

# Agenda



## Planning Committee

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Date: Wednesday, 2 August 2017

Time: 10.00 am

Venue: Council Chambers, Civic Centre, Newport

To: Councillors J Richards (Chair), J Guy (Deputy Chair), M Al-Nuaimi, J Clarke, C Ferris, Y Forsey, J Jordan, M Linton, R Mogford, C Townsend and R White

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

**Part 1**

**Item**

**Wards Affected**

1. Agenda Page - Welsh Cym (Pages 3 - 4)
2. Apologies for Absence
3. Declarations of Interest
4. Minutes (Pages 5 - 10)
5. Development Management: Planning Application Schedule (Pages 11 - 48)
6. Appeal Decisions (Pages 49 - 64)

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Date of Issue: Wednesday, 26 July 2017





# Agenda

## Pwyllgor Cynllunio

Dyddiad: Dydd Mercher, 2 Awst, 2017

Amser: 10.00 a.m.

Lleoliad: Siambr y Cyngor, Canolfan Ddinesig

At sylw: Y Cyngorwyr Richards (Cadeirydd), Guy (Dirprwy Gadeirydd), Al-Nuaimi, Clarke, Ferris, Forsey, Jordan, Linton, Mogford, Townsend a White

### **HYSBYSIAD GWE-DDARLLEDU**

*Gall y cyfarfod hwn gael ei ffilmio ar gyfer darllediad byw neu ddarllediad wedi hynny trwy wefan y Cyngor.*

*Ar ddechrau'r cyfarfod, bydd y Maer neu'r Person sy'n Llywyddu yn cadarnhau os yw cyfan neu ran o'r cyfarfod yn cael ei ffilmio. Efallai y bydd y delweddau a recordiad sain yn cael eu defnyddio hefyd at ddibenion hyfforddiant o fewn y Cyngor.*

*Yn gyffredinol, nid yw'r ardaloedd eistedd cyhoeddus yn cael eu ffilmio. Fodd bynnag, wrth fynd i mewn i'r ystafell gyfarfod a defnyddio'r ardal seddau cyhoeddus, rydych yn rhoi caniatâd i chi gael eich ffilmio a defnydd posibl o rhai delweddau a recordiadau sain ar gyfer gwe-ddarlledu a/neu ddibenion hyfforddiant.*

*Os oes gennych unrhyw ymholiadau ynghylch hyn, cysylltwch â Phrif Swyddog Gwasanaethau Democrataidd.*

### **DS: Cliciwch ar y ddolen isod i weld y Cod Ymarfer Cynllunio:-**

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

**Bydd copïau o'r Cod Ymarfer Cynllunio ar gael yn y cyfarfod.**

### **Eitem**

### **Wardiau dan Sylw**

- |    |   |   |
|----|---|---|
| 1. | <u>Agenda Cym</u>                                   |   |
| 2. | <u>Ymddiheuriadau dros Absenoldeb</u>               |   |
| 3. | <u>Datganiadau Diddordeb</u>                        |   |
| 4. | <u>Cofnodion y cyfarfod (ydd) diwethaf</u>          | Pob Ward  |
| 5. | <u>Rheoli Datblygu: Rhaglen Ceisiadau Cynllunio</u> | Pob Ward  |
| 6. | <u>Penderfyniadau Apeliadau</u>                     | Llanwern<br>Langstone<br><br>Lliswerry<br>Marshfield, Stow Hill |

Cysylltwch â: Michele Chesterman

Rhif Ffôn: 01633 656656

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Dyddiad Cyhoeddi:

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# Minutes

## Planning Committee

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Date 5 July 2017

Time 10.00 a.m.

Present Councillors Richards (Chair), Al-Nuaimi, Clarke, Ferris, Forsey, Jordan, Linton, Mogford, Townsend

T Brooks (Development and Regeneration Manager), S Williams (West Area Planning Manager), J Davidson (East Area Development Manager) G Roberts (Principal Planning Officer), A Lowe (Planning Contributions Manager), J Evans (Senior Solicitor), S Davies (Housing Strategy & Development Manager), S Carle (Tree Officer TPOs & Private Land), S Davies (Senior Traffic Transport & Development Officer), M Chesterman (Democratic Services Officer)

Apologies Councillor R Mogford

### 1 Minutes

The Minutes of the meeting held on 7 June were submitted.

#### Resolved

That the Minutes of the meeting held on 7 June 2017 be taken as read and confirmed.

### 2 Development Management: Planning Application Schedule

#### Resolved

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

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

### 3 Appeal Decisions

Consideration was given to a report following recent appeals.

#### Planning Application Appeals – Allowed

- Application No: 16/0968 – 12 Llanthewy Road, Newport NP20 4JR – Change of Use to House in Multiple Occupation.
- Application No: 16/0489 – 38 Park Drive, Newport NP20 3AL – Replace flat roof with tiled pitch roof to garage and reposition of side wall to new rear extension.

## **Planning Application Appeals – Dismissed**

- Application No: 16/0337 – Windyridge, Old Roman Lodge, Langstone, Newport NP18 1JQ – Demolition of the existing house and outbuildings and the construction of a replacement dwelling.
- Application No: 16/1094 – 26A Glassworks Cottages, Newport NP20 5NL – Demolition of existing building and erection of 4 No two bed apartments and associated works
- Application No: 16/1254 – 23 Tregwilym Close, Rogerstone, Newport NP10 9DX – Retention of change of use of domestic garage to dog grooming business and creation of additional parking spaces.
- Application No: 16/1299 – 35 Mallards Reach, Marshfield, Cardiff CF3 2NN – First floor extension over existing study/kitchen to form bedroom and WC and extend existing bathroom.

## **Resolved**

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

**Appendix**

**PLANNING COMMITTEE – 5 JULY 2017**

**DECISION SCHEDULE**

<b>No</b>	<b>Site/Proposal</b>	<b>Ward</b>	<b>Additional Comments</b>	<b>Decision</b>
16/1140	<p>Land east of Clarke Energy Production, Traston Road, Newport</p> <p>Erection of 2 No industrial/storage (B2/B8 use) buildings along with associated ground works, access, car parking and hard and soft landscaping.</p>	Lliswerry	Public Speaker - withdrawn	<p>Granted with conditions.</p> <p>Additional Tree protection condition.</p>
17/0034	<p>Land adjacent to and south east of Mccreadys, Ponthir Road, Newport.</p> <p>Construction of 2 No Dwellings with Associated Access and Landscaping Works</p>	Caerleon	<p>Members were made aware of late representations previously circulated in respect of this application.</p> <p>Mr R Williams, Agent spoke in support of the Application</p> <p>Cllr Giles spoke on the Application Cllr Hughes spoke on the Application</p>	<p>Granted with conditions subject to Section 106 Legal Agreement with delegated powers to refuse the application in the event that the agreement is not signed within 3 months of the decision</p>
17/0387	<p>60 Pentre-Poeth Road, Newport NP10 8LL</p> <p>Demolition of existing dwelling</p>	Graig	<p>Members were made aware of late representations previously circulated in respect of this application.</p> <p>Mr N Hale, Applicant spoke in support of the Application</p>	<p>Granted with conditions</p>

	and outbuildings and erection of a new dwelling and relocation of existing site access		Cllr Cornelious spoke on the application	
17/0364	Spring Gardens Care Centre, Belle Vue Terrace, Newport  Replacement boundary treatment fronting Arthur Street	Pillgwenlly	<i>(Councillor Linton left the meeting after consideration of this item)</i>	Granted with conditions
17/0425	5 Shaw Grove, Newport NP20 3JR  Retention of L Shaped Pigeon Loft	Gaer		Granted with conditions
17/0516	Langstone Cottage, Old Chepstow Road, Newport NP18 2 <sup>ND</sup>  Certificate of Lawfulness for proposed single storey rear extension	Langstone		Granted



16/0317	Land to the rear and north of 1 to 16, Ruperra Close, Bassaleg, Newport  Erection of 11 No. Dwellings, New Road, Drainage, Main Services and Associated Works (Resubmission following withdrawal of 15/0204)	Graig	Cllr Cornelious spoke on the application	Refused
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# Report

## Planning Committee

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### Part 1

Date: 2 August 2017

Item No: 5

**Subject** **Planning Application Schedule**

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

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

**Ward** As indicated on the schedule

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

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

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

**Proposal**

1. To resolve decisions as shown on the attached schedule.
2. To authorise the Development and Regeneration Manager to draft any amendments to, additional conditions or reasons for refusal in respect of the Planning Applications Schedule attached

**Action by** Planning Committee

**Timetable** Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

## **Background**

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

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

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

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

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

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

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

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

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

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

## **Financial Summary**

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

## **Risks**

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

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

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

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

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

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

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

\* Taking account of proposed mitigation measures

### **Links to Council Policies and Priorities**

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

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

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

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

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

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

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

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

## **Options Available**

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

## **Preferred Option and Why**

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

## **Comments of Chief Financial Officer**

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

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

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

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

## **Comments of Monitoring Officer**

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

## **Staffing Implications: Comments of Head of People and Business Change**

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

## **Local issues**

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

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

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

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

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

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

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

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

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

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

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

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

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

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Objectives 1 (Sustainable Use of Land) and 9 (Health and Well-being) of the adopted Newport Local Development Plan (2011-2026) link to this requirement to ensure that development makes a positive contribution to local communities and to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

### **Consultation**

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



Planning Policy Wales (PPW) Edition 9 (November 2016)  
Development Management Manual 2016  
Minerals Planning Policy Wales (December 2000)

*PPW Technical Advice Notes (TAN):*

TAN 1: Joint Housing Land Availability Studies (2015)  
TAN 2: Planning and Affordable Housing (2006)  
TAN 3: Simplified Planning Zones (1996)  
TAN 4: Retailing and Commercial Development (2016)  
TAN 5: Nature Conservation and Planning (2009)  
TAN 6: Planning for Sustainable Rural Communities (2010)  
TAN 7: Outdoor Advertisement Control (1996)  
TAN 8: Renewable Energy (2005)  
TAN 10: Tree Preservation Orders (1997)  
TAN 11: Noise (1997)  
TAN 12: Design (2016)  
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: Planning and The Welsh Language (2013)  
TAN 21: Waste (2014)  
TAN 23: Economic Development (2014)  
TAN 24: The Historic Environment (2017)

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

Welsh Government Circular 016/2014 on planning conditions

## **LOCAL POLICY**

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

Supplementary Planning Guidance (SPG):

Affordable Housing (adopted August 2015)  
Archaeology & Archaeologically Sensitive Areas (adopted August 2015)  
Flat Conversions (adopted August 2015)  
House Extensions and Domestic Outbuildings (adopted August 2015)  
Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)  
New dwellings (adopted August 2015)  
Parking Standards (adopted August 2015)  
Planning Obligations (adopted August 2015)  
Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)  
Wildlife and Development (adopted August 2015)  
Mineral Safeguarding (adopted January 2017)  
Outdoor Play Space (adopted January 2017)  
Trees, Woodland, Hedgerows and Development Sites (adopted January 2017)

## **OTHER**

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

The Economic Development Strategy is a material planning consideration.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 are relevant to the recommendations made.

