

Agenda

Planning Committee

Date: Wednesday, 7 September 2016

Time: 10.00 am

Venue: Council Chambers, Civic Centre, Newport

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

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<http://www.newport.gov.uk/documents/Council-and-Democracy/About-the-council/Planning-Code-of-Conduct/Planning-Code-of-Practice.pdf>

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

Part 1

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 - 14)	
5. <u>Development Management:Planning Application Schedule</u> (Pages 15 - 50)	All Wards

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Date of Issue: Wednesday, 31 August 2016

NB: Would Members please ensure no printed copies of the agenda are left in the room at the conclusion of the meeting. Leaving paper copies of reports where they can be accessed by unauthorised persons could present a data breach



Agenda

Pwyllgor Cynllunio

Dyddiad: Dydd Mercher, 7 Medi, 2016

Amser: 10.00 a.m.

Lleoliad: Siambr y Cyngor, Canolfan Ddinesig

At sylw: Y Cynghorwyr Huntley (Cadeirydd), Delahaye (Dirprwy Gadeirydd), Ali, Al-Nuaimi, Critchley, C Evans, Fouweather, Hutchings, Linton, Mudd and 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://www.newport.gov.uk/documents/Council-and-Democracy/About-the-council/Planning-Code-of-Conduct/Planning-Code-of-Practice.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>	Pob Ward

Cysylltwch â: Miriam Durkin
Rhif Ffôn: 01633 656656
E-bost: miriam.durkin@newport.gov.uk
Dyddiad Cyhoeddi: 31 Awst, 2016

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Minutes



Planning Committee

Date: 3 August 2016

Time: 10.00 am

Present: Councillors P Huntley (Chair), M Linton, J Mudd, R White, O Ali, K Critchley, C Evans and M Al-Nuami

T Brooks (Interim Development Services Manager), J Davidson (East Area Applications Manager), S Williams (West Area Applications Manager), G Roberts (Principal Planning Officer), C Jones (Principal Engineer), S Davies (Strategy & Development Manager), M Tett (Principal Environmental Health Officer), A Lowe (Planning Contributions Manager), J Evans (Senior Solicitor) and M Durkin (Democratic Services Officer)

Apologies for

Absence: Councillors V Delahaye and D Fouweather

1. Declaration of Interest

Councillor C Evans indicated that he wished to speak as a member of the public and resident on Application 15/1232. He would withdraw immediately after he had spoken. The Chair agreed that the Agent for the Application could also have the opportunity to speak.

2. Minutes

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

Resolved

That the Minutes of the meeting held on 6 July, 2016 be taken as read and confirmed.

3. 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.

4. Planning Committee Code of Practice - Update

Members considered 3 minor amendments to the Committee's Code of Practice as reported by the Democratic Services Officer.

Resolved

That the Planning Committee's Code of Practice be updated as reported.

Appendix

PLANNING COMMITTEE – 3 AUGUST, 2016

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
16/0215	<p>Land adjacent to and west of Hartridge Farm Road</p> <p>Development of a permanent gypsy and traveller site comprising 35No. pitches each with studio units and ancillary work and change of use of road safety centre to site office and community centre affecting PROW 405/04 Llanwern</p>	Ringland	<p>Mr D Hando spoke objecting to the proposed access contained within the application.</p> <p>Councillors Corten and Linton, Ringland Ward Members spoke on the application.</p>	<p><u>Committee Site Inspection</u></p> <p><u>Reason</u></p> <p>To assess the proposed access to the site</p>
15/0419	<p>Land and buildings forming 38 to 234 Liberty Grove</p> <p>Erection of 4 No.apartment blocks accommodating 92No. residential units, car parking, access arrangements and associated works</p>	Lliswerry	<p>Councillors Jeavons and Critchley, Lliswerry Ward Members spoke on the application.</p> <p>Officers were recommending approval of the application with conditions subject to Section 106 Legal Agreement with delegated powers to refuse the application in the event that the agreement is not signed within 3 months of the decision.</p>	Refused as insufficient car parking spaces were being provided
15/0489	<p>Gaer Junior School, Gaer Road</p> <p>Retention of external canopy for outdoor play</p>	Gaer		Granted

15/1228	<p>St Mellons Country Hotel and Country Club</p> <p>Proposed alterations and extension of hotel to include new conference centre and hotel facilities, 18 No.holiday chalets, access and parking (affecting public right of way 399/13)</p>	Marshfield	Members were concerned regarding signage to the site.	Granted with conditions including a condition requiring a Traffic Management Plan
15/1232	<p>Land to rear of 146 to 196 Tregwilym Road</p> <p>Construction of 29 No.residential affordable dwellings and associated works</p>	Rogerstone	<p>HRIH reported on late representations previously circulated.</p> <p>Councillor C Evans spoke on this application and left the meeting for the remainder of this item.</p> <p>Mr R Williams, the Agent on behalf of the Applicant spoke in support of the application.</p> <p><i>(Councillor Linton left the meeting after consideration of this item)</i></p>	Granted with conditions subject to Section 106 Legal Agreement with delegated powers to refuse the application in the event that the agreement is not signed within 3 months of the decision
16/0429	<p>3 Oakfield Road</p> <p>Demolition of conservatory and erection of single storey rear extension, new patio and steps</p>	Allt-yr-yn	<p><i>(Councillor C Evans re-joined the meeting for the remainder of the agenda)</i></p> <p>Councillor M Evans, Allt-yr-yn Ward Member spoke objecting to the application.</p>	<p><u>Site Inspection</u></p> <p><u>Reason</u></p> <p>To assess the level of any overbearing impact of the proposed extension on the neighbouring occupiers at 1 Oakfield Road</p>

15/1531	<p>Playing field to rear of YMCA Conference Centre, Mendalgief Road</p> <p>Erection of up to 55No. dwellings with associated access and open space</p>	Pillgwenlly	<p>HRIH reported on late representations previously circulated. Although additional information had now been submitted the Officers still considered that planning permission should be refused.</p> <p>Councillor Ali, Pillgwenlly Ward Member spoke on this application.</p>	Refused
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Minutes



Planning Committee

Date: 11 August 2016

Time: 12.30 pm

Present: Councillors P Huntley (Chair), V Delahaye (Deputy Chair), M Linton, J Mudd, K Critchley, C Evans and M Al-Nuaimi

J Davidson (East Area Applications Manager), G Roberts (Principal Planning Officer), C Jones (Principal Engineer), J Evans (Senior Solicitor) and M Durkin (Democratic Services Officer)

Apologies

For Absence: Councillors D Fouweather, R White and O Ali

1. **Development Management: Planning Application Schedule**

Resolved

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

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

Appendix

PLANNING COMMITTEE – 11 AUGUST, 2016

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
16/0215	Land adjacent to and west of Hartridge Farm Road Development of a permanent gypsy and traveller site comprising 35No. pitches each with studio units and ancillary work and change of use of road safety centre to site office and community centre affecting PROW 405/04 Llanwern	Ringland	The Committee assessed the proposed access to the site. Councillors Corten and Linton, Ringland Ward Members spoke on the application. Officers were recommending that the application be granted with conditions. <i>(Councillor Corten, Ringland Ward Member was also in attendance at the site visit)</i>	Granted with conditions

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Report

Planning Committee

Part 1

Date: 7 September 2016

Item No: 6

Subject **Planning Application Schedule**

Purpose To take decisions on items presented on the attached schedule

Author Interim Development and Regeneration Manager

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 Interim Development and Regeneration Manager to draft any amendments to, additional conditions or reasons for refusal in respect of the Planning Applications Schedule attached

Action by Planning Committee

Timetable Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

Background

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

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

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

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

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

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

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

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

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

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

Financial Summary

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

Risks

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

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

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

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

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

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

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

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

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

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

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

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

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

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

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

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 all planning applications must be determined in accordance with the Newport Local Development Plan (Adopted January 2015) unless material considerations indicate otherwise. Planning decisions are therefore based primarily on this core Council policy.

Options Available

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

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

Preferred Option and Why

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

Comments of Chief Financial Officer

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

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

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

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

Comments of Monitoring Officer

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

Staffing Implications: Comments of Head of People and Business Change

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

Local issues

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

Equalities Impact Assessment and the 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 2000)

PPW Technical Advice Notes (TAN):

TAN 1: Joint Housing Land Availability Studies (2006)

TAN 2: Planning and Affordable Housing (2006)

TAN 3: Simplified Planning Zones (1996)

TAN 4: Retailing and Town Centres (1996)

TAN 5: Nature Conservation and Planning (2009)

TAN 6: Planning for Sustainable Rural Communities (2010)
TAN 7: Outdoor Advertisement Control (1996)
TAN 8: Renewable Energy (2005)
TAN 9: Enforcement of Planning Control (1997)
TAN 10: Tree Preservation Orders (1997)
TAN 11: Noise (1997)
TAN 12: Design (2014)
TAN 13: Tourism (1997)
TAN 14: Coastal Planning (1998)
TAN 15: Development and Flood Risk (2004)
TAN 16: Sport, Recreation and Open Space (2009)
TAN 18: Transport (2007)
TAN 19: Telecommunications (2002)
TAN 20: The Welsh Language: Unitary Development Plans and Planning Control (2013)
TAN 21: Waste (2014)
TAN 23: Economic Development (2014)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)
Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

Welsh Government Circular 016/2014 on planning conditions

LOCAL POLICY

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

Supplementary Planning Guidance (SPG):

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

OTHER

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

The Economic Development Strategy is a material planning consideration.

