

# Agenda



## Planning Site Sub-Committee

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Date: Thursday, 15 December 2016

Time: Depart Civic Centre Main Entrance at **10.45 a.m.** for Site Inspection

Venue: Followed by a Planning Site Sub-Committee meeting scheduled for  
**12 noon in Committee Room 1, Civic Centre**

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

Substitute Councillors: Councillors Linton and Fouweather – **for information**

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Item		Wards Affected
1	<u>Agenda Page - Welsh Cym</u> (Pages 3 - 4)	
2	<u>Apologies for Absence</u>	
3	<u>Declarations of Interest</u>	
4	<u>Minutes</u> (Pages 5 - 6)	All Wards
5	<u>Planning Application Schedule</u> (Pages 7 - 32)	Caerleon

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# Agenda



## Is-bwyllgor Safle Cynllunio

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Dyddiad: 15 Rhagfyr, 2016

Amser: Gadael Mynedfa'r Ganolfan Ddinesig am **10.45 a.m.** ar gyfer Archwiliad y Safle

Lleoliad: A ddilynir gan gyfarfod Is-bwyllgor Safle Cynllunio a drefnwyd am **12 canol dydd yn Siambr y Cyngor, Canolfan Ddinesig**

At sylw: Y Cynghorwyr Huntley (Cadeirydd), Delahaye (Dirprwy Gadeirydd), Al-Nuaimi, Critchley, C Evans a White

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### Rhan 1

#### Eitem

#### Wardiau Dan Sylw

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|----|--|-----------------|
| 1. | <u><b>Agenda Cym</b></u>                                   |                 |
| 2. | <u><b>Ymddiheuriadau dros Absenoldeb</b></u>               |                 |
| 3. | <u><b>Datganiadau Diddordeb</b></u>                        |                 |
| 4. | <u><b>Cofnodion y cyfarfod diwethaf</b></u>                | <b>Pob Ward</b> |
| 5. | <u><b>Rheoli Datblygu: Rhaglen Ceisiadau Cynllunio</b></u> | <b>Caerleon</b> |

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# Minutes



## Planning Site Sub-Committee

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Date: 11 August 2016

Time: 12.00 noon

Present: Councillors P Huntley (Chair), V Delahaye (Deputy Chair), K Critchley and M Al-Nuaimi

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

Apologies

For Absence: Councillors R White and C Evans

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### 1 Minutes

The Minutes of the meeting held on 12 May, 2016 were submitted.

#### **Resolved**

That the Minutes of the meeting held on 12 May, 2016 be taken as read and confirmed.

### 2 Planning Application Schedule

#### **Resolved**

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

(2) That the Head of Regeneration, Investment & Housing be authorised to draft any amendments to/additional conditions or reasons for refusal in respect of the Planning Applications Schedule, attached.

## PLANNING SITE SUB COMMITTEE – 11 AUGUST, 2016

## DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
16/0429	3 Oakfield Road  Demolition of conservatory and erection of single storey extension, new patio and steps	Allt-yr-yn	The Sub-Committee assessed the level of any overbearing impact of the proposed extension on the neighbouring occupiers of 1 Oakfield Road.  The Officers were recommending the application be granted with conditions.  <i>(Councillor M Evans, Allt-yr-yn Ward Member was also in attendance at the site visit)</i>	Granted with conditions

# Report

## Planning Site Sub-Committee

### Part 1

Item No. 5

**Subject**      **Planning Application Schedule – Site Visit**

**Purpose**        To make decisions on items presented on the attached Schedule.

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

**Ward**            As indicated on the schedule

**Summary**      Attached is a Planning Application Schedule, detailing an application requiring a site visit, as recommended by Planning Committee on 7 December 2016. The Planning Site Sub-Committee will visit the sites, listed in the attached schedule, on 15 December 2016 in order to gain a better understanding of the proposal/case so that a decision can be made.

**Proposal**      1.      **To visit the application site detailed in the attached Schedule.**  
                     2.      **To make decisions in respect of the Planning Application attached.**

**Action by**      Planning Committee  
**Timetable**      Immediate

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

## Protocol

1. A Planning Protocol for Planning Sub-Committee site visits was approved by Council on 08 April 2008 and amended in February 2013.
2. A Sub-Committee of the Planning Committee will be constituted for the purposes of undertaking site visits on behalf of the Planning Committee. It will be known as the Planning Site Sub-Committee.
3. The Planning Site Sub-Committee shall comprise of six named Councillors of the Planning Committee. Rules of political balance as set down in the Local Government and Housing Act 1989 will apply.
4. A site visit by the full Planning Committee may be undertaken in lieu of the Planning Site Sub-Committee if the scale or sensitivity of the development merits such consideration. The decision to undertake a full Planning Committee visit lies with that Committee.

## Purpose of Site Inspections

5. Site inspections by the Planning Site Sub-Committee or full Planning Committee will be undertaken for the following purposes:
  - fact find;
  - investigate specific issues raised in any request for a site inspection;
  - investigate issues arising from the Planning Committee presentation or discussion;
  - enable the Planning Site Sub-Committee to make decisions.

## Requests for Site Inspections

6. Any member of the Council may request that a planning application site be visited by the Planning Site Sub-Committee prior to the determination of that application. Such requests must be made in writing [e-mail is sufficient] to the named case officer dealing with the application or the Development Services Manager. Any such request must include specific reasons for the visit.
7. Applications subject to a request for a visit will be reported to the Planning Committee. The report will include details of the request and the reasons given. Planning Committee will decide, following a full presentation of the application, whether or not a site visits is necessary to inform the decision making process.
8. Where no request for a site visit has been made members of the Planning Committee may decide during consideration of an application that a site inspection would be beneficial. The reasons for the visit should be agreed and recorded as part of the minute of the meeting.
9. Occasionally there will be circumstances when timescales for determination will not allow site visits to be programmed in the normal way e.g. those related to telecommunications development. In such **exceptional circumstances**, at the discretion of the Chairman and Vice-Chairman of the Planning Committee, a site visit may be undertaken prior to the presentation of the matter to the Planning Committee. **As Members of the Sub-Committee will not have received a formal presentation on the application a recommendation cannot be given.** They will be able to report their findings of fact to the Planning Committee. Members should make their written request, with reasons, in the normal way. All other aspects of the protocol will apply.