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

**APPLICATION DETAILS**

**No:** 16/1036      **Ward:** MARSHFIELD  
**Type:** FULL  
**Expiry Date:** 04-DEC-2016  
**Applicant:** G DILLON  
**Site:** LAND TO NORTH EAST OF THE BARN, MILL LANE, CASTLETON, CARDIFF  
**Proposal:** PROPOSED THREE BEDROOM DWELLING  
**Recommendation:** REFUSED

**1. INTRODUCTION**

- 1.1 This application seeks full planning permission for the erection of a detached dwelling. It is proposed to erect a three bedroom dwelling with attached garage. The site is adjacent to the private residential property, Whitehaven situated at the end of Mill Lane in Castleton approximately 75m from the A48. To the west of the site is a dwelling and to the south is another dwelling. To the east of the site and on the opposite side of the lane is a property known as Mill house and to the south, is another dwelling known as Wentloog house. The site falls within Countryside and Green Wedge but on the edge of the defined settlement boundary outlined within the Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). It would be accessed off Mill lane via the existing driveway area that serves Whitehaven.
- 1.2 Councillor Tom Suller has requested that this application be considered by Planning Committee to consider the highway issues.

**2. RELEVANT SITE HISTORY**

98/1030	Erection of a detached dwelling	Refused
96/0717	Erection of a detached dwelling	Refused
08/0125	Erection of a detached dwelling	Refused and dismissed at appeal
10/0813	Erection of a detached dwelling	Refused
15/0400	Erection of a detached dwelling	Refused

**3. POLICY CONTEXT**

- 3.1 The policy context is set out in the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

Policy SP5 Development in the countryside (that is, that area of land lying beyond the settlement boundaries shown on the proposal and inset maps) will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Housing development, rural diversification and rural enterprise uses, beyond settlement boundaries, will only be appropriate where they comply with national planning policy.

Policy SP7 refers to development in the green wedge and states that development that prejudices the open nature of the land will not be permitted.

Policy SP13 refers to planning obligations and states that development will be required to help deliver more sustainable communities by providing or making contributions to local or regional infrastructure in proportion to its scale and the sustainability of the location.

Policy GP2 highlights that “development will be permitted where, as applicable:

- i) there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
- ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
- iii) the proposal seeks to design out the opportunity for crime and anti-social behaviour;
- iv) the proposal promotes inclusive design both for the built development and access within and around the development;
- v) adequate amenity for future occupiers.”

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

Policy GP6 highlights that “good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment. In considering development proposals the following fundamental design principles should be addressed:

- i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
- ii) access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;
- iii) preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. The designer is encouraged to display creativity and innovation in design;
- iv) scale and form of development: new development should appropriately reflect the scale of adjacent townscape. Care should be taken to avoid over-scaled development;
- v) materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. Detailing should be incorporated as an integral part of the design at an early stage;
- vi) sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. Where existing buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.”

Policy GP4 highlights that “development proposals should:

- i) provide appropriate access for pedestrians, cyclists and public transport in accordance with national guidance;
- ii) be accessible by a choice of means of transport;
- iii) be designed to avoid or reduce transport severance, noise and air pollution;
- iv) make adequate provision for car parking and cycle storage;
- v) provide suitable and safe access arrangements;
- vi) design and build new roads within private development in accordance with the highway authority’s design guide and relevant national guidance;
- vii) ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.

Policy H2 states that residential development should be built to high standards of environmental and sustainable design, taking into account the whole life of the dwelling

Policy H4 refers to Affordable Housing and states that on-site provision of affordable housing will be required on all new housing sites of 10 or more dwellings within the settlement boundary, or 3 or more dwellings within the defined village boundaries.

Policy H6 of the Newport LDP notes that “the sub-division of residential curtilages, infill within existing residential areas, and the development of backland to existing residential properties will only be permitted where this does not represent an over-development of land.”

-Policy T4 states that development will be required to provide appropriate levels of parking, within defined parking zones, in accordance with adopted parking standards.

- 3.11 The New Dwellings Supplementary Planning Guidance is also relevant to the determination of this application. The guidance seeks to ensure that occupants of new dwellings have reasonable living conditions, the new dwellings do not deprive persons in existing dwellings of reasonable living conditions and to protect the character and appearance of the natural and built environment.
- 3.12 Planning Policy Wales Edition 9 Paragraph 9.2.22 states that in order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside, away from existing settlements recognised in development plans or from other areas allocated for development, must be strictly controlled. Many parts of the countryside have isolated groups of dwellings. Sensitive filling in of small gaps, or minor extensions to such groups, in particular for affordable housing to meet local need, may be acceptable, but much depends upon the character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages.
- 3.13 Paragraph 4.7.8 -4.8.18 states that Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where it meets a local need for affordable housing, but new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate scale and design.

In defining green wedges it is important to include only land that is strictly necessary to fulfil the purposes of the policy. Factors such as openness, topography and the nature of urban edges should be taken into account. Clearly identifiable physical features should be used to establish defensible boundaries. Green wedge policies should be reviewed as part of the development plan review process. The general policies controlling development in the countryside apply in green wedges, but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation.

As with Green Belts, when considering green wedges local planning authorities will need to ensure that a sufficient range of development land is available which is suitably located in relation to the existing urban edge and the proposed green wedge.

Inappropriate development

Paragraph 4.8.14 When considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply. Local planning authorities should attach substantial weight to any harmful impact which a development would have on a Green Belt or green wedge.

Paragraph 4.8.15 Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge. Green Belt and green wedge policies in development plans should ensure that any applications for inappropriate development would not be in accord with the plan. These very exceptional cases would therefore be treated as departures from the plan.

Paragraph 4.8.16 The construction of new buildings in a Green Belt or in a locally designated green wedge is inappropriate development unless it is for the following purposes:

- justified rural enterprise needs;
- essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt or green wedge and which do not conflict with the purpose of including land within it;
- limited extension, alteration or replacement of existing dwellings;
- limited infilling (in those settlements and other development sites which have been identified for limited infilling in the development plan) and affordable housing for local needs under development plan policies; or
- small scale diversification within farm complexes where this is run as part of the farm business.

#### **4. CONSULTATIONS**

4.1 WELSH WATER DWR CYMRU: Request that the following conditions/advisory notes be attached to any consent:

No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Some public sewers and lateral drains may not be recorded and request that the applicant contacts the Operations Contact Centre to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

The Welsh Government has introduced new legislation to make it mandatory for all developers wishing to communicate with the public sewerage system to obtain an adoption agreement for their sewerage.

4.2 WESTERN POWER DISTRIBUTION: Details of apparatus in the area.

4.3 WALES AND WEST UTILITIES: No response.

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

5.1 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS): Further development on Mill Lane has previously been determined by both the Council and an Appeal Inspector as unsuitable as identified below.

The proposal by reason of the narrow lane with lack of suitable dedicated passing places and poor visibility results in an over intensification of traffic generation which would have a detrimental impact upon highway safety and the amenity of existing residents. This is contrary to policy GP4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).”

Three off street parking spaces are required together with a visitor space as Mill Lane cannot accommodate visitor parking whilst the application form only confirms 2 off street parking spaces. A parking layout confirming that these parking spaces can be accommodated together with a turning area to enable vehicles to enter and leave in a forward gear must be submitted for approval.

Mill lane is narrow in width and whilst Manual for Streets confirms that streets may be narrowed over a short length they should not be reduced to less than 3.25 metres in width. Mill lane is not, therefore, suitable for the additional traffic associated with the proposed dwelling.

As stated above Mill Lane is narrow in width with no footway. The nearest facilities are located some distance away and include the need to cross the busy 4 lane Cardiff Road. Whilst a pedestrian footbridge is available the general public do not like using such infrastructure. The street lighting columns in the lane are also spaced circa 70 metres apart which is deemed as a deterrent to walking and cycling during the hours of darkness. The site is not, therefore, deemed as a sustainable location and will be reliant on the private motor car.

The visibility splays must be shown tangential to the nearside carriageway edge and be fully within the applicant's control. No obstructions above 1.05 metres must also be confirmed within the splay.

The application is not providing any improvement to visibility and based on the Appeal Inspectors decision an objection is raised to the application.

- 5.2 HEAD OF LAW AND REGULATION (ENV. HEALTH): No objection subject to conditions relating to contaminated land and ensuring acceptable internal and external noise levels.
- 5.3 PLANNING CONTRIBUTIONS MANAGER: In accordance with the Adopted Newport Local Development Plan – Policy H4 – Affordable Housing, there is a policy requirement for sites of fewer than 10 dwellings within the settlement boundary, or fewer than 3 dwellings within the defined village boundaries, to provide a commuted sum contribution to assist the Council in meeting its on-going requirement for affordable housing. The following planning obligation is required to mitigate the impact of the development and create a sustainable development.
- 5.3.1 Commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Rural Newport, based upon a 40% target. The methodology for establishing the housing target areas and calculating the associated payments is set out within the adopted [Affordable Housing SPG \(August 2015\)](#) . Based upon a net increase of 1 x3 bed house, and subject to economic viability, commuted contribution of £2,559 would be requested for affordable housing provision. Affordable Housing Sums will be index linked to the Retail Price Index. Payments will be staggered and directly related to occupancy rates
- 5.4 PLANNING POLICY MANAGER: Provides details of relevant policies and states that the application site is situated beyond the Village Boundary for Castleton on land designated as Countryside in the Adopted Local Development Plan. The land was formerly within the village boundary of the Unitary Development Plan; however, following a review of the settlement boundaries for the preparation of the LDP, it was removed from Castleton's Village Boundary. The Settlement Boundary Methodology Background Paper prepared in support of the LDP states that it "proposed to continue to draw the village boundaries tightly around Castleton as the village is not considered to be a sustainable location for new development". This plot of land is specifically identified as being removed from the village boundary. In accordance with Policy SP5, residential development in this location will only be appropriate where it complies with national planning policy. No justification has been put forward on rural enterprise grounds and is therefore not considered relevant to this application. PPW also states that in order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside, away from existing settlements recognised in development plans or from other areas allocated for development, must be strictly controlled. Many parts of the countryside have isolated groups of dwellings. Sensitive filling in of small gaps, or minor extensions to such groups, in particular for affordable housing to meet local need, may be acceptable, but much depends upon the character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages (Para 9.2.22).

The supporting information provided notes that the application site forms part of the curtilage of the adjoining Whitehaven residential property. If the development is being justified on the basis of infilling development, a supporting statement to this effect should be provided setting out evidence within the context of the character of the area and the defensible boundaries. No evidence has been submitted to justify a residential development beyond the development and the scheme is therefore contrary to Policy SP5 – Countryside.

#### 5.4.1 Green Wedge

The application site also sits within the Newport and Cardiff Green Wedge. The purpose of this designation is to maintain the openness of the area. PPW states that the construction of new buildings in a designated green wedge is inappropriate development unless it is for one of the purposes noted in paragraph 4.8.16; including limited infilling in those settlements and other development sites which have been identified for limited infilling in the development plan. Castleton has a defined village boundary and is therefore considered suitable for limited infill. Whilst the application site adjoins the village boundary it is, however, located beyond it. No justification has been provided for locating a dwelling in the Green Wedge. The proposal is therefore contrary to Policy SP7.

**5.4.2 Additional comments following submission of response on Countryside and Green Wedge Designations** The agent has submitted a supporting statement to address these policy issues. The agent notes that the land is enclosed by residential buildings to the south west and south east and highway access to the North West and north east and within the existing built form context of the settlement of Castleton. It appears as part of the settlement, not as part of the Green Wedge. It goes on to note that the highway access to the Barn forms a defensible boundary to the site's northern boundary and represents infill land already surrounded by development.

5.4.3 With regard to residential development within the countryside PPW notes that sensitive filling in of small gaps, or minor extensions to such groups, in particular for affordable housing to meet local need, may be acceptable, but much depends upon the character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages (Para 9.2.22). With specific reference to residential development within a Green Wedge it states that the construction of new buildings in a designated green wedge is inappropriate development unless it is for one of the purposes noted in paragraph 4.8.16; including limited infilling in those settlements and other development sites which have been identified for limited infilling in the development plan and affordable housing. Castleton has a defined village boundary and is therefore considered suitable for limited infill and whilst not located within the boundary the application site is immediately adjoining it. Given the physical characteristics associated with the site and defensible boundaries that are present on all sides, it is accepted that the site represents a form of infill development that is read as part of the existing built form rather than the countryside. On this basis it is considered that development on this site is physically contained and would not represent further encroachment into the countryside or prejudice the open nature of the Green Wedge. In this respect, Policies SP5 – Countryside, SP7 – Green Wedge and the principles of PPW are considered to be satisfied.

#### 5.4.4 Access

There is a history of refusals on the site relating to highway and access grounds. The site is accessed via Mill Lane, which is a single vehicular road with no designated pedestrian pavement. The acceptability of this arrangement should be discussed with Highways.

#### 5.4.5 Other Development Management Considerations

In addition to the above, the development should satisfy standard development management considerations including design, amenity space and parking. The views of the Planning Contributions Manager should also be sought to establish any planning obligations generated by the scheme.



## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All neighbours with a common boundary and were consulted (4 in total). 2 letters offering no objection to the proposal have been received.
- 6.2 COUNCILLOR SULLER: wishes Planning Committee to consider the application in order to consider highway issues.
- 6.3 MARSHFIELD COMMUNITY COUNCIL: No comment

## **7. ASSESSMENT**

### **7.1 The Proposal**

7.2 The site is a roughly rectangular parcel of land. The north western and north eastern boundary are formed by the existing access road to the residential property located to the east of the site. A footpath currently runs adjacent to part of the access road. The south eastern and south western boundaries adjoin the residential curtilage of Whitehaven. It is a level site and the applicant has stated that it has been used for various purposes by the landowner ancillary to the residential occupation of the dwelling such as temporary keeping of equipment, materials and livestock. The proposal entails the erection of a two storey dwelling and attached garage. The proposed dwelling would measure a maximum of 20m in width, 15m in depth and a ridge height of 8m. The proposed dwelling rises in height from a single storey garage alongside the existing garage to a two storey dwelling at the north eastern boundary, with an intermediate hipped roof and dormer element in between. It is proposed that the property would be rendered, with a slate roof. Access to the site is proposed off a turning head which the applicant states would be sufficient to accommodate the Local Authority Refuse vehicle. Parking for 3 vehicles can be accommodated within the site.

7.2 There is an unsuccessful history to this site where proposals for dwellings have previously been refused by the Council and upheld at appeal. Planning permission for two dwellings was dismissed at appeal application number 08/0125. It was dismissed at appeal on the grounds that due to the narrow nature of Mill Lane, the lack of pavements and street lighting the additional traffic that would be likely to arise from the proposed development would increase the risk of conflicts between users of the lane, thereby jeopardizing their safety and was therefore contrary to policy. (Policy H2 of the then adopted Unitary development plan). An outline application for a dwelling was refused in 2010, application number 10/0813 on highway safety grounds and a further application 15/0400 for a detached dwelling was also refused on highway safety grounds.

7.3 Following the adoption of the Newport Local Development Plan 2011-2026 (Adopted January 2015) the site now lies within land designated as open countryside and Green wedge. The land was formerly within the village boundary of the Unitary Development Plan; however, following a review of the settlement boundaries for the preparation of the LDP, it was removed from Castleton's Village Boundary. The Settlement Boundary Methodology Background Paper prepared in support of the LDP states that it "proposed to continue to draw the village boundaries tightly around Castleton as the village is not considered to be a sustainable location for new development". This plot of land is specifically identified as being removed from the village boundary. Its inclusion within Countryside was not referred to when application 15/0400 was considered.

### **Policy**

7.4 In relation to Policy SP5 residential development in this location will only be appropriate where it complies with national planning policy. No justification has been put forward on rural enterprise grounds and is therefore not considered relevant to this application. Planning Policy Wales Revision 9 states that in order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside, away from existing settlements recognised in development plans or from other areas allocated for development, must be strictly controlled. Many parts of the countryside have isolated groups of dwellings. Sensitive filling in of small gaps, or minor extensions to such groups, in particular for affordable housing to meet local need are acceptable, but much depends upon the

character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages (Para 9.2.22). The applicant has argued that the land is enclosed by residential buildings to the south west, and south east, and highway access to the north west and north east, and is then within the existing built form context of the settlement. Physically it is infill land and is already surrounded by developed land, and would not have unacceptable impact on landscape value. There is no reason to disagree with this, the site is not an isolated site away from existing settlements, it does immediately adjoin the settlement boundary and its boundary is clearly defined and contained due to the presence of the access lane. In terms of sustainability, there are local facilities within the area, with bus stops on the A48, a petrol station and public house. However, it is considered that the occupants would be reliant on the motor car.

7.5 The site is located within the green wedge PPW states that the construction of new buildings in a designated green wedge is inappropriate development unless it is for one of the purposes noted in paragraph 4.8.16; including limited infilling in those settlements and other development sites which have been identified for limited infilling in the development plan. Castleton has a defined village boundary and is therefore considered suitable for limited infill. In defining green wedges it is important to include only land that is strictly necessary to fulfil the purposes of the policy. Factors such as openness, topography and the nature of urban edges should be taken into account. Clearly identifiable physical features should be used to establish defensible boundaries. The applicant has stated that it appears as part of the settlement, not as part of the green wedge, and as it is already enclosed, its value as part of the green wedge and how its retention would prevent coalescence of settlements, is questionable. The land falls within the residential curtilage of Whitehaven by virtue of ownership, proximity, enclosure, and is used for various activities incidental to the enjoyment of the dwelling-house. The site does not have high inherent landscape value and landscape impact has never been a reason why proposed development should not be allowed. The existing highway to The Barn provides a defensible boundary to the site's northern boundaries and it is contended therefore that release of this land from the green wedge would not lead to coalescence of settlements (policy SP7 Green wedges). This seems a reasonable assessment of the land, it has not been proven that the land forms part of the residential curtilage of Whitehaven merely by virtue of the fact that the owner has been using for the storage of equipment, materials and livestock. However it is acknowledged that due to its containment it does not exhibit the open character that would be expected in open countryside. Therefore it's residential development would not be considered to be harmful to the character of the green wedge in this instance. footpaths

7.6 However there are other policies that need to be satisfied. In relation to policy GP2 it is considered that a dwelling can be accommodated at the site and can provide adequate amenity space for the future residents. It is close to the gable end of the property known as The Barn, however this is a blank gable end and the proposed garage would be adjacent to this elevation. A bedroom window would face towards this property, however it is sited some 15m from the boundary. Whitehaven is sited some 9m from the boundary with the application site, and it is not proposed that any significant part of the proposed dwelling would project in front of this property. It is considered that the proposed dwelling is unlikely to adversely impact upon the amenities of the occupants of adjacent properties. In terms of policy GP6, there are a mixture of house styles, properties are largely rendered with slate roofs. It is considered that the design of the proposed dwelling does reflect the character of the area and is not at odds with the policy GP6

### **Highways**

7.7 With regards to policy GP4 It is considered that nothing has changed since the previous application and subsequent appeal. The Inspector in 2008 stated that the width and alignment of Mill Lane, with few passing places, means that motorists are forced to reverse on occasions when they meet on-coming traffic. Local children and residents use the lane as a pedestrian route. Along sections of the narrower parts of the lane there are no verges or other forms of refuge for pedestrians and the lane is poorly lit. The additional traffic from any additional development on this lane would increase the risk of conflict between users of the lane, thereby jeopardizing their safety, especially pedestrians. The Head of Street Scene and City Services (Highways) has stated that Mill Lane is narrow in width and whilst Manual for Streets confirms that streets may be narrowed over a short length they should

not be reduced to less than 3.25 metres in width. Mill Lane is not, therefore, suitable for the additional traffic associated with the proposed dwelling. Some slightly wider sections rely upon driveway entrances which do not form part of the adopted highway.

- 7.6 The nearest facilities are located some distance away and include the need to cross the busy 4 lane Cardiff Road. Whilst a pedestrian footbridge is available the general public do not like using such infrastructure. The street lighting columns in the lane are also spaced circa 70 metres apart which is deemed as a deterrent to walking and cycling during the hours of darkness. The site is not, therefore, deemed as in a sustainable location and will be reliant on the private motor car.
- 7.7 The Head of Street Scene and City Services (Highways) strongly objects to the application and the previous appeal decision is considered to carry significant weight in the determination of this application. The applicant acknowledges that at the appeal the Inspector did have traffic data, ie an automatic traffic count over a 9 day period which again provided details of peak flows and speed limits which were recorded at 15 mph. But the decision did not review access safety and potential conflict. They go on to argue that the applications submitted since the appeal whilst being refused for highway reasons, have not been supported by any empirical evidence to demonstrate that highway issues are not acceptable.
- 7.8 The applicant argues that this application is accompanied by a full and comprehensive evidence on highway safety (accident and road safety reviews), traffic numbers and speed, and accessibility, which has never been previously submitted or assessed. The comprehensive transport statement examines the accessibility of the site, with particular focus on safety, accident risk and traffic movement. The applicant states that the assessment found that the site is in a sustainable location in terms of distance from facilities and public transport. The statement provides an automatic traffic count which was undertaken over a 7 day period which identified the speed levels and amount of traffic during specific periods. The survey showed 7 two way traffic flows am and 13 two way traffic flows pm, that speeds were low with the average speed limit recorded as 10.3 mph. A review of accident data showed that there were four accidents in the area none of which were on Mill Lane. An Accredited Road Safety Auditor carried out a review of the lane and concluded that whilst the lane was narrow in places, there is sufficient space for two way working at either end of the narrow section with good visibility through this section. The applicant concludes that in terms of GP4, safe access to the residential development is proposed from Mill Lane for a range of users including pedestrians and cyclists. The layout is sufficient to accommodate the needs of pedestrians by providing a continuous, hard surfaces route that is well lit and benefits from a number of overlooking properties which offer natural surveillance. The application again includes the provision of a vehicular turning head for use by public road traffic and offers to surface the road. The previous Inspector considered the provision of a turning head but this did not change his view that the lane was substandard. The Head of Street Scene and City Services (Highways) does not concur that the evidence mitigates for the substandard nature of the lane, and the applicant is not providing any improvement.
- 7.9 With regard to policy T4, adequate parking is proposed within the site.
- 7.10 In terms of policy SP13 with regard to contributions, the proposal would generate the need to provide a commuted sum to assist the Council in meeting its on going requirement for affordable housing. A sum of £2,559 is requested. The applicant has agreed to this sum.

## **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 In conclusion it is considered that development on this site is physically contained and would not represent further encroachment into the countryside or prejudice the open nature of the Green Wedge. In this respect, Policies SP5 – Countryside, SP7 – Green Wedge and the principles of PPW are considered to be satisfied. However, access to the site along Mill lane which is substandard in width, would result in a development detrimental to highway safety contrary to policy GP4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

## 10. **RECOMMENDATION**

### **REFUSED**

01 The proposal by reason of the narrow lane with lack of suitable dedicated passing places and poor visibility results in an over intensification of traffic generation which would have a detrimental impact upon highway and pedestrian safety and the amenity of existing residents. This is contrary to policy GP4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: UD-GA01, 02, 03, 04, 05, 06, W162104 A04, B01, B02, Transport Statement and planning statements.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP5, SP7, SP13, GP2, GP4, GP5, GP6, H2, H4, H6 and T4 were relevant to the determination of this application.

03 Planning Policy Wales Edition 9 dated November 2016 was relevant to the determination of the application.

04 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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## APPLICATION DETAILS

**No:** 17/0572      **Ward:** LLISWERRY

**Type:** FULL

**Expiry Date:** 13-AUG-2017

**Applicant:** STARBURST LTD

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

**Proposal:** RETENTION OF BUILDING FOR CLASS B1/B2/B8 USE TO PROVIDE 296SQM OF FLOORSPACE AND ASSOCIATED PARKING AND LANDSCAPING

**Recommendation: Granted with Conditions**

### 1. INTRODUCTION

- 1.1 This application seeks retrospective planning permission for a Class B1/B2/B8 unit at the former Carcraft site in Lliswerry.
- 1.2 Planning consent was granted in 2016 for the erection of 2no. buildings for B1/B2/B8 use to provide 5,498 square metres of floor space and associated infrastructure including parking and circulation areas. However, one of the buildings (sited to the south-west of the site) was constructed nearer to the southern boundary and closer to Langland Way to the west, than was consented. The building as built was also larger than the originally approved building.
- 1.3 An application to retain the building as built was refused by Planning Committee earlier this year for the following reason:
- By reason of scale and location, the development is unduly prominent within the street scene of Langland Way to the detriment of visual amenity and has an overbearing impact upon the front of the neighbouring commercial property. This is contrary to Policies GP2 and GP6 of the Local Development Plan for Newport, 2011-2026 (Adopted January 2015).*
- 1.4 In June this year Planning Committee granted an application seeking retrospective planning permission for the building but without a section that extends forward of the building line of the neighbouring Eurofoods.
- 1.5 This application seeks permission for the retention of part of the end unit with its side elevation nearest Langland Way set back by approximately 2m from the perimeter fence line (5m to the carriageway) and the rear elevation nearest the neighbouring unit Eurofoods set back by 9m to the fence line, or 11m to the corner of the Eurofoods building and the rear elevation nearest the neighbouring unit Eurofoods set back by 9m to the fence line, or 11m to the corner of the Eurofoods building.

### 2. RELEVANT SITE HISTORY

95/0163	CHANGE OF USE TO VEHICLE SALES AND ANCILLARY USES TO INCLUDE OFFICES CAR STORAGE AND REPAIR WORKSHOPS AND DEMOLITION OF OUTBUILDINGS	Granted with Conditions
92/0758	ERECTION OF PREFABRICATED MODULAR OFFICE COMPLEX	Granted with Conditions
16/0438	ERECTION OF 2NO. BUILDINGS FOR B1/B2/B8 USE TO PROVIDE 5,498 SQUARE METRES OF FLOOR SPACE AND ASSOCIATED INFRASTRUCTURE	Granted with Conditions

	INCLUDING PARKING AND CIRCULATION AREAS	
16/1218	RETENTION OF BUILDING FOR B1/B2/B8 USE TO PROVIDE 4998 SQUARE METRES OF FLOOR SPACE AND ASSOCIATED INFRASTRUCTURE INCLUDING PARKING AND CIRCULATION AREAS	Refused
17/0273	RETENTION OF BUILDING FOR B1/B2/B8 USE TO PROVIDE 4443 METRES SQUARED OF FLOORSPACE AND ASSOCIATED INFRASTRUCTURE INCLUDING PARKING AND CIRCULATION AREA (RESUBMISSION)	Granted with Conditions

### 3. POLICY CONTEXT

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

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

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

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

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

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

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

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

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

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

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

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

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

Parking SPG – August 2015

Archaeology & Archaeologically Sensitive Areas SPG – August 2015

### 4. CONSULTATIONS

4.1 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The development has commenced prior to the granting of any planning permission. As such any potentially adverse effect on the archaeological resource has already occurred. As a result, we have no further comment to make at this time.

4.2 NATURAL RESOURCES WALES: The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note

15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, which is a designated main river. We recommend that you should only grant planning permission if a condition requiring a finished floor level of 8.16 metres AOD is imposed. This condition will address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

4.3 WALES AND WEST UTILITIES: Provide details of apparatus in the area.

4.4 NETWORK RAIL: We note in the Flood Consequences Assessment that the applicant has indicated that *“The assumed designated evacuation route to be followed upon receipt of a relevant flood warning will be northwards and onto Spytty Road/Queensway through in an emergency pedestrian access onto the railway embankment may be an option”*. This will not be allowed by Network Rail and we would object to the above proposal should this be agreed by the LPA on the grounds of safety as this is an operational railway with trains running 24/7. Notwithstanding the above, I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land:

- Should the applicant require access to Network Rail land then they must seek approval from Network Rail Asset Protection Team.
- All surface water drainage should be directed away from Network Rail's land to the public mains system.
- Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.
- Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.
- Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.
- Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with Network Rail's Asset Protection Engineers is necessary to understand if there is a problem. Developers may be asked to pay for bridge protection barriers.

4.5 DWR CYMRU - WELSH WATER: Conditions relating to drainage are requested.

## 5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The access and parking arrangements are acceptable and no objections are offered.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): No objection.

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

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



## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: NEIGHBOURS: All properties within 50m were consulted (3no properties) and a site notice displayed. One response received objecting on behalf of Euro Foods. The objections are summarised below:
- The proposals are contrary to Policies GP2 and GP6 of the Local Development Plan;
  - The application includes the area of the unit which (along with other development) was refused planning permission in February 2017;
  - Whilst the unit has been reduced from 400sqm to 296 sqm the effect on the neighbouring unit and the street scene remains overbearing and over-dominant;
  - The marginal reduction in height by virtue of the sloping roof does not reduce the mass and dominance of the building in any material way and the height of the building where it most affects the neighbouring unit has not been reduced from that which planning permission was refused;
  - The setting back of the building does not represent any betterment from the building which has already been refused by the Council;
  - The planning committee which refused the application in February 2017 did so due to the undue prominence in the street scene, the detriment to visual amenity and the overbearing impact upon the neighbouring premises. All of these issues remain with the current application;
  - Given the history of the various applications at the site, the application should be referred to committee.
- 6.2 COUNCILLOR CRITCHLEY: Requests that the application be determined by Planning Committee due to the impact on the street scene. We should seek clarity in respect to the developer's intentions, noting the concerns expressed by the neighbouring occupant, prior to planning approval being granted.

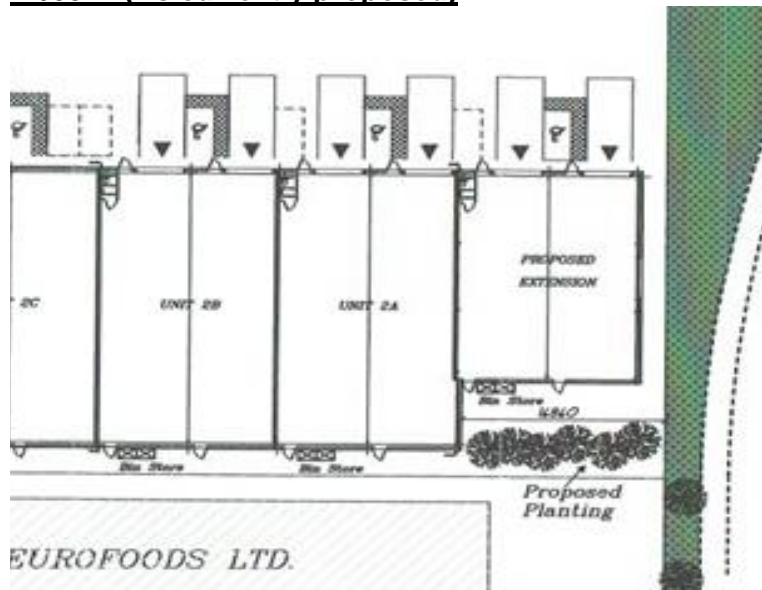
## 7. ASSESSMENT

- 7.1 The site is located within Leeway Industrial Estate and comprises 1.15 hectares and forms part of the former Carcraft unit. Vehicle access to the buildings is from the existing access to the site off Langland Way. The site is surrounded by a mixture of established commercial and industrial uses to the east, south and west and to the north it is bordered by the Southern Distributor Road.
- 7.2 The table below sets out the dimensions of the building as originally granted compared with the refused scheme and the most recent approval:

16/0438 (Granted)	16/1218 (Refused)	17/0273 (Granted)
W24m x L89m x H8.6m	W26m x L185m x H9.7m	W26m x L170m x H9.7m

- 7.3 The application submitted to retain the building (16/1218) was refused by the Site Inspection Sub-Committee as by reason of the scale and location of the development, it was considered to be unduly prominent within the street scene of Langland Way and has an overbearing impact upon (specifically the) front of the neighbouring commercial property. The amended scheme (17/0273) proposed to set back the building the same as the scheme which was originally approved (16/0438) so that it would be marginally behind the building line of the neighbouring building. However, as reflected in the above table, the building remained closer to the intervening boundary than the previously consented scheme as it is two metres wider and it is just over 1m greater in height.
- 7.4 The dimensions of the building as currently being applied for are not given in the table above. However, an extract of the layout plan is shown below. As can be seen from the plan extract, it is proposed to demolish part of a unit adjoining Unit 2A (approximately 14.8m x 6.5m) which is currently unauthorised. For ease of comparison extracts from the layout plans relating to the previous applications are also shown below:

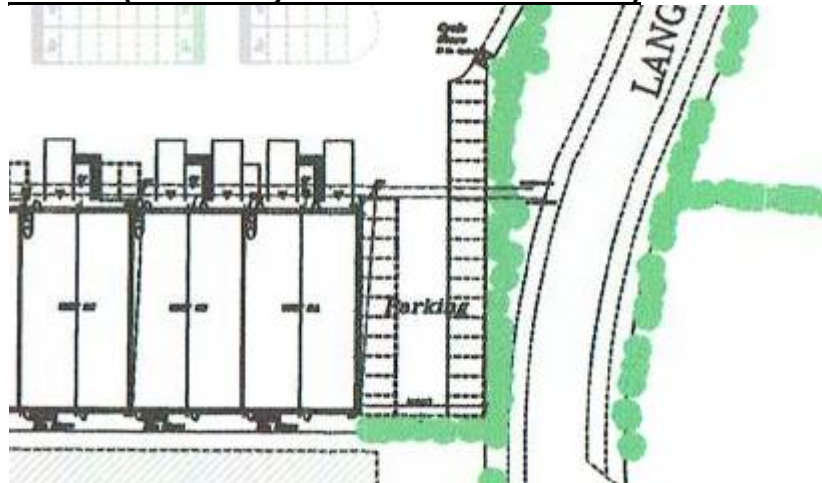
**17/0572 (As currently proposed)**



**16/1218 (As built/ retrospective application refused by committee)**



**17/0273 (Granted by Committee in June 2017)**



- 7.5 This application only relates to the “proposed extension” which is in fact part of the existing unauthorised section of the building.
- 7.6 The wider building is sub-divided to provide smaller units in order to provide flexibility for future occupiers. Parking is to be provided to the front and sides of the buildings. The design of the building is utilitarian and it is considered to be in keeping with the surrounding commercial/industrial uses. The building is clad in metallic silver micro-rib whilst the roof is clad in Kingspan Goosewing Grey, with skylights within the roofs.
- 7.7 During the consideration of 16/1218 Committee Members expressed concerns about the building being closer to Langland Way than approved and the impact on the street scene. The application was subsequently refused. It should be noted that officers were in support of the proposals and a favourable recommendation was made but was not supported by planning committee members. Officers noted that although the back of the building is visible from Langland Way when travelling towards the SDR, screening is provided by existing trees and the building does not appear unduly prominent in the street scene. When viewed from the SDR, the building appears commensurate with the scale of neighbouring buildings. Officers remain of the opinion that given the above the building results in an acceptable impact on the visual amenity of the street scene.
- 7.8 In consideration of the most recently approved application 17/0273 Committee considered that in setting the building back from Langland Way, the concerns of the previous Committee had been addressed and the building would not be unduly prominent within the street scene and the overbearing impact is removed.
- 7.9 Consideration must now be given to whether the “proposed extension” would be acceptable in terms of impact on the neighbouring unit and the street scene.
- 7.10 In terms of impact of the development on the neighbouring unit, the proposal would result in a distance of 11m between the nearest part of the building where it projects towards Langland Way and the neighbouring building. The application unit is sited to the north of the neighbouring Eurofoods building and consequently the shadow cast by the development falls in the direction of former Carcraft building and the hardstanding area between the former Carcraft building and the application building and not towards the Eurofoods building. Consequently, the new building does not cause a significant degree of overshadowing or any demonstrable adverse effect.
- 7.11 It is proposed to introduce glazing to the eastern elevation of the building facing Langland Way in the interests of visual amenity. Additional details regarding this are required in terms of colours and materials for frames, etc but in principle the addition of fenestration detailing adds interest to, and breaks up, the gable end and affords it a more “active” elevation to Langland Way giving occupiers views out to the highway and passers by potentially the feeling of being able to view into the premises. This approach is welcomed.
- 7.12 The neighbouring occupier has objected to the application and does not consider that the harm identified by planning committee in its consideration of 16/1218 has been reduced.
- 7.13 There is a policy presumption in favour of development and the Local Planning Authority must identify harm in refusing applications. Although the back of the building is visible from Langland Way when travelling towards the SDR, screening is provided by existing trees and the building does not appear unduly prominent in the street scene. When viewed from the SDR, the building appears commensurate with the scale of neighbouring buildings. Furthermore, whilst part of the building would project forward of the neighbouring Eurofoods building as proposed under this application, the pattern of development along Langland Way is not uniform and the distance of units relative to their boundaries varies considerably. Given this, when assessed in the context of the scale and siting neighbouring developments, the building is not considered to be unduly prominent.

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

#### 7.15 ***Economic Benefits***

The building contributes to the Council's employment land supply. The proposals represent a sustainable use of brownfield land and are located within an existing industrial area with associated infrastructure. The proposals are considered to be an appropriate use at the site.

#### 7.16 ***Highways***

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

#### 7.17 ***Flood Risk***

The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, which is a designated main river.

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

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

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

#### 7.20 ***Summary of NRW consultation response***

NRW previously advised that subject to the proposed finished flood levels for the building being no lower than 8.16m AOD, the building would be A1.14 compliant and NRW would offer no objection to the proposals. The applicant confirms the building has been constructed with the finished floor level according with this.

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

7.22 It is the role of the Local Planning Authority to consider access/egress in a flood event. It was previously noted under application 16/0438 that the proposals have been shown to satisfy all but one of the tests in part A1.15 of TAN 15. Test 6 – “*Escape/evacuation routes are shown by the developer to be operational under all conditions*” cannot be complied with. However, it was noted that the source of potential flooding is from the tidal river Usk or Severn Estuary. The applicant advises that the tidal predictions including for surge conditions are undertaken on a 24hr/7days a week basis by NRW. The current flood forecasting models underpinning NRW’s Flood Warning Service should be able to provide up to 12 hours advance notice of a significant tidal event. Whilst advance flood notice should not be relied upon in isolation, it is considered that due to the tidal nature of the flood risk in this instance, some weight should be attributed to this in conjunction with all other considerations.

7.23 The proposed use is ‘low vulnerability’ and TAN15 acknowledges the differences in terms of different types of development and associated vulnerability.

7.24 Furthermore, the development has merit and forms part of a larger scheme that regenerates this prominent brownfield site and it has welcomed economic benefits.

7.25 On balance, when considering the associated flood risk together with the fact that the proposed use is low vulnerability in its nature, along with the regeneration benefits of the proposals, the development is considered to be acceptable in terms of flood risk. The comments of Network Rail relating to the unacceptability of the adjacent railway embankment as an access/egress route are duly noted and this is not encouraged by the Council. Notwithstanding this, as noted above, it is concluded that given the low vulnerability of the nature of the use, the tidal nature of the flood risk, the reasonable prospect of advance flood warning and the significant merit of the development, it is acceptable in terms of flood risk and the use of the railway embankment does not form part of this conclusion.

#### 7.26 **Archaeology**

The site is within an Archaeological Sensitive Area. The Glamorgan Gwent Archaeological Trust previously noted that the building has already been constructed. The intrusive groundworks required for the piling has already occurred, and the levels raised to create a level building platform. Furthermore, the drainage works are sufficiently shallow to be contained within the raised levels. As a result the only construction works of sufficient depth to possibly impact on any archaeological material is the piling itself. As such work has already taken place, any potentially adverse effect on the archaeological resource has already occurred. As a result, GGAT advise that they have no further comment.

#### 7.27 **Drainage**

The development includes the installation of foul and surface water drainage. Dwr Cymru – Welsh Water have requested a drainage condition in order to prevent surface water and drainage connecting to the public sewer. Drainage details have previously been approved under discharge of condition application 16/1317 which related to the previous application 16/0438. Under this application the Council approved the discharge of surface water flows to a soakaway, and foul flows to the public sewer. The Council’s Drainage Manager and Dwr Cymru – Welsh Water confirmed no objections were offered to this drainage arrangement.

#### 7.28 **Air Quality**

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

## 7.29 **Other Matters**

As previously noted under applications 16/1218 and 17/0273, it is unfortunate that planning permission for the larger building was not sought prior to its construction. However, this itself is not a reason to refuse planning permission for its retention in whole or part. The applicant duly submitted an application to regularise the building and following the refusal of 16/1218 the applicant has applied for alternative schemes to resolve the current unauthorised development matter.

7.30 The Council must consider each application on its own merit. Notwithstanding this, in both isolation and with consideration of the cumulative impact of the development and other development in the vicinity (whether granted or currently being considered) it is considered the proposal is acceptable.

7.31 Councillor Critchley's comments are duly noted. With regard to the applicant's intentions for the site, the applicant has advised that following the refusal of 16/1218 they have considered a number of options, including the complete demolition of the end unit as per planning approval 17/0273. However, they consider that this latest proposal would minimise the amount of demolition required and associated costs whilst ensuring that there would not be a significant adverse effect on either visual amenity or the neighbouring commercial unit.

## 6. **OTHER CONSIDERATIONS**

### 6.1 ***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.

### 6.2 ***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.

6.3 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.

6.4 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.

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

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

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

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

unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **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:**

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- 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 retention of part of the end unit, described as "proposed extension" in the submitted drawings is considered acceptable.**

### **9.2 It is therefore recommended that the application is granted subject to the following conditions.**

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: 610181/2/2, 310181-2-1, 16268-100.

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

#### ***Pre –occupation conditions***

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

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

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

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

04 Prior to the first use of the building hereby approved full details of a landscaping scheme relating to the area to the south of the building adjacent to the Eurofoods building (as identified on drawing no. 610181-2-1) shall be submitted to the Local Planning Authority and written approval received. The development shall be carried out in accordance with the approved landscaping details and any the landscaping shall be permanently maintained.

Reason: In the interests of visual amenity.

05 Prior to the first use of the building hereby approved full details of the glazing, to include colour and materials to be used in the glazing and the frames shall be submitted to the Local Planning Authority and written approval received. The glazing shall be installed in accordance with the approved details prior to the first beneficial use of the building and shall be retained thus in perpetuity.

Reason: In the interests of visual amenity.

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

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

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

07 The finished floor levels for building hereby approved shall be set no lower than 8.16 metres above Ordnance Datum (AOD) (Newlyn).

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

08 No plant or machinery shall be installed any higher than 2.0m above ground level on the southern or eastern elevations of units 2A and the 'Proposed Extension' identified in approved Drawing 610181-2-1.

Reason: In the interests of visual amenity and to protect the working environment of neighbouring commercial buildings.

09 The development hereby approved shall be carried out in accordance with the drainage details approved under application 16/1317.



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

*NOTE TO APPLICANT*

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

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

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

04 The applicant is advised on behalf on Network Rail that:

-Should access to Network Rail land be required approval from Network Rail Asset Protection Team must be sought.

-All surface water drainage should be directed away from Network Rail's land to the public mains system.

-Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

-Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

-Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

-Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with Network Rail's Asset Protection Engineers is necessary to understand if there is a problem. Developers may be asked to pay for bridge protection barriers.

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

## **APPLICATION DETAILS**

**No:** 17/0444      **Ward:** *PILLGWENLLY*

**Type:** FULL

**Expiry Date:** 13-JUL-2017

**Applicant:** *K BEVAN*

**Site:** *PILLGWENLLY COUNTY PRIMARY SCHOOL, CAPEL CRESCENT, NEWPORT, NP20 2FT*

**Proposal:** *INSTALLATION OF VERTICAL FLUE STACK*

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

1.1 This application seeks permission for the installation of a new vertical flue system to serve the school's gas heating boilers.

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

2.1 None.

### **3. POLICY CONTEXT**

#### **3.1 *Newport Local Development Plan 2011-2016 (Adopted January 2015)***

##### **3.1.1 GP2 General Development Principles – General Amenity**

The amenity enjoyed by people in their local environment should not be significantly harmed as a result of development.

##### **3.1.2 GP6 General Development Principles – Quality of Design**

Seeks to achieve high quality design in all forms of development.

##### **3.1.3 GP7 General Development Principles – Environmental Protection and Public Health**

Development will not be permitted which would cause or result in unacceptable harm to health.

### **4. CONSULTATIONS**

4.1 None.

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

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

### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties with a common boundary were consulted (forty-six addresses). No representations were received.

### **7. ASSESSMENT**

7.1 It is proposed to install a new vertical flue system to serve the school's gas heating boilers.

7.2 The flue would be located towards the north east corner of the building and would be constructed from stainless steel. It would project 1.0 metre above the highest part of the existing roof and would measure 0.3 metres in diameter.

7.3 Head of Legal and Regulation (Environmental Health) has no objections to the proposal.

7.4 It is considered that whilst the flue would be visible from outside the site and from nearby properties, the proposed flue would not appear incongruous due to its height and size. It is therefore considered that the proposal would not have an unacceptable impact on the visual amenities of the area or the amenity of nearby occupiers.

## **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 flue would not have an unacceptable impact on the character or appearance of the area or the health or amenity of surrounding occupiers and is therefore acceptable.

## **10. RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Roof Plan, Flue Layout and roof Plan with Flue Location

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

## NOTE TO APPLICANT

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

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

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### APPLICATION DETAILS

No: 17/0444 Ward: **PILLGWENLLY**  
Type: Full  
Expiry Date: 13-JUL-2017  
Applicant: **K BEVAN PILLGWENLLY COUNTY PRIMARY SCHOOL, CAPEL CRESCENT, NEWPORT, NP20 2FT**  
Site: **Pillgwenlly County Primary School, CAPEL CRESCENT, NEWPORT, NP20 2FT**  
Proposal: **INSTALLATION OF VERTICAL FLUE STACK**

#### 1. LATE REPRESENTATIONS

##### 1.1 HEAD OF LAW AND REGULATORY SERVICES (PUBLIC PROTECTION)

I have spoken to the Mechanical Works Co-ordinator, NORSE. The works are required in order to facilitate the installation of a new, efficient condensing boiler and direct feed water heater. The boiler will operate at an efficiency in the region of 98%, the water heater 99%. This is likely to have a positive impact of the emissions arising from the operation of the plant at the school as the plant it is replacing will almost certainly have been less efficient.

If the boiler is installed and operated effectively the products of combustion will be carbon dioxide and water vapour. These will be vented using the stack which is the subject of the application. I can see no reason to have any concern about the proposal provided the boiler is operated and maintained effectively. Indeed, the proposed installation is likely to have a positive impact on improving (reducing) emissions.

#### 2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 Having regard to the additional comments of the Head of Law and Regulatory Services (Public Protection) it is considered that the proposal would not have a significant adverse effect on human health.

#### 3. OFFICER RECOMMENDATION

3.1 That the application be granted with conditions.

## **APPLICATION DETAILS**

**No:** 17/0542      **Ward:** STOW HILL

**Type:** FULL

**Expiry Date:** 31-JUL-2017

**Applicant:** L PEARCE

**Site:** LAND TO SOUTH OF UDEX HOUSE BRISTOL PACKET WHARF, KINGSWAY, NEWPORT

**Proposal:** ERECTION OF STATUE

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

- 1.1 The application seeks permission for the erection of a statue on land between Udex House and the foot bridge on Kingsway.
- 1.2 The application is being reported to Planning Committee as this relates to Council owned land.

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

- 2.1 None.

### **3. POLICY CONTEXT**

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

- 3.1.1 General Development Principles – GP2 General Amenity  
The amenity enjoyed by people in their local environment should not be significantly harmed as a result of development.
- 3.1.2 General Development Principles – GP6 Quality of Design  
High quality design should be sought in all forms of development.

### **4. CONSULTATIONS**

- 4.1 DWR CYMRU WELSH WATER: No objection.
- 4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: No representations received.
- 4.3 WALES AND WEST UTILITIES: Should the planning application be approved, the promoter of the works is required to contact Wales & Wales Utilities to discuss their requirement to protect their apparatus in the area.

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

- 5.1 HEAD OF LEGAL AND REGULATION (ENVIRONMENTAL HEALTH): No objection.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): No objection.
- 5.3 HEAD OF SREETSCENE AND CITY SERVICES (HIGHWAYS): No objection subject to confirmation of construction proposals and future maintenance regime.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPING): The location appears to work well but the applciation has only submitted indicative details of the proposed sculpture. Public art can be controversial and success is dependent on public support and the skill of the artist.

In addition no details have been submitted on proposed materials, either for the sculpture or the plinth.

As the setting will be grass, visitors walking up to the sculpture will create wear and tear. Consideration should be given to how this will be maintained.

## **6. REPRESENTATIONS**

6.1 SITE NOTICE (Displayed 20 June 2017): No representations were received.

## **7. ASSESSMENT**

7.1 This application seeks permission for the erection of a commemorative statue of boxer David Pearce. It is proposed it would be located centrally on an existing grassed area south of Udex House, adjacent to the Kingsway.

7.2 The metallic statue would be located on a stone plinth of no more than 0.6 metres in height and 1.5 metres square. The plinth would be surrounded by a concrete base with 8 no. recessed LED solar lights to illuminate the statue. The statue would have a maximum height of 1.9 metres above the plinth. It would face in the general direction of the Leisure Centre. Final materials and appearance of the statue can be controlled by condition.

7.3 Head of Streetscene and City Services (Highways) have requested further details of the method of construction and future maintenance regime. Similarly, Head of Streetscene and City Services (Landscaping) has requested further details of the appearance of the proposed statue and future maintenance. It is considered that this can be adequately controlled by condition.

## **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 sculpture, given its scale and location, would not be out of keeping with the character or appearance of the area, within an existing area of public space in close proximity to the city centre. As such it would not be incongruous and is considered to be acceptable.

10. **RECOMMENDATION**

01 The development shall be implemented in accordance with the following plans and documents: Proposed Site Layout 1165864-P02.

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

**Pre- commencement conditions**

02 No work shall begin on the construction of the approved scheme until details of the design, scale and materials have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

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

03 No work shall commence on the approved scheme until a management plan for the maintenance of the statue hereby approved and its associated landscaping shall be submitted to and approved in writing by the Local Planning Authority. Following the Council's written approval the management plan shall be implemented fully as agreed. The plan shall include details of short term (5 years), medium term (6-10 years) and long term (11 years and onwards) management objectives and maintenance schedules for the scheme.

Reason: To ensure the site is maintained in a high state of visual amenity in the interests of neighbouring residents and general amenity.

04 No work shall commence of the approved scheme until full details of the method of construction is submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure that the development is carried out in a proper and coordinated manner.

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

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# Report

## Planning Committee

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### Part 1

Date: 2 August 2017

Item No: 6

**Subject** **Appeal Decisions**

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

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

**Ward** Llanwern, Langstone, Lliswerry, Marshfield and Stow Hill

**Summary** The following planning appeal decisions are reported to help inform future decisions of Planning Committee

**Proposal** **To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.**

**Action by** Planning Committee

**Timetable** Not applicable

This report was prepared without consultation because it is to inform Planning Committee of appeal decisions already taken.

## **Background**

The reports contained in this schedule provide information on recent appeal decisions.

The purpose of the attached reports is to inform future decision-making. This will help ensure that future decisions benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

The applicant has a statutory right of appeal against the refusal of permission in most cases. There is no Third Party right of appeal against a decision.

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

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

## **Financial Summary**

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

## **Risks**

The key risk relating to appeal decisions relates to awards of costs against the Council.

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

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

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry can be very significant. These are infrequent, so the impact is considered to be medium.

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

\* Taking account of proposed mitigation measures

### Links to Council Policies and Priorities

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

### Options Available

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

### Preferred Option and Why

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

### Comments of Chief Financial Officer

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

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

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

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

### **Comments of Monitoring Officer**

There are no legal implications other than those referred to in the report or detailed above.

### **Staffing Implications: Comments of Head of People and Business Change**

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

### **Local issues**

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

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

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

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

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

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

### **Consultation**

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

### **Background Papers**

Not applicable

Dated: 2<sup>nd</sup> August 2017

## PLANNING APPLICATION APPEAL

APPEAL REF: 16/0983  
APPEAL TYPE: Written Representations  
WARD: Llanwern  
SITE: 2 Church Row, Redwick, Caldicot, NP26 3DE  
SUBJECT: Retention of porch  
APPELLANT: Mr Geoffrey Lloyd  
PLANNING INSPECTOR: Mrs Joanne Burston  
DATE OF COUNCIL'S DECISION: 11<sup>th</sup> January 2017  
OFFICER RECOMMENDATION: Refuse  
COMMITTEE/DELEGATED: Committee



## SUMMARY

The appeal sought the erection of a porch. The Inspector considered the main issue in the determination of the appeal is whether the proposal would preserve or enhance the character or appearance of the Redwick Conservation Area.

The appeal property is a two-storey, stone built, mid-terrace house that is located within a short row of three adjoining properties. The row of properties has been extended which has significantly varied the proportions of the original modest cottages. The buildings within the wider Conservation Area vary considerably in their age, size, design and use with no unifying design or character, though there are distinctive areas within it.

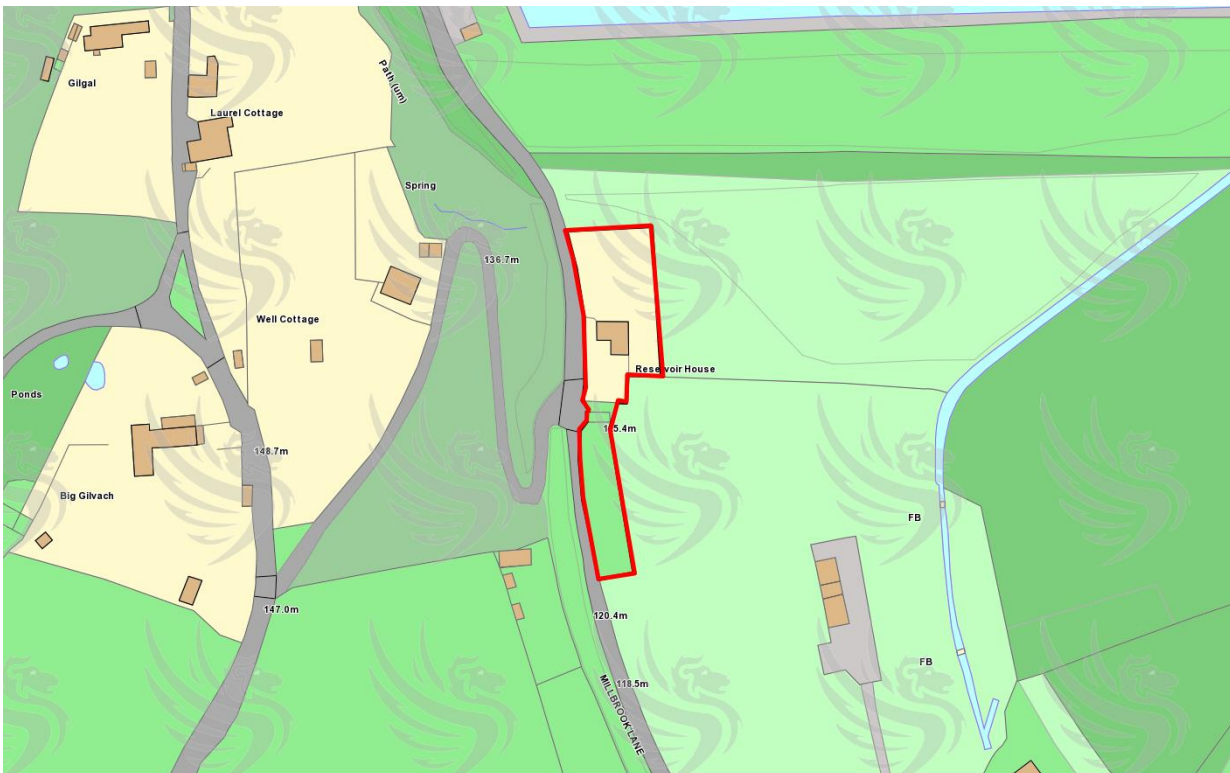
The Inspector considered that the porch is not oversized considering the scale and footprint of the building nor does it block windows or other architectural detailing. Whilst the porch is visible from the public highway, it would be in keeping with the host dwelling. The Inspector noted several dwellings with porches of varying design and scale and therefore did not consider that the porch would be seen as an incongruous addition or out of keeping with the character of the Conservation Area.

In view of the above, the Inspector concluded that the proposal would comply with Policies CE7 and GP6 of the Newport Local Development Plan; as such, the appeal has been allowed.

**DECISION: ALLOWED**

## PLANNING APPLICATION APPEAL

APPEAL REF: 16/1213  
APPEAL TYPE: Written Representations  
WARD: Langstone  
SITE: Reservoir House, Millbrook Lane, Llanvaches, Caldicot, NP26 3AZ  
SUBJECT: Variation of Condition 2 of planning permission 16/0344 to allow positioning of gates closer to the highway  
APPELLANT: Mr Stephen Scott  
PLANNING INSPECTOR: Mr Paul Selby  
DATE OF COUNCIL'S DECISION: 19<sup>th</sup> January 2017  
OFFICER RECOMMENDATION: Refused  
COMMITTEE/DELEGATED: Delegated



## SUMMARY

The appeal seeks the variation of Condition 2 of planning permission 16/0344 to allow the positioning of gates closer to the highway than 5 metres. The Inspector considered the main issue in the determination of the appeal to be whether the condition is reasonable and necessary in the interests of highway users.

In the vicinity of the appeal site, Millbrook Lane is significantly limited in width, to the extent that most traffic would need to use verges to manoeuvre past other vehicles or pedestrians. Furthermore, a junction lies in close proximity to the proposed access point and a short way to the north drivers are required to negotiate a double bend through which visibility is restricted by a retaining wall. Despite the absence of a speed limit, these factors are likely to influence driver behaviour, substantially limiting vehicle speeds on the lane. Due to the limitations of the lane and the configuration of the local road network, the Inspector had no reason to dispute the appellants' claims that the lane is normally lightly trafficked.

The access would serve a single dwelling and thus the frequency of vehicles entering or exiting the site would be limited. The proposed driveway would be located on the inside of a long bend; a general

absence of visual obstructions would afford approaching drivers a clear view of the access point from both directions.

The Inspector noted that the existing garage is set back from the lane by a similar distance than the proposed gates with an entrance splay with similar dimensions. The Inspector considered that the proposal would represent a modest improvement over the existing situation.

With regards to the points addressed above, the Inspector concluded that the removal of Condition 2 would not result in any unacceptable harm to highway safety and would be in accordance with Policy GP4 of the Newport Local Development Plan. The appeal has therefore been allowed.

**DECISION: ALLOWED**



## PLANNING APPLICATION APPEAL

APPEAL REF: 16/1138  
APPEAL TYPE: Written Representations  
WARD: Liswerry  
SITE: The Shrubbery, Straits Lane, Nash, Newport, NP18 2BY  
SUBJECT: Proposed two storey side extension  
APPELLANT: Ms Bernadette Joynes  
PLANNING INSPECTOR: P J Davies  
DATE OF COUNCIL'S DECISION: 22<sup>nd</sup> December 2016  
OFFICER RECOMMENDATION: Refuse  
COMMITTEE/DELEGATED: Delegated



## SUMMARY

The appeal sought the erection of a two storey side extension. The Inspector considered the main issue in the determination of the appeal to be the effect of the proposal on the character and appearance of the surrounding countryside. The appeal site is located outside of any defined settlement and occupies a large plot adjoining fields on a rural lane where existing development is sporadic.

Policies applicable in the determination of the appeal include policies GP2 and GP6 which among other things seek to ensure that development is not detrimental to visual amenity and that it is of good quality design. Policy H13 is also relevant and in the interests of safeguarding rural character; it limits extensions to a volume of not more than 30% of the original dwelling. However, the supporting text accepts that large increases may be acceptable provided there is no adverse impact on the character and appearance of the area.

The proposed extension would be 50% larger than the original dwelling. However, given the existing dwellings along the lane are spread out and diverse in appearance and form, it is not considered the volume increase would result in any material visual harm. Despite the scale of the proposed dwelling, the extension would have simple lines and the part glazed section of the front elevation would break up its mass. The long sloping roof presents a contemporary feature that marries the extension with the existing bungalow in a harmonious and unobtrusive manner.

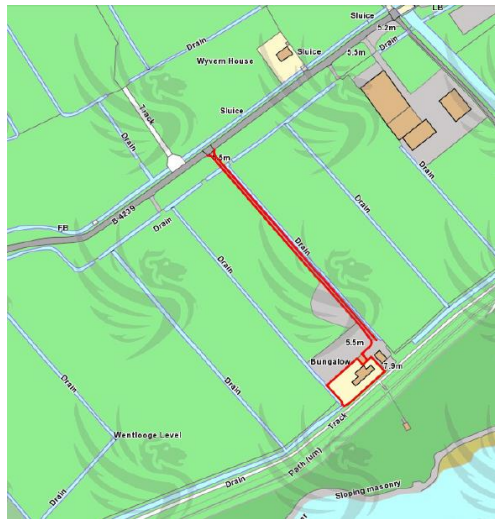
For the reasons given above, the proposal would not cause any unacceptable harm to the character or appearance of the countryside and it would comply with the objectives of the applicable policies outlined above.

For the reasons given above, the appeal has been allowed.

**DECISION: ALLOWED**

## PLANNING APPLICATION APPEAL – DISMISSED

APPEAL REF: 17/0018  
APPEAL TYPE: Written Representations  
WARD: Marshfield  
SITE: Sea View Bungalow, Broadstreet Common, Peterstone  
Wentlooge, Cardiff, CF3 2TN  
SUBJECT: Erection of side extensions and raising of roof to create first floor accommodation  
APPELLANT: Mr Anthony Parsons  
PLANNING INSPECTOR: Clive Nield  
DATE OF COUNCIL'S DECISION: 15<sup>th</sup> March 2017  
OFFICER RECOMMENDATION: Refused  
COMMITTEE/DELEGATED: Delegated



### SUMMARY

Planning permission was sought for the erection of side extensions and raising of the roof to create first floor accommodation at Sea View Bungalow, Peterstone Wentlooge. The property in question is located adjacent to the Sea Wall flood defences (a Public Right of Way) and on land designated as; archaeologically sensitive, countryside, Green Belt, Special Landscape Area, undeveloped coastal zone, landscape of historic interest and TAN 15 C1 Flood Zone.

Planning permission was refused by the Council due to the proposed development, as a result of its increased scale, massing, volume and visibility, would fail to respect the character of the Countryside and Special Landscape Area and would reduce the openness of the Green Belt, and, as a result of its design, fail to relate sympathetically to the host property or have appropriate proportions or overall appearance, contrary to policies SP5, SP6, SP8, GP2, GP6 and H13 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) as well as the Council's House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015).

The Inspector found that the main issues in this case are the effect of the proposed development on the appearance of the host property and on the character and appearance of the countryside and the openness of the Green Belt. The proposal amounts to a substantial extension to the appeal property, estimated by the Council as an 85% increase in volume over the existing house and a 190% increase over the original size. Local Development Plan policies H13 and SP6 both refer to a 30% increase in size being acceptable in principle. Raising the roof height would increase the bulk and massing of the roof and it would appear top-heavy. The proposed dormers would be out of scale and their windows would be considerably larger than the ground floor windows. The dormer windows would exacerbate the top-heavy appearance. The Inspector deemed that the proposed extensions were poorly designed and would not be sympathetic to the scale and appearance of the existing property, contrary to LDP policies GP2 and GP6.

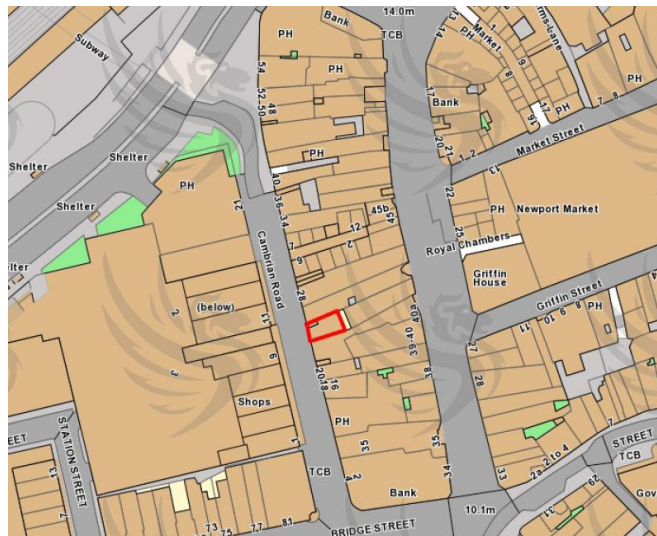
Views of the building from outside the site are limited and partially screened by trees and the features of the waste transfer station. However, some views do exist, particularly from the public right of way, which runs close to the site. The raised and substantially extended dwelling would have a much greater visual impact on its surroundings than the present fairly low-key bungalow, and its unbalanced and unattractive appearance would be detrimental to the character and appearance of the wider area, it would also be detrimental to the Special Landscape Area and Green Belt aims, which would conflict with LDP policies SP8 and SP6. The property lies within an area at risk of coastal flooding. As the development would provide first floor family accommodation where only ground floor accommodation exists, this would represent a useful health and safety benefit but not one of such importance as to outweigh the harm identified above.

The Inspector concluded that the proposed development would be unacceptably harmful to the appearance of the host building and to the character and appearance of the wider area and contrary to development plan policy.

**DECISION: DISMISSED**

## PLANNING APPLICATION APPEAL – DISMISSED

APPEAL REF: 16/1233  
APPEAL TYPE: Written Representations  
WARD: Stow Hill  
SITE: Efes Grill, 24 Cambrian Road, Newport, NP20 4AB  
SUBJECT: RETENTION OF SHOPFRONT  
APPELLANT: Mr Nurettin Gundogdu  
PLANNING INSPECTOR: Paul Selby  
DATE OF COUNCIL'S DECISION: 25<sup>th</sup> January 2017  
OFFICER RECOMMENDATION: Refused  
COMMITTEE/DELEGATED: Delegated



### SUMMARY

The application sought retrospective planning permission for the installation of a replacement shopfront at the mid-terrace commercial property trading as Efes Grill, 24 Cambrian Road, Newport. The property lies within the Town Centre Conservation Area. Planning permission was refused by the Council because the shopfront, by reason of its design, materials and elevation cladding, represents a poor quality, inappropriate and unsympathetic alteration that fails to respect the character or architectural detailing of the host property and one which stands out as an obtrusive addition to the building and wider street scene, to the detriment of the visual amenities of the area and the character and appearance of the Town Centre Conservation Area, contrary to policies GP2, GP6 and CE7.

The inspector determined that the main issue was whether the development preserves or enhances the character or appearance of the Town Centre Conservation Area. The inspector noted that the character and appearance is largely derived from 19<sup>th</sup> century commercial buildings adjoined by original or modern shopfronts that are sympathetic in proportion, materials and details to the original building. The upper floors of the property are largely unaltered; at the ground floor a modern shopfront has been installed. The previous shopfront was not original or traditional in design and lacked any architectural features of merit, however, the new shopfront appears as a cumbersome insertion that overwhelms the original building, isolating the ground floor from the upper part of the property and disrupting the appearance of the wider terrace, with consequent visual harm to the Conservation Area.

It was concluded that the appeal development is a discordant and visually intrusive feature that does not preserve or enhance the character or appearance of the Conservation Area. The development conflicts with the conservation and design objectives of policies GP2, GP6 and CE7 of the Newport Local Development Plan. The Council will now serve an Enforcement Notice on the property requiring the shopfront to be removed.

**DECISION: DISMISSED**

## JUDICIAL REVIEW –

REF:  
TYPE:  
WARD:  
SITE:  
SUBJECT:

## CLAIM DISMISSED

16/1099  
Judicial Review  
Marshfield  
Land North Of And Adjacent To M4, Began Road, Cardiff  
Non Material Amendment to planning permission 14/0337 relating to number and size of solar panels inverter/transformer buildings, site layout, security system, fence design and drainage scheme  
Keep Us Rural  
25<sup>th</sup> January 2017  
Granted  
Delegated

CLAIMANT:

DATE OF COUNCIL'S DECISION:

OFFICER RECOMMENDATION:

COMMITTEE/DELEGATED:



## SUMMARY

Planning permission (ref. 14/0337) was granted in October 2015 for the installation of a ground mounted photovoltaic (solar electricity) plant on land adjacent to Began Road near Michaelstone Y Fedw. A local action group 'Keep Us Rural' sought challenge to the grant of the permission by way of a Judicial Review, but this was dismissed by the Court in January 2016. The Court determined that whilst there was an error in relation to the screening opinion, this was inconsequential in the determination of whether or not the development was likely to give rise to significant environmental impact, and so if the Screening Opinion was to be reconsidered, it would have come to exactly the same conclusion; namely that an Environmental Impact Assessment would not have been required. The planning permission was upheld.

Keep Us Rural sought to appeal this decision, but the Court of Appeal decided to refuse to hear the case in July 2016.

Subsequently, a Non Material Amendment application (ref. 16/1099) seeking changes to permission 14/0337 was approved by the Council on 25<sup>th</sup> January 2017. The changes related to the number and size of the solar panels, the number and size of the inverter /transformer buildings, site layout, security system, fence design and drainage scheme.

Again, 'Keep Us Rural' sought challenge to this decision by way of Judicial Review, and permission for a hearing was granted on one ground, that the screening opinion was flawed both in substance and reasoning. The hearing took place on the 27<sup>th</sup> June 2017 and the decision was made on the 28<sup>th</sup> June 2017. The Court determined that when the screening checklist is read as a whole, it is quite clear that the issue of flood risk had been considered and that the conclusion that the development did not require

an EIA was clear when the screening opinion is read as a whole. The Judge concluded that there was no error of law and so the decision to allow the Non Material Amendment should not be quashed. The claim by 'Keep Us Rural' was dismissed and legal costs of £10,000 were awarded to the Council.

**DECISION: CLAIM DISMISSED**