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: 16/0669 **Ward:** **BETTWS**

Type: **FULL (MAJOR)**

Expiry Date: **16-SEP-2016**

Applicant: **C DOYLE, NEWPORT CITY HOMES**

Site: **LAND EAST OF AND ADJACENT TO, RIBBLE WALK, BETTWS, NEWPORT**

Proposal: **CONSTRUCTION OF 12NO. DWELLINGS, BOUNDARY TREATMENTS, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE**

Recommendation: Granted with Conditions

1. INTRODUCTION

- 1.1 This application seeks full planning consent for the construction of 12no dwellings, boundary treatments, landscaping and associated infrastructure at land to east of and adjacent to Ribble Walk, Bettws.
- 1.2 The site is within the settlement boundary and was previously occupied in part by an apartment building which was demolished in 2010. The redevelopment of the site is therefore acceptable in principle.
- 1.3 To the north the site fronts Monnow Way. The site is bordered by houses to the east and west. A small section of the site, approximately 0.02ha, forms part of Livale Walk amenity space which is an allocated Environmental Space.

2. RELEVANT SITE HISTORY

10/0887	PRIOR APPROVAL NOTIFICATION FOR DEMOLITION OF RESIDENTIAL UNITS	Application not Required
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3. POLICY CONTEXT

- 3.1 **Newport Local Development Plan 2011 – 2026 (Adopted January 2015)**
- SP1 Sustainability: seeks to ensure the development takes into account sustainable development principles.
- SP3 Flood Risk: There is a need to locate development outside of flood risk. Where a proposed site such as this is located partly in flood risk the consequence of flooding must be investigated and justified.
- Policy SP10 Housing Building Requirements states that provision is made for 11,623 units within the plan period in order to deliver a requirement of 10,350 units. The plan seeks to deliver 2,061 affordable units.
- SP13 Planning Obligations: Proposals of this scale will be required to provide or make contributions to infrastructure.
- GP1 General Development Principles – Climate Change: This policy seeks to ensure that the development is to withstand climate change over the lifetime of the development.
- GP2 General Development Principles – General Amenity: There is to be no significant adverse effect on the amenity of the existing or new community.
- GP4 General Development Principles – Highways and Accessibility: The proposal must not detrimentally affect the highway capacity. There must be adequate public access and any new roads must be compliant with the Councils design scheme.
- GP5 General Development Principles – Protection of the Natural Environment.
- GP6 General Development Principles – Quality of Design. Good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment.

GP7 General Development Principles – Environmental Protection and Public Health: This policy seeks to ensure that there is no unacceptable harm to health from a development.
H2 Housing Standards: Housing developments will be required to be built to high standards of environmental and sustainable design.

Policy H3 Housing Density seeks a density of at least 30 dwellings per hectare on sites of 10 dwellings or more.

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

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

CE3 Environmental Spaces and Corridors safeguards environmental space and corridors as identified on the Proposals Map. Development of environment space will only be permitted where the existing space will be improved or complemented; there is no adverse impact on nature conservation interest; there is an appropriate replacement; or it can be demonstrated that there is an excess of environmental space.

3.2 **Supplementary Planning Guidance Adopted August 2015**

Planning Obligations

New Dwellings

Parking Standards

4. **CONSULTATIONS**

4.1 **NATURAL RESOURCES WALES (FLOODING):** The application site lies partially within Zone C2, 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 information, which is updated on a quarterly basis, confirms that small section of the site is located within the 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the Bettws Brook. We have reviewed the flood consequences assessment (FCA) submitted with the application and note that an area south of the development site is within the extreme event floodplain. We also note from the submitted 'Proposed Site Plan' that visitor car parking spaces will be located in this area. The FCA states that the proposed levels in this area will remain the same to ensure that there is not a loss of flood storage post development. Given the scale and nature of the development located in this area, we would offer no objection to the planning proposals provided the applicant is aware of the flood risk to the development site, and designed the layout of the site to ensure that flood risk is kept to a minimum.

4.2 **NATURAL RESOURCES WALES (EUROPEAN PROTECTED SPECIES):** Recommend that the recommendations set out in the Ecology report accompanying the application are implemented.

4.3 **DWR CYMRU - WELSH WATER:** A condition requiring full details of drainage is requested. Advise that the site is crossed by a water main.

4.4 **NEWPORT ACCESS GROUP:** No response.

4.5 **WALES & WEST UTILITIES:** Provide details of apparatus.

4.6 **HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER):** No response.

5. **INTERNAL COUNCIL ADVICE**

5.1 **HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS):** In the interest of pedestrian visibility the planting area between plots 6 and 7 must not exceed a height of 600mm within 1m of the footway. Any boundary treatment to the side of the visitor space adjacent to Ribble Square must not exceed a height of 600mm within 2.6m of the edge of the carriageway in order to ensure that adequate visibility is available.

A condition should be attached to any approval which requires the submission of a CEMP which must include the details of wheel wash facilities, dust suppression and contractor parking/compound. Subject to the above no objection is offered to the application.

- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS DRAINAGE): No response.
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): Does not object to the application and concurs with the recommendations of the Ecology Report which includes the incorporation of 2 bat bricks into the new dwellings and 3 bird boxes/bricks. Requests that a condition relating to details of ecological enhancement is imposed. All bulbs must be native.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE): Supports the landscape proposals.
- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (TREES): No objection.
- 5.6 HEAD OF LAW AND REGULATION (POLLUTION): A condition relating to possible contamination is requested.
- 5.7 HEAD OF LAW AND REGULATION (NOISE): Offers no objection to the proposals. Requests a condition should be attached to any permission granted requiring the submission of a Construction and Environmental Management plan, for approval prior to commencement of development. The CEMP should include details of noise and dust mitigation measures to be employed during development
- 5.8 HOUSING AND COMMUNITY REGENERATION MANAGER (AFFORDABLE HOUSING): The development represents 100% affordable housing. The housing association is Newport City Homes and the scheme will receive social housing grant, the properties will all be constructed to Welsh Government standards and allocated through the Common Housing Register. The mix of properties proposed is addressing the housing need demonstrated by the City Council. Though the location is a former council housing estate, there are significant levels of owner occupation in this area of Bettws and therefore I have no concerns regarding the provision of 100% affordable housing.
- 5.9 PLANNING CONTRIBUTIONS MANAGER: The proposal represents a 100% affordable housing scheme (which is fully supported by Welsh government through the provision of social housing grant). Affordable housing is exempt from contributing towards education and leisure services, As such, no planning obligations are requested. Furthermore, no S106 legal agreement is required because the affordable dwellings are guaranteed to be retained as affordable in perpetuity.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m were consulted (74no properties), a site notice displayed and a press notice published in South Wales Argus. 4no responses received from neighbouring residents objecting to the development. In response to the proposals neighbours' state:
- The foul sewer has previously flooded and the system cannot cope with more houses;
 - Neighbours currently look out over the recreational area;
 - Many of the green spaces in the Bettws estate have been lost to development over the years with no compensatory space;
 - Question how it is decided that the loss of the space is acceptable and who is responsible for this;
 - Traffic is an issue in the area;
 - Where will all the additional water go?
 - Neighbours are concerned about the loss of the community garden. Why were neighbours not asked for their opinions about this or given the opportunity to purchase the land?
 - The distance between the new houses and neighbouring houses in Livale Walk is too small and neighbours will be overlooked;
 - Neighbours have found out from the Argus that the land was given to the developers. The Council should have sold the land off to the highest bidder;
 - Concerns are raised about the proximity of the development to existing houses and possible subsidence;

- The development will result in noise and disturbance and inconvenience to neighbours;
- The development will result in a loss of property value;
- The development will result in a loss of on-street parking on Monnow Way;
- The Council is inconsistent in its decision making in terms of parking;
- The local health practices are at full capacity;
- Neighbours are only being consulted as the Council is obliged to consult them and their views won't be taken into consideration;
- If the development causes damage to neighbouring property legal advice will be sought and damages will be claimed;
- The development is contrary to the policies within the Local Development Plan;
- Separation distances are inadequate;
- Neighbours will be overlooked due to the windows in the sides of the bays;
- Question whether the proposed use of sustainable drainage systems is suitable at the site;
- It is stated within the application that the risk of foul drainage flooding at the site is considered to be very low. Who is making that statement is it Dwr Cymru or RVW Consulting Ltd?

7. ASSESSMENT

7.1 The proposed layout would comprise a terrace of five dwellings fronting Monnow Way with parking to the rear accessed via Ribble Walk. A pair of semi-detached dwellings would be set back from this terrace, also fronting Monnow Way with parking to the front accessed via Monnow Way. At a right angle to the rear of these properties and facing properties in Livale Walk, a further terrace of four dwellings is proposed. Lastly, to the south-east of the site a single bungalow is proposed. Parking for the properties facing Livale Walk and the bungalow would also be accessed via Ribble Walk.

7.2 The layout of the scheme is logical and the scale of the dwellings is in keeping with the surrounding properties. The design of the properties is considered to be of a high standard with good quality materials proposed. A variety of materials can be seen on existing properties in the vicinity as the estate has evolved over time and whilst the proposed materials do not seek to replicate any particular style, they are relatively neutral and uncomplicated and are considered to enhance the quality of the area.

7.3 *Loss of Environmental Space*

A small section of the site, approximately 0.02ha, forms part of Livale Walk amenity space which is an allocated Environmental Space. Whilst the loss of this space is regrettable, the Council's assessment of Open Space Provision indicates a surplus of 6.37 hectares of informal play space and a surplus of 4.4 hectares of formal play space for the Bettws ward. As such, given the size of the Environmental Space affected and the level of provision in Bettws, together with the significant merits of the scheme which is for 100% affordable housing within the urban boundary, the loss of this environmental space is considered acceptable. These figures are taken from the Council's Outdoor Play Space SPG which is currently out to consultation and unadopted.

7.4 *Amenity*

There would be a distance of 14m between the front elevations of plots 8 to 11 and properties in Livale Walk. These plots have been designed so that there would be no direct overlooking to properties in Livale Walk and there are no windows in the front elevations of these plots. They would instead have double height angular bay windows, or 'oriel windows' with glazing in the side elevations only. The relationship between the new dwellings and the properties in Livale Walk is considered to be acceptable with separation distances complying with the Council's Supplementary Planning Guidance which states that there should be a minimum distance of 14m between habitable room windows and blank two storey walls. Neighbours have raised concerns that there would be overlooking from windows in the sides of the bay windows. However, being at a right angle to the front

elevation of the properties in Livale Walk, there would be no direct overlooking or inter-looking between windows and this relationship is considered to be acceptable.

- 7.5 It would be necessary to ensure that the first floor side windows in the northern elevations of each bay are obscure glazed in order to avoid inter-looking between plots 8-11 and the overlooking of the rear garden of plot 7 which is situated to the side of plot 8.
- 7.6 It is acknowledged that the occupants of plots 8-11 would have limited outlook in the rooms served by the bay windows which is not ideal. However, the bay windows would provide a good amount of natural light. The rooms served by the bay windows are kitchens at ground floor and bedrooms at first floor level with the living rooms being to the rear of the properties and served by conventional type windows. On balance it is considered that this solution is acceptable.
- 7.7 The side elevation of plot 7 would be approximately 14m away from the front elevation of no. 1 Livale Walk. A first floor window is proposed in this elevation. In order to ensure there would be no overlooking from this window it would be angled so that views are restricted to the direction of Monnow Way. A first floor window is also proposed in the rear elevation but as it would be at an oblique angle this relationship is considered to be acceptable.
- 7.8 The treatment of the area between the proposed dwellings and Livale Walk has been given due consideration and a good quality landscaping scheme has been submitted for consideration. A low boundary treatment is proposed in order to ensure that the impact of the proposals is not overbearing on properties in Livale Walk and trees and shrubs are proposed to give a pleasant avenue feel. The Council's Landscape officer confirms no objection is offered to the proposals.
- 7.9 Boundary treatment details have been provided for the site. The proposals include 1200mm high railings on a low brick wall along the frontage with Livale Walk (as discussed above), along the Monnow Way frontage and to the side of the bungalow. 1.8m high timber trellis topped brick walls are proposed to the rear of the properties. A 1.8m high and 1.2m high close boarded timber fence is proposed to separate the rear gardens of the proposed dwellings. A 1.8m high buff brick wall is proposed to the south of the site and along part of the eastern and western boundary. The proposed boundary treatments are considered to be in keeping with the residential character of the area and are acceptable.
- 7.10 It should be noted that neighbouring objections relating to loss of property value and loss of view are not material planning considerations.
- 7.11 **Highways**

The Council's Parking Standards SPG requires 29no spaces for the number of units proposed. A total of 27no parking spaces are proposed so there is a shortfall of 2no parking spaces. However, the applicant has submitted a sustainability assessment (which the SPG allows for) justifying a reduction in the number of parking spaces necessary. The Head of Streetscene (Highways) confirms the proposals are acceptable in terms of parking provision.

- 7.12 The Head of Streetscene and City Services (Highways) confirms no objections are offered to the proposals subject to conditions requiring a Construction Management Plan to be submitted and subject to the planting restrictions on the area between plots 6 and 7 and to the side of the visitor space adjacent to Ribble Square to ensure that adequate visibility is available.
- 7.13 Neighbours have raised concerns about the loss of on-street parking on Monnow Way as a result of the proposals. Whilst these comments are duly noted, only a small element of on-street parking would be lost to the front of units 6 and 7 as a result of the proposals and the Head of Streetscene has not raised any concern about this element of the proposals.

7.14 **Affordable Housing**

The houses would be 100% affordable in nature. The properties will be constructed to Welsh Government standards and allocated through the Common Housing Register. The Council's Housing Manager confirms the mix and type of properties proposed is as a direct result of a short-fall in the area and the proposals would help address the housing need within the local area. This is considered to be a significant merit of the proposals and should be given considerable weight.

7.15 **Contamination**

The application is accompanied by a contamination report. The report indicates there is no substantial contamination encountered on site. However, some additional testing has been requested by the Council's Scientific officer which can be secured by condition.

7.16 In order to encourage low emission transport the Scientific officer has recommended that at least one of the visitor parking spaces is fitted with an electrical charging point. These comments are duly acknowledged. There is no demonstrable harm arising from the proposals that would justify such a condition. Also, in view of the affordable nature of the proposed houses and in order not to impose onerous financial requirements, it is considered that this should not be required by condition, but instead the applicant can be advised of this recommendation via an informative should planning permission be forthcoming.

7.17 **Ecology**

The application is supported by an Ecology Report. The Council's Ecology Officer fully supports the recommendations of the report and offers no objection to the proposals.

7.18 **Flooding**

The majority of the site is within Flood Risk Zone B. A small section of the southern end of the site is within Zone C2, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). This includes three visitor parking spaces and a grassed landscaping area. None of the houses or the gardens serving the houses would be within C2.

7.19 NRW advise that they have reviewed the flood consequences assessment (FCA) submitted with the application and note that an area south of the development site is within the extreme event floodplain. The FCA states that the proposed levels in this area will remain the same to ensure that there is not a loss of flood storage post development. Given the scale and nature of the development located in this area, NRW offer no objection to the planning proposals provided the applicant is aware of the flood risk to the development site, and designed the layout of the site to ensure that flood risk is kept to a minimum.

7.20 It is the role of the Local Planning Authority to assess the acceptability of access/egress routes at the site in the event of a flood. The LPA must consider the scale and nature of the development. As noted above, only a small portion of the site is within the flood risk area and none of the proposed houses, or the access roads are within flood zone C2. Should a flood event occur, it is predicted that the houses would be flood free but should the occupants wish to leave their houses they could seek higher ground on foot to the north of the site. The routes which the occupants would take are predicted to be flood free. The neighbouring streets to the north are outside of the flood risk area meaning that occupants would not be stranded.

7.21 It is considered that proposals are acceptable in terms of flood risk.

7.22 **Financial Contributions**

The proposed housing would be 100% affordable which is fully supported by Welsh government through the provision of social housing grant. Affordable housing is exempt from contributing towards education and leisure services. As such, no planning obligations are requested. Furthermore, no S106 legal agreement is required because the affordable dwellings are guaranteed to be retained as affordable in perpetuity.

7.23 The Housing Manager is in full support of the proposals and advises that the properties will all be constructed to Welsh Government standards and allocated through the Common Housing Register. The mix of properties proposed is addressing the housing need demonstrated by the City Council.

7.24 **Drainage**

Concerns have been raised about the proposed drainage arrangements. The Council has consulted Dwr Cymru – Welsh Water which has not raised any concerns about the capacity of their equipment in the area and confirm there are no objections subject to a condition requiring full drainage details to be submitted for approval.

7.25 Full details of surface water drainage proposals can also be required by condition, should planning permission be forthcoming.

7.26 **Other Matters**

Comments have been received from neighbours concerning the way in which the application site was sold and also how they were informed of the proposals. The sale/purchase arrangements are not a material planning consideration. In terms of neighbour consultation, the Local Planning Authority has carried out formal consultations in accordance with its consultation policies.

7.27 It should be noted that property damage is a Civil matter and if property damage were to occur during the development of the site, this would be a matter between the affected party and the developer.

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 scheme has significant merits including the provision of affordable housing within the urban area.

9.2 The layout and design of the development is considered to be acceptable and for reasons outlined above it is considered that the loss of the environmental space is acceptable.

9.3 It is therefore recommended that the application is granted subject to the following conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: PL0020 revision E, PL0006 revision C, PL0007 revision B, PL0021 revision C, PL0010 revision D, 70317_LP(90)10, PL0200 revision C, PL0001 revision K, PL0100 revision B, PL0110 revision B, PL0300 revision C.

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

Pre- commencement conditions

02 No development, (other than demolition) shall commence until:

A) Additional intrusive site investigation works for shall be undertaken, the results of which shall be used to refine the submitted risk assessment. A full report shall be submitted and approved in writing by the Local Planning Authority.

B) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

No part of the development hereby permitted shall be occupied until:

C) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary a remediation completion/verification report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.

D) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.

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.

03 No work shall be commenced on the construction of the buildings hereby approved 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.

04 No development, shall commence until details and plans showing the finished slab level of the building(s) hereby approved, together with cross sections through the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of visual amenities.

05 Prior to the commencement of development, full details of the means of surface water drainage disposal to serve the site shall be submitted to and approved in writing by the Local Planning Authority. The system shall be implemented in accordance with the details approved and retained in this state thereafter.

Reason: In order to ensure that the site can be adequately drained and to prevent overloading of the public sewerage system.

06 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;
- wheel wash facilities;
- noise mitigation measures;
- details of temporary lighting;
- details of enclosure of working areas including contractor parking;
- a drainage strategy;
- pollution prevention and contingency measures;
- details of a HGV (and other deliveries) route plan to avoid journeys through the cities current Air Quality Management Areas. (If the routes cannot avoid the AQMAs, they should be planned to occur during off peak daytime hours);
- details of how car sharing for onsite workers will be actively encouraged.

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

Reason: To protect the amenities of nearby residents and in the interests of ecology including.

07 Prior to the commencement of the development full details of proposed ecological enhancement must be submitted to the Local Planning Authority and written agreement received. The development shall be carried out in accordance with the approved details of the ecological enhancement.

Reason: In the interests of ecology.

Pre –occupation conditions

08 The access, parking provision and general arrangement shall be carried out strictly in accordance with the details shown on the approved plans before the dwellings hereby permitted are first occupied and then maintained in such a state thereafter.

Reason: In the interests of highway safety.

General conditions

09 The development shall be carried out in accordance with the recommendations of the Ecology Report accompanying the application which includes the incorporation of 2 bat bricks into the new dwellings and 3 bird boxes/bricks.

Reason: In the interests of Ecology.

10 The development shall be carried out fully in accordance with the approved landscaping details and all bulbs planted at the site must be of a native variety.

Reason: To ensure the site is satisfactorily landscaped in the interests of the visual amenity of the area and in the ecological interest of the site.

11 The development shall be carried out fully in accordance with the approved boundary treatment details.

Reason: In the interests of the visual amenity of the area.

12 All first floor glazing within the northern elevations of the oriel windows on plots 8-11 shall be obscure glazed at the time of installation and shall remain thus in perpetuity.

Reason: In the interests of neighbouring amenity.

13 The first floor window in the side elevation of plot 7 (facing no. 1 Livale Walk, shall be of an angled nature (with no direct views towards Livale Walk) at the time of installation and shall remain thus in perpetuity.

Reason: In the interests of neighbouring amenity.

14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or re-enacting that Order), Schedule 2, Part 2, Class A, no wall, fence, gate, hedge or other means of enclosure shall be erected or planted other than as shown on the approved plans without the prior written permission of the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, no development within Classes A, B, or E shall be carried out without the prior written permission of the Local Planning Authority.

Reason: To ensure that a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties.

16 Any shrubs/planting in the area between plots 6 and 7 must not exceed a height of 600mm within 1m of the footway and any boundary treatment to the side of the visitor space adjacent to Ribble Square must not exceed a height of 600mm within 2.6m of the edge of the carriageway.

Reason: In order to ensure that adequate visibility is available in the interests of highway and pedestrian safety.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP10, SP13, GP1, GP2, GP4, GP5, GP6, GP7, H2, H3, H4, T4, CE3 were relevant to the determination of this application.

02 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.

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 As consideration of this request did not raise significant additional environmental matters over and above those previously considered as part of the original application, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

05 On behalf of Natural Resources Wales the applicant is referred:
<http://naturalresourceswales.gov.uk> for matters relating to flooding.

06 On behalf of Dwr Cymru – Welsh Water the applicant is advised that the proposed development is crossed by a 3 inch distribution water main.

07 The developer is advised that Wales and West Utilities have equipment in the area.

08 Details of the city's current AQMAs are available via
<http://my.newport.gov.uk/iShare/myNewport.aspx>

09 The applicant is advised that construction vehicle idling should be kept to an absolute minimum.

APPLICATION DETAILS

No: 16/0438 **Ward:** LLISWERRY

Type: FULL (MAJOR)

Expiry Date: 29-JUN-2016

Applicant: STARBURST LTD.

Site: SITE OF CARCRAFT AT EMPRESS, LANGLAND WAY, NEWPORT, NP19 4PT

Proposal: ERECTION OF 2NO. BUILDINGS FOR B1/B2/B8 USE TO PROVIDE 5,498 SQUARE METERS OF FLOOR SPACE AND ASSOCIATED INFRASTRUCTURE INCLUDING PARKING AND CIRCULATION AREAS

Recommendation: Granted with Conditions

1. INTRODUCTION

- 1.1 This application seeks consent for the erection of 2no buildings for B1/B2/B8 use to provide 5,498 square metres of floor space and associated infrastructure including parking and circulation areas at the former Carcraft site at Langland Way, Spytty.
- 1.2 The site is located within the urban boundary of Newport, on previously developed land. There is a local and national policy presumption in favour of sustainable development and the redevelopment of the site is therefore considered by officers to be acceptable in principle subject to all other relevant considerations.

2. RELEVANT SITE HISTORY

95/0163	CHANGE OF USE TO VEHICLE SALES AND ANCILLARY USES TO INCLUDE OFFICES CAR STORAGE AND REPAIR WORKSHOPS AND DEMOLITION OF OUTBUILDINGS	Granted with Conditions
92/0758	ERECTION OF PREFABRICATED MODULAR OFFICE COMPLEX	Granted with Conditions

3. POLICY CONTEXT

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

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

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

SP17 – Employment allocates 172 hectares of employment land for the plan period.

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

GP1 – 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.

GP2 – 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.

GP3 – Service Infrastructure states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.

GP4 – 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.

GP6 – 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.

CE6 – Archaeology states that proposals in areas known to have archaeological interest or potentially have archaeological interest will be required to undertake an archaeological impact assessment.

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

3.2 **Adopted Supplementary Planning Guidance**

Parking SPG – August 2015

Archaeology & Archaeologically Sensitive Areas SPG – August 2015

4. **CONSULTATIONS**

- 4.1 **GLAMORGAN GWENT ARCHAEOLOGICAL TRUST:** Whilst the proposed development area contains no designated sites, it is located in the Newport Archaeological Sensitive Area and is located close to the Gwent Levels Registered Historic Landscape. However, the previous development of the site has likely had an adverse effect on any potential archaeological remains that may be present. Nevertheless, there remains the possibility that archaeological structures or features may be encountered during the development. Therefore it is our recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted by your Members.
- 4.2 **NATURAL RESOURCES WALES:** The application site lies entirely 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 information, 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, which is a designated main river. We recommend that you should only grant planning permission if a condition requiring a finished floor level of 8.15 metres AOD is imposed. This condition will address significant concerns that we have identified and we would not object provided you attach them to the planning permission.
- 4.3 **WALES AND WEST UTILITIES:** Provide details of apparatus in the area.
- 4.4 **NETWORK RAIL:** Whilst there is no objection in principle to the proposal, we would strongly urge the developer to contact Network Rail prior to mobilizing on site to confirm their intentions with regard to construction method etc.
- 4.5 **DWR CYMRU - WELSH WATER:** Request conditions relating to drainage.
- ## 5. **INTERNAL COUNCIL ADVICE**
- 5.1 **HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS):** Offers no objection to the application subject to conditions requiring the submission of a travel plan and a construction management plan to be submitted.
- 5.2 **HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS DRAINAGE):** No response.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m were consulted (2no properties), a site notice displayed and a press notice published in South Wales Argus. No response received.

7. ASSESSMENT

- 7.1 The site is located within Leeway Industrial Estate and comprises 2.31 hectares. The site encompasses the former Carcraft unit but this application does not relate to this unit but to two proposed units either side of the Carcraft building (adjacent to the eastern and southern boundaries of the site). Vehicle access to the buildings would be from the existing access to the site off Langland Way. The site is surrounded by a mixture of established commercial and industrial uses to the east, south and west and to the north it is bordered by the Southern Distributor Road.

7.2 Design

The southernmost building would measure 24m in width, 89m in length and 8.6m in height with a shallow pitched roof. The easternmost building would measure 20m in width, 170m in length and 8.3m in height. The buildings would be sub-divided to provide smaller units in order to provide flexibility for future occupiers. Parking would be provided to the front and sides of the proposed buildings. A cycle store would also be provided. The buildings would have a utilitarian design which is considered to be in keeping with the surrounding commercial/industrial uses. Roller shutter doors would be installed in both buildings. The buildings would be clad in metallic silver micro-rib whilst the roofs would be clad in Kingspan Goosewing Grey, with skylights within the roofs. Whilst the scale of the proposed buildings is considerable, it is not considered that they would be out of keeping in this predominantly industrial/commercial area. The overall massing of the buildings would be considerably less than that of the existing Carcraft building.

- 7.3 The nearest residential properties are situated on the opposite side of the dual carriageway approximately 180m away. As such it is considered that there would be no impact on residential amenity as a result of the proposals.

7.4 Economic Benefits

The proposed employment use of B1/B2/B8 would provide 5,498 square metres of floor space. This would contribute to the Council's employment land supply. The proposals represent a sustainable use of brownfield land and are located within an existing industrial area with associated infrastructure. The proposals are considered to be an appropriate use at the site.

7.5 Highways

The application is accompanied by a Transport Assessment. The Head of Streetscene and City Services (Highways) confirms the level and layout of the parking provision to be acceptable and it is not considered that the proposals would result in a detrimental impact to highway safety.

- 7.6 Conditions requiring the submission of a travel plan and a Construction Environmental Management Plan are requested.

7.7 Flood Risk

The application site lies entirely 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 information, 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, which is a designated main river.

7.8 Policy SP3 flood risk states: Newport's coastal and riverside location necessitates that development be directed away from areas where flood risk is identified as a constraint and ensure that the risk of flooding is not increased elsewhere. Development will only be permitted in flood risk areas in accordance with national guidance. Where appropriate a detailed technical assessment will be required to ensure that the development is designed to cope with the threat and consequences of flooding over its lifetime. Sustainable solutions to manage flood risk should be prioritised.

7.9 **Overview of Technical Advice Note 15: Development and Flood Risk**

TAN 15 sets out a precautionary framework and identifies that new development should be directed away from areas which are at high risk of flooding (defined as Zone C), and where development has to be considered in such areas, only those developments which can be justified on the basis of the tests outlined in the TAN are to be located in such areas. The Council is expected to consult Natural Resources Wales (NRW) when considering development in Zone C1. Where a planning authority is minded to go against the advice of NRW it should inform NRW prior to granting consent allowing sufficient time for representations to be made.

7.10 **Summary of NRW consultation response**

As part of this justification the applicant has submitted a flood consequence assessment (FCA). NRW have reviewed the FCA and note that a figure of 0.073m has been calculated to provide for the additional 5 years to assess the proposal over the correct lifetime of development of 75 years. In the predicted 0.5% (1 in 200 year) plus climate change event, the flood level is 8.143m AOD. The proposed finished flood levels for the building are 8.15m AOD and are therefore A1.14 compliant.

7.11 NRW advise that planning permission should only be granted subject to a condition requiring minimum finished floor levels of 8.15 metres AOD. NRW offer no objection to the proposals subject to such a condition.

7.12 The Local Planning Authority should be satisfied that the consequences of flooding can be acceptably managed. If the Authority is minded to approve the application, NRW advise that the developer is made aware of the potential flood risks on site and a condition relating to finished floor levels is secured to the permission ensuring suitable finished floor levels for the units.

7.13 **TAN 15 Tests**

Section 6.2 of TAN 15 refers specifically to justifying the location of development and that such development should only be permitted within zone C1 if determined by the planning authority to be justified in that location and demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
- ii) Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners to sustain an existing settlement or region;

and,

- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and
- iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.

For the purposes of this report, criterion (i) to (iii) are referred to as Test 1 as this relates to the site justification and criterion (iv) which has a number of tests is referred to as Tests 2 to 12.

7.14 **Test 1 – Justification**

Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement

7.15 Located within the settlement boundary, Officers consider that the development is necessary as part of a local authority strategy required to sustain an existing settlement.

7.16 **It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1)**

PPW defines previously developed land as:

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage of the development is included, as are defence buildings, and land used for mineral extraction and waste disposal where provision for restoration has not been made through development management procedures.

7.17 The proposal satisfies this test.

7.18 **Tests 2 to 12 – Consequences of Flooding**

Moreover, criterion (iv) of paragraph 6.2 of TAN 15 refers specifically to the potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable. These are referred to as tests 2 to 12 below.

7.19 ***Test 2 - Flood defences must be shown by the developer to be structurally adequate particularly under extreme overtopping conditions (i.e. that flood with a 1 in 1000 chance of occurring in any year).***

NRW have not objected to the development on the basis of inadequate flood defences.

7.20 ***Test 3 - The cost of future maintenance for all new/approved flood mitigation measures, including defences must be accepted by the developer and agreed with Natural Resources Wales.***

No flood mitigation measures proposed as part of the development.

7.21 ***Test 4 - The developer must ensure that future occupiers of the development are aware of the flooding risks and consequences.***

It is intended to notify the developer of this by way of an informative to the planning consent.

7.22 ***Test 5 - Effective flood warnings are provided at the site***

NRW identify that whilst they seek to provide timely and robust warning they cannot guarantee their provision. No objection is offered by NRW on this basis.

7.23 ***Test 6 - Escape/evacuation routes are shown by the developer to be operational under all conditions***

Details of escape/evacuation routes during a 200 year flood event including sea level rise

have been provided by the applicant. The emergency access route is along Spytty Road in an easterly direction towards the Coldra. Due to the differences in levels along the route the predicted flood depths would vary between 1 and 2 metres. TAN 15 specifies a maximum depth of 1m for industrial developments. It can therefore be concluded that at least in part, the evacuation route would not be operational under all conditions and this test is failed.

7.24 Test 7 - Flood emergency plans and procedures produced by the developer must be in place

NRW advise that if, as the planning authority, you are satisfied that the proposed location is the only possible location in planning terms, only then should you consider whether the above risks and consequences can be managed through measures such as emergency planning and evacuation.

7.25 A Flood Emergency Management Arrangement document has not been submitted.

7.26 The local planning authority does not have the in-house expertise to judge the effectiveness of the emergency plan. Planning Officers are therefore not in a position to comment upon the effectiveness of the flood emergency management arrangements document is acceptable and effective. These procedures would be the responsibility of the developer.

7.27 Test 8 - The development is designed by the developer to allow the occupier of the facility for rapid movement of goods/possessions to areas away from floodwaters and Test 9 - Development is designed to minimise structural damage during a flooding event and is flood proofed to enable it to be returned to its prime use quickly in the aftermath of the flood.

The proposed buildings have been designed to be flood free. Tests 8 and 9 are therefore satisfied.

7.28 Test 10 - No flooding elsewhere.

NRW do not object to the development on this basis.

7.29 Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.5) of development for either a 1 in 100 chance (fluvial) flood event, or a 1 in 200 chance (tidal) flood event including an allowance for climate change (depending on the type of flood risk present) in accordance with table A1.14.

NRW do not object to the development on this basis.

7.30 Test 12 – In respect of the residual risk to the development it should be designed so that over its lifetime (A1.15) in an extreme (1 in 1000 chance) event there would be less than 1000mm of water on access roads and within properties, the velocity of any water flowing across the development would be less than 0.3m/second on access roads and 0.45m/second in properties and the maximum rate of rise of floodwater would not exceed 0.3m/hour (refer to table at paragraph 7.7.41).

The development has been designed with slab levels set at 8.15m so that over its assessed lifetime of 75 years in an extreme (1 in 1000 chance) event there would be considerably less than 1000mm of water on access roads and within the development, the mean velocity of any water flowing across the development would be no more than 0.35m/second on both access roads and in properties. The likely maximum rate of rise of floodwater is not anticipated to exceed 0.3m/hour. Test 12 can therefore be complied with.

- 7.31 In summary, when assessing whether the risks and consequences of flooding can be satisfactorily managed, the proposals have been shown to satisfy all but one of the tests in part A1.15 of TAN 15. Test 6 – “*Escape/evacuation routes are shown by the developer to be operational under all conditions*” cannot be complied with.
- 7.32 Despite this, no objection is raised by NRW as the buildings are predicted to be flood free subject to a minimum floor level which can be controlled by condition.
- 7.33 The source of potential flooding is from the tidal river Usk or Severn Estuary. The applicant advises that the tidal predictions including for surge conditions are undertaken on a 24hr/7days a week basis by the NRW. The current flood forecasting models underpinning NRW’s Flood Warning Service should be able to provide up to 12 hours advance notice of a significant tidal event. Whilst advance flood notice should not be relied upon in isolation, it is considered that due to the tidal nature of the flood risk in this instance, some weight should be attributed to this in conjunction with all other considerations.
- 7.34 The proposed use is ‘low vulnerability’ and TAN15 acknowledges the differences in terms of different types of development and associated vulnerability.
- 7.35 Furthermore, the proposals have significant merit and include the regeneration of this prominent brownfield site and it has welcomed economic benefits.
- 7.36 On balance, when considering the associated flood risk together with the fact that the proposed use is low vulnerability in its nature, along with the the regeneration benefits of the proposals, the development is considered to be acceptable in terms of flood risk subject to a condition restricting the minimum floor level of the buildings.

7.37 **Archaeology**

The site is within an Archaeological Sensitive Area. Glamorgan Gwent Archaeological Trust have advised that whilst the previous development of the site has likely had an adverse effect on any potential archaeological remains that may be present, there remains the possibility that archaeological structures or features may be encountered during the development. It is therefore recommended that a condition is imposed requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource.

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 proposals represent the development of a prominent brownfield site and would provide economic benefits, therefore according with National and Local Planning Policy.

9.2 It is considered that the proposals would not result in a detrimental impact to the local highways networks, ecological interests or the character of the area.

9.3 Whilst the development does not meet all tests within TAN15, given the merits of the proposals, it is recommended that the development is granted subject to the following conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: 610181/1, 610181/2, 610181/3, 610181/4.

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

Pre- commencement conditions

02 No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

03 Prior to the commencement of development, full details of the means of foul and surface water drainage disposal to serve the site shall be submitted to and approved in writing by the Local Planning Authority. The system shall be implemented in accordance with the details approved and retained in this state thereafter.

Reason: In order to ensure that the site can be adequately drained and to prevent overloading of the public sewerage system.

Pre – construction conditions

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

- dust suppression measures, having regard to BRE guide 'Control of Dust from construction and demolition activities;
- construction site compound;
- contractor parking and
- wheel washing facilities.

The development shall be carried out in accordance with the approved CMP.

Reason: In the interests of highway safety.

Pre –occupation conditions

05 Prior to the first beneficial use of the buildings hereby approved, the vehicle parking spaces shall be demarcated as per the approved plans and shall remain available for parking in perpetuity.

Reason: To ensure the development is served by adequate parking provision in the interests of highway safety.

06 Prior to the first use of the buildings hereby approved a Travel Plan shall be submitted to and approved by the Local Planning Authority. The Travel Plan shall clearly explain how reliance on private motor vehicles is to be reduced and how the use of other forms of transport by occupiers of the site will be encouraged. The Travel Plan shall be implemented as approved.

Reason: To ensure the efficient function of the site, to avoid any adverse impacts on the local highways and to promote sustainable transport.

General conditions

07 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 and the Town & Country Planning Use Classes Order 1987, as amended (or any order revoking and re-enacting those Orders with or without modification) the premises the subject of this permission shall not be used other than for purposes falling within Class B1/B2/B8 of the Use Classes Order without the prior grant of planning permission from the Local Planning Authority.

Reason: To ensure that the use remains compatible with surrounding land uses in the area.

08 Finished floor levels for the seven proposed units shall be set no lower than 8.15 metres above Ordnance Datum (AOD) (Newlyn).

Reason: To reduce the risk of flooding to the proposed development and future occupants.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP17, SP18, GP1, GP2, GP3, GP4, GP6, CE6 and T4 were relevant to the determination of the application.

02 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.

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 The applicant is advised that the archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), (www.archaeologists.net/codes/ifa) and it is recommended that it is carried out either by a CIfA Registered Organisation (www.archaeologists.net/ro) or an accredited Member.

05 The applicant is advised to contact Network Rail on 0117 3721125 prior to the commencement of development on site.

06 On behalf of Natural Resources Wales, the applicant is advised that the site is located within a flood risk area and consideration should be given to the creation of an emergency evacuation plan.

APPLICATION DETAILS

No: 16/0438 Ward: **LLISWERRY**

Type: Full (Major)

Expiry Date: 29-JUN-2016

Applicant: **STARBURST LTD. C/O AGENT**

Site: **Site Of Carcraft At Empress, LANGLAND WAY, NEWPORT, NP19 4PT**

Proposal: **ERECTION OF 2NO. BUILDINGS FOR B1/B2/B8 USE TO PROVIDE 5,498 SQUARE METRES OF FLOOR SPACE AND ASSOCIATED INFRASTRUCTURE INCLUDING PARKING AND CIRCULATION AREAS**

1. LATE REPRESENTATIONS

- 1.1 Objections have been received from occupiers of a neighbouring business unit making the following comments:
- The applicant is Starburst Ltd but according to Companies House this company was dissolved in 2011. How can the applicant apply for planning permission if they have no legal standing?
 - The applicant has already commenced development and this is very concerning. Trees and vegetation has been removed. It is trusted that the Council will take enforcement action to address this;
 - The proposed building is situated very close to neighbouring premises and will result in loss of daylight to the main office building of the premises;
 - There is no reason why the units are located on the border with neighbouring premises and not further down the site, so as not to block light;
 - The development would create a large amount of additional traffic, including HGVs and it does not appear that the site is suitable for HGVs entering and leaving the site as the turning area (especially to and from a busy road) is insufficient and dangerous;
 - The Newport stadium is very close to the site and is a major attraction for the public. Concerns are raised about the increased volume of HGV traffic that will be generated at the site;
 - Newport is already heavily congested (especially on Friday) and the additional traffic created by the site will make the situation unbearable;
 - By removing the trees, the development has restricted the ability of the site to prevent potential instances of flooding;
 - It appears that any water would escape from the site onto neighbouring land which could cause damage to neighbouring premises;
 - The removal of mature trees bordering neighbouring land has resulted in loss neighbouring privacy and also adversely affected the character of the site and the local environment;
 - The site including the latest application (along with its bulk and massing) amount to an unacceptable intrusive development proposal which the Council should reject;

-A number of cracks have appeared around neighbouring premises, both internal and external;

-The plans show no work being undertaken at the bottom right hand corner of the site, there being a gap between the proposed development and the right hand fence. However, the development on the site has, in fact, laid foundations in that bottom right hand corner, right next to the fence and boundary at the bottom right hand corner of the plan.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 The status of the applicant is not a planning consideration and does not affect the validity of the application.

There are no protected trees within the site and the removal of trees and vegetation does not require planning permission. Nor does it amount to commencement of development.

Property damage and allegations relating to this is a civil matter and is not a material planning consideration.

If the applicant has commenced development without planning permission, this is entirely at their own risk. However, planning enforcement action would not be taken in order to punish the applicant. Such action would only be taken in circumstances where it is expedient to do so and in the event that an enforcement notice is issued if planning permission is not forthcoming.

The Council must consider the proposals as presented and on face value. In this instance, the proposed scale and siting of the buildings is considered acceptable given the industrial/commercial nature of the surrounding units. Given the industrial/commercial and non-residential nature of the neighbouring uses, less weight is given to the amenity of those occupiers.

The applicant has submitted a Traffic Impact Assessment and swept path analysis demonstrating the ability of HGVs to turn within the site. The Head of Streetscene and City Services (Highways) offers no objections.

Should planning permission be forthcoming, it is recommended that a condition is imposed requiring the submission and approval of full surface and foul drainage arrangements. Subject to this, it is considered that there are no grounds to believe that the site can be satisfactorily drained.

3. OFFICER RECOMMENDATION

3.1 GRANTED WITH CONDITIONS

APPLICATION DETAILS

No: 16/0620 **Ward:** ALLT-YR-YN

Type: FULL

Expiry Date: 25-AUG-2016

Applicant: A BUTCHER

Site: 179, RISCA ROAD, NEWPORT, NP20 3PQ

Proposal: REAR EXTENSION TO BUNGALOW

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 Planning permission is sought for the erection of a rear extension to the detached bungalow which is sited to the rear of 177 and 181 Risca Road. The proposed extension would effectively extend the ridge of the bungalow with gabled features within the side and front elevation which would provide first floor accommodation.
- 1.2 The site within which the bungalow sits, slopes steeply down from Risca Road. It is accessed from the access which serves 181 Risca Road which is currently the subject of an application for its demolition and rebuilding as two flats (16/0327). As part of this rebuild the access route, which passes alongside the side elevation would increase in width. The bungalow is surrounded by properties on all sides. It is sited lower down from the properties fronting Risca Road and is elevated in relation to the properties at Canberra Close and Hobart Close which are south of the development.
- 1.3 This part of Risca Road is mixed in character with large detached and semi detached properties and bungalows. The properties tend to sit in large mature gardens with significant amount of vegetation. A protected tree is sited to the south east of the development. The bungalow is currently vacant and the site is largely overgrown and unmanaged.

2. RELEVANT SITE HISTORY

99/0710	Demolition of two houses and erection of two properties in rear garden	Grabted with conditions.
16/0327	Erection of two flats	Awaiting decision

3. POLICY CONTEXT

- 3.1 The following policies of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 3.2 GP2 General Development Principles – General Amenity states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- 3.3 GP5 which seeks to protect the natural environment, including trees.
- 3.4 GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed.

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

- 3.5 The Council's Supplementary Planning Guidance - House Extensions and Domestic Outbuildings (August 2015) was adopted following consultation and is relevant to the determination of this application.

4. CONSULTATIONS

- 4.1 DWR CYMRU WELSH WATER: Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal and so Welsh Water requests that the applicant contacts them to establish the location and status of the sewer.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREET SCENE AND CITY SERVICES (HIGHWAYS): No objections.
- 5.2 HEAD OF STREET SCENE AND CITY SERVICES (TREES): No objections.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties sharing a common boundary and opposite the site were consulted (12 addresses). 3 letters of response were received, two of which constituted letters of objection
- Loss of privacy caused by the height and depth of the proposed extension to the bungalow to rear as this would be substantially closer to our boundary.
 - The second storey extension having a large Apex which appears to be almost completely glazed will be looking directly onto our garden and into the rear of our property, which comprises our bedrooms. This loss of privacy is substantial. We are concerned about the scale and proximity of the development and the impact and amenity on our property.
 - the amended proposal includes 1 metre high privacy glass to the second storey extension Apex. This would still mean that we would look directly into their bedroom and they would still see us.
 - The number of vehicles expected to park in the proposed development is 8, 4 of which will be very close to our rear boundary. This raises the issue of noise impact, especially given that our bedrooms are directly behind the proposed development. We are also concerned that there may be increased exhaust fumes from 4 cars driving and parking at the rear of our garden boundary and the additional 4 cars allocated to the flats.
 - Currently, the existing bungalow is partly screened by a holly tree that grows on the boundary of our property and 179 Risca Road, but if that is removed, the rear of our home and most of our garden will be completely overlooked by the proposed development.
 - the extension would be effectively three storey's due to the elevated nature of the site
 - the scale of the bungalow will be out of character with the scale of other bungalows in the area
 - the feeling of space around houses which was already eroded due to the approval of the existing bungalow in the rear garden, will be worsened and the extension will result in a structure that is too high and too close.
 - permission for flats was refused previously, this development would be just as high.
 - extension to bungalow in the area have been single storey and split level.
 - the plot is large and the extension could be sited elsewhere.
 - too many car parking space and therefore car movements.
 - there have been problems with drainage in the past which have taken a long time to resolve
 - the property is for rent and previous problems with tenants will be worsened with a larger bungalow and more tenants.
 - the adjacent bungalow is on the market, people have been keen to buy until they have seen the proposed plans.

- note the front door of the extended bungalow has been pushed forwards and as a result will be a point of high foot traffic. It's not clear from the plans whether the rear garden wall of 177, Risca Road will provide sufficient screening to ensure the rear patio area of our garden is not overlooked. This is our main outside seating area.

- 6.2 COUNCILLORS FERRIS: requested that the application be reported to Planning Committee due to the elevated nature of the proposal giving a dominant outlook on to the properties at Hobart Close and will allow clear view into the rooms of intimate use.

7. ASSESSMENT

- 7.1 The proposed extension would be sited on the southern section of the bungalow and would measure a total of 8m in depth, 8.8m in height and 7.2m in height, to the ridge. The site slopes towards its southern boundary and the extension would sit on an existing elevated platform. The extension would have a rendered finish, with slate roof, and aluminium windows. The bungalow would be reconfigured to increase the property from three beds to four. The extension would provide a new kitchen /dining/siting area, study and new entrance hall with stairs to the additional fourth bedroom with ensuite and dressing room. It is proposed to extend the highest part of the ridge of the existing bungalow forming a fully glazed gable ended feature off the southern and western elevation. Juliet balconies are proposed at first floor level within this glazed area.

- 7.2 In terms of design the extension is large in comparison to the size of the host dwelling, however the property sits in a large plot, at the rear of surrounding properties. It is not visible from the main road. The surrounding properties are mixed in character ranging from detached bungalows, houses and semi-detached houses. It is considered that the extended bungalow would not appear at odds with the character of the area. In terms of access and parking, the site is accessed via its existing access off Risca Road, down the western side of number 181. This access way is proposed to be widened following the rebuilding of 181, application number 16/0327. Parking is provided within the existing double garage and an additional two spaces within an area of hard standing and driveway to the west of the bungalow. The parking provision is considered to be ample, and the Head of Street Scene and City Services (Highways) has no objection to the proposal.

- 7.3 The extension would be visible from the properties of Canberra and Hobart Close which are located to the south of the property on much lower lying land. The occupants of some of the properties have raised concerns about loss of privacy due to overlooking from the glazed areas proposed in what is an elevated siting in relation to their properties. The proposed extension would be 13.6m from the common boundary with these properties. The rear garden of 21 Canberra Close measures 23m in length and the rear gardens of 1 and 2 Hobart Close are in excess of 30m. The boundary between the application site and these properties is densely vegetated which the applicant proposes to retain. It is accepted that due to the elevated nature of the proposed extension the height would be exaggerated. The Council's Supplementary Planning Guidance - House Extensions and Domestic Outbuildings (Adopted August 2015) is relevant to the determination of this application. Section 5.9 refers to loss of privacy and paragraph 5.9.2 states that "In order to preserve residents' privacy in their homes, suitable separation distances must exist between new high level protected windows and the protected windows in neighbouring houses" as a note it states that protected windows which face one another should be at least 21.0 meters apart (unless separated by permanent structures or evergreen trees protected by Tree Preservation orders). The distance achieved of over 35m in relation to number 21 Canberra Close and 45m plus in relation to number 1 and 2 Hobart Close is considered to be fully compliant with the guidance and therefore it is considered that to resist the application on grounds of overlooking would be unreasonable.

- 7.4 The extension would face the rear gardens of the properties to the west and east of the site. The extension would be 12m off the boundary with these properties which is considered to be an adequate distance from a boundary. Also the boundaries are both defined by established tree planting with a conifer hedge forming the western boundary. It

is considered that a loss of privacy would be negligible. Neighbours have also raised concerns about the noise from cars using the rear portion of garden. The applicant proposes to use an existing garage and access way within an area where cars could already manoeuvre. It is considered that the vehicle movements would not be worse as a result of the extension than that which currently exists.

7.5 A protected tree is sited within the south eastern portion of the site. The Head of Street Scene and City Services (Tree Officer) has no objections to the proposal subject to the imposition of conditions in relation to the submission of a tree protection plan, erection of root protection barriers and the appointment of an arboriculturalist. In terms of other issues, Welsh Water requests that the applicant contact them in order to check the siting of sewers which may exist within the site. A note is attached bringing this to the applicants attention.

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 extension to this detached bungalow whilst large and elevated, is considered to be sited an acceptable distance from the boundaries of the site due to the generous plot. It is considered that the amenities of neighbouring occupiers would not adversely affected due to the distances that would exist between these properties and the proposed extension. The existing bungalow and site is in a poor state of repair, its refurbishment is welcomed in terms of improving the visual amenities of the area.
- 9.2 The proposal is therefore in accordance with policies GP2 and GP6 of the Newport Local Development Plan (NLDP) 2011-2026 (adopted January 2015) and the adopted *House Extensions and Domestic Outbuildings* supplementary planning guidance.
- 9.3 It is recommended that the application be granted subject to the following conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents R254-15, 11, 13 Rev a, site location plan, 3d visuals and tree constraints 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

Pre- commencement conditions

02 No development, to include demolition, shall commence until a Tree Protection Plan (in accordance with BS 5837:2012) has been implemented in accordance with Treecare Consulting's report July 2016.

The development shall be carried out in accordance with the approved Tree Protection Plan.

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 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. For the duration of construction all weather notices shall be posted on the fencing at a ratio of 1 per 10 panels stating 'CONSTRUCTION EXCLUSION ZONE NO ACCESS'. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

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.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Bat report and Tree survey.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP5 and GP6 were relevant to the determination of this application.

03 The Council's Supplementary Planning Guidance - House Extensions and Domestic Outbuildings (August 2015) was adopted following consultation and is relevant to the determination of this application.

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

05 Welsh Water requests that the applicant contacts them to establish the location and status of the sewer.

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



Report

Planning Committee

Part 1

Date: 7 September 2016

Item No: 06

Subject **Appeal Decisions**

Purpose To inform Members of the outcome of recent appeals

Author Head of Regeneration, Investment and Housing

Ward Ringland, Stow Hill and 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

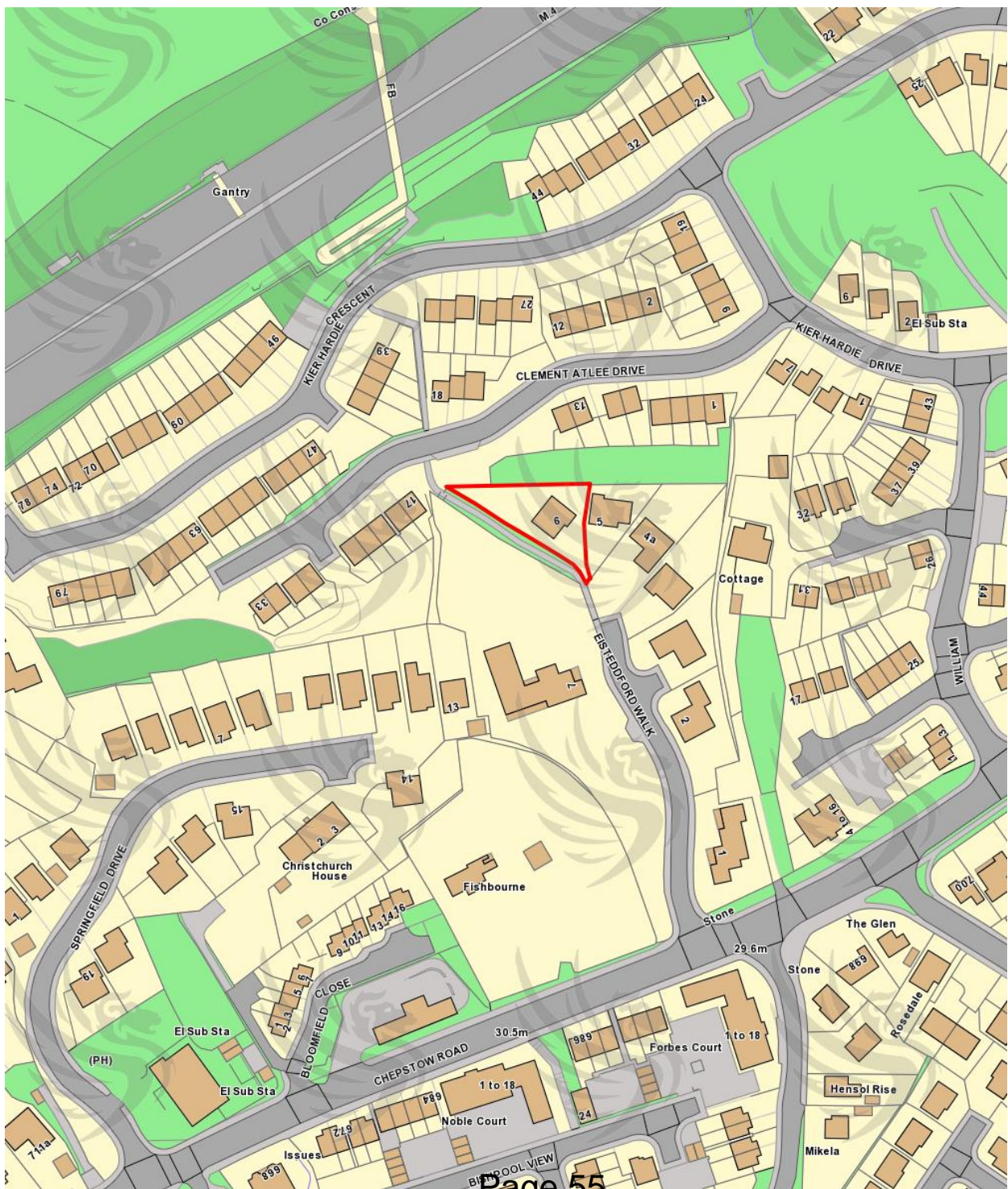
Not applicable

Dated: 3rd August 2016

PLANNING APPLICATION APPEAL

APPEAL REF: 15/1413
APPEAL TYPE: Written Representations
WARD: Ringland
SITE: 6 Eisteddfod Walk, Newport, NP19 9EU
SUBJECT: Proposed part change of use of residential premises (C3) to include kennels for dog breeding in part of the rear garden
APPELLANT: Anthony Chambers
PLANNING INSPECTOR: P J Davies
DATE OF COUNCIL'S DECISION: 14th January 2016
OFFICER RECOMMENDATION: Refused
COMMITTEE/DELEGATED: Delegated

DECISION: DISMISSED



SUMMARY

A number of dog kennels have been erected in the rear garden for the purposes of breeding dogs on a commercial scale. The Inspector considered the main issues in the determination of the appeal to be the effect of the proposal on the character and appearance of the area, residential amenity and highway safety.

Eisteddfod Walk is a cul-de-sac containing a small group of substantial detached dwellings with a high degree of privacy and spaciousness. The appeal property occupies a corner plot adjacent to a footpath. The rear garden of the appeal site contains a number of dogs housed in wire pens. The site is well screened by established trees; public and neighbouring views into the rear garden are restricted. The Inspector considered that the scale of the ten dog cages, combined with the stark block work wall enclosing would give a dominant utilitarian appearance to this domestic rear garden. Furthermore, the requirement for general waste, feed and equipment storage, the proposal would exhibit an overwhelmingly commercial character at odds with the residential nature and appearance of its setting. The Inspector noted that, although the proposal would not be seen, does not justify development that would be visually inappropriate and detrimental to its context. The Inspector therefore concluded that the proposal would be harmful to the character and appearance of the area, contrary to the objectives of Policy GP6 of the Newport Local Development Plan.

With regards to residential amenity, the Inspector noted that up to ten dogs would be kept at the premises and bred on a two year cycle which could yield around 50 puppies annually. The Inspector noted that the dogs barked and whined during the site visit and the noise generated was significant in an otherwise quiet and private residential setting. The Inspector noted the proximity of the adjacent footpath and considered it likely that the dogs would be disturbed throughout the day and feeding and exercise times would create an especially noisy environment. Moreover, the keeping of the dogs would generate a substantial amount of waste and associated odours. The Inspector therefore considered that the proposal would cause unacceptable harm to the residential amenities of the area contrary to LDP policies GP2, GP6 and GP7.

With regards to highway safety, the Inspector noted that the appeal site benefits from a large forecourt parking area and a substantial garage. Traffic flows are light and pedestrians are largely segregated by a footpath. The Inspector considered the development would only generate small van deliveries which could be accommodated by the shared drive and off street parking area without undue disruption or harm to highway safety. The proposal would therefore comply with the objectives of LDP Policy GP4.

The Inspector considered the proposal contrary to Policies GP2, GP6 and GP7 of the LDP. The appeal was therefore dismissed.

PLANNING APPLICATION APPEAL

APPEAL REF: 16/0116
APPEAL TYPE: Written Representations
WARD: Stow Hill
SITE: 9-12 Commercial Street, Newport, NP20 1SJ
SUBJECT: Retention of 1No. internally illuminated fascia sign, 1No. internally illuminated projecting sign and 1 No. poster sign
APPELLANT: SDI (Newport) Ltd
PLANNING INSPECTOR: Richard E Jenkins
DATE OF COUNCIL'S DECISION: 6th April 2016
OFFICER RECOMMENDATION: Part grant/Part refuse
COMMITTEE/DELEGATED: Delegated

DECISION: DISMISSED



SUMMARY

A retrospective application was submitted for the retention of an internally illuminated fascia sign, an internally illuminated projecting sign and a poster sign to the commercial property at 9-12 Commercial Street, currently trading as Sport Direct. The adverts in question are sited on the well-detailed stonework side elevation of the building on Corn Street and relate to the basement level gymnasium.

The Council did not take issue with the poster sign, but refused consent for the fascia and projecting signs as a result of their bulky design, positioning, materials and means of illumination, which are unsympathetic to the visual amenities of the host property and the surrounding Conservation Area. The projecting sign was also considered unacceptable in terms of public safety due to its insufficient height above the level of the ground below.

The Inspector noted that the fascia sign partially obscures the stone façade which contributes a great deal to the design of the building. For this reason, and coupled with the contemporary design and its prominent siting, he concluded that it is unsympathetic to the architectural detailing of the host property and fails to respect the wider context of the Conservation Area and setting of the neighbouring Listed Building and, as a result, causes harm to the character and appearance of the area.

Similarly, the Inspector considered that the projecting sign, by virtue of the scale of its projection, use of materials and means of illumination, represents a prominent and obtrusive feature within the street scene. He concluded that it is unsympathetic to the visual amenities of the host property, the setting of the neighbouring Listed Building and the character and appearance of the Conservation Area.

He noted that the sign has been installed in excess of the 1.8m in height above the ground level as specified on the drawings, and it therefore does not pose a threat to public safety. Nevertheless, the Inspector concluded that the signage had an unacceptable impact on amenity. The appeal was therefore dismissed.

PLANNING APPLICATION APPEAL

APPEAL REF: 16/0117
APPEAL TYPE: Written Representations
WARD: Stow Hill
SITE: 9-12 Commercial Street, Newport, NP20 1SJ
SUBJECT: Retention of replacement door and roller shutter
APPELLANT: SDI (Newport) Ltd
PLANNING INSPECTOR: Richard E Jenkins
DATE OF COUNCIL'S DECISION: 7th April 2016
OFFICER RECOMMENDATION: Refused
COMMITTEE/DELEGATED: Delegated

DECISION: ALLOWED



SUMMARY

A retrospective application was submitted for the retention of a replacement door and roller shutter to the commercial property at 9-12 Commercial Street, currently trading as Sport Direct. The shutter and door in question are sited on the well-detailed stonework side elevation of the building on Corn Street and relate to the basement level gymnasium.

The Council did not object to the replacement door, but found that the solid style roller shutter was unacceptable by virtue of its design and appearance, as it would have a detrimental impact on the visual amenities of the host property, the street scene and the character and appearance of the Conservation Area.

The Inspector considered that the scale of the entrance in question is modest relative to the other openings within the wider street scene, and therefore did not consider the entrance to be a prominent feature on Corn Street. In addition, the shutter is set back from the building's elevation, meaning that it is not visible from longer vistas, and that its solid design would only be visible when the shutter is closed.

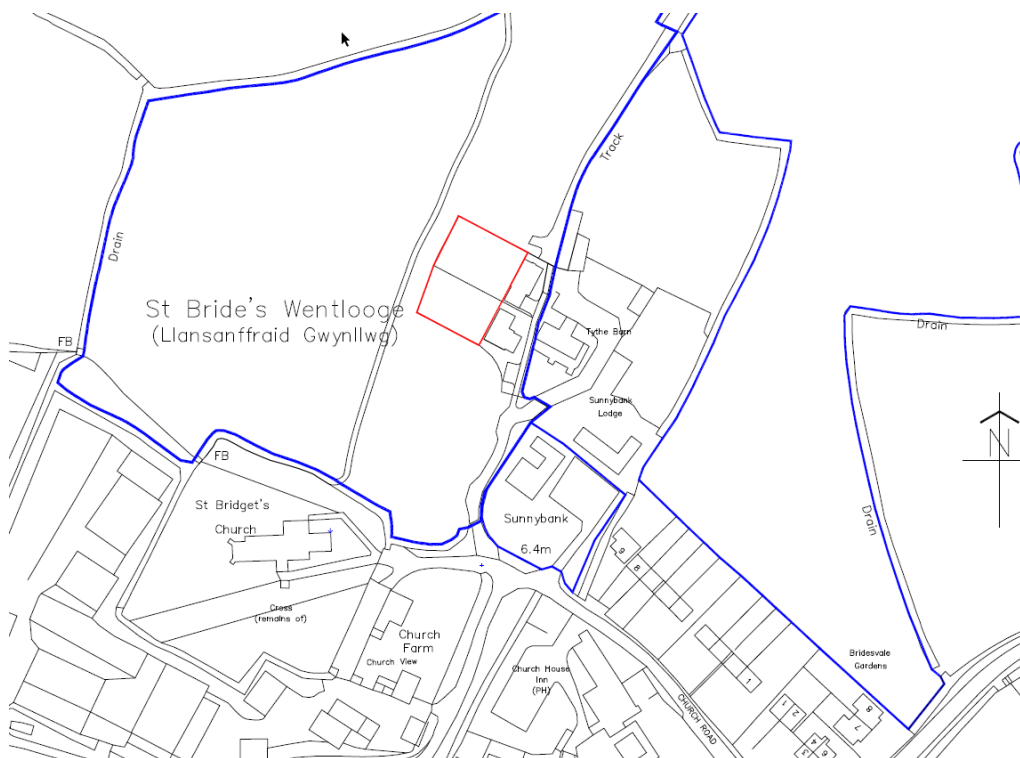
The Inspector concluded that, due to the modest nature of the opening and the set-back from the elevation, the roller shutter would not be a discordant or incongruous feature relative to the host property or street scene, and was therefore satisfied that it would also preserve the special interests of the nearby

Listed Buildings and the character and appearance of the Conservation Area. The appeal was therefore allowed.

PLANNING APPLICATION APPEAL

APPEAL REF: 15/1033
APPEAL TYPE: Written Representations
WARD: Marshfield
SITE: Land west of and adjacent to Tithe Barn, Church Road, St Brides Wentlooge, Newport.
SUBJECT: Retention of change of use of land to form residential curtilage for 2 No. dwellings permitted under application 13/0658
APPELLANT: EVOL (Wales) Ltd
PLANNING INSPECTOR: Richard E Jenkins
DATE OF COUNCIL'S DECISION: 14th October 2015
OFFICER RECOMMENDATION: Refused
COMMITTEE/DELEGATED: Delegated

DECISION: DISMISSED



SUMMARY

An application was submitted to regularise an area of curtilage that was created to serve 2No recently erected dwelling houses in the village of St Brides. Due to the proximity of the houses to the edge of the settlement boundary, the houses were originally granted permission with only very small back gardens, and the amenity areas were to be provided at the front and side of the dwellings. A retrospective change of use of a large section of land to the rear of these properties was sought, with the land in question adjoining the dwellings, but being outside of the defined settlement boundary, in the Green Wedge and a Special Landscape Area (SLA).

The Council refused permission for the development due to its detrimental impact on the character of the area and that it represents an urban intrusion into the countryside. In contrast, the appellant's case was that the extension of the garden areas does not cause material harm to the character of the area and

that the settlement boundary and green wedge designations were originally drawn to correspond with a reën that has subsequently been relocated to facilitate the development of the two dwellings. The appellant contended that the relocation of this reën justifies an extension of the residential amenity areas because the defined settlement and green wedge boundaries no longer correspond to 'defensible boundaries'.

The Inspector acknowledged that the reën no longer corresponds with the settlement/green wedge/SLA boundary, but did not consider that this fact warrants such an extension of the amenity areas, which amount to some 28m depth and 1100m² in area. With regard to the 'limited extensions' exception to the definition of 'inappropriate development' in Planning Policy Wales, the Inspector considered that such an area could not be considered limited in scale in this context.

The Inspector found that the land benefitted from an open nature and unspoilt character and that there would be an inevitable change in its character if the appeal were allowed, not least because it would be impossible to control the use of residential paraphernalia. In addition, he considered that the land has a greater affinity to the open countryside to the west, than it does to the built form which is within the settlement boundary, and also that the day to day use of the land would have an incremental urbanising impact that would conflict with the prevailing rural character of the open countryside, running contrary to the purposes of including it within the Green Wedge.

The Inspector concluded that, for the reasons outlined above, the development is contrary to policies SP5, SP7, SP8 and GP2 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and Planning Policy Wales (Edition 8, January 2016) and decided to dismiss the appeal.

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