front boundary and a landscape buffer with a maximum depth of 4.7m at Anthony Drive. However, the proposed landscape strip has since been eroded by an area intended to store refuse bins when they are due for collection, to which

the Head of Streetscene and City Services (Landscape Officer) objects. The area is to be laid with grasscrete and each rear flat will have refuse storage adjacent to their entrance. This area is only therefore likely to be used on collection days but its location is prominent and undermines the proposed landscaped area. Considering the character of the area this is unfortunate and a lower density development with a more balanced approach to the layout mix of development, parking and landscaping would be more appropriate in this suburban setting.

- 7.20 The resident of no. 2 Eastfield has objected to the scheme on the basis that the planters proposed are more characteristic with an urban development and the resultant leaf litter from pleached trees could cause a slip hazard, particularly to a blind resident. Owing to the position and size of the pleached trees it is unlikely that they will cause any particular hazard or create an unreasonable amount of leaf litter. The vegetation which existing on the site previously would have generated a greater amount of leaf litter. The Head of Streetscene and City Services (Landscape Officer) is satisfied with the design of the planters and is considered that they will not have an adverse impact upon the character and appearance of the area, nor will they cause a trip hazard owing to their position within the boundary of the site and height.

### **Highways and parking**

- 7.21 Many objections have been received in respect of the loss of parking provision resulting from the proposal and general highway safety issues. The applicant has submitted several parking plan iterations to address the concerns of highways officers although some matters remain outstanding. Neighbours have also expressed concern regarding existing highway safety and consider the proposal will worsen the situation.
- 7.22 Currently, notwithstanding the use of the site for garages, the site provides parking, and access, to 103 – 115 Anthony Drive. The front of these properties can only be accessed by foot and so the loss of parking to their rear would result in an increase in on-street parking in the area. It seems that the site has indeed been established as an area for the parking of vehicles although the applicant does own the site and could deny access for parking.
- 7.23 It is proposed to provide 13 vehicle parking spaces in total. This includes a visitor parking space and 4 spaces for the use of properties at Anthony Drive. The adopted parking standards require that one parking space is provided per dwelling for one-bedroom flats in this location, with one visitor parking space per 5 dwellings. The proposed parking provision to serve the development therefore meets these required standards. The visitor space and those intended to serve Anthony Drive will be sited in the public highway, along the access road. The proposal is likely to result in a shortfall of spaces serving the properties on Anthony Drive and the loss in on street parking availability for local residents which the Head of Streetscene and City Services (Highways) has stated is not acceptable. Any additional parking demand created by the proposed development should be provided off street. On street parking can be considered however the applicant must submit a parking survey which demonstrates that adequate on street parking is available within close proximity of the site and that any increased demand would not have a negative impact on the free flow of traffic and highway safety.
- 7.24 Furthermore, the applicant must demonstrate that spaces 1 – 4 are fully accessible/useable taking into consideration that vehicles are likely to be parked along the access road at Anthony Drive associated with the existing residents. A swept path Analysis (Swept path analysis 4) takes into consideration the likelihood of parked vehicles along the existing road as requested and shows that vehicles can park in the spaces when vehicles are parked on the access road.
- 7.25 The Head of Streetscene and City Services (highways) has also stated that the visibility must be shown for the access to no.2 Eastfield Road heading towards the junction with

Anthony Drive and it must be determined whether the proposal will have a negative impact in the visibility available at this access. The applicant has submitted a plan which seems to indicate that a visibility splay of 2.4 x 43m is achievable. The Head of Streetscene and City Services (Highways) is satisfied that visibility can be achieved from the other parking spaces on Eastfield Road. It's clear that part of the building/spaces will encroach into the existing adopted highway and therefore should planning permission be granted then part of the existing adopted highway will have to be stopped up by making an application to the Welsh Government under the Town and Country Planning Act. The applicant must note that 'stopping up' is not a guaranteed process as all relevant objections will be considered. The Head of Streetscene and City Services (Highways) objects to the complete stopping up of the road and footway as they currently provide access for existing residents. It has also been recommended that should the application be approved, the applicant must contact Streetscene to facilitate the appropriate highways agreement for any works which will take place within the adopted highway.

## **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 proposal represents the use of vacant urban land. It includes affordable residential units for which demand can be shown. These are merits of the scheme and carry significant weight, however, the proposal will have an adverse impact on the residential amenity of the properties known as 103 – 115 Anthony Drive by means of overlooking and loss of privacy contrary to Policy GP2 and the SPG for New Dwellings. The proposal will also result in the loss of on-street parking to 103 to 115 Anthony Drive which has not been adequately compensated for through a sufficient amount of replacement off-street parking and would therefore increase demand for on-street parking in the area to the detriment of highway safety and residential amenity, contrary to Policy T4. The site occupies a prominent roadside position in an area that benefits from a very pleasant visual amenity arising in large part from the presence of landscape features and green space that are not necessarily public space but do, nevertheless, contribute to the overall quality of visual amenity and appearance of the area. The proposal does not adequately reflect the prevailing character and will appear out of keeping with its surroundings. These concerns are considered to outweigh the significant merits of the scheme in this case. The proposal is therefore unacceptable and refused for the following reasons.

## **10. RECOMMENDATION**

### **REFUSED**

01 Owing to the limited separation distances and elevation of the proposal the development will result in overlooking and loss of privacy to nearby residential properties on Eastfield Road and Anthony Drive to the detriment of residential amenities and contrary to Policy GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and the Supplementary Planning Guidance for New Dwellings.

02 The proposal will result in the loss of highway parking provision for 103 – 115 Anthony Drive and it has not been demonstrated that the displaced parking demand can be accommodated on-street within the local area to the detriment on highway safety and residential amenity.

03 The proposal will have an unacceptably adverse impact upon the character and appearance of the area by reason of the layout, size, design and lack of landscaping of the proposal and is contrary to Policies GP2 and GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

04 The proposal has insufficient amenity space for future residents contrary to Policy GP2v of the Newport Local Development Plan 2011-2026 (adopted January 2015).

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: design and access statement, swept path analysis 4, site location plan, 70225\_AL(01)0100\_M\_Proposed Site Layout, Existing constraints plan, Proposed flat layouts, proposed roof plan, proposed elevations, proposed site sections, proposed street elevations, proposed boundary treatment detail, slab and floor levels, perspective towards site entrance, perspective towards Eastfield Road, drainage layout, visibility splays at new access, visibility splays at parking bays, site layout with approximately location of demolished garages, visibility splays from 2 Eastfield Road, proposed planters, site investigation report, refuse collection details, drainage report.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP10, GP2, GP4, GP5, GP6, GP7, H2, H4, H8, T4 and W3 were relevant to the determination of this application.

03 The New Dwellings SPG was relevant to the determination of this application.

04 The Parking Standards SPG was relevant to the determination of this application.

05 The Affordable Housing SPG was relevant to the determination of this application.

06 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.

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## APPLICATION DETAILS

No: 15/1486 Ward: ALLT-YR-YN  
Type: FULL  
Expiry Date: 10-FEB-2016  
Applicant: LADSA HOMES LTD  
Site: LAND NORTH OF 10, RIDGEWAY RISE, NEWPORT  
Proposal: CONSTRUCTION OF 4NO. DETACHED DWELLINGS, NEW VEHICLE AND PEDESTRIAN ACCESS

Recommendation: GRANTED WITH CONDITIONS SUBJECT TO A LEGAL AGREEMENT

### 1. INTRODUCTION

1.1 This application seeks full planning permission for the construction of 4 No. detached dwellings on a vacant parcel of land to the north of Ridgeway Rise, Allt Yr Yn. The site was formerly occupied by 5 No. prefab bungalows which were demolished in 2004/2005. A new access is proposed off Ridgeway Hill. Three of the proposed houses would be part 2 storey/part 3 storey to account for changes of level within the site. The houses would appear as 2 storey when viewed from Ridgeway Hill and Allt Yr Yn Avenue. The fourth plot would be a two storey house.

### 2. RELEVANT SITE HISTORY

|         |   |                         |
|---------|---|-------------------------|
| 00/1325 | DEMOLITION OF EXISTING PREFABRICATED BUNGALOWS, ERECTION OF NEW BUNGALOWS AND SETTING ASIDE OF LAND FOR FURTHER RESIDENTIAL DEVELOPMENT AND FUTURE COMMUNITY FACILITIES (OUTLINE APPLICATION) | Granted with conditions |
| 03/1712 | DEMOLITION OF EXISTING PREFAB BUNGALOWS AND REPLACEMENT WITH 9NO. NEW BUNGALOWS   | Granted with conditions |
| 04/0350 | VARIATION OF STANDARD CONDITION (b) TO EXTEND TIME PERIOD FOR SUBMISSION OF RESERVED MATTERS OF OUTLINE PLANNING PERMISSION 00/1325 FOR RESIDENTIAL DEVELOPMENT WITH COMMUNITY FACILITIES     | Granted with conditions |

### 3. POLICY CONTEXT

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

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

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

Policy **GP4 General Development Principles – Highways and Accessibility** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be

detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

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

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

Policy **H4 Affordable Housing** sets out the affordable housing targets for the four submarket areas within Newport. For new housing sites of fewer than 10 dwellings within the settlement boundary, and fewer than 3 dwellings within the village boundaries, a commuted sum will be sought.

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

- 3.2 The New Dwellings Supplementary Planning Guidance (Adopted January 2015) seeks to:
- i) To ensure that occupants of new dwellings have reasonable living conditions;
  - ii) To ensure that new dwellings do not deprive persons in existing dwellings of reasonable living conditions; and
  - iii) To protect the character and appearance of the natural and built environments.

#### **4. CONSULTATIONS**

- 4.1 WALES AND WEST UTILITIES: Advise of apparatus in the area.
- 4.2 NEWPORT ACCESS GROUP: No response.
- 4.3 DWR CYMRU – WELSH WATER: No objection subject to a condition preventing any surface water and/or land drainage from entering the public sewerage system. The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.
- 4.4 WESTERN POWER DISTRIBUTION: Advise of apparatus in the area.
- #### **5. INTERNAL COUNCIL ADVICE**
- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No objection subject to conditions requiring development to take place in accordance with the submitted tree protection plan, the implementation of root protection barrier fencing and the appointment of an arboriculturalist.
- 5.2 HEAD OF LAW AND REGULATION (ENV. HEALTH): No objection to the proposals, however a suitable condition should be attached to any permission granted requiring the submission of a construction and environmental management plan prior to commencement of development. The CEMP should detail means of noise and dust mitigation during construction of the development. A condition should also be imposed requiring investigation and remediation of any unforeseen contamination.
- 5.3 PLANNING CONTRIBUTIONS MANAGER: In accord 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 Rogerstone and Newport West (based upon 30% provision). Based upon the proposal for a 4No 4 bed houses, and subject to economic viability, a commuted contribution of £82,564 would be required for affordable housing provision.

