

# Agenda



## Planning Committee

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Date: Wednesday, 7 February 2018

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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### **NEWPORT CITY COUNCIL WEBCASTS**

*Webcasts of Newport City Council's full Council and Planning Committee meetings are being temporarily suspended while the sound system is upgraded.*

*It is expected that broadcasts will be resumed before the end of the year.*

**NB: Please click on the link below to view the [Planning Code of Practice](#) (opens link)**

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

<b>Item</b>	<b>Wards Affected</b>
1. <u><a href="#">Agenda Page - Welsh Cym</a></u> (Pages 3 - 4)	
2. <u><a href="#">Apologies for Absence</a></u>	
3. <u><a href="#">Declarations of Interest</a></u>	
4. <u><a href="#">Minutes of the meeting held on 10 January 2018</a></u> (Pages 5 - 8)	
5. <u><a href="#">Development Management: Planning Application Schedule</a></u> (Pages 9 - 86)	
6. <u><a href="#">Tree Preservation Order (TPO) - Land adjacent to Ger-y-Parc adjacent to Catsash Road</a></u> (Pages 87 - 92)	

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Date of Issue: Wednesday, 31 January 2018

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# Agenda

## Pwyllgor Cynllunio

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Dyddiad: Dydd Mercher, 7 Chwefror, 2018

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

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### **Gwe-ddarllodiadau Cyngor Dinas Casnewydd**

Mae gwe-ddarllodiadau o gyfarfodydd llawn Cyngor Casnewydd a'r pwyllgor cynllunio yn cael eu hatal dros dro tra bo'r system sain yn cael ei huwchraddio. Disgwylir y bydd y darllodiadau'n ailgychwyn cyn diwedd y flwyddyn.

**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>GCC – Ger-y- Parc</u>                            |          |

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# Minutes

## Planning Committee

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Date: 10 January 2018

Time: 10 am

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

T Brooks (Development & Regeneration Manager), J Davidson (East Area Development Manager), Eilian Jones,(Principal Planning Officer), J Evans (Senior Solicitor), C Jones (Principal Highway Engineer), S Davies (Strategy & Development Manager), A Lowe (Planning Contributions Manager), M Chesterman (Democratic Services Officer)

Apologies: Cllr Guy

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### 1 Apologies for Absence

Noted above.

### 2 Declarations of Interest

Councillor Linton declared an interest in Application No: 17/0894 and left the Chamber returning after the discussion and vote.

### 3 Minutes

The minutes of the meeting held on 6 December 2017 were submitted.

#### **Resolved**

That the Minutes of the meeting held on 6 December 2017 be taken as read and confirmed.

### 4 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.

## **5 Appeal Decision**

### **Planning Application Appeal – Dismissed**

Consideration was given to a report following recent appeal:

Application No: 17/0198 – Land adjacent to 2 Magnolia Close, Malpas, Newport NP20 6JS –  
Erection of 1 No detached two bedroom dwelling with garage and associated parking.

## **6 Date of Next Meeting**

Wednesday 7 February 2018 at 10 am in Council Chambers.

## Appendix

### PLANNING COMMITTEE – 10 JANUARY 2018

#### DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
17/0894	<p>Land south of and adjacent to, Cot Farm Walk, Newport.</p> <p>Demolition of existing residential apartment blocks and erection of 56No. dwellings in 4No two to four storey blocks and two storey houses with internal road network, car parking and associated works.</p>	Ringland	<p>Councillor Linton declared an interest and left the meeting before the presentation, discussion and vote.</p> <p>Members were made aware of late representations previously circulated in respect of this application.</p> <p>Mr Robin Williams, Agent spoke in support of the application</p> <p>Cllr Laura Lacey, Ward Member spoke on the application</p> <p>The outstanding issue as part of late representations was the matter of Cot Farm properties being close and impact on highway safety. Officers' site photographs confirm parking in the turning circle. Members were concerned that additional parking may prevent cars being able to turn in the circle. The problem could worsen if occupants of new houses park here.</p> <p>Following a decision, the Chair adjourned the Meeting for 10 minutes at the request of members</p>	<p>Granted with conditions with section 106</p> <p>Conditions:-</p> <ul style="list-style-type: none"> <li>• Residential Travel Plan to be included.</li> <li>• Condition on the applicant to provide alternative options for the kitchen window serving flat 19 of Block B to mitigate overlooking of property to rear.</li> <li>• Add unit 54 to condition 17.</li> </ul>

No	Site/Proposal	Ward	Additional Comments	Decision
17/0909	<p>Malpas Court Junior and Infant School, Whittle Drive, Newport NP20 6NS</p> <p>Erection of external canopy</p>	Malpas	Councillor Linton returned to the meeting	Granted with conditions
17/0979	<p>37 Dorset Crescent, Newport NP19 4QJ</p> <p>Proposed two storey extension and single storey rear extension</p>	Lliswerry		Granted with conditions
17/1025	<p>Derry Lodge, Rectory Road, Llanvaches, Newport NP26 3AY</p> <p>Demolition of existing single storey side extension and garage and removal of chimney stack, enlargement of existing side dormer and erection of two storey side extension with inter-connecting roof (resubmission of planning application 17/0342)</p>	Langstone	The development by reason of its size, location and design would represent an unduly dominant and unsympathetic addition to the property filling the gap between Derry Lodge and Adeney to the detriment of visual amenity and the very pleasant rural character and amenity along Rectory Road, contrary to Policy GP2 and Policy GP6 of the Newport LDP.	Refused





# Report

## Planning Committee

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### Part 1

Date: 7 February 2018

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	<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</p>	<p>Planning Committee</p> <p>Planning Committee</p> <p>Development Services</p>

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?
			material planning considerations, conditions and reasons for refusal.	Manager and Senior Legal Officer
			Ensure appeal timetables are adhered to.	Development Services Manager
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Planning Committee  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.

## **Background Papers**

### **NATIONAL POLICY**

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 (2017)

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: 1**                      **17/0397**                      **Ward: GAER**

**Type:**                      **FULL**

**Expiry Date:**                      **27 Feb 2018**

**Applicant:**                      **P CINOTTI, GEMMELIS RESTAURANTS**

**Site:**                      **ROTHBURY HOUSE, 10, STOW PARK CIRCLE, NEWPORT, NP20 4HE**

**Proposal:**                      **CHANGE OF USE OF BUILDING TO 7NO. BEDROOM GUESTHOUSE, GROUND FLOOR RESTAURANT, ORANGERY SIDE EXTENSION, DEMOLITION AND REPLACEMENT OF OUTBUILDING, CAR PARKING AND LANDSCAPING**

**Recommendation:**                      **Granted with conditions**

### 1. INTRODUCTION

- 1.1 This application seeks full planning permission to change the use of a former nursing home to a 7 no. bedroom guesthouse, a ground floor restaurant, an orangery side extension, the demolition of outbuilding and the construction of replacement outbuildings and rear extension along with car parking and landscaping. A listed building consent application for these works is also under consideration along with a conservation area consent application for the demolition works.
- 1.2 The building is known as Rothbury House and is a grade II listed building. It is a large detached building in a Jacobean style which is also located within the Stow Park Conservation Area. It was built around 1880 and was historically occupied as a dwelling. It was converted to a nursing home in the late 20<sup>th</sup> century. Planning permission and listed building consent were granted in March 2013 for the conversion of the building to 7 no. residential units. These permissions are extant although they expire in March 2018. The Council are currently considering applications to extend the permissions by a further 5 years.

### 2. RELEVANT SITE HISTORY

08/1357	CHANGE OF USE OF PROPERTY FROM RESIDENTIAL HOME (CLASS C2) TO 10NO. RESIDENTIAL FLATS (CLASS C3) INCLUDING PART DEMOLITION AND CONSTRUCTION OF TWO STOREY REAR EXTENSION AND EXTENDED CAR PARK	Refused
09/1247	CHANGE OF USE OF PROPERTY FROM RESIDENTIAL HOME (CLASS C2) TO CREATE 7NO.RESIDENTIAL UNITS (CLASS C3) INCLUDING DEMOLITION OF REAR COACHHOUSE / WORKSHOP AND PART DEMOLITION OF SINGLE STOREY REAR ANNEXE TOGETHER WITH NEW ROOF FORM TO ANNEXE AND CONSTRUCTION OF DETACHED SINGLE STOREY BUILDING, WIDENING OF FRONT DRIVEWAY, ALTERATIONS TO REAR BOUNDARY WALL AND PROVISION OF NEW BIN STORES	Granted with conditions
12/0281	LISTED BUILDING CONSENT FOR INTERNAL CHANGES AND REFURBISHMENT TO ALLOW	Granted with conditions

	CONVERSION TO APARTMENTS, DEMOLITION OF "LEAN-TO" TO REAR OF EAST PORCH, CONSTRUCTION OF NEW SIDE PORCH, DEMOLITION OF "COACH HOUSE / WORKSHOP", DEMOLITION OF FLAT ROOF ANNEXE AND ADDITION OF HIPPED PITCHED ROOF TO SINGLE STOREY FLAT ROOF ANNEXE	
14/1243	PROPOSED CHANGE OF USE FROM NURSING HOME TO RESTAURANT WITH LETTING ROOMS TO UPPER FLOORS (NO MATERIAL ALTERATIONS)	Refused
14/1282	LISTED BUILDING CONSENT FOR PROPOSED WORK TO ROOF OF LISTED BUILDING, TO INCLUDE REPLACEMENT SLATES, BATTENS AND ROOFING FELT, CEILING INSULATION ALSO TO BE INSTALLED.	Granted
17/0398	LISTED BUILDING CONSENT FOR CHANGE OF USE OF BUILDING TO 7NO. BEDROOM GUESTHOUSE, GROUND FLOOR RESTAURANT, ORANGERY SIDE EXTENSION, DEMOLITION AND REPLACEMENT OF OUTBUILDING, CAR PARKING AND LANDSCAPING	Under consideration
17/0582	DEMOLITION OF OUTBUILDINGS IN CONNECTION WITH PROPOSED CHANGE OF USE OF ROTHBURY HOUSE TO A 7NO. BEDROOM GUESTHOUSE, LINKED RESTAURANT USE AT GROUND FLOOR LEVEL INCLUDING AN ORANGERY EXTENSION AND REPLACEMENT OUTBUILDING, CAR PARKING AND LANDSCAPING	Under consideration
17/1214	VARIATION OF STANDARD CONDITION TO EXTEND THE PERIOD OF TIME TO IMPLEMENT PLANNING PERMISSION 09/1247 (CHANGE OF USE OF PROPERTY FROM RESIDENTIAL HOME (CLASS C2) TO CREATE 7NO.RESIDENTIAL UNITS (CLASS C3) INCLUDING DEMOLITION OF REAR COACHHOUSE / WORKSHOP AND PART DEMOLITION OF SINGLE STOREY REAR ANNEXE TOGETHER WITH NEW ROOF FORM TO ANNEXE AND CONSTRUCTION OF DETACHED SINGLE STOREY BUILDING, WIDENING OF FRONT DRIVEWAY, ALTERATIONS TO REAR BOUNDARY WALL AND PROVISION OF NEW BIN STORES)	Under consideration
18/0018	VARIATION OF STANDARD CONDITION TO EXTEND THE PERIOD OF TIME TO IMPLEMENT LISTED BUILDING CONSENT 12/0281 (INTERNAL CHANGES AND REFURBISHMENT TO ALLOW CONVERSION TO APARTMENTS, DEMOLITION OF "LEAN-TO" TO REAR OF EAST PORCH, CONSTRUCTION OF NEW SIDE PORCH, DEMOLITION OF "COACH HOUSE / WORKSHOP", DEMOLITION OF FLAT ROOF ANNEXE AND ADDITION OF HIPPED PITCHED ROOF TO SINGLE STOREY FLAT ROOF ANNEXE)	Under consideration

### 3. POLICY CONTEXT

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

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

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

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

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

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

Policy **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 and proposals should enhance the site and wider context including green infrastructure and biodiversity.

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

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

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

Policy **T4 (Parking)** states that development will be expected to provide appropriate levels of parking.

### 4. CONSULTATIONS

4.1 WESTERN POWER DISTRIBUTION: Advise of apparatus in the surrounding area.

4.2 WALES AND WEST UTILITIES: Advise of apparatus in the surrounding area.

4.3 DWR CYMRU – WELSH WATER: Recommend a condition preventing surface water from any increase in the roof area of the building/or impermeable surfaces within its curtilage to drain directly or indirectly to the public sewerage system.

