

# Agenda

## Planning Committee

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Date: Wednesday, 1 March 2017

Time: 10.00 am

Venue: Council Chamber, 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 and M Al-Nuaimi

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

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

### **Part 1**

<b>Item</b>	<b>Wards Affected</b>
1. <u>Agenda Page - Welsh Cym</u> (Pages 3 - 4)	
2. <u>Apologies for Absence</u>	
3. <u>Declarations of Interest</u>	
4. <u>Minutes</u> (Pages 5 - 8)	
5. <u>Development Management Planning Application Schedule</u> (Pages 9 - 72)	All Wards

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Date of Issue: Wednesday, 22 February 2017

- |    |   |           |
|----|---|-----------|
| 6. | <u>Section 106 Contributions on a Ward Basis - Presentation</u> | All Wards |
| 7. | <u>City Centre Conservation Area - Extent - Presentation</u>    | Stow Hill |
| 8. | <u>Appeal Decisions</u> ( <i>Pages 73 - 88</i> )                | Caerleon  |

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, 1 Mawrth, 2017

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, 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.**

<b>Eitem</b>	<b>Wardiau dan Sylw</b>
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>106 Cyfraniadau ar Sail Ward Adran - Cyflwyniad</u>	Pob Ward

Cysylltwch â: Miriam Durkin  
Rhif Ffôn: 01633 656656  
E-bost: miriam.durkin@newport.gov.uk  
Dyddiad Cyhoeddi: 22 Chwefror, 2017

7. Ardal Gadwraeth Canol Tref – Maint - Cyflwyniad

Stow Hill

8. Penderfyniadau Apeliadau

Langstone, Caerleon, Stow Hill  
Marshfield

# Minutes



## Planning Committee

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Date: 1 February 2017

Time: 10.00 am

Present: Councillors P Huntley (Chair), V Delahaye (Deputy Chair), D Fouweather, M Linton, R White, K Critchley, C Evans and M Al-Nuaimi

T Brooks (Development & Regeneration Manager), J Davidson (East Area Applications Manager), S Williams (West Area Applications Manager), C Jones (Principal Engineer), J Owen (Chief Legal Officer) and M Durkin (Democratic Services Officer)

Apologies: Councillor O Ali

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### 1. Minutes

The Minutes of the meeting held on 11 January, 2017 were submitted.

#### Resolved

That the Minutes of the meeting held on 11 January, 2017 be taken as read and confirmed.

### 2. Development Management Planning Application Schedule

#### Resolved

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

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

### 3. Appeal Decisions

Consideration was given to a report following recent appeals.

#### Planning Application Appeal – Dismissed

Application 16/0348 – Ty Hir Newydd, Michaelstone Road – Proposed Retirement Dwelling (Resubmission of Withdrawn Application 15/1459)

#### Resolved

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

## Appendix

### PLANNING COMMITTEE – 1 FEBRUARY 2017

#### DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
16/1218	<p>Vacant former showroom and workshops adjacent Carcraft, Langland Way</p> <p>Retention of building for B1/B2/B8 use to provide 4998 square metres of floor space and associated infrastructure including parking and circulation areas</p>	Llisbury	<p>Mr G McGruer on behalf of the applicant spoke objecting to the application.</p> <p>Mr G Sutton on behalf of the applicant spoke in support of the application.</p> <p>Cllr Critchley, Llisbury Ward Member requested that a site visit be undertaken.</p>	<p><u>Site Inspection</u></p> <p><u>Reason</u></p> <p>To assess the impact of the development on the adjacent buildings</p>
16/0817	<p>35 Allt-yr-yn Road</p> <p>Erection of two storey extension and single storey rear extension, alterations to vehicle access and creation of additional car parking space (Resubmission following refusal of 16/0386)</p>	Allt-yr-yn	<p>Mr O Thomas, the applicant spoke in support of the application.</p> <p>Councillor Fouweather, Allt-yr-yn Ward Member spoke in support of the application and then left the meeting for the remainder of the discussion.</p> <p>The Officers were recommending refusal of the application.</p> <p>HRIH suggested that the reason for refusal be amended to delete reference to infilling.</p>	<p>Granted with conditions that the material to match dwelling and replacement parking space to be provided.</p>
16/1090	Always Junior and Infant	Alway	<i>(Councillor Fouweather re-joined the meeting after</i>	Granted with conditions

	School, Aberthaw Road		<i>consideration of the previous item)</i>	
	Construction of timber canopy to side elevation			

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# Report

## Planning Committee

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### Part 1

**Date:** 1 March 2017

Item No: 5

**Subject** Planning Application Schedule

**Purpose** To take decisions on items presented on the attached schedule

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

**Ward** As indicated on the schedule

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

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

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

**Proposal**

1. To resolve decisions as shown on the attached schedule.
2. To authorise the 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-	M	L	Avoid delaying the determination of applications	Planning Committee

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

Planning Policy Wales (PPW) Edition 9 (November 2016)  
Development Management Manual 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 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) (updated January 2017)  
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)  
Mineral Safeguarding (adopted January 2017)  
Outdoor Play Space (adopted January 2017)  
Trees, Woodland, Hedgerows and Development Sites (adopted January 2017)

## **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:** 16/1171      **Ward:** STOW HILL  
**Type:** FULL  
**Expiry Date:** 03-FEB-2017  
**Applicant:** R G OWEN, VEEZU LTD  
**Site:** 183, UPPER DOCK STREET, NEWPORT, NP20 1DG  
**Proposal:** CHANGE OF USE FROM HAIRDRESSING SALON TO A WALK IN TAXI BOOKING OFFICE

**Recommendation:** REFUSED

### 1. INTRODUCTION

1.1 This application seeks full planning permission for the change of use from a hairdressing salon to a taxi booking office. It would allow customers to book a taxi and wait in a seating area until the taxi arrives. The building is a mid terrace property located within the Town Centre Conservation Area.

### 2. RELEVANT SITE HISTORY

02/0632	CHANGE OF USE FROM A1 (RETAIL) TO A3 (HOT FOOD TAKE-AWAY)	Refused
03/1448	CONVERSION OF 1ST, 2ND & 3RD FLOORS TO 3NO. SELF CONTAINED FLATS AND THE INSTALLATION OF A NEW SHOP FRONT	Granted with conditions

### 3. POLICY CONTEXT

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

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

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

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

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

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

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

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

Policy **R4 Non-Retail Uses in Other City Centre Shopping Areas** states that non-retail uses in the City Centre outside of the primary and secondary shopping frontage areas will be permitted providing that the development would not adversely affect local residential amenity; have any anticipated environmental disturbance; and the development is accessible in terms of public transport.

#### **4. CONSULTATIONS**

4.1 None

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

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Following further consultation with our road safety section, and legal department, I agree with the applicants assessment of the traffic order in terms of the vehicles being able to access the areas subject to the prohibition of driving (5pm – 11am) for the loading and unloading of persons. I also note that the applicant proposes to use the southern end of Upper Dock Street and Corn Street during the period 11am – 5pm.

5.1.2 Whilst vehicles may be able to utilise these areas as stated above, the availability of suitable drop off/collection areas has to be considered. It's clear that the requirement for loading/unloading associated with a taxi office will exceed that of the existing hairdressers. Parking is heavily restricted along Upper Dock Street, Skinner Street and Corn Street to allow for the free flow of traffic in the interest of highway safety. The applicant cannot guarantee the availability of a safe and non-obstructive place to stop which could result in vehicles stopping in the highway to collect/drop off passengers. The section of Upper Dock Street, adjacent to the property, consists of a shared surface used by both pedestrians and vehicles. Increased vehicle movements in this area will increase the likelihood of conflict between highway users.

5.1.3 Whilst the proposal will not be in contradiction of the traffic order, it's determined that the availability of suitable on road parking for the loading/unloading of passengers cannot be guaranteed which could lead to illegal or obstructive parking which would be detrimental to highway safety. I must therefore oppose the application and recommend refusal.

5.2 HEAD OF LAW AND REGULATION (ENV. HEALTH): No objection subject to a condition requiring a scheme of sound insulation works to the floor/ceiling structure between the commercial and residential parts of the property.

5.3 PLANNING POLICY MANAGER: There are no policy objections to the proposed use, subject to satisfactory comments from Highways and Environmental Health.

5.4 HISTORIC BUILDINGS AND CONSERVATION OFFICER: No objection. The site lies within the Town Centre Conservation Area. It is suggested that the only external alteration would be the installation of new signage, details of which have not been provided with this application. As an existing commercial building with a shopfront and fascia designed for signage, this causes no concerns in principle. The plans appear to show either a new door or the re-hanging of the entrance door to open outwards; in the context of the existing shopfront, I do not see that the re-hanging of the door would materially affect the character of the conservation area.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (127 properties), a site notice displayed and a press notice published in South Wales Argus. 6 representations have been received raising the following objections:

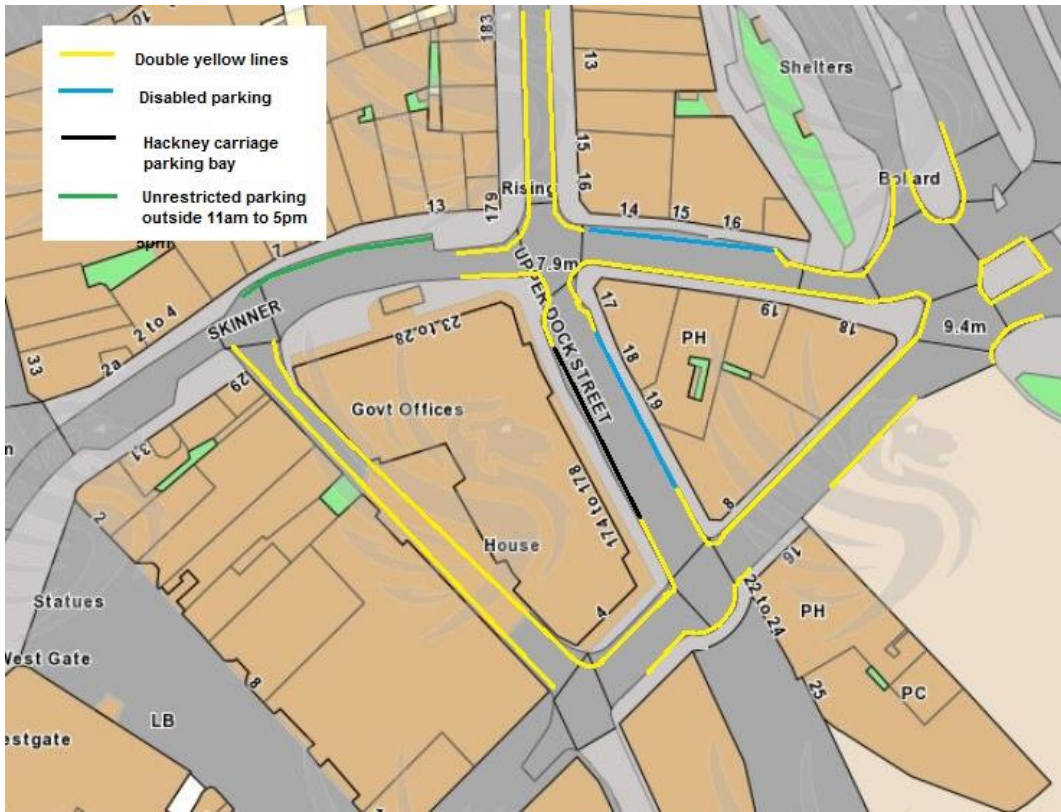
- A walk in taxi booking office is already operating in this part of Upper Dock Street. The taxis continually park in the road at this part of Upper Dock Street while waiting for fares. Because of this; delivery to traders along the road is very difficult;
- There is already a dedicated taxi rank area at the Friars Walk end of Upper Dock Street;

- The proposal would lead to an unacceptable concentration in the number of private hire uses in the immediate area;
- The operation would potentially lead to inconvenience and congestion for users of the highway caused by on-street parking, leading to issues of highway safety;
- The proposal will weaken community cohesion amongst the business due to noise and traffic;
- Customers waiting outside the booking office are likely to cause obstruction to neighbouring businesses;
- Neighbouring businesses will have a loss of light due to customers waiting to be collected;
- An additional booking office will increase traffic noise, fumes and anti-social behaviour in the area;
- Residential properties would be disturbed unacceptably at unsocial hours;
- Another booking office isn't required;
- The proposal is likely to attract undesirables which will deter customers from accessing neighbouring businesses;
- Unfair competition for the Hackney Carriage drivers. The booking office will undercut the Hackney Carriage rate which could result in the lack of suitably adapted wheelchair vehicles.

6.2 COUNCILLOR MIQDAD AL-NUAIMI: Request the application to be heard by Planning Committee due to concerns that the change of use would cause an over intensification of traffic problems in a busy part of the city and to allow public oral representations to be made.

## **7. ASSESSMENT**

- 7.1 The applicant describes the taxi office to operate whereby customers would enter the premises to make their taxi booking and a small seating area would be provided for customers to wait for their taxi to arrive. It would operate 24 hours a day including Sundays and bank holidays. The taxi would be contacted by dispatch software and would drive to the parking bays on Skinner Street. The software would inform office staff when the vehicle has arrived in Skinner Street and the customer would walk from the premises to the taxi to board. The applicant states that there will be no parking up, the drivers would not exit their vehicle and they would only enter the parking bays on Skinner Street to pick up the customer and then exit the street.
- 7.2 The applicant is Dragon Taxis and they have stated that they would retain its primary control office by Newport train station where driver management occurs. This includes the storage of driver documentation and the administration of the business. They state that there would be no need for drivers to enter the application building.
- 7.3 Policy GP4 (vii) states that development proposals should ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.
- 7.4 There are double yellow lines on Upper Dock Street outside of the application site and a small part of Skinner Street close to the junction with Upper Dock Street. Further west of the junction there are parking bays outside of No's 5 to 12 Skinner Street. There are designated disabled parking bays on Skinner Street east of its junction with Upper Dock Street and along the southern stretch of Upper Dock Street. There is a designated taxi rank also on the southern stretch of Upper Dock Street which is for use by Hackney Carriage vehicles only (as set out in the (Parking Places for Hackney Carriages) Order 2015). The plan below shows these parking restrictions.



7.5 There are two traffic orders relevant to Upper Dock Street and the surrounding roads in the city centre. The Prohibition of Driving Order 1997 prevents vehicles and cyclists to drive/ride on particular roads between the hours of 11:00 and 17:00, subject to some exemptions which aren't relevant to this application. The roads relevant to this application effected by this order are shown in yellow/green below.



- 7.6 Outside of these hours the Order states “nothing...shall render it unlawful for a vehicle to proceed in the lengths of roads referred to...if the vehicle is being used: for or in connection with the conveyance of goods, persons or merchandise to or from any premises situated on or adjacent to the lengths of roads”.
- 7.7 The Prohibition of Waiting and Loading Order 2007 allows a person to board or alight from a vehicle. The two orders need to be read together because if driving is not permitted during particular hours then there is no opportunity for persons to board or alight from a vehicle. In terms of the traffic orders alone it is permissible for a vehicle to drop off/collect a person from the parking bays located on Skinner Street outside of the hours 11am to 5pm.
- 7.8 The application site is located within parking zone 1 (city centre). The Parking Standards Supplementary Planning Guidance sets out parking requirements for licenced taxi uses in parking zones 2 – 5. It notes that no standards are set for zone 1 and 6 as it is assumed that development of this nature would not be permitted within these zones.
- 7.8 The Head of Streetscene and City Services (Highways) objects to the proposal. The highways engineer acknowledges that the prohibition of driving order does allow vehicles to access the roads otherwise restricted by the order. However, he is concerned that the requirement for loading/unloading associated with a taxi office would exceed that of the existing hairdressers. Parking is heavily restricted along Upper Dock Street, Skinner Street and Corn Street to allow for the free flow of traffic in the interest of highway safety. The Head of Streetscene and City Services objects because the applicant is unable to guarantee that there would be a safe and unobstructive place to stop to collect a passenger which could result in vehicles stopping in the highway.
- 7.9 Furthermore it is noted that the Prohibition of Driving Order prevents vehicles from driving along Skinner Street (west of the junction with Upper Dock Street) during the hours of 11am to 5pm. The applicants intention to use the parking bays along Skinner Street is therefore not possible during those hours. The order does not prevent vehicles from driving along parts of Corn Street, Upper Dock Street and the eastern stretch of Skinner Street (as shown by the red arrows above). However, other than a short stretch on Corn Street which is around 120m from the application building, there is nowhere for a vehicle to safely pull up to collect a passenger.
- 7.10 The applicant has commented that there would be no parking or waiting of taxis in Skinner Street, Upper Dock Street or the adjacent streets. A taxi would only be required to stop for the short period of time required for a passenger to get into the vehicle. This will normally only be of a few seconds duration. The applicant states that they do not consider that this quickly executed manoeuvre, even if occurring in the part of the carriageway used by moving traffic, would create unacceptable levels of congestion or obstruction given the relatively low traffic volumes in the streets concerned. The applicant accepts that the availability of a parking bay for use in collecting passengers cannot be guaranteed. However, they comment that Skinner Street is one way with parking bays on one side only and it has sufficient width on the part of the carriageway provided for through traffic to allow for vehicles to pass on the off side of parked taxis thereby reducing the likelihood of taxis parked for a few seconds to collect passengers causing an obstruction.
- 7.11 The comments of the applicant are noted. Despite the comments that a taxi would only need to wait for a few seconds to allow a customer to board it is noted that the applicants operational plan states that a customer waiting in the booking office would only proceed to the taxi once its arrival has been conveyed to the booking office. This would mean a taxi would wait (potentially in the highway) for longer than a few seconds while waiting for the customer to walk from the office to Skinner Street. The applicant also states that Skinner Street has sufficient width on the part of the carriageway next to the parking bays to allow other vehicles to pass without obstruction. Whilst this may be the case, in the scenario whereby a taxi is unable to find a space within the parking bays there would not be sufficient width within the carriageway for a taxi to be parked along side another parked

vehicle (and considering that doors may need to be opened on both sides of the vehicle) for another vehicle, including buses to pass. As such it is considered that the proposed development would lead to the potential for obstructive and unsafe waiting of vehicles along a stretch of road which is heavily trafficked and is also a major bus route through the city centre. It is not within the control of the applicant to ensure there is availability along this stretch of road.

- 7.12 The applicant is also unable to operate along Skinner Street during the hours of 11am to 5pm. During these hours taxis would be forced to find space along the east section of Corn Street, which is much further away from the booking office and heavily subscribed for on-street parking given that it is the only stretch of road with unrestricted parking. This also raises potential for unsafe and obstructive waiting of vehicles in the highway which would disrupt the free flow of traffic movements. Overall the proposal is considered to be contrary to Policy GP4.
- 7.13 It is noted that it is the role of the Hackney Carriage to pick up passengers immediately within the city centre which is reflected in the designated taxi ranks around the city centre.
- 7.14 In terms of general amenity the application site is a city centre location, predominantly characterised by commercial uses on the ground floor of the buildings. A bus station is also located around 30m from the application site. There are a number of residential properties on the upper floors of both the application building and the surrounding buildings. Whilst the proposed development would attract people to this area during more unsociable hours it is recognised that this is a consequence of city centre living and residential occupiers would expect some degree of noise and disturbance. The Head of Law and Regulation (Environmental Health) has no objection to the proposal subject to a condition requiring a scheme of sound insulation works to the floor/ceiling structure between the commercial and residential parts of the building.
- 7.15 The application site is located in the Town Centre Conservation Area. The Historic Buildings and Conservation Officer notes that the floor plans show either a new door or the re-hanging of the entrance door. He does not consider that the re-hanging of the door would materially affect the character of the conservation area. Notwithstanding this; any proposals relating to the door do not form part of this application. It is considered that a further commercial use of the building would be in keeping with the character of the conservation area.
- 7.16 The application building is located in flood zone C1. The applicant has not submitted a flood consequences assessment however, it is not considered that the proposed use would result in a significant intensification of people over above that of the existing hairdressers. Notwithstanding this the applicant could be made aware of the potential flood risk and advised to prepare a flood evacuation plan through an informative.
- 7.17 The application site is located within the city centre shopping area but outside of the designated primary and secondary shopping frontage. Policy R4 states that in these areas non retail uses would be permitted providing:
- i) the proposed development would not adversely affect local residential amenity, either in its own right or cumulatively with other uses;
  - ii) any anticipated environmental disturbance can be effectively mitigated through the use of planning conditions or noise abatement zone controls;
  - iii) the development is accessible in terms of public transport provision, and associated pedestrian movement following operating hours will not be directed through residential areas.
- 7.18 As set out in paragraph 7.14 it is not considered that the proposal would give rise to unacceptable noise and disturbance. In this city centre location the proposed development would be well served by public transport. Whilst pedestrian movements would be directed through areas where residential properties are found on the upper floors, this is not considered to be unacceptable given the city centre setting.

7.19 A number of concerns have been raised by neighbouring occupiers as summarised in paragraph 6.1. Issues relating to highway safety, noise and disturbance have been addressed in the preceding paragraphs. Concern has been raised that customers of the booking office would wait outside the building and cause an obstruction to neighbouring businesses. There is also concern that customers waiting outside would cause a loss of light to neighbouring businesses. It is proposed to provide a customer seating area within the building and customer collection would be from Skinner Street which would negate the need for customers waiting outside of the building. Notwithstanding this, the area is a city centre location with a focus on commercial activity; including hot food takeaways, shops, an existing taxi booking office and a bus station. It is not considered that the proposed use would result in any additional anti-social behaviour or pedestrian obstruction that might already exist.

7.20 Issues regarding competition between existing private hire taxis or Hackney Carriage vehicles are not material planning considerations.

## **8. OTHER CONSIDERATIONS**

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

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

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

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

## 9. CONCLUSION

- 9.1 The proposed development is considered to be unacceptable and contrary to Policy GP4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015). It is recommended that planning permission is refused.

## 10. RECOMMENDATION

### REFUSED

01 The proposed use would result in private hire vehicles stopping in the carriageway due to an inability to guarantee the availability of space to pick up passengers off the vehicular carriageway within the vicinity of the application site. This has the potential to cause an obstruction within the nearby highways which are heavily trafficked, subject to parking restrictions and accommodate a bus route through the City Centre. This would be detrimental to highway safety and contrary to Policy GP4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and the Council's Supplementary Planning Guidance on Parking Standards adopted 2015.

### NOTE TO APPLICANT

01 This decision relates to plan Nos: VL:UDS:183:01:2016:01 (SLP), VL:UDS:183:01:2016:02 (FPA), operational plan, planning support statement and letter dated 13 February 2017 (D.L.C Davies).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP9, GP2, GP4, GP7, CE7 and R4 were relevant to the determination of this application.

03 The Council's Supplementary Planning Guidance on Parking Standards adopted 2015 was relevant to the determination of the application.

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

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## APPLICATION DETAILS

No: 16/1171 Ward: **STOW HILL**

Type: Full

Expiry Date: 03-FEB-2017

Applicant: **R G OWEN, VEEZU LTD UNIT 5, TREMORFA INDUSTRIAL ESTATE, MARTIN ROAD, TREMORFA, CARDIFF, CF24 5SD**

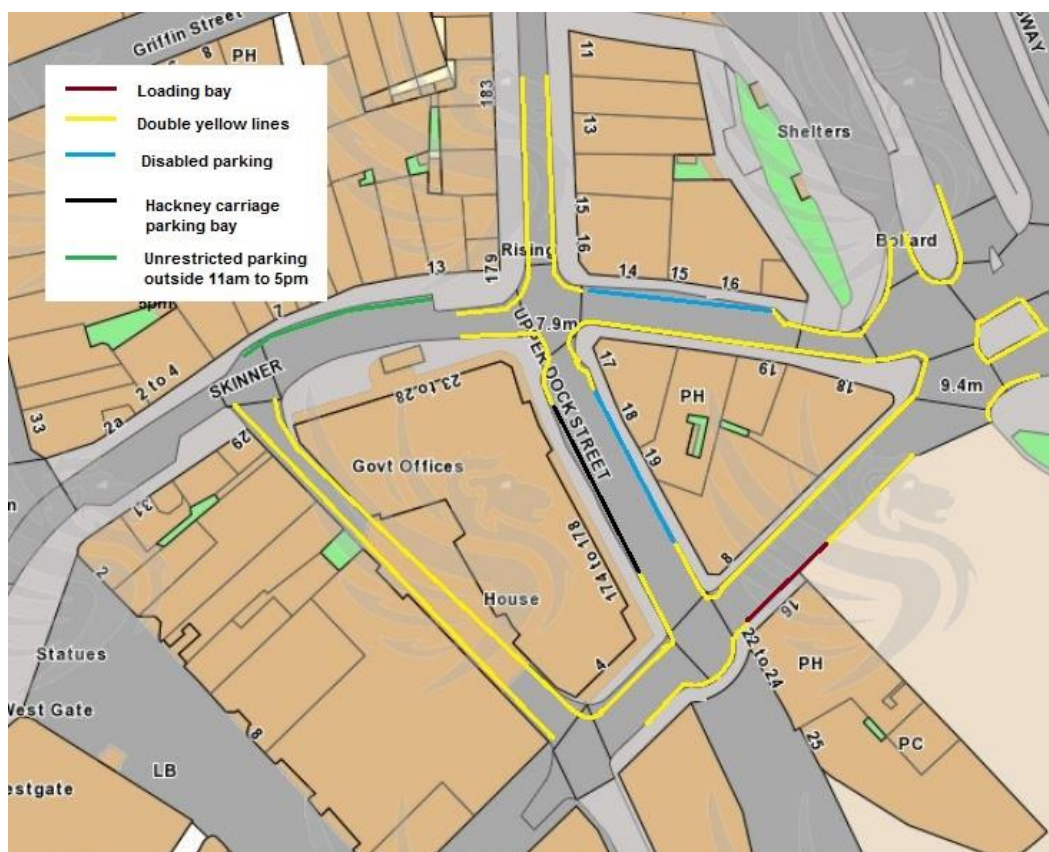
Site: **183, Upper Dock Street, Newport, NP20 1DG**

Proposal: **CHANGE OF USE FROM HAIRDRESSING SALON TO A WALK IN TAXI BOOKING OFFICE**

## 1. LATE REPRESENTATIONS

- 1.1 Correction to paragraph 7.9. It is stated that there is a short stretch on Corn Street where on-street parking is permissible. This stretch has been recently resurfaced and is now a designated loading bay. Between the hours of 11am to 5pm there is nowhere within the surrounding streets of the application site for a vehicle to safely pull up to collect a passenger. The plan under paragraph 7.4 has been updated below to reflect this.





1.2 Following an evening site visit (22 February 2017, 19:30) it was noted that the parking bay along Skinner Street was occupied by 5 vehicles. It was also noted that there was a steady flow of traffic along Skinner Street.

## 2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 The corrections should be noted.

## 3. OFFICER RECOMMENDATION

3.1 The recommendation should remain as that set out within the officer report. The proposed development is considered to be unacceptable and contrary to Policy GP4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015). It is recommended that planning permission is refused.

### APPLICATION DETAILS

No: 16/1171 Ward: **STOW HILL**

Type: Full

Expiry Date: 08-JAN-2017

Applicant: **R G OWEN, VEEZU LTD UNIT 5, TREMORFA INDUSTRIAL ESTATE, MARTIN ROAD, TREMORFA, CARDIFF, CF24 5SD**

Site: **183, Upper Dock Street, Newport, NP20 1DG**

Proposal: **CHANGE OF USE FROM HAIRDRESSING SALON TO A WALK IN TAXI BOOKING OFFICE**

## 1. LATE REPRESENTATIONS

1.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The buses from both High Street and Stow Hill will affect this particular area. There are approx. 17/18 buses an hour coming down Stow Hill and a further 12/13 buses an hour using High Street during the

day. This means an average of at least 30 buses an hour passing Skinner Street during the times from 8am – 6pm.

1.1.1 In the evenings (after 6pm) the frequency does slow down to approx. 8/10 buses an hour.

1.1.2 The services using Skinner Street are 2C, 56, 50, 151, R3, R1, 19, 6A, N2, 26C, 26A, N6, N3, 10C, N5. Newport Transport, NAT and Stagecoach services all use this route.

## **2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

2.1 The comments of the Head of Streetscene and City Services are noted and are considered to reinforce concerns about the highway safety implications of taxis obstructing the highway.

## **3. OFFICER RECOMMENDATION**

3.1 The recommendation should remain as that set out within the officer report. The proposed development is considered to be unacceptable and contrary to Policy GP4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015). It is recommended that planning permission is refused.

## **APPLICATION DETAILS**

**No:** 16/1316      **Ward:** **BEECHWOOD**

**Type:** FULL

**Expiry Date:** 16-FEB-2017

**Applicant:** MR BEVAN

**Site:** 23, HOVE AVENUE, NEWPORT, NP19 7QP

**Proposal:** FIRST FLOOR SIDE EXTENSION ABOVE EXISTING GARAGE

**DECISION** REFUSED

### **1. INTRODUCTION**

- 1.1 Planning permission is sought for the erection of a first floor side extension above the existing garage at 23 Hove Avenue, Newport.
- 1.2 The property is a semi-detached property located in a suburban area within the Beechwood Ward of Newport. The property is within the urban boundary, as defined by the Newport Local Development Plan (adopted January 2015).

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

No relevant history

### **3. POLICY CONTEXT**

- 3.1 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (Adopted January 2015) are relevant to the determination of this planning application. The adopted Supplementary Planning Guidance (SPG) "House Extensions and Domestic Outbuildings" is also relevant to the determination of this 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 GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
- 3.4 Supplementary Planning Guidance "House Extensions and Domestic Outbuildings" (Adopted August 2015)

### **4. CONSULTATIONS**

- 4.1 WELSH WATER: No objection.

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

5.1 HEAD OF STREETSCENE (HIGHWAYS) No objection based on amended plans showing three parking spaces; meeting the Newport City Council parking Standards 2015.

## 6. REPRESENTATIONS

### 6.1 NEIGHBOURS:

5 neighbouring properties (common boundary and opposite) were consulted. One objection was received from No.25 that shares a common boundary and made the following comments:

- Loss of light which is already a concern with the existing garage;
- Loss of light directly in the kitchen;
- Garage is already in close proximity to the boundary wall and adding an additional storey is very concerning.

6.2 COUNCILLORS: Councillor Davies has requested that the application is determined at Planning Committee. The Councillor is in support of the proposed scheme and feels that the design is in keeping with other houses within the street and would therefore not be detrimental to the streetscene.

## 7. ASSESSMENT

7.1 The proposal is to convert the existing garage; located on the west facing side elevation of the property into additional lounge space on the ground floor level and adding a bay window feature.. The application seeks to extend above the existing garage in order to provide an additional bedroom at first floor level. The proposal seeks the creation of additional hardstanding to the front of the property to mitigate the parking lost through the conversion of the garage into living space and to provide vehicular parking for three cars. The existing garage has dimensions of 4.6 metres in width, by 3.0 metres in height and 7.6 metres in depth. The proposed extension would be located on the same footprint and would have a height of 5.0 metres to the eaves and 7.0 to the roof ridge on the principle elevation and 7.5 metres to the roof ridge on the side elevation, due to the gradient of the streetscape.

7.2 The external walls of the extension would be off-white render to partially match the off-white and grey render and brickwork on the existing dwelling. The fenestration would consist of first floor windows to the rear elevation, comprising of a double and single window. Two single windows to be installed on the side elevation, one on the first floor which would be to replace the lost window in the existing dwelling on this elevation and is proposed to be obscured glazed. The second window proposed is a single window on the ground floor. On the principle elevation a bay window to ground floor and a double window to the first floor is proposed, with the retention of the second door on the principle elevation which is currently used to access the garage.

7.3 Policies GP2 (General Amenity), GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the '*House Extensions and Domestic Outbuildings*' Supplementary Planning Guidance are relevant to the determination of this application.

7.4 The property as it stands is already in close proximity to the neighbouring boundary of 25 Hove Avenue; with the footprint of the existing garage being approximately 30 cm from the boundary at the rear of the property and approximately 1.5 metres to the front elevation.

The scale and height of the extension within close proximity to the intervening boundary would introduce a prominent and large addition to the property and combined with the difference in ground levels between properties is considered to have a harmful and overbearing impact on the occupiers of No. 25. Windows in the side of this property do not appear to serve habitable rooms but, by reason of the difference in levels and proximity to the boundary, the proposal will appear unduly dominant when viewed from these windows and from the side access to no. 25 and will have an overbearing effect. Whilst a much older extension at no. 19 Hove Avenue had a similarly dominating impact upon no 21 (until no. 21 also extended), this extension is over 15 years old, pre dates the development plan and adopted Supplementary Planning Guidance and is an example of poor design. Comparison with this side extension does not add merit to the scheme proposed but reinforces officer concerns. As such, it is not considered that the proposed scale is in accordance with the requirements of policy GP2 (General Amenity) of the Newport Local Development Plan 2011-2026 (Adopted January 2015) or Supplementary Planning Guidance "Householder Extensions and Domestic Outbuildings".

- 6.5 Supplementary Planning Guidance "House Extensions and Domestic Outbuildings" states that a two storey side extension (or first-floor side extension above an existing ground-floor section, such as this proposal) should be set back at least one metre from the original front elevation of the existing building. It is also desirable that the side extension has a set down from the original roof ridge of the host dwelling to ensure that the extension is subservient to the main dwelling house. The proposed side extension is not set back from the principal elevation, nor is the extension proposed to be set down from the existing roof ridge on the principle elevation. Whilst the rear element of the extension is set down from the roof ridge by one metre this does not overcome the prominent addition to the side of the property that is considered unacceptable. As such it is not considered that the proposed extension is in accordance with the requirements of policy GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (Adopted January 2015) or Supplementary Planning Guidance 'Householder Extensions and Domestic Outbuildings'.
- 6.6 The street includes a few side extensions, approved before adopted Supplementary Planning Guidance, that are in some cases poorly designed and detract from the appearance of the host properties. However the street retains a pleasant visual amenity with key design features, typical of the era and contributing to the street's character, still prevalent. The current, adopted Supplementary Planning Guidance must be given substantial weight in decision making in accordance with national planning policy and the fact that it is relevant to this application and was not relevant at the time of other side extensions to which officer attention has been drawn by the agent, means that this case is not directly comparable to any other such examples constructed in the street and must be considered on its own merits.
- 6.7 The neighbouring property at 25 Hove Avenue would be negatively impacted as a result of scale and the height of the proposed extension. This impact is heightened due to the gradient of the streetscape meaning that 23 Hove Avenue is approximately 2.5 metres higher than the neighbouring dwelling: 25 Hove Avenue. Therefore with the proposed extension being 5 metres in height to eaves, this would give an estimated height difference of 7.5 metres which is proposed to be developed within 2 metres of the boundary. Comments from the neighbour at No.25 stated that the three windows on the east side elevation, facing No.23 were not habitable rooms. However, the extension would still have

an overbearing effect on the setting of the property and will have an unduly dominant appearance in the street scene when travelling Southwards along Hove Avenue.

- 6.7 Although a similar side extension has historically taken place on the adjacent property: No. 21 Hove Avenue, the extension pre-dates adopted SPG and is poorly detailed with uneven cills for example. Although this extension has harmed the symmetry of the pair, the proposed extension is not acceptable because of this. The retention of the pedestrian door next to the garage and the addition of a bay window at ground floor afford the extension an awkward relationship to the original property and this unsympathetic detailing draws attention to the large scale of the extension. It is not compliant with Policies GP2, GP6 or SPG: 'House Extensions and Domestic Buildings'.

## **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 side extension by reasons of scale, design and location would result in a detrimental impact on the occupiers of No.25 Hove Avenue by reason of overbearing effect and will represent an unduly dominant and unsympathetic addition to the property to the detriment of visual amenity within the wider streetscape. Therefore, it is recommended that this planning application is refused.

## **10. RECOMMENDATION**

REFUSED

01 The proposed side extension by reasons of its scale, design and location has an imposing and overbearing impact on the adjacent property; No. 25 Hove contrary to Policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

02 The scale, location and design of the proposed side extension represents a prominent, unduly dominant and unsympathetic addition to the dwelling to the detriment of its appearance and the streetscene. This is contrary to Policy GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and Supplementary Planning Guidance 'Householder Extensions and Domestic Outbuildings' (adopted August 2015).

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Proposed Visuals R282, (Received 03 January 2017), Proposed Plans and Elevations, (Received 03/02/2017)

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

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

## **APPLICATION DETAILS**

**No:** 16/0772      **Ward:** CAERLEON

**Type:** RESERVED MATTERS

**Expiry Date:** 10-MAR-2017

**Applicant:** NEIL WILLIAMS

**Site:** LAND TO REAR OF 16 TRINITY VIEW, LODGE ROAD, CAERLEON, NEWPORT

**Proposal:** ERECTION OF DETACHED DWELLING (RESERVED MATTERS FOLLOWING APPROVAL OF PLANNING PERMISSION 11/1292)

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

- 1.1 This application seeks the approval of Reserved Matters in relation to the application 11/1292 for the erection of a 4 bedroomed detached dwelling, approved in outline on 1<sup>st</sup> August 2013 subject to details of scale, layout, appearance, access and landscaping being reserved for future consideration.
- 1.2 The application site is located within the settlement boundary as defined in the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and a number of large detached dwellings have been constructed in the vicinity of Trinity View in recent years. The plot of land fronts Lodge Road and slopes steeply from north to south with a height difference of approximately 8m between the front and rear of the site and is overgrown with brambles and scrub. The western boundary of the site is marked by identical scrub land that falls within the ownership of the Authority. To the north, the site is bounded by the properties that front onto Trinity View and elevated above the application site. East of the site a new dwelling has been erected after receiving permission under application 09/0165.
- 1.3 Outline planning permission was granted at appeal on the 13 April 2007 for the erection of two dwellings and garages on land comprising this site and the adjacent land to the east (Appeal Ref G6935/A/06/1200251). The plot which is subject to this planning application comprises part of the land that was referred to as plot (No) 2 in the original application, and although the layout plan was only indicative it showed a detached dwelling with an adjacent garage. In 2009 planning permission (09/0165) was granted to construct a dwelling on the Plot 1 adjacent to the proposal site. That building has now been constructed and neighbours have reported problems with subsidence as a result of the construction and express their concerns in relation to the current proposal and land stability.
- 1.4 The indicative design approved in Outline under application 11/1292 showed a three storey dwelling with the maximum size parameters being 11.5m in width, 7.3m deep, with a maximum height of 7.7m above existing ground level. The plans also indicated that a parking and turning area would be provided to the front of the dwelling accessed off Lodge Road. Four parking spaces have been shown with two being provided in an undercroft garage. It was proposed to provide a tiered rear garden extending the full width of the plot. The first portion would measure 3m in depth and would be flat. The second tier would have a marginal gradient and would measure 3.5m in depth. The final tier would have a steep gradient and would measure 1.7m in depth. These tiers would be divided by retaining walls terminating at the rear boundary with No.16 Trinity View. The overall level of garden provision was considered acceptable.
- 1.5 The principle of residential development on this site has already been established as acceptable through the outline permission. The primary issues for consideration in this



Reserved Matters application are whether the proposal offers a suitable level of amenity for its future occupants, particularly in terms of outdoor amenity space, the impact on neighbouring residential amenities, highway safety and visual amenity.

## 2. RELEVANT SITE HISTORY

11/1292	ERECTION OF DETACHED DWELLING (OUTLINE)	GRANTED WITH CONDITIONS
11/0308	ERECTION OF DETACHED DWELLING (OUTLINE)	REFUSED
06/0436	ERECTION OF 2NO DWELLINGS AND GARAGES (OUTLINE)	REFUSED – APPEAL ALLOWED APR 2007
98/0952	ERECTION OF TWO DWELLINGS AND GARAGES	REFUSED

## 3. POLICY CONTEXT

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

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

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

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

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

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

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

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

**H4 (Affordable Housing)** of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and the Adopted Supplementary Planning Guidance Documents for Parking Standards, Affordable Housing and New Dwellings are relevant to the determination of this application.

## 4. CONSULTATIONS

4.1 WALES AND WEST UTILITIES: No response.

4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The proposal has an archaeological constraint and recommends that a condition requiring an archaeological watching brief is conducted during ground works is attached to any permission granted to identify and record any features of archaeological interest and mitigate the impact of the development upon the archaeological resource.

4.3 DWR CYMRU WELSH WATER: No objection subject to compliance with conditions associated with approved outline application.

**5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The proposed level of parking at the site is satisfactory and also sufficient space will be available for turning to allow access and egress of the highway in a forward gear.

The proposed visibility splays are now considered acceptable subject to no structures or planting exceeding a height of 600mm within the splay.

Suitable drainage must be employed to prevent surface water run off onto the adopted highway and also the driveway must be hard paved for a minimum distance of 5m from the edge of the highway.

Should the application be approved then a condition should be added which requires the submission of a CEMP which includes such details as contractor parking/compound, wheel wash facilities and dust suppression.

Streetscene must be contacted regarding the provision of a drop kerb and vehicle crossover.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (STRUCTURES): No response.

5.4 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): Appreciates that the buffer strip is not practical to the front of the property but it is feasible to the rear and the side and is satisfied with the strip shown on the submitted block plan. Welcomes the submission of the Phase 1 and the recommendations contained therein with particular reference to reptiles and the phased approach to clearing, which can be required by condition.

5.5 HEAD OF LAW AND REGULATION

i) (PUBLIC PROTECTION): No objection.

ii) (AIR QUALITY): Caerleon has a particularly problematic air quality problem around the High Street and Castle Street primarily due to vehicle emissions from the high volume of traffic. It is considered that this development on essentially a greenfield site will generate additional vehicle trips. Considering the development already has planning approval (2011) it is considered unlikely a refusal based on air quality grounds would be successful at appeal. However, to limit the impact this development will have on local air quality I recommend the following:

- At least one electric vehicle charge point should be installed to encourage low/zero emission vehicle usage.
- Any construction vehicles, in particular HGVs should use Ponthir Road rather than the Caerleon High Street / Castle Street. This is recommended to reduce potential number of additional vehicle trips through the AQMA.

5.6 HEAD OF REGENERATION, INVESTMENT AND HOUSING (HOUSING STRATEGY AND DEVELOPMENT MANAGER): Within the policy of the LDP there is a requirement for a commuted sum for the delivery of affordable housing for sites of fewer than 10 dwellings within the settlement boundary, or fewer than 3 dwellings within the defined village boundaries, to assist the Council in meeting its on-going requirement to address housing need. The mechanism for calculating this contribution is to be advised by Planning Policy colleagues.

5.7 PLANNING CONTRIBUTIONS MANAGER: This Reserved Matters application relates to outline planning approval (Ref: 11/1292). At that time, no planning obligations were requested. As such, no planning obligations are requested for this application.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: 6 neighbouring properties with a common boundary and located opposite the site were consulted and a site notice was erected near to the site on Lodge Road. Two letters of objection have been received and the comments are summarised as follows:
- The windows and roof of the property will effect the privacy of no. 16 Trinity View and the site and number of windows should be reduced;
  - The construction of a dwelling on the neighbouring plot has caused the rear boundary with 18-20 Trinity View to collapse;
  - Plans show a retaining wall close the boundary. Assurance is required that this will be substantial enough to prevent collapse and takes account of underground water flow and allows drainage;
  - The proposal could increase on-street parking on Lodge Road;
  - Questions whether the Western boundary is correct in terms of ownership;
  - The increase in traffic flow will increase pollution recorded in Caerleon;
  - The roof appears higher than the neighbouring plot, and
  - The amenity area is small in relation to the property.

Further comments were also received from the occupant of no.20 Trinity View highlighting problems which have been experienced with the neighbouring plot owing to the alleged failure of the developer to adequately retain the land before excavating the supporting bank. As a result the land is apparently unstable and legal proceedings are being sought.

- 6.2 COUNCILLORS GILES, HUNTLEY AND SULLER: Councillor Giles objects on the grounds of additional traffic and the subsequent impact on air quality and over-development on this narrow strip of land and has requested that the application is heard at Planning Committee should officers be minded to recommend approval.
- 6.3 CAERLEON CIVIC SOCIETY: Confirms that Councillor Giles objects to the application.

## **7. ASSESSMENT**

- 7.1 The outline Application 11/1292 was granted subject to a number of conditions including conditions 10 and 11. Condition 10 required details to be submitted with the reserved matters to show that parking standards could be met. Condition 11 required the submission of full boundary treatment details and for it to be demonstrated that a visibility splay of 2.4 x 90m is achievable in both directions at the junction with Lodge Road. A plan has been submitted to show these splays are achievable. Standards now require a reduced visibility splay of 2.4 x 43m.
- 7.2 Compared to the outline consent 11/1292, the proposal is of a reduced width and height but greater depth. The detached dwelling is proposed to measure 9.7m in width by 9.1m in depth with a maximum height of 10.5m underneath a pitched roof, 7.3m higher than the original ground level and 0.6m lower than the ridge of the adjacent dwelling.
- 7.3 The front elevation fronting Lodge Road will have a maximum height of 10.5m. Owing to the shape of the land, its height is more conservative to the rear. The terracing of the site will also help to Many of the dwellings constructed in the vicinity in recent years have been constructed to accommodate the shape of the land, which has resulted in tall south elevations. During the course of the application, the ridge height of the proposed property has been lowered to below that of the neighbouring property to reduce the impact on the streetscene and appearance from the neighbouring rear gardens at Trinity View.
- 7.4 The front elevation of the proposed dwelling has a centrally located dormer window flanked by large windows either side on the first and second floors. A balcony which extends the full width of the property will project from the first floor of the front elevation, overhanging the driveway. The property is proposed to contain a lounge, kitchen and dining room on the first floor, four bedrooms on the second floor, a guest suite and office in the roof space and garage and storage space on the lowest level. It is proposed to provide four windows and three roof lights to the rear of the property.

- 7.5 As with application 11/1292, the garden is proposed to be tiered with the main usable space located to the western side of the property. The garden would comprise an upper tier measuring 2m in depth to the rear boundary, with a second tier extending to the depth of the property, requiring extensive use of retaining walls. The lowest level would form the driveway and turning area and would slope gently upwards from Lodge Road up to the property. The position and form of the amenity space is not conventional, however, a rear garden depth below the SPG standard has already been agreed under application 11/1292. Furthermore, the size of the external amenity space measures approximately 96 square metres which is 10 square metres above the minimum size required within the SPG for new dwellings which requires 1 square metre of private amenity spaces per square metre of the building's 86 square metre footprint.
- 7.6 The rear elevation windows which serve bedrooms would look directly onto the rear retaining wall and boundary treatment of the neighbouring property. The residents of 16 and 14 Trinity View are concerned that there would be some degree of overlooking of the rear of their properties owing to the height and location of the roof lights in the rear roof slope of the proposal. The Supplementary Planning Guidance for New Dwellings recommends a distance of 21m between protected windows. The measured distance between the rear elevation roof slope and the rear of 16 Trinity View is approximately 20m. Owing to the angle of roof lights and position of the roof, it is considered that there will be no adverse impact on amenity through overlooking to the neighbouring property or to future occupants of the proposed dwelling. The dwelling is therefore considered acceptable in terms of Policies GP2 and GP5 of the Newport Local Development Plan 2011 -2026 (Adopted January 2015).

### **Highways**

- 7.7 The driveway access is proposed to be set back 2.5m from the edge of the highway and the visibility splay required by condition 11 of the Outline consent has not been shown to be achievable. The Head of Streetscene and City Services (Highways) has however confirmed that the required splay has now been reduced to 2.4 x 43m in each direction and is satisfied that this can be achieved. It is however recommended that a condition is attached to any permission granted to prevent any structures exceeding 0.6m in height being erected within the visibility splay.
- 7.8 The internal garage is proposed to measure 3.5m wide by 12m in length and the Supplementary Planning Guidance for Parking Standards requires that three off-street parking spaces are provided in this location for a property of this size. The Head of Streetscene and City Services (Highways) has confirmed that the proposed level of parking at the site is satisfactory and also that sufficient space will be available for turning to allow access and egress of the highway in a forward gear.
- 7.9 Suitable drainage must be employed to prevent surface water run off onto the adopted highway and also the driveway must be hard paved for a minimum distance of 5m from the edge of the highway. The second of these elements has been controlled through the outline consent and a condition will be attached to any planning permission granted to require the submission of drainage details. The Head of Streetscene and City Services also requires a condition to be attached which requires the submission of a CEMP which includes such details as contractor parking/compound, wheel wash facilities and dust suppression.

### **Air Quality**

- 7.10 Caerleon has a particularly problematic air quality problem around the High Street and Castle Street primarily due to vehicle emissions from the high volume of traffic. The Head of Law and Regulation (Air Quality) considers that this development will generate additional vehicle trips and has recommended that an electric vehicle charging point is installed at the property to encourage low/zero emission vehicle usage and that any construction vehicles, in particular HGVs should use Ponthir Road rather than the Caerleon High Street / Castle Street to reduce potential number of additional vehicle trips through the AQMA. However, considering that the principle of the development has already been approved under

application 11/1292 to impose these requirements at the reserved matters stage is not considered to be reasonable.

### **Ecology**

- 7.11 The Head of Streetscene and City Services (Ecology) requested that a Phase 1 Survey was carried out. This was completed and submitted during the course of the application. The submitted report concluded that the proposed development site has the potential to impact on nesting birds and a small population of common reptiles. It is proposed to 'push' potential reptiles on site out to the surrounding suitable habitats by using species deterrence measures rather than a full translocation scheme. The following recommendations are made for the proposed development:
- Any scrub removal or tree works must be completed between the months of September and February inclusive to avoid the bird nesting season. If this is not achievable an ecologist must inspect any tree or scrub for active birds' nests immediately prior to removal works beginning.
  - The vegetation within the site must be cleared in two stages. All vegetation within the site will be initially cleared to a height of 100mm with all arising's removed from the site. A second cut will take place 24hours later to remove all vegetation from within the site boundary.
  - All contractors on site must be made aware of the possibility of endangered species using the site, the legislation protecting them and to show caution during clearance works.
  - The provision of two bird boxes of varying design within the development. Enhancement planting along the new build boundary or landscaping could be incorporated within the development. Native species should be chosen and the percentage species mix, location and aftercare measures should be shown on the proposed plans of the development.
- 7.12 A revised block plan has been submitted which shows a 1m wide buffer strip to the entire length of the side and rear boundaries of the property. The Head of Streetscene and City Services (Ecology) appreciates that a buffer strip is not practical to the front of the property but it is feasible to the rear and the side and is satisfied with the strip shown on the submitted block plan. The recommendations contained in the Phase 1 report are considered acceptable and the Head of Streetscene and City Services (Ecology) has recommended that a condition is attached to any planning permission granted to secure a phased approach to vegetation clearing.

### **Other Matters**

- 7.13 The Glamorgan Gwent Archaeological Trust have recommended that a condition is attached to any permission granted requiring an archaeological watching brief to be undertaken during ground works to ensure any archaeological resources are recorded and adequately protected. This condition is already attached to the outline consent.
- 7.14 Dwr Cymru Welsh Water have requested the re-application of condition 14 of planning permission 11/1292 which requires the submission of full details of the foul and surface water drainage systems to be submitted for approval. This condition is already attached to the outline consent and there is no need to repeat it in the Reserved Matters decision.
- 7.15 The neighbours at Nos. 16 and 14 Trinity View are concerned that the retaining structures to the rear boundary will not be adequately constructed and will not have adequate drainage since the boundary to the rear of Nos. 18 and 20 Trinity View has suffered collapse since the construction of the adjacent property (Plot 1 of 06/0436). A design statement drafted by consulting engineers has been submitted with the application as assurance which quotes the relevant British Standards and states:
- 'To ensure the stability of the ground to the rear of the new dwelling all new retaining walls and foundations which are required for the project will be designed and constructed in accordance with the relevant design standards'*

7.16 Since the retaining wall will not form part of the proposed house, its construction is not controlled through Building Regulations. Similarly, owing to the distance between the excavated area and neighbouring properties on Trinity View, it also seems as though the retaining structure will not be covered under the Party Wall Act. Therefore, since the construction of the retaining wall will have a potential impact on the amenity of neighbouring occupiers, full construction details along with details of drainage, will be required to be approved prior to the commencement of works. This request is not considered to be unreasonable since the outline consent required full details of boundary treatment to be submitted, albeit retaining structures were not specifically referred to.

## **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

### **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 principle of the proposal was approved under application 11/1292. There are no consultee objections to the proposal and it is considered to be acceptable in terms of design and amenity. The rear retaining wall is to be constructed to the relevant required standards and further details will be required by condition. The proposal is therefore considered to comply with the relevant policies of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and it is recommended that planning permission is granted subject to the following conditions.

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: NW03/01A visibility Splay, NW03/02B Proposed Block Plan with buffer strip, NW03/04C Proposed Elevations, NW03/05A Site Sections, NW03/03B Floor Plans, NW03/06 Proposed Front Elevation, Extended Phase 1 Habitat Survey dated 30/12/16, Design Statement by Steve Morgan Associates ref MQ/1175953/01.

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 Prior to the commencement the site shall be cleared of scrub and vegetation in the phased manner recommended in the approved Extended Phase 1 Habitat Survey. Any scrub removal or tree works must be completed between the months of September and February inclusive to avoid the bird nesting season.

Reason: In the interest of ecology including European Protected Species and habitats.

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

- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities;
- details of enclosure of working areas;
- the route of construction traffic to avoid Caerleon Air Quality Management Area and minimise vehicle trips through Caerleon centre.

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

Reason: To protect the amenities of nearby residents and to avoid exacerbating pollution in the Caerleon Air Quality Management Area.

04 No development, other than demolition, shall commence until the visibility splays and sight line areas shown on the approved drawings have been provided. All these areas shall thereafter be kept free of all obstructions to visibility over a height of 0.6 metres.

Reason: In the interests of road safety and traffic movement.

#### ***Pre – construction conditions***

05 Prior to the commencement of development hereby approved full construction details for the retaining walls including structural calculations and means of drainage shall be submitted and approved by the local planning authority. The retaining walls shall then be constructed in accordance with the approved details prior to the commencement of construction of the dwelling hereby approved and retained as approved in perpetuity.

Reason: In the interest of residential amenity.

#### ***Pre –occupation conditions***

06 No use shall be made of the building hereby approved until the garage and driveway areas have been provided and surfaced as indicated on the plan(s) hereby approved and retained in that condition in perpetuity.

Reason: To ensure that adequate off-street parking provision is made in the interests of highway safety.

#### ***General conditions***

07 No window or door openings (other than those shown on the approved plan) shall be formed in the eastern elevation of the property hereby approved without the prior written permission of the local planning authority.

Reason: to protect the privacy and any perceived overlooking of adjoining residents.

08 The hardstanding area hereby approved shall be constructed of porous/permeable materials or provide a direct run-off for surface water to a porous or permeable area within the curtilage of the dwellinghouse and shall be retained as such thereafter in perpetuity.  
Reason: To ensure adequate drainage of surface water.

*NOTE TO APPLICANT*

01 This decision relates to plan Nos: NW03/01 Site Location and Block Plan, Appeal decision letter ref APP/K5930/A/09/2111116 submitted in support of side curtilage, NW03/01A visibility Splay, NW03/02B Proposed Block Plan with buffer strip, NW03/04C Proposed Elevations, NW03/05A Site Sections, NW03/03B Floor Plans, NW03/06 Proposed Front Elevation, Extended Phase 1 Habitat Survey dated 30/12/16, Design Statement by Steve Morgan Associates ref MQ/1175953/01

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, GP2, GP4, GP5, GP6, GP7, CE6, H2 and H4 were relevant to the determination of this application.

03 The Adopted Supplementary Planning Guidance documents for Parking Standards, New Dwellings, Wildlife and Development and Archaeologically Sensitive Areas were 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 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

06 The developer is advised to install a working electronic vehicle charging point at the property in the interest of encouraging reduced fuel consumption and contribute to prevention of deterioration of air quality within Caerleon High Street Air Quality Management Area.



## APPLICATION DETAILS

**No:** 16/0864      **Ward:** LLANWERN, LANGSTONE, RINGLAND

**Type:** RENEWALS AND VARIATION OF CONDITIONS

**Expiry Date:** 24-OCT-2016

**Applicant:** GALLAGHER ESTATES

**Site:** LLANWERN VILLAGE, COT HILL, LLANWERN, NEWPORT

**Proposal:** VARIATION OF CONDITIONS 02 (RESERVED MATTERS), 03 (MASTERPLAN) AND 05 (DESIGN CODE) OF PLANNING PERMISSION 13/0806 FOR VARIATION OF CONDITION (TIME LIMITS) OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9 AND 397/10 LLANWERN)

**Recommendation:** GRANTED WITH CONDITIONS WITH DELGATED AUTHORITY TO COMPLETE NEGOTIATION OF THE S106 LEGAL AGREEMENT IN RELATION TO THE SCHOOL SPECIFICATION AND THE LOCATION OF THE MUGA AND TO REFUSE PERMISSION IF THE DEED OF VARIATION (S106 AGREEMENT) IS NOT SIGNED WITHIN 3 MONTHS OF THE RESOLUTION TO GRANT PLANNING PERMISSION.

### 1. INTRODUCTION

- 1.1 The applicant is seeking to make changes in the Masterplan Drawings approved under application 13/0806 to accommodate minor changes in the road layout and other changes that would allow connections into land to the east of the application site should that land come forward for development in the future. The applicant is also seeking to vary the terms of the S106 agreement signed as part of planning permission 13/0806. The principle changes are a reduction in the affordable housing provision from 23% to 20% and the deletion of the sum of money for the proposed north / south link from this site to the Glan Llyn Site and then to the Eastern Distributor Road. The deleted sum is £5 million.

### 2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
06/0845	RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9, 397/10 - LLANWERN)	GC 01 October 2009
13/0806	VARIATION OF CONDITION (TIME LIMITS) OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9 AND 397/10 LLANWERN)	GC 03 February 2014
13/0990	PARTIAL DISCHARGE OF CONDITIONS 23 (CONTAMINATION INVESTIGATION AND REMEDIATION), 29 (PROGRAMME OF ARCHAEOLOGICAL WORK) AND 35 (SURVEY OF CANDIDATE REGIONALLY IMPORTANT GEOLOGICAL AND/ OR GEOMORPHOLOGICAL SITE) OF	A 16 January 2014

	PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100) DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9 AND 397/10-LLANWERN)	
13/1024	RESERVED MATTERS SUBMISSION FOR PHASE 1 INFRASTRUCTURE (ROADS AND DRAINAGE) PURSUANT TO OUTLINE PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT OF UP TO 1100 DWELLINGS, PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND INFRASTRUCTURE (AFFECTING PUBLIC RIGHT OF WAYS, 397/3, 397/9 AND 397/10 - LLANWERN)	AC 08 January 2014
13/1151	PARTIAL DISCHARGE OF CONDITION 17 (DETAILED NOISE ASSESSMENT) OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS	Withdrawn 12 March 2014
13/1223	PARTIAL DISCHARGE OF CONDITION 21 (ECOLOGICAL MANAGEMENT PLAN) OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9, 397/10 -LLANWERN)	A 16 January 2014
14/0265	PARTIAL DISCHARGE OF CONDITION 5 (DESIGN CODE) OF PLANNING PERMISSION 13/0806 FOR RESIDENTIAL DEVELOPMENT OF UP TO 100 DWELLINGS AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE	A 07 May 2015
14/0764	PARTIAL DISCHARGE OF CONDITION 33 (STRATEGY TO PROVIDE AN ADEQUATE WATER SUPPLY) OF PLANNING PERMISSION 13/0806 FOR VARIATION OF CONDITION (TIME LIMITS) OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9 AND 397/10 LLANWERN)	A 11 December 2014
14/0774	PARTIAL DISCHARGE OF CONDITION 16 (NOISE ASSESSMENT) OF PLANNING PERMISSION 13/0806 FOR RESIDENTIAL DEVELOPMENT & ASSOCIATED FACILITIES AND INFRASTRUCTURE IN RELATION TO THE WHOLE SITE OTHER THAN PART OF THE DEVELOPMENT PARCELS 'E', 'J' AND 'K' THAT ARE NEAR THE SOUTHERN DISTRIBUTOR ROAD IN RELATION TO ROAD NOISE ONLY.	A 04 June 2015
14/0969	RESERVED MATTERS APPROVAL FOR INFRASTRUCTURE LAYOUT OF PLANNING PERMISSION 13/0806 FOR THE VARIATION OF CONDITION (TIME LIMITS) OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9 AND 397/10 LLANWERN)	AC 21 May 2015
14/1135	PARTIAL DISCHARGE OF CONDITION 23 (DRAINAGE STRATEGY) OF PLANNING PERMISSION 13/0806 FOR THE RESIDENTIAL DEVELOPMENT OF 1100 DWELLINGS AND ASSOCIATED FACILITIES AND INFRASTRUCTURE	Withdrawn 26 August 2015
15/0014	PARTIAL DISCHARGE OF CONDITION 14 (OVERARCHING GREEN TRAVEL STRATEGY) OF PLANNING PERMISSION 13/0806 FOR VARIATION OF CONDITION (TIME LIMITS) OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9 AND 397/10 LLANWERN	Refused 05 March 2015

### **3. POLICY CONTEXT**

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

##### **3.1.1 The following policies are relevant:**

- SP4 – Water Resources
- SP5 - Countryside
- SP10 – House Building Requirement
- SP11 – Eastern Expansion Area
- SP12 – Community Facilities
- SP13 – Planning Obligations
- SP15 – Integrated Transport
- SP16 – Major Road Schemes
- GP1 – Climate Change
- GP2 – General Amenity
- GP3 – Service Infrastructure
- GP4 – Highways and Accessibility
- GP5 – Natural Environment
- GP6 – Quality of Design
- GP7 – Environmental Protection & Public Health
- CE3 – Environmental Spaces & Corridors
- CE4 – Historic Landscapes, Parks, Gardens & Battlefields
- CE6 - Archaeology
- CE8 – Locally Designated Nature Conservation & Geological Sites
- H1 - Allocated Housing Sites (H3 – Llanwern Village)
- H2 – Housing Standards
- H3 – Housing Mix & Density
- H4 – Affordable Housing
- T1 - Railways
- T3 – Road Hierarchy
- T4 - Parking
- T7 – Public Rights of Way & New Development
- R8 – Small Scale Retail Proposals
- CF2 – Outdoor Play Space Requirements
- CF13 – School Sites
- W3 – Provision for Waste Management Facilities in Development

### 3.1.2 Relevant Supplementary Planning Guidance is:

- Planning Obligations (August 2015)
- Affordable Housing (August 2015)
- Archaeology & Archaeologically Sensitive Areas (August 2015)
- Wildlife & Development (August 2015)
- New Dwellings (August 2015)
- Outdoor Play Space Provision (January 2017)
- Trees, Woodland, Hedgerows and Development Sites (January 2017)

## 4. CONSULTATIONS

4.1 WESTERN POWER DISTRIBUTION: Advise of equipment in the area and safe working practices.

## 5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE (HIGHWAYS): No objection in relation to the layout changes but objects to the changes in the S106 Legal Agreement that relate to the north / south link on the basis that this is a key piece of infrastructure which now may not be provided thereby jeopardising the delivery of the Llanwern Rail Halt.

5.2 HEAD OF STREETSCENE (LANDSCAPING): Comments as follows,

- The balancing pond area is likely to be a popular, passive recreation area with lots of landscape potential for creating enjoyable walks around, making a great public open space destination. If this opportunity is intended to be taken, the lower balancing pond still appears too close to the south boundary and extremely tight to the housing on the south-east side. This is something which could easily be rectified, if there is the will, by calculating and adding the compensating volume to the top water body on its west side.
- The northern-most corner of the housing blocks should be slightly chamfered-off to correct the pinch-point to the route between the allotments and Public Open Space, allowing room for shrub planting to soften back garden fencing.
- Regarding the north to south structural landscape, I would like to see the proposed planting shown linking to the main road by continuing it between the housing blocks south of the Locally Equipped Area of Play: to match the pedestrian circulation plan. The 'Landscape and Open Space Strategy' does not indicate any planting along here, and so needs updating. Similarly, the last link to the southern Public Open Space, along the Public Right of Way south of the Multi Use Games Area.

5.3 HEAD OF REGENERATION, INVESTMENT & HOUSING (HOUSING STRATEGY): Comments as follows;

- I wish to query the proposed Heads of Terms, the agreement I understood was for the units to be transferred to a Registered Social Landlord for a value of no more than 62% of the Acceptable Cost Guidance (ACG), rather than no less than as stated in the draft heads of terms. I would be grateful if this could be reviewed, as the amount requested could in theory increase.
- A housing association paying this money to a developer for the unit has to take out a traditional mortgage to pay for the property, the only mechanism to repay this mortgage is from the rental stream, and the rent is set by Welsh Government. 62% of ACG is already difficult for the association as the rent they are allowed to charge does not allow for the mortgage to be repaid so already creates an issue for them, if the ACG were to be increased it would mean the affordable housing units could not be purchased by an association, and the

developer could not then comply with their planning consent. If this could be amended it would hopefully ensure there are no future problems with delivery.

## 6. REPRESENTATIONS

### 6.1 NEIGHBOURS:

Three site notices were displayed in the vicinity of the site. A press notice was published on the 03 September in the South Wales Argus.

### 6.2 LANGSTONE COMMUNITY COUNCIL: No objection.

## 7. ASSESSMENT

### 7.1 The applicant is seeking to vary the following conditions of Planning Permission 13/0806:

#### Condition 02 (Reserved Matters)

*Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the Reserved Matters") shall be obtained from the local planning authority prior to the commencement of any works on any phase (as defined by Condition 4). These details shall accord with the principles, parameters and objectives laid out in the Indicative Masterplan drawings A3989/1.3/001 Rev.S, A3989/1.3/002 Rev.M, A3989/1.3/003 Rev.N, A3989/1.3/004 Rev.M, A3989/1.3/005 Rev.M, and the Design Code as required to be approved under Condition 05.*

**Reason:** *to safeguard the rights of control of the local planning authority in respect of the Reserved Matters and to comply with the requirements of section 92 of the Town and Country Planning Act 1990 and with the provisions of Article 3(1) of the Town and Country Planning (Development Management Procedure)(Wales) Order 2012.*

#### Condition 03 (Masterplan)

*The development shall not take place other than in accordance with the principles, parameters and objectives of the Indicative Masterplan (drawings A3989/1.3/001 Rev.S, A3989/1.3/002 Rev.M, A3989/1.3/003 Rev.N, A3989/1.3/004 Rev.M, A3989/1.3/005 Rev.M) and the Design Code for the development as required to be approved under Condition 05.*

**Reason:** *To clarify the scope of the outline planning permission and to ensure a comprehensive and coordinated development of the site.*

#### Condition 05 (Design Code)

*Prior to the submission of any reserved matters applications (unless otherwise agreed in writing by the Local Planning Authority in relation to specific advanced works) a Design Code for the development of the site shall be submitted to and approved in writing by the Local Planning Authority. The Design Code shall accord with the principles, parameters and objectives laid out in the Indicative Masterplan drawings A3989/1.3/001 Rev.S, A3989/1.3/002 Rev.M, A3989/1.3/003 Rev.N, A3989/1.3/004 Rev.M, A3989/1.3/005 Rev.M and shall clearly indicate the works for (i) development parcels and (ii) infrastructure. The Design Code shall include the following details: (a) details of how the development is broken down into development parcels; (b) a design approach for each development parcel within the context of the site as a whole; (c) the approximate number of residential units within each development parcel and identification of development blocks with an indication of building heights; (d) the location of landmark buildings and key frontages; (e) approximate housing numbers, mix and density within each development parcel; (f) the approximate location, number and mix of affordable housing within each development parcel; (g) off-street parking arrangements; (h) landscaping and planting proposals and boundary treatments; (i) areas of public open space/recreation space within each development parcel, indicating their function and facilities to be provided and their location; (j) the hierarchy of access and circulation including roads, footpaths and cycleways and how these link with the surrounding area; (k) sustainable development standards and measures to achieve such standards within each development parcel; (l) details of sustainable urban drainage systems/flood compensatory/mitigation works including flood attenuation areas. All applications for reserved matters shall accord with the Design Code unless otherwise approved in writing by the Local Planning Authority.*

**Reason:** To ensure a coordinated approach to the detailed development of the site and to ensure a high quality design.

7.2 The applicant is seeking to make changes in the Masterplan Drawings approved under application 13/0806 to accommodate minor changes in the road layout and other changes that would allow connections into land to the east of the application site should that land come forward for development in the future. The applicant is also seeking to vary the terms of the S106 agreement signed as part of planning permission 13/0806.

7.3 The key changes in the drawings are summarised as follows:

Changes	13/0806	16/0864
<ul style="list-style-type: none"> <li>Built form closer to Great Milton (Listed Building)</li> <li>Expansion of School site to include Multi Use Games Area</li> <li>Balancing ponds fixed in south east corner of site</li> <li>Local Areas of Play confirmed on Village Green and two other locations</li> <li>Sports pitches realigned</li> <li>Changing rooms shown adjacent to pitches</li> <li>Allotments relocated adjacent to pitches</li> <li>General changes to development parcels (fewer and larger)</li> </ul>	Indicative Masterplan A3989/1.3/001 S	Indicative Masterplan DE_220_001 C
<ul style="list-style-type: none"> <li>MUGA moved away from Great Milton (housing replaces) to expanded school site</li> <li>Number of LEAPs reduced from 4 to 3 (one southern LEAP omitted)</li> <li>Changing room facility moved closer to pitches</li> <li>Underground attenuation now shown as open pools</li> </ul>	Landscape & Open Space Strategy A3989/1.3/002 M	Landscape & Open Space Strategy DE_220_002 D
<ul style="list-style-type: none"> <li>Clarification of public footpath diversion</li> <li>Addition of Active travel Routes</li> </ul>	Pedestrian Movement A3989/1.3/004 M	Pedestrian Movement DE_220_003 D
<ul style="list-style-type: none"> <li>Densities broadly the same with some slight increase in density proposed on some parcels</li> <li>Housing numbers and Area developed for</li> </ul>	Parameters Plan A3989/1.3/003 N	Parameters Plan DE_220_005 A

<ul style="list-style-type: none"> <li>housing broadly the same</li> <li>Fewer larger parcels (39 reduced to 28)</li> </ul>		
<ul style="list-style-type: none"> <li>Principle routeway carried to NE corner of site (former allotments).</li> <li>Primary road south of existing lane re-aligned to accommodate amendments to school and village centre siting.</li> <li>Tertiary roads identified as well as secondary roads.</li> </ul>	Vehicle Movement A3989/1.3/005 M	Vehicle Movement DE_220_004 E

7.4 The Key changes in the S106 agreement are as follows:

Changes	13/0806	16/0864
Affordable Housing	No less than 23% of units at 62% of ACG	No less than 20% of units at 62% ACG
Cot Hill Junction upgrade (Phase 2 works)	£45,000	unchanged
Bus Subsidy	£450,000 £150,000 payable on commencement £150,000 payable 1 year after commencement £150,000 payable 2 years after commencement	unchanged
Drainage Contribution (works in Station Road)	£177,000	Unchanged
Primary School Site	Serviced Site of 1.1Ha to be provided prior to the occupation of the 100 <sup>th</sup> dwelling.	Serviced site of 1.5Ha (potentially 2.0Ha) to be provided prior to the occupation of the 100 <sup>th</sup> dwelling
Primary School Contribution	£4,900,000	£6.1 million or the provision of a school building by the developer to an agreed specification prior to the occupation of the 400 <sup>th</sup> dwelling.
Secondary School Contribution	£2.5 million	£2.5 million
Public Open Space	Provision of public open space (including play areas, sports pitches, changing rooms, the area of attenuation ponds and other informal space) and £1,889,809 to the Council for maintenance (or alternatively transfer of the POS to a Management Company which	Unchanged (other than potential transfer of MUGA to the primary school site).

	will maintain the land).	
Allotments	Allotments to be laid out and made available within 12 months of commencement or within 12 months of the Ringland Allotments being disposed of, whichever is the later.	Allotments to be laid out and made available within 3 years of development commencing.
Station Road Access	To be constructed within 2 years of development commencing.	unchanged
Indexation	None.	From the date the Deed of Variation is signed or back to 2009 in the event no significant commencement is made within three years of the date of this new permission.
North / South Link Contribution	£5,000,000 (maximum)	£0
North / South Link Security	£500,000	£0
Hartridge School Footpath	Works to improve / provide a footpath to Hartridge School	unchanged

## 7.5 Acceptability of the Proposed Changes and their materiality

7.5.1 The changes in the submitted plans are considered to be minor material. They change the character of the submission but still align with the overall description of development and do not raise any new issues that would fall outside the considerations already made at the time of the initial submission in 2006 and the variation in time limits submission agreed under approval 13/0806.

7.5.2 There have been significant changes in policy since the 2013 approval of the variation of time limits application. The main change is in relation to the adoption of the Council's Local Development Plan in January 2015. However this site remains allocated for housing under Policy H1(3) – Llanwern Village and lies within the Eastern Expansion Area where Policy SP11 supports a 'residential led mixed use, sustainable urban expansion area' to the east of the City's current developed edge. As such the principle of the development is firmly established in locally adopted and up to date policy and is thoroughly acceptable in principle.

7.5.3 This application to vary the conditions imposed on approval 13/0806 so as to allow variations in the Masterplanning of the site is policy compliant and is considered acceptable.

## 7.6 EIA

7.6.1 As a significant urban expansion the initial proposal and the 2013 variation to extend the time limits for implementation of that earlier permission were considered to be EIA development. They were accompanied by Environmental Statements. In the case of the 2013 variation this was the original Environmental Statement from 2006 and an appropriate addendum updating that earlier statement to allow for changes in circumstances. This application also includes the previously submitted Environmental Statement, the 2013 update and a further update to address any changes that may have occurred on the ground since 2013 and to address the changes in the Masterplanning of the site.



- 7.6.2 The changes to the proposed layout are concluded to have had a negligible to imperceptible impact on landscape and visual amenity issues over and above the already approved scheme and no further mitigation is needed over and above that considered necessary in 2006 and 2013. In terms of ecology the applicant has undertaken recent surveys and has concluded that the layout changes will require the removal of 4 additional trees which have bat potential but in the context of the entire site this will not be significantly worse than what has already been approved. The applicant notes the provision of ecological mitigation required under condition will enable ecological preservation, mitigation and compensation as necessary.
- 7.6.3 In terms of Transport and Accessibility the proposed changes will have no significant impact on the submitted Transport Assessment and no changes in the pre-existing situation were identified as sufficiently great to be material. Similar conclusions were arrived at in terms of utility provision (gas, electricity and water).
- 7.6.4 In terms of surface water drainage the applicant now seeks a solution where run-off from the site will feed to the existing catchments (rather than all being directed to the private drainage system on the Glan Llyn Regeneration Site to the south of the site). In essence the post development drainage system will ape the pre-development drainage system with run-off being attenuated to existing rates or better. The system has been designed to accommodate the 1 in 100 years storm with allowance being made for climate change. The overall effect of the proposed scheme will be to attenuate peak flows in receiving catchment thereby reducing flood risk.
- 7.6.5 In terms of ground contamination onsite surveys have generated a clearer picture of ground conditions than previously existed. The surveys show the ground conditions are suitable for the proposed end use (housing). Surveys show that radon protection will be needed in the new dwellings but risks from other ground gases (methane & carbon dioxide) are low and no mitigation will be needed for those gases.
- 7.6.6 Impacts on Air Quality were assessed in the light of the proposed changes and were not considered to be any greater than those that would have arisen under the currently approved scheme and below the relevant annual mean Air Quality Objectives. The proposed changes will not have a greater impact on air quality than the approved scheme.
- 7.6.7 The ES update concludes the archaeological interest can be protected under condition and the proposed changes would have no greater impact on the archaeological resource than the approved scheme.
- 7.6.8 Land Use, Soils and Agriculture will not be more greatly affected by the proposed changes than the approved scheme. There will be no greater land take under the amended scheme than there would have been under the approved scheme.
- 7.6.9 Additional noise monitoring was undertaken in 2014. Main noise sources were road noise from the SDR and to a lesser extent Cot Hill, birdsong and limited aircraft noise and construction noise from Glan Llyn. The new layout will take traffic away from Cot Hill and will reduce the impact of road noise on the existing dwellings in Cot Hill once the development is built. Plant noise is limited by condition (local centre) and will not be sensitive to the proposed changes. The proposed changes will have no significant impact on the noise environment other than in relation to the reduced traffic on Cot Hill.
- 7.6.10 Cumulative impacts are not considered to have been increased by the proposed changes notwithstanding new housing allocations under the NLDP at the Jigsaw Site (H1 55), Hartridge High School (H1 19) and Hartridge Farm Lane (H16).

## 7.7 Great Milton

7.7.1 In terms of the listed Great Milton farmhouse (Grade II) the applicant has provided an assessment of the impact of the proposed changes on this particular historic asset. The original ES considered the development would cause the following impact on Great Milton's setting:

*'The proposed development will be visible from four Listed buildings. Of these, only Great Milton is close enough for its setting to be affected by the proposed scheme, which will have a small adverse impact of **minor** significance on its setting. The impact on the other buildings will be neutral, of **neutral** significance.'*

That is a small adverse impact on a high value Heritage Asset (at worst). Given the severance of the farmhouse from its rural backdrop it seems extremely unlikely that the impact would have been as low as stated. A large adverse or at least moderate adverse impact seems more probable and this would have led to a substantially significant effect on the setting of the farmhouse. It is likely the original ES underestimated the impact of the proposal on the setting of Great Milton.

7.7.2 The 2017 assessment submitted as part of this application maintains the stance that the development (allowing for the proposed changes) would have a slight adverse impact on the setting of Great Milton. Much of this assessment is based on the house no longer being a working farm and having taken on a more 'domestic' character including fencing that severs the house from its former landholding. The assessment also notes potential to reduce impact on the farmhouse via the re-design which would give the potential to relocate the school's parking away from Great Milton. The report acknowledges that the re-plan would introduce a new housing block to the southwest of the farmhouse but considers that the views of the house from this direction from the public footpath were not important and any impact can be mitigated by careful design, massing and landscaping.

7.7.3 Even if it is accepted that the initial assessment (and by extension the 2017 assessment) underestimated the impact of the proposal on Great Milton, the key test at this point is whether the change in the layout would have a greater impact than the approved scheme. In terms of Great Milton the original masterplan showed an area of open space to the southwest of the house whereas now a block of housing is shown with an area of additional landscaping along the boundary with the back garden of Great Milton. In terms of key views of the house the initial layout would have offered views towards Great Milton from the retained public footpaths through the site, however that view would have contained a multi-use games area and the rural context would certainly have been lost. Under the revision that view would be interrupted by housing but given that PRoW is to be re-routed to avoid passing through the grounds of the proposed primary school this public view would be lost anyway.

7.7.4 The re-plan will mean that a view of the listed building from within the site will be lost when the PRoW is re-routed. However that view was compromised by the MUGA and the provision of housing instead of the MUGA in this location will not significantly worsen that view. The impact of the change is considered neutral and no worse than what has been approved. The re-location of the PRoW so that it doesn't pass through the grounds of the proposed school will restrict public view of Great Milton that are currently available but as noted those views would have been compromised by development under the approved scheme so the loss of views from the PRoW towards the house would not be unacceptably harmful to the public interest either.

7.7.5 In conclusion even if the impact on Great Milton has been underestimated the re-plan will not have a greater impact and as such the re-plan has a neutral and therefore acceptable impact on the setting of the Listed Building (Great Milton). A certain level of control over the development near the listed building will be retained at the Reserved Matters stage, the Council agrees with the applicant's assessment that impacts on the setting of the listed building can be moderated (but not avoided) by careful attention to design, massing and landscaping and subsequent

reserved matters submissions and the required design code will need to have regard to these points.

## 7.8 Retention of Condition 03 (accordance with Masterplan) of permission 13/0806

7.8.1 This condition requires that the scheme should accord with the principles of the master planning document. The applicant was seeking to vary this condition to allow the substitution of new master planning documentation. However the reserved matters submission condition also requires conformity of those matters with the masterplanning documents. In effect the reserved matters condition acts as a 'plans' condition and renders existing condition 03 superfluous since it replicates the requirements of the reserved matters condition. As such it is proposed to delete existing condition 03 as unnecessary rather than amend it as requested.

## 5.9 S106

7.9.1 The applicant is seeking changes to the existing S106 agreement. The key changes are a reduction in affordable housing provision from 23% to 20% and the loss of the £5 million contribution to the north south link. The north / south link is a strategic road scheme that would link the Gallaghers site north of the South Wales mainline railway to the Glan Llyn site south of the line and then linking to the Eastern Distributor Road. The north / south link is supported under policy SP11 (Eastern Expansion Area) and SP16 (Major Road Schemes) but there is nothing in the layout of this proposal which would jeopardise the delivery of the link in the future and so the proposal is policy compliant. A further change is the increase in size of the primary school site from 1.1Ha to 1.5Ha (potentially 2.0 Ha) and an increase in the primary education contribution from £4.9 million to £6.1 million or the provision of a school to an agreed specification by the developer.

7.9.2 Policy SP13 (Planning Obligations) requires the provision of developer contributions to offset the harm caused by developments to landuse planning interests and to make developments sustainable. Welsh Office Circular 13/97 (Planning Obligations) advises such contribution must be:

- Necessary.
- Relevant to planning.
- Directly related to the proposed development.
- Fairly and reasonable related in scale and kind to the proposed development.
- Reasonable in all other respects.

Additionally Section 122 Of the Community Infrastructure Levy Regulations 2010 as amended require any contribution to be necessary to make the development acceptable in planning terms, directly related to the development and fairly & reasonably related in scale and kind to the development.

It is considered that the proposed contributions meet the above tests (both legal and policy based) and no other contributions are required in order to offset the identified harms of the scheme.

7.9.3 The revised terms have been subject to a protracted period of negotiation between the Council and the developer. The developer has demonstrated that the higher level of affordable housing provision (23%) agreed under the older permission is not viable and its provision would prejudice the delivery of the site. However the site is viable at a 20% level of provision and the developer has agreed to this. This site is within the Caerleon and Rural Newport Housing Submarket Area for Newport (identified in the Council's Affordable Housing SPG) where the affordable housing target is 40%. However the Council has accepted that the 23% figure previously agreed for this site is unachievable and in any event would present a fallback position for the developer. As such the 40% target is demonstrably unachievable and the Council's adopted SPG allows a departure from the specified percentages when the scheme is not viable. An independent third party, the District Valuer, has confirmed that the development would be unviable at a 23% affordable housing contribution.

- 7.9.4 At the current time the revised agreement has not been fully negotiated. The Council needs to prepare a specification for the school that the developer will need to meet in the event the developer is minded to build the school themselves rather than provide the £6.1million contribution to the Council. Additionally the Education Section are minded to seek an enlarged school site (bigger than 1.5Ha) by taking in the area of the MUGA which is shown as being immediately west of the proposed school site. This would give an overall site area for the school of 2Ha but would effectively mean the MUGA would fall under the control of the Council's Education Section and not within the leisure portfolio. This would not prevent the use of the MUGA by the public outside school hours should the Council be minded to make it available but would clearly prevent its use when the school was in session. Should the Committee consider that the MUGA should remain in the leisure portfolio than this can be confirmed under the subsequent remaining negotiations. As such officers are seeking delegated authority to complete the S106 negotiations in relation to the final size of the school site and the specification of the school building.
- 7.9.5 In terms of the north / south link the Section 106 agreement for this site could have delivered a maximum of £5.5 million (via the contribution and the security). The security of £500,000 could only have been drawn upon in the event that the £5 million contribution in combination with an up to £1.8 million contribution from the Saint Modwen's site to the south of the railway, proved inadequate to provide the north south link. It should be bourn in mind that the Saint Modwen's contribution was up to £1.8 million since it was earmarked to support a variety of highway upgrades including the north south link among other schemes so in fact it may have been less.
- 7.9.6 As such it was in the gift of the Council as to whether the full £1.8 million or some lesser sum was spent on the north / south link. Potentially a pot of up to £7.3 million would have been available to spend on the link although it may have been less depending on decisions made by the Council. It is suspected but not clear that this sum would have been inadequate to provide an all vehicle movement across the railway but no firm costings have been provided either way on this point.
- 7.9.7 There are concerns that the hypothecated Llanwern Rail Halt (supported under Policy T1) will be jeopardised by the loss of the funding from this site should the changes to the Section 106 agreement be accepted. The station at Llanwern features in the National Transport Finance Plan 2015 as an option to be assessed against other competing options and there is no firm commitment to finance the station within the National Transport Finance Plan. In terms of the 'Metro' which seeks to integrate the south east Wales urban system more coherently by joining up transport systems; halts are shown at Llanwern and at Magor. It is possible that these proposed stations will directly compete for funding. However there is no indication that any loss of funding for the north south link will fatally compromise the delivery of a rail halt at Llanwern. There is no clear argument that any future funding by Welsh Government, Network Rail or any other interested party was dependent on any contributions that the Council might make via its Section 106 revenues. Certainly there is not currently a firm proposal to deliver the halt by any party or any clear funding initiative or any explicit requirement for the north / south link to be in place for the halt to be provided. Policy support for the halt remains within the Council's own NLDP and within national planning documents relating to transport planning. There is no indication that loss of the north south link funding will prejudice the delivery of the rail halt in the future. It should be noted that the loss of the funding does not undermine any NLDP Policy which remains supportive of the delivery of both the link itself and the halt. In strict planning terms, as opposed to funding issues the delivery of this infrastructure continues to be supported. In practical terms of paying for the link the loss of this funding will mean alternative means of funding would need to be found if the link is to be progressed. The future adoption of CIL charging may address this shortfall depending on what infrastructure the Council identifies as being in need of funding via the CIL charging regime.
- 7.9.8 In terms of the wider sustainability of the Eastern Expansion Area, the provision of the link is clearly beneficial since it would open up a new access from northern Newport to the upgraded Eastern Distributor Road and to the Park & Ride facility that would be developed on Glan Llyn

should the proposed railway station come forward. However the key question is whether the Llanwern Village site or any associated areas of the Eastern Expansion Area would become unsustainable and unacceptable in Policy terms should the link not be provided. The Environmental Statement submitted with application 06/0845 and the subsequent updates are clear that the Llanwern Village site can be adequately accessed by an upgraded junction between Cot Hill and the Southern Distributor Road. In short the delivery of the Llanwern Village site was never dependent on the provision of the north south link. This is also true of the associated Glan Llyn site to the south of the railway. As such the north south link does not meet the necessity test now, legally required for a S106 contribution to be levied. It is clearly a 'nice to have' that would enhance the sustainability of the Eastern Expansion Area (EAA) but it is not a necessity for any part of the EEA including the Llanwern Village site. It is more properly a matter that would be funded under the CIL Regulations which was specifically aimed at improving wider infrastructure around schemes rather than upgrades specifically required to enable a scheme to proceed (a junction upgrade for example). The lack of necessity is further confirmed by the fact that the Llanwern Village site could never and was never, expected to fully fund the link by itself. This stance is confirmed in the minds of officers by the Monbank appeal where the Council refused permission for a 'one road in' redevelopment scheme on the former Monmouthshire Bank Sidings off Cardiff Road. The Inspector found that the single access had sufficient capacity to serve the development and concluded a second access to the south was not a necessity (although clearly desirable) and allowed the appeal. The Llanwern Village situation is clearly analogous where it is accepted that the Cot Hill / SDR junction will have adequate capacity to serve the development after it has been upgraded. Officers conclude a second way into the site is not necessary and cannot be required under S106, the loss of these contributions is acceptable in planning terms.

- 7.9.9 The Llanwern Village site forms an important part of the Council's housing delivery over the lifetime of the plan. Under the adopted NLDP this site was already expected to have delivered 160 units by the end of 2016. It has delivered none which is a significant disappointment given the representations made in the NLDP examination. The new legal agreement will allow for indexation of the proposed contributions back dated to 2009 in the event that no development parcels have been serviced and offered to the market within 3 years of the date the new agreement is signed. This will act as a 'stick' to encourage commencement on the site since the proposed contributions are likely to become more costly to the developer if the site does not begin to deliver houses. Overall this clause increases the probability that this site will begin to deliver units and support the Council's adopted plan as anticipated at the time of the NLDP examination.

## **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 is policy compliant and permission should be granted subject to conditions.

10. **DECISION**

**GRANTED WITH CONDITIONS WITH DELGATED AUTHORITY TO COMPLETE NEGOTIATION OF THE S106 LEGAL AGREEMENT IN RELATION TO THE SCHOOL SPECIFICATION AND THE LOCATION OF THE MUGA AND TO REFUSE PERMISSION IF THE DEED OF VARIATION (S106 AGREEMENT) IS NOT SIGNED WITHIN 3 MONTHS OF THE RESOLUTION TO GRANT PLANNING PERMISSION.**

*Time Limits*

01 (a) The matters set out in the conditions below are reserved for the submission and approval of details.

(b) In the case of any reserved matter for the first 800 dwelling units, application for approval must be made not later than the expiration of FIVE YEARS beginning with the date of this permission. In the case of any reserved matter for the remaining dwelling units, application for approval must be made not later than the expiration of SEVEN YEARS beginning with the date of this permission.

Reason: The application is in outline only and the further details are required to ensure that a satisfactory form of development take place.

(c) No development shall be carried out on any parcel of the site as referred to in Condition 03 until details of the reserved matters have been approved for that parcel, and the development shall be carried out in accordance with these details.

Reason: The application has been submitted in outline only. Further details are required to ensure that a satisfactory form of development takes place.

(d) The development to which this permission relates must be begun not later than whichever is the later of the following dates:-

(i) the expiration of FIVE YEARS from the date of this permission; or

(ii) the expiration of TWO YEARS from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To conform to the requirements of Sections 91 and 92 of the Town and Country Planning Act 1990.”

*Submission of Reserved Matters & Plans Condition*

02 Approval of the details of the appearance, landscaping, layout and scale (hereinafter called “the Reserved Matters”) shall be obtained from the local planning authority prior to the commencement of any works on the site. These details shall accord with the principles, parameters and objectives laid out in:

- Drawing DE\_220\_01D – Indicative Masterplan
- Drawing DE\_220\_02E – Landscape & Open Space Strategy
- Drawing DE\_220\_003E – Pedestrian Movement
- Drawing DE\_220\_004F – Vehicle Movement
- Drawing DE\_220\_005B – Parameters Plan
- Design Code as required to be approved under Condition 03.

**Reason:** to safeguard the rights of control of the local planning authority in respect of the Reserved Matters and to comply with the requirements of section 92 of the Town and Country Planning Act 1990 and with the provisions of Article 3(1) of the Town and Country Planning (Development Management Procedure)(Wales) Order 2012 as amended.

*Pre-commencement Conditions*

03 Phasing Plan

Prior to commencement of development a Phasing Plan and Phasing Programme setting out the proposed phasing of development on the site shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall have regard to the development parcels identified in the Design Code required under condition 04. The development of the land shall proceed in accordance with the approved Phasing Plan and Phasing Programme unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of controlling the phased development of the site.

04 Design Code

Prior to the submission of any reserved matters applications (unless otherwise agreed in writing by the Local Planning Authority in relation to specific advanced works) a Design Code for the development of the site shall be submitted to and approved in writing by the Local Planning Authority. The Design Code shall accord with the principles, parameters and objectives laid out in:

- Drawing DE\_220\_01D – Indicative Masterplan
- Drawing DE\_220\_02E – Landscape & Open Space Strategy
- Drawing DE\_220\_003E – Pedestrian Movement
- Drawing DE\_220\_004F – Vehicle Movement
- Drawing DE\_220\_005B – Parameters Plan

The Design Code shall clearly indicate the works for (i) development parcels and (ii) infrastructure. The Design Code shall include the following details: (a) details of how the development is broken down into development parcels; (b) a design approach for each development parcel within the context of the site as a whole; (c) the approximate number of residential units within each development parcel and identification of development blocks with an indication of building heights; (d) the location of landmark buildings and key frontages; (e) approximate housing numbers, mix and density within each development parcel; (f) the approximate location, number and mix of affordable housing within each development parcel; (g)

off-street parking arrangements; (h) landscaping and planting proposals and boundary treatments; (i) areas of public open space/recreation space within each development parcel, indicating their function and facilities to be provided and their location; (j) the hierarchy of access and circulation including roads, footpaths and cycleways and how these link with the surrounding area; (k) sustainable development standards and measures to achieve such standards within each development parcel; (l) details of sustainable urban drainage systems/flood compensatory/mitigation works including flood attenuation areas. All applications for reserved matters shall accord with the Design Code unless otherwise approved in writing by the Local Planning Authority.

**Reason:** To ensure a coordinated approach to the detailed development of the site and to ensure a high quality design.

#### 05 Infrastructure Phasing Plan

No development shall commence in relation to each phase as defined by Condition 03 (Phasing) until a detailed Infrastructure Phasing Plan for that phase, or any other agreed area has been submitted to and approved in writing by the Local Planning Authority. The Infrastructure Phasing Plan shall include the sequence and trigger dates for the provision of the following infrastructure (including for the individual development parcels, links between parcels and phases, and links with the wider external network): highways and drainage, pedestrian and cycleways, public transport services including interim measures for temporary services during the course of construction and provision of bus stops, recreation areas and all formal and informal open spaces (including a landscaping implementation timetable), and flood mitigation measures. The development shall be implemented in accordance with the approved Infrastructure Phasing Plan unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that the necessary infrastructure and facilities to accommodate the development are provided.

#### 06 Buildings External Materials

No work shall commence on the construction of any buildings within any development parcel as defined under condition 03 (Phasing) or other area as agreed until details/samples of materials and finishes to be used on the external surfaces of the buildings for that parcel have been submitted to and approved in writing by the Local Planning Authority. The development of that parcel shall then be carried out using the agreed materials.

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

#### 07 Hard Landscaping Materials

No work shall commence on the construction of any development parcel as defined under condition 03 (Phasing) or other area as agreed until details/samples of materials and finishes to be used on any proposed hard landscaped areas for that parcel have been submitted to and approved in writing by the Local Planning Authority. The development of that parcel shall then be carried out using the agreed materials.

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

#### 08 Boundary treatments

No work shall commence on the construction of any buildings within any development parcel as defined under Condition 03 (Phasing) or other area as agreed until full details of all boundary treatments for that parcel have been submitted to and approved in writing by the Local Planning Authority. In relation to any dwelling or building the details shall be implemented in accordance with the approved scheme prior to first occupation of that dwelling or building and shall be maintained as such thereafter.

**Reason:** To ensure adequate security and privacy and that the scheme is completed in a compatible manner to its surroundings.



09 Station Road Access

The access road from the site onto Station Road shall be constructed in accordance with detailed plans to be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. Thereafter the access road shall be completed fully as agreed within two years of the commencement of the scheme.

**Reason:** In the interests of highway and pedestrian safety.

10 Construction Details of Roads, Cycleways & Footways

Roads/cycleways/footways on the site in relation to each parcel of development as referred to in Condition 03 (Phasing) or other area as agreed shall be constructed in accordance with plans submitted to and approved in writing by the local planning authority prior to commencement of development of the relevant development parcel and completed in accordance with the approved details prior to first occupation of the particular development parcel unless an alternative timescale has been approved in writing with the local planning authority. The submitted information shall show means of surface water drainage where appropriate.

**Reason:** In the interests of highway and pedestrian safety.

11 Green Travel Strategy

Prior to the commencement of development an overarching Green Travel Strategy for the whole site (including provision for a Travel Plan Co-ordinator) shall be submitted to the Local Planning Authority in writing. Following the Council's written agreement the plan shall be implemented as agreed. No works to any development parcel as defined under condition 03 (phasing) or any other area as may be agreed which contains housing elements shall take place until detailed Green Travel Plans which shall accord with the overarching Green Travel Strategy have been submitted to and agreed in writing by the Local Planning Authority in relation to that area. The Green Travel Plans shall contain trigger points for their implementation. Thereafter the Green Travel Strategy and individual Green Travel Plans shall be implemented and maintained in accordance with the approved details.

**Reason:** In the interests of reducing the need to travel by car and encouraging the use of alternative modes of transport.

12 Construction Management Plan

Prior to commencement of development (including site preparation) of any development parcel defined under Condition 03 (Phasing) or other area as agreed, or any access road works a construction management plan for that parcel or the access road works including details of any necessary means of mitigation against construction noise and vibration, provision of a noise management plan, details of any temporary site access/parking and the likely position of haul roads, details of the location of compounds for the storage of plant and materials, measures to prevent dust pollution and suitable plant and wheelwash facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and the approved measures shall remain in operation for the duration of the development of the parcel concerned.

**Reason:** In the interests of residential amenity and highway safety.

13 Surface Water Regulation

No development shall commence until a scheme for the provision and implementation of a surface water regulation system, including details of the proposed flood attenuation ponds and their management, has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be implemented prior to the construction of any impermeable surfaces draining to the system unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To prevent the increased risk of flooding.

14 Foul and Surface Water Drainage

No development shall commence on the site until an overarching strategy to deal with the foul and surface water drainage and storage system and treatment for the site (both on and off-site works) including means of discharge into the drainage network, has been submitted to and

approved in writing by the Local Planning Authority. Thereafter reserved matters for each development parcel (or any other area as may be agreed) shall contain details of the foul and surface water drainage system which shall accord with the overarching drainage strategy that has been agreed. The drainage details shall be installed fully as agreed prior to the first occupation of any development parcel (or other agreed area) to which they relate unless otherwise agreed in writing.

**Reason:** To reduce flood risk and to ensure that appropriate sewerage is provided to the development.

15 Oil Interception

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas, hardstandings and roads shall be passed through a mechanism to remove hydro-carbons, the capacity and design of which must be submitted to and approved in writing by the Local Planning Authority prior to its installation. The approved mechanism shall be retained as such thereafter.

**Reason:** To prevent pollution of the water environment.

16 Reuse of Top Soil

Prior to commencement of development in relation to each development parcel as defined under Condition 03 (Phasing) or other area as may be agreed, measures for the re-use of topsoil on-site or elsewhere shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

**Reason:** in the interests of the sustainable development of the site.

17 Arboricultural Impact Assessment

Prior to commencement of development on any development parcel (or other area as may be agreed), including works to provide roads, drainage or any other infrastructure, a schedule of all tree/hedge works, shading patterns of existing trees (in and surrounding the site), falling distances for surrounding woodland trees and an Arboricultural Impact Assessment shall be submitted to and approved in writing by the Local Planning. The development shall be implemented in accordance with the results of these details.

**Reason:** In the interests of protecting existing trees within and surrounding the application site.

*Conditions that may require the submission of information prior to commencement*

18 Provision of Water Supply

Water shall be supplied to the site in accordance with the details of approval 14/0764 or in accordance with the details of any other strategy to provide an adequate water supply (including any necessary on-site and off-site works) to serve the site that has been submitted to and approved in writing by the LPA. Thereafter reserved matters for each development parcel (or any other area as may be agreed) shall contain details of the water provision which shall accord with the overarching strategy that has been agreed. The details of the water provision shall be installed fully as agreed prior to the first occupation of any development parcel (or other agreed area) to which they relate unless an alternative timetable has been agreed in writing.

**Reason:** To ensure the development has an adequate water supply.

19 Archaeology

No development shall take place in relation to any development parcel as defined under Condition 03 (Phasing) or other area as may be agreed other than in strict accordance with the details agreed in approval 13/0990 in relation to archaeology or until an alternative programme of archaeological work has been secured in accordance with a written scheme of investigation for that parcel which has first been submitted to and approved in writing by the Local Planning Authority.

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

20 Ecological Management Plan

The proposal shall be carried out in accordance with the Ecological Management Plan agreed under approval 13/1223 or in accordance with any other Ecological Management Plan that may have been submitted to and agreed in writing by the Local Planning Authority prior to the commencement of any works to any phase of development as defined by Condition 02 (phasing) to which that plan relates or to any other area as may be agreed. Any other submitted plan shall cover the construction, operation and management stages for each phase and include or specify:

- a) details of a comprehensive pre-construction schedule of wildlife/protected species survey work to be carried out in each phase;
- b) the features to be protected;
- c) the means of ensuring their protection, including the appointment of an ecological clerk of works and environmental liaison officer and a method statement detailing measures to be taken to ensure that the features are not damaged during construction.
- d) mitigation measures where appropriate and specific provisions for protected species including: details of mitigation measures for badgers (including commitment to yearly monitoring and pre-construction surveys), bats and birds to be submitted to and approved in writing by the Local Planning Authority;
- e) details of habitat enhancement;
- f) details of measures for protection/enhancement of locally notable plant species;
- g) a detailed planting plan for new woodland buffer areas;
- h) detailed planting plans for new hedgerows, hedgerow buffers and measures to maintain connectivity with other hedgerows and features of ecological value; ;
- i) methodologies for the incorporation of biodiversity features/objectives into the design and management of new open and landscaped areas;
- j) details of measures to limit public access into the adjacent Hartridge Wood, Coed Rhedyn/Scotch Wood and Dockwell Wood;
- k) details of public lighting schemes;
- l) implementation and monitoring provisions for a 10 year period to include a clear feedback mechanism for evaluation of the management plan.
- m) details of long term conservation management measures.

The development within each phase of development shall be implemented in accordance with the approved details contained within the ecological management plan relevant to that phase.

**Reason:** In the interests of preserving the ecological integrity of the site.

#### *Pre-occupation Conditions*

#### 21 Parking

The reserved matters referred to in Condition 02 shall include details of off-street parking and covered cycle parking. These facilities in relation to any development parcel as referred to in Condition 03 (phasing) or other area as agreed shall be provided in accordance with the approved details prior to first occupation of any development associated with the particular development parcel and thereafter maintained as such.

**Reason:** In the interests of highway safety.

#### 22 Bus Stops

Prior to first occupation of any residential dwellings in any phase (or other area as agreed), details of bus stops (siting and design) to support the proposed public transport provision for the development within that phase or area, including the timing of their provision shall be submitted to and approved in writing by the Local Planning Authority. The bus stops shall be implemented in accordance with the approved details unless otherwise agreed.

**Reason:** In the interests of supporting the proposed public transport provision for the development and thereby reducing the need to travel by car and encouraging use of alternative modes of transport.

#### 23 Noise Assessment (Dwellings)

The submission of reserved matters for siting and design of residential development within the NEC B area (as identified on drawing no CA10571-003 Rev A, approved under application

14/0774) shall be accompanied by a detailed noise assessment relating to external noise sources (in particular the A455 SDR road). The noise assessment shall identify any necessary mitigation measures required in order to ensure appropriate levels of amenity for occupiers in both internal and external areas are achieved. Thereafter any dwelling identified as requiring noise mitigation shall not be occupied until those mitigation measures have been implemented in full. Thereafter the means of mitigation shall be retained.

24 Noise Assessment (other)

The submission of reserved matters for the school and any commercial development shall be accompanied by a noise assessment which addresses the potential impact of fixed plant associated with those developments (as relevant) and any other noise sources associated with those uses that may affect any nearby noise sensitive development. The noise assessment shall identify any mitigation that is required in order to ensure appropriate levels of amenity for the occupiers of affected noise sensitive development (in both internal and external areas) are achieved, Thereafter any identified mitigation measures shall be implemented in accordance with the approved details prior to first occupation of any unit identified as being in need of noise mitigation and in the case of fixed plant, the measures shall be implemented prior to first use of the plant concerned. Thereafter the means of mitigation shall be retained.

**Reason:** In the interests of residential amenity.

*Directive Conditions*

25 Recreation Areas

The reserved matters referred to in Condition 02 shall include where relevant details of all formal and informal recreation areas (including Play Areas and their associated equipment and any floodlighting; the Sports Pitches and associated changing facility and car park; areas of public open space, parks and village green; and any informal woodland areas). These areas shall be provided in accordance with the approved details and maintained as such in perpetuity.

**Reason:** To ensure that adequate levels of recreation facilities are provided to serve the development.

26 Landscaping

Each landscaping scheme (which in the case of incidental areas of open space not covered by Public Open Space Areas referred to in the accompanying Section 106 Agreement shall be accompanied by a management plan detailing future maintenance) submitted in pursuance of Condition 01 (which in relation to tree/shrub planting shall include inter alia grass mixtures and the number, species, heights on planting and positions of all trees and shrubs as well as details of trees to be retained and measures to protect them during construction) shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of the associated development. Thereafter, the trees and shrubs within incidental areas of open space (defined as those areas not covered by Public Open Space Areas referred to in the accompanying Section 106 Agreement) shall be adequately maintained for a period of 5 years (or as agreed in the management plan) from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition a full planting season shall mean the period from October to April inclusive.

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

27 Streetlighting

The reserved matters for siting and access referred to in condition 02 shall include details of all street lighting and lighting of any parking areas in relation to any un-adopted roads or parking areas, including the trigger times for implementation, which shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved details.

**Reason:** In the interests of residential amenity, highway and pedestrian safety and the security of future occupiers.

- 28 **Ground Contamination & Ground Gas Mitigation**  
The development shall be carried out fully in accordance with the recommendations (including recommendations in regard to radon gas) of the Wardell Armstrong document 'Proposed Residential Development, Llanwern, Newport – Site Investigation Interpretive Report' (April 2008) submitted under approval 13/0990.  
**Reason:** to ensure contamination risks on the site are appropriately dealt with in order to protect human health and the wider environment.
- 29 **Unexpected Contamination**  
During development, in the event that contamination not previously identified is found to be present at the site within any development parcel as defined by condition 03 (phasing) then no further development within that development parcel unless otherwise agreed in writing with the Local Planning Authority shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.  
**Reason:** To ensure that the proposed development will not cause pollution of the environment or harm to human health.
- 30 **Imported Material**  
Any imported material used for the preparation of ground levels or capping material shall be uncontaminated natural material which satisfies the appropriate risk assessment criteria for its specific end use. Information to demonstrate suitability of any such material shall be submitted to and approved in writing by the local planning authority before import to the site.  
**Reason:** To prevent pollution of the water environment and in the interests of residential amenities and human health.
- 31 **Fuel & Chemical Storage**  
Any facilities for the storage of oils, fuels and chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there are multiple tanks the compound shall be at least equivalent to the capacity of the largest tank or the combined capacity of inter-connected tanks plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.  
**Reason:** To prevent pollution of the water environment.
- 32 **Village Centre – Mix of Uses**  
The proposed Village Centre shall only include the mix of uses described in the Village Centre section of paragraph 4.4.3 of Volume 1 of the 2006 Environmental Statement unless any alternative uses are firstly agreed in writing by the Local Planning Authority.  
**Reason:** To ensure an appropriate range of uses within the Village Centre in the interests of the amenities of prospective residents of the development.
- 33 **Retail – Floorspace Limitation**  
No single retail unit on the site shall exceed a gross floor area of 500 square metres (inclusive of any mezzanine floorspace).  
**Reason:** To safeguard the viability and vitality of the City Centre and nearby District Shopping Centre and in the interests of the amenities of existing surrounding residents and prospective residents of the development.
- 34 **Ventilation of A3 Units**  
The reserved matters referred to in Condition 01 where this relates to A3 uses (as defined under the Town and Country Planning (Use Classes) Order 1987 as applicable to Wales on the date of this planning permission) on the site shall include details of ventilation and extraction equipment

for A3 uses. Prior to first use of any such A3 unit, the ventilation and extraction equipment shall be installed in accordance with the approved details and thereafter maintained as such.

**Reason:** To protect the amenities of adjacent occupiers.

#### *NOTE TO APPLICANT*

01 This decision was informed by the following plans & documents:

- Drawing DE\_220\_01D – Indicative Masterplan
- Drawing DE\_220\_02E – Landscape & Open Space Strategy
- Drawing DE\_220\_003E – Pedestrian Movement
- Drawing DE\_220\_004F – Vehicle Movement
- Drawing DE\_220\_005B – Parameters Plan
- Building Parameters - 07.02.2017
- Wardell Armstrong letter (CLD/CA10969./Arch1.) dated 18 January 2017
- Environmental Statement (May 2006)
- Environmental Statement Update (July 2007)
- Environmental Statement Update report (July 2013)
- Environmental Statement Update Report (August 2016)
- Energy Statement (July 2016)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP4 – Water Resources, SP5 – Countryside, SP10 – House Building Requirement, SP11 – Eastern Expansion Area, SP12 – Community Facilities, SP13 – Planning Obligations, SP15 – Integrated Transport, SP16 – Major Road Schemes, GP1 – Climate Change, GP2 – General Amenity, GP3 – Service Infrastructure, GP4 – Highways and Accessibility, GP5 – Natural Environment, GP6 – Quality of Design, GP7 – Environmental Protection & Public Health, CE3 – Environmental Spaces & Corridors, CE4 – Historic Landscapes, Parks, Gardens & Battlefields, CE6 – Archaeology, CE8 – Locally Designated Nature Conservation & Geological Sites, H1 - Allocated Housing Sites (H3 – Llanwern Village), H2 – Housing Standards, H3 – Housing Mix & Density, H4 – Affordable Housing, T1 – Railways, T3 – Road Hierarchy, T4 – Parking, T7 – Public Rights of Way & New Development, R8 – Small Scale Retail Proposals, CF2 – Outdoor Play Space Requirements, CF13 – School Sites & W3 – Provision for Waste Management Facilities in Development were relevant to the determination of this application.

03 This application was accompanied by an Environmental Statement.

04 The following Supplementary Planning Guidance was adopted following consultation and is relevant to the determination of this application:

- Planning Obligations (August 2015)
- Affordable Housing (August 2015)
- Archaeology & Archaeologically Sensitive Areas (August 2015)

- Wildlife & Development (August 2015)
  - New Dwellings (August 2015)
  - Outdoor Play Space Provision (January 2017)
  - Trees, Woodland, Hedgerows and Development Sites (January 2017)
-

**APPLICATION DETAILS**

**No:** 16/0960      **Ward:** LLISWERRY

**Type:** Full (Major)

**Expiry Date:** 10-Mar-2017

**Applicant:** STARBUST LTD

**Site:** VACANT FORMER SHOWROOM AND WORKSHOPS, LANGLAND WAY, NEWPORT, NP19 4PT

**Proposal:** PROPOSED CHANGE OF USE OF EXISTING BUILDING FROM SUI GENERIS CAR SHOWROOM TO RESTRICTED CLASS A1 RETAILING (BULKY GOODS) AND CLASS B8 WITH ANCILLARY TRADE COUNTERS TOGETHER WITH ASSOCIATED ELEVATIONAL CHANGES AND CAR PARKING/SERVICING

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 This application seeks consent for the change of use of existing building from Sui Generis car showroom to mixed A1 Retail (with bulky goods restrictions) and B8 with ancillary trade counters together with associated elevational changes and car parking/servicing at the former Carcraft showroom and workshops, Langland Way.
- 1.2 The building is unoccupied although the elevational changes have already taken place and in this regard the application is part retrospective.
- 1.3 The site is prominently located adjacent to the Southern Distributor Road and the re-occupation of this vacant building is welcomed in principle.

**2. RELEVANT SITE HISTORY**

95/0163	CHANGE OF USE TO VEHICLE SALES AND ANCILLARY USES TO INCLUDE OFFICES CAR STORAGE AND REPAIR WORKSHOPS AND DEMOLITION OF OUTBUILDINGS	Granted with Conditions
92/0758	ERECTION OF PREFABRICATED MODULAR OFFICE COMPLEX	Granted with Conditions
16/0438	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	Granted with Conditions
16/1218	RETENTION OF BUILDING FOR B1/B2/B8 USE TO PROVIDE 4998 SQUARE METRES OF FLOOR SPACE AND ASSOCIATED INFRASTRUCTURE INCLUDING PARKING AND CIRCULATION AREAS	Refused



### **3. POLICY CONTEXT**

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

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

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

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

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

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

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

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

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

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

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

Policy R10 - New Out of Centre Retail Sites notes that such sites will not be permitted unless a need is identified; it will not impact on other retail centres; location is acceptable in sequential terms; the highway has sufficient capacity and the proposal is fully accessible by sustainable transport modes.

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

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

#### **3.2 Adopted Supplementary Planning Guidance**

Parking SPG – August 2015

Archaeology & Archaeologically Sensitive Areas SPG – August 2015

### **4. CONSULTATIONS**

4.1 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST LTD: Whilst the proposed development area contains no designated sites, it is located in the Newport Archaeological Sensitive Area and is located close to the Gwent Levels Registered Historic Landscape as defined within the *Register of Landscapes of Outstanding Historic Interest in Wales*. Due to recurrent phases of inundation and alluviation there is also the potential for buried, waterlogged deposits belonging to earlier landscapes. Such deposits can provide excellent conditions for the preservation of organic materials such as wood and leather, which may be encountered during the course of the development. However, the previous development of the site has likely had an adverse effect on any potential archaeological remains that may be present. Furthermore, the current application is for a proposed change of use of an existing building of limited archaeological significance,

together with associated elevational changes and car parking/servicing. As a result, there is unlikely to be an archaeological restraint to this proposed development and consequently, as the archaeological advisors to your Members, we have no objections to the positive determination of this application.

- 4.2 **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). 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.

NRW have reviewed the submitted FCA produced by Marsden Associates dated August 2016. They note that the proposed finished floor levels for the building are 8.15m AOD. During the 0.5% event the predicted flood level is 8.15m AOD, therefore the site is A1.14 compliant. NRW also note during the predicted 0.1% event plus climate change the predicted flood level is 8.3m AOD. Therefore the building is within the tolerable limits (600mm) set out in A1.15 of TAN 15.

- 4.3 **NEWPORT ACCESS GROUP:** No response.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 **HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS):** I am satisfied with the applicant's assessment of the proposal as detailed within the transport Statement. I am also satisfied that adequate parking will be available within the site in accordance with the Newport City Council Parking Standards. I would therefore offer no objection to the application subject to a condition requiring the submission of a Travel Plan. As the external works have already been carried out there is no requirement for a Construction Management Plan.

- 5.2 **HEAD OF LAW AND REGULATION (AIR QUALITY):** The site is located adjacent to a main road and there are no air quality management areas (AQMA) in the near vicinity. Therefore it is unlikely that air quality could be considered of material concern for this application given the current planning policy. I therefore have no reason to object.

- 5.3 **HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY):** No objection.

- 5.4 **HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE):** No landscape details have been submitted in support of this application. However, as the development involves the conversion of an existing building and proposals are confined to the existing footprint/structure, the development is acceptable in landscape character and visual impact terms. Notwithstanding the above, should the application be approved, it is considered that the implementation of a quality landscape scheme, particularly to the sites peripheries with Spytty Road and Langland Way would significantly improve the landscape value of the site. Consequently it is considered that the submission of detailed landscape proposals should be conditioned as part of the scheme.

## **6. REPRESENTATIONS**

- 6.1 **NEIGHBOURS:** All properties within 50m of the application site were consulted (3no properties), a site notice was displayed and a press notice published in South Wales Argus. No response received.

## **7. ASSESSMENT**

- 7.1 The site is within the urban boundary located within Leeway Industrial Estate. It is proposed to divide the building into two equal parts, with each accounting for 3600m<sup>2</sup> (gross). The retail element of the building would then be further sub-divided into four units each totalling 900m<sup>2</sup>. The B8 half would be sub-divided into five units comprising 2160m<sup>2</sup>, two totalling 432m<sup>2</sup> and a further totalling 288m<sup>2</sup>. The sub-division has been designed to enable the amalgamation or otherwise of the units in order to provide flexibility in terms of operator requirements.

## 7.2 **Design**

The scale of the building has not been and is not proposed to be increased although an office block which extended along the north elevation of the building has been demolished and a small plant room has also been removed. The other physical changes include the re-cladding of the building and the insertion of new windows and doors.

7.3 The alterations are considered to constitute improvements to the building and are entirely in keeping with the character and design of the host building and the surrounding industrial/commercial units. As noted above, the building is prominently sited near to the Southern Distributor Road and the works that have been carried out are considered to be of benefit to the visual amenity of the area.

## 7.4 **Retail Impact**

As noted above, one half of the unit is proposed for A1 Retail use with bulky goods restrictions. Retail developments proposed in an out-of-centre locations need to satisfy a number of policy considerations to ensure that there are no adverse impacts on the vitality and viability of existing centres.

7.5 The application is accompanied by a Retail Assessment. Nathaniel Lichfield & Partners (NLP) were commissioned by the Council to undertake an independent review of DPP's Retail Assessment, particularly in relation to retail need.

7.6 NLP noted that DPP had not undertaken an assessment of retail impact or considered the cumulative impact of commitments and vacant floorspace. NLP undertook its own sensitivity analysis of the proposal and concluded that it is unlikely to have a significant adverse impact on planned investment within Newport, particularly if the development is restricted to the sale of bulky goods.

7.7 DPP agree with this view and maintain its original stance that the proposed development will not have a detrimental impact on defined retail centres in Newport. In view of NLP's agreement on this issue, the proposal is considered to satisfy policy requirements in respect of impact. This view is, however, based on the goods sold being restricted to bulky goods. A condition to this effect is therefore necessary to control future changes in goods sold and their potential future impact on defined centres.

7.8 A further condition restricting the sub-division of units to floor spaces below 900m<sup>2</sup> is also considered necessary to avoid subdivision into many more smaller units of sizes more commensurate with defined district centres or the city centre.

7.9 Paragraph 10.2.9 of Planning Policy Wales states:

*In deciding whether to identify sites for comparison, convenience or other forms of retail uses in development plans or approving planning applications for such uses, local planning authorities should in the first instance consider whether there is a need for additional retail provision. Such need may be quantitative so as to address a quantifiable unmet demand for the provision concerned or qualitative. Qualitative considerations refer to issues such as the standard of existing retail provision in terms of the latest formats, range and mix of goods, distribution of retail provision and accessibility. Precedence should be given to establishing quantitative need before qualitative need is considered for both convenience and comparison floorspace, particularly as a basis for development plan allocations.*

7.10 Officers are satisfied that the applicant has demonstrated a quantitative need for the retail aspect of the development.

### 7.11 *The Sequential Approach*

Retail developments proposed in out-of-centre locations must examine the availability of sequentially preferable sites. The applicant has undertaken such an assessment and in response to it NLP suggested that additional information was required in relation to the availability of the extant Seven Stiles Avenue site. The applicant has submitted evidence to demonstrate that the site is not being marketed and is not available. It adds that even if it was available it would not be a viable option due to the differences in rental values between the sites. Limited information is provided on the future occupiers of the Car Craft site other than it will be accommodating local independent retailers, which DPP claim would not be able to locate on the Seven Stiles Avenue site due to the higher rental values. In this respect, DPP conclude that for both reasons the Seven Stiles site is not a viable option and can therefore be discounted from the sequential search. In view of the additional evidence provided on the sites availability, the conclusion reached that there are no suitable sequentially preferable sites available seems reasonable. The development is therefore considered to satisfy the policy requirements in respect of the sequential approach.

### 7.12 Conclusion

The submitted evidence is considered to sufficiently demonstrate that the proposed development would satisfy the requirements of Policies SP19 – Assessment of Retail Need and R10 – Out-of-Centre Retail Development, subject to a condition restricting the range of goods to be sold to bulky goods.

7.13 As noted above, the other non-retail half of the building is proposed for B8 use which could include storage and distribution (wholesale warehouse, distribution centres etc) with ancillary trade counters. As this is a B8 and located in an area of mixed B class uses, it is appropriate in this location. Should the ancillary trade counter use become anything other than ancillary to the B8 use, the Local Planning Authority would exercise control over the development.

### 7.14 **Highways**

It is proposed to retain the existing access from Langland Way. Extensive vehicle parking is provided within the site. The Head of Streetscene and City Services (Highways) offers no objection to the proposals and is satisfied that adequate parking will be available within the site in accordance with the Newport City Council Parking Standards.

### 7.15 **Flood Risk**

The application site lies entirely within Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). 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, a designated main river.

7.16 NRW advise that given the scale of the proposed development they consider the risk could be acceptable subject to the developer being made aware of the potential flood risks, and advised to install flood-proofing measures as part of the development. NRW note that the application is for a change of use of part of an existing building from Sui Generis Car Showroom (Low Vulnerable Development) to development use Class A1 and B8 (low Vulnerable Development). NRW advise that they offer no objection to the development.

7.17 It is the role of the Local Planning Authority to consider access/egress in a flood event. However, given the existing use of the site and the low vulnerability of the proposed use, it is not considered that such an assessment is warranted in this instance.

### 7.18 ***Air Quality***

The Head of Public Protection (Environmental Health) has been consulted with regard to the proposals and advises that there are no air quality management areas (AQMA) in the near vicinity. Therefore it is unlikely that air quality could be considered of material concern for this application given the current planning policy and fall-back use of the site. The Head of Public Protection (Environmental Health) offers no objections to the development.

### 7.18 ***Landscaping***

In response to the application the Council's Landscape officer has requested that a detailed landscape scheme should be conditioned. Whilst the comments of the Landscape officer are duly noted, as this is an existing site and the proposals relate to the change of use of the building and external works to the building, it is not considered that the Council would be justified in imposing such a condition.

### 7.20 ***Economic Benefits***

The proposed B8 and A1 uses represent a sustainable use of brownfield land and are located within an existing industrial area with associated infrastructure. The re-use of this prominent vacant building are of significant economic benefit to the City and also to the visual amenity of the area and are welcomed.

## **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 external alterations are considered to represent an improvement to the host building.

9.2 The proposed A1 and B8 uses are appropriate uses in this location and the applicant has demonstrated that the A1 retail element complies with retail policy.

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

**10. RECOMMENDATION**

**GRANTED WITH CONDITIONS**

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

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 –occupation conditions***

02 Prior to the first occupation of any part of the building for either B8 or A1 use, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Travel Plan.

Reason: In the interests of sustainability.

***General conditions***

03 The floorspace hereby approved (identified as units 6, 7, 8 and 9 on the approved plans) shall be restricted to the display and sale of the following non-food bulky goods (including building materials, kitchen and bathroom fittings, garden materials and goods), vehicle goods and accessories, furniture, carpets and floor coverings, electrical household goods, and household furnishings and for no other purpose whatsoever, including any other purpose set out in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1995 or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order, with or without modification.

Reason: In the interest of safeguarding the vitality and viability of sequentially preferable retail centres.

04 The minimum size of the individual A1 Retail units hereby approved shall be no less than 900 square metres (gross).

Reason: To ensure the Local Planning Authority retain control over the development in the interest of safeguarding the vitality and viability of sequentially preferable retail centres.

05 The floorspace hereby approved (identified as units 1, 2, 3, 4 and 5 on the approved plans) shall be restricted to B8 Storage or Distribution and for no other purpose whatsoever, including any other purpose set out in Class B8 of the Schedule of the Town and Country Planning (Use

Classes) Order 1995 or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order, with or without modification.

Reason: To ensure the Local Planning Authority retain control over the development.

*NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP3, SP18, GP4, GP6 and CE6 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 On behalf of Natural Resources Wales, the applicant is advised that the site is located within a flood risk area and consideration should be given to the creation of an emergency evacuation plan.

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# Report

## Planning Committee

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### Part 1

Date: 1 March 2017

Item No: 8

**Subject** **Appeal Decisions**

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

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

**Ward** Langstone, Caerleon, Stow Hill, 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

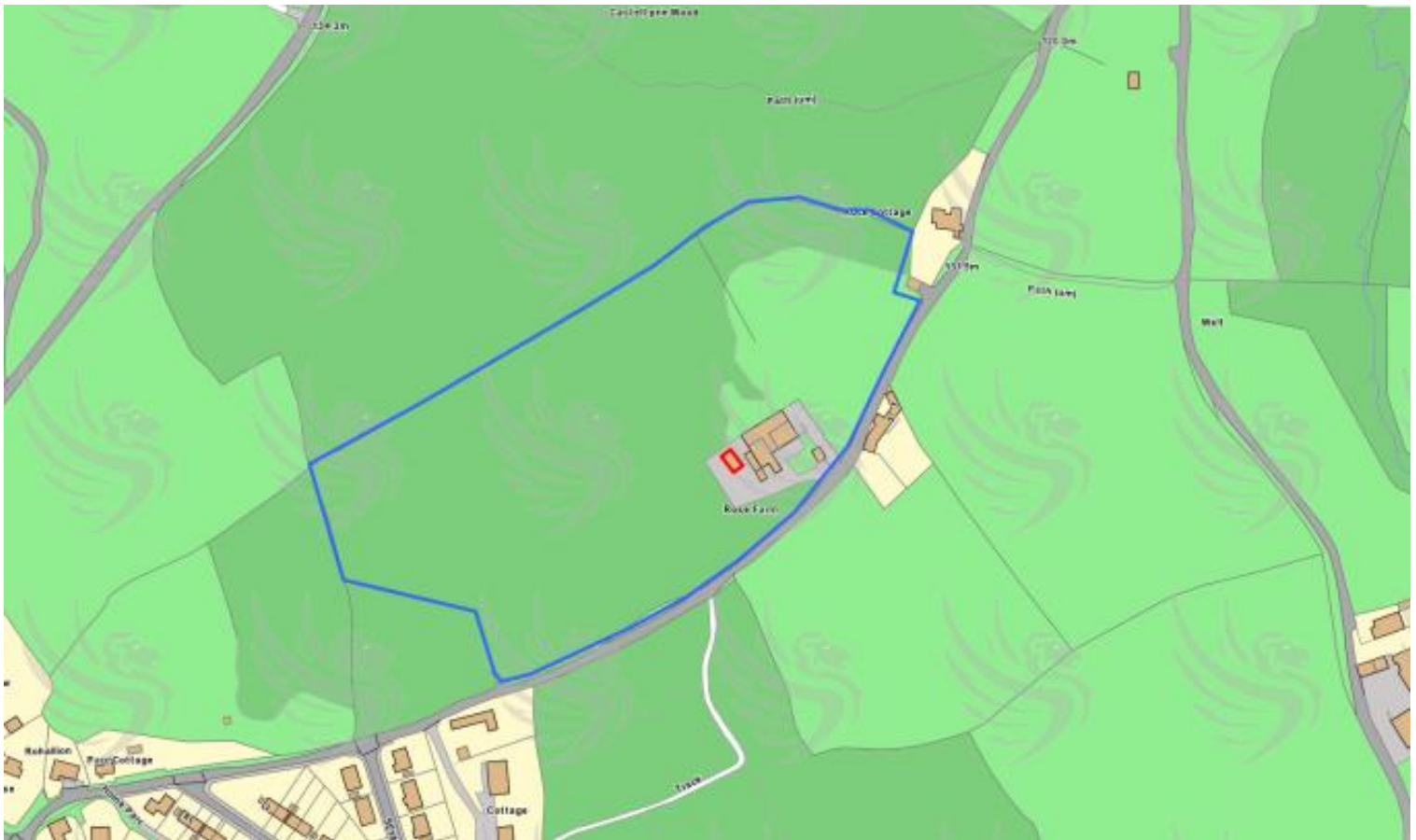
Dated: 1 March 2017

## PLANNING APPLICATION APPEAL

APPEAL REF: 15/1461  
APPEAL TYPE: Hearing  
WARD: Langstone  
SITE: Rose Farm, Penhow, Newport, NP26 3AH  
SUBJECT: Single storey dwelling for rural business, the granting of full planning on expiry of temporary planning granted

APPELLANT: Mrs Carol Partridge  
PLANNING INSPECTOR: Janine Townsley  
DATE OF COUNCIL'S DECISION: 28<sup>th</sup> January 2016  
OFFICER RECOMMENDATION: Refuse  
COMMITTEE/DELEGATED: Delegated

**DECISION: ALLOWED**



### SUMMARY

In 2011, planning permission was granted for the use of the land as an equestrian centre and for a temporary dwelling for a full time worker. It was concluded that a functional need was established, however, there was some doubt to the financial basis for the enterprise and therefore a temporary permission was granted for a period of three years. Condition 6 of that permission required the temporary dwelling to be removed and the land restored to its former condition on or before 31<sup>st</sup> December 2014.

The appellant sought the retention of the single storey dwelling for a rural enterprise. The Inspector considered the main issues in the determination of the appeal to be whether the development would justify the establishment of a rural enterprise dwelling under the tests set out in national and local policy.

The appeal site is located outside of any settlement boundary and is therefore within the countryside for the purposes of development plan policies. Policy SP5 states that housing development will only be appropriate where the proposal complies with national planning policy. TAN 6 states that one of the few circumstances in which new residential development in the countryside may be justified is when accommodation is required to enable rural enterprise workers to live at, or close to, their place of work. In determining whether the proposed use can be justified, the proposal was assessed against three tests; the functional test, time test and the financial test.

In order to satisfy the functional test, the appellant must demonstrate a need for a resident worker to be present at most times to ensure the proper functioning of the site. The appellant stated that the business focuses on the care of broodmares and the care and rehabilitation of injured horses. Examples were given as to the necessity for a worker to be permanently on site .i.e. medical emergencies and the fact many mares foal at night. Little evidence was produced by the appellant with regards to the numbers of animals she has provided for and the details of the type of care provided for each animal. A diary was produced by the appellant at the hearing, identifying the number of animals cared for etc. The Inspector stated that there is no reason to doubt the appellant's evidence on animal numbers and the care provided. In view of the above, the inspector was satisfied that the enterprise clearly established an existing functional need for a worker to be present on site at most times.

In order to satisfy the time test, TAN 6 requires evidence of the labour requirements of the enterprise. The appellant stated that she works full time on the enterprise and is supported part time by her son. This is based upon five horses, that being the minimum number of horses being cared for at any one time. The labour requirement is calculated at 1.24 workers. The council's assessment was based on eight workers, with services such as massage and night time care being additional, equating to a labour requirement of 1.7 workers. The inspector stated that there was nothing to suggest that the enterprise does not need at least one full time worker. The time test has therefore been satisfied.

In support of the financial test, the appellant's accountant stated that the enterprise was operating profitably and had good prospects of continuing to do so. The Council stated that the business could not demonstrate sustainability over five years and that a stress test is needed to assess the outcome should the appellant lose her main customer. However the Inspector noted that it is not a requirement by the TAN on the associated Practice Guidance on Rural Enterprise Dwellings to require the submission of a business plan for existing rural enterprises. The Inspector considered that from the evidence provided, that the enterprise is profitable, feasible and worthwhile. The Inspector was therefore satisfied that the financial test has been satisfied.

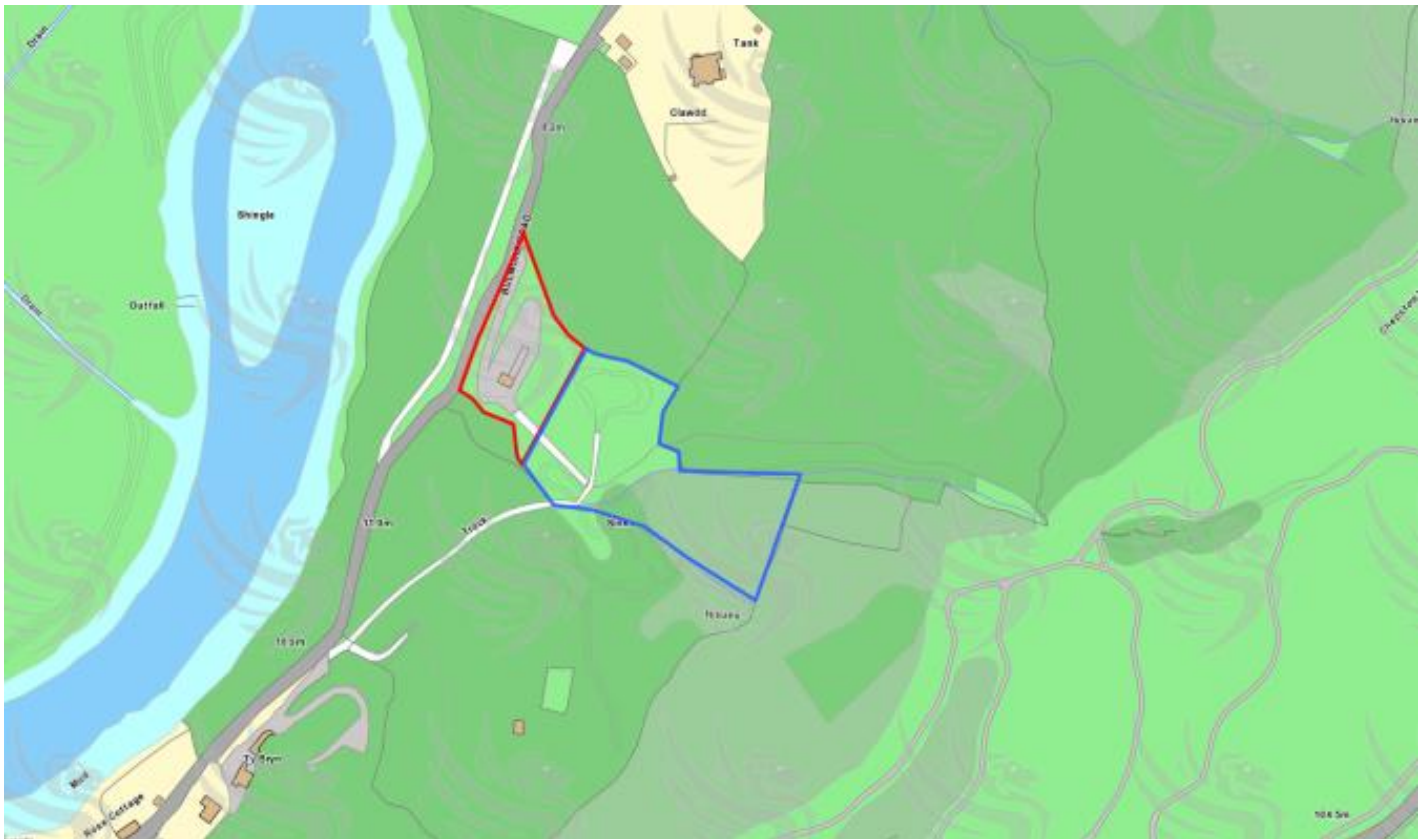
In view of the above, the inspector considered there to be a justification for residential accommodation to be provided for the rural enterprise. The appeal was therefore allowed with conditions relating to the occupancy of the dwelling.

**APPEAL ALLOWED**

## PLANNING APPLICATION APPEAL

APPEAL REF: 16/0032  
APPEAL TYPE: Hearing  
WARD: Caerleon  
SITE: The Old Clawdd Piggery, Bulmore Road, Caerleon, NP18 1QQ  
SUBJECT: Change of use of land to mixed use of the stationing of caravans for residential purposes for one gypsy pitch and the keeping of horses together with the formation of hard standing ancillary to that use and relocation of existing horse manege  
APPELLANT: Mr Tom Lee  
PLANNING INSPECTOR: B. Hellier  
DATE OF COUNCIL'S DECISION: 25<sup>th</sup> February 2016  
OFFICER RECOMMENDATION: Refuse  
COMMITTEE/DELEGATED: Delegated

**DECISION: ALLOWED**



### SUMMARY

The appeal sought the change of use to a mixed use of the stationing of caravans for residential purposes for one gypsy pitch and the keeping of horses together with the formation of hardstanding ancillary to that use and relocation of existing horse manege.

The Inspector considered the main issues in the determination of the appeal to be:

- Whether this would be a sustainable form of gypsy development having regard to highway safety, foul drainage, landscape, visual effects and access to community services; and

- Whether any harm from the first issue would be outweighed by other considerations which would favour the proposal, including the general need for sites and the particular accommodation needs and personal circumstances of the proposed occupiers.

In addition to the two main issues above, there was dispute between the Appellant and the Council as to whether the gypsy status of the proposed occupier had to be taken into account. The appellant argued that such matters could be satisfied through a Condition. The Council took the view that only if the occupier has gypsy status can the appeal proceed on the basis of gypsy policies. The Inspector whilst acknowledging the benefits of the Councils approach stated an applicant was not required to follow this route. Where there is an established need and there are no significant planning constraints, there should, in principle, be no requirement to limit occupation to a particular gypsy or family.

With regards to the sustainability of the site, the Inspector firstly assessed the availability of local services. It was noted the appeal site is 1.5km from the centre of Caerleon, which benefits from a good range of services. A regular bus service into Newport can be picked up within an 800m walk. Whilst it is likely that the private car would be the principal mode of transport to and from the appeal site, Circular 30/2007 does not support an over rigid application that seeks a reduction in car borne travel. It was therefore found that the site is well related to suitable community facilities and services.

With regards to highway safety, the Inspector noted Technical Advice Note 18 (TAN 18) states that, where planning applications are submitted within an existing development site and served by an existing substandard access, there should be scope for a limited redevelopment that incorporates a substantial access improvement, even though the access would still be below standard. Bulmore Road is subject to the national speed limit; however the actual speed of cars approaching the appeal site junction were measured at 25.3mph from the south and 30.6mph from the north. Based on these speeds, the desired visibility splay to the south would be achieved, however because of a roadside embankment the visibility north would not. The Council did not raise an objection on grounds of road capacity. Nonetheless, Circular 30/2007 states gypsy sites should not be rejected on highways grounds if they would give rise to only modest additional daily vehicle movements and/or the impact on minor roads would not be significant. The Inspector found the proposal would not result in a significant adverse effect on road safety; however, as a result of the inadequate visibility to the north, some increase in risk to walkers and other road users would arise. Such an increase weighed moderately against the proposal.

Turning to the effect of the proposal on the character and appearance of the area, the site lies within the Chepstow Hill Visual and Sensory Aspect Area (VSAA); its guidelines recommend that development should be restricted on this prominent valley and hillside and that further suburbanisation should be resisted. Furthermore, the site overlooks the River Usk Special Landscape Area (SLA) which is of high landscape value. The appeal site, although outside the SLA is part of that setting, when viewed from the southern fringe of Caerleon. The Inspector noted the appeal site is in an elevated position above the road and is conspicuous against the woodland surroundings. The proposal would introduce two caravans on the stable block terrace on the site of the existing manege; the existing manege enclosure would be relocated to a second higher terrace. The Inspector noted that there is an extant permission for a barn which would add to the impact. It was considered caravans by their nature tend to be visually intrusive and the proposal would therefore conflict with the Chepstow Hill VSAA guidelines. Nonetheless, taking into account the limited number of places where the development is seen, the Inspector considered the proposal to result in a moderate adverse effect on the character and appearance of the surrounding area.

In a conclusion on whether the proposal constitutes a sustainable form of development, the Inspector considered the proposal would not conflict with Circular 30/2007, LDP Policy H17, SP5 and GP5. It was acknowledged that the proposal would conflict with LDP Policies GP2 and GP4, although it was not considered that the adverse effects would be serious. It was therefore considered that the proposal would be considered a sustainable form of development.

Turning to the general need of gypsy traveller accommodation, Newport Council has an up to date gypsy and traveller accommodation assessment (GTAA). The GTAA shows that in 2015 there was a residential demand for 25 pitches; a further 5 pitches would be required by 2020 giving a five year requirement of



30. The Inspector considered that 30 should be seen as a minimum figure. It is noted that there is no local authority gypsy site at present. Planning permission has been granted at the Hartridge Farm Road site for 35 pitches. However only 9 gypsy pitches would be ready by spring of 2017. The Hartridge Farm Road site will meet the quantum of need identified in the GTAA, however the phased provision results in a current unmet need.

With respect to individual need, Circular 30/2007 makes it clear that gypsy policies should only apply to those who meet the planning definition of a gypsy. The appeal site would be occupied by the daughter of the appellant, Demi Lee. She is 18 years old and lives with her mother and younger sister and brother on a large local authority gypsy site at Shirenewton in Cardiff. She is engaged to be married to Tony Connors, a gypsy who lives in an authorised site in Leicester. The Inspector was told that Demi Lee always travelled in the summer with her father; she now travels with her brother who has a traditional gypsy gig. Based on the evidence provided, the Inspector was not persuaded that she has ever travelled for a work related purpose, even as a dependent family member. It was therefore considered that she is undoubtedly, in an ethnic sense, a gypsy and would satisfy the housing definition, however does not satisfy the planning definition.

In view of the above, the Inspector noted that the proposal would result in moderate harm caused to highway safety and to the character and appearance of the surrounding area which would conflict with LDP Policies GP2 and GP4, however, overall the site represents a reasonably sustainable location for gypsy development and would satisfy LDP Policy H17 and Circular 30/2007. The Inspector considered that the balance clearly favours the proposal. The appeal was therefore approved with conditions.

In respect to the above appeal, both the appellant and the council submitted an application for costs. Circular 23/93 advises that irrespective of the appeal decision, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

The appellant's submission is summarised below:

- The Council insistence on information on gypsy status when this issue is capable of being dealt with by conditions;
- The Council requirement for the gypsy status and personal circumstances of the proposed residents to warrant a deviation from the policy of strict control of new development in the open countryside;
- The failure to consider whether a condition would make the development acceptable when considering highways/access and foul drainage matters;
- The failure to substantiate the character and appearance/landscaping reason for refusal; and
- The failure to look substantially in the round and in particular the social benefits of a settled base and the economic benefits of the private sector meeting an identified need.

The Council's submission is summarised below:

- The appellant failed to engage with the adopted plan policies and failed to point to other material considerations sufficient to outweigh the non-compliance of the proposal with the plan;
- No evidence submitted to justify departing from the provisions of Policy H17;
- The appellant made assumptions on need which were demonstrably wrong.

The Inspector considered that unreasonable behaviour had not been demonstrated from either the appellant or the council. Both applications for costs were therefore refused.

## **APPEAL ALLOWED AND COSTS APPLICATIONS REFUSED**

## PLANNING APPLICATION APPEAL

APPEAL REF: 16/0666  
APPEAL TYPE: Written Representations  
WARD: Caerleon  
SITE: The Sycamores, Usk Road, Caerleon, Newport, NP18 1LP  
SUBJECT: Variation of Condition 10 (Demolition of all existing buildings and structures prior to occupation of new dwelling) of planning permission 11/0939 for demolition of existing single storey prefab house and replacement with new build two storey family dwelling (amendment to 10/0474)

APPELLANT: Michael Gibbens  
PLANNING INSPECTOR: Paul Selby  
DATE OF COUNCIL'S DECISION: 3<sup>rd</sup> February 2017  
OFFICER RECOMMENDATION: Refuse  
COMMITTEE/DELEGATED: Delegated

### DECISION: DISMISSED



### SUMMARY

Planning application 11/0939 sought the demolition of the existing single storey prefab house and replacement with a new two storey dwelling. The application was granted with conditions, namely Condition 10 which required the demolition of all existing buildings and structures prior to the occupation of the new dwelling. Planning application 16/0666 sought the variation of condition 10; the application was refused. This matter is the subject of the appeal.

The appeal relates to a long, narrow site adjoining Usk Road, outside the settlement boundary of Caerleon.

The Inspector considered the main issues in the determination of the appeal to be:

- Whether the condition is reasonable and necessary in the interests of the character and appearance of the area, having regard to local planning policy relating to development outside settlement boundaries;
- Whether the condition is reasonable and necessary in the interests of highway safety; and
- Whether personal circumstances justify the deletion of the condition and its replacement with a personal occupancy condition.

The Inspector firstly considered the impact of the development on the character and appearance of the surrounding area. The appeal site is a long narrow site that adjoins Usk Road and is located outside the settlement boundary of Caerleon. Unsubstantial screening at the site results in the new dwelling appearing as a prominent feature. The prefab has limited footprint and height and lies in proximity to hedgerows; its visual prominence is therefore reduced. Nonetheless, in glimpsed views from Usk Road, the prefab has an overtly domestic appearance and appears substantially removed from the main dwelling. Consequently, the site is perceived as accommodating two, rather than one dwelling. The Inspector, for the reasons given above, concluded that Condition 10 is reasonable and necessary in the interests of the character and appearance of the area. Its deletion would therefore be contrary to LDP policies SP5 and H12.

With regards to Highway safety, the access to the appeal site lies on the outside of a bend along Usk Road, which is subject to a 40mph speed limit. Visibility to the north is considered acceptable. The visibility splay to the west falls short of the 120 metres sought by TAN 18 and crosses land outside of the appellant's ownership. Nonetheless, the Inspector considered the modest size of the prefab would limit the number of additional occupants, such that vehicular movements arising from it would not be significant in the context of the potential traffic generation of the main dwelling. The Inspector concluded that the occupation of the main dwelling and the prefab would not increase the use of the access point to the extent that it would be harmful to highway safety.

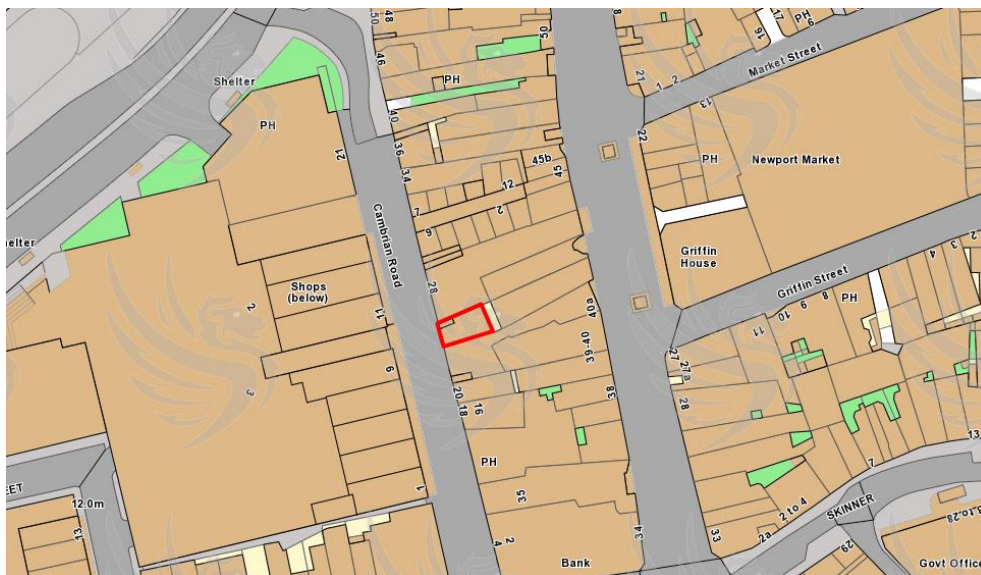
With regards to personal circumstances, the appellants sought to retain the prefab as temporary living accommodation for his 94 year old mother, via a personal occupancy condition. Reference has been made to Mrs Gibbens' qualified right to a private and family life under Article 8 of the First Protocol to the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. Whilst on site, the Inspector noted the spaciousness of the main dwelling and noted it could satisfactorily provide alternative living accommodation for Mrs Gibbens. The Inspector was satisfied that the retention of Condition 10 would not unduly interfere with rights granted under the Human Rights Act. Furthermore, the Inspector noted that it had not been demonstrated that the personal circumstances in this case are exceptional and that Condition 10 remains reasonable and necessary.

In view of the above, the Inspector considered Condition 10 reasonable and necessary in the interests of the character and appearance of the area and there is no justification for its deletion and replacement with a personal or temporary occupancy condition. The appeal has therefore been dismissed.

## APPEAL DISMISSED PLANNING APPLICATION APPEAL

APPEAL REF: 16/0737  
APPEAL TYPE: Written Representations  
WARD: Stow Hill  
SITE: Efes Grill, 24 Cambrian Road, Newport NP20 4AB  
SUBJECT: Retention of internally illuminated signage and non-illuminated window vinyls  
  
APPELLANT: Mr Nurettin Gundogdu  
PLANNING INSPECTOR: Paul Selby  
DATE OF COUNCIL'S DECISION: 10<sup>th</sup> November 2016  
OFFICER RECOMMENDATION: Refused  
COMMITTEE/DELEGATED: Delegated

### DECISION: PART DISMISSED/PART ALLOWED



Advertisement consent was sought for the retention of internally illuminated signage and non-illuminated window vinyls at the mid-terrace commercial property known as Efes Grill, 24 Cambrian Road, Newport. The site lies within the Town Centre Conservation Area.

Advertisement consent was refused by the council because the advertisements installed, by virtue of their bulk, design, appearance and prominence, represent an obtrusive and incongruous addition to the building which results in a detrimental impact on the visual amenities of the host property, the street scene as a whole, and one which fails to preserve the character and appearance of the Town Centre Conservation Area, contrary to policies GP2, GP6 and CE7 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

The inspector recognises the main issue is the effect of the signs on the visual amenity of the area. The low height, opacity and limited size of the window vinyls afford them a discreet appearance and as a consequence they are not harmful in visual terms. In contrast, the aluminium and composite illuminated signage is located at a high level and extends almost the whole width of the building, with large, protruding lettering in striking font. The scale of the signage was seen to overwhelm the modest width of the front elevation, and viewed from other points within the street the projecting lettering appears awkward and cluttered, with consequent visual harm to the Conservation Area.

The inspector found that the window vinyls do not materially conflict with the objectives of GP2, GP6 and CE7 of the LDP and national policy guidance. However, as the illuminated signage is harmful to visual

amenity, that element of the development conflicts with the relevant LDP policies and with the general thrust of both TAN 7 and TAN 23.

For the above reasons the appeal is dismissed insofar as it relates to the internally illuminated signage. The appeal is allowed insofar as it relates to the non-illuminated window vinyls, and express consent was granted for non-illuminated window vinyls.

## PLANNING APPLICATION APPEAL

APPEAL REF:	16/0389
APPEAL TYPE:	Written Representations
WARD:	Marshfield
SITE:	Pant Farm, Tyla Lane, Old St Mellons, Cardiff CF3 6XG
SUBJECT:	Erection of porch
APPELLANT:	Ian Evans
PLANNING INSPECTOR:	Paul Selby
DATE OF COUNCIL'S DECISION:	9 <sup>th</sup> June 2016
OFFICER RECOMMENDATION:	Refused
COMMITTEE/DELEGATED:	Delegated

## DECISION: DISMISSED



Planning permission was sought for the erection of a replacement front porch to the detached property known as Pant Farm, Tyla Lane, Newport. The property currently has a traditional, well-detailed porch to its front elevation, although it is in a poor state of repair. It is proposed that this would be replaced with a more modern, larger front porch, which would provide a lobby, garden store and cloak room.

Planning permission was refused by the council because the scale and design of the proposed replacement porch would be unsympathetic to the host property, contrary to policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the Council's House Extensions and Domestic Outbuildings Supplementary Planning Guidance (adopted August 2015).

The inspector found that there were two main issues with the proposed development: whether the proposal would be inappropriate development in the Green Belt; and the effect of the proposal on the character and appearance of the immediate area.

### *Inappropriate development*

The property lies within the open countryside, with the immediate context being characterised by open farmland, through which runs the A48(M) in a cutting a short distance away. Policies SP6 and H13 of the Newport LDP seeks to limit volume increases to 30% of the original dwelling size, or as it was in 1948. The council estimated that the proposal would represent a volume increase of less than 9% beyond the original dwelling. Therefore, the inspector felt that the proposal would not be inappropriate development within the Green Belt due to the loss of openness being minimal, and it would accord with the aims of LDP policies SP6 and H13 and PPW.

### *Character and appearance*

The property is a relatively unmodified original farmhouse. The existing porch is modest in scale and design which compliments the form of the original farmhouse. The proposed porch with its extensive glazed areas and pitched gabled elements would relate poorly to the front elevation of the property. The Council's House Extensions and Domestic Outbuildings Supplementary Planning Guidance (SPG) states that a porch should relate sympathetically to the existing building by virtue of its size, design and materials. The inspector considered that the porch would appear as an incongruous and harmful addition to the front elevation of the original farmhouse and consequently would not be consistent with the aims of the SPG. The inspector concluded that the proposal would demonstrably and unacceptably harm the character and appearance of the immediate area, contrary to the design objectives of LDP policies GP2 and GP6 and the aims of the Council's SPG.

For the above reasons the appeal was dismissed.

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