- 5.3.1 A Monitoring Fee of £228 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.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE): No objections, subject to the following:-
  - 5.4.1 The proposed house on Plot 3 appears to be located too close to the roots of the street tree beside Allt-Yr-Yn-Avenue which must be protected, so may be better positioned further south-east.
  - 5.4.2 As part of the Landscape Plan which needs to be submitted, I would like to see street trees established alongside Ridgeway Hill, (as regards ultimate size, I would suggest a small-to-medium sized tree between Plots 1 and 2, a medium sized tree at the north-west corner of the application boundary and a large tree at the south-west corner), plus trees and shrubs alongside the north-east and south-east boundaries to create some visual screening for neighbouring properties.
  - 5.4.3 The Landscape Plan should comprise a detailed layout and a schedule of tree and shrub species, showing sizes, numbers, planting densities and specification. A topsoil and planting specification and a maintenance schedule shall also be required.
- 5.5 HOUSING AND COMMUNITY REGENERATION MANAGER (AFFORDABLE HOUSING): I can confirm that this does not meet the threshold for on-site affordable housing, however due to the high housing need in this area there is a requirement for an affordable housing commuted sum. The mechanism for calculating this contribution is to be advised by Planning Policy colleagues.
- 5.6 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): I'm satisfied that adequate visibility is available at the proposed junction with Ridgeway Hill. The applicant has also demonstrated that adequate parking will be provided for each of the proposed properties.
  - 5.6.1 Full details of boundary treatment must be submitted more specifically for plot 1 in order to ensure that adequate visibility is available at the proposed driveways.
  - 5.6.2 Given that the site will remain private how does the applicant propose to accommodate refuse collection. I would suggest that a bin store will need to be provided within close proximity to the highway.
  - 5.6.3 Whilst I acknowledge that the applicant proposes to use permeable Tegula block paving for the shared driveway, full design details must be submitted in order to fully demonstrate how surface water will be accommodated. This could form a condition should the application be approved.
  - 5.6.4 A condition will also be required which states that a CEMP must be submitted for approval and include such details as contractor parking/compound, wheel wash facilities and dust suppression.
  - 5.6.5 The applicant must contact Streetscene in order to facilitate the appropriate highways agreement for any of the access works which will take place within the adopted highway.
- 5.7 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): I do not object to the above application. I do have the following recommendations:



- 5.7.1 No slow worms were recorded on the site however toads and frogs were recorded. I would recommend that a phased, staggered approach to vegetation clearance be undertaken to allow any reptiles/amphibians to move away from the site to the neighbouring gardens. Any log piles or potential refugia should be dismantled by hand.
- 5.7.2 Any scrub clearance should be undertaken outside bird nesting season (Feb-August).
- 5.7.3 I concur with the Acer report with regards to mitigation for hedgehogs and that a trimmed approach to vegetation clearance should be undertaken.
- 5.7.4 I would recommend that an ecological liaison person be appointed to oversee the vegetation clearance. This person will need to liaise with the NCC Ecology Officer and keep the officer up to date with the works on the site. This should be done via email. Initially when the works commence, half way through and at the end of the works to ensure that the works have been undertaken in accordance with the Acer recommendations. Details of this person will need to be submitted prior to commencement of works.
- 5.8 **HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE):** I note that the applicant has indicated the use of soakaways and SUDS drainage on the application form however there is limited information submitted to give detail to the proposals to manage surface water, based on this information it is not possible to make full appraisal of the surface water drainage proposals. The applicant needs to demonstrate the viability of permeable paving and soakaways by providing ground investigations data, construction details for the paving and soakaways, in addition hydraulic calculations are required to demonstrate that design has been undertaken to account for a storm return period of 1/100 +30%. The applicant also needs to submit drawings showing the layouts and gradients of pipes, locations of soakaways, gullies, manholes, inspection chambers etc. Details/Drawings of any other SUDS or drainage apparatus.

## **6. REPRESENTATIONS**

- 6.1 **NEIGHBOURS:** All neighbours sharing a common boundary and opposite the application site were consulted (13 properties). 3 representations from 2 addresses were received.
- 6.1.1 1 representation (No. 102 Allt Yr Yn Avenue) supports the proposals in part and considers that the proposed houses would enhance the area and the design is sympathetic to new development in the locality. However, there is concern about traffic incidents on the junction between Ridgeway Hill and Allt Yr Yn Avenue. It is also noted that pedestrian access from Allt Yr Yn Avenue to the rears of plots 2 and 3 is proposed. This would encourage parking on the roads which could be close to the junction; creating blind spots. Traffic parking on both sides of the road would restrict the flow of traffic to single file.
- 6.1.2 2 representations (of No. 39 Ridgeway Hill) raise the following concerns:
- the sewage drain will continue to pass from 39 Ridgeway Hill under the proposed plots 2 and 3. This drain has blocked on several occasions previously. Concerned that the additional loads from the plots will lead to the backup of sewage into 39 Ridgeway Hill;
  - a number of trees and vegetation are proposed to be removed which are close to the boundary with 39 Ridgeway Hill. Require a written undertaking that any damage to boundary walls or fence during construction or through vegetation removal will be repaired.
  - concern regarding potential shading of private garden, conservatory and bedroom from plots 3 and 4;
  - loss of value to property;
  - the design of the houses is unimaginative and retrograde, the waste of roof space increases cost to no advantage. The houses are relatively large with multiple car ownership, the suggestion that the nearby bus stops is going to provide a solution to mobility needs is risible;
  - the size of the dwellings will facilitate high energy use, one might expect the plots to be all-electric and designed to maximise active and passive solar capture. It is noted that the proposed roof profiles are not conducive to optimum solar collection;

- four houses are too many for this site; were there only three plots developed, previous objections would lose some of their strength.

6.2 COUNCILLOR DAVID FOUWEATHER: It seems to me that the developer has incorporated the green space which takes the site right up to the pathway on Allt-Yr-Yn Ave. Is this correct as the prefabs never came up this far? The developer states that there were five previous dwellings on the site and that four three storied houses are acceptable. The previous dwellings were bungalows and I therefore believe that there could be an issue of overlooking existing properties. Looking at the design of the houses it appears that the garages only have room for one car which means any other cars would be parked off site. I also note that the back of the garages is designated as a fifth bedroom/study. This needs to be clarified and a condition placed on the properties that the garages cannot be turned into living accommodation.

6.3 COUNCILLOR CHARLES FERRIS: I would like the above application to be heard by the full (*planning*) committee if you are mindful to grant permission. I am concerned that the three story houses will have an overbearing appearance on the surrounding low rise dwellings.

## 7. ASSESSMENT

7.1 The application site, which was formerly occupied by prefab housing, has re-vegetated since the prefabs were demolished; including semi mature trees and tall conifer trees along the southern boundary. The site has a swathe of grass between the position of the original prefabs and Allt Yr Yn Avenue, there are also two mature Lime trees along the grass verge of Allt Yr Yn Avenue; these are Council owned trees and do not fall within the application site. The site slopes from north to south, although it does plateau in the areas where the prefab originally stood. The site is bounded by residential development to the south and east. All of the residential development are either original prefab bungalows or newer bungalows constructed as part of the redevelopment of the former prefab estate. The most eastern boundary is shared with the curtilage of a detached two storey house which also has a single garage alongside part of the shared boundary.

7.2 Plots 1, 2 and 3 are part 2 storey/part 3 storey 4 bed houses. They appear as two storey houses from Ridgeway Hill and Allt Yr Yn Avenue but as three storey houses from within the site. The front elevations address Ridgeway Hill and Allt Yr Yn Avenue with pedestrian access available at the front. Vehicular access is from the rears where each house has a double integral garage in the lower ground floor. The lower ground floors would also provide an entrance hall, bed/study room and utility room. The ground floors would provide a lounge, dining room and kitchen. The first floors would provide bedrooms and bathrooms. Each plot would also have two parking spaces on driveways in front of the garages.

7.3 Plot 4 would be a 2 storey, 4 bed house. The house would be situated in the eastern corner and it would face into the site. It would have a single integral garage and two parking spaces on a driveway in front of the garage.

7.4 The development would involve the felling of a number of trees, including the tall conifer trees along the southern boundary. The plan indicates the planting of new trees and hedgerow but the precise details are not yet known. Low boundary railings are also proposed to the front of the plots facing Ridgeway Hill and Allt Yr Yn Avenue. It is also proposed to construct a 1.2m high wall with fencing above along the southern boundary.

7.5 Policies SP1 (Sustainability), GP2 (General Amenity), GP4 (Highways and Accessibility), GP5 (Natural Environment), GP6 (Quality of Design), H4 (Affordable Housing) and T4 (Parking) of the Newport Local Development Plan 2011-2026 are relevant to the determination of this application.

7.6 The New Dwellings Supplementary Planning Guidance (Adopted January 2015) is also relevant to the determination of this application.

## 7.7 Sustainability

Policy SP1 states that proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations of brownfield land within the settlement boundary.

- 7.7.1 The application site falls within the definition of previously land as it was previously occupied by housing. It is within the settlement boundary and it is considered that the provision of four dwellings is an efficient use of the land. It is also considered to be in a relatively sustainable location with a local shop, bus stops and a community hall within walking distance.
- 7.7.2 A neighbour has raised concerns that the proposed houses would encourage car ownership and the nearby bus stops have an infrequent service. The Newport Parking Standards Supplementary Planning Guidance requires three parking spaces for a 4 bedroom house to ensure there is no adverse impact on the local highway network. There are a range of facilities within walking distance and a bus service (operated by the NAT Group) runs along Ridgeway Hill into Newport every hour from 08:00 to 19:00.
- 7.7.3 The neighbour is also concerned that the design of the houses would lead to high energy usage and they are not orientated to maximise solar capture. It is noted that the proposed houses have a number of planes facing a south and south westerly direction, which is the ideal for installing solar panels. The roof slopes are also around 30° which would allow the best performance for solar panel installations.

## 7.8 Planning Obligations and Affordable Housing

Policy H4 states that the Authority will seek the provision of affordable housing in accordance with the relevant submarket area. The application site falls within the submarket area of Rogerstone and Newport West (based upon 30% provision). The policy also states that for new housing sites of fewer than 10 dwellings within the settlement boundary, the Council will seek a commuted sum contribution. The Planning Contributions Manager has advised that Based upon the proposal for 4 No. 4 bed houses, and subject to economic viability, a commuted contribution of £82,564 would be required for affordable housing provision. A Monitoring Fee of £288 will also be required to cover the Council's cost of negotiations and on-going monitoring of the planning obligations.

- 7.8.1 The applicant has agreed to these contributions and will be required to enter into a legal agreement.

## 7.9 Amenity of future and existing residents

Policy GP2 states that development will be permitted where:

- there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
- the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
- the proposal seeks to design out the opportunity for crime and anti-social behaviour;
- the proposal promotes inclusive design both for the built development and access within and around the development;
- adequate amenity for future occupiers.

- 7.9.1 The New Dwellings Supplementary Planning Guidance (SPG) sets out guidance to ensure that occupants of new dwellings have reasonable living conditions; to ensure that new dwellings do not deprive persons in existing dwellings of reasonable living conditions; and to protect the character and appearance of the natural and built environments.

- 7.9.2 In terms of the future occupants the SPG recommends that 1 square metre for every square metre of a unit footprint is provided for private amenity space. It is difficult to accurately calculate the exact proportion of proposed amenity space for each plot due to

many irregular angles however, rough calculations show that the proposed amenity space would meet those standards. It is noted that not all amenity space would be confined to the rear or private areas of the plots however, it is considered that any future buyer would consider this when deciding whether the property suits their requirements.

- 7.9.3 In terms of privacy to both future occupiers and existing neighbours the SPG recommends that a separation distance of 21m should be achieved between protected windows (i.e. living rooms, dining rooms, bedrooms, kitchen where there is an element of dining). To prevent overlooking between proposed and existing properties suitable separation distances should exist between first floor protected windows and adjacent private gardens. The shape, size and layout of the garden and the effects of ground levels, outbuildings and boundary treatments should be considered when judging suitable separation distances.
- 7.9.4 Plot 1 would have a frontage onto Ridgeway Hill, the rear elevation would face into the site where an internal road serves the four houses. There are suitable separation distances between this plot and the other proposed houses. The side elevation would face towards the front of 35 Ridgeway Hill which is an original prefab building. There are existing tall conifer trees along the shared boundary which would be removed and replaced with a 1.2m high brick wall with close boarded timber fencing on top and native broad leaf hedge. There would be a small living room (not a principle window) in the side elevation facing the front of 35 Ridgeway Hill. The distance between the protected windows would be 18m which is slightly short of the SPG standard. However, given the intervening wall/fence and hedge row it is not considered that there would be a loss of privacy to the neighbouring property. The precise details of the wall/fence would be secured by a condition.
- 7.9.5 It is not considered that plot 2 would give rise to any loss of privacy to any neighbouring properties nor the proposed houses.
- 7.9.6 Plot 3 would have a frontage onto Allt Yr Yn Avenue. The adjacent property to the east is 39 Ridgeway Hill which is an original prefab. The proposed house would sit forward of the front elevation of 39 Ridgeway Hill. There would be four windows in the side elevation facing towards the neighbouring property. These windows serve a ground floor toilet, the stairs and a first floor ensuite. A condition could be imposed to ensure the toilet and ensuite windows are obscure glazed. With the imposition of this condition it is considered that the proposed dwelling would not give rise to any loss of privacy to the neighbouring property.
- 7.9.7 Plot 4 would be located to the rear of the application site. The rears of 39 Ridgeway Hill and 17 Ridgeway Rise would face towards the side elevations of this house. The side elevation facing towards 39 Ridgeway Hill would have a utility door and window; and toilet window at ground floor. Notwithstanding the use of boundary treatments it is not considered that these openings would give rise to a loss of privacy. The side elevation facing 17 Ridgeway Rise has been amended so there are no ground floor windows facing towards this property. At first floor there would be a first floor window which would serve a bathroom and can be obscure glazed by condition. The rear elevation of plot 4 faces the rear garden of 105 Allt Yr Yn Avenue. There would be bedroom windows within 7m of the shared boundary however, it is not considered that there would be a loss of privacy as 105 Allt Yr Yn has a garage which sits along the shared boundary and would prevent views into the neighbours garden.
- 7.9.8 In terms of loss of light the SPG recommends a number of tests to ensure there are adequate levels of natural light for neighbouring properties. These tests have been undertaken following the submission of a cross section plan through the site incorporating 39 Ridgeway Hill and 17 Ridgeway Rise. The tests have been satisfied for plot 4 which had the most potential for impact on the neighbouring properties given its proximity. The tests have also been satisfied for plot 3 which sits slightly forward of the front elevation of 39 Ridgeway Rise.

## 7.10 Design

Policy GP6 requires good quality design in all forms of development. There are two styles of development within the surrounding area; the bungalows and original prefabs to the south and west of the application site and the larger two storey detached dwellings along Allt Yr Yn Avenue. The design of the proposed houses would be in keeping with the predominant character along Allt Yr Yn Avenue. This design and scale of housing is considered to be acceptable and the choice of materials is reflective of the newer developments east and west along Allt Yr Yn Avenue. Plots 1 to 3 create a frontage along Allt Yr Yn Avenue and Ridgeway Hill which is considered to be in keeping with the existing pattern of development. These plots also incorporate front gardens with low boundary treatments; and a swathe of open space would be retained in front of plots 1 and 2. These elements are considered to help retain the sense of openness which is part of the character of the surrounding area.

7.10.1 The Landscape Officer has commented that a landscape plan would be required. He has suggested small to medium sized trees between plots 1 and 2, a medium sized tree in the north-west corner and a large tree at the south-west corner, plus trees and shrubs alongside the north-east and south-east boundaries to create some visual screening for neighbouring properties. These details can be secured by a condition.

## 7.11 Highways and parking

Policy GP4 states that development proposals should:

- provide appropriate access for pedestrians, cyclists and public transport in accordance with national guidance;
- be accessible by a choice of means of transport;
- be designed to avoid or reduce transport severance, noise and air pollution;
- make adequate provision for car parking and cycle storage;
- provide suitable and safe access arrangements;
- design and build new roads within private development in accordance with the highway authority's design guide and relevant national guidance;
- ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.

7.11.1 Policy T4 states that development will be required to provide appropriate levels of parking with the defined parking zone and in accordance with adopted parking standards.

7.11.2 The application site is located in parking zone 4 and 1 parking space per bedroom is required, with a maximum of 3 spaces. As each plot would provide a minimum of three parking spaces, either within the garages or on the driveways the Head of Streetscene and City Services (Highways Engineer) is satisfied with the provision. The Highways Engineer is also satisfied that adequate visibility at the proposed junction with Ridgeway Hill can be achieved.

7.11.3 The Highways Engineer requires details of boundary treatments in order to ensure adequate visibility is available at the proposed driveways. This information can be secured by a condition. Details of bin storage are also required and the Highways Engineer comments that this should be provided within close proximity of the highway. As there is a landscaping strip and footway at the entrance into the site it is considered that there would be suitable space to provide a bin collection area. The details of this can be secured by a condition.

7.11.4 A condition to secure a Construction Environmental Management Plan (CEMP) is also imposed which should include details of contractor parking/compound, wheel wash facilities, dust suppression and the Head of Law and Standards (Environmental Health) also requires details of noise mitigation within a CEMP.

## 7.12 Ecology and Trees

The applicant has submitted an Ecological Appraisal and a Reptile Survey. The Council's Ecology Officer is satisfied with the survey work but recommends that a phased, staggered

approach to vegetation clearance be undertaken to allow any reptiles/amphibians to move away from the site to the neighbouring gardens. Any log piles or potential refugia should be dismantled by hand. Any scrub clearance should be undertaken outside bird nesting season (Feb-August) and a trimmed approach to vegetation clearance should be undertaken. The Ecology Officer also recommends that an ecological liaison person be appointed to oversee the vegetation clearance. All of these recommendations can be secured by conditions.

7.12.1 The applicant has provided tree information which recommends the felling of three individual trees and two groups of trees, the planting of 7 new trees of various species and protection measures for trees to be retained; and those off site, i.e. two Lime trees within the grass verge of Allt Yr Yn Avenue. The Council's Tree Officer was initially concerned that the boundary treatments proposed for the front gardens of plots 2 and 3 would cause damage to the roots of the Lime trees. The applicant carried out trial pits to establish the extent of the roots which revealed that only one living root was found in one pit. The applicants' tree consultant recommended that the proposed railing post could easily be moved away from this root. The Tree Officer is satisfied with this and has no objection subject to conditions to secure root protection barrier fencing, the appointment of an arboriculturalist and the implementation of the tree protection plan.

### 7.13 **Drainage**

The applicant proposes to discharge foul drainage to the public sewerage system. Dwr Cymru - Welsh Water do not object to this. It is proposed to discharge surface water run-off to a sustainable drainage system and has indicated the use of soakaways. The Council's Drainage Officer has commented that there is limited information to appraise the drainage proposals however, it is considered reasonable that this information can be secured by a condition.

7.13.1 Dwr Cymru – Welsh Water has commented that the application site is crossed by a public sewer, they also comment that no operational development shall be carried out within 3 metres either side of the centreline of the public sewer. It is noted that residential development has previously occupied this site and any building over agreements would be between the applicant and Welsh Water. However, an informative will be added to alert the applicant to these comments.

### 7.14 **Other issues**

The Council's Environmental Health officer recommends a condition requiring the investigation and remediation of any unforeseen contamination, this condition is duly imposed.

7.14.1 A neighbouring occupier has raised any number of concerns regarding drainage, shading of their garden and habitable rooms, design of the houses, their sustainability and an over development of the site. These matters are addressed in the proceeding paragraphs.

7.14.2 There is also concern over the loss of value to a neighbouring property and potential damage during construction. These are not material planning considerations.

7.14.3 Councillor Fouweather has commented that the proposed development incorporates the green space which takes the site up to the pathway on Allt Yr Yn Avenue. The proposed development does include a small portion of the existing green space within the residential plots, this would form part of the front gardens of plots 2 and 3. The majority of the green space would be retained as open space and would not form the curtilage of the residential plots. The front gardens would have low boundary railings which are considered to retain the open character of the surrounding area.

7.14.4 Councillor Fouweather has also commented that the garages appear to only have room for one car which means any other cars would be parked off site. He also comments that the back of the garages are designated as a fifth bedroom/study. He suggests that a condition

be imposed to ensure the garage cannot be turned into living accommodation. Plots 1 – 3 each have a double garage with two spaces in front on the driveways. Plot 4 has a single garage with two spaces on the driveway. A condition to ensure the garages cannot be turned into living accommodation is duly imposed.

## **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 development is considered to be acceptable and in accordance with Policies SP1, GP2, GP4, GP5, GP6, H4 and T4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015). Planning permission is granted with conditions and subject to a legal agreement.**

## 10. RECOMMENDATION

### **GRANTED WITH CONDITIONS SUBJECT TO A LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN THREE MONTHS OF THIS DECISION**

01 The development shall be implemented in accordance with the following plans and documents: 1147(BD)001B, 002B, 003, 004, 005, 006A, 007, BC/RH/001, site location plan, root protection zones plan and Preliminary Ecological Appraisal and Reptile Survey (Acer Ecology, September 2015).

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 operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved tree protection plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the root protection area.

Reason: To protect important landscape features within the site.

03 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until all weather notices on Heras fencing (1 per 10 panels) stating 'Construction Exclusion Zone - No Access' have been erected. The notices shall be retained during the construction phase.

Reason: To protect important landscape features within the site.

04 No development, to include demolition, shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project (to perform a Watching Brief) for the duration of the development and who shall be responsible for -

- (a) Supervision and monitoring of the approved Tree Protection Plan;
- (b) Supervision and monitoring of the approved tree felling and pruning works;
- (c) Supervision of the alteration or temporary removal of any Barrier Fencing;
- (d) Oversee working within any Root Protection Area;
- (e) Reporting to the Local Planning Authority;
- (f) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.

Reason: To protect important landscape features within the site.

05 No development, other than demolition, shall commence until full details of the proposed boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be constructed in accordance with the approved details prior to the first occupation of the associated dwelling and then maintained thereafter.

Reason: To ensure the development is completed in a satisfactory manner.

06 No development, other than demolition, shall commence until full details of the 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.



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

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

08 Before the development, other than demolition, is commenced, written approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site (indicating the number, species, heights on planting and positions of all trees and shrubs). The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

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

09 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;
- contractor parking/compound and;
- wheel wash facilities.

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

Reason: To protect the amenities of nearby residents and in the interests of highway safety.

10 Prior to any vegetation clearance an ecological liaison person shall be appointed to oversee the vegetation clearance. This person shall liaise with the Local Authority's Ecology Officer to keep the Officer up to date with the works on the site. This shall be via email when the works commence, half way through and at the end of the works.

Reason: To protect the ecological interests of the site.

### ***Prior to occupation conditions***

11 Prior to the occupation of the dwellings in plots 3 and 4, the first floor ensuite window in the South east elevation of plot 4 and the ground floor and first floor bathroom windows in the north east elevation of plot 3 shall be fitted with obscure glazing and shall be retained in that state thereafter in perpetuity.

Reason: To protect the privacy of adjoining occupiers.

12 Prior to the occupation of the dwellings hereby approved details of an area for bin storage prior to collection shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented as approved and then maintained thereafter.

Reason: To ensure adequate bin storage is provided for the site in the interest of visual and residential amenity.

### ***General conditions***

13 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.

14 A phased, staggered approach to vegetation clearance shall be undertaken to allow any reptiles/amphibians to move away from the site to the neighbouring gardens. Any log piles or potential refugia shall be dismantled by hand.

Reason: To protect the ecological interests of the site.

15 The development shall take place in accordance with the mitigation and compensation measures set out in the Preliminary Ecological Appraisal and Reptile Survey (Acer Ecology, September 2015).

Reason: To protect the ecological interests of the site.

16 The garage(s) hereby permitted shall only be used for the parking of private motor vehicles and for no other purpose, including any other purpose incidental to the enjoyment of the dwellinghouse.

Reason: To ensure that adequate on-site parking is retained in the interest of highway safety and residential amenity.

17 The development shall be carried out in accordance with the approved Tree Protection Plan. The Tree Protection Plan is the Tree Information (Treecare Consulting, December 2015) and an email from Treecare Consulting (11 March 2016).

Reason: To protect important landscape features within the site.

#### *NOTE TO APPLICANT*

01 This decision also relates to: Tree Information (Treecare Consulting, December 2015), email from Buckle Chamberlain (13 January 2016) and an email from Treecare Consulting (11 March 2016).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, GP2, GP4, GP5, GP6, H4 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 New Dwellings Supplementary Planning Guidance (Adopted August 2015) and Affordable Housing Supplementary Planning Guidance (Adopted August 2015) were 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.

06 The applicant's attention is drawn to the existence of a public sewer under the site. The applicant is advised to discuss this further with Dwr Cymru Welsh Water on 0800 085 3968.

## **APPLICATION DETAILS**

**No:** 15/1508      **Ward:** PILLGWENLLY

**Type:** FULL

**Expiry Date:** 08-MAR-2016

**Applicant:** ZENA MORGAN, ZENA WARRIORZ FITNESS

**Site:** UNIT 27, ENTERPRISE WAY, NEWPORT, NP20 2AQ

**Proposal:** CHANGE OF USE FROM B1 (PRINTING/EMBROIDERY) TO D2 (FITNESS CENTRE)

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

1.1 This application seeks permission for the change of use of a B1 unit within the Enterprise Way industrial area to a D2 Fitness Centre. No internal or external alterations are proposed.

### **2. RELEVANT SITE HISTORY**

2.1 None.

### **3. POLICY CONTEXT**

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

3.1.1 Policy SP12 (Community Facilities): The development of new community facilities in sustainable locations will be encouraged including:

- i) Places of worship and church halls, cemeteries, community centres, health centres, day nurseries, clinics and consulting rooms;
  - ii) Museums, public halls, libraries, art galleries, exhibition halls, education and training centre;
  - iii) Cinemas, music and concert halls, theatres, dance and sport halls, swimming baths, skating rinks, gymnasiums;
  - iv) Outdoor and indoor sport and leisure uses including allotments and community/city gardens.
- Development that affects existing community facilities should be designed to retain or enhance essential facilities.

3.1.2 Policy GP2 (General Amenity): Development will be permitted where, as applicable:

- i) There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light odours and air quality;
- ii) The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
- iii) The proposal promotes inclusive design both for the built development and access within and around the development;
- v) Adequate amenity for future occupiers.

3.1.3 Policy EM3 (Alternative Uses of Employment Land): Development proposals promoting alternative uses on existing employment sites will be resisted unless;

- i) The site has been marketed unsuccessfully for employment purposes for a minimum of 12 months;
- ii) There remains a sufficient range and choice of employment land and premises to meet LDP requirements and local demand;
- iii) The development has no adverse impact on existing or allocated employment sites;
- iv) The development has no adverse impact on amenity or the environment.

- 3.1.4 Policy CF10 (Commercial Leisure Developments): Proposals for commercial leisure developments outside the city and district centres will be considered against the following criteria:
- i) An assessment of need if not in a defined centre;
  - ii) There are no suitable city, district or edge of centre sites (the sequential test);
  - iii) The proposals either singularly or cumulatively with other existing or approved developments do not undermine the vitality, viability and attractiveness of the city and district centres;
  - iv) The proposal does not have an unacceptable effect on the supply of employment land.

#### **4. CONSULTATIONS**

- 4.1 NEWPORT ACCESS GROUP: No representations received.

#### **5. INTERNAL COUNCIL ADVICE**

- 5.1 ECONOMIC DEVELOPMENT: Provided the following comments:

- The 41 units at Enterprise Way are owned by the council and managed by Newport Norse and let on a monthly basis.
- The units are there to support start-up business with an industrial use and are expressly intended to grow employment numbers in the city.
- Five units are currently vacant – though we understand that no units have been empty for more than two years with some empty for almost a year.
- Concerned that this would set a precedent for the site, as once one unit is allowed to be converted to leisure use it is difficult to refuse others.
- The supply of small units of this nature, in the direct ownership and management of Newport City Council, is extremely limited. Further change of use applications could therefore erode the ability of the Council to support start-up businesses in the manufacturing/industrial employment sectors at Enterprise Way. For this reason, the Economic Development Unit would strongly suggest that a personal or temporary planning consent would be preferable in this case to protect the intended purpose of the site to support growth in manufacturing and industrial enterprise.
- It is appreciated that the business will run as a social enterprise and will employ just the owner. The gym is aimed at people who would not feel comfortable in a traditional gym setting or could be socially excluded on the grounds of their income, and it is noted that the local community experiences significant challenges in terms of its relative levels of poverty, health, and social exclusion. For this reason, we are generally supportive of the proposed change of use in this instance, as long as it can be managed in such a way as to mitigate the likelihood of further change of use applications at Enterprise Way.
- The positive health and social outcomes that this new business might generate must be balanced against the need to support entrepreneurship in the manufacturing sector. If this can be achieved through the form of planning consent granted then this would seem to achieve this balance, and allow support to be given to this new business without any detriment to the intended use of the site.

- 5.2 HEAD OF LEGAL AND REGULATION (ENVIRONMENTAL HEALTH): Recommend that conditions requiring a scheme of noise insulation to be installed and opening hours restricted to those stated on the application form be attached to any permission.

- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Objects on the grounds that 1no. space plus 1no. space per 2no. service users would be required.

#### **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties with a common boundary were consulted (one address). No comments were received.

- 6.2 SITE NOTICE (Displayed 18<sup>th</sup> January 2016): No representations received.

## **7. ASSESSMENT**

- 7.1 It is proposed to create a community fitness project aimed at disadvantaged people within the Pillgwenlly area. The project would offer fitness sessions in the morning and evening to people affected by issues such as depression, domestic abuse, substance misuse and other mental health and physical health issues. It is also intended that the project would cater for groups who may find it difficult to access other gyms such as parents with children, women, ethnic minorities and young people. It is anticipated that up to 15 people could attend morning sessions with up to 20 people attending in the evening.
- 7.2 Policies SP12 (Community Facilities), GP2 (General Amenity), EM3 (Alternative Uses of Employment Land), CF10 (Commercial Leisure Developments) of the Newport Local Development Plan 2011-2026 (Adopted August 2015) are relevant to the determination of this application. Newport City Council Parking Standards (Adopted August 2015) are also relevant to the determination of this application.
- 7.3 Head of Streetscene and City Services (Highways) objects to the proposal on the grounds that 1no. space plus 1no space per 2no service users would be required and only 2no spaces are available at the unit. A maximum of 11 spaces would be required to meet demand for the evening sessions resulting in a deficit of 9 spaces. Due to the location of the unit and it's proximity to local services, a reduction of 30% can be applied to any parking requirement under the sustainability criteria set out in the parking standards. This would result in a maximum deficit of 5.7 spaces.
- 7.4 No on-street parking is available immediately adjacent to the unit and parking restrictions exist along Commercial Road (1 hour parking only between 8am and 6pm Monday- Saturday). Public parking is available within approximately 400 metres on the unit with some on-street parking available nearby on Broad Street, Bolt Street and Portland Street. The applicant has stated that due to the nature of the community project, the majority of service users do not have a private vehicle to access the unit and its location allows the unit to be accessed on foot or by public transport. There is a bus stop on Commercial Road, close to the junction with Frederick Street, a 5-10 minute walk from the unit.
- 7.5 Policy CF10 directs proposals for commercial leisure developments towards the city and district centres. Developments which fall outside of these should demonstrate the following:
- Need
  - That there are no suitable city, district or edge of centre sites
  - The proposals do not undermine the vitality, viability and attractiveness of the city and district centres
  - The proposal does not have an unacceptable impact on the supply of employment land.
- 7.6 The Council's Economic Development Unit are supportive of the positive health and social outcomes that this new business might generate but it must be balanced against the need to support entrepreneurship in the manufacturing sector. For this reason, the Economic Development Unit would strongly suggest that a personal or temporary planning consent would be preferable in this case to protect the intended purpose of the site to support growth in manufacturing and industrial enterprise.
- 7.7 The application site falls just outside of the Commercial Road district centre and is therefore easily accessed by public transport and from nearby residential areas and the community which it is aimed to serve. However, the unit can only be accessed from Enterprise Way by both vehicles and pedestrians resulting in an indirect route from the district centre. There are light industrial uses within the estate with no heavy goods vehicles apparent. Some informal parking is available which are likely to be more plentiful in the evening.

- 7.8 The applicant has also provided details of other units that have been considered and deemed unsuitable either due to location or cost. The current unit has been vacant since April 2015, with other units also vacant, suggesting a lack of demand for units of this size in this location.
- 7.9 In light of the concerns raised by the Economic Development unit, the possibility of a temporary or personal consent has been explored. It is not considered a personal consent would be appropriate as it would not make the loss of an industrial unit more acceptable. Similarly, a temporary permission would allow the opportunity to assess the impact of the loss of an industrial unit, however as there are similar empty units, it is unlikely that this position could be successfully defended at appeal. It is considered that as the property is owned by the Council and if the unit is required for industrial purposes, the option not to renew the lease would be available.
- 7.10 It is considered that the proposal, due to its location on an existing industrial estate, would not have an unacceptable impact on the amenity of surrounding occupiers. It is also considered that whilst there is a deficit in parking, the unit can be accessed by public transport and due to the target service users being the local community the reliance on vehicles to access the unit is low. The proposal is therefore considered to comply with policy SP12 which encourages community facilities in sustainable locations.

## **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 Whilst the proposal would result in the loss of an industrial unit, given that the unit has been vacant for 12 months and there are other vacant units available, the change of use of the unit would not be unacceptable. It is also considered that the proposal would result in the provision of a valuable community facility in a sustainable location.

## **10. RECOMMENDATION**

Granted with Conditions

01 The development shall be implemented in accordance with the following plans and documents: Site Information, Email from Zena Morgan Dated 11 February 2016 and Design and Access Statement (1) and Design and Access Statement (2).

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

02 Prior to amplified music being played in any room, the room shall be insulated for sound in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority. The approved means of insulation shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

03 The hours of operation shall be restricted to 08:00 to 21:00 Monday to Friday, 08:00 to 17:00 on Saturday, and at no times on Sundays, Bank or Public Holidays. Outside of these hours the premises shall be vacated and closed to the public.

Reason: In the interests of the amenities of occupiers of adjoining properties.

### *NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP12, GP2, CF10 and EM3 were relevant to the determination of this application.

02 Newport City Council Parking Standards (Adopted August 2015) were relevant to the determination of this application.

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

## **APPLICATION DETAILS**

**No:** 16/0021      **Ward:** PILLGWENLLY

**Type:** FULL (MAJOR)

**Expiry Date:** 13-APR-2016

**Applicant:** NEWPORT AUCTIONS LTD

**Site:** NEWPORT AUCTIONS LTD, USK WAY, NEWPORT, NP20 2BX

**Proposal:** CONTINUATION OF USE OF BUILDING FOR AUCTIONS AND RETENTION OF COFFEE ROOM EXTENSION

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

1.1 This application seeks full planning permission for the permanent use of a site as an auction site and associated grounds at Newport Auctions, Usk Way, Newport. It also seeks the retention of a coffee shop extension to one of the buildings on site.

### **2. RELEVANT SITE HISTORY**

|         |  |                         |
|---------|--|-------------------------|
| 95/0670 | RETENTION OF USE OF BUILDING FOR CAR AUCTIONS AND GENERAL AUCTIONS FOR THE COUNTY COURT  | Granted with Conditions |
| 01/0645 | USE OF PREMISES FOR CAR AND GENERAL AUCTIONS AND RETENTION OF PREFABRICATED EXTENSION  | Granted with Conditions |
| 07/1120 | CONTINUATION OF USE OF BUILDING FOR CAR AUCTIONS AND GENERAL AUCTIONS FOR COUNTY COURT AND RETENTION OF PREFABRICATED COFFEE ROOM EXTENSION  | Granted with Conditions |
| 08/0431 | VARIATION TO CONDITION 2 (USE OF PREMISES) OF PLANNING PERMISSION 07/1120 TO ALLOW USE OF SITE FOR SATURDAY MARKET AND SUNDAY CAR BOOT SALES | Granted with Conditions |

### **3. POLICY CONTEXT**

#### **3.1 *Planning Policy Wales (Edition 9, January 2016)***

Paragraph 3.1.2 states that in line with the presumption in favour of sustainable development, applications for planning permission, or for the renewal of planning permission, should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise.

Paragraph 4.9.1 states that previously developed (or brownfield) land should, wherever possible, be used in preference to greenfield sites, particularly those of high agricultural or ecological value.

Paragraph 7.6.1 states that local planning authorities should adopt a positive and constructive approach to applications for economic development. In determining applications for economic land uses authorities should take account of the likely economic benefits of the development based on robust evidence. In assessing these benefits, key factors include:

- the numbers and types of jobs expected to be created or retained on the site;
- whether and how far the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing employment opportunities or upgrading the environment;
- a consideration of the contribution to wider spatial strategies, for example for the growth or regeneration of certain areas.



Paragraph 7.6.3 states that employment and residential uses can be compatible and local planning authorities should have regard to the proximity and compatibility of proposed

residential development adjacent to existing industrial and commercial uses to ensure that both amenity and economic development opportunities are not unduly compromised.

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

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

Policy SP3 Flood Risk ensures development is directed away from flood risk areas.

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

Policy GP1 General Development Principles – Climate Change states that development should be designed to withstand predicted climate change and reduce the risks and consequences of flooding, minimise energy requirements, reuse/recycle construction material and meet the relevant BREEAM or Code for Sustainable Homes Level.

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

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

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

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

## 4. **CONSULTATIONS**

4.1 NEWPORT ACCESS GROUP: No response.

4.2 NEWPORT CIVIC SOCIETY: No response.

4.3 WALES & WEST UTILITIES: No response.

4.4.1 NATURAL RESOURCES WALES: The application site lies partially within Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, a designated main river.

4.4.2 We note the application site is for the continuation of use as a building for auctions and a coffee room. Given this, (and in the absence of a flood consequence assessment) we consider the risk could be acceptable subject to the developer being made aware of the potential flood risks, and advised to install flood-proofing measures as part of the development. In areas at risk of flooding, we recommend that consideration be given to the incorporation of flood resistance/resilience

measures into the design and construction of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood proofing measures to the internal fabric of the ground floor, and locating electrical sockets/components at a higher level above possible flood levels.

- 4.5 DWR CYMRU/WELSH WATER: Recommend advisories.
- 4.6 WESTERN POWER DISTRIBUTION: Advise of apparatus in the area and safe working procedures.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 PUBLIC PROTECTION MANAGER: No objections subject to conditions.
- 5.2 PLANNING POLICY MANAGER: Comments conclude; The Planning Policy Team would object to the proposed application on the basis that not enough information has been provided to evidence the flood risk can be managed, the number of jobs created and other factors outlined in national guidance. This objection can be overcome with the provision of the relevant evidence.
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The site has been in use for a number of years and I'm not aware of any significant traffic or parking problems associated with the site. I would therefore offer no objection to the application.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (21 No properties), a site notice displayed, and a press notice published in South Wales Argus. No representations were received.

## **7. ASSESSMENT**

- 7.1 Various temporary permissions have been granted for this use of the site since 1995. Those permissions were temporary in nature as the land was designated as a regeneration area under the former Unitary Development Plan (1996-2011), although that designation has not been retained as part of the current Local Development Plan. The operation makes use of brownfield land and the site is considered to be in a sustainable location within the urban area.
- 7.2 The application site is located within an industrial area, surrounded by similar uses and has a history of being used for the auctioning of vehicles, which continues to the present day. The use has also expanded into auctioning various other items, such as; antiques, electricals, furniture, plant and machinery. There are various buildings on site which are used for auctioning goods and valeting of vehicles, as well as a large vehicle parking area (for those vehicles to be auctioned), a larger customer car park, toilets and a café. This application also seeks the retention of the aforementioned café extension, which was previously granted temporary permission, alongside the temporary use of the site.
- 7.3 The use of the site as an auction site is considered to bring economic and employment benefits to the area, something that national planning policy states should be supported, alongside social and environmental considerations. It states that details on the number and types of jobs created, how the development would redress economic disadvantage or support regeneration priorities, and its contribution to wider spatial strategies should be considered.
- 7.4 The information provided by the applicant states that a total equivalent of 18 full-time jobs are supported by the use of the site, varying from valeters, café workers, admin staff as well as general workers. Not only does the use of the site support these jobs, but it makes use of a large industrial site adjacent to a deprived area. The successful occupancy of such a site is welcomed. It is no longer allocated as a regeneration area in the adopted development plan; its continued

occupation is considered beneficial to the economic prosperity of the local area, providing a source of employment, and making use of such a sizeable site would be beneficial to the visual amenities of the area, as opposed to the site being vacant.

- 7.5 Being located in an industrial area, the site is surrounded by noise generating uses. There are residential properties located at Kings Parade, although it is not considered that the

nature of the use of the site causes significant noise disturbance, considering other industrial uses that could take place on site, and it is an existing use which residents are accustomed to. In order to safeguard noise in the area, the Public Protection Manager has recommended a condition to limit the noise from fixed plant and equipment on site.

*Welsh Water*

- 7.6 Welsh Water have requested a condition be attached to the permission as there is a public sewer running near the perimeter of the site, which would ensure no development would take place 3m either side of the sewer. However, as this application does not propose operational development, it is not considered that such a condition is necessary.

*Flooding*

- 7.7 NRW have confirmed that the site lies within Zone C1 and within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk. However, they comment that the risk could be acceptable subject to the developer being made aware of the potential flood risks, and advised to install flood-proofing measures as part of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood proofing measures to the internal fabric of the ground floor, and locating electrical sockets/components at a higher level above possible flood levels. An advisory is attached, directing the applicant to further information available.

**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 concluded that the continued use of the site as a source of employment and making use of an industrial site would provide significant economic benefits to the local area. In terms of amenity, it is concluded that the residential amenities of nearby residents would be maintained. As such, it is recommended that planning permission is granted with conditions.

#### 10. **RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents; Site Layout Plan and Site Location Plan.

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

02 The rating level of the noise emitted from fixed plant and equipment located at the site shall not exceed the existing background level at any premises used for residential purposes when measured and corrected in accordance with BS 4142: 2014.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

#### *NOTE TO APPLICANT*

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

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP9, GP1, GP2, GP4, GP6 and T4 were relevant to the determination of this application.

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

04 NRW refer the applicant to their website for further advice and guidance available at <http://naturalresourceswales.gov.uk>. Additional guidance including the leaflet "Prepare your Property for flooding" can be found by following the link: <https://www.gov.uk/prepare-for-a-flood>. The developer can also access advice and information on protection from flooding from the ODPM publication 'Preparing for Floods: Interim Guidance for Improving the Flood Resistance of Domestic and Small Business Properties', which is available from the Planning Portal website: [www.planningportal.gov.uk](http://www.planningportal.gov.uk).

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## **APPLICATION DETAILS**

**No:** 16/0044      **Ward:** ALLT-YR-YN

**Type:** FULL

**Expiry Date:** 01-MAY-2016

**Applicant:** CRESSWELL

**Site:** 4, OAKFIELD GARDENS, NEWPORT, NP20 4NJ

**Proposal:** **PROPOSED FIRST FLOOR EXTENSIONS OVER EXISTING GROUND FLOOR GARAGE AND KITCHEN AREAS, PROPOSED GROUND FLOOR REAR EXTENSION, PROPOSED REAR BALCONY, PROPOSED FRONT ENTRANCE CANOPY AND ASSOCIATED INTERNAL ALTERATIONS**

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

- 1.1 This application seeks planning permission for the erection of first floor side extensions, a ground floor rear extension, rear balcony and front entrance canopy to the detached property known as 4 Oakfield Gardens, Newport. The property lies within The Shrubbery Conservation Area.
- 1.2 This application is brought before committee at the request of Councillor Ferris.

### **2. RELEVANT SITE HISTORY**

- 2.1 None

### **3. POLICY CONTEXT**

- 3.1 Newport Local Development Plan 2011-2016 (Adopted January 2015).

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

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

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

- 3.2 House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015)  
Provides guidance on suitable extensions to dwellings and domestic outbuildings.

#### 4. CONSULTATIONS

- 4.1 SHRUBBERY CONSERVATION SOCIETY: No response.

#### 5. INTERNAL COUNCIL ADVICE

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

- 5.2 HISTORIC BUILDINGS CONSERVATION OFFICER: Given the modern nature of the host building and road in which it stands, I do not consider that the historic character of the Shrubbery Conservation Area will be materially affected and therefore have no objection.

#### 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties that share a common boundary with the application site were consulted (6No properties), a site notice displayed and a press notice published in South Wales Argus. One representation was received from a neighbour, objecting to the proposal on the following grounds.

- i. The proposed first floor extension and balcony will look directly into their bedroom, resulting in an unacceptable loss of privacy. The bedroom windows in the current building face slightly away from their house but the new balcony will face directly on to it.
- ii. Believe that the glass doors and balcony will be within 21m of the aforementioned bedroom window.
- iii. The balcony will be a very large structure which will impose on their house and garden.
- iv. Request that the balcony is either removed from the application or at the very least reduced in size and set back so it doesn't protrude in front of the existing line of the house.

**The objector was re-consulted on the amended plans which have taken account of their objections, but no response was received.**

- 6.2 COUNCILLOR CHARLES FERRIS: Raises concerns that the privacy of neighbours to the rear of the site would be compromised by the application's balcony. Requests that the application is considered by committee.

#### 7. ASSESSMENT

- 7.1 The property is currently two storeys in the main, but with single storey extensions to either side, as part of the kitchen on its southern end and a garage/store/study at its northern end. The first floor side extensions proposed would be placed above each of these existing ground floor elements.

##### ***First floor extension to southern end***

- 7.2 The first floor extension proposed on the southern end of the property would be placed above an existing ground floor section which forms part of the kitchen. The additional floor would provide an en-suite bathroom for one of the bedrooms at first floor level. It would measure 3.6m in depth, 2.74m in width and have a gable end, pitched roof which would reach a height of 4.53m to the eaves and 5.38m to the ridge (including the existing ground floor section). It would be set down from the eaves and ridge of the existing property, with the only opening being a rooflight in the rear roof slope.

##### ***First floor extension to northern end***

- 7.3 A first floor extension would also be erected above the existing, attached garage/study at the northern end of the property. The existing garage/study is generous in size, measuring 12.2m in depth (2m forward of the front elevation, 1.1m beyond the rear elevation), 5.67m in width and 3m in height to its flat roof. The proposed extension would add a storey above the existing structure, providing a master bedroom, wardrobe and en-suite bathroom. The extension would also extend the structure to the rear, which would facilitate the creation of a 1.2m deep recessed balcony on the rear elevation. Overall, the extension would measure 13.4m in depth, 5.67m in width. Its hipped roof would tie in with the ridge and eaves of the existing property with front and rear gables, measuring 5.4m to the eaves, 7.55m to the ridge.
- 7.4 An existing window in the side elevation of the ground floor would be removed, with a high level window at first floor proposed. On the rear elevation would be the aforementioned

recessed balcony, accessed via a set of bi-folding doors from the bedroom. Bi-folding doors would also be provided in the rear elevation at ground floor. To the front, a window would be provided at first floor, above the ground floor garage door.

#### ***Ground floor canopy and rear extension***

- 7.5 The property has an existing feature stone wall to the front. It is proposed to erect a canopy above the wall, adjoining to the garage section of the property, in order to provide a covered area adjacent to the front door. This canopy would be 2.9m above ground level and extend 2m from the front elevation.
- 7.6 To the rear, a modest extension is proposed which would measure 1.1m deep, 9.85m wide and 2.7m high to its flat roof, and would consist primarily of bi-folding doors.

#### ***Design and appearance***

- 7.7 The property is located within a small cul-de-sac of 5No properties. Each of these properties has a different appearance within the street scene and they are set at different ground levels. As a result, it is not considered that there is a prevailing design to the street scene. The Council's House Extensions and Domestic Outbuildings Supplementary Planning Guidance states that two storey side extensions should usually be set down from the ridge/eaves and set back from the front elevation of the host property. However, as the larger first floor extension would be placed above the existing garage/study which is set forward of the front elevation, it is considered that an extension which would be set down would be at-odds with the host property. Therefore, in this instance, it is considered acceptable for the extension to the northern end to match the eaves and ridge height of the host property. The first floor extension to the southern end would be set down from the eaves and ridge accordingly.
- 7.8 Whilst the proposal is for a large scale extension on the northern end, given the presence of the existing attached garage/study, its existing wide front elevation and the setting of the property in the cul-de-sac, it is considered that the scale of the proposed first floor extension to the northern end would be acceptable and would visually tie-in to the existing property. The extension to the southern end, in being set down, would have a subordinate appearance from the main dwelling, which serves to reduce any obtrusiveness in the street scene. The fenestration spacing and detailing is considered sympathetic to the host property.
- 7.9 Given the setting of the property, it is considered that the erection of the canopy to the front would be acceptable and would not appear incongruous in the street scene.

#### ***Impact on neighbouring properties***

- 7.10 In terms of impact on 5 Oakfield Gardens, the extension to the southern end, single storey rear extension and the front canopy would be shielded from view by the first floor extension to the northern end, so would not have a detrimental impact on residential amenity by way of

overbearing impact, loss of light or loss of privacy. No5 is set at a higher ground level to the application site, and also has a detached garage between its side elevation and the boundary with the application site. It contains two ground floor side elevation windows which serve as secondary windows to the lounge. There is a distance of approximately 12m between these windows and the side elevation of the northern first floor extension. Given this distance, and the application site being lower, it is not considered that the proposal would have an overbearing impact or loss of light to these windows. The extension would have a single, high level window at first floor level. It is therefore not considered that a loss of privacy would occur to no5. This is confirmed by the 45° vertical splay taken from this window, as advised by the aforementioned SPG.

- 7.11 In respect of 3 Oakfield Gardens, which has a blank side elevation facing on to the application site and is at a lower ground level, it is considered that the southern end first floor extension would be the extension most likely to affect the occupiers of no3. The northern end extension, rear extension and front canopy would be sufficient distance from the boundary and be appropriately scaled to prevent a detrimental impact. The southern

first floor extension would have blank elevations, with a rooflight in the rear roof slope. This would prevent a loss of privacy. This extension has been assessed in terms of its impact on daylight using the 45° plan and elevation view tests as set out by the SPG. These tests involve taking a 45° splay from the nearest opening(s) in both plan and elevation view. Where a proposal breaches the splay in both views, it would fail the daylight test. This extension passes both plan tests, and marginally fails the elevation view tests in respect of its ground floor front elevation window, as the splay marginally clips the roof. However, as it has not failed both tests, and the extension would be sited to the north, it is not considered that it would result in a detrimental loss of light to no3. The increase in scale is modest and is set off the boundary; it is therefore not considered to be overbearing bearing in mind the relationship between the two properties.

- 7.12 The properties at Llwynderi Road are set a sufficient distance away from the proposal and at a higher level to ensure that a loss of daylight and overbearing impact would be prevented. Concern has been raised by the neighbour that the balcony would result in a loss of privacy to their property by overlooking their bedroom window. The depth of the balcony has been reduced in order to improve the relationship between the objector's property and the balcony in question. The distance between the nearest section of the balcony and the nearest section of the objector's property is measured as 23.9m, which exceeds the 21m distance considered necessary to maintain privacy. Similarly, it has been recessed in order for a solid screen to be provided to either side elevation, in the interests of maintaining neighbours' privacy. Officers are therefore satisfied that the extension and balcony proposed would not result in a loss of privacy to neighbouring properties.

### ***Conservation Area***

- 7.13 The Council's Conservation Officer has offered no objection to the proposed development given the modern nature of the host building and road in which it stands. It is therefore considered that the proposal would preserve the character and appearance of the Conservation Area.

## **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 Having regard to the aforementioned policies of the LDP and the guidance contained within the SPG, it is concluded that the design and impact of the proposed development would be acceptable. It is therefore recommended that planning permission is granted with conditions.

## 10. **RECOMMENDATION**

### GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents; 01, 02A (Amended 15/03/2016) and Site Location Plan.

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

02 At no time shall the flat roof of the canopy or rear extension hereby approved be used in any form as a balcony, roof terrace or sitting out area.

Reason: To protect the privacy of occupiers of adjoining residential properties and the character of the area.

*NOTE TO APPLICANT*

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

02 The Council's Supplementary Planning Guidance – House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) was adopted following consultation and is 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.

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**APPLICATION DETAILS**

**No:** 15/1066      **Ward:** GRAIG  
**Type:** FULL (MAJOR)  
**Expiry Date:** 30-DEC-2015  
**Applicant:** PHILLIP SMITH  
**Site:** FLATHOLME STABLES, PENYLAN ROAD, BASSALEG, NEWPORT  
**Proposal:** DEMOLITION OF EXISTING OUTBUILDINGS AND ERECTION OF HORSE HOSPITAL WITH ASSOCIATED WORKS  
**Recommendation:** REFUSED

**1. INTRODUCTION**

1.1 Planning permission is sought for the erection of an equine hospital which would entail the demolition of existing buildings and the erection of a replacement building.

**2. RELEVANT SITE HISTORY**

|         |   |                         |
|---------|---|-------------------------|
| 97/0264 | CHANGE OF USE OF VACANT AGRICULTURAL BUILDINGS TO INDUSTRIAL/COMMERCIAL WORKSHOPS   | Granted with Conditions |
| 02/0954 | VARIATION OF STANDARD CONDITION OF PLANNING PERMISSION 97/0264 TO EXTEND TIME PERIOD FOR COMMENCEMENT OF CHANGE OF USE OF AGRICULTURAL BUILDINGS TO INDUSTRIAL/COMMERCIAL WORKSHOPS | Granted with Conditions |
| 04/1323 | RESIDENTIAL DEVELOPMENT (OUTLINE)   | Refused                 |
| 11/0745 | RETENTION OF SINGLE STOREY LEAN TO STABLES, DOG CAGES AND EXERCISE AREA AND HORSE EXERCISE MENAGE   | Granted with Conditions |

**3. POLICY CONTEXT**

3.1 Newport Local Development Plan 2011-2026 (adopted in January 2015) has the following policies:

Policy CF7 states that horse related development, including stables, shelters and riding schools will be permitted providing the scale, design, siting and materials do not detract from the character and appearance of the locality; the development does not result in an excessive number of buildings or inappropriate ancillary structures; the development does not require the provision of a new dwelling and the proposal does not require the provision of unsightly infrastructure.

Policy GP2 which aims to protect general amenity in terms of noise and disturbance, privacy, overbearing impact, light and visual amenities

Policy GP3 development will be permitted where the necessary and appropriate service infrastructure exists and that there is sufficient capacity for the development within the public foul sewer and if not satisfactory improvements are provided by the developer.

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

proposals should enhance the site and wider context including green infrastructure and biodiversity and the proposal should include appropriate tree planting and does not result in the unacceptable loss of or harm to trees.

Policy GP6 highlights that “good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment. In considering development proposals the following fundamental design principles should be addressed:

- i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
- ii) access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;
- iii) preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. The designer is encouraged to display creativity and innovation in design;
- iv) scale and form of development: new development should appropriately reflect the scale of adjacent townscape. Care should be taken to avoid over-scaled development;
- v) materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. Detailing should be incorporated as an integral part of the design at an early stage;
- vi) sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. Where existing buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.”

Policy GP4 highlights that “development proposals should:

- i) provide appropriate access for pedestrians, cyclists and public transport in accordance with national guidance;
- ii) be accessible by a choice of means of transport;
- iii) be designed to avoid or reduce transport severance, noise and air pollution;
- iv) make adequate provision for car parking and cycle storage;
- v) provide suitable and safe access arrangements;
- vi) design and build new roads within private development in accordance with the highway authority’s design guide and relevant national guidance;
- vii) ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.

Policy T4 states that development will be required to provide appropriate levels of parking, within defined parking zones, in accordance with adopted parking standards

Policy SP6 which states that development in the countryside will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the area and is of an appropriate scale and design.

### 3.2 *Technical Advice Notes (TANs)*

TAN 23: Economic Development (2014)

TAN 6: Planning for Sustainable Rural Communities (July 2010)

## 4. **CONSULTATIONS**

- 4.1 WALES AND WEST UTILITIES: Details of apparatus in the area.
- 4.2 SENIOR FIRE PREVENTION OFFICER: No response.
- 4.3 REGIONAL AMBULANCE OFFICER: No response.
- 4.4 NEWPORT ACCESS GROUP: No response.

- 4.5 HEDDLU – GWENT POLICE: No objection recommend that the development be designed to the standards found within Secured by Design.
- 4.6 DWR CYMRU – WELSH WATER: there is no public sewerage in the area and any new development will require the provision of satisfactory facilities for sewerage disposal.
- 4.7 WESTERN POWER: Details of apparatus in the area

## 5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): need to fully assess the impact of the proposed development and therefore the applicant should submit a transport statement for consideration. The transport statement must consider the following:
  - Existing conditions
  - Existing site information
  - Baseline traffic data
  - Existing site use and means of access
  - Proposed Development
  - Proposed land use and scale of development
  - Proposed means of access
  - Person trip generation and distribution of trips by mode of transport
  - A qualitative and quantitative description of the proposed travel characteristics of the proposed development
  - Proposed improvements to site accessibility by sustainable modes of travel
  - Proposed parking and servicing strategy
  - Residual vehicle trip impact
  - Transport implications of construction traffic (if there are specific local difficulties identified)
  - If the development site has a current use or an extant planning permission, the net level of change in traffic flows that might arise from the development is calculated and considered
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE):The applicant has ticked SUDS on the application form but has provided no supporting documentation or drawings. There is insufficient information to evaluate the proposed method of disposal of surface water. In order to demonstrate the suitability of the drainage system the applicant should provide further information including:
  - Drainage Apparatus layouts/General Arrangement Drawing showing SUDS installations, gullies, pipe sizes, gradients etc.
  - Construction and Design Details for drainage infrastructure
  - Hydraulic Calculations and
  - Soil investigation results where appropriate
- 5.3 HEAD OF LEGAL AND REGULATION (PUBLIC PROTECTION):No objections subject to conditions with regard to plant noise, delivery times, ancillary uses and storage of clinical and other waste.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY OFFICER): Objects to this application as there is insufficient ecological information with regards to a European Protected Species i.e. bats. The report stated that Some of the roof spaces and buildings were inaccessible. 3 bat droppings were found in building 1. The report recommends at least one dusk emergence survey however I believe given the information contained within the report and based upon BCT guidelines at least 1 dusk AND 1 pre-dawn survey (or automated) should be undertaken at an appropriate time of year (May-August). If bats are recorded entering/leaving the buildings then the survey effort will need to be adjusted to reflect this. I would recommend that surveys are undertaken by suitably qualified individuals. Without the required survey work we are unable to support the application.

- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE OFFICER): No objections to these proposals, (on condition that the roadside hedgerow and trees are adequately protected, prior to and during construction and retained to the satisfaction of NCC's Tree Officer).
- 5.6 HEAD OF STREETSCENE AND CITY SERVICES TREE OFFICER):No objections.

## 6. REPRESENTATIONS

### 6.1 NEIGHBOURS:

All properties within 100M of the application site were consulted (7 properties), a site notice displayed, and a press notice published in South Wales Argus. 3 letters of objection on the following grounds:

- concern about the large scale of the building particularly due to the fact that the materials are boarding and metal sheets.
- The complex is situated on the ridge along Penylan Road with the ground falling away on all sides and is widely visible from the surrounding area.
- a scheme of this size does not appear to have any justification and should have.
- The justification for the 2 bedroom residential accommodation at the facility also needs to be provided in line with the tests in TAN 6.
- There are a number of aspects which are clearly incorrect with this application which must cast significant doubt on the whole process.
- Wrongful reporting of circumstances in the questionnaire regarding the following answers:
  - a) Visibility from public roadways
  - b) Visibility from a public footpath which crosses my property immediately adjacent to the applicant's site.
  - c) Potential contamination from existing and former site uses which included HGV and other vehicle maintenance.
  - d) A failure to deduct the loss of jobs from the demolition of existing units
  - e) A failure to recognise a lack of sewerage
- The proposal has placed buildings on my existing Right of Way and I have not been consulted on it.
- There is a legal covenant preventing development on this site and no permission has been given by the grantor for such development.
- The Applicant has not carried out any consultation with the local community.
- The proposal is out of character with the village and represents a large and incongruous two storey building where there are currently single storey units. The adjacent houses are also of single storey.
- The application is not associated with any Veterinary practice and no demonstration of need has been given. Equally, much better sites exist for such a development elsewhere within the Local Authority Area.
- Consenting to a two Storey building on top of the mountain sets a dangerous precedent for the Authority.
- the proposal will dramatically increase traffic through substandard roads.
- substandard access with poor visibility
- the replacement building will have a much greater mass than the current buildings.
- detrimental to the rural design of the surrounding area.
- a right of way will be blocked.
- loss of amenity to neighbouring properties.
- Concerned about inaccuracies in the Design and Access Statement does not believe that the site can be classed as a brownfield site, due to the previous agricultural use.
- the existing 1.8m high hedgerow cannot be of sufficient height to obscure the proposed building.
- do not agree that the proposed building provides a visual enhancement.

-the proposed design does not reflect the requirement of Planning Policy for Wales , it is not sympathetic to the design of building that this site requires.it is akin to a building seen on an industrial estate

-query who backing such a large development, where would the business get its trade, is there an end user

-whilst there is sympathy with regard to the needs for diversification do not consider that a building of this magnitude in its rural setting is justified.

- 6.2 GRAIG COMMUNITY COUNCIL Graig Community Council supports the objections of the surrounding neighbours, and feels this application should be denied for the following reasons.

It is an overdevelopment of the site.

The proposed structures are very large and would be overbearing for the location right alongside Penylan Road.

The access road to the property (Penylan Road) is no more than a country lane which is too narrow to support large horse transport vehicles.

The development would not be in keeping with the surrounding area.

## 7. ASSESSMENT

- 7.1 The application site relates to Flatholm Farm which is to the east of Penylan Village. The site was once used as an army camp and many brick buildings remain on the site. The site was granted consent for industrial purposes in 1997 and consent was renewed in 2002, application number 02/0954. The consent was never implemented but the site has been used as a haulage yard for a number of years. Applications have been submitted for the residential development of the site but these applications have been refused due to its siting within open countryside. The use of the site currently is mixed with stables which the applicant has confirmed have existed for a number of years. There is also commercial use in other units within the site. Consent was recently granted for retention of a lean to extension which would form four stables, the retention of a menage and retention of a dog compound.
- 7.2 The applicant proposes to remove the existing building and erect a purpose built Equine Hospital which would provide range of facilities including an operating theatre, examination area, xray facility, recovery stables, indoor exercise area. Since the initial submission, the applicant has reduced the footprint in order to reduce the scale of the development and deleted the first floor area which included bedrooms and a lounge area. Residential accommodation does not form part of the proposal currently. Nevertheless the proposed building is of a large scale some 8m in height with a mix of large expanse of flat roofs and areas of pitch roofs. The applicant proposes that the building would comprise a mix of brick, boarding, profiled metal sheeting and UPVC windows.
- 7.3 The applicant has stated that there is no presence of an Equine Hospital in South East & Mid Wales – therefore, the proposed hospital will be the first of its kind to be established within the area. The hospital will be operated in accordance with standards set by the Royal College of Veterinary Surgeons for both the Facility and for any Vets or other staff employed. The hospital will cater for all customer types and will care for horses and donkeys of all types, there will be no exclusivity based on levels of ownership and all cases presented will usually be referred from surrounding veterinary practices. The hospital will also cater for emergencies when presented. The hospital would provide employment for up to 20-30 members of staff when fully operational which includes six vets However the applicant does not have a formal agreement of an end user currently.

7.4 TAN 23: Economic Development (2014) is relevant to the proposal, the proposed hospital would create wealth, jobs and income, and hence is consistent with the definition of economic development in TAN 23. The applicant has not provided sufficient justification to establish whether or not the proposal would constitute a rural enterprise and why it needs to be located within this rural location. The proposed equine hospital, if unable to function without the existing paddock or a similar area of open land for exercise and rehabilitation, may well constitute a rural enterprise. The applicant does not clarify whether a rural location is essential or not. The applicant has provided no business case in support of the proposal. The site is not located within a sustainable location and has poor links to public transport, Penylan lacks footpaths and cycle paths. Also the applicant proposes a 24 hour facility and has deleted the first floor residential accommodation. It is unclear how the facility would operate over a 24 hour period and whether or not the application needs to be supported by a Rural Enterprise Dwelling Appraisal as required by Tan 6.

7.5 The site is located within open countryside as designated within the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) Policy SP6 which states that development in the countryside will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the area and is of an

appropriate scale and design. Policy CF7 states that horse related development, including stables, shelters and riding schools will be permitted providing the scale, design, siting and materials do not detract from the character and appearance of the locality; the development does not result in an excessive number of buildings or inappropriate ancillary structures; the development does not require the provision of a new dwelling and the proposal does not require the provision of unsightly infrastructure. It is considered that the applicant has provided insufficient justification as to why the Horse Hospital has to be located within the countryside.

7.6 In terms of design, the site currently houses a mix of non-agricultural uses and unprepossessing buildings. The impact of the complex is softened by its concealment from the adjoining roads by hedges and has some resemblance to a farm yard complex. In contrast the proposed building is of such a scale that it would be far more visible. Its design is not considered to have a rural character, it is akin to an industrial building and therefore not sympathetic to the design of building or proposed materials that the site requires. The proposal does not represent good design and is therefore contrary to policy GP6. The applicant has provided insufficient justification as to why the building has to be of such a scale, there is no identified end user who could have informed what facilities would be necessary and required. It is considered that the proposed building is not appropriate in terms of scale or design and therefore contrary to policy SP6. It is considered that any potential economic benefits of the scheme do not outweigh the adverse impact that a building of this scale would have upon the character of the area.

7.7 In terms of policy GP5 The relevant criteria of Policy GP5 state that development will only be permitted where:

- the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including International, European, National, Welsh Section 42 and local protected habitats and species, and protecting features of importance for ecology.

The existing buildings proposed to be demolished may support habitats such as bats, an initial survey identified bat droppings, but recommended further survey work which has not been carried out to date and should be undertaken at appropriate times of the year, namely May – August. Therefore there is insufficient ecological information with regards to a European Protected Species i.e. bats. The Councils Ecology officer objects to the proposal. The applicant has not submitted the required surveys and therefore it cannot be determined that there would not be any adverse effects on a protection species.



- 7.8 In terms of parking and access, the Head of Street Scene and City Services (Highways) considers that there is insufficient information on how the facility would operate and therefore is unable to assess the impact of the development upon the highway network. The applicant has been requested to submit a transport assessment but this has not been received to date. In terms of drainage, the applicant has stated that the method of foul sewerage disposal is unknown, it has been indicated that surface water would be disposed of using a sustainable drainage system but no details have been supplied. There is insufficient information to demonstrate that appropriate service infrastructure exists and the proposal is therefore contrary to policy GP3.
- 7.9 In terms of the impact upon general amenity, Policy GP2 aims to protect general amenity in terms of noise and disturbance, privacy, overbearing impact, light and visual amenities. There are residential properties fairly close to the site with the property known as Flatholme being most affected by the proposal. Residents in the area have raised objections to the proposal, and these comments are noted. Visually the proposed Horse Hospital is considered to be detrimental to the character of the area, but in terms of general amenity it is not considered to be unduly overbearing or likely to result in a noise or disturbance nuisance.

## **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 In conclusion, the proposed erection of a Horse Hospital in this open countryside location is considered to be at odds with the character of the area particularly by reason of its excessive scale. There is insufficient justification as to why the proposal has to be located within this location and therefore considered that the proposal is contrary to national and local policy. It is recommended that the application be refused for the following reasons.

## **10. RECOMMENDATION**

### **REFUSED**

01 The proposed Horse Hospital is of an excessive scale for which insufficient justification has been given. It's design lacks rural character and the resultant building would be visually intrusive to the detriment of the rural character of the area. The proposal is contrary to policy GP6, CF7 and SP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

02 In the absence of an emergent bat survey the applicant has failed to demonstrate that the proposed development would not have an adverse impact on protected species. This is contrary to policies SP1, SP9 and GP5 of the Newport Local Development Plan 2011-2026 (Adopted January 2015)

03 In the absence of a transport assessment the impact upon the highway network cannot be fully assessed. In the absence of such information, the proposal is contrary to policy T4 and GP4 (iv) of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

04 There is insufficient information to demonstrate that appropriate service infrastructure exists and the proposal is therefore contrary to policy GP3.

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: FLAT 15 101 amended 02/2016, 103 amended 02/2016, amended site layout plan, design and access statement.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP6, GP1, GP2, GP3, GP4, GP5, GP6, CF7 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 TAN 23: Economic Development (2014)

06 TAN 6: Planning for Sustainable Rural Communities (July 2010)



# Report

## Planning Committee

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### Part 1

Date: 6 April 2016

Item No: 6

**Subject** **Appeal Decisions**

**Purpose** To inform Members of the outcome of recent appeals

**Author** Head of Regeneration, Investment and Housing

**Ward** Langstone, 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 016/2014.</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 Equalities 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.

### **Consultation**

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

### **Background Papers**

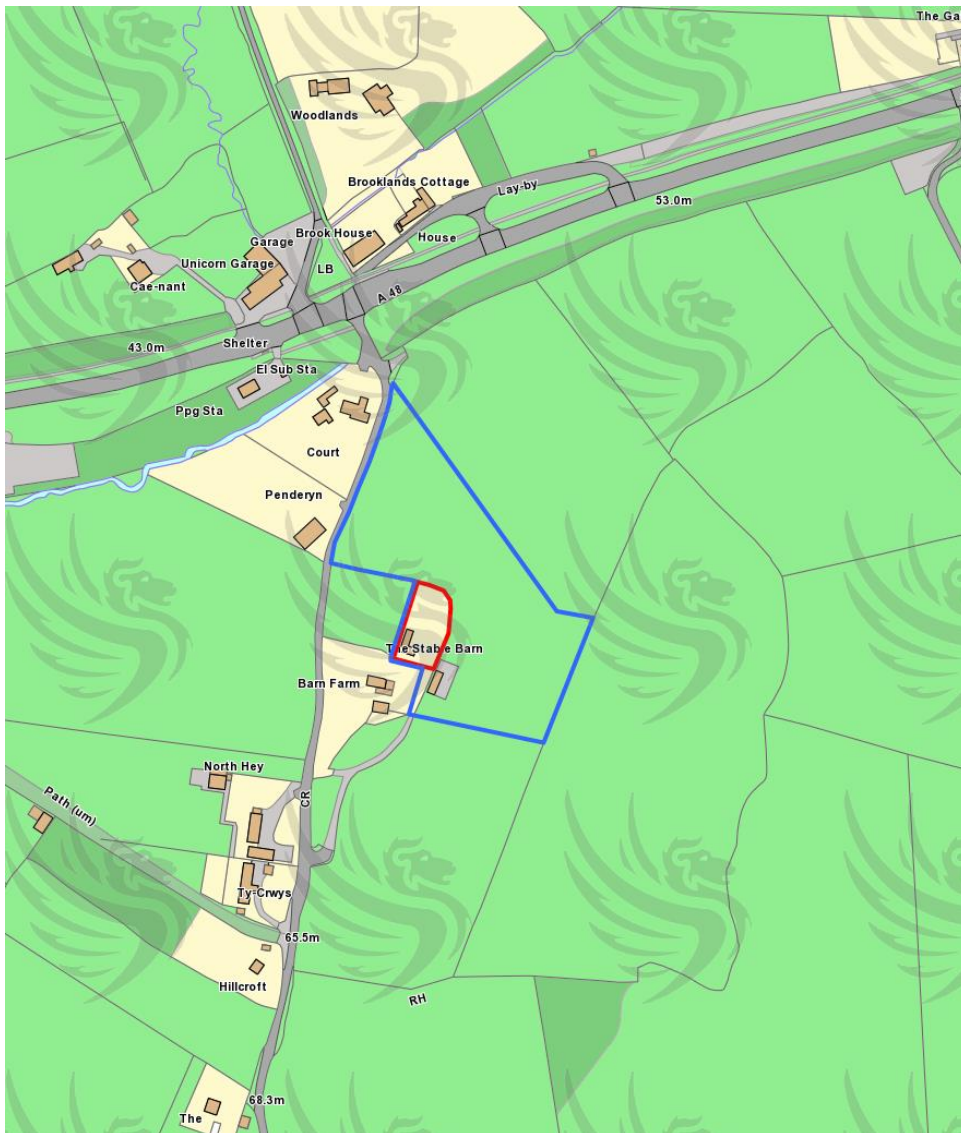
Not applicable

Dated: 6<sup>th</sup> April 2016

**PLANNING APPLICATION APPEAL – DISMISSED**

APPEAL REF: 15/0095  
APPEAL TYPE: Written Representations  
WARD: Langstone  
SITE: The Stable Barn, Llandevaud, Newport, NP18 2AD  
SUBJECT: Construction of a two storey front extension  
APPELLANT: Craig Finnerty  
PLANNING INSPECTOR: Alwyn B Nixon  
DATE OF COUNCIL'S DECISION: 6<sup>th</sup> May 2015  
OFFICER RECOMMENDATION: Refused  
COMMITTEE/DELEGATED: Delegated

**DECISION: DISMISSED**



**SUMMARY**

The appeal site is a former barn which has been converted to a dwelling and subsequently extended in previous years. The appellants proposed to construct a new two storey front extension. The Inspector considered the main issue in the determination of the appeal to be the effect of the proposal on the character and appearance of the host building and its surroundings.

The Inspector considered Policy H11 to be the most applicable in this appeal; Policies H10, SP5 and GP6 were also considered relevant in the determination of this appeal. The Inspector, taking into account the previous extensions to the property, considered that the proposal would further obscure the plan form and massing of the original barn and seriously undermine this aspect of the building's character which reflects its former purpose. The Inspector therefore concluded that the proposal would be contrary to Policy H11.

The appellant argued that the introduction of Policy H11 in the Local Development Plan (LDP) is unfair as there was no equivalent policy in the former Unitary Development Plan and that it should not be applied to a building which was converted prior to the adoption of the LDP. However the Inspector notes that the policy has been introduced following a full process of consideration and consultation and that it would not be coherent, consistent or effective to solely apply the policy to buildings converted after the adoption of the LDP.

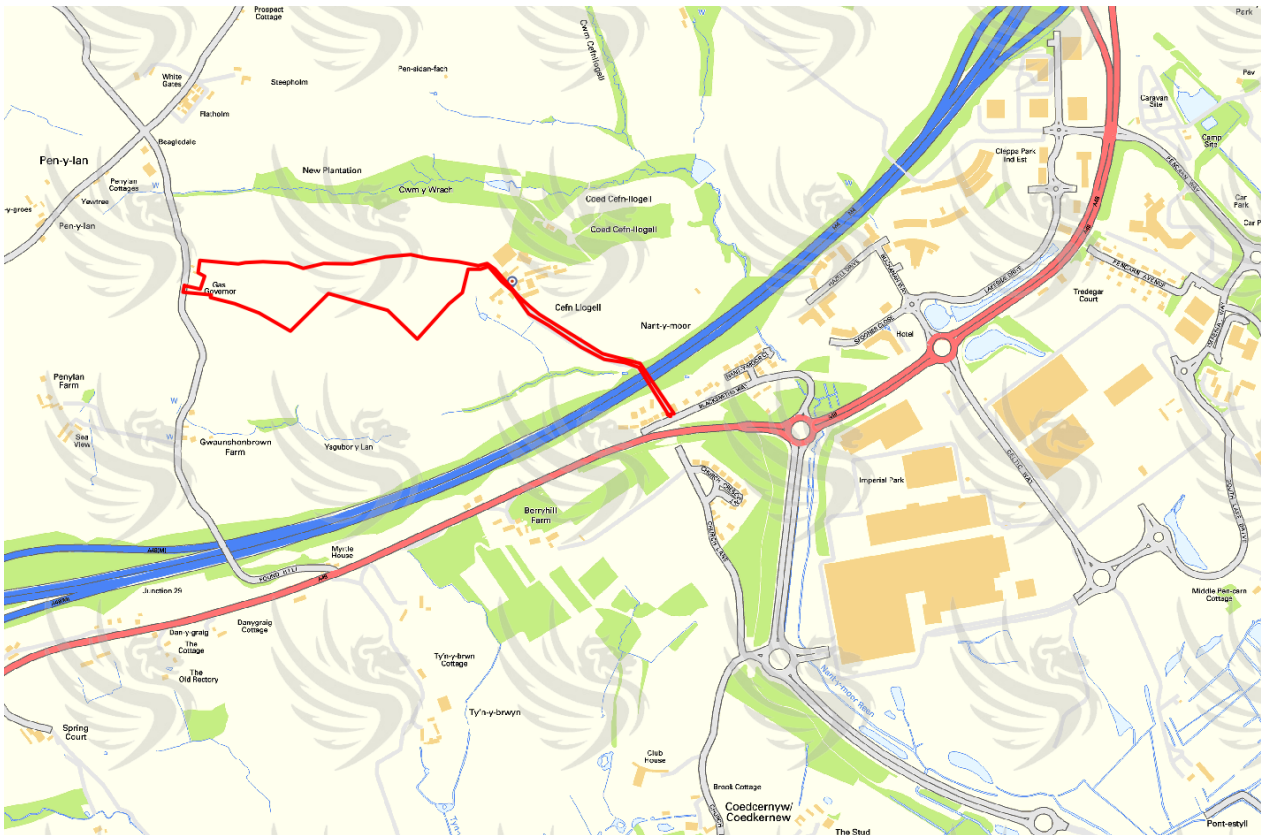
In view of the above, the Inspector concluded that the proposal would undermine the character and appearance of the host building and the wider area. The development would conflict with Policy H11 and would undermine the wider development objectives reflected in Policies SP5 and GP6. For the reasons stated above, the Inspector stated that the appeal should not succeed.



## PLANNING APPLICATION APPEAL – DISMISSED

APPEAL REF: 15/0393  
APPEAL TYPE: Written Representations  
WARD: Marshfield  
SITE: Land at Cefn Llogell Farm, Coedkernew, Newport, NP10 8UD  
SUBJECT: Construction of ground-mounted solar PV generation project (3.8 MW) and associated works  
APPELLANT: Mrs Sarah-Jane Fedarb  
PLANNING INSPECTOR: Clive Nield  
DATE OF COUNCIL'S DECISION: 4<sup>th</sup> November 2015  
OFFICER RECOMMENDATION: Granted with Conditions  
COMMITTEE/DELEGATED: Committee

## DECISION: DISMISSED



## SUMMARY

Planning permission was sought for the construction of a ground-mounted solar PV generation project (3.8MW) and associated works on Land at Cefn Llogell farm in the Marshfield ward. The appeal site comprises of 3 fields of some 7 hectares.

The Inspector considered the main issues in the determination of the appeal to be the effects of the proposed development on the best and most versatile agricultural land and on the visual amenities of users of the adjacent public rights of way, and the benefits of the scheme in terms of the generation of renewable energy.

With regards to the impact of the proposal on best and most versatile (BMV) agricultural land, the Inspector highlighted that Planning Policy Wales (PPW) says that the best and most versatile agricultural land should be conserved as a finite resource for the future and should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable.

The proposed development would be for a finite period of 25 years and would be reversible, as the solar panels would be supported by structures driven into the ground rather than with concrete foundations and these would be removable when use of the panels ceased. The Inspector considered that this would be less damaging to the land than many other types of development and has the potential to conserve its quality as BMV land for the future but there is still a need to avoid the use of BMV land if possible. In order to determine this, a rigorous and comprehensive assessment is needed.

Two studies were carried out, one into brownfield sites and one into sites on agricultural land of lower quality. Seven sites were identified and assessed for the former and ten for the latter, determining that none of the sites provided viable alternatives to the appeal site for a variety of reasons. The studies were limited to land within the administrative boundary of Newport. Apart from a list of criteria sought in a solar farm site, no information was provided to show why the 17 sites were selected for more detailed appraisal or why the search was limited to the administrative area of Newport City Council.

The Inspector concluded that the sequential assessments carried out by the Appellant lack rigour and did not provide compelling evidence that alternative brownfield or lower grade agricultural land is not available and viable and therefore does not justify the use of the BMV land on the appeal site.

The Inspector also considered the impact of the proposed development on the public right of way which runs along almost 700 metres of the northern boundary of the site. The appeal proposal would affect the PROW in several ways. Firstly, the existing hedgerow would be enhanced with additional planting and would be maintained at a minimum height of 3.5 metres in order to screen views of the proposed solar farm from the north. Secondly, a 2 metre high deer fence (with cameras) would be erected between the PROW and the solar panels, along with a hedge to screen views of the solar panels. Thirdly, the arrays of solar panels would extend to a height of 2.5 metres above ground level in views southwards from the PROW. The Appellant's landscape and Visual Impact Assessment assessed the visual impact on the PROW as "moderate adverse" once the additional planting became effective. However, the Inspector disagreed and considered that the impact would be more significant than this. The panels, hedge and fence would substantially obscure views towards the estuary and be detrimental to the open character of the PROW, which would become a narrow enclosed route, substantially changing the experience of users of the PROW and be detrimental to local amenity, contrary to the aims of LDP Policy GP2.

The Inspector also considered the benefits of the scheme in that it would provide a significant amount of renewable energy. This benefit was a material consideration of considerable weight.

In view of the above, the Inspector concluded that inadequate evidence was provided to justify the development of the best and most versatile agricultural land and the proposed scheme would adversely affect the character of the PROW.

The recent appeal decision for application 14/1275 for a solar photovoltaic panels (~10mwp) and associated works at Court Farm, Magor Road, also considered the impact of the development of the supply of BMV land. In this case, the Inspector concluded that as the proposed solar farm would have a life span of 25 years and the methods of construction and decommissioning can be controlled to ensure that there would be no loss of agricultural land quality once the development had been removed. The appeal was allowed in this case.

Since these decisions were made, the Minister for Natural Resources, Carl Sargeant, has advised that when taking decisions on local planning policies and individual development management decisions, consideration should be given to the overall context of helping to tackle climate change and delivering the sustainable development duty placed on all public bodies by the Well-being of Future Generations (Wales) Act. He also highlighted that whilst visual and amenity impact on surrounding communities and properties are important issues, planning decisions need to be taken in the wider public interest and in a rational way, informed by evidence, where these issues are balanced against other factors.