4.4 SOTW PARK CONSERVATION SOCIETY: No response.

4.5 STOW HILL COMMUNITIES FIRST: No response.

## 5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection.
- I'm satisfied that a delivery vehicle can access and turn within the site. The maximum size of vehicle should however be conditioned to reflect the details shown in the interest of ensuring that goods are not loaded/unloaded on the highway.
  - I'm satisfied that the proposed level of parking meets the requirements of the Newport City Council parking standards however the floor plan layouts should be conditioned including limiting the dining area associated with the restaurant to the orangery. The full parking area should also be available prior to first use and must be retained in perpetuity.
  - The applicant has demonstrated that the access will be improved including a significant improvement in visibility and widening of the access to allow for two way vehicle movements. The access arrangement should be conditioned including restricting the height of any structures or planting within the splay to a maximum height of 600mm. The access improvements should also be implemented prior to first use.
  - In addition the following conditions should be attached to any approval:
    - Suitable drainage should be employed to prevent surface water run off onto the adopted highway.
    - A CEMP must be submitted for approval including contractor parking/compound, dust suppression and wheel wash facilities.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No objection subject to conditions requiring the erection of root protection barrier fencing, an arboricultural method statement and the appointment of an arboriculturalist.
- 5.3 HEAD OF LAW AND REGULATION (ENV.HEALTH): No objection subject to conditions controlling plant and equipment noise, requiring details of sound insulation measures to the floor/ceiling between the ground floor restaurant and first floor guesthouse, restricting delivery times, requiring food preparation areas to be mechanically extracted; the details of which to be first submitted and agreed; and the submission of a Construction Environmental Management Plan.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE):
- The planting proposals submitted have been supplied by a professional Landscape Consultancy and are suitable for the context of a listed building in a conservation area, aiming to retain a significant level of the mature boundary hedging and tree cover, in particular to the highway frontage.
  - The full planning application does not include any assessment of the existing trees in relation to the proposals. There is particular concern about the impact of new car parking on the highway frontage trees which are on a bank and currently rooted into a grass lawn. Proposals to widen the entrance road and vegetation removal within the visibility splay will add further pressure.
  - A professional tree survey to BS 5837 (2012) is required. Proposals for hard surfacing, level changes, vegetation clearance, and any new underground services including surface water attenuation should be clearly shown in relation to the Tree Constraints Plan. An Arboricultural Impact Assessment with follow on Method Statement and Tree Protection Plan should be provided to demonstrate the trees will be retained with appropriate protection.
  - If there is a requirement to remove trees this will impact on the current landscape proposals and heritage impact statement.
- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): No response.
- 5.6 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): No drainage details have been provided to demonstrate how surface water for the site will be managed. It is suggested that such details are provided to demonstrate this requirement.

- 5.7 HISTORIC BUILDINGS AND CONSERVATION OFFICER: The Historic Buildings and Conservation Officer has made several comments on the application and amendments have been received to address those comments. The Officers initial comments are shown in italics and the final comments, following amended plans and responses are shown in bold.
- 5.7.1 *These applications, which relate to a grade II listed late 19<sup>th</sup> century villa located within the Stow Park Conservation Area. Given the long term vacancy of the building, I am in principle supportive of attempts to find a new use for the building which would create potential for sensitive repair and restoration works. Consent has previously been granted for conversion to flats and it seems likely that the proposed use could result in a considerably lower level of alteration to historic fabric when compared to the previously approved scheme. However, it is not entirely clear from the information submitted whether that would be the case as there is a limited amount of information regarding the alterations proposed.*
- 5.7.2 *I note local residents' concerns regarding the potential for traffic generation, noise and disturbance. I can see that an improperly managed facility might give rise to problems in this residential area, and the residential nature of Stow Park is very much an important aspect of the historic character of the conservation area. However, the building was previously used as a nursing home so I cannot object to a commercial use in principle. I am hopeful that concerns can be addressed by appropriate conditions or other relevant legislation, but would defer to your own thoughts on this.*
- 5.7.3 *The proposals are supported by a Heritage Assessment which provides a useful analysis of the history and character of the building and its sensitivity to change as well as a Design and Access Statement, but neither discusses all of the internal alterations proposed. Whilst some layout changes are clearly necessary to facilitate a new use, it is not always clear that the proposals represent the minimum required or are fully justified and, as not all surviving historic internal features are shown on the plans, it is not always clear to what extent they would be affected. It also seems clear that extensive works will be required to building fabric and finishes as a result of prolonged neglect, but it's unclear whether such work would be restricted to works or repair, or whether significant removal or replacement is proposed and, if the latter, whether this would be carried out on a like-for-like basis. Given the condition of the building, I would expect a schedule of repair and restoration works to be provided with a listed building consent application. Unfortunately we have very little detail of repair work or the way alterations would be carried out; such information is critical to the understanding of the acceptability of the proposals. A particular concern is that the requirements of fire and building regulations and the provision of new service installations will result in the need for a degree of alteration, but there is no assessment of the likely extent of works; the extensive survival of historic joinery within the building needs to be considered and it is important to understand whether features such as panelled doors can be retained.*
- 5.7.4 Following the submission of amended plans: **the principal historic features that seemed likely to be affected are now shown. The agent has declined the opportunity to revise the submitted DAS and notes that a Heritage Impact Assessment has been provided. Whilst the Heritage Assessment provided is very helpful in assessing the impact on the building, it does not contain the analysis of design choices I would have expected within the DAS. Nevertheless, the plans have been amended and information has been provided regarding the use of part of the building for staff training. As such, it now seems possible to make assumptions on the reasons behind the proposed design choices which generally seem like a logical arrangement to provide functional reception, dining and service facilities to the ground floor and necessary sizes for hotel bedrooms above.**
- 5.7.5 **The agent has declined to provide additional information regarding work to building fabric and there remains an absence of analysis of the extent of works for compliance with regulations or the provision of services. In the absence of this information it must be assumed that the work required is limited to that shown on the drawings or sympathetic works of repair, and that joinery elements will be repaired and/or relocated rather than replaced wherever possible. If significantly more work is required, this may necessitate a further application for listed building consent. It would however be prudent to attach conditions to any consent to require details of repair work and new services.**

- 5.7.6 *The proposals include a large “orangery” extension to the side which would conceal a substantial amount of the original well-detailed elevations of the listed building and extend close to the edge of the plot. Given the importance of the spacious character of the area, extensions so close to plot boundaries are undesirable in principle but, the acceptability of this depends on the design quality, level of justification and the quality of the wider development that it would help to facilitate. With the level of information available this is difficult to assess, particularly as we do not seem to have any information about materials, finishes and detailing.*
- 5.7.7 **Additional information has been provided regarding the proposed materials: the suggested materials seem appropriate and, in the context of the revised scheme I consider the extension to be acceptable.**
- 5.7.8 *There is also a large flat-roofed extension to the rear and I am unconvinced that this represents an appropriate design, especially given the likely level of visibility from outside the site; an historic extension to the building was detailed with a parapet wall and such an approach would lend a more traditional character. It should be noted that there is potential to improve the appearance of previous extensions; the hipped roof element is particularly prominent and both this and some later flat-roofed extensions are crudely detailed.*
- 5.7.9 **A parapet wall is now proposed although the details will need to be secured by condition. Whilst the hip remains, this is an existing building element and there is no reason to require its removal.**
- 5.7.10 *The amended plans show the introduction of an “AOV” in place of an historic rooflight to the rear of the building, although we have no details of this. It seems likely that this is necessary to facilitate the removal of partitioning across the staircase and the removal of the external fire escape, which are very welcome proposals, but this is not clear from the application documents. It seems clear that there will need to be extensive restoration works to the exterior of the building including the potential replacement of joinery, but we have no details to consider.*
- 5.7.11 **The agent has clarified why the AOV is necessary. Satisfied following amended plans to correct the position of the AOV and the proposed design is appropriate.**
- 5.7.12 *The proposals involve the demolition of two outbuildings; the submitted Heritage Assessment acknowledges that the loss of these is regrettable as part of the historic ensemble of Rothbury House. National guidance within Welsh Government’s Technical Advice Note 24 is clear that proposals to demolish listed buildings and building within conservation areas must be assessed against the following criteria:*
- *The condition of the building, the cost of repair and maintenance in relation to its importance and the value derived from its continued use. Where a building has been deliberately neglected, less weight will be given to these costs.*
  - *The efforts made to keep the building in use or to secure a new use, including the offer of the unrestricted freehold of the building for sale at a fair market price that reflects its condition and situation.*
  - *The merits of the alternative proposals for the site, including whether the replacement buildings would meet the objectives of good design and whether or not there are substantial benefits for the community that would outweigh the loss resulting from demolition.*
- The demolition of the smaller outbuilding appears to be proposed only to facilitate the construction of the new extension. As it has relatively limited historic value, this may be acceptable in order to facilitate an appropriately designed extension which is needed to facilitate the re-use of the building, although there is limited discussion of the need for the extension within the submitted documents and I don’t consider the design to be appropriate.*
- 5.7.13 **The design of the smaller outbuilding has been improved, and the agent has provided some information about why the extension is needed. It is considered that the proposals are reasonably necessary to facilitate the reuse of the building. In terms of the coach house it is not entirely clear that its issues could not be resolved, however there is an extant consent which includes its demolition; the rebuilding in a similar form is welcome when compared to previous proposals.**

- 5.7.14 *The site plan shows that the access to the site would be widened and a large new parking area provided to the front of the site. In principle, the relocation of parking from immediately in front of the listed building would be welcome as it could potentially enhance the setting of the listed building. If sufficiently well-screened from the road and adjacent properties, a new parking area to the front of the site might not significantly impact on the character of the conservation area. However, the plans submitted suggest a dominance of tarmac surfaces when viewed from the site entrance and I'm not convinced that the landscaping scheme will adequately mitigate this. A reduction of the extent of tarmac and/or the use of alternative materials should be considered if possible.*
- 5.7.15 **The proposals have been amended and improved. They are considered to be acceptable.**
- 5.7.16 **In summary, it is considered that the revised proposals would have a considerable lesser impact on the historic character of the listed building than the previously consented scheme for residential development. As such I would be able to support the granting of consent subject to conditions requiring details of materials and joinery for the replacement outbuilding.**
- 5.7.17 More detailed conditions would be required with the listed building consent which are considered under application 17/0398 which will be determined under delegated powers.

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

All properties in Stow Park Circle and Stow Park Gardens were consulted, along with properties which raised an objection on the previous application. A site notice was displayed and a press notice published in South Wales Argus. 26 representations have been received, these are 4 representations of support and 22 representations of objection. The following comments are raised:

#### **6.1.1 SUPPORT**

- The building would benefit from restoration.
- There is a growing fine dining food culture in South Wales and this is an opportunity for Newport to encourage the development of a restaurant which has potential to play a significant role in this.
- Entrepreneurship is something to be supported rather than limited.
- An unoccupied and neglected building reduces the appeal of the area.
- Rothbury House has been empty for several years, there are concerns around the safety of the building, attraction of vermin and other environmental health issues.
- The proposals would enhance the area.

#### **6.1.2 OBJECTION**

Traffic/Access:

- Increased volumes, including coaches, limousines, cars and taxis.
- Increase in parking on Stow Park Circle which already has a lot of on-street parking.
- Existing problems in the area including Stow Park Circle and Cae Perllan Road being used as a short cut, speeding, traffic travelling in an anti-clockwise direction, illicit and unsafe parking and surges in volume due to events at the Registry Office. The proposal would add to these problems.
- Inadequate visibility splays due to the speed limit of 30mph, vehicles parking on the road during registry office weddings and traffic emerging without stopping from Cae Perllan Road. Is it proposed to reduce the speed limit to 20mph, introduce no parking restrictions or for a halt sign on Cae Perllan Road?
- No visibility splays for traffic coming from the right hand side to accommodate vehicles which travel in the wrong direction.
- The access and egress of vehicles occurring at the front entrance of the property will further exacerbate the pinch-points on Stow Park Circle by the convergence of vehicles.
- There is no mention of access for commercial vehicles or any parking provision for them.

- Increase in the level of traffic and in conjunction with the level of disruption already experienced will impact upon the lives of all who live here.
- How will large delivery vehicles enter the grounds? At present it is not possible to do so. No turning circles are shown on any of the plans. Reversing out of the ground would be highly dangerous.
- Inadequate parking for 100 plus seating restaurant.

#### Noise:

- Increased noise and disturbance in a peaceful and residential area as a result of vehicle revving, door slamming, deliveries, staff leaving and loud voices.
- What type of extraction system is proposed and what level of noise would be emitted?
- A resident committee would be set up to monitor noise from the building day and night.

#### General:

- Smells and odour from cooking.
- The proposal would be contrary to the Councils own identified need for an additional 800 residences.
- The requirements to widen the access would result in a loss of residential garden fronting the property, it would be visible to passing public and place the protected Horse Chestnut on the front boundary at risk of loss.
- The proposal neither preserves or enhances the character of the Conservation Area.
- No details of signage, neon signs not appropriate in residential area.
- Existing problems with waste water and sewerage disposal resulting in odour/sewer/drain blockage complaints.
- No lighting details are provided, it might cause a nuisance.
- Liquor and music licences will surely follow.
- A substantial extension is proposed at the rear of the main house, in no way will this element appear subservient in form to neighbouring residential properties.
- The proposed extension would sit up to the perimeter boundary walls of the site and would be highly visible and obtrusive from 16 Stow Park Circle. It would be in touching distance from this property.
- There would be no gardens just a car park taking up the grounds, this would erase a beautiful, historic residential area of Newport which should be preserved for future generations.
- What type of fume extraction is planned? It is believed that a stack at least 300mm in diameter and 10-15m high would be required to stop fumes and smell permeating into the neighbouring properties. How will the stack fit into the historic building requirements?
- It is assumed that lighting would be required. How would light pollution be controlled especially if flood lighting is planned for the car park. Lighting from the orangery would also impact residents.
- The proposal is financially unsustainable. If the venture should fail then it could become a reception venue for the registry office. Associated traffic, parking and noise would be an unfair proposition to residents.
- Residential development would be more suitable.
- The real objective of the applicants is the business to be had from the registry office, in particular the wedding breakfast and receptions which often involve a multitude of guests far in excess of the sparse numbers detailed in the application.
- Specific descriptions on a plan do not in practice always end up being utilised as designated. A lounge could become a dining room.
- What are the materials of the orangery? Is it double glazed or sound proofed?
- Queries snow loading coming off the main roof area.
- Queries the designated smoking areas.
- Where existing window joinery is to be replaced would it be double glazed with sealed units or secondary glazing?
- Disabled access is not considered.
- Queries the specification of the flat roof extension next to the kitchen.
- Queries the plans for the basement and cellar areas.