## **Attendance at Planning Site Sub-Committee Visits**

10. Attendance at Planning Site Sub-Committee visits is to be restricted as follows:

- Members of the Planning Site Sub-Committee;
- Relevant Officers;
- Ward Councillors;
- Single representative of the Community Council [if relevant];
- Applicant/Agent to allow access to the site;
- Neighbour/other Landowner [where access is required to make any assessment].

## **Representations at Planning Site Sub-Committee Visits**

11. A site visit is not an opportunity to lobby on an application. Accordingly, no representations may be made to the Planning Site Sub-Committee by any party. Members of the Sub-Committee may ask questions of those present to establish matters of fact and inform their consideration of the application.

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## **Background**

The reports contained in this schedule assess the proposed development or the unauthorised 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.

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Site Sub 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. There is no third party right of appeal against a decision.

Where formal enforcement action is taken, the recipient of the Notice has a statutory right of appeal in most cases. There is no third party right of appeal against a decision with the exception of High Hedge Remedial Notices. Appeals are normally lodged with the Planning Inspectorate at the Welsh Assembly Government. Non-compliance with a statutory Notice is a criminal offence against which prosecution proceedings may be sought. The maximum level of fine and/or sentence that can be imposed by the Courts depends upon the type of Notice issued.

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 or Planning Site Sub 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, taking enforcement action, carrying out Committee site visits 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.

In the case of Section 215 Unsightly Land Notices, an appeal is lodged with Planning Inspectorate at the Welsh Assembly Government and the Council will seek to recover all its costs in relation to all such appeals.

In the case of Stop Notices, compensation can be awarded against the Council if it is demonstrated that the breach of planning control alleged has not occurred as a matter of fact, the breach is immune from enforcement action due to the passage of time, or the activities/development have already been granted planning permission.

### **Risks:**

Four risks are identified in relating to the determination of planning applications by Planning Committee or Planning Site Sub 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.

An appeal can be lodged by any recipient of a formal Notice, with the exception of a Breach of Condition Notice. 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.

If a Stop Notice is issued, compensation can be awarded against the Council if it is demonstrated that the breach of planning control alleged has not occurred as a matter of fact, the breach is immune from enforcement action due to the passage of time, or the activities/development has already been granted planning permission. Legal advice is sought before taking such action, and a cost-benefit analysis is undertaken to fully assess the proposed course of action.

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

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

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Decisions challenged at appeal and costs awarded against the Council.	M	L	<p>Ensure reasons for refusal or reasons for taking enforcement action 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>Planning Committee</p> <p>Planning Committee</p> <p>Development Services Manager and Senior Legal Officer</p>
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Development Services Manager
Judicial review	H	L	Ensure sound and rational	Planning

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?
successful with costs awarded against the Council			decisions are made.	Committee  Development Services Manager
Compensation awarded in relation to a Stop Notice	M	L	Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Development Services Manager and Senior Legal Officer

\* 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 Local Development Plan 2011-2026 (Adopted January

2015 unless material considerations indicate otherwise. Planning decisions are therefore based primarily on this core Council policy.

### **Options available**

- 1) To determine applications in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate);
- 2) To determine that applications be granted or refused against the Officer recommendation (in which case the Site Inspection Sub-Committee's recommendation and reasoning should be clearly minuted);

With regards to enforcement cases:

- 1) To determine that enforcement action is taken (or no further action is taken) in accordance with the Officer recommendation (with amendments to or additional requirements or reasons for taking formal action if appropriate);
- 2) To determine that a different course of action be taken to that recommended by Officers (in which case the Site Inspection Sub-Committee's recommendation and reasoning should be clearly minuted).

### **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.

### **Local issues**

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

### **Equalities Impact Assessment and the Equalities Act 2010**

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other

conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

An Equality Impact Assessment for delivery of the Development Management service has been completed and can be viewed on the Council's website.

### **Children and Families (Wales) Measure**

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

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

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

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

### Planning (Wales) Act 2015 (Welsh Language)

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

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

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. Objectives 1 (Sustainable Use of Land) and 9 (Health and Well-being) of the adopted Newport Local Development Plan (2011-2026) link to this requirement to ensure that development makes a positive contribution to local communities and to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

### **Consultation**

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

## **Background Papers**

### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 9 (November 2016)

Minerals Planning Policy Wales (December 2000)

#### *PPW Technical Advice Notes (TAN):*

TAN 1: Joint Housing Land Availability Studies (2006)

TAN 2: Planning and Affordable Housing (2006)

TAN 3: Simplified Planning Zones (1996)

TAN 4: Retailing and Town Centres (1996)

TAN 5: Nature Conservation and Planning (2009)

TAN 6: Planning for Sustainable Rural Communities (2010)

TAN 7: Outdoor Advertisement Control (1996)

TAN 8: Renewable Energy (2005)

TAN 9: Enforcement of Planning Control (1997)

TAN 10: Tree Preservation Orders (1997)

TAN 11: Noise (1997)

TAN 12: Design (2014)

TAN 13: Tourism (1997)

TAN 14: Coastal Planning (1998)

TAN 15: Development and Flood Risk (2004)

TAN 16: Sport, Recreation and Open Space (2009)

TAN 18: Transport (2007)

TAN 19: Telecommunications (2002)

TAN 20: The Welsh Language: Unitary Development Plans and Planning Control (2013)

TAN 21: Waste (2014)

TAN 23: Economic Development (2014)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)

Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

Welsh Government Circular 016/2014 on planning conditions

### **LOCAL POLICY**

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

#### Supplementary Planning Guidance (SPGs):

Affordable Housing (adopted August 2015)

Archaeology & Archaeologically Sensitive Areas (adopted August 2015)

Flat Conversions (adopted August 2015)

House Extensions and Domestic Outbuildings (adopted August 2015)

Houses in Multiple Occupation (HMOs) (adopted August 2015)

New dwellings (adopted August 2015)

Parking Standards (adopted August 2015)

Planning Obligations (adopted August 2015)

Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)

Wildlife and Development (adopted August 2015)

### **OTHER**

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

The Economic Development Strategy is a material planning consideration.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 are relevant to the recommendations made.

