

# Agenda



## Planning Site Sub-Committee

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Date: Thursday, 19 January 2017

Time: Depart Civic Centre Main Entrance at **1.30 p.m.** for Site Inspection

Venue: Followed by a Planning Site Sub-Committee meeting scheduled for **2.30 p.m.** 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

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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 - 8)	All Wards
5	<u>Planning Application Schedule</u> (Pages 9 - 24)	Gaer

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

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Date of Issue: 12 January 2017

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# Agenda

## Is-bwyllgor Safle Cynllunio

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Dyddiad: 19 Ionawr, 2017

Amser: Gadael Mynedfa'r Ganolfan Ddinesig am **1.30 p.m.** ar gyfer Archwiliad y Safle

Lleoliad: A ddilynir gan gyfarfod Is-bwyllgor Safle Cynllunio a drefnwyd am **2.30 p.m. 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

1. **Agenda Cym**
2. **Ymddiheuriadau dros Absenoldeb**
3. **Datganiadau Diddordeb**
4. **Cofnodion y cyfarfod diwethaf** **Pob Ward**
5. **Rheoli Datblygu: Rhaglen Ceisiadau Cynllunio** **Gaer**

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# Minutes



## Planning Site Sub-Committee

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Date: 15 December 2016

Time: 12.25 pm

Present: Councillors P Huntley (Chair), R White and M Al-Nuaimi

J Davidson (East Area Applications Manager), (Highways), J Evans (Senior Solicitor), M McEwan (Traffic Management), P MacIntosh (Senior Scientific Officer), S Davies (Strategy & Development Manager) and M Durkin (Democratic Services Officer)

Apologies for absence Councillor K Critchley

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### 1 Minutes

The Minutes of the meeting held on 11 August, 2016 were submitted.

#### **Resolved**

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

### 2 Development Management

#### **Planning Application Schedule**

#### **Resolved**

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



Appendix

PLANNING SITE SUB COMMITTEE – 15 DECEMBER, 2016

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
16/1016	<p>Site of former garages, Eastfield Road</p> <p>Construction of two storey building to include 6No. 1 bedroom flats, associated parking, alterations to existing access, new boundary treatments and associated works</p>	Caerleon	<p>The Sub-Committee assessed whether the scheme was over development in terms of scale and whether an acceptable level of parking was being provided/maintained.</p> <p>The Officers were recommending the application be granted with conditions subject to a section 106 Agreement with delegated authority to refuse permission if the agreement was not completed within 3 months of the resolution to grant planning permission.</p> <p><i>(Councillors Giles and Cliff Suller, Caerleon Ward Members was also in attendance at the site visit)</i></p>	<p>Refused on the grounds that the location of the building on the back edge of the Eastfield Road pavement will represent a dominant and unsympathetic addition to the streetscene to the detriment of visual amenity</p>





# 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 11 January 2017. The Planning Site Sub-Committee will visit the sites, listed in the attached schedule, on 19 January 2017 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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## APPLICATION DETAILS

No: 16/0489 Ward: GAER  
Type: FULL  
Expiry Date: 31-AUG-2016  
Applicant: SANDRA MULLINS  
Site: 38, PARK DRIVE, NEWPORT, NP20 3AL  
Proposal: REPLACE FLAT ROOF WITH TILED PITCHED ROOF TO GARAGE AND REPOSITION OF SIDE WALL TO NEW REAR EXTENSION (AMENDMENTS TO PREVIOUS APPROVAL 15/0847)  
Recommendation: GRANTED WITH CONDITIONS

### 1. INTRODUCTION

- 1.1 Planning permission 15/0847 was granted on 1 October 2015 for a part single and part two storey rear extension and the demolition of a single detached garage and construction of a replacement double garage. However, works on site has deviated from the approved plans.
- 1.2 This current application seeks permission to regularise these deviations from the previously approved scheme. The amendments include a widening of the single storey extension and installing a pitched roof over the garage instead of the mono-pitched roof previously approved.
- 1.3 **This application was reported to Planning Committee on 11 January 2017 when it was resolved that Planning Site Sub-Committee undertakes a site visit.**

### 2. RELEVANT SITE HISTORY

15/0847	DEMOLISH SINGLE STOREY REAR EXTENSION AND REPLACE WITH NEW PART SINGLE STOREY AND PART TWO STOREY REAR EXTENSION, PLUS DEMOLITION OF EXISTING SINGLE DETACHED GARAGE AND REPLACE WITH NEW DOUBLE DETACHED GARAGE	Granted with Conditions
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### 3. POLICY CONTEXT

- 3.1 Newport Local Development Plan 2011-2016 (Adopted January 2015).  
Policy GP2 General Development Principles – General Amenity states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.  
Policy GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

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

3.2 *House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015)*

Provides guidance on suitable extensions to dwellings and domestic outbuildings.

**4. CONSULTATIONS**

4.1 None.

**5. INTERNAL COUNCIL ADVICE**

5.1 None.

**6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties with a common boundary were consulted (two addresses). Two letters were received objecting on the following grounds:

- The size of the garage is not fitting with a modest terraced house, but the previous flat sloping roof was acceptable and a garage would ease parking issues. The pitched roof is too large and causes overshadowing.
- Loss of light and overbearing to neighbouring properties and gardens.
- Plans suggest that the extension is in line with the extension at no. 36 but it in fact projects further.
- Damage to neighbouring property.
- Health and Safety disregarded during building.
- Poor behaviour of the builders.
- Lack of respect to the planning system.

A further letter has been received on behalf of the neighbouring properties raising the following points:

- The application drawings show the extension wholly within the grounds of no. 38 Park Drive. However, it appears that the east elevation wall has not been constructed in accordance with the submitted drawings. The party wall has been raised and the outer leaf of the east elevation wall has been built astride the boundary line with no. 36. The extension should be made smaller or other applications made in accordance with the Party Wall Act requesting permission to raise the party wall.
- The west elevation wall has been built too close to no. 40. The previous application (15/0847) included a manhole with adequate space. They now have 320mm to form the inspection chamber and have undermined part of the adjacent patio of no. 40. The actual boundary is set within the curtalige on no. 38 as the existing fence is constructed wholly within the boundary of no. 40 and the inspection chamber has been constructed astride the boundary. The location of the inspection chamber is not compliant with Welsh Water requirements including health & safety requirements for access. The extension should be made smaller and damage made good.
- Both neighbours object to the pitched roof of the garage due to its size and form and the roof is large and excessive. A flat roof would be in keeping with the street scene whereas a pitched roof is excessive and unnecessary and not in keeping with the general street scene.

6.2 COUNCILLORS: Councillor Wilcox requested that the application be determined by Planning Committee.

**7. ASSESSMENT**

7.1 This application seeks permission to retain amendments to planning permission 15/0847 for the erection of a part single storey and part two storey rear extension and erection of a

detached double garage at the terraced property in the Gaer Ward. The amendments relate to a widening of the single storey extension and installing a pitched roof to the garage instead of the mono-pitched roof previously approved.

- 7.2 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 application. The Council's House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) is also relevant to the determination of this application.
- 7.3 The part single storey part two storey extension projects a maximum of 3 metres in depth comparable to that previously approved. The part single storey part two storey extension has a combined width of 5 metres, which represents an increase of approx. 0.5 metres over the previously approved scheme. The two storey element of the extension has a pitched roof which is approx. 6.3 metres in height to ridge and approx. 5.3 metres to the eaves, which is the same as previously approved. The single storey extension has a lean to extension with a maximum height of 3.5 metres, which again, is the same as previously approved.
- 7.4 There are no openings in either side elevation of the extensions. There are two rear facing windows in the two storey extension, one at first and ground floor level respectively. The single storey extension has sliding doors in the rear elevation and a roof light in the roof slope. The extensions have been constructed in blockwork and finished with a spar render finish which matches the render applied to the house.
- 7.5 The side elevation of the two storey extension facing No. 36 has not been rendered. It would be in the interests of the applicant to render this external wall to prevent water ingress into the extension. It would also be in the interests of the visual amenities of the area for this work to be completed. This report therefore suggests imposing a condition to require the render to be completed, to encourage the work to be completed. However, this work cannot be completed without the owners of no. 36 Park Drive allowing the applicant and his builder access their property and officers understand that permission to enter No. 36 has not been permitted. It should be clear that unless permission to enter their property is forthcoming from the owners of No. 36, the condition will not be enforceable in practice.
- 7.5 The extensions have been finished with red tiles to the roof. Whilst these tiles do not match the tiles on the roof of the main dwelling, being brighter in appearance, it is considered that as the extensions are at the rear of the property and the tiles are likely to weather over time, the materials are not unacceptable in visual amenity terms.
- 7.5 In terms of assessing the impact on neighbouring residential properties, the Council's House Extensions and Domestic Outbuildings Supplementary Planning Guidance states that extensions that breach both the vertical and horizontal 45 degree line are unlikely to be acceptable due to their overbearing impact and loss of light to neighbouring properties.
- 7.5 **Impact of the extensions on No. 40 Park Drive**  
No. 40 is adjacent to the single storey extension. The two storey extension is set off from the boundary with No. 40 by 2.6 metres and is considered to have an acceptable impact, passing both the horizontal and vertical tests. The single storey extension passes the vertical test but breaches the horizontal 45 degree line in respect of the windows affected at No. 40. The two storey and single storey extensions are therefore considered to have an acceptable impact on No. 40.
- 7.6 **Impact of the extensions on No. 36**  
No. 36 is adjacent to the two storey extension. The two storey extension only exceeds the depth of the existing single storey extension at No. 36 by 650 mm and so its impact on the ground floor of No. 36 and its garden area is considered to be acceptable. A first floor rear

window at No. 36 Park Drive is situated close the two storey extension. In relation to this window, the extension breaches both the horizontal and vertical tests. However, given the narrow plot sizes of terraced properties, it is considered that only very modest extensions would satisfy these 45 degree tests. Furthermore, this window is obscure glazed and appears to serve a bathroom and is therefore not a protected window. The Council's SPG on House Extensions states that in most cases two storey extensions should not be more than 3 metres deep. As such the depth of the extensions at 3 metres is considered to be acceptable.

7.7 Objections have been received in relation to the rear extension. Concerns have been raised that the two storey extension encroaches on the land of no. 36 Park Drive, with failure to comply with the Party Wall Act and damage caused to the property. These are matters that fall outside of the Town and Country Planning Act and cannot be controlled via this application. Further comments have been received in relation to the proximity of the single storey element to the boundary of no. 40 and the narrow space available to service the inspection chamber. It is also stated that the construction of the inspection chamber has taken place astride the boundary with no. 40 and has resulted in damage to the patio at no. 40. Again, encroachment on the boundary and damage is a civil matter between the respective owners and the requirements of the inspection chamber prescribed separately by Dwr Cymru Welsh Water.

#### 7.8 **Impact of the garage**

The garage, which is detached, has been partially constructed within the rear garden of the property, having replaced a smaller garage. It measures 5 metres in width and 8 metres in length, which matches the footprint of the garage as previously approved. The garage as previously approved was to have a gently sloping roof (almost flat) with a height varying between 3.2 up to a maximum of 3.4 metres. However, the garage was not constructed in accordance with the approved plans. It has been partially built with a pitched roof with a maximum height to ridge of 4.2 metres and height of 2.7 metres to eaves.

7.9 However, a reduction in height has been negotiated reducing the height of the garage to 3.9 metres to ridge and 2.5 metres to eaves. The garage would have a garage door in the rear elevation, fronting the rear access lane and a door and 1no, window facing into the rear garden of the application property.

7.10 Objections have been received in relation to the pitched roof of the garage due to its size and form, stating that the roof is large and excessive. Representations state that a flat roof would be in keeping with the street scene whereas a pitched roof is excessive and unnecessary and not in keeping with the general street scene.

7.11 The roof of the garage as proposed would result in a greater visual impact over the originally approved mono-pitched roof. However, it is not considered that the roof would have an overbearing impact on neighbouring occupiers. The eaves would be lower than the side walls previously approved (2.5 metres high compared to a height sloping between 3.2 and 3.4 metres) and whilst the roof would have a maximum height of 3.9 metres, this would be at a point centrally within the plot set off from neighbouring boundaries. The design and scale of the garage is considered to be acceptable in this rear lane location.

7.12 The original garage (now demolished) due to its size, would not have been considered a usable parking space under Newport City Council's Parking Standards. Therefore, the proposed garage increases the availability of off street parking which is desirable in highway terms.

## 8. **OTHER CONSIDERATIONS**

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

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

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

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

## 8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

## 9. **CONCLUSION**

9.1 It is considered that the proposed extensions and replacement garage would not have an unacceptable adverse impact on the amenity of surrounding occupiers or the character and appearance of the street scene.

## 10. **RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Site location plan received 20 December 2016, Proposed Elevations, Proposed Floor Plans, Proposed Garage Proposed Plans and Elevations Rev B and Existing and Proposed Site Plan Rev A.

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

02 The side elevation of the two storey rear extension hereby approved shall be rendered to match the remainder of the extension within 6 months of the date of this permission.  
Reason: In the interests of visual amenities.

*NOTE TO APPLICANT*

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

02 House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) was relevant to the determination of this application.

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

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

11 **REASON FOR SITE INSPECTION**

11.1 To understand the extent of the works carried out and how these relate to the context of the site and surrounding properties.