- Queries energy performance issues and the lack of certification.
- The demolition of the coach house is welcomed due to structural problems and damp penetration. However, there is a lack of detail regarding the distance from no 14 and how the newly created valley would be ventilated, drained, cleared of leaves, pine needles, debris, damp penetration and snow accumulation. The rebuild needs to be repositioned eastwards to allow access to the exterior wall of the neighbouring property. Under the Party Wall Act agreement would be required.
- There are no drawings or information regarding the placement of bins and their proximity to residences.
- A restaurant in a different ownership could become a late night curry house.
- Increased surface water run-off from enlarged car park hardstanding.
- No fire escape from second floor.
- Chamber maids, night time security and reception staff are not included in the staff manifest.

6.2 COUNCILLOR Deborah Wilcox: I request that this application be a Planning Committee decision. I believe it is an overdevelopment of a premises within the Conservation area.

## 7. ASSESSMENT

### 7.1 The site

7.1.1 The application site includes the main house along with two other outbuildings to the rear of the site. One of these buildings is substantial in size, consisting of a part single storey/part two storey building. The building is known as the coach house and it abutts the neighbouring property (14 Stow Park Circle) along its rear elevation. It has two sets of garage doors in the front and side elevation, along with a number of windows and doors. The smaller outbuilding is a lean to structure.

7.1.2 The primary access to the site is at its front (south) with a less established access from the rear of the site. To the front of the building is an area of hardstanding, in front of which is a grassed area. There are a number of trees and shrubs along the front boundary of the site. The site as a whole is fairly unkempt due to its vacant status.

7.1.3 The eastern boundary is shared with two properties (No's 8 and 16 Stow Park Circle). There is a level difference between these properties with the application site sitting in a more elevated position. There is a retaining wall along the shared boundary with No 8 but no existing boundary treatment on top of this. As such there are un-interrupted views towards this property. There is some planting along the shared boundary with No 16 and also the side elevations of the rear annex building abutt the boundary in places. To the west No's 12 and 14 Stow Park Circle sit closely to the shared boundary and form part of the boundary. Elsewhere an existing fence and brick wall denote parts of the shared boundary.

### 7.2 The Proposals

7.2.1 The proposals comprise the creation of a reception, two guest lounge rooms, lobby, toilets, staff lobby, kitchen and a meeting room within the ground floor of the building. It is also proposed to construct an orangery extension to the side of the building which would accommodate 74sqm of dining space. The extension would measure 6.3m by 12.76m. It would have a maximum height 4.7m. The materials would consist of a natural stone plinth and dressed stone quoins both to match the existing building, hardwood windows and doors, a glazed roof and cast iron rainwater goods. A smaller extension would provide a link to the staff lobby and kitchen area. This would be to the rear of the orangery. It would measure 3.3m by 1.75m with a height of 3.55m. It would be finished in the same materials as the orangery.

- 7.2.2 To the rear of the historic part of the building is a more modern red brick addition. It is proposed to further extend this section to accommodate a storage area. It would not be uniformly rectangular and the east elevation would be angled to follow the line of the shared boundary. At its maximum width it would measure 8.3m, with a maximum depth of 5.05m and a height of 3.55m. It would have a flat roof with a parapet feature to match some of the existing parapet features in the later extension. To accommodate this extension it is proposed to demolish the existing small rear outbuilding.
- 7.2.3 It is also proposed to demolish the coach house building and replace it with a building with a similar footprint and dimensions except for the addition of a larger first floor which would include a small dormer window (two in total) in the roof space. All of the proposed openings would match those which exist except for a set of double doors in the ground floor south facing elevation and a door and a window in the east facing elevation. These openings are currently garage doors. The outbuilding would provide a lounge, kitchen, one bedroom and a bathroom. The applicant has stated that the building is to be used in association with the operation of the hotel/restaurant.
- 7.2.4 It is proposed to provide seven guest bedrooms with ensembles across the first and second floors. A number of internal alterations are proposed to accommodate these rooms. These internal proposals are being considered under the listed building consent application 17/0398. Externally it is proposed to replace an existing rooflight in the north facing roof slope with an AOV (automatic opening vent). It is also proposed to remove an existing metal fire escape which is on the eastern elevation of the building. It is proposed repair existing stonework and windows.
- 7.2.5 Within the grounds it is proposed to create a parking area at the front of the site which would partially replace a grassed area. It is proposed to provide 15 parking spaces in this area. In front of the building it is proposed to provide a circular driveway, with a central water feature and landscaping. Within this area it is proposed to provide a further 6 parking spaces. It is also proposed to widen the existing access at the front of the site to 4.8m in width. The applicant has provided a plan showing a visibility splay to the left hand side of the access, it is proposed to reduce the height of vegetation to a minimum of 600mm within the the splay. It is also proposed to create a small terraced area in front of the orangery and to the eastern side of the building which provides a walkway to a secondary side entrance.

### 7.3 **Planning History**

- 7.3.1 Planning permission and listed building consent were granted in March 2013 for the conversion of the building to create 7 residential units. The scheme involved the demolition of the coach house building and rear outbuilding; along with the construction of a detached single storey building and widening of the front access. This permission is currently extant but is due to expire in March 2018.
- 7.3.2 Planning permission was refused in December 2015 for the conversion of the building to a restaurant with letting rooms on the first and second floor. This proposal did not involve any external alterations to the building and it was proposed to create a car parking area to the front of the site, along with widening of the front access and proposals to improve visibility. The application was refused for the following reasons:
1. *The applicant has failed to demonstrate that adequate access can be provided to serve the development in a manner that does not have a detrimental impact upon highway and pedestrian safety. This is contrary to Policy GP4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).*
  2. *The applicant has failed to demonstrate that car parking can be provided to serve the development in a manner that does not have a detrimental impact upon the character and appearance of the Stow Park Conservation Area and the setting of the Grade II Listed Building. This is contrary to Policies SP9, GP2, CE5 and CE7 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).*

3. *The applicant has failed to demonstrate that adequate parking provision can be provided to serve the development. This is to the detriment of highway safety and is contrary to Policies GP4 and T4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and the Newport Parking Standards Supplementary Planning Guidance (Adopted August 2015).*

## 7.4 Highways

7.4.1 The relevant criteria of policy GP4 states that proposals should:

- Provide appropriate access for pedestrians, cyclists and public transport;
- Be accessible by a choice of means of transport;
- Be designed to avoid or reduce transport severance, noise and air pollution;
- Make adequate provision for car parking and cycle storage;
- Provide suitable and safe access arrangements;
- Ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.

7.4.2 Policy T4 requires development to provide the appropriate levels of parking within defined parking zones; in accordance with adopted parking standards. The Newport Parking Standards Supplementary Planning Guidance (SPG) (August 2015) sets out parking requirements according to land use and location, it lists requirements for commercial vehicles, cars, motorcycles and cycles.

7.4.3 The application site benefits from two existing accesses which could be used by cyclists and pedestrians. Whilst there are no bus stops along Stow Park Circle it would only be a short walk (around 270m) to the nearest bus stop on Bassaleg Road or Cae Perllan Road. The application site is considered to be in a sustainable location with a choice of means of transport available.

7.4.4 The application site has an existing lawful use as a nursing home and as such it could re-open at any time. As with the previous 2014 application it is not considered that the proposed use would result in any additional harm in terms of traffic generation on the local highway network. As such it is considered that the proposal would avoid additional noise or air pollution as a result of vehicle movements.

7.4.5 Notwithstanding the above the Councils Highway Engineer considers that the existing visibility at the southern access is substandard. It is accepted that visibility cannot be improved to meet current standards however TAN 18 allows for increased use of a substandard access where the access can be significantly improved. The Highway Engineer is satisfied with the access improvements proposed subject to no planting or structures being above the height of 600mm within the visibility splay. This can be controlled through a condition.

7.4.6 All parking associated with the use should be provided in accordance with the Parking Standards SPG and to be located solely within the boundary of the property. The following requirements are relevant to this proposal:

Type of Development	Operational	Non-operation
Hotel	1 commercial vehicle space	1 space per 3 non-residential staff & 1 space per bedroom
Restaurant	1 commercial vehicle space	1 space per 3 non-residential staff & 1 space per 7m <sup>2</sup> of dining area

It is recognised that there will be an element of sharing of these facilities and the SPG does state that an allowance should be applied where this will be the case. The SPG also states that those facilities for non-residents should be assessed by applying the appropriate category within the standards.

- 7.4.7 The Highways Engineer initially requested that the applicant provide further information in terms of staff numbers and the floor area associated with dining should be shown to ensure parking provision is provided in accordance with the parking standards. The applicant has confirmed that the maximum number of staff would be 9 (3 x kitchen, 3 x serving, 2 x reception and 1 x manager). The applicant has also confirmed that the dining area would be 74 sqm. It is also recognised that some users of the restaurant will also use the hotel. On this basis; and considering the element of sharing parking spaces, the maximum parking demand generated by the use is 21 non-operational spaces. The applicant has provided these within the site. It is considered necessary to impose a condition which limits the dining area to 74 sqm to ensure that adequate parking provision is secured in perpetuity.
- 7.4.8 It is recognised a dedicated commercial vehicle space has not been provided however, it is considered that there is suitable space within the circular driveway to allow a commercial vehicle to park for the short periods of time required. The Highways Engineer has also requested that it is demonstrated that a delivery vehicle can turn within the site to allow for access and egress of the highway in a forward gear. The applicant has provided this information and a condition is imposed to limit the maximum size of vehicle demonstrated on the submitted plan.
- 7.4.9 In terms of refuse collection it is noted that a bin storage area is provided to the rear of the site. This area is close to an existing rear access which could be utilised, a condition is recommended to secure the precise details of refuse management.
- 7.4.10 A number of concerns have been raised regarding the existing problems associated with the operation of the registry office within Stow Park Circle, in terms of speeding traffic, illicit/hazardous parking and driving. There is concern that these activities would be increased as a result of the proposed development. It is considered that as it has been demonstrated that all parking demand can be provided within the site and suitable access can be provided then there would not be any greater impact on the local highway network than the lawful nursing home use. It would not be reasonable for the applicant to remedy the problems associated with the registry office as part of this application.
- 7.4.11 Concern has been raised that a visibility splay should be provided for the right hand side (west) of the access for the traffic travelling in the incorrect direction around the one way system. It is not considered reasonable to require the applicant to accommodate those road users not obeying highway direction. Furthermore the applicant does not control the land to the west and as such they could not provide a splay. It is also not considered reasonable to require the applicant to contribute towards on-street parking restrictions or highway directions as adequate visibility has been demonstrated.
- 7.5 Impact of the Conservation Area**
- 7.5.1 The application site is located within the Stow Park Conservation Area and the building is grade II listed. Policy CE5 states that listed buildings should be protected from demolition or inappropriate development. Policy SP9 states that conservation, enhancement and management will be sought in all proposals. Policy CE7 requires development to preserve or enhance the character or appearance of the Conservation Area, having regard to the Conservation Area Appraisal where appropriate. Stow Park Conservation Area does not have an appraisal.
- 7.5.2 The Historic Buildings and Conservation Officer supports the principle of attempting to find a new use for the building which would minimise alteration to its original fabric and create potential for sensitive repair and restoration works. It is noted that there is an extant consent for the conversion to flats, the Conservation Officer considers that the proposed use would result in a considerably lower level of alteration to the historic fabric when compared to the extant scheme.
- 7.5.3 The Conservation Officer notes the concerns of local residents regarding the potential for traffic generation, noise and disturbance. It is acknowledged that an improperly managed facility might give rise to problems in this residential area, and the residential nature of Stow Park is very much an important aspect of the historic character of the Conservation Area. However, as the building

was previously used as a nursing home an objection in principle to another commercial use would not be reasonable. He considers that concerns over these aspects can be addressed by appropriate conditions or other relevant legislation. These matters are discussed further in this report.

