

# Agenda



## Planning Committee

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Date: Wednesday, 5 October 2016

**N.B. THERE IS MEMBER TRAINING FROM 9 A.M.  
- 9.45 A.M. - NRW PRESENTATION**

**ALL MEMBERS ARE INVITED TO ATTEND**

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-Nuiami

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**NB: Please click on the link below to view the Planning Code of Practice:-**

<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**

<b>Item</b>	<b>Wards Affected</b>
1. <a href="#"><u>Agenda Page - Welsh Cym</u></a> (Pages 3 - 4)	
2. <a href="#"><u>Apologies for Absence</u></a>	
3. <a href="#"><u>Declarations of Interest</u></a>	
4. <a href="#"><u>Minutes</u></a> (Pages 5 - 8)	

Contact: Miriam Durkin

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Date of Issue: Wednesday, 28 September 2016

5. Development Management: Planning Application Schedule (Pages 9 - 58) All Wards
6. Appeal Decisions (Pages 59 - 70) Llanwern

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, 5 Hydref, 2016

Amser: 10.00 a.m.

Lleoliad: Siambr y Cyngor, Canolfan Ddinesig

At sylw: Y Cyngorwyr Huntley (Cadeirydd), Delahaye (Dirprwy Gadeirydd), Ali, Al-Nuaimi, Critchley, C Evans, Fouweather, Hutchings, Linton, Mudd 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  
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 E-bost: miriam.durkin@newport.gov.uk  
 Dyddiad Cyhoeddi: 28 Medi, 2016

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# Minutes



## Planning Committee

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Date: 7 September 2016

Time: 10.00 am

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

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

Apologies for absence: Councillors V Delahaye, O Ali and C Evans

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### 1. Minutes

The Minutes of the meetings held on 3 and 11 August, 2016 were submitted.

#### Resolved

That the Minutes of the meetings held on 3 and 11 August, 2016 be taken as read and confirmed.

### 2. Development Management: Planning Application Schedule

#### Resolved

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

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

### 3. Appeals Decisions

Consideration was given to a report following recent appeals.

#### Planning Application Appeals – Dismissed

(a) Application 15/1413 – 6 Eisteddfod Walk – proposed part exchange of use of residential premises(C3) to include kennels for dog breeding in part of the rear garden.

(b) Application 16/0116 – 9-12 Commercial Street – retention of 1 No. internally illuminated fascia sign, 1 No. internally illuminated projecting sign and 1 No. poster sign.

(c) Application 15/1033 – land west of and adjacent to Tithe Barn, Church Road, St Brides Wentlooge – retention of change of use of land to form residential curtilage for 2 No. dwellings permitted under application.

**Planning Application Appeals – Allowed**

Application 16/0117 – 9-12 Commercial Street – retention of replacement door and roller shutter.

**Resolved:**

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

## Appendix

### PLANNING COMMITTEE – 7 SEPTEMBER, 2016

#### DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
16/0669	Land east of and adjacent to Ribble Walk  Construction of 12No. dwellings, boundary treatments, landscaping and associated infrastructure	Bettws	<p>HRIH requested the inclusion of a Section 106 Agreement to the recommendation to grant with conditions.</p> <p>HRIH reported the content of an email from Mrs Taylor who had registered to speak objecting to the proposal due to her husband's illness so was unable to attend. The Chair agreed to this on an exceptional basis.</p> <p>HRIH also reported a proposed addition of a condition restricting the insertion of front facing windows in the two storey bays of plots 8-11.</p> <p>Ms C Ducroq, the Agent acting on behalf of the Applicant spoke in support of the proposal.</p>	Granted with conditions including a condition restricting the insertion of front facing windows in the two storey bays of plots 8-11, and a 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.

16/0620	179 Risca Road  Rear extension to bungalow	Allt-yr-yn	<i>(Councillor Mudd joined the meeting for this and the following application)</i>  Councillors Ferris and Fouweather, Allt-yr-yn Ward Members spoke on the application.  Members expressed concern regarding the proposed first floor glazed apex window on south elevation.	Deferred and the Officers request the Applicant to reconsider the structure of the proposed first floor glazed apex window on south elevation and then submit the application to a future meeting.
16/0438	Site of Carcraft at Empress, Langland Way  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	Lliswerry	HRIH reported on late representations previously circulated.	Granted with conditions



# Report

## Planning Committee

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### Part 1

Date: 5 October 2016

Item No: 5

**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.

<b>Risk</b>	<b>Impact of risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect?</b>	<b>Who is responsible for dealing with the risk?</b>
Decisions challenged at appeal and costs awarded against the Council.	M	L	Ensure reasons for refusal can be defended at appeal.	Planning Committee
			Ensure planning conditions imposed meet the tests set out in Circular 016/2014.	Planning Committee
			Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Development Services Manager and Senior Legal Officer
			Ensure appeal timetables are adhered to.	Development Services Manager
Appeal lodged against non-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:** 16/0195      **Ward:** VICTORIA

**Type:** FULL (MAJOR)

**Expiry Date:** 14-OCT-2016

**Applicant:** DERWEN CYMRU

**Site:** ST MATHEWS CHURCH, CHURCH ROAD, NEWPORT

**Proposal:** DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF 14NO. SELF-CONTAINED APARTMENTS AND ASSOCIATED PARKING

**Recommendation: Granted with Conditions subject to Section 106 Legal Agreement**

### **1. INTRODUCTION**

- 1.1 This application seeks consent for the demolition of an existing church building and construction of 14no self-contained apartments and associated parking. The site is located near to the junction of Hereford Street and Church Road in Maindee. The existing church is no longer open for worship and the applicant advises that it has fallen into disrepair.
- 1.2 Whilst attractive, the existing church building is not considered worthy of protection and it is not within a Conservation Area.
- 1.3 The site is within the settlement boundary in a predominantly residential area and the redevelopment of the site for residential accommodation is acceptable in principle.

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

None.

### **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.

### 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 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 note the information provided in the FCA states in the predicted 0.5% (1 in 200 year) plus climate change event the flood levels are 8.26m AOD. We note that the proposed finished floor levels for the development will be set at 8.3m AOD, and is therefore A1.14 compliant. We advise that a condition to set the finished floor levels is included on any permission your authority is minded to grant.
- 4.2 NATURAL RESOURCES WALES (EUROPEAN PROTECTED SPECIES): Note that the bat report submitted in support of the above application has identified that bats were not using the application site. We therefore have no comment regarding bats for the application as submitted.
- 4.3 WALES AND WEST UTILITIES: Provide details of apparatus in the area.
- 4.4 NEWPORT ACCESS GROUP: No response.
- 4.5 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): Crime statistics for the area show that there have been 40 residential burglaries and a total of 619 crimes including vehicle crime, theft, and anti-social behaviour from March 2015 until February 2016. These levels are not extremely high but consideration to designing out crime is essential for a scheme to be less attractive to the casual criminal or potential intruder. It is essential that all boundaries and perimeters conform to the Secured by Design guidelines, in order to achieve Secured by Design accreditation.
- 4.6 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The building is of historic importance. Therefore in order to preserve this structure by record we strongly recommend that a survey is made prior to work commencing. To ensure that work is carried out in a suitable manner, we therefore suggest that a condition requiring a record of analysis is imposed.
- ## 5. **INTERNAL COUNCIL ADVICE**
- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The site currently consists of a place of worship with no off street parking availability. When taking into consideration the proposed use of the flats for over 55's and the parking demand associated with the existing use, the proposed level of parking is considered acceptable. Suitable drainage must be employed to prevent surface water run-off onto the adopted highway. Should planning approval be granted then a CEMP must be submitted for approval and include such details as wheel wash facilities, dust suppression and contractor parking/compound.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): Does not object to the application.

- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (TREES): Offers no objections subject to conditions to protect the trees.
- 5.4 HEAD OF LAW AND REGULATION (POLLUTION): No objection is offered. A condition should be imposed requiring details of dust mitigation during demolition.
- 5.5 HOUSING AND COMMUNITY REGENERATION MANAGER (AFFORDABLE HOUSING): The Housing Department fully supports the application for the provision of Over 55's accommodation in this location. Housing need in the Victoria and adjacent St Julian's ward is significant for this type of accommodation. Facilities in the area are extremely good, with shops, doctors, dentists etc. available in a relatively level access location. The properties will all be affordable, allocated through the Common Housing Register. The properties will need to achieve Welsh Government standards in order to obtain the relevant grant funding and will therefore be compliant with Supplementary Planning Guidance in Newport.
- 5.6 PLANNING CONTRIBUTIONS MANAGER: The proposed properties address a clearly identified affordable housing need for this area of the City and will be offered on a neutral tenure basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register will and attain the appropriate Welsh Government standards. The applicant will need to enter into a Legal Agreement to ensure the dwellings are not for sale on the open market.
- 6. REPRESENTATIONS**
- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (116 properties), a site notice displayed and a press notice published in South Wales Argus. 1no response received asking who is to be housed in the proposed development.
- 6.2 MOHAMMAD ASGHAR AM: Advises that he is deeply concerned about the proposals. Locals have raised concerns about the amount of annoyance, disturbance and problems this will create for parking. The constituency Office needs to be accessible to everyone and the staff already have a tough time trying to find parking on a good day outside. With a construction site this will only get worse.  
Questions how long the works will take and where the parking will be for the residents.  
We do not have that many churches in Newport and it is a nicer sight than a block of flats.  
A Church or youth club for local residents would have been preferable to a block of flats.  
A new block of flats with no adequate parking will add more problems for those people who already live in the area.
- 7. ASSESSMENT**
- 7.1 The proposed apartment building would occupy a similar footprint to the existing church near to the northern and eastern boundaries of the site. The proportions of the building would vary between two and three storeys but the overall massing is similar to the existing church with the ridge height of both buildings being around 19m. The existing church building is very attractive and provides uplift to the visual amenity of the area. As such it is important that the proposed apartment building is of a high quality design. Whilst the proposed building would have a contemporary design, regard has been had to the church with prominent gable features incorporated into the elevations of the building to Church Road and the private garden elevation to the south. The building would have a large roof expanse reminiscent of the form of the church, with the eaves of the building at a similar height to the neighbouring properties. The arrangement of the apartments would include 3no two bed apartments and 3no one bed apartments at ground floor, this layout would be repeated at first floor and 1no one bed apartment and 1no 2bed apartment is proposed at third floor. All of the apartments would have balconies which are discreetly accommodated within the gables and roof overhangs.
- 7.2 The proposed pallet of materials would comprise dark grey, slim profile concrete roof tiles and a mixture of cement cladding panels in a blue/grey colour, staffordshire blue clay facing bricks and white render for the elevations. The predominant finish of the properties in the

vicinity is spar render with the existing church building providing welcomed relief from this with dark coloured stone elevations and slate roof. It is considered that the proposed materials are of a high quality and would provide contrast within the street scene which would be visually beneficial to the amenity of the area.

### 7.3 **Housing need**

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 significant short-fall in the area and the proposals would help address the housing need within the local area.

7.4 The Housing Manager advises that are currently 362 applications for either single people or couples over the age of 55 years specifically requesting the Maindee area and at present this site is the only opportunity to address this need in the area.

7.5 The provision of affordable accommodation to address the shortfall in the locality is considered to be a significant merit of the proposals and should be given considerable weight in the determination of the application.

### 7.6 **Amenity**

The proposed apartments would provide a good standard of amenity for future occupants with internal room sizes exceeding the requirements of the Council's guidance and access to outdoor amenity space.

7.7 In terms of the relationship between the proposed building and existing properties, the distances between the two are generally very good with the apartment building occupying a similar position to the existing church and having a similar mass. There would be a distance of over 18m between the closest part of the Church Road elevation of the building and the properties opposite (18 and 19 Church Road). Whilst the ground floors of the properties opposite are in commercial use, there is an extant consent for flats at first floor of no.18. A distance of 21m is generally considered acceptable between windows of residential properties that face one and other and the development would fall short of this. However, the area is characterised by terrace style properties with immediately frontage to the road. As such separation distances are generally relaxed and the distance between the front elevation of no.18 and the existing property immediately adjacent to the application site is just 16m. On balance, the relationship between the proposed building and no. 18 is considered to be acceptable.

### 7.8 **Highways**

The scheme would include 8no parking spaces to the south-west of the site accessed via a new vehicle access from Hereford Street. The existing use and associated parking demand must be borne in mind when assessing the parking requirements. There is currently no parking provision at the site and so the proposed parking provision can be viewed as a merit of the scheme.

7.9 The site is located within close proximity to shops, services and transport links and as such future occupants of the apartments will not necessarily be reliant on private care ownership.

7.10 The Head of Streetscene and City Services (Highways) confirms no objections are offered.

7.11 Whilst it is inevitable that there will be some disturbance to local residents and businesses in the area as a result of the demolition and construction of the proposed apartments, this will be for a temporary period only and the Council can seek to limit this by imposing a Construction Management Plan condition requiring such details as contractor parking, dust suppression etc to be submitted for approval.

## 7.12 **Flooding**

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). NRW 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.

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

TAN 15 set 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 key points of the TAN are:

- 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;
- Residential development is defined as 'highly vulnerable development' which is 'development where the ability of occupants to decide on whether they wish to accept the risks to life and property associated with flooding, or be able to manage the consequences of such a risk, is limited'.
- The TAN states 'it would certainly not be sensible for people to live in areas subject to flooding where timely flood warnings cannot be provided and where safe access/egress cannot be achieved'.
- There should be minimal risk to life, disruption and damage to property.

## 7.14 **Summary of NRW consultation response**

NRW refer to the information provided in the FCA which states in the predicted 0.5% (1 in 200 year) plus climate change event the flood levels are 8.26m AOD. They note that the proposed finished floor levels for the development will be set at 8.3m AOD, and is therefore A1.14 complaint. NRW advises that a condition to set the finished floor levels is included on any permission the authority is minded to grant.

7.15 NRW notes that during the 0.1% (1 in 1000 year) plus climate change event the flood levels are 9.41m AOD. This would result in a depth of 1.11m which is over the tolerable limits as set out in A1.15 of TAN 15.

## 7.16 **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.

7.17 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.

7.18 **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**

7.20 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.

7.21 **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.*

The development would accord with this.

7.22 **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.

7.23 ***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.

7.24 ***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 are proposed as part of the development.

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

The applicant is aware of the flooding risks and consequences. The proposed apartments would be 100% affordable and would be required to remain so by Legal Agreement. As affordable units with a social landlord, there is a greater element of management than there

would likely be if the apartments were for the private market. The applicant advises that they will prepare and evacuate residents and will produce a strategy to implement in the event of flooding.

7.26 ***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.

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

During a 1 in 200 year flood event flood depths relating to the access/egress route would exceed the tolerable limits in the TAN ranging between 0.5-0.9m. Velocities and speed of inundation would also be exceeded at 0.48m/s although still relatively low due to the distance of the site from the source of flooding.

7.28 During a 1 in 1000 year event these depths would increase to 1.6-2m. Velocity of flood waters during a 1 in a 1000 year event would be similar to the 1 in 200 year event at 0.49m/s.

7.29 The evacuation routes are predicted to remain flooded for approximately 6 hours.

Evacuation routes are not shown to be operational in either event and test 6 is therefore failed.

7.30 ***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.

7.31 A Flood Emergency Management Arrangement document has not been submitted although the applicant states they intend to produce one.

7.32 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.

7.33 ***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 building has been designed to be flood free during a 1 in 200 year event. Whilst the building is predicted to experience flooding in an extreme flood event the rate of inundation would be relatively slow due to the distance of the site from the source of flooding and it is less likely that structural damage to the building would occur.

7.34 Occupants of the ground floor apartments would not be able to move goods/possessions to upper floors.

7.35 **Test 10 - No flooding elsewhere.**

NRW do not object to the development on this basis.

7.36 **Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.14) 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 advise that based upon the proposed finished floor levels of 8.3m AOD, the proposed apartments would remain flood free during the 0.5% (1 in 200 year) flood event over the lifetime of development on the site plus climate change. NRW therefore do not object to the application as submitted provided an appropriately worded condition related to finished floor levels is placed on any planning permission.

7.37 **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 600mm 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 0.15m/second in properties and the maximum rate of rise of floodwater would not exceed 0.1m/hour.**

The flood depths for the extreme event are predicted to be around 9.41m AOD. With the floor levels set no lower than 8.3mAOD the properties would flood to around 1.1m and external parts of the development are predicted to flood to around 1.4m. Whilst flood depths would exceed the tolerable limits in the TAN of 600mm, this is predicted to be for just 2 of the total 6 hours that the properties are predicted to flood. For the other 4 hours the depths would be no greater than 600mm.

7.38 Predicted flood depths for the surrounding roads and land areas exceed the TAN15 suggested tolerable conditions for the extreme flood event ranging from around 1.6-2.0m.

7.39 Mean predicted flood velocities (0.49m/s) exceed the tolerable conditions set out in TAN15.

7.40 **Conclusion – flooding**

When assessing whether the risks and consequences of flooding can be satisfactorily managed, the proposals do not satisfy all of the tests within TAN 15. Of particular relevance is the prediction that the building itself would flood above the tolerable limits of the TAN in an extreme event and there is an element of accommodation confined to the ground floor only with no access to upper floor accommodation.

7.41 Also, during both an extreme event and a 1 in 200 year event the evacuation routes would not be accessible for up to 6 hours.

7.42 However, due to the nature of the flood risk, which is tidal, there would likely be 2-3 days advance meteorological warning of such a catastrophic flood event occurring and the applicant advises that they intend to put procedures in place in the event of such an event occurring, although this cannot be relied upon.

7.43 TAN15 acknowledges that each site must be considered individually and a judgement taken in the context of the particular circumstances which could prevail at that site.

7.44 In response to the proposals and in particular the issue of flood risk, the Housing Manager advises that she is comfortable with the approach being taken by the Housing Association with regard to any potential flooding issues for this site. Derwen specialise in accommodation for the over 55's, and whilst this scheme will be very much independent living with residents not needing any particular care and support, Derwen have housing

management staff available to assist any of their residents and would therefore be able to make any necessary contingency arrangements if an extreme flood event were to be projected. Derwen also have a number of other schemes within the City where these residents could be accommodated in the short term should this occur. It is less likely that residents would have this type of support as part of a private housing scheme.

7.45 Given that the main risk is from an extreme event predicted to occur once in every 1000 years and the significant demand for affordable accommodation in the area, on balance in this instance it is considered that the proposals are acceptable.

7.46 ***Ecology & Trees***

There are protected trees around the edge of the site. The trees are of significant benefit to the visual amenity of the area. The layout of the scheme has due regard to the trees and allows for suitable distances between the building and the trees. Subject to conditions to safeguard the trees during demolition and construction the Council's Tree officer offers no objection to the proposals.

7.47 Surveys were undertaken in order to establish whether bats are using the building. No bats were found entering or leaving the building. In light of this it the Ecology officer offers no objections to the application.

7.48 ***Financial Contributions***

The proposed housing would be 100% affordable and as such financial no contributions are triggered. The proposed properties address a clearly identified affordable housing need for this area of the City and will be offered on a neutral tenure basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register and attain the appropriate Welsh Government standards. The applicant will need to enter into a Legal Agreement to ensure the scheme is developed out as affordable. The applicant has confirmed their agreement to this.

7.49 ***Other Matters***

Glamorgan Archaeological Trust advise that they consider the church to have historical importance. The Trust notes that St. Matthews Church was built in the early English style in 1891-2 to the designs of local architects. A review of historic Ordnance Survey mapping of the area suggests that no cemetery was associated with the Church, and so it is unlikely that human remains will be encountered during the course of the development. As a result GGAT do not have any objections to the granting of the application on archaeological grounds. However, it is GGAT's opinion that the building is of historic importance, therefore in order to preserve this structure by record they strongly recommend that a survey is made prior to work commencing. To ensure that work is carried out in a suitable manner, they therefore suggest that a condition is imposed requiring a historical record to be submitted.

**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, for which it has been demonstrated there is considerable demand.

9.2 The layout and design of the development is considered to be good and the proposals would not result in detrimental impact to neighbouring occupants.

9.3 Whilst the development does not comply with several of the tests within TAN15, given that the main risk is from an extreme event predicted to occur once in every 1000 years and the significant demand for affordable accommodation in the area, on balance in this instance it is considered that the merits of the proposals outweigh the flood risk matters.

9.4 It is therefore recommended that the application is granted subject to the following conditions and subject to Section 106 Legal Agreement.

**10. RECOMMENDATION**

GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT

01 The development shall be implemented in accordance with the following plans and documents: (04)302 Revision C, (04)203 Revision C, (04)202 Revision C, (04)201 Revision C, (04)101 Revision G, (04)301 Revision B, (04)302 Revision C, (04)303 Revision C, (04)304 Revision D.

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 revised plan emailed 1<sup>st</sup> August 2016 (Campbell Lammie - drawing numbered 1956(04)101F). 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. All weather notices shall be erected on Heras fencing, 1 per 10 panels, stating 'CONSTRUCTION EXCUSION 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 of the alteration or temporary removal of any Barrier Fencing;  
(c) Oversee working within any Root Protection Area;  
(d) Reporting to the Local Planning Authority;  
(e) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Councils Tree Officer.  
Reason: To protect important landscape features within the site.

05 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.

06 No development, shall commence until details and plans showing the finished slab level of the building(s) hereby aproved, together with cross sections through the site, have been submitted to and approved in writing by the Local Planning Authority. The finished floor levels of the buildings shall be set no lower than 8.3m AOD and open spaces shall be set no lower than 8m above AOD. The development shall be undertaken in accordance with the approved details.  
Reason: In the interests of visual amenities and to reduce the risk of flooding to the propose development and future occupants.

07 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.

08 No development, to include demolition, 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;
- noise mitigation measures;
- details of temporary lighting;
- details of contractor parking/compound;
- details of enclosure of working areas;

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

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

09 No works to which this consent relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: As the building is of architectural and cultural significance the specified records are required to mitigate impact.

10 Prior to the commencement of development, full details of the proposed boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be constructed in accordance with the approved details prior to the first occupation of the associated apartment and retained in that state thereafter.

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

11 Prior to the commencement of development a detailed landscaping scheme, showing both hard and soft landscaping proposals, shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be carried out in accordance with the approved drawings not later than the expiry of the next planting season following commencement of the development, or within such other time as may be approved with the Local Planning Authority. The landscaped areas shall be subsequently maintained to ensure establishment of the approved scheme, including watering, weeding and the replacement of any plants, or areas of seeding or turfing comprised in the approved landscaping plans, which fail within a period up to 5 years from the completion of the development.

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

12 Prior to the commencement of development full details of the bin store shall be submitted to to and approved in writing by the Local Planning Authority. The bin store shall be constructed in accordance with the approved details prior to the first occupation of the associated apartments and retained in that state thereafter.

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

### ***Pre –occupation conditions***

13 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.

### ***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 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 The applicant is advised that if works to the building and in particular the roof are delayed for over a year then further bat surveys may be required and ecological advice must be sought.

05 The archaeological work must be undertaken to the Chartered Institute for Archaeologists (CIfA), "Standard and Guidance for Building Recording" ([www.archaeologists.net/codes/ifa](http://www.archaeologists.net/codes/ifa)) and it is recommended that it is carried out either by a CIfA Registered Organisation ([www.archaeologists.net/ro](http://www.archaeologists.net/ro)) or an accredited Member.

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## **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 The application was deferred from last Committee to provide the applicant with the opportunity to amend the design of the first floor glazed apex on the south elevation. The applicant has provided an enlarged gable detail which indicates the extent of obscure glazing at first floor level
- 1.2 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.
- 1.3 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.
- 1.4 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 properies 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 edge of the platform is sited 10m from the rear boundary of the property. 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 EXCUSION 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 –

- (f) Supervision and monitoring of the approved Tree Protection Plan;
  - (g) Supervision and monitoring of the approved tree felling and pruning works;
  - (h) Supervision of the alteration or temporary removal of any Barrier Fencing;
  - (i) Oversee working within any Root Protection Area;
  - (j) Reporting to the Local Planning Authority;
  - (k) 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.

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## **APPLICATION DETAILS**

**No:** 16/0717      **Ward:** LLISWERRY  
**Type:** FULL  
**Expiry Date:** 07-SEP-2016  
**Applicant:** J. THOMAS  
**Site:** 38, DEWSTOW STREET, NEWPORT, NP19 0FT  
**Proposal:** CONVERSION TO HMO PROPERTY (4 BEDROOMS)

## **DECISION: GRANTED WITH CONDITIONS**

### **1. INTRODUCTION**

- 1.1 This application seeks permission to convert this three bedroom terraced house into a 4 bedroom house in multiple occupation. No external alterations are proposed and there is no capacity to provide any off-street parking.
- 1.2 The proposal will result in the conversion of a ground floor reception room into an additional bedroom whilst retaining a shared kitchen, lounge and bathroom.
- 1.3 On 25 February 2016 a new use class (C4) for houses in multiple occupation was introduced to the Town and Country Planning (Use Classes) Order 1987 through the Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2016 to bring the definition of a HMO in line with that under the Housing Act 2004. In broad terms, a C4 use occurs where tenanted living accommodation is occupied by up to 6 people, who are not related and who share one or more basic amenities, as their only or main residence. Prior to this recent change, the proposal may have been considered as a single dwelling house so long as the unrelated occupants formed a 'single household' akin to a family grouping.
- 1.4 The main considerations in this application are the impact of the proposal on parking demand and whether the proposal will harm the character of the area and amenity of neighbouring occupiers.

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

- 2.1 None.

### **3. POLICY CONTEXT**

- 3.1 Policy GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) states that development will be permitted where there will be no significant adverse effect on amenity and provides adequate amenity for future occupants.
- 3.2 Policy H8 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) states that applications to convert buildings within the defined settlement boundary into HMOs will only be permitted if:
  - i) the scale and intensity of use does not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on-street parking problems;
  - ii) the proposal does not create an over concentration of HMOs in any one area of the city which would change the character of the neighbourhood or create an imbalance in the housing stock;
  - iii) adequate noise insulation is provided;
  - iv) adequate amenity for future occupiers.

#### **4. CONSULTATIONS**

4.1 NONE.

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

5.1 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): No objection.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The existing property requires 3 off street parking spaces. The proposed 4 bed HMO requires 4 off street parking spaces. Unless an additional off street parking space is provided, objects to the application.

5.3 HEAD OF REGENERATION, INVESTMENT AND HOUSING (HMO LICENSING): No objection. If it is intended for the dwelling to be converted into a House in Multiple Occupation under the Housing Act 2004, Part 2, where it will be occupied by more than two households, the most appropriate person (usually the landlord/owner of the property) should apply for a HMO licence.

In addition to HMO Licensing, private landlords are required by the Housing (Wales) Act 2014 to be registered. Also private landlords who undertake letting and management activities or their managing agents, will need to obtain a licence from Rent Smart Wales and undergo training.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: 4 neighbouring properties sharing a common boundary with the application site were consulted. No responses have been received.

6.2 COUNCILLORS MORRIS, RICHARDS, JEAVONS AND CRITCHLEY: Councillor Jeavons has asked that the application be heard at committee if officers are minded to recommend approval in order to consider the lack of parking provision.

#### **7. ASSESSMENT**

7.1 The Supplementary Planning Guidance on Houses in Multiple Occupation (adopted August 2015) seeks to avoid clusters of HMOs as they can alter the composition of a community and detract from local visual amenity, although the existing SPG is being reviewed in light of the introduction of the new C4 use class. It also states that the council will not support a planning application that would take the number of HMOs above 15% within defined areas, measured within a 50 metre radius of the application property. Records show that there are no other HMOs within 50m of the property and therefore it is not considered that the proposal would result in an over-concentration of HMO's in this area.

7.2 The scale of the 4 bedroom HMO is small and it is considered that this would not result in any adverse effect on the character of the area of amenity of neighbouring occupiers over and above the property being occupied as a 'single household'.

7.3 In this location, the parking requirement is equal to one parking space per bedroom. The change of use to a HMO and creation of an additional bedroom increases this requirement by one space. The Head of Streetscene and City Services has objected to the proposal on the grounds that it increases parking demand. No off-street parking is available and there is no potential to provide any. The residents of Dewstow Street, which is part of a one-way system, park on the highway and therefore an increase in on-street parking could have an adverse impact on residential amenity. In reality, owing to the nature of the use it is unlikely that the ratio of car ownership to bedrooms will be 1:1. Furthermore, the Supplementary Planning Guidance for Parking Standards (Adopted August 2015) states that if certain sustainability criteria are met then a reduction in requirement may be applied. In accordance with the SPG a total of 9 sustainability points are achievable, as outlined in the table below which allows the parking requirement to be reduced by 1 space.

<b>Sustainability criteria</b>	<b>Maximum walking distance</b>	<b>Sustainability points</b>
Supermarket (Morrisons)	800m	1
School (St Andrews School)	200m	3
Doctors (Rugby Surgery)	400m	2
Bus Stop (Bilston Street, Cromwell Road)	300m	3

7.4 Occupants will have access to the existing rear garden and will have use of internal shared spaces. No standards are set within the SPG in respect of room sizes but these are controlled by licensing standards. It is therefore considered that any future occupants will have a suitable level of amenity.

## **8. OTHER CONSIDERATIONS**

### **8.1 *Crime and Disorder Act 1998***

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

### **8.2 *Equality Act 2010***

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

## **9. CONCLUSION**

9.1 The proposal will not increase parking demand and will not have an adverse impact on the character of the area or amenities of neighbouring residents. It is therefore recommended that planning permission is granted subject to the following conditions.

## **10. DECISION**

### **GRANTED WITH CONDITIONS**

The development shall be implemented in accordance with the following plans and documents: Proposed Floor 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.

#### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Proposed Floor Plan, Existing Floor Plan, site location plan.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2 and H8 were relevant to the determination of this application.

03 The Supplementary Planning Guidance for Houses in Multiple Occupation (Adopted August 2015) and Parking Standards (Adopted August 2016) were relevant to the determination of this application.

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

05 If it is intended for the dwelling to be converted into a House in Multiple Occupation under the Housing Act 2004, Part 2, where it will be occupied by more than two households, the most appropriate person (usually the landlord/owner of the property) should apply to the Environmental Health Housing Team on 01633 656656 or [hmo@newport.gov.uk](mailto:hmo@newport.gov.uk) for a HMO licence. In addition to HMO Licensing, private landlords are required by the Housing (Wales) Act 2014 to be registered. Also private landlords who undertake letting and management activities or their managing agents, will need to obtain a licence from Rent Smart Wales and undergo training. For further information contact the Licensing Authority; Cardiff City Council, Rent Smart Wales, PO Box 1106, Cardiff CF11 1UA, Tel No: 03000 133344, website [www.rentsmartwales.gov.wales](http://www.rentsmartwales.gov.wales)

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## APPLICATION DETAILS

**No:** 16/0798      **Ward:** PILLGWENLLY

**Type:** FULL (MAJOR)

**Expiry Date:** 22-SEP-2016

**Applicant:** ISLAND STEEL (UK)LTD

**Site:** 1, NORTH DOCK ROAD, ALEXANDRA DOCKS, NEWPORT, NP20 2NP

**Proposal:** PROPOSED EXTENSION TO EXISTING PRODUCTION/PROCESSING FACILITY

**Recommendation:** GRANTED WITH CONDITIONS

### 1. INTRODUCTION

1.1 The application seeks consent to construct an extension to the northern elevation of an existing large steel processing unit, located on North Dock Road, which is within the dock complex controlled by the Port Authority.

The proposed extension would measure 62m wide, 18m deep and would have a mono-pitched roof, reaching maximum heights of 11.3m (eaves) and 13m (ridge). The proposed development covers an approximate area of 1116 sq.m.

### 2. RELEVANT SITE HISTORY

93/0958	Dismantling of Old Railway Vehicles	Granted with Conditions 29/10/1993
98/0288	Erection of Industrial Unit	Granted with Conditions 20/05/1998
98/1133	Erection of an Industrial Unit and Associated Office (revised scheme)	Granted with Conditions 11/12/1998
99/0596	Erection of an Industrial Unit and Associated Office (revised scheme)	Granted with Conditions 15/09/2000
04/1930	Erection of Extension to Factory	Granted with Conditions 06/05/2005
05/1300	Discharge of Condition 2 and 4 of Planning Permission 04/1930	Approved 08/12/2005
05/1320	Partial Discharge of Condition 1 of Planning Permission 04/1930	Approved 13/10/2005

### 3. POLICY CONTEXT

3.1 The following policies within the Newport Local Development Plan (NLDP) are considered to be relevant to the determination of this planning application:

<b>SP1 Sustainability</b> favours proposals which make a positive contribution to sustainable development.
<b>SP8 Special Landscape Area</b> restricts development that may impact on the characteristics of the six designated Special Landscape Areas.
<b>SP17 Employment Land</b> allocates 172 hectares of employment land for the plan period.

<p><b>GP2 General Development Principles – General Amenity</b> 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.</p>
<p><b>GP4 General Development Principles – Highways and Accessibility</b> 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.</p>
<p><b>GP5 General Development Principles – Natural Environment</b> states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.</p>
<p><b>GP6 General Development Principles – Quality of Design</b> 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.</p>
<p><b>GP7 General Development Principles – Environmental Protection and Public Health</b> states that development will not be permitted which would cause or result in unacceptable harm to health.</p>
<p><b>CE9 Coastal Zone</b> restricts development within the area of the River Usk and Severn Estuary unless development is required to be on the coast to meet an exceptional need or it is demonstrated that the area itself is not at risk of flooding, erosion or land instability.</p>
<p><b>EM2 Newport Docks</b> protects the Docks and promotes any development that is complementary to and does not hinder the operational use of the Docks.</p>
<p><b>T2 Heavy Commercial Vehicle Movements</b> states that developments which generate heavy commercial vehicle movements will be favoured in locations which have access to a railway line, wharf or dock. Where this is not appropriate, locations accessible to strategic and principal routes will be favoured. Elsewhere, such development will be resisted.</p>
<p><b>T4 Parking</b> states that development will be expected to provide appropriate levels of parking.</p>

#### 4. CONSULTATIONS

##### 4.1 NATURAL RESOURCES WALES

No objections subject to a condition to control any unforeseen land contamination

##### WALES AND WEST UTILITIES

No objections subject to an advisory note

##### WELSH WATER

No objections to the proposal subject to advisory notes

#### 5. INTERNAL COUNCIL ADVICE

##### 5.1 HEAD OF STREETSCENE (HIGHWAYS)

No objections

##### HEAD OF LAW AND REGULATION (PUBLIC PROTECTION)

No objections



#### HEAD OF STREETSCENE (DRAINAGE)

No additional surface water run off shall be produced as a result of the extension, as the existing site is already hard paved, i.e. a car park. However, the applicant shall of course have to provide drainage to serve the building and connect to the existing drainage system. For your information, this is simple in principle. However, no details have been provided for this.

I observe from the applicant's email that a new car park is being proposed as part of this application. However, I can't see any details in this respect. Once again, this seems simple in principle. However, assurance needs to be provided to show that the existing drainage system referred to can cope with the surface water flows from the new car park, as well as the proposed extension.

#### HEAD OF STREETSCENE (ECOLOGY)

I have no comments regarding the application. I do not envisage any significant ecological implications regarding this application.

#### HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING POLICY)

No objections in principle to the proposal

### **6. REPRESENTATIONS**

#### **6.1 NEIGHBOURS:**

All properties within 50m with the application site were consulted (6 properties), a site notice displayed, and a press notice published in South Wales Argus. No responses were received.

**6.2 COUNCILLORS:** All ward members were consulted. No responses were received.

### **7. ASSESSMENT**

**7.1** The application is referred to Committee since the proposal would involve development exceeding 1000 sq.m. and, therefore, represents a major development.

**7.2** The site is located within the settlement boundary of Newport on a brownfield site within the Newport Docks land allocation. The expansion is for a steel processing industrial plant which falls under Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Policy EM2 protects the Newport Docks area for B1, B2 and B8 uses. The Policy supports development within the area where it can be demonstrated that the development is complementary to and does not hinder the operational use of the port. In this respect, it is considered that this proposed expansion of an existing steel processing unit would be complementary and its location is within an appropriate setting. Furthermore, the expansion would help Newport to create additional employment land which, according to the application forms, will bring 25 additional jobs. In this regard, Planning Policy Wales (Edition 8) is clear that Local Planning Authorities should adopt a positive and constructive approach to applications for economic development. This is reinforced within Technical Advice Note 23: Economic Development. Having regard to the above the proposal, in principle, is considered to satisfy Policies SP1, SP17 and EM2 of the NLDP.

**7.3** The context of the site is characterised by a number of large, industrial-type buildings with ad-hoc extensions, reflecting the evolving nature of a working dock. Despite the massing and large scale nature of the proposed extension, it would appear subordinate to the host building which itself approximately measures 135m x 43m.

**7.4** The design and appearance of the extension would reasonably integrate with the host building and be externally finished in matching materials and colours, namely profile metal cladding in grey and blue colours. The extension would simply contribute to the diversity of industrial-type buildings already present within the dock.

- 7.5 The proposed extension would occupy an area currently used for staff car parking and is relatively enclosed by mature conifer trees. Whilst the trees are likely to be removed in order to accommodate the development, thereby, increasing the visibility of the extension and its host from East Way Road, it would not be detrimental to the visual amenities of the area given the strong industrial character of the wider area. Furthermore, East Way Road is not fully accessible to the public since access into the dock complex is restricted and controlled by the Port Authority. Having regard to the above, it is considered that the proposed development would not have any significant adverse effect on the visual amenities of the area, thereby satisfying Policy GP6 of the NLDP.
- 7.6 Given the industrial nature of the area, there are no residential properties located in the immediate vicinity of the application site. As such, it is considered that the proposal would not generate any overriding residential amenity concerns, with particular regard to noise/disturbance, light, outlook, dominance and privacy. Natural Resources Wales and the Public Protection Department of the Council have no objections to the proposal. However, given the industrial nature of the area, in which it is possible that any unforeseen contamination is discovered during the development of the site, it is considered prudent to impose a condition on any consent issued, to control such an event and any remediation works. Subject to this condition, it is considered that the proposal satisfies Policies GP2 and GP7 of the NLDP.
- 7.7 Since the proposed extension would occupy an area currently used for staff car parking, new parking and access arrangements would be provided in an area currently covered with grass. The Head of Streetscene (Highways) has considered the scheme and has no objections to the proposal. It is, therefore, considered that the development would not have any significant adverse effect on highway/pedestrian safety and the proposal satisfies Policies GP4, T2 and T4 of the NLDP. It is, however, considered necessary to impose a condition for the new parking and access arrangements to be completed in permanent materials prior to the beneficial use of the proposed extension.
- 7.8 The site is located in the Coastal Zone, as defined by Policy CE9 of the NLDP. Having regard to the criteria of this policy, the docks is within the developed part of the coastal zone and is not within a flood risk area or would exacerbate risks from erosion or land instability. Furthermore, this is an extension to an existing facility in a working dock, therefore a coastal location is required. In this respect, Natural Resources Wales have no objections to the proposal. Whilst the proposed extension would be constructed on an existing hard surface, thereby, having a limited impact on surface water drainage, a new car park would be created in areas which are currently soft landscaping. The Council's Drainage Officer have explained that further information is required concerning surface water drainage. A condition to control details of controlling the means of surface water discharge is, therefore, considered reasonable. The proposal, therefore, satisfies Policy CE9 of the NLDP.
- 7.9 The site is located outside, but within proximity to, the River Usk. The river is designated as a Special Landscape Area, a Site of Special Scientific Interest and a Special Area of Conservation. These represent a combination of local, national and European designations to conserve various land-use considerations, primarily for landscape, biodiversity and ecology purposes. Notwithstanding the above, separating the application site and the river is a large steel production facility (Braithwaites and Co, Neptune Works). This arrangement limits any significant impact of the proposed development on these sensitive designations. As such, the Council's Ecologist and Natural Resources Wales have no objections to the proposal. The development, therefore, satisfies Policies SP8 and GP5 of the NLDP.

## **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 application is recommended for approval because the development complies with Council policy and guidelines. The proposed development is complementary to and does not hinder the operational use of the port, and would encourage employment and economic development in a manner that would not adversely affect visual amenity, highway safety, ecology/biodiversity and drainage, nor so significantly harms neighbours's amenities as to warrant refusal.

## 10. **RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents:

6540/02 - Proposed Plans and Sections

6540/03 Rev. A - Existing and Proposed Elevations

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

02 Any unforeseen contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. An appropriate ground

investigation and/or remediation strategy shall be submitted to and agreed in writing by the Local Planning Authority, and the agreed strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Validation Report, confirming the remediation has been carried out in accordance with the agreed details, shall be submitted to and agreed in writing by the Local Planning Authority.

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

03 The office/visitor parking area and associated access arrangements, as shown on drawing no. 6540/02 - Proposed Plans and Sections, shall be completed in permanent materials prior to the beneficial occupation of the extension hereby approved.

Reason: In the interests of highway safety.

04 Notwithstanding the submitted plans, no development shall commence until a scheme for the comprehensive and integrated drainage of the site, showing how surface water drainage will be dealt with, has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed scheme and implemented in full prior to the beneficial occupation of development hereby approved.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that flood risk is not increased

#### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: 6540/02 - Proposed Plans and Sections, 6540/03 Rev. A - Existing and Proposed Elevations

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP8, SP17, GP2, GP4, GP5, GP6, GP7, CE9, EM2, T2 and T4 were relevant to the determination of this application.

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

04 The proposed development is crossed by a 12 inch distribution watermain. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access this apparatus at all times. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

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## APPLICATION DETAILS

No: 15/0432 Ward: LLISWERRY  
Type: FULL  
Expiry Date: 11-JUN-2015  
Applicant: A LLOYD, HARRAND HOMES LTD.  
Site: BLACK HORSE INN, 56, SOMERTON ROAD, NEWPORT, NP19 0JE  
Proposal: ERECTION OF 8NO. DWELLINGS WITH OFF ROAD PARKING AND ASSOCIATED WORKS

Recommendation: Refused

### 1. INTRODUCTION

- 1.1 This application seeks consent for the erection of 8no dwellings with off-road parking and associated works at the former Black Horse Inn site, Somerton Road.
- 1.2 The site is currently vacant with the public house having been demolished in 2014.
- 1.3 The site is located within the urban boundary and constituting previously developed land, the development of the site for residential accommodation is acceptable in principle. The site has been subject to Section 215 Unsightly Land Enforcement Notices in the past and local Councillors have reported that the site attracts anti-social behaviour.
- 1.4 The site is prominently sited on Somerton Road which is a busy route through this part of the city. As such it is important that a high standard of design is achieved.

### 2. RELEVANT SITE HISTORY

08/0900	Erection of two single storey class a1 retail units	Refused
10/0926	Installation of new shopfront and minor external alterations	Refused
14/0251	Prior approval for demolition of the former public house	Prior Approval Required

### 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.

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

### 3.2 **Supplementary Planning Guidance Adopted August 2015**

Planning Obligations

New Dwellings

Parking Standards

## 4. **CONSULTATIONS**

4.1 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): The Gwent Police Designing Out Crime Unit have no objections to this application. This is a compact site that could benefit from being designed and constructed to the standards found within Secured by Design (SBD) and we would welcome the opportunity to assist in achieving this standard.

4.2 NATURAL RESOURCES WALES (FLOODING): We have reviewed the updated Flood Consequences Assessment and have significant concerns with the proposed development as submitted. However, we consider it likely that the concerns can be addressed and we would not object provided conditions relating to finished floor levels and incorporation of flood resilience measures within the development are imposed on any planning permission.

4.3 DWR CYMRU - WELSH WATER: Drainage conditions are requested. Details of apparatus are provided.

4.4 NEWPORT ACCESS GROUP: No response.

4.5 WALES & WEST UTILITIES: Provide details of apparatus.

## 5. **INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Offers no objections to the proposals.

5.2 HEAD OF LAW AND REGULATION (NOISE): Due to the location of the premises on a busy junction a scheme of sound insulation must be submitted to include glazing and mechanical ventilation where required to ensure the following internal noise levels are achieved 40dB(A) leq 16 hours (day) and 35dB(A) leq 8 hours (night) and to ensure that the noise level in outdoor living areas exposed to external road traffic noise shall not exceed 55 dBA Leq 16 hour [free field]. In addition, a suitable condition should be attached to any permission granted requiring a Construction and Environmental Management Plan to be submitted prior to commencement of development. The CEMP must contain proposals for noise and dust mitigation during construction.

5.4 PLANNING CONTRIBUTIONS MANAGER: A viability appraisal has been undertaken. It has concluded that the level of contributions required would jeopardise the proposal's economic

viability and subsequent delivery. Taking into account the negative economic viability of the scheme, it is concluded that no S106 planning obligations will be required.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties with a common boundary and opposite the site were consulted (16no properties). No response received.
- 6.2 COUNCILLORS: Local Councillors confirm their support for the proposals and are keen to see the redevelopment of the site as proposed. Councillor Jeavons requests that the application be decided by Planning Committee as it is considered that the design issues do not outweigh the need for the development of the site in light of the anti-social behaviour around the site/area.

## **7. ASSESSMENT**

- 7.1 The main considerations of the application are as follows:

### **7.2 *Design***

The layout of the scheme would comprise a terrace fronting Somerton Road in keeping with the layout of the predominantly traditional terrace style properties in the surrounding area.

2no four bedroom, two storey properties and 4no three bed, three storey properties are proposed. The properties would be set back from the edge of the footway with small front gardens within which bin storage would be provided. 1.8m close boarded fencing is proposed along the front boundary of the site adjacent to Somerton Road. Vehicular access would be provided from Lloyd Street to parking provision to the rear of the properties. Dormer windows are proposed within the front roof slope of the three storey houses.

- 7.3 The terrace would turn the corner of Somerton Road/ Lloyd Street and within the corner unit 2no one bed flats would be provided – one at ground floor and one at first floor.
- 7.4 There is an existing bus shelter to the front of the site which is to be retained. The site would be raised by approximately half a metre in order to ensure a minimum floor level of 7.71m AOD is achieved in the interests of flooding.
- 7.5 Properties in the area are two storeys in height and there is a notable absence of dormer style windows in the vicinity. The introduction of three storey dormer properties with gable ended roofs is considered to be at odds with character of the area, to the detriment of the visual amenity of the street scene. Furthermore, the design of the dormer windows has no regard to the host dwellings and the variation in the heights and pitches of the proposed dwellings results in an awkward and clumsy design.
- 7.6 It is considered that the proposed development would have a drab and unappealing appearance with little attention paid to the design of the façade of the development. An attempt has been made to provide some variation to the façade of the properties by use of materials. There are a variety of materials in the vicinity and whilst there is no principle objection to the use of both brick and render, it is considered that the proposed arrangement of the materials only serves to further complicate the appearance of the scheme and does little to uplift its appearance. The rear elevation of the development is equally unappealing. However, given that this elevation would not be highly visible, on balance it is considered to be acceptable.
- 7.7 A further element of the scheme which is of particular concern in terms of design is the porch serving the corner unit which protrudes awkwardly and appears to have little regard to the design of the scheme. Furthermore, the proposed 1.8m close boarded fence along the frontage of the site is entirely out of keeping with character of the area and is not acceptable on such a prominent road.
- 7.8 Throughout the course of the application there has been much focus on the design of the scheme as officers raised concerns. Some revisions have been made, mainly relating to the

simplification of the façade of the properties. However, it is not considered that the changes are sufficient to address officers concerns and fears that would have a detrimental impact on the street scene and the development remains unacceptable in terms of design.

7.9 The regeneration benefits of the scheme are duly appreciated and officers support the development of the site in principle. However, given the prominent nature of the site and the pleasantness of surrounding properties, it is important that the design of the scheme reflects this. For the reasons outlined above, this is not considered to be the case.

#### 7.10 **Amenity**

Distances between the proposed houses and existing neighbouring properties are good with window to window relationships exceeding 21m between the development and the properties opposite the site. There would be a distance of approximately 14m between first floor windows in unit 7b on the corner of the development and no. 58 Somerton Road which sits on the junction with Lloyd Street. It is unclear whether this unit is in residential occupancy. In any case, the windows in the nearest part of the development are at an oblique angle and this relationship is considered to be acceptable.

7.11 To the rear the site is bordered by the side elevation of no. 1 Lloyd Street and the side garden boundary. The distance between the rear elevation of the nearest property and the side boundary of the garden would be at least 16m. There are no windows in this elevation and the nearest window would be set 16m off the side boundary of this property. This relationship is considered to be acceptable.

7.12 The proposed dwellings would provide a good standard of living accommodation for future occupiers. Units 1-6 would be served by rear gardens and whilst they are not particularly large, it is considered that they would provide a reasonable level of amenity and are in keeping with the terrace style properties. Whilst the occupants of units 7a and 7b would not have access to a private garden area, this is not unusual for an apartment and they occupants would have outdoor storage space for bin and parking provision.

7.13 It is not considered that the raising of the site for flood purposes would result in any unacceptable visual implications or impact to neighbours.

#### 7.14 **Highways**

In response to the proposals the Head of Streetscene and City Services (Highways) initially raised concerns relating to visibility of the access onto Lloyd Street and an inadequate level of parking provision. A total of 20no parking spaces are required in accordance with the Council's Parking Standards. However, the applicant subsequently submitted a sustainability assessment in an attempt to justify a reduction in the parking requirement. The sustainability assessment demonstrated that the site is within a highly sustainable location, within close proximity to a bus stop, shops and services. Subsequently the Head of Streetscene (Highways) confirmed 1 space per unit is acceptable. A plan has also been provided demonstrating that adequate visibility splays can be achieved.

The Head of Streetscene and City Services confirms no further objections are offered to the proposed development.

#### 7.15 **Noise**

The Public Protection Manager (Environmental Health) advises that due to the location of the site on a busy junction, a scheme of sound insulation must be submitted to include glazing and mechanical ventilation where required, to ensure that internal and external noise levels are acceptable. A Construction Management Plan should also be submitted for approval outlining measures to deal with dust suppression and noise mitigation.



7.16 Subject to the above, no objection is offered.

#### 7.17 ***Flooding***

The application site lies 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). NRW 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.

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

TAN 15 set 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 key points of the TAN are:

- 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;
- Residential development is defined as 'highly vulnerable development' which is 'development where the ability of occupants to decide on whether they wish to accept the risks to life and property associated with flooding, or be able to manage the consequences of such a risk, is limited'.
- The TAN states 'it would certainly not be sensible for people to live in areas subject to flooding where timely flood warnings cannot be provided and where safe access/egress cannot be achieved'.
- There should be minimal risk to life, disruption and damage to property.

#### 7.20 **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 advise that they have significant concerns with the development as submitted. The FCA states it is proposed to set the finished floor levels of the houses at 7.71m AOD in order to protect the properties from flooding events. Based upon the proposed finished floor levels of 7.71m AOD, the proposed dwellings would remain flood free during the 0.5% (1 in 200 year) flood event.

7.21 NRW also note that during the 0.1% (1 in 1000 year) plus climate change event the flood levels are 8.85m AOD. Given the proposed finished floor levels the site would flood to 1.14m which is over the tolerable limits set out in A1.15 of TAN 15.

7.22 However, subject to a condition requiring finished floor levels to be no lower than 7.71m AOD the development is shown to be compliant with A1.14 and NRW therefore do not object to the application as submitted. NRW also request that a condition requiring the incorporation of flood resilience and resistance measures as set out in the FCA.

#### 7.23 ***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:

- v) 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
  - vi) 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,
- vii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and
  - viii) 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.

7.24 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.

7.25 **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**

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.

7.26 **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.*

The development would accord with this.

7.27 **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.

7.28 ***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.

7.29 ***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.***

Flood mitigation measures are proposed as part of the development. NRW note this and request that a condition is imposed requiring that the flood mitigation measures must be incorporated.

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

The developer can be notified of this by way of informative should planning permission be given.

7.31 ***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.

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

The flood depths relating to the access/egress route would vary between 300mm to 600mm during a 1 in 200 year flood event. Velocities and speed of inundation would also be low with the route having a low hazard rating by NRW. During a 1 in 1000 year event these depths would be exceeded although the rate of inundation would remain slow due to the distance of the site from the source of flooding.

7.33 ***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.

A Flood Emergency Management Arrangement document has not been submitted.

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.

7.34 ***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.***

As the rate of inundation would be slow due to the distance of the site from the source of flooding, it is unlikely that structural damage would occur and the occupier would have time to move goods to higher levels. However, in the event of flooding the occupants of the ground floor apartment would not have access to first floor accommodation.

7.35 ***Test 10 - No flooding elsewhere.***

NRW do not object to the development on this basis.

7.36 ***Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.15) 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 advise that based upon the proposed finished floor levels of 7.71m AOD, the proposed dwellings would remain flood free during the 0.5% (1 in 200 year) flood event over the lifetime of development on the site plus climate change. NRW therefore do not object to the application as

submitted provided an appropriately worded condition related to finished floor levels is placed on any planning permission.

- 7.37 **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 600mm 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 0.15m/second in properties and the maximum rate of rise of floodwater would not exceed 0.1m/hour.**

The flood levels and speeds for the period of 2016 to 2091 (75 years) for a 1 in 1000 year event are lower than the 1 in 200 year event and are compliant. However, for the period of 2091-2011 1 in 1000 year event plus climate change (100 year lifetime of development) there is a significant increase in the increments of sea level rise and climate change and it is predicted that flood depths would be exceeded. Whilst flood depths would be exceeded, due to the distance of the site from the source of flooding, the rate of inundation would be slow.

- 7.38 In summary, the building would be flood free during a 1 in 200 year event and NRW offer no objection. The building would not be flood free during an extreme 1 in 1000 year event and is predicted to flood to a depth of approximately 1m. The velocity of flood waters along escape routes is low during any flood event due to the distance of the site from the source of flooding. However, whilst flood depths along escape routes are TAN15 compliant in a 1 in 200 year event, they exceed tolerable limits in an extreme 1 in 1000 year event. One of the units is confined to the ground floor with no access to flood free first floor accommodation in the event of a 1 in 1000 year event.
- 7.39 When assessing whether the risks and consequences of flooding can be satisfactorily managed, the proposals do not satisfy all of the tests within TAN 15.
- 7.40 TAN 15 acknowledges that each site must therefore be considered individually and a judgement taken in the context of the particular circumstances which could prevail at that site.
- 7.41 Given the regeneration merits of the proposals, the scheme does have merit and weight should be attributed to this in the decision making process and balanced against the flood risk together with other considerations. Given the significant design concerns that officers have with the scheme, on balance in this instance it is considered that the merits of the proposals do not outweigh the flood risk associated with the development of the site.

#### 7.42 ***Financial Contributions***

The Council's Contributions Manager advises that the following financial obligations are triggered by the development:

#### 7.43 **Education:**

##### Primary

The development falls within the catchment of St Andrew's Infants and Junior School (surplus of 54 places, as at January 2015). Lliswerry Primary School (surplus of 41 places, as at January 2015) also falls within a 2 mile walking distance radius of the development. Taking into account the proposed scale, mix and type of development and current surplus school capacity, no primary school contribution would be requested.

##### Secondary

The development falls within the catchment area of Lliswerry High School (surplus of 135 pupil places, as at January 2015). Taking into account the proposed scale, mix and type of development, no secondary school contribution would be requested.

#### 7.44 **Leisure:**

There is a deficit of Informal and Equipped provision within the Lliswerry Ward.

Based upon the scale, mix and type of dwellings proposed, as well as taking account of the deficit of leisure provision within the Lliswerry ward, a leisure contribution of £22,045 would normally be required for open space at Oliver Road.

#### 7.45 **Affordable Housing:**

In accordance with the adopted Affordable Housing Supplementary Planning Guidance (August 2015), commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Newport East (based upon 20% provision). Subject to economic viability, a commuted contribution of £67,842 would normally be required for affordable housing provision.

7.46 S106 planning obligations are normally required to either carry out works or contribute financially towards measures that mitigate the impact of the development i.e. to make an unacceptable proposal acceptable in land use planning terms. However, economic viability is an important material planning consideration on the potential scope and scale of planning obligations, especially when considering wider regeneration benefits and whether these issues outweigh the harm caused by the loss of S106 planning obligations.

#### 7.47 **Economic Viability**

An 'open book' viability appraisal was undertaken utilising the Council's Three Dragons Toolkit. It has concluded that the level of contributions required will jeopardise the proposal's economic viability and subsequent delivery. Taking into account the negative economic viability of the scheme, it is concluded that the planning contributions will not be requested.

### 8. **OTHER CONSIDERATIONS**

#### 8.1 ***Crime and Disorder Act 1998***

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

#### 8.2 ***Equality Act 2010***

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

### 9. **CONCLUSION**

9.1 Whilst the principle of residential development is considered to be acceptable and the redevelopment of this vacant site is welcomed, it is considered that the scheme is of a poor quality design and lacks sufficient regard to the character of the surrounding area.

9.2 The development does not comply with TAN15 in terms of access/egress and in the event of an extreme flood event. In view of significant design concerns, it is not considered that the benefits of the proposals outweigh the flood risks.

9.3 It is therefore recommended that the application is refused.

### 10. **RECOMMENDATION**

#### REFUSED

01 The proposed scheme is of poor quality design and lacks sufficient regard to the character of the surrounding area. The development would be detrimental to the visual amenity of the street scene and is contrary to Policy GP6 of the Newport Local Development Plan, 2011-2026 (Adopted January 2015).

02 The proposal will have a significant adverse effect upon interests of acknowledged importance, namely the health and safety of future residents and notably future occupiers of the ground floor apartment by reason of flood risk in an extreme flood risk event. This is contrary to Policy SP3 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and Technical Advice Note 15 (TAN 15): Development and Flood Risk.

#### *NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP4, GP6, GP7 and SP3 were relevant to the determination of this application.

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

## **APPLICATION DETAILS**

**No:** 15/0432                      **Ward:** **LLISWERRY**

**Type:** FULL (MINOR)

**Expiry Date:** 09 September 2016

**Applicant:** A. LLOYD, HARRAND HOMES LTD.

**Site:** SITE OF THE FORMER BLACK HORSE, 56 SOMERTON ROAD, LLISWERRY NP19 0JE

**Proposal:** **ERECTION OF 8NO. DWELLINGS WITH OFF ROAD PARKING AND ASSOCIATED WORKS**

### **1. LATE REPRESENTATIONS**

#### Applicant

- 1.1 This application is being reported to Planning Committee at the request of Councillor **Jeavons** (Llisbury Ward). Since the publication of the officer's report, a letter has been received from the applicant by email on the 03 October 2016. The letter primarily deals with the processing of the application and notes the applicant's frustration that the application has been recommended for refusal following a prolonged application process which involved the scheme being significantly amended to overcome design issues. A detailed chronology is also provided with the letter. The applicant requested that the letter and chronology be provided to the Committee Members. Democratic Administration has confirmed that this is not possible and that the issues raised should be dealt with through the normal late representations process.
- 1.2 The applicant points to the evolution of the scheme's design and notes that changes were made at the request of the planning section but notes that some requested changes were not made (in relation to the dormer windows) and other changes which have been made were not requested.
- 1.3 Concerns are raised in relation to the accuracy of the officer's report as follows:
- 1.3.1 Paragraph 7.2 of the Officer report:
- The Officer report refers to 2No. four bedroom two storey properties and 4No. three bed three storey properties. This should read 2No. four bedroom three storey properties and 4No. three bed two storey properties.
  - A 1.8m close boarded fence is not proposed for the front boundary of the site.
- 1.4 Other issues relate to the opinions expressed in the report.
- 1.4.1 Paragraph 7.5 of the Officer report:
- The terrace has gabled ends and these are criticised as untypical of the area. This concern was not raised during the application process.
  - The objection to the dormers is accepted as long-standing but the applicant considers them to be an appropriate design in this context.
  - The variation in roof heights has not previously been objected to and in the opinion of the applicant offers visual interest and acceptable design.
- 1.4.2 Paragraph 7.6 of the Officer report:
- The front façade is not drab and simplification of the design was requested by the Council. The criticism is unfair.
- 1.4.3 Paragraph 7.7 of the Officer report:

- The porch to the corner unit has not been previously criticised.
- A 1.8m fence is not proposed

#### 1.4.4 Paragraph 7.41 of the Officer report:

- Flooding is accepted as a material planning consideration of significant weight but it should not be linked to the design issue.
- A refusal based on flooding grounds would have implications for other redevelopment schemes in Lliswerry.

## 2. OFFICER RESPONSE TO LATE REPRESENTATIONS

- 2.1 Officers confirm that the proposal is for 2No. four bedroom three storey properties and 4No. three bed two storey properties.
- 2.2 The submitted drawings are ambiguous on the treatment of the front boundary since the notation used does not appear in the key to the drawing. The closest match to the used notation is that for a 1.8m close board fence. It is possible that the proposed boundary treatment is for a 1200mm stone wall with a 600mm metal fence upon it but this symbol from the key is not the one used in the drawing. In short the submitted drawings are unclear on this point and the Committee may wish to apply a condition requesting details of boundary treatments in the event it is minded to grant permission.
- 2.3 The majority of buildings in the vicinity of the site are hipped although examples of end gables can be seen in the locality generally on older Victorian era buildings. End gabling is not especially common around the site. The Officer report states *'the introduction of three storey dormer properties with gable ended roofs is considered to be at odds with character of the area'* given there are no other buildings of this type in the locality this appears to be a fair observation. It should be noted the Council has raised concerns over the appearance of the dormer windows from a very early stage in the application advising they be relocated to the rear elevation but the applicant has declined to do this on the basis they constitute good design. In terms of the variation in roof height, this also is atypical within the area. Whether it is clumsy design is a judgement. In effect the applicant's judgement over the dormers and the variation in roof height differs to that of Officers.
- 2.4 In terms of the front façade the Council does not and never has objected to the proposed materials, brick and render are acceptable. However the proportions and positioning of the materials raised concern with the initial proposal having a cluttered checker board effect. Officers sought a reduction in clutter on the front elevation and changes to fenestration (but did not request removal of the bay windows which were considered attractive and typical of the area). Officers also sought a consistent use of the proposed materials which the applicant has to some extent achieved. It is a matter of judgement as to whether the changes have been sufficient to overcome the well-founded concerns relating to the initial scheme. Officers have concluded that in the round the changes have not been sufficient to overcome the generalised design concerns.
- 2.5 In general terms the proposal does not 'turn the corner' especially well but the attempt to address that frontage by providing a front gable feature is welcomed although a forward projection of that gable would have made it more of a statement. Although the porch is on a less prominent elevation and somewhat setback, it is a clumsy addition to the scheme. The porch is an entrance hall to the stairway serving the upstairs flat. It is a useful but not an essential element of the scheme. Again whether it constitutes good design and how prominent it is, is a matter of judgement.
- 2.6 In flooding terms the issue focuses on the ground floor flat which would flood above tolerable levels (in the Council's opinion) in the 1 in 1000 year extreme food event. During such an event the egress routes would also flood beyond tolerable limits. Officers consider that these failures of the scheme when judged against the advisory tests within Technical Advice Note 15 (Flooding) are capable of bearing significant weight. However they are not determinative. That is to say they



would not automatically unto themselves warrant a refusal of planning permission. However they do need to be weighed against other material considerations and are capable of tipping the balance against a scheme particularly where other material considerations go against the scheme. Officers consider that the scheme is unacceptable on design grounds and since there is a requirement for reasons of refusal to be complete, precise, specific and relevant to the application it is appropriate to include the flooding objection on this occasion. In the event the scheme had been better designed it is possible that the flood objection would have been outweighed by the scheme's overall credentials and the flooding concern acknowledged but put aside. That has not happened on this occasion but it does not mean that other applications on other sites with similar flood concerns would have to be refused. No precedent is set if this application is refused.

### **3. OFFICER RECOMMENDATION**

- 3.1 Officers remain of the opinion that planning permission should be refused.

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# Report

## Planning Committee

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### Part 1

Date: 5 October 2016

Item No: 6

**Subject** **Appeal Decisions**

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

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

**Ward** Llanwern, 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: 5 October 2016



would be visually unattractive and would be out of scale and character with the modest and simple proportions of dwellings within its immediate context.

The Inspector noted that the proposal would increase the height and bulk of the existing dwelling. The enlarged dwelling would mainly face a blank side elevation of the adjoining property, 'Applewood'. The main garden space for 'Applewood' would not directly adjoin the proposed extension. There would therefore not be an unacceptable overbearing impact arising from the additional height and scale of the proposal. Similarly, the proposed windows facing 'Applewood', would be obscurely glazed, preventing overlooking of the neighbouring garden. With regards to the effect of the proposal on other neighbouring properties, namely 'Lowmas' and 'The Willows', the Inspector considered there to be adequate separation distances to allow for an acceptable relationship between the dwellings.

For the reasons stated above, the Inspector considered that the proposal would cause material harm to the character and appearance of the area. The proposal would be contrary to Local Development Plan Policies GP2 and GP6. For the reasons stated above, the appeal was therefore dismissed.



## JOINT PLANNING APPLICATION AND ENFORCEMENT NOTICE APPEAL

LPA REF: 15/0479 and E12/0189  
APPEAL TYPE: Hearing  
WARD: Marshfield  
SITE: YARD TO EAST OF AND ADJACENT TO TON-Y-PIL FARM, BROADSTREET COMMON, PETERSTONE WENTLOOGE, CARDIFF, CF3 2TN  
SUBJECT: THE CHANGE OF USE OF LAND FOR THE SITING OF 4NO. CARAVANS FOR USE AS A GYPSY AND TRAVELLER SITE  
APPELLANT: Mr A Cassidy  
PLANNING INSPECTOR: Melissa Hall  
DATE OF COUNCIL'S DECISION: 16 July 2015  
OFFICER RECOMMENDATION: Refused  
COMMITTEE/DELEGATED: Delegated

## DECISIONS: DISMISSED WITH VARIATIONS TO ENFORCEMENT NOTICE



## SUMMARY

### History

The land in question was granted planning permission for a stable block in 1999, which was subsequently amended under another application in 2000. A 2004 application was refused for the change of the use of the land as residential curtilage and retention of a static caravan, a development which an enforcement notice was served against in 2005. The site was then purchased by Mr Cassidy in the same year. A similar retrospective application was made in 2007 (07/1450) for the retention of the use of land as a residential caravan site and a static caravan, permission for which was refused. An appeal was lodged against that refusal, where an inspector granted temporary planning permission for a period of 3 years as the unmet need, lack of available alternative accommodation and the expectation that the Council would have a clearer view of its Gypsy and Traveller needs at the end of the UDP period weighed in favour of the development being granted temporary permission. Temporary permission expired on 23 December 2011.

Due to the continued residence of the site past the expiration of temporary permission, the Council undertook enforcement investigations and action against the unauthorised use (E12/0189). A retrospective application was submitted under reference 15/0479 for the retention of the use of the land as a Gypsy and Traveller site, which was subsequently refused. The reasons for refusal are as follows;

- 1) The proposal constitutes an inappropriate form of development and adversely affects the openness of the Green Belt.
- 2) Insufficient documentary evidence has been provided to demonstrate that there are very exceptional circumstances that would justify the proposal within this countryside location.
- 3) The provision of a 1.8m high fence around the perimeter of the site is an incongruous feature which has a detrimental impact on the character and appearance of this semi-rural landscape and prejudices the open nature of the Green Belt.
- 4) The tests outlined in Section of Technical Advice Note 15- Development and Flood Risk (2004) have not been complied with and the application has failed to demonstrate that the risks and consequences of flooding can be acceptably managed.
- 5) The proposal results in an intensification of the use of an access with inadequate visibility at the junction with the B4239 to the detriment of highway and pedestrian safety.
- 6) Insufficient information has been provided to demonstrate that the site cannot be connected to the public foul sewer and if no connection can be made there is sufficient capacity within the cesspit/septic tank.

An enforcement notice was then served on the unauthorised development which required the owner, within 6 months, to;

- Cease the unauthorised use of the site for residential purposes,
- Remove all caravans, structures, materials and equipment brought onto the land in connection with the use, including the amenity block, the wooden summerhouse and the c1.8 metre high close boarded fence, and restore the land to its condition prior to the breach having occurred, and
- Plant a hedge along the northern edge of the yard, comprising of native hedge species in accordance with an attached Hedge Planting Scheme.

This appeal was lodged against the refusal of planning permission (15/0479) and the issuing of the enforcement notice (E12/0189). The appeal was made on ground A (that planning permission should be granted for the development) and G (that the compliance period specified in the notice falls short of what should reasonably be allowed).

### Considerations

The Inspector found the main considerations for the appeal to be;

- a) Whether the occupants of the site are Gypsies for the purposes of planning policy,
- b) Whether or not the development is inappropriate development in the Green Belt, and if so, whether there are exceptional circumstances which outweigh that harm, or any other harm that might be caused,
- c) The effect of the proposal on the character and appearance of the area,
- d) The effect on highway safety,
- e) Whether the site can offer safe conditions because of the risk of flooding,
- f) Whether the site can be adequately drained,
- g) The need for gypsy/traveller sites and availability of alternative sites, and
- h) Personal circumstances.

#### *a) Gypsy status*

Although the authority did not raise doubt on whether or not the occupants of the site were gypsies for the purposes of the definition in circular 30/2007 during the determination of the application, doubt was raised following vague responses to the planning contravention notice (PCN) and the significant gaps in occupation of the site. Evidence was provided to the Inspector and heard at the hearing which indicated that some of the site's occupants had cited a bricks and mortar address in Pinner for convictions, used this address for mail and were on the Electoral Roll at this address, and that some responses on the

PCN were not correct. However, taking in to account all information available, the Inspector was satisfied that, on the balance of probability, the occupants do follow a gypsy lifestyle.

*b) Inappropriate Green Belt development*

The Inspector noted that the site lies to the rear of a row of dwellings in Peterstone Wentlooge, on land which lies within the Green Belt between Cardiff and Newport. Planning Policy Wales (PPW) makes it clear that Green Belts are noted for their openness and permanence, with development that would serve to diminish those characteristics representing 'inappropriate development'. Further Circular 30/2007 states that Gypsy sites are likely to be inappropriate in such areas.

There was common ground in the appeal as the appellant did not disagree that the development represents 'inappropriate development', although they did dispute the extent of the harm.

The Inspector notes that the site had a degree of immediate visual enclosure, but also that the site is clearly visible from the B4239 and from the sea wall/coastal path; as a result, the site is readily apparent as a further encroachment into the countryside, more so when the touring caravans return to the site. Despite the fact that the hardstanding and 1.2m high fence are now lawful and have an effect on the openness, the effect on the openness of the Green Belt as a result of this development is considerably greater. On this point, the Inspector concludes that the development considerably reduces, and causes significant harm to, the openness of the Green Belt, in conflict with the aim of the Green Belt policy to prevent urban sprawl and keeping the land open.

*c) Character and appearance*

LDP policy SP5 seeks to restrict new development to uses appropriate in the countryside. The Inspector noted that a mature hedge has been removed from the front boundary of the site and replaced with a 1.8m high timber fence, which has an unfortunate visual impact, although the appellant indicated a willingness to remove the fence and re-plant a hedge along the boundary. Nevertheless, the Inspector considered that allowing sporadic unjustified development which encroaches into the open countryside would undermine its character.

*d) Highway safety*

The Inspector noted that the B4239 has no footways or street lighting in this section, and that visibility to the north east is restricted by the horizontal alignment of the road and overhanging vegetation. The Council's concern relates to visibility for vehicles emerging from the site on to the B4239. In a previous appeal decision on this site, the Inspector noted that the access would be utilised by slow moving vehicles towing caravans, which could give rise to potentially dangerous situations in terms of highway safety. In this appeal, the Inspector noted third party vegetation overhanging the highway, which made exiting the junction difficult due to poor visibility. She concluded that, despite permission having been granted on site for stables in the past, the day-to-day use associated with the residential use, together with the occurrences of slow moving caravans and visitors to the site, is likely to be greater. It was therefore concluded, on the matter of highway safety, that inadequate visibility, which cannot be improved by the applicant, renders the development unacceptable in highway safety terms.

*e) Flood risk*

The site lies within a C1 flood risk area adjacent to the sea wall, where 'highly vulnerable' development (such as residential) will only be permitted where it can be justified on the basis set out in TAN15. The Inspector followed the justification tests as set out in TAN15, which in the first instance requires that the development is necessary to assist, or be a part of, a local authority regeneration initiative or strategy required to sustain an existing settlement, or it is necessary to contribute to key employment objectives. This development meets neither justification tests. As such, the Inspector concluded that the development does not meet the justification tests listed at paragraph 6.2 of TAN15, and therefore would not be permissible in this location on that basis that it is highly vulnerable development in an area at risk of flooding, which can't be justified in the context of national planning policy guidance.

*f) Drainage*

Circular 10/99 states that the first presumption must always be to provide a system of foul drainage discharging into a public sewer on a development site. Where this is shown to be unfeasible, a packed

sewerage treatment plant should be considered. The site was said to be connected to a two different drainage regimes; a cesspool and a sealed unit (which is no longer accessible due to unauthorised tipping). However, it was established on site that the toilet, shower and sinks in the mobile home were not connected to any means of drainage. The concern regarding drainage being the adverse effect on water sources, health hazard or nuisance and damage to the environment or amenity – the absence of any form of drainage from the mobile home raises the potential for such adverse effects. The Inspector found therefore found that the proposal fails to provide appropriate service infrastructure and that exceptional circumstances have not been demonstrated to connect to private facilities in an area served by a public foul sewer.

*g) Need for gypsy/traveller sites and availability of alternative sites*

The Council's identification of gypsy/traveller sites is based on objectively assessed need. The 2013 Gypsy and Traveller Accommodation background paper to the LDP concluded that 23 residential pitches would be required to meet the immediate need. The most recent Gypsy and Traveller Accommodation Assessment identifies a 5 year unmet need of 32 pitches and an unmet need of 39 pitches (much of which is from unauthorised encampments). The Council has recorded three attempts to make contact with the appellant to ensure the occupants were taken into account in the needs assessment.

Permission was recently granted by Planning Committee for the Gypsy/Traveller site at Hartridge Farm Road, which would provide for the immediate unmet need of 23 pitches, with potential to deliver a total of 35 pitches, allocated on an identified need. However, the funding process involved may result in only 10 pitches being provided with a competition based process on an annual basis thereafter to secure the necessary additional funding to provide further pitches.

The Inspector therefore found that the allocated site is not immediately available, nor is there certainty as to the exact number of plots that will be provided, and that there are no other socially rented sites in the Newport area. There is clearly therefore an identified need for gypsy/traveller sites.

In terms of alternative sites, the appellant states that attempts were made to find other sites before and after temporary permission was granted for 3 years in 2008, but a suitable one was not identified. Other potential sites were considered unsuitable due to conflict between families already on those sites. The appellant informed the Inspector that he wished to stay with his own family unit rather than share a site with other families, and that members of the family would have nowhere else to go if they could not reside at this site.

The Inspector concluded that the family would likely need to move outside of Newport in search of alternative accommodation as there are no other available sites in the borough, given the appellant's resistance to occupy a pitch at the Hartridge Farm Road site.

*h) Personal circumstances*

The Inspector must have regard to the personal circumstances of the site's occupants in determining the appeal. In terms of the health issues raised at the appeal, the Inspector found that Mr P Cassidy's health difficulties do not appear to have a major influence on his ability to undertake day-to-day activities, nor that they are so severe that his medical care involves anything over and above the routine medical appointments and medication. The Inspector concluded that there is sufficient doubt as to whether any of the medical conditions requiring treatment that can only be carried out by a specific hospital or that the treatment, medication or medical appointments would not be available to him from another site. It was also found that only one child is reliant on local education provision, and therefore that there would not be serious disruption arising if the occupation of the site were ceased. Similarly, there were no reasons on employment grounds why the continued occupation of the site is necessary to accommodate the appellant's work patterns.

Overall, the Inspector concluded that the personal circumstances, although clearly significant for the family, do not amount to the very exceptional circumstances required to justify inappropriate development.

Conclusion

In determining the appeal, the Inspector is required to have regard to all relevant planning considerations, as summarised in the previous section.

The Inspector finds that the development would reduce the openness of the green belt and is inappropriate development and further, it is unacceptable in highway safety terms and in flood risk terms. The balancing exercise must consider whether this harm is outweighed by other considerations, so as to amount to the very exceptional circumstances required to justify the development.

She finds that there is an unmet need for sites within the borough, which carries significant weight in favour of the development, as does the failure of the Council to meet the identified need and the lack of alternative sites. Having regard to the personal circumstances and human rights of the appellant and his family, the Inspector notes that dismissing the appeal would force the family to leave the site and resume an itinerant lifestyle, which would represent an interference with the best interests of the child who is about to start school, the occupants' homes and their family life. However, these rights are qualified and interference may be justified where in the public interest. The Inspector finds that interference would be in pursuit of a well-established and legitimate aim; protection of the Green Belt. She considers the harm to the Green Belt is substantial, as is the effect on highway safety and flood risk, which she concludes outweighs the human rights of the family and the best interests of the children, and that the granting of permanent planning permission would not be appropriate. The aim of protecting the Green Belt cannot be achieved by any means which are less interfering, and thus they are proportionate and necessary.

The Inspector concludes that the considerations in favour of the development do not clearly outweigh the harm identified, and do not represent the very exceptional circumstances needed to justify inappropriate development. She also found that it would not be appropriate to grant temporary planning permission as the situation is unlikely to be resolved at the end of that period owing to the appellant's perception of the unsatisfactory nature of the Council's plans to provide a site for Gypsies and Travellers.

#### Variations to the enforcement notice

The appellant sought an extended compliance period of 2 years. The Inspector concludes that to extend the compliance period by 2 years would be excessive, but an extension of 12 months should provide sufficient opportunity for the occupants to find alternative accommodation (i.e by 19/08/2017). The notice has been varied accordingly.

Other variations include the clarification on the location of the hedging to be replanted, and the omission of the requirement to remove the wooden summerhouse, as this had already been removed from the site at the time of the appeal.

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