Other documents and plans relevant to specific planning applications are detailed at the end of each application report in the attached schedule

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## Planning Application Schedule

### APPLICATION DETAILS

**No:** 16/1016      **Ward:** CAERLEON

**Type:** FULL

**Expiry Date:** 11-DEC-2016

**Applicant:** NEWPORT CITY HOMES

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

**Proposal:** CONSTRUCTION OF TWO STOREY BUILDING TO INCLUDE 6NO. 1 BEDROOM FLATS, ASSOCIATED PARKING, ALTERATIONS TO EXISTING ACCESS, NEW BOUNDARY TREATMENTS AND ASSOCIATED WORKS

**Recommendation:** GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 AGREEMENT WITH DELEGATED AUTHORITY TO REFUSE PERMISSION IF THE AGREEMENT IS NOT COMPLETED WITHIN 3 MONTHS OF THE RESOLUTION TO GRANT PLANNING PERMISSION

### 1. INTRODUCTION

- 1.1 The proposal is to erect a two-storey block containing 6No. affordable one-bedroom flats on a site located within a residential part of Caerleon. The site was previously owned by Newport Council but transferred to Newport City Homes with the remainder of the Council's housing stock. Previously the site housed a number of garages but since the land was acquired by Newport City Homes, these were demolished and the site cleared of all vegetation prior to the application being submitted. The correct prior notification procedure was not followed prior to the demolition of the garages and the matter was investigated by enforcement officers but enforcement action to require their reconstruction was not considered to be expedient and the case was subsequently closed. This application represents a resubmission following the withdrawal of an application for a scheme for a larger building with 8no. bedroom flats (15/1167). Officers had shared concerns regarding that scheme with the applicant which subsequently lead to its withdrawal. This application will however be assessed on its own merits.
- 1.2 The site is linear, extending along Eastfield Road, and approximately 17m wide at its widest point. It is bordered by public highway to its western and southern boundaries and residential properties to the north and east. The size and shape of the site has therefore limited the size, location and form of the development.
- 1.3 There is a height difference within the site with the levels decreasing toward the south-east. The maximum height difference is approximately 2.5m, adjacent to 2 Eastfield Road. Furthermore, the gradient of the land means that properties located adjacent to the south-eastern boundary of the site (103 to 115 Anthony Drive) are positioned at a lower ground level than the proposed development.
- 1.4 The proposed building will measure 24m in length by 8.2m in depth. The Eastfield Road (north) elevation of the building will have a maximum height of 5.8m whilst the opposite elevation will have a height of 7.5m, owing to the difference in ground levels. The roof is of a pitched design with feature gables positioned at either end of the rectangular building.

- 1.5 The existing vehicular access from Anthony Drive is to be utilised and the southern elevation will provide access to the four ground floor flats. This area currently provides access to the rear of 115 to 103 Anthony Drive. Pedestrian access to the four first floor flats will be available via Eastfield Road.
- 1.6 The building is to be constructed from a mix of buff brickwork with timber panelling and a grey slate roof with grey rainwater goods. The entrances to the flat's access from Eastfield Road are recessed behind timber slatted screens, which provide concealed external space to store refuse. Each entrance will have a flat-roofed canopy. Each flat will be served by at least 2 full height windows. The majority of these windows will be located in the southern elevation, although two will be located in the west elevation, fronting Anthony Drive. 6 smaller windows will front onto Eastfield Road. 2No. windows are proposed in the East elevation overlooking 2 Eastfield Road. Three 'sun-pipes' are to be located in the Eastfield Road elevation roof slope to provide daylight to bathrooms.
- 1.7 Landscaped areas are provided between the western-end elevation and Anthony Drive, which will also house a refuse collection area, and east of the proposal with a landscape buffer fronting Eastfield Road.
- 1.8 A total of 7No. parking spaces are to be provided within the site; 6 for the proposed flats plus a visitor space.
- 1.9 The primary considerations of this application, which are echoed by the concerns of representations received, are: the impact on residential and visual amenity; highway safety; parking provision; traffic generation and air quality; landscaping; the need for affordable housing and the ability of the site to accommodate the proposal.

## 2. RELEVANT SITE HISTORY

15/1167	ERECTION OF TWO STOREY RESIDENTIAL BUILDING TO INCLUDE 8NO. ONE BEDROOM FLATS, ALTERATIONS TO EXISTING ACCESS ROAD, NEW BOUNDARY TREATMENTS, EXTERNAL LIGHTING AND ASSOCIATED LANDSCAPING	WITHDRAWN
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## 3. POLICY CONTEXT

### 3.1 *National Policy*

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

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

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

### 3.3 *Supplementary Planning Guidance*

- Parking Standards
- Affordable Housing
- New Dwellings

#### **4. CONSULTATIONS**

- 4.1 WALES AND WEST UTILITIES: Wales & West Utilities has pipes in the area and apparatus may be affected and at risk during construction works. Should the planning application be approved then require the promoter of these works to contact WWU directly to discuss requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable and WWU plant and equipment should not be built over or enclosed.
- 4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The application area lies outside of the Roman town and the later medieval development of Caerleon, within an area of modern housing development. There is no indication of archaeological assets from the Roman or later periods within the application area. It is unlikely that the proposed work will have an impact on the historic environment. Therefore as advisors to your members we have no objection to the positive determination of the application. Should archaeologically sensitive material be discovered during the work, the applicant should contact GGAT for advice.
- 4.3 DWR CYMRU WELSH WATER: Recommend that Conditions and Advisory Notes are included within any consent granted to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets. Conditions are recommended which require an attenuation device for surface water and to ensure that the position of the public sewer crossing the site is accurately marked out before works commence and no work should be carried out either side of it. No problems are envisaged with the provision of water supply for this development.
- 4.4 NEWPORT ACCESS GROUP: No response.
- 4.5 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): No objections to make. 'Designing out crime' advice has been given to the Architects in relation to Secured by Design of which the site is fully able to achieve, making a safe and sustainable development for the future.
- 4.6 NATURAL RESOURCES WALES: Wish to make no comment.

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

- 5.1 HEAD OF LAW AND REGULATION (PUBLIC PROTECTION): Efforts have been made by the applicant to investigate methods to minimise the impact on the local air quality and human health. Whilst it is agreed the impact will be minimal, the cumulative impact of many small developments in the local area should not be ignored. As such each development should play a part in trying to mitigate their air quality impact. The measures suggested in the submitted air quality report are well considered and appropriate for the scale of this development. There is therefore little reason to refuse the application on air quality grounds and conditions to ensure the air mitigation measures proposed are implemented should be attached to any planning permission granted. A condition requiring the submission of a Construction and Environment Management Plan should also be applied and in particular HGVs should avoid using the Caerleon High Street & Castle Street.
- 5.2 The submitted contaminated land report does not indicate any significant contamination, however none of the samples were taken at near surface (0.5m and deeper). Previously the Scientific Officer has been made aware of an asbestos survey for the site which has been considered. It is currently unclear whether there is a risk to future site users/site workers from asbestos and what, if any remediation has been carried out. To ensure the site is suitably investigated and remediated a condition related to land contamination should be attached to any permission granted. This should include a summary of all relevant investigation works carried out, the requirement and implementation of additional sampling

(if needed), risk assessment and remediation strategy. In particular, evidence of the management and risk assessment of the asbestos should be made clear. Currently from the evidence presented asbestos is still present on the site. It is also recommend that asbestos fibre monitoring is carried out by an independent contractor for any ground works, this is to ensure the health and safety of both site workers and the wider public.

- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE): No response.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER and acting LANDSCAPE OFFICER): No objection.
- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): No objection.
- 5.6 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Parking will be available in accordance with the Newport City Council Parking Standards. Informal on street parking exists along the road which is likely associated with residents of 103 to 115 Anthony Drive. The applicant has shown that sufficient road width will be retained to allow for this situation to continue whilst retaining enough space for turning manoeuvres.

The access width onto Anthony Drive will be reduced however a minimum width of 4.8m will be retained at the access in accordance with Manual for Streets.

The existing road currently forms part of the adopted highway. Where the development encroaches into the adopted highway the highway rights must be 'stopped up' via the Town and Country Planning Act.

Any works within the adopted highway will also require the developer to contact Streetscene to facilitate the appropriate highways agreement should planning permission be granted. No works can be undertaken within the adopted highway until such a time that an agreement is in place and permission has been given by the highway authority.

Doors opening over the adopted highway will not be permitted and therefore the access arrangements into the bin stores will need to be amended.

Should planning permission be granted then a CEMP must be submitted for approval which must include such details as wheel wash facilities, dust suppression, contractor parking/compound and how deliveries will be accommodated.

Suitable drainage must be employed to prevent surface water run off onto the adopted highway.

Subject to the above offers no objection to the application.

- 5.7 HEAD OF REGENERATION AND REGULATORY SERVICES (HOUSING DEVELOPMENT MANAGER): Newport City Homes are a partner housing association of the City Council and are therefore committed to working with the authority for the provision of affordable housing. This scheme has been developed in partnership to address the prevailing housing need in the area. The Local Housing Market assessment 2015-2020 identified a need for 31 one bed room properties to be built in Caerleon every year for the five years of the assessment, this has not been achieved due to a lack of land availability. Similarly there are currently 788 single people registered for accommodation for the Lodge area. This site is owned by Newport City Homes and will provide 6 apartments to address this need. The design has taken considerable consideration due to the topography of the site, and will provide flats to the ground floor and upper street level with level access, ensuring that an applicant with a mobility issue can still be accommodated. Parking provision is being made available to all 6 flats and visitor provision. The flats comply fully with Welsh Government Development Quality Requirements and will be constructed with

Social Housing Grant. Therefore the Housing Department of the City Council fully supports this application.

- 5.8 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING CONTRIBUTIONS MANAGER): The proposal addresses a clearly identified housing need for this area of the City and will be offered on a neutral tenure basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register and attain the appropriate Welsh Government standards where appropriate and achievable.

However, in accord with the Affordable Housing SPG (2015), should the developer decide to sell any of the properties on the open market there would be a requirement to provide £13,150 per market dwelling. Affordable Housing Sum would be index linked to the RPI and paid in instalments (to be agreed)

The development falls within the catchment area of Caerleon High School and Lodge Hill Infants and Junior School. However, no education planning obligations are generated by one bedroom apartments (whether affordable or open market).

There is a deficit of equipped and formal play provision within the Caerleon Ward.

Whilst it is recognised that no leisure contribution is requested for affordable housing dwellings, it is necessary to build-in safeguards to ensure that any dwellings sold or rented on the open market, will be subject to leisure planning obligation contributions. As such, any 'open market' dwellings will be subject to a financial leisure contribution, based on the following formula and in accord with the Planning Obligations SPG 2015:

- Number of one bed 'open market' apartments x £2,218

Prior to commencement of the development, the Owner and/or developer will notify the Council in writing of the number and type of dwellings which are to be 'open market' dwellings

All Leisure Sums will be index linked to the RPI

- 5.9 HEAD OF EDUCATION (EDUCATION INFORMATION MANAGER): No response.

## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: 15 neighbours were consulted who share a common boundary with the application site, a site notice was displayed at the site. The following issues were raised within the objections received:

### Residential Amenity

- It will result in increased overlooking with front elevation windows being only 18m away from protected windows on no. 1 Eastfield Road and rear windows 19m away from 115 Anthony Drive, affecting privacy;
- The doorways of flats 4, 5 and 6 will open onto the footpath and this is unsafe;
- Planters will encroach into the public footpath and cause a hazard;
- The existing bank is unstable following the removal of the garages;
- There will be loss of light to neighbouring residential properties
- The new properties will increase noise levels;
- No private amenity space for drying clothes or storing bins has been provided;
- The proposal will destroy the view from properties on Eastfield Road;
- The allocated bin area will cause a problem and bins will be left out during collection days;
- The building will be overbearing;
- The proposal breaks the established building line of Eastfield Road;

- A salt bin is in place currently on the corner of the site, this should be maintained;
- The description doesn't include the amenity function previously provided by the land;
- The proposal will increase pressure on the drainage and sewerage system;
- No provision for refuse storage for Anthony Drive Properties has been provided;

#### Parking and Highway Safety

- The parking survey was not independent and the terms set by the applicant:
  - Suggests it is allowable to displace long established parking to surrounding informal street parking
  - The duration and survey times do not effectively capture parking densities at their heightest and the survey suggests only 2-3 vehicles use the parking area when the figure is often 10-12 cars
  - Owing to restrictions within the Highway Code there cannot be considered to be 88no. spaces within 80m of the site. This should be reduced to 50no.
  - Use of all these 50 spaces would result in traffic coming to a halt
  - The survey is incorrect in stating that there are garages on site as they were demolished in 2014.
- The reduction in available parking will increase pressure on the surrounding area which is already saturated;
- Access to rear of Anthony Drive will be limited for emergency, refuse and delivery vehicles;
- The increase in traffic will increase pollution in Caerleon;
- The proposal makes no provision for existing resident parking which will be lost;
- The swept path analysis doesn't take into account established kerbside parking;
- Access to the rear of 103 Anthony Drive is likely to be impeded;
- Damage is likely to occur to existing boundary fences from vehicles manouvering in a restricted space;
- The allocated turning bay is likely to be used for parking;
- A parking area is proposed immediately opposite 1 Eastfield Road and this is likely to cause an obstruction and safety concerns;
- Eastfield road is a busy bus route and the parking area will cause a safety hazard to vehicles using this route;
- The parking area at Eastfield Road will cause a hazard to the blind resident at 2 Eastfield Road;
- Off-street parking will have to cross double-yellow lines which if removed would further reduce safety and increase parking frustration;
- The garden wall of 12 Eastfield Road has been knocked down on 19 occasions and the current situation is dangerous for pedestrians – the proposal will worsen this;
- Insufficient ingress and egress access point which is too close to the existing junction;
- Shared surfaces will cause confusion and a hazard

#### Unauthorised Demolition of Garages and site clearance

- There are factual inaccuracies in the application about the garages still being in situ;
- The garages were in a poor state of repair;
- Newport City Homes prevented the new renting of garages and those renting them were told to vacate and so the situation of vacancy was manipulated;
- The garages provided protection from the elements to no. 2 Eastfield Road;
- The removal of the garages required prior notification which was not sought and retrospective planning permission has not been applied for and this application should therefore be rejected;
- The removal of the garages represents the commencement of the development;
- Asbestos was found during the demolition and was buried on the site and poses a risk to human health;

- The potential impact of the remaining asbestos and contamination should be rectified before the application is considered, a condition to tackle this retrospectively is not appropriate;
- The developer destroyed a long established green space marking the historical boundary of the original farm land and the reinstatement of this greenspace should be enforced;
- Clearance of the site resulted in the destruction of habitats;
- There is reference to a commuted sum made to Newport City Council in relation to landscaping and local residents have not benefitted from this;

#### Design

- The plot is very small for 8;
- Construction so close to the footway and loss of the verge would be detrimental to the streetscape;
- The design is out of character and scale with neighbouring properties which are mainly comprised of low density bungalows and is more suited to an urban setting;
- The planters proposed are an urban feature and will cause a trip hazard and street clutter;
- Pleached trees are an urban landscaping solution;
- The materials proposed are inappropriate

#### Housing Type

- No evidence has been submitted to support the need for one bedroom flats in Caerleon;
- 450 rooms are available on the university site and other properties locally are available for shared housing and could be utilised to provide one-bedroom accommodation;

#### Other Matters

- The consultation carried out by NCH's was inappropriate and occurred at inconvenient times and locations (homes visits were also carried out but the information provided was not appropriate for a blind person);
- Points raised during consultation have not been recorded
- Reference to area as 'suburban village' is incorrect and the site is actually bounded by open countryside

6.2 COUNCILLORS GILES, HUNTLEY AND SULLER: Councillor Giles has objected to the application supporting neighbour objections and has requested that it be heard by planning committee. Particular concern is raised in respect of insufficient parking, loss of amenity / access to rear entrances of adjacent residents' properties, insufficient ingress and egress width at the entrance which is also too near a junction and on a corner in the road, pedestrian safety and arrangements for bin collections and delivery vans/ lorries.

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

## **7. ASSESSMENT**

### **Unauthorised demolition of garages**

7.1 Previously, the site contained a number of garages. The applicant and owner of the garages has stated that these garages were under-utilised and largely used for storage. Local residents have disputed this and believe that the correct prior-notification process should have been sought prior to their demolition, and as a result this should be a material consideration in the planning application.

7.2 The Town and Country Planning (General Permitted Development) Order 1995 requires that prior notification is sought in respect of the demolition of such structures. The Council's planning enforcement officers investigated the unauthorised demolition of the garages and

as the garages and demolition debris had already been removed from site and their reconstruction was not considered expedient, no further action was taken.

- 7.3 Representations received suggest that asbestos was present during the demolition of the garages which may pose a risk to human health. The Head of Law and Regulation (Public Protection) has suggested a condition is attached to any planning permission granted to address public health issues arising from this along with a construction and environmental management plan. These are considered adequate to safeguard local residents from any potential demonstrable effects arising from possible contamination on the site.
- 7.4 The refusal of planning permission would not result in the reconstruction of the garages. Their demolition, albeit undertaken without the appropriate consent, now leaves a vacant urban site in a predominantly residential area. The impact in relation to parking provision is addressed below.

#### **Affordable housing need**

- 7.5 The proposal is for 6 No. 1 bedroom affordable apartments. Policy H4 (affordable housing) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) identifies that the Authority will seek the provision of affordable housing in accordance with the relevant submarket area target, which is 40% for Caerleon and Rural Newport. This effectively means these areas have been identified as those in most need for affordable housing and 40% of new housing should be affordable or a commuted sum paid toward provision of such housing. The proposal is 100% affordable and so fully contributes to addressing the housing need identified in this area. The Planning Contributions Manager has stated that as a consequence the development is exempt from contributing towards leisure and education planning obligations, although contributions would be payable if the properties were to be sold on the open market in the future. Therefore a S106 will be required to control this possibility.
- 7.6 The Local Housing Market assessment 2015-2020 identified a need for 31 one bed room properties to be built in Caerleon every year for the five years of the assessment, this has not been achieved due to a lack of land availability. Similarly there are currently 788 single people registered for accommodation for the Lodge area. This site is owned by Newport City Homes and will provide 6 apartments to address this need. The proposal is considered to comply with Policy H4 of the Newport Local Development Plan and will contribute towards the local housing supply to address an identified need.
- 7.7 It has been queried within neighbour objections as to why other available sites have not been utilised, such as the Caerleon Campus. Newport City Homes is seeking to make efficient use of land within their ownership to provide 6 no units. The Local Development Plan does not require developers to consider the suitability of alternative sites in a sequential manner in respect of housing and it would be unreasonable to refuse this application for that reason. In any event, the Caerleon Campus does not benefit from a planning permission for residential development, affordable or otherwise and no planning application is currently being considered.

#### **Design of development**

- 7.8 The site is limited in terms of its size and it is recognised that this has influenced the compact design of the proposal and its position within the site. Effort has been made to respect the scale of adjacent housing and utilise the gradient of the land by providing a single storey elevation to Eastfield Road, which is fronted by bungalows, and a two storey elevation to the rear opposite the two storey terraced properties at 115 to 103 Anthony Drive. Prominent gables are common in the area and are a feature which is reflected in the design of the proposal. Also canopies have been incorporated into the front elevation to provide a more residential appearance. The brick and render design of the building complements the materials used locally as evidenced within the design and access statement submitted.



- 7.9 The New Dwellings SPG (Adopted August 2015) states that one-bedroom flats should have an internal floorspace of 50m<sup>2</sup> and have balconies providing a minimum amount of amenity space. The Juliette balconies serving flats 1, 3, 4 and 6 of this proposal do not provide any usable amenity space, however, to create such features at first floor level would enhance the degree and perception of overlooking to neighbouring properties and so in this instance would not be inappropriate. Furthermore, each flat will provide a minimum of 52 square metres with first floor flats having 59 square metres of internal living space. All flats will have private areas to store refuse which compensates for the lack of private external amenity space. All flats have their main habitable room windows facing south and so are likely to receive a sufficient amount of daylight into living areas. To allow additional light into living areas whilst aiming to minimise overlooking, it is proposed to provide windows in the side elevation of double storey bay-window features to the rear. The proposal will be constructed in line with the Welsh Government's requirement for social housing, which ensures compliance with Policy H2 (Housing). The level of amenity for the occupants of the proposed flats is therefore considered to be acceptable.
- 7.10 As identified within the representations received, the building will be located closer to the footway on Eastfield Road than other properties, which are characterised by greater setbacks, and forward of the established building line. The landscaped verges and delineation of gardens makes for a pleasant amenity and spacious appearance, particularly along Eastfield Road. It is not possible to provide a greater setback from the highway owing to the limited depth of the site. A variety of housing types and designs are evident in the locality and landscaping in the form of planters is proposed to be used to in an attempt soften the street facing façade of the building. Landscape buffers at Eastfield Road and Anthony Drive have also been proposed which re-introduce a degree of landscaping following the clearance of the site. Although it is accepted that the level of landscaping is not equivalent to the previous level of vegetation, the amount and quality of landscaping represents a significant improvement to that which was previously proposed under application 15/1167. The landscape buffer fronting Anthony Drive and the use of window openings in the south-western elevation of the building combine to allow the building to successfully turn the corner to Eastfield Road, avoiding an overbearing and blank façade within this residential setting and helping to soften the appearance of the building from Anthony Drive.
- 7.11 The materials used in the development do however complement the existing properties in the area and it is considered to provide a sufficient level of amenity for its occupants. It is therefore considered to be compliant with policy H2.
- 7.12 The Heddlu Gwent Police (architectural liaison officer) was consulted in respect of this application and have no objections to the proposed development and confirm it will be built to the standards found within Secured by Design.

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

- 7.13 A number of representations have raised concerns in respect of the impact the proposal will have on residential amenity through means of overlooking, loss of light, overbearing impact, light pollution and increased noise. The loss of outlook and view have also be cited as objections against the proposal. The New Dwellings SPG states that new developments should maintain adequate natural daylight, privacy and perceived space for occupants of neighbouring dwellings. Policy GP2 (General Amenity) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2016) states that development will be permitted where there will not be a significant adverse effect on local amenity including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality.
- 7.14 The test for natural light is set out in the New Dwellings SPG. Given the height of the proposed building and its distance from the windows of these properties the proposal does not fail this test and, also taking into account the position of the proposal to the north of Anthony Drive, it is therefore unlikely it will impede natural daylight from the windows of

neighbouring residential properties. Furthermore, owing to the two-storey height of the proposal and distance from the rear of these properties it is not considered that its impact will be overbearing.

- 7.15 The New Dwellings SPG also specifies that in order to ensure that all residents have sufficient privacy in their homes, a 21m separation distance must exist between protected windows in existing and proposed dwellings. In order to prevent overlooking between existing and proposed properties, suitable separation distances must exist between high-level protected windows and adjacent back gardens. The applicant has demonstrated that a minimum distance of 21m will exist between the rear elevation windows of the proposal and the properties at 103 to 115 Anthony Drive and so the proposal will not have an adverse impact on the privacy of neighbouring residents in their homes. This is correct, except in the case of no 115 Anthony Drive where the distance is 20m between protected windows. It is however proposed to obscure glaze first floor windows and a condition will be attached to any permission granted to ensure that openings are top-hung to avoid any perception of overlooking. Although the first floor Juliet balcony serving flat 6 will be sited 26m away from 2 Eastfield Road, use of the Juliet balcony at an elevated position could impact upon the residential amenities of occupants of that property through an increased perception of overlooking. Therefore, a condition will be attached to any permission granted to prevent a Juliet balcony being used here.
- 7.16 Representations received identify that the separation distances specified in the SPG do not apply to distances between protected windows on Eastfield Road and are measured as 18m. However, the submitted plan shows that the windows in the front elevation of the proposal are not located directly opposite 1 Eastfield Road but face the side elevation of 101 Anthony Drive, where there are no protected windows. Therefore, owing to the position of the proposed building in relation to the protected windows of properties sited on the northern side of Eastfield Road it is considered that there will be no adverse impact on amenity on either 1 Eastfield Road or 101 Anthony Drive.
- 7.17 Any anti-social noise levels cannot be anticipated and if they do occur can be tackled under other legislation. Similarly, disruption during construction is controlled through other legislation although a condition will be attached to any planning permission granted to require a construction management plan to be submitted and approved prior to the commencement of development. The approved details will then have to be complied with.

### **Landscaping**

- 7.18 Prior to the submission of the application, the site was cleared of all vegetation. A number of neighbours consider that this has had an adverse impact on the character and appearance of the locality. This area is suburban and within the urban boundary. The site was previously occupied by garages although, the appearance of the site was softened by the greenery, which apparently formed an original boundary to countryside when the housing estate was developed. It has not been possible to locate the original planning permission and so whether its removal represents a breach of the original consent cannot be determined but is considered unlikely. The landscaping proposals have been assessed in terms of whether they provide adequate mitigation for the loss of the vegetation.
- 7.19 The Head of Streetscene and City Services (Landscape Officer) has not objected to the proposal and pre-application discussions prior to the submission of the application established the acceptability of the basic landscape format, subject to the submission of a detailed scheme, which can be required by condition. At Eastfield Road, the scheme includes planters, within the site and adjacent to the highway, a landscape budffer adjacent to no. 2 Eastfield Road and between parking spaces and a landscape buffer at the junction with Anthony Drive. Additional landscaping is provided to the rear corner of the buildings and agasint the retaining wall between the parking area and no. 2 Eastfield Road, included pleached trees.

7.20 An area to store refuse bins has been allocated within the landscape area fronting Anthony Drive. The proposed site layout indicated that this is to be formed of a green/timber screen wall with plants. Details of this will be required as part of the landscaping screen should planning permission be granted as this feature could add to the appearance of this area if integrated with other landscape features. A standalone enclosure would appear as an incongruous feature. This area is only therefore likely to be used on collection days and each flat has its own bin storage area.

7.21 A neighbour has objected to the scheme on the basis that the planters and pleached trees are more characteristic of an urban development and could cause a hazard, particularly to a blind resident. Owing to the position of the pleached trees below Eastfield Road and within the car park area, it is unlikely that they will cause any particular hazard and it is considered that they will enhance the appearance of what would otherwise be a stark retaining wall. Owing to their location within the site and height of the planters shown within the submitted information it is unlikely that they will have an adverse impact upon the character and appearance of the area, nor will they cause a trip hazard. However, further details of these will be required as part of the landscaping scheme.

### **Highways and parking**

7.22 Policy SP1 (Sustainability) states that developments should make a positive contribution to sustainable development. This site is in a sustainable location within the settlement boundary which is well serviced by public transport. The site is a vacant brownfield site and this proposal seeks to make an efficient use of the land. However, Caerleon High Street is an Air Quality Management Area (AQMA) since it suffers from high levels of traffic based pollution and new residential development has the potential to worsen the current situation. The Head of Law and Regulation (Public Protection) considers that the measures suggested in the submitted air quality report are well considered and appropriate for the scale of this development. These measures include:

- Subsidised bus passes for residents
- Cycle parking provision for 6 bicycles
- Cables for an electric charging point to be provided should installation be required in future; the type of accommodation makes it unlikely residents will own electronic vehicles so not required at present;
- Construction traffic will be advised to only use the route through Caerleon outside peak traffic hours.

7.23 The Head of Law and Regulation (Public Protection) has advised that a condition should be attached to any planning permission granted requiring implementation of the Air quality plan submitted as well as a condition requiring the submission of a Construction and Environment Management Plan which should prevent HGVs using the Caerleon High Street & Castle Street at any time. Any Construction and Environmental Management Plan will therefore need to specify what route construction vehicles are to take and how this will be ensured.

7.24 Many objections have been received in respect of the loss of parking provision resulting from the proposal and general highway safety issues. Neighbours have also expressed concern regarding existing highway safety and consider the proposal will worsen the situation.

7.25 Currently, notwithstanding the use of the site for garages, the site provides parking, and access, to 103 – 115 Anthony Drive. The front of these properties can only be accessed by foot and so the loss of parking to their rear would result in an increase in on-street parking in the area. It seems that the site has indeed been established as an area for the parking of vehicles although the applicant does own the site and could deny access for parking, except where it is adopted highway.

7.26 It is proposed to provide 7 vehicle parking spaces in total. This includes a visitor parking space. The adopted parking standards require that one parking space is provided per

dwelling for one-bedroom flats in this location, with one visitor parking space per 5 dwellings. Whether this requires an additional visitor space is open to interpretation, however, The Head of Streetscene and City Services (Highways) is however satisfied that in this instance the level of parking provided for the proposal is sufficient. On-street parking will be kept available to the rear of 103 -115 Anthony Drive within the adopted highway which allows the existing parking scenario to continue whilst allowing room for the manoeuvring of vehicles. The applicant has shown that sufficient road width will be retained to allow for this situation to continue whilst retaining enough space for turning manoeuvres. The access width onto Anthony Drive will be reduced however a minimum width of 4.8m will be retained at the access in accordance with Manual for Streets. The Head of Streetscene and City Services has not objected to the proposal on highways safety grounds although does recommend that a condition is attached to any planning permission granted requiring a CEMP to be submitted for approval which must include such details as wheel wash facilities, dust suppression, contractor parking/compound and how deliveries will be accommodated. Suitable drainage must be employed to prevent surface water run off onto the adopted highway.

- 7.27 A number of comments have been made in respect of a parking survey undertaken at pre-application stage and recently made available at neighbour request. An objection letter criticises the survey and states that samples taken are not representative of peak use of the site for the parking of cars and that the available on-street parking is lower than claimed within the survey. Notwithstanding the information in the parking survey, the Head of Streetscene and City Services (Highways) is of the opinion that the proposal complies with the adopted parking standards and is in accordance with the Manual for Streets. On-street parking within the area is available, does not appear oversubscribed and is able to accommodate any vehicles which may be displaced as a result of the proposal without adverse impact on amenity.
- 7.27 The existing road currently forms part of the adopted highway. Where the development encroaches into the adopted highway the highway rights must be 'stopped up' via the Town and Country Planning Act. The applicant must note that 'stopping up' is not a guaranteed process as all relevant objections will be considered. It has also been recommended that should the application be approved, the applicant must contact Streetscene to facilitate the appropriate highways agreement for any works which will take place within the adopted highway.

## **8. OTHER CONSIDERATIONS**

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

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

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

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

### **8.3 Having due regard to advancing equality involves:**

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and

- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

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

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

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

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

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

**9. CONCLUSION**

9.1 The proposed development is considered acceptable and it is recommended that planning permission is granted subject to the following conditions.

**10. RECOMMENDATION**

**GRANTED WITH CONDITIONS SUBJECT TO GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 AGREEMENT WITH DELEGATED AUTHORITY TO REFUSE PERMISSION IF THE AGREEMENT IS NOT COMPLETED WITHIN 3 MONTHS OF THE RESOLUTION TO GRANT PLANNING PERMISSION.**

01 The development shall be implemented in accordance with the following plans and documents: Pleached tree sketch detail, Asbestos Report, Site Investigation Report, Presentation Board, Presentation Board 1, Presentation Board 2, Air Quality Management Report, General Arrangement Plan, Drainage layout, Slab and Floor Levels, Proposed Site Sections, Proposed roof plan, Proposed Elevation, Proposed Street Elevations, Proposed Flat Layouts, Proposed Site Layout, Drainage Report.

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 of development, to include demolition, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality\*, vibration, dust\*\* and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Notwithstanding the approved Air Quality Report measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

\* The Institute of Air Quality Management <http://iaqm.co.uk/guidance/>

\*\* The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

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

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

- a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.
- b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.
- c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority. No part of the development hereby permitted shall be occupied until:
- d) Following remediation a Completion/Verification Report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.
- e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.

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

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

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

05 Prior to the commencement of development a drainage scheme shall be submitted to the local planning authority and approved in writing . The scheme shall detail how a sustainable form of drainage will be implemented to prevent water run-off into the adopted highways. Surface water flows from the development shall only communicate with the public surface water sewer through an attenuation device that discharges at a rate not exceeding 2.3 l/s. The scheme shall then be implemented in accordance with the approved details and retained in perpetuity.

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

**Pre-Occupation Conditions**

06 No use shall be made of the building hereby approved until the parking, vehicle turning and access areas have been provided and surfaced as indicated on the plan(s) hereby approved and individual parking spaces marked on the surface. Thereafter, these areas shall be kept available for those purposes at all times.

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

07 Prior to the first beneficial occupation of any unit hereby approved full details of the cycle parking shown on the approved plans shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented as approved and then maintained thereafter in that state.

Reason: To provide residents a choice of means of travel and to promote sustainable travel.

08 Prior to the occupation of the apartment building hereby approved a plan indicating the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as approved before the building is occupied and shall be retained thereafter;

Reason In the interests of visual amenity.

09 Prior to the commencement of the use hereby approved full details of the bin storage, to include elevations and finish detail, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented as approved and then maintained thereafter in that state.

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

**General conditions**

10 Notwithstanding the approved plans, a Juliet balcony shall not be installed to the northern side elevation facing no. 2 Eastfield Road at first floor level to serve flat 6.

Reason: in the interest of protecting the residential amenity of neighbouring occupants

11 All first floor windows in the south-eastern elevation shall be obscure glazed and shall be retained in this condition in perpetuity.

Reason: in the interest of protecting the residential amenity of neighbouring occupants

**NOTE TO APPLICANT**

01 This decision relates to plan Nos: Site location plan, Acstro Parking Survey, Existing Site Plan, Existing Constraints Plan, Pleached tree sketch detail, Asbestos Report, Site Investigation Report, Presentation Board, Presentation Board 1, Presentation Board 2, Air Quality Management Report, General Arrangement Plan, Drainage layout, Slab and Floor Levels, Proposed Site Sections, Proposed roof plan, Proposed Elevation, Proposed Street Elevations, Proposed Flat Layouts, Proposed Site Layout, Drainage Report.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP10, GP2, GP4, GP5, GP6, GP7, H2m H4, H8, T4 and W3 were relevant to the determination of this application.

03 The Supplementary Planning Guidance for New Dwellings, Affordable Housing and Parking Standards (Adopted August 2015) 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 site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.

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

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## **11. REASON FOR THE SITE INSPECTION**

To assess whether the scheme is over development in terms of its scale and whether an acceptable level of parking is being provided/maintained.

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