- 7.5.4 Notwithstanding the above the Conservation Officer has required additional information and amendments to the scheme. A large number of these are matters involving internal alterations which are dealt with by the listed building consent application. Other than the use of the building the matters which are relevant to this planning application include the demolition of the outbuildings, the construction of the orangery and rear extension, the replacement of a roof light with an AOV and the car park/landscaping works.
- 7.5.5 In terms of the demolition of the outbuildings the Conservation Officer considers the smaller building to have limited historic value and its demolition would be acceptable providing its demolition was to facilitate the construction of a new extension which is appropriately designed and needed to facilitate the re-use of the building. The Conservation Officer was initially concerned that the proposed new extension was not appropriate nor had any explanation of why it was necessary been provided. The applicant has since amended the design of the extension to include a parapet feature and provided an appropriate explanation for why it is necessary. The Conservation Officer is now satisfied with this element.
- 7.5.6 In terms of the larger outbuilding (coach house) the applicant has stated that its construction is such that it will not sustain being left in its current condition nor will sustain a great deal of rebuilding to enable its retention. It has no proper foundation and is built of single-skin brick on a concrete slab. The Conservation Officer does not consider that it has been fully evidenced that its structural issues can not be resolved however, the officer recognises that there is an extant consent which includes its demolition and this proposal for rebuilding in a similar form is welcomed when compared with the extant consent. It is considered necessary to impose a condition requiring the submission of materials and joinery of the replacement building to ensure the building respects the setting of the listed building and the conservation area.
- 7.5.7 In terms of the orangery extension the Conservation Officer was initially concerned that there was insufficient information to properly assess the impact of the extension. The applicant has provided further information regarding the proposed materials which has satisfied the Conservation Officer.
- 7.5.8 In terms of the proposed AOV the Conservation Officer was initially concerned that there was no justification for the loss of the historic roof light to provide the AOV. The applicant has clarified that the existing roof light is beyond repair and is necessary to facilitate the removal of some undesirable internal partitioning and an unattractive external fire escape. The Conservation Officer is satisfied with this justification.
- 7.5.9 In terms of the car park the Conservation Officer welcomes the principle of relocating the parking area from immediately in front of the building to the front of the site as it could enhance the setting of the listed building. However, there was concern that there was an over dominance of tarmac surface which the landscaping scheme did not mitigate for. The applicant has amended the proposed material schedule so that the parking spaces are constructed of block paviers. This has satisfied the previous concerns.
- 7.5.10 Overall the Conservation Officer considers the proposals to have a lesser impact on the character of the listed building than the extant scheme. It is considered that the proposal would protect and preserve the character of the conservation area and the historic interests of the listed building.
- 7.6 **Trees**
- 7.6.1 There are a number of trees along the frontage of the site. The most notable trees are a Horse Chestnut and two Lime trees. In order to improve access into the site it is proposed to widen the existing driveway, these trees grow either side of the drive. The applicant has submitted a tree survey which shows that these trees, along with some smaller trees along the frontage of the site will be retained.

7.6.2 The Councils Tree Officer initially had concern that the proposed car park was close to the trees. Information was required to demonstrate that tree roots would not be affected by the provision of the parking spaces. The applicant has undertaken a number of trial pits to determine the extent of roots within the site. The pits were dug up to 16m from the trees and it was discovered that sporadic roots are located around 9m from the Horse Chestnut and 7m from a Spruce which is also close to the proposed car park. The applicant proposes a no-dig method of construction for parking spaces 1 to 8, so no tree roots would be severed. The Tree Officer is satisfied with this method and has no objection to the application subject to conditions requiring the erection of root protection barrier fencing, an arboricultural method statement and the appointment of an arboriculturalist to oversee the development and perform a watching brief. These conditions are attached.

## 7.7 **Protected Species**

7.7.1 Criteria (ii) of Policy GP5 states that development will only be permitted where:

- the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including International, European, National, Welsh Section 42 and local protected habitats and species, and protecting features of importance for ecology.

7.7.2 The applicants commissioned a bat survey during the course of the 2014 application and a re-survey of the building was undertaken in November 2016. A report of the findings has been submitted with this application which continues to report that no bats were recorded entering or leaving the building, although several species were recorded foraging in the area. As reported previously the building has been confirmed as a bat roost and as such a licence from Natural Resources Wales (NRW) would be required. The applicant has confirmed that a licence will be sought from NRW using a mitigation plan produced to support a listed building consent application (14/1282) which was granted in September 2016. The listed building consent application was for replacement slates, battens, roofing felt and ceiling installation, these are works necessary to repair the roof. The mitigation strategy identifies that a bat box should be erected on mature trees within the site, this would provide short term mitigation; and this is secured through a condition. In the long term bats should be accommodated within the building in the same position and location. To do this access points would be secured under soffit boards and through modified roof slates. The modified slates were previously agreed under application 14/1282 however it is considered necessary for this information to be provided with the current listed building consent application which runs concurrently to this application.

## 7.8 **Residential Amenity**

7.8.1 Policy GP2 states that development will be permitted where:

- There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
- 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;
- The proposal seeks to design out the opportunity for crime and anti-social behaviour;
- The proposal promotes inclusive design both for the built development and access within and around the development;
- Adequate amenity for future occupiers.

7.8.2 Policy GP7 states that development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or subsidence, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.

7.8.3 A significant amount of concern has been raised from local residents regarding noise and disturbance from vehicle revving, door slamming, deliveries, staff leaving late at night, loud voices and extraction equipment. There are also concerns regarding odours from cooking and that the building could be converted into a different eating establishment should ownership

change. The resounding consensus from the representations received is that a commercial enterprise should not be permitted within a residential area.

- 7.8.4 It should be noted that the lawful use of the application site is a nursing home which is a commercial enterprise and therefore it could be returned to a commercial use at any point. It is also recognised that elements of food preparation and cooking would have been associated with that use. It is acknowledged that without control over the hours of operation or fume extraction there is potential for the use to cause harm to neighbouring residential amenity in terms of noise and odour. However, it is possible to control the hours of operation through an appropriate condition. The condition would require the applicant to submit and agree their hours of operation for the restaurant in liaison with Environmental Health Officers. Local residents are also concerned that the proposed use would result in patrons generating noise when outside of the building. Whilst it is not considered that a restaurant use is synonymous with noisy congregations of patrons outside; there would be statutory controls under the Environmental Protection Act 1990 if a noise nuisance was established.
- 7.8.5 The Environmental Health Officer has no objection to the proposal subject to conditions controlling plant and equipment noise, a restriction on delivery times, a requirement for food preparation areas to be mechanically extracted; the details of which are to be first agreed with the Council; and the submission of a Construction Environmental Management Plan. These conditions are imposed. The Environmental Health Officer also recommends a condition requiring details of sound insulation measures to the floor/ceiling between the ground floor restaurant and the first floor guesthouse. It is considered that this matter would be appropriately controlled through Building Regulations.
- 7.8.6 In terms of noise associated with vehicle movements, including engine revving and door slamming, this is not considered to be so significant as to warrant a reason for refusal. The lawful nursing home use would have similar vehicle movements associated with its operation, due to visiting family and staff movements. Whilst it is accepted that some vehicle movements would occur later into the evening, a control on hours of operation would ensure these do not occur at unsocialable hours.
- 7.8.7 The application site is surrounded by residential properties. No's 14 and 16 Stow Park Circle are located either side of the rear portion of the application site and no's 8 and 12 are located either side of the front portion. The proposal includes the construction of an orangery which would extend towards the side boundary of no 12. There is an existing wall along this boundary which is around 2.8m in height, it is considered that this would provide adequate screening and would prevent any loss of privacy to this property. There would be views in the side elevation windows which face towards the neighbouring property however, given the lawful use of the building it is not considered that this situation would be made any worse by this current proposal.
- 7.8.8 The proposal would involve the demolition of the existing coach house and a replacement building using a similar footprint. The existing building abutts the rear elevation of no 14 Stow Park Circle, the proposed building would leave a small gap between the two side elevations. Whilst the occupier of this property welcomes the demolition of the building concern has been raised regarding how the gap between the buildings would be ventilated, drained, cleared of leaves, debris, snow accumulation of snow and protected from damp penetration. It is understood that these are matters which would be dealt with by Building Regulations.
- 7.8.9 The proposal involves the demolition of a smaller outbuilding which partly forms the side and rear boundary of the site. It is considered necessary to retain the walls which form the boundary line not only for visual amenity but also to retain a secure boundary along the neighbouring property (no 16). It is proposed to construct a single storey flat roof (with parapet) extension from the rear of the building. This extension would be 600mm from the wall which sits along the shared boundary with no 16. No 16 consists of a detached house with an attached garage. The house faces towards the road which is the rear of the application site. The garage is closest to the shared boundary. As habitable rooms are located well away from the shared boundary it is not

considered that there would be a harmful impact in terms of loss of light or an over bearing impact.

7.8.10 No 8 is a residential property accommodating four flats. It sits forward of the front elevation of the application building. It has no boundary treatments other than a retaining wall due to a difference in levels. In order to provide adequate privacy to these properties and to provide greater security, thereby reducing the opportunity for crime and anti-social behaviour, a condition requiring details of boundary treatments could be imposed.

7.8.11 Concern has been raised that the building could become a reception venue for weddings, particularly as the registry office is so close. Restaurants fall within Use Class A3 and hotels fall within Use Class C1. A wedding function or any other function venue is a Sui Generis use and planning permission would be required for a change of use from the hotel/restaurant to a function venue. Furthermore conditions to control hours of operation would prevent harm to residential amenity.

## 7.9 **Drainage**

7.9.1 Concerns have been raised that there are existing problems with waste water and sewerage disposal resulting in odour/sewer/drain blockage complaints. Dwr Cymru – Welsh Water has not raised any concerns regarding a foul drainage connection. However, they have requested a condition to prevent any net increase in surface water from discharging to the public sewerage system. Details of surface water drainage of the proposed parking areas are secured through a condition.

## 7.10 **Other concerns**

7.10.1 Concern has been raised that the proposal goes against Objective 4 of the Newport Local Development Plan which is “to ensure that there is an adequate supply of land for housing in the most sustainable locations, and to ensure that the quantity, quality and variety of housing provision meet the needs of the population. Also to foster the creation of places which contribute to local distinctiveness and thriving communities”. The application site is not designated for any particular use in the Local Development Plan and as such there is no requirement to safeguard it for a particular use such as housing.

7.10.2 There is concern that there is no information regarding signage and that neon signage would not be appropriate. The applicant would be required to submit a separate advertisement consent application to consider any signage and therefore no details would be expected with this application.

7.10.3 There is concern that no details of lighting have been provided which may cause a nuisance. It is considered necessary to impose a condition requiring details of lighting should it be required.

7.10.4 The location of designated smoking area has been queried. The applicant has not indicated a smoking area however, it is not unlawful to smoke anywhere outside and as such it is not considered reasonable for the planning system to control this matter.

7.10.5 There is concern that disabled access has not been considered. It is recognised that the principle entrance does not provide suitable access for some disabled people, nor is there a lift within the proposals. However, the special character of the listed building needs also to be considered. Building Regulations would determine whether disabled access is required and consideration would be given to the character of the listed building in liaison with the Historic Buildings and Conservation Officer. Should disabled access be required a further planning and/or listed building consent application would be required.

7.10.6 The proposals for the basement and cellar areas has been queried. The applicant has not put forward any proposals for the basement/cellar. Should any works requiring listed building consent be required then a separate application would be necessary.



- 7.10.7 There is concern that no fire escape for the first and second floors is provided. It is noted that the external fire escape is to be removed and an AOV (automatic opening vent) is proposed to compensate for this. Notwithstanding this building regulations control means of escape in terms of fire. Should additional measures be required then a further application would be required.
- 7.10.8 It has been noted that the staffing list provided by the applicant does not include chamber maids, night time security and reception staff. It is noted that the applicant has stated that 2 reception staff would be required. The applicant has not indicated that chamber maids would be employed and given that there are only 7 bedrooms it is not unreasonable to consider that this function could be delivered by other hotel staff; and would not warrant a full time position.
- 7.10.9 It is considered that all other concerns are sufficiently addressed in the preceding paragraphs.

## **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 When considering the extant planning permission, the lawful use of the building as a nursing home and the ability to impose conditions to protect residential amenity it is considered that the proposed development is acceptable and in accordance with policies SP1, SP9, SP18, GP2, GP4, GP5, GP6, GP7, CE7 and T4 of the Newport Local Development Plan 2015-2026. It is recommended that planning permission is granted with conditions.

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: PL-101 rev A, PL-102 rev A, PL-103 rev A, PL-104 rev A, PL-105 rev A, PL-106 rev A, PL-107, PL-201 rev K, PL-202 rev C, PL-203 rev D, PL-204 rev C, PL-205 rev C, PL-206 rev D, PL-207 rev A, PL-210, 1171/PL/01, T17.127 figure 1 rev A, Slate Tile Cill Detail rev B, LUM3313A sheet 1 of 2, LUM3313A sheet 2 of 2, Slate Tile Jam Detail rev B, Slate Tile Head Detail and swept path analysis of 8m rigid delivery vehicle.

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

#### *Pre- commencement conditions*

02 Prior to the commencement of development, to include demolition, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The plan shall also include details of contractor parking/compound and wheel wash facilities. Development shall take place in accordance with the approved plan.

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

03 Prior to the commencement of development surface water drainage details of the car parking area shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and to protect the public sewerage system.

04 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. All weather notices shall be erected on Heras fencing (1 per 10 panels, stating "Construction Exclusion Zone No Access" and the fencing shall be retained for the full duration of the development.

Reason: To protect important landscape features within the site and to ensure the appearance of the Conservation Area and setting of the listed building is preserved.

05 No operations of any description, (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection within the development, until a detailed Arboricultural Method Statement has

been submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement shall contain full details of the following:

(a) Special engineering requirements including 'no dig construction'.

The development shall be carried out in full compliance with the Arboricultural Method Statement unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To protect important landscape features within the site.

06 No development, to include demolition, shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project (to perform a Watching Brief) for the duration of the development and who shall be responsible for -

(a) Supervision and monitoring of the approved Tree Protection Plan;

(b) Supervision and monitoring of the approved tree felling and pruning works;

(c) Supervision of the alteration or temporary removal of any Barrier Fencing;

(d) Oversee working within any Root Protection Area;

(e) Reporting to the Local Planning Authority;

(f) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.

Reason: To protect important landscape features within the site.

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

07 No work shall be commenced on the construction of the replacement coach house and rear single storey extension until details/samples of materials and finishes to be used on the external surfaces (to include window details, joinery details, eaves and verge detail) have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.

Reason: To ensure the development is completed in a manner compatible with its surrounds and to ensure that the appearance of the Conservation Area and setting of the listed building is preserved.

### ***Pre –occupation conditions***

08 Prior to the first beneficial use of the development hereby approved the visibility splay shown on drawing PL-201J shall be provided have been provided. The splay shall thereafter be kept free of all obstructions to visibility over a height of 0.6 metres.

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

09 Prior to the first beneficial use of the development hereby approved, details of opening hours shall be submitted to and approved in writing by the Local Planning Authority. The use shall operate in accordance with the approved hours.

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

10 Prior to the first beneficial use of the building hereby approved details of a refuse management plan for the hotel and restaurant shall be submitted to and approved in writing by the Local Planning Authority. The use(s) shall operate in accordance with the approved management plan.

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

11 Prior to the first beneficial use of the development hereby approved boundary treatments shall be erected along the northern and eastern boundary (where the small outbuilding is to be demolished) and along the eastern boundary shared with no 8 Stow Park Circle in accordance with details which shall be first submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be maintained thereafter.

Reason: In the interests of residential amenity and security.

12 Prior to the first beneficial use of the building hereby approved a bat boxes shall be erected on a mature tree within the site in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The bat boxes shall be retained thereafter.

Reason: To provide ecological enhancement.

13 No use shall be made of the building hereby approved until the access has been widened and the car parking area provided, surfaced and individual parking space marked on the surface as indicated on drawing no PL-201 rev J. Thereafter, these areas shall be kept available for those purposes at all times.

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

#### ***Pre-installation conditions***

14 Fumes from the food preparation areas shall be mechanically extracted and the extraction system shall be provided with de-greasing and de-odorising filters. Details of the extraction equipment (including scaled schematics, location plans, odour & noise attenuation measures and future maintenance) shall be submitted to and approved in writing by the Local Planning Authority prior to its installation, and the equipment shall be installed in accordance with the approved details prior to the commencement of use for the cooking of food.

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

15 Prior to the installation of any lighting; details shall first be submitted to and agreed in writing by the Local Planning Authority. The lighting shall be installed in accordance with the approved details.

Reason: In the interests of residential amenity.

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

16 The scheme of landscaping, tree planting and management schedule hereby approved shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of the development. Thereafter the trees and shrubs shall be maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purpose of this condition, a full planting season shall mean the period from October to April.

Reason: To secure the satisfactory implementation of the proposal.

17 Noise emitted from plant and equipment located at the site shall be controlled such that the rating level, calculated in accordance with BS4142 2014, does not exceed a level of 5dB below the existing background level, with no tonal element to the plant.

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

18 There shall be no arrival, departure, loading or unloading of vehicles between the hours of 18:00 and 08:00 on any day.

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

19 The floor area used for dining purposes shall not exceed 74sqm and remain as such in perpetuity.

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

20 All commercial vehicles visiting the site for the delivery and collection of goods shall be limited to rigid body vehicles not greater than 8m in length.

Reason: In the interests of highway safety.

#### ***NOTE TO APPLICANT***

01 This decision also relates to: Extended Phase 1 Habitate Survey Report (Sylvan Ecology, November 2016), Bat Survey Update (Sylvan, November 2016), Heritage Assessment (Holand

Heritage, April 2017), staffing figures (Gemelli, June 2017) and tree information (Treecare Consulting, July 2017).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP9, SP18, GP2, GP4, GP5, GP6, GP7, CE7 and T4 were relevant to the determination of this application.

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

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## **APPLICATION DETAILS**

**No: 2**                      **17/0960**                      **Ward: ALLT-YR-YN**

**Type: RESERVED MATTERS**

**Expiry Date: 07-FEB-2017**

**Applicant: CHRIS DAVIDSON**

**Site: LAND TO REAR OF AND INCLUDING 1 AND 3, LLANTHEWY ROAD, NEWPORT**

**Proposal: RESERVED MATTERS APPLICATION (ACCESS, APPEARANCE, LANDSCAPING, LAYOUT AND SCALE) RELATING TO PHASE 1 (CONSTRUCTION OF 4NO. 2 BEDROOM RESIDENTIAL UNITS OVER GROUND FLOOR GARAGES AND ASSOCIATED WORKS) OF PERMISSION 14/0022 (VARIATION OF CONDITIONS 2 AND 3 OF PERMISSION 11/1017 FOR RESIDENTIAL DEVELOPMENT)**

**Recommendation: APPROVED WITH CONDITIONS**

### **1. INTRODUCTION**

- 1.1 The site comprises a pair of large, semi-detached dwellings known as 1 and 3 Llanthewy Road. The dwellings are situated within a large plot due to an amalgamation of a parcel of land at the rear which is elevated relative to the dwellings.
- 1.2 The site is located within a mixed commercial/residential area with properties to the north and east occupied by offices/businesses and No.5 Llanthewy Road in use as a dwelling. The site has the benefit of being within easy walking distance of the city centre and therefore has excellent opportunities for users to utilise public transport. The application site is located at a lower level than No.5 and the existing buildings, being two storey, are at a notably lower level than the properties to the north on Clytha Park Road at a four storey height.
- 1.3 There is extensive planning history associated with the site which is summarised in Section 2 of this report with an overview of the key decisions provided under Section 7.
- 1.4 This proposal seeks permission for all the reserved matters (access, appearance, landscaping, layout and scale) associated with Phase 1 of a larger residential development granted permission on appeal by 14/0022. Phase 1 comprises the construction of 4no. 2-bedroom residential units at the rear of the site.
- 1.5 Phase 2 which is mainly associated with the parcel of land containing the dwellings of 1 and 3 Llanthewy Road is not considered by this application. A separate application has been submitted for the Phase 2 parcel of land (17/1081 refers) however at the date of writing this remains undetermined as it was a later submission and currently holds no significant weight in the determination of this application. The most logical and appropriate approach therefore is to consider the merits of Phase 1 in the first instance and then, if planning permission is forthcoming for that phase, the merits of Phase 2 could subsequently be considered, including its impact upon Phase 1.
- 1.5 This application is referred to Committee since the applicant is the spouse of a member of the Local Planning Authority.

## 2. RELEVANT SITE HISTORY

04/1330	Retention of use as an office.	Granted Conditions	with
04/1386	Erection of 1no. dwelling (outline).	Refused	but allowed at appeal
05/1455	Erection of 1no. dwelling (reserved matters relating to design and external appearance of the proposed detached dwelling approved by planning permission 04/1386).	Refused	
06/0472	Creation of new vehicular access (to proposed building plot).	Granted Conditions	with
06/1088	Erection of 1no. bungalow and 1no. dwelling.	Dismissed Appeal	at
06/1226	Variation of Condition 03 (provision of proposed parking and turning area) of planning permission 04/1330 (for retention of use as an office) to allow retention of existing parking layout.	Refused	
06/1402	Discharge of Conditions 01 and 02 of planning permission 06/0472 for the creation of new vehicular access (to proposed building plot).	Refused	
07/0835	Erection of a detached dwelling.	Granted Conditions	with
07/1594	Residential development (outline).	Refused	and allowed at appeal
08/0087	Mixed office (B1) and residential development (outline).	Refused	and allowed at appeal
08/1183	Change of use from office (B1) to single dwelling.	Granted	
10/0802	Proposed alterations to include enlargement of roof and rear extension and change of use of 1 - 3 llanthewy road to 6no. self-contained apartments (outline).	Granted Conditions	with
11/1016	Variation of Condition 01 (submission of reserved matters) of appeal decision app/g6935/a/10/2128834 for residential development.	Granted conditions	with
11/1017	Variation of condition 01 (submission of reserved matters) of appeal decision app/g6935/a/10/2128834 for residential development.	Granted conditions	with
14/0022	Variation of Conditions 2 and 3 relating to planning permission 11/1017 for outline residential development (to allow extension of time for submission of reserved matters and commencement of development)	Refused allowed appeal	and on

### 3. POLICY CONTEXT

#### 3.1 Adopted Newport Local Development Plan 2011-2026 (NLDP)

Policy <b>SP1 Sustainability</b> favours proposals which make a positive contribution to sustainable development.
Policy <b>SP4 Water Resources</b> favours developments that minimises water consumption, incorporates SUDs and generally manages water resources and drainage effectively.
Policy <b>SP10 Housing Building Requirements</b> states that provision is made for 11,623 units within the plan period in order to deliver a requirement of 10,350 units. The plan seeks to deliver 2,061 affordable units.
Policy <b>SP18 Urban Regeneration</b> supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
Policy <b>GP1 General Development Principles – Climate Change</b> 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.
Policy <b>GP2 General Development Principles – General Amenity</b> states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
Policy <b>GP3 General Development Principles – Service Infrastructure</b> 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.
Policy <b>GP4 General Development Principles – Highways and Accessibility</b> states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.
Policy <b>GP6 General Development Principles – Quality of Design</b> states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
Policy <b>GP7 General Development Principles – Environmental Protection and Public Health</b> states that development will not be permitted which would cause or result in unacceptable harm to health.
Policy <b>H2 Housing Standards</b> promotes high quality design taking into consideration the whole life of the dwelling.
Policy <b>H3 Housing Density</b> seeks a density of at least 30 dwellings per hectare on sites of 10 dwellings or more.
Policy <b>H6 Sub-division of Curtilages, Infill and Backland Development</b> permits such development only where it does not represent an over development of the land.
Policy <b>T4 Parking</b> states that development will be expected to provide appropriate levels of parking.



Policy **W3 Provision for Waste Management Facilities in Development** states that where appropriate, facilities for waste management will be sought on all new development.

#### **4. CONSULTATIONS**

##### **4.1 WELSH WATER**

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

##### Sewerage

We have no objection to the application for approval of the reserved matters subject to compliance with the requirements of the drainage conditions imposed on the outline planning permission, and the subsequent applications to vary the conditions thereon.

##### **4.2 WALES AND WEST UTILITIES**

No objections to the proposal subject to advisory notes.

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

##### **5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS)**

The principle of incorporating a circulatory system which will create an in out scenario utilising the existing accesses onto Llanthewy Road, has been accepted as part of a previous planning appeal. The applicant must still however submit full access details demonstrating access onto the adopted highway for consideration. The use of the access as and in/out must also be conditioned.

The access will remove the opportunity for vehicles to park on each of the driveways. I'm unable to definitively determine the parking demand for the existing residential units however I would suggest that each property has a minimum of 3 bedrooms and therefore in accordance with the Newport City Council Parking Standards 3 parking spaces will be required for each property. I note that a sustainability assessment has been submitted however even when applying a reduction in parking requirement there will still be a loss in off street parking availability for the existing residential properties.

Llanthewy Road is subject to a high demand for on street parking and opportunities to park are extremely limited. Given that on street parking on Llanthewy Road is at or near capacity it's determined that any increased demand may result in illegal or obstructive parking and will therefore not be accepted.

I'm satisfied that off street parking will be provided for the proposed units in accordance with the Newport City Council parking standards.

Details of refuse collection must be submitted for consideration.

The addition of 4 units to the rear of the site will also increase the demand for visitor parking and therefore the proposal should include a visitor parking space.

Should planning approval be granted a condition will be required stating that a construction management plan which includes details such as wheel wash facilities, dust suppression and contractor parking/compound, must be submitted for approval.

##### Further comments received following the submission of additional information from the applicant:

When taking into consideration the sustainability of the location and the proximity of a public car park, the proposed level of off street parking for the proposed units is considered acceptable. I

also note that 4 spaces will be available for the existing residential properties in the event that phase 2 is not constructed which is also acceptable.

I note that the applicant proposes an amendment to the exit point which will move vehicles away from the neighbouring boundary wall. This would provide an improvement in pedestrian visibility subject to a condition which restricts the height of any structures or planting in this area to a maximum height of 600mm.

A condition will be required which restricts the use of the access points to a circulatory 'in and out' system as shown by the applicant.

A refuse collection point should be provided adjacent to the highway to avoid a large collection of bins obstructing the footway during collection day.

Subject to the above, and the previous request for a CEMP, I would offer no objection to the application.

#### Further comments received following the submission of an amended Site Layout Plan

As previously stated I'm satisfied that parking for the proposed units can be provided in accordance with the Newport City Council Parking Standards when taking into consideration the sustainability of the location. In addition I also note that 4 spaces will be available for the existing residential properties in the event that phase 2 is not constructed, which is also acceptable.

The applicant has demonstrated the areas will be kept clear which will allow for manoeuvrability through the site and also for vehicles to utilise the defined parking bays.

I'm mindful of the previous inspectors decision and comments which relate to the use of a circulatory 'in out' access arrangement, however in order restrict the use of the accesses in this way a condition should be attached to any approval.

The applicant proposes an amendment to the exit point which will move vehicles away from the neighbouring boundary wall. This would provide an improvement in pedestrian visibility subject to a condition which restricts the height of any structures or planting in this area to a maximum height of 600mm.

In addition the following conditioned should be attached to any approval:

- The parking layout as shown must be retained in perpetuity and the parking bays should be demarcated on site.
- The garages cannot be converted in order to ensure that parking for the proposed units is retained.
- A refuse collection area should be provided adjacent to the highway in order for bins to be stored on mass on collection day without causing obstruction of the footway.
- A construction management plan should be submitted for approval which includes such details as wheel wash facilities, dust suppression and contractor parking/compound.
- No gates will be permitted at the access point in order to avoid any vehicles having to wait on the highway whilst the gates are opened which would cause an obstruction to the free flow of traffic.

#### 5.2 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE)

Upon review of application of 17/0960 I can advise that no details have been provided to advise as to how surface water is to be managed on the site, particularly the hard standing areas, i.e. car parking, access road and building footprint. I suggest further information is provided to advise how the above is to be managed.

Further comments received following the submission of additional information from the applicant:

Whilst the agent has provided some further narrative, i.e. permeable areas are to be provided to drain the site of surface water, it must be determined that such a solution is suitable. I would expect some porosity ground testing to be undertaken in accordance with BRE 365 and that a definitive drainage solution is proposed to advise as to how surface water of the site is to be managed.

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

No objections to the proposal.

### 6. REPRESENTATIONS

#### 6.1 NEIGHBOURS:

All properties with a common boundary and opposite the application site were consulted (34 properties). No representations were received.

### 7. ASSESSMENT

#### 7.1 *The '07' planning permission*

The outline planning permission (ref: 07/1594) allowed the residential development of the site. No details were approved with that permission (determined under the old outline planning permission requirements of essentially just requiring a red line boundary on a site location plan) and so it was deemed that the principle of residential development at the site was acceptable. The application was considered at appeal because Members were minded to refuse planning permission as the applicant was not willing to enter into a Section 106 agreement to secure leisure contributions sought. The appeal was allowed as the Inspector deemed that the nearest play area which would benefit from the leisure contributions sought by the Council was too far from the application site to be applicable to future users of the site.

#### 7.2 *The '11' planning permission*

This application (ref: 11/1017) allowed the variation of condition 01, which related to the submission of reserved matters. The variation agreed allowed the site to be developed in a phased manner whereby details for one part of the site can be agreed and the development implemented, and potentially occupied, prior to the submission of reserved matters for the second part/phase of the site. It was agreed that there would only be two phases, being the front and rear portions of the land, to the development.

#### 7.3 *The '14' planning permission*

This application (ref: 14/0022) sought to extend the timescales for implementation of the outline planning permission by extending the condition relating to the submission of reserved matters and also the standard five year condition (condition 02 and 03 respectively of 11/1017).

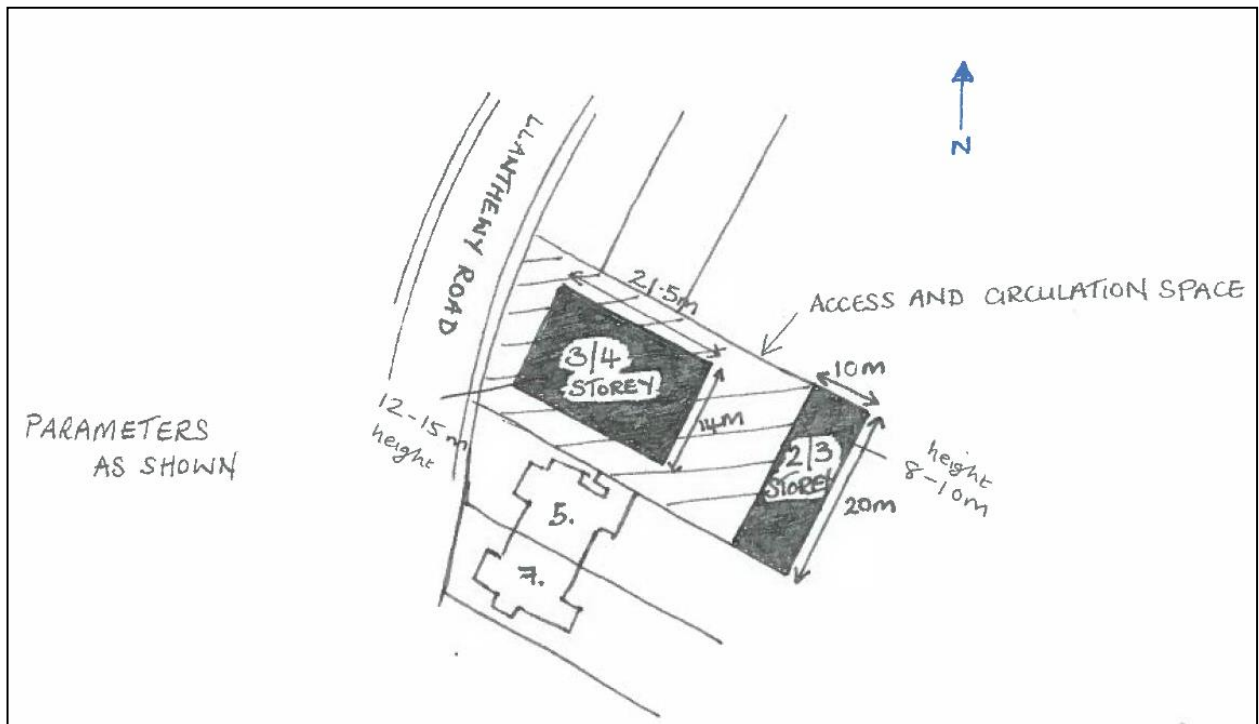
7.4 At the time, the primary policy context was unchanged to that considered with the previous applications as the Adopted Newport Unitary Development Plan was still in force. There had however been a couple of notable differences that were material to the consideration of the application, namely updated or new Supplementary Planning Guidance and changes in legislation relating to the amount of information required with outline planning submissions

7.5 This application included a Design and Access Statement and a plan to show an indicative layout, indicative access points to the site and scale parameters for the building(s) proposed.

7.6 The indicative layout (Figure 1) showed access directly from Llanthwy Road, as per the current arrangement, and 2No. buildings. A building at the front of the site and on a comparable building line of the existing built form at the site was shown with an upper depth limit of 21.5m, an upper width limit of 14m and a maximum height limit of 12m.

- 7.7 The building at the rear of the site was shown with an upper depth limit of 10m, an upper width limit of 20m and an upper height limit of 10m. The applicant had also clarified that the proposal sought permission for up to 12 units. All matters had been reserved for subsequent approval.

Figure 1 – Indicative Layout Plan submitted with 14/0022



- 7.8 The Design and Access Statement which accompanied application 14/0022 explained that the existing pair of semi-detached properties known as 1-3 Llanthewy Road would either be completely demolished and a new building would be provided at the site frontage or the existing pair would be extended in a manner than would be within the scale paramaters of the permission being sought.
- 7.9 The '07' and '11' applications provided no parameter plans or supporting and those applications were determined on the basis that the principle of residential development at the site would be acceptable. On that basis, any residential development of the site ranging from a single dwelling to a much larger development involving a number of units could have come forward at the reserved matters stage. It is at the later stage when an assessment of more detailed matters such as scale, layout, parking, landscaping, amenity area, storage areas etc would have taken place.
- 7.10 However, due to a change in statute, application 14/0022 needed to include a greater amount of detail including an indicative layout and to specify the scale parameters of any buildings to be included in the scheme. The applicant had also specified that up to 12 units was to be considered at the site.
- 7.11 Whilst the '11' application allowed the principle of a phased development of the site, the Council considered that the indicative layout plan, scale parameters and the proposed number of units submitted with application 14/0022 presented a scheme which was not appropriate for phasing.
- 7.12 Application 14/0022 also required consideration being given to new issues that were material and not present during the consideration of the previous applications, namely updated or new Supplementary Planning Guidance. The merits of the scheme was therefore revisited and the Committee report concluded that:

1. It had not been proven that 12No. residential units with associated parking, amenity area(s) and servicing requirements could be acceptably provided within the layout and scale parameters indicated with the application and also that a 4 storey building at a maximum height of 12 metres at the frontage of this site would be acceptable within the street scene.
2. The updated Planning Obligations SPG explained that contributions are secured against outline applications, where the exact scale, mix and type of dwelling are not known, on a formula basis and final confirmation of the contributions is calculated at the time of the submission of the future reserved matters. Therefore, while at the time of writing the Committee report there was spare capacity at the local schools, this may not be the case at the time of the submission of the reserved matters application and the formula secured within a Section 106 agreement would calculate the appropriate level of planning contributions. The applicant did not agree enter into a legal agreement stating that the request is unreasonable and not necessary.

7.13 Planning Committee refused permission on these grounds.

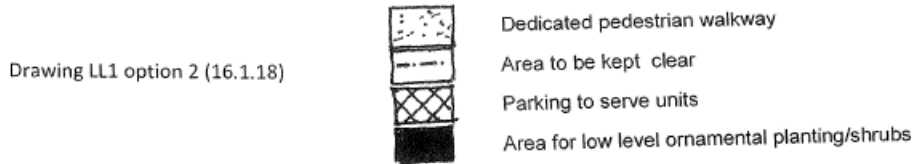
7.14 An appeal was lodged and the appellant provided additional plans to demonstrate to the Inspector how the site could be developed to accommodate 12 residential units that were compatible with the proposed indicative site layout plan (Figure 2).

Figure 2: Drawings submitted at appeal stage of 14/0022



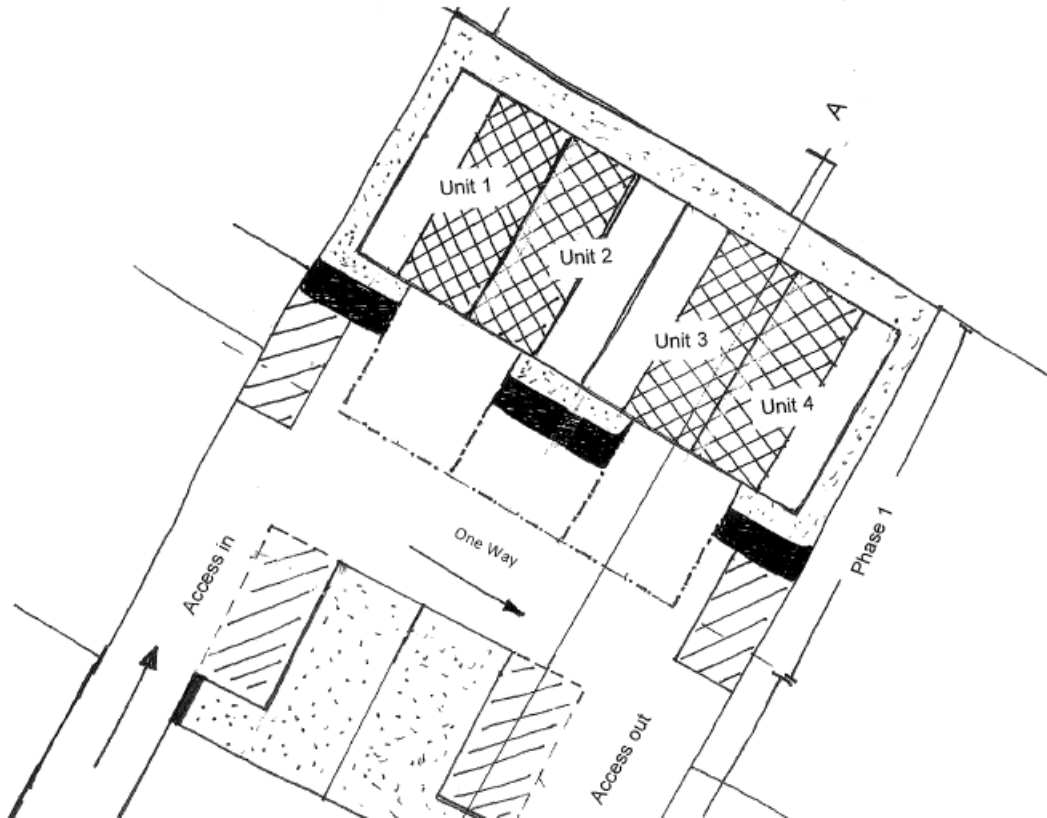


- 7.15 The Inspector did not agree with the Council's assessment of the application. In her response, the Inspector stated: (Paragraph 3) "The appeal proposes the variation of conditions 2 and 3 relating to planning permission 11/1017 in accordance with Section 73. In accordance with the requirements of Section 73(2) the appeal will consider the question of varying these conditions and not revisit the principle of development". (Paragraph 12): "An application to vary a condition under Section 73, if permitted, leaves the original permission extant and unaltered and the principle of development is not at risk".
- 7.16 With respect to the first reason for refusal, the Inspector considered that the indicative information demonstrates clearly that the site is suitable for, and capable of being developed for residential purposes without harm to the character and appearance of the area.
- 7.17 Turning to the Planning Obligations issue, the Inspector considered that because of the size of the development, and the lack of evidence to suggest that there are capacity issues at the catchment schools, the need for a contribution towards education provision has not been demonstrated.
- 7.18 For these reasons the Inspector concluded that the appeal should be allowed. This essentially resulted in the re-imposition of all the conditions that were attached to permission 11/1017 but with conditions 2 and 3 amended to extend the period of time for the submission of reserved matters and the commencement of development (beginning from the date of the Inspector's decision letter). This also included the ability for the development to be brought forward in a phased manner.
- 7.19 **The proposal**  
This submission seeks permission for all the reserved matters (access, appearance, landscaping, layout and scale) associated with Phase 1 of the development. Phase 1 represents the development at the rear of the site and consists of the construction of 4no. 2-bedroom residential units, as illustrated in the proposed site layout below in Figure 3:



Scale 1: 200

Proposed layout if phase 2 includes nos 1 and 3 staying as 2 dwellings



7.20 The layout of Phase 1 is similar to that shown in the indicative plan associated with appeal decision 14/0022 in that the building occupies a similar position with a rectangular shape and almost extending the entire width of the site.

7.21 The planning history of the site demonstrates that the principle of the development is well-established. The Inspector’s decision letter associated with 14/0022 reinforces this position in that it specifically states that consideration was given to the indicative plans and that this was associated with a scheme of up to 12 residential units (Paragraph 9 and 10 refers).

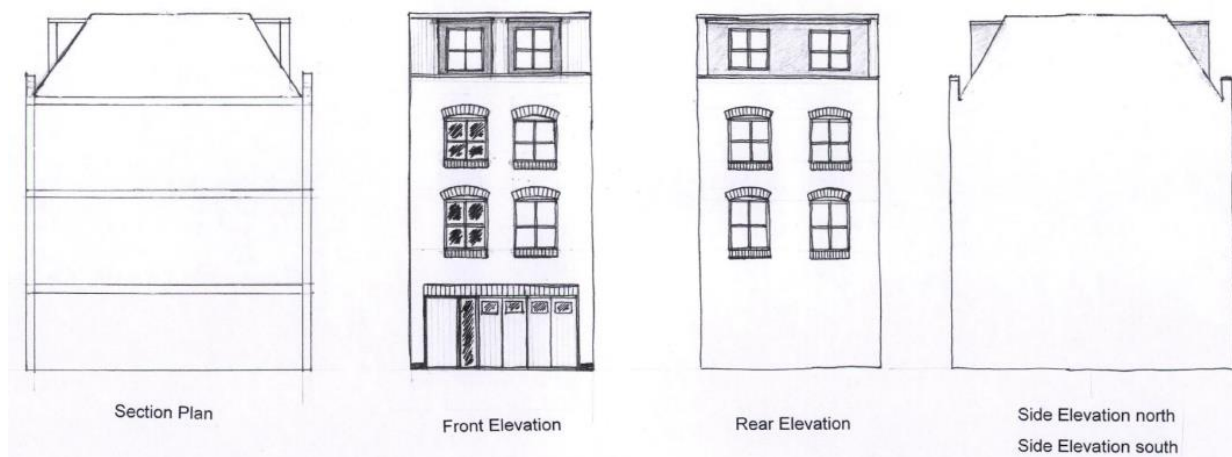
7.22 Whilst it is acknowledged that the detailed design of the development is left for reserved matters applications (such as this submission), the Inspector’s decision upon the outline permission is material to the determination of this application. It is also noted that the site is located within the urban area and is not subject to any significant land-use constraints such as those identified by the adopted Newport Local Development Plan.

7.23 **Visual Amenity**

This Phase 1 proposal involves the construction of four 2-bedroom dwellings which would form a small terrace of townhouses. This block would be within the scale parameters of the outline permission allowed by the Inspector which includes a height of 10m. The elevations of each dwelling is shown below in Figure 4:

Figure 4: Proposed dwellings (Phase 1)





- 7.24 The indicative layout plan associated with application 14/0022 suggests that Phase 1 would involve 2-3 storey buildings and that the indicative elevation drawings submitted at the subsequent appeal suggests a 3-storey building. Whilst the scheme presented at this reserved matters application indicates a 4-storey building, interpreted in a three-storey block with a recessed and marginally smaller fourth floor within the roof space, the dwellings would not exceed 10m in height which is the maximum height that the Inspector considered to be acceptable. Given that this is essentially an 'in principle' issue, the potential massing associated with a building of this scale and in this location and the possible impact that such a development could have on its surroundings was considered by the Inspector at the appeal stage of 14/0022. In this regard, the Inspector stated "I consider that the indicative information provided demonstrates clearly that the site is suitable for, and capable of being developed for residential purposes without harm to the character and appearance of the area".
- 7.25 The proposed block of four dwellings would be set back deep into the plot in a position that was similar to that shown on the plans at outline stage. The principle of this mews-type development has already been agreed at the outline stage so there is no requirement to revisit that aspect of the proposal.
- 7.26 Despite the 10m height of the proposed dwellings, the submission of an amended cross-section drawing has clarified that this block would be positioned on the same level as the dwellings in front (1-3 Llanthewy Road) which are also relatively large and tall buildings. The approximate distance of the block of four dwellings from the public footway of Llanthewy Road is around 35m.
- 7.27 The dwellings would be mainly visible from the vista between 13 Clytha Park Road and 1 Llanthewy Road. The blank side elevation of Unit 1 would be visible from this position. However, it is considered that the combination of the setback distance and the proposed site levels reduces the visual impact and prominence of the development when viewed from Llanthewy Road. In particular, the massing and scale of the development would not appear to be unduly incongruous within the streetscene, especially when the setting of this plot is surrounded by rather large and tall buildings with those located behind the site at Caerau Road positioned in an elevated position due to the topography of the hillside.
- 7.28 Less prominent views of the development would be possible from Clytha Park Road. This would be mainly across private accesses/parking areas or voids and vistas between buildings with the approximate distance from the nearest public position being around 45m. It is considered that this distance, coupled with the proposed site levels, and the relationship of the proposed development with the topography, scale and massing of its surroundings, would not result in a development that would have a significant adverse effect on the visual amenities of the area when viewed from the vicinity of Clytha Park Road.

- 7.29 Caerau Road offers the least public visibility of the site from the immediate surroundings. This is mainly due to the rather dense positioning of buildings which limits the space and opportunities to obtain clear views of the site. Furthermore, buildings along this side of Caerau Road are generally two or three storeys in height and are positioned at a higher level than the application site. As such, the proposed block of four-storey dwellings would not be significantly visible from Caerau Road nor would they have a significant adverse effect on the visual amenity of the area. As such, it is considered that the proposed development broadly satisfies Policy GP6 of the NLDP.
- 7.30 The proposed design and appearance of the proposed dwellings would be inherently different to the character and architectural style which is apparent in this part of Newport. In this regard the applicant proposes a development which is akin to a block of four town-houses, with each dwelling being rather slender in width but extending to four storeys in height. The fourth storey would be in a recessed configuration, utilising the loft space and all openings would be located on front and rear elevations only. The roof structure of the block and associated parapet is considered to be the most contrasting feature to the buildings generally in this area with most adopting a conventional pitch roof to reflect their architectural period.
- 7.31 However, there are some variations in scale, design and appearance of buildings within the vicinity. This enables a degree of flexibility to be applied to the proposed development at the application site and is reinforced by the assessment of the site context and the more general impact that the proposed development would have on the streetscene and the visual amenity as a whole when viewed from the main public areas surrounding the site (paragraphs 7.26 – 7.29 refers).
- 7.32 The applicant has provided photographic examples of the type of architectural style that this proposal seeks to achieve. The submitted elevation drawings generally reflect this vernacular however the examples vary considerably in terms of elevational treatment with some adopting a 'clean' contemporary finish and some having a more traditional finish with fine and ornate architectural detailing. The supporting statement submitted by the applicant implies there is scope for a modern or traditional approach to be applied at the site. Whilst this is acknowledged, the elevation drawing is considered to be basic so it is considered necessary to impose a condition to control the design and appearance of all windows, doors and garage openings and the parapet roof structures. Subject to this condition it is considered that the proposed dwellings would not have an unreasonable adverse effect on the character and appearance of the streetscene or on the visual amenity as a whole, thereby satisfying Policy GP6 of the NLDP and general advice within Supplementary Planning Guidance: New Dwellings (SPG: ND). Furthermore whilst the dwellings appear to have included some traditional features, this is slightly contrasted by the intended use of more modern external finishes. In this regard, a schedule of external finishes has been provided indicating that the walls would be smooth render (cream) and the roof would be zinc (grey).
- 7.33 Llanthewy Road is largely characterised by buildings of brick and the proposed development would be mostly visible from this road. Furthermore, the photographic examples provided by the applicant are largely based on brick buildings with some containing an element of render. The use of render is considered appropriate on the secondary elevations (sides and rear) since they would be predominantly seen from Clytha Park Road and Caerau Road which contain some rendered buildings. A light coloured render finish would also assist in reducing the impact of the scale and massing of the development, particularly in the interests of visual amenity where a passive elevation is appropriate. Such a light finish often reduces the overall impact the amenity of neighbouring occupiers.
- 7.34 The external finishes of the principal elevation facing Llanthewy Road would be visible from this road and predominantly surrounded by brick buildings. Whilst a brick (or a brick and render finish) would be a more harmonious choice of external finish on this elevation, 1-3 Llanthewy Road is currently finished in render, therefore a full render finish would not be too discordant so as to have an adverse impact on the visual amenities of the area. It is also acknowledged that whilst

several buildings within the area have reasonable design merit, the site is not located within a Conservation Area nor is it immediately adjacent to a listed building.

- 7.35 The site currently does not have any significant amount of trees or vegetation of high amenity value which requires retention. The proposal offers limited scope for soft landscaping given the amount of hardstanding necessary to support the access and parking areas. Nevertheless, the submitted plan lacks detail on the type and finishes of the hard and soft landscaping. In the interests of visual amenity, particularly to ensure successful integration with its surroundings, it is considered necessary to impose a condition for hard and soft landscaping to be agreed. Also, the removal of certain permitted development rights would assist in ensuring that the Authority has effective control over the site, particularly to avoid overdevelopment and detriment to visual amenity. This satisfies Policies GP6 and H6 of the NLDP and SPG: ND.
- 7.36 **Residential Amenity**  
The site is located within a mixed commercial/residential area with properties to the north and east occupied by offices/businesses. As a result of this, it is concluded that the proposed block of four dwellings (Phase 1) would not have any significant adverse impact on the amenities of the occupiers of buildings on Clytha Park Road and Caerau Road, with particular regards to dominance and loss of light, outlook and privacy. The side elevation of Unit 1 would be a blank wall and given its scale and proximity to the boundary with Clytha Park Road, it is recommended to impose a condition which restricts window openings on this elevation.
- 7.37 Whilst the proposal would have windows on the rear elevation facing Caerau Road, these would be either screened by boundary treatments or face private car parking for the offices immediately behind. The site partially backs onto 75 Caerau Road which appears to be a block of flats. Whilst this is a residential use, its rear curtilage has no significant amenity value since it has been transformed into a parking area to serve its occupiers. As such, it is considered that the proposal would not have any significant adverse effect on the occupiers of this address.
- 7.38 No.5 Llanthewy Road is located to the south-west of Phase 1. It is a two-storey dwelling and given the topography of the land, it is sited on a higher level to the application site. The proposed development would be sited adjacent to the bottom end of the rear garden of No.5. The side elevation of Unit 4 would have a blank wall and in the interests of privacy and amenity, it is considered necessary to impose a condition which restricts window openings on this elevation. There would be windows on the front elevation of Unit 4 which would allow some views towards No.5, however these would be at an indirect angle and would not result in any unreasonable loss of privacy.
- 7.39 Whilst there would be some impact on the rear outdoor amenity space of No.5, mainly due to the close proximity of a 10m high building, the siting and scale parameters of the building associated with Phase 1 has already been established by the outline permission. Furthermore, the scheme presented in this application would involve the reduction of levels within the site which would reduce the overall impact of the scale and massing of the development on No.5. Also, since the proposed dwellings would be generally to the north-east of No.5, there would not be any unreasonable loss of sunlight to this property. Having regard to the above and subject to a condition which restricts window openings on the side elevation of Unit 4, it is considered that the proposal, on balance, would not result in a significant loss of amenity to the occupiers of No.5.
- 7.40 The proposed site layout plan demonstrates the relationship of the four dwellings with 1-3 Llanthewy Road which are located at the front-end of the site. Whilst these neighbouring properties represent Phase 2 of the overall development, it is possible that this phase may not be brought forward or implemented. As such, consideration must be given to the relationship of the Phase 1 development with 1-3 Llanthewy Road being retained as two dwellings. Should permission be forthcoming for this development, then any application associated with Phase 2 would be considered on its own merits but in conjunction with the approved Phase 1. The proposed site layout plan demonstrates that the rear of Nos.1 and 3 would be altered through the demolition of a single-storey extension and then the laying out of amenity spaces and parking

areas to serve the two properties. The site plan indicates that the distance between the front elevation of all four units and the new rear amenity spaces of Nos.1-3 would achieve approximately 10m which reasonably achieves the requirements of the Council's Supplementary Planning Guidance.

- 7.41 The distance between the front elevation of all four units and the altered rear elevations of Nos.1-3 would be approximately 18-19m. Whilst this is below the distance of 21m recommended the SPG, this relationship was a matter in which the Inspector considered at the appeal for 14/0022 (see Figure 2). Also, the Inspector considered that the circular access route around Nos.1-3, which would provide access to the four independent dwellings of Phase 1 to be acceptable, although the side elevations of Nos.1-3 may contain habitable room windows at ground floor level. Furthermore, it is acknowledged that this proposal would involve the re-use of underutilised land within a relatively dense urban and the topography of the surrounding land does allow instances where mutual or causal overlooking between properties is commonplace. Having regard to the above, it is considered that the proposal would not result in any unreasonable loss of amenity to the occupiers of 1-3 Llanthewy Road, thereby satisfying Policy GP2 of the NLDP and advice within SPG: ND.
- 7.42 It is however considered necessary to ensure that an acceptable standard of amenity would be retained to the occupiers of Nos.1-3 Llanthewy Road, therefore conditions are required for the outdoor amenity spaces, boundary treatments and parking areas associated with Nos.1-3 are provided and implemented prior to the occupation of any of the four dwellings associated with Phase 1.
- 7.43 In the interests of the residential amenity, particularly neighbouring occupiers, it is considered necessary to remove certain permitted development rights to avoid overdevelopment and adverse impact, thereby satisfying Policies GP2 and H6 of the NLDP and advice within SPG: ND.
- 7.44 With regards to the future occupiers of the four dwellings, the ground floor would have a garage which is of a size capable of accommodating a vehicle and an area for the storage of refuse. The first floor would have two bedrooms and bathrooms. Bedroom 1 would be located on the front and have a reasonable standard of amenity. Bedroom 2 is marginally smaller but sufficient to be a habitable room. This room would have substandard outlook and light with a window on the rear and directly facing a retaining wall with fencing on top.
- 7.45 Having regard to the above, it is considered that the Inspector's decision regarding the allowed appeal for 14/0022 is a significant material consideration in the determination of this proposal. Whilst the amenity of Bedroom 2 is not ideal, it is considered that on balance, each dwelling would achieve an overall standard of amenity that is acceptable, particularly for a development within a relatively dense urban area which seeks to make good use of underutilised brownfield land. The Head of Law and Regulatory Services (Public Protection) has no objections to the proposal which further assist the Authority to reach the conclusion that, on balance, this proposal would provide an overall standard of amenity which is acceptable.
- 7.46 The second floor would be in an open-plan configuration containing a kitchen, dining and living room. Light and outlook would be available from windows on two elevations and the overall level of amenity associated with this room is considered acceptable in an urban area. The third floor (loft) would contain a study. This room is of a size capable of being habitable in nature and it would have a sufficient standard of amenity. This to a degree compensates for the shortfall of amenity associated with Bedroom 2 on the first floor.
- 7.47 The four proposed dwellings would not benefit from any meaningful outdoor amenity space. Whilst this is unfortunate, this proposal is commensurate with the indicative plans that the Inspector's had seen by the allowed appeal for 14/0022 (Figure 2 refers). It is also noted that the site is within a relatively central location of Newport and that there are a number of flats nearby which have little or no private amenity space. The proposal therefore is considered, on balance, to satisfy Policies GP6, GP7, H2 and H6 of the NLDP and advice within SPG: ND.

**7.48 Highways and Parking**

This application proposes four dwellings at the rear of the 1-3 Llanthewy Road. These properties would be accessed from Llanthewy Road via a circulatory route which travels alongside and to the rear of Nos.1-3.

7.49 During the assessment of the application further information and amended plans have been received which has clarified a number of highway-related issues initially raised by the Head of Streetscene and City Services (Highways).

7.50 The amended site layout plan shows that parking would be provided for the four new dwellings and for the existing dwellings (Nos.1-3). In transportation terms, the site is located within a relatively sustainable area and the applicant has provided a sustainability assessment to demonstrate a reduction in the number of parking spaces required. Furthermore, the Head of Streetscene and City Services (Highways) holds significant weight to the Inspector's appeal decision on 14/0022 which raised no significant issues with regards to parking or highway safety matters associated with the principle of residential development on this site.

7.51 The indicative plans before the Inspector incorporated a circulatory system. Whilst the Head of Streetscene and City Services (Highways) indicates that this is not a type of arrangement which is often considered acceptable, it is accepted in this particular instance due to the conclusions of the Inspector within the appeal decision.

7.52 The Highways Officer explains that it would be important to ensure that vehicles are able to enter and leave the site from a particular access point as otherwise conflict may arise when vehicles use the same access but travelling from opposing directions. Whilst this is fully acknowledged, it would be difficult to enforce such a condition if imposed.

7.53 It would however be possible to impose a condition for a scheme of entry/exit signage which would encourage drivers visiting the site to use the circulatory route in the manner that it is intended (i.e. a one-way system).

7.54 The proposed site layout plan shows that the side exit point would be modified to move vehicles away from the neighbouring boundary wall. This would provide an improvement in pedestrian visibility and a condition would be required which requires this modification to be implemented prior to the occupation of any of the four units and further condition which requires any structures or planting in this area to a maximum height of 600mm.

7.55 A number of other conditions have been recommended by the Head of Streetscene and City Services (Highways). These include:

1. Restricting the ability for all the dwellings to convert their respective integral garages into non-parking spaces
2. The submission of a Construction Environmental Management Plan
3. The implementation and demarcation of the parking layout shown on the proposed site layout plan and a requirement for them to be retained in perpetuity
4. The requirement for the turning areas (identified by 'area to be kept clear' on the proposed site layout plan) to be implemented and kept clear in perpetuity.
5. No gates will be permitted at the access point in order to avoid any vehicles having to wait on the highway whilst the gates are opened which would cause an obstruction to the free flow of traffic.

7.56 Each dwelling would include space for the storage of refuse conveniently located on the ground floor with good access. Whilst the Highways Officer has recommended a condition for the provision of a refuse collection area at the immediate frontage of Llanthewy Road so that bins are stored on collection day without any obstruction of the footway, the proposal is only for four dwellings and such an arrangement would be relatively short-term only so as not to result in any

unreasonable detriment to highway/pedestrian safety. As such, it is considered unreasonable to impose this condition. However there may be scope during consideration of the Phase 2 development due to the potential for a greater number of residential units and that the site has the benefit of the street frontage.

7.57 Notwithstanding the above, the Head of Streetscene and City Services (Highways) has carefully considered the scheme, with particular regard and weight given to the appeal decision on 14/0022. No objections are raised subject to conditions and it is considered that the proposal, on balance, would not have an unreasonable effect on parking provision, amenity and highway/pedestrian safety, thereby satisfying Policies GP6 and T4 of the NLDP and Supplementary Planning Guidance: Parking Standards (SPG: PS).

#### 7.58 **Drainage and Utilities**

The application site does not lie within a flood risk area. A high proportion of the site is currently covered in hardstanding, however this is rather patchy and there is some vegetation growth on the surface. The proposed development would bring a more formal arrangement of surface treatments within the site and there would be a need to secure an appropriate mechanism to control surface and foul water discharges.

7.59 The submitted plans lack any detail relating to surface water drainage and this has been reinforced by comments made by the Head of Streetscene and City Services (Drainage). Notwithstanding the above, the site is within the urban area where it would be possible to control all drainage matters with a condition.

7.60 Welsh Water and Wales and West Utilities have no objections to the proposal and given the urban location of the site in which the surrounding buildings are either residential or commercial, all utilities necessary to support new residential units are likely to be within close proximity. It is considered that the proposal satisfies Policy GP3 of the NLDP.

### 8. **OTHER CONSIDERATIONS**

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

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

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

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

### **9. CONCLUSION**

- 9.1 This proposal seeks permission for all the reserved matters (access, appearance, landscaping, layout and scale) associated with Phase 1 of a larger residential development granted permission on appeal by 14/0022. Phase 1 comprises the construction of 4no. 2-bedroom residential units at the rear of the site.
- 9.2 The Inspector's decision regarding the allowed appeal for 14/0022 is a significant material consideration in the determination of this proposal. The decision is very much unique to the circumstances of this particular site and it has posed limitations on the scope of what the Authority can consider to be acceptable.
- 9.3 Having regard to the overall merits of the proposal and in the context of the appeal decision, it is considered that the scheme, on balance, is broadly acceptable and would not have such an adverse effect on visual amenity, residential amenity, drainage/services, parking and highway safety.

### **10. RECOMMENDATION – APPROVED WITH CONDITIONS**

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

Site Location Plan  
Proposed Site Layout [LL1 Option 2 (16/1/18)]  
Section Plan A-A [LL2 (16/1/18)]  
Proposed Elevations [LL3 (10/17)]  
Proposed Floorplans [LL6 (16/1/18)]  
Attic Plan [LL8 (10/17)]  
Schedule of Materials

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

- 02 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatments (including those serving 1 and 3 Llanthewy Road) to be erected. The boundary treatments shall be completed in accordance with the approved details and prior to the beneficial occupation of any of the dwellings hereby permitted.

Reason: In the interests of visual and residential amenities.

- 03 Notwithstanding the submitted plans, no development shall commence until a soft landscaping and planting scheme has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of the development. For the purposes of this condition, a full planting season shall mean the period from October to April.  
Reason: To ensure that the site is landscaped in a satisfactory manner.
- 04 Notwithstanding the submitted plans, no development shall commence until the external appearance and final wearing course of the accesses, driveways, walkways and turning and parking areas have been submitted to and approved in writing by the Local Planning Authority. Development shall be completed in accordance with the approved details and prior to the beneficial occupation of any of the dwellings hereby permitted.  
Reason: In the interests of visual amenity and highway safety.
- 05 The parking spaces as identified on drawing titled 'Proposed Site Layout [LL1 Option 2 (16/1/18)]' shall be provided and clearly demarcated prior to being brought into beneficial use and shall be retained for parking purposes in perpetuity.  
Reason: In the interests of highway safety and residential amenity.
- 06 The 'areas to be kept clear' as identified on drawing titled 'Proposed Site Layout [LL1 Option 2 (16/1/18)]' shall be kept clear in perpetuity to enable vehicles entering the site to undertake reversing and turning manoeuvres.  
Reason: In the interests of highway safety and residential amenity.
- 07 No structures or planting exceeding 600mm in height shall be placed with the void between the modified south-westernmost access and the boundary with No.5 Llanthewy Road.  
Reason: In the interests of amenity and highway safety
- 08 No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality\*, vibration, dust\*\* and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The Plan shall also include details of transport and pedestrian management, including the location of a site compound, provision of contractor parking and means of enclosure to restrict public access to the site. The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.
- \* The Institute of Air Quality Management <http://iaqm.co.uk/guidance/>
- \*\* The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003  
Reason: In the interests of general amenity, residential amenity and highway safety.
- 09 Notwithstanding the submitted plans, no development shall commence until a scheme for the provision of highway signage to be installed on locations within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of signage which identifies the vehicular entry and exit points, in accordance with the directions specified on drawing titled 'Proposed Site Layout [LL1 Option 2 (16/1/18)]'. The signage shall be installed in accordance with the approved



scheme and prior to the beneficial occupation of any of the dwellings hereby permitted. The signage shall then be retained in perpetuity.

Reason: In the interests of amenity and highway safety.

- 10 No dwelling shall be occupied until the the south-westernmost access has been modified in accordance with drawing titled 'Proposed Site Layout [LL1 Option 2 (16/1/18)].  
Reason: In the interests of amenity and highway safety.
- 11 The integral garages of all dwellings hereby permitted shall be kept available for the parking of private motor vehicles at all times and shall not be converted into habitable or domestic space without the prior written approval of the Local Planning Authority.  
Reason: To ensure that adequate on-site parking is retained in the interest of highway safety and residential amenity.
- 12 No gates or barriers shall be installed at any time across the two vehicular accesses hereby approved.  
Reason: In the interests of highway safety.
- 13 No development shall commence until a scheme for the comprehensive and integrated drainage of the site, showing how foul and surface water drainage will be dealt with, has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme and implemented in full prior to the beneficial occupation of any of the dwellings hereby approved.  
Reason: To ensure that effective drainage facilities are provided for the proposed development and to ensure that flood risk is not increased.
- 14 The amenity spaces serving Nos. 1 and 3 Llanthewy Road, as shown on drawing titled 'Proposed Site Layout [LL1 Option 2 (16/1/18)] shall be completed prior to the beneficial occupation of any of the dwellings hereby permitted.  
Reason: In the interests of residential amenities.
- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development)(Amendment) (Wales) Order 2013 (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, no development within Classes A, B, C, D, or E shall be carried out to any of the dwellings hereby permitted.  
Reason: In the interests of visual and residential amenities.
- 16 No first, second or third floor windows or openings shall be formed in the north-eastern elevation (side facing 10 Clytha Park Road) of Unit 1 and the south-western elevation (side facing No.5 Llanthewy Road) of Unit 4 without the prior written permission of the Local Planning Authority.  
Reason: In the interests of privacy and residential amenity.
- 17 No development shall commence until full details and specification of all windows and external doors (including garage openings) and the parapet roof structures have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details and specifications.  
Reason: In the interests of visual amenity.

*NOTES TO APPLICANT*

01 This decision relates to plan Nos: Site Location Plan; Proposed Site Layout [LL1 Option 2 (16/1/18)]; Section Plan A-A [LL2 (16/1/18)]; Proposed Elevations [LL3 (10/17)]; Proposed Floorplans [LL6 (16/1/18)]; Attic Plan [LL8 (10/17)]; Schedule of Materials

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP4, SP10, SP18, GP1, GP2, GP3, GP4, GP6, GP7, H2, H3, H6, T4 and W3 were relevant to the determination of this application. Also relevant were Supplementary Planning Guidance documents: New Dwellings and Parking Standards

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.

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## **APPLICATION DETAILS**

**No: 3**                      **17/1028**                      **Ward: ALLT-YR-YN**

**Type: RENEWALS AND VARIATION OF CONDITIONS**

**Expiry Date: 21-JAN-2018**

**Applicant: NEWPORT CITY COUNCIL & RESIDUAL LANDS LTD**

**Site: QUEENS HILL EDUCATION CENTRE, QUEENS HILL, NEWPORT, NP20 5XN**

**Proposal: VARIATION OF STANDARD CONDITION B TO EXTEND TIME PERIOD FOR SUBMISSION OF RESERVED MATTER IN RESPECT OF PLANNING PERMISSION 14/0386 FOR RESIDENTIAL DEVELOPMENT OF UP TO 92 DWELLINGS, FORMATION OF NEW ACCESS, OPEN SPACE, LANDSCAPING, PARKING FOR EXISTING RESIDENTS AND FACILITIES FOR ST MARYS ROMAN CATHOLIC PRIMARY SCHOOL (OUTLINE WITH ACCESS SUBMITTED FOR CONSIDERATION) TOGETHER WITH DEMOLITION OF EXISTING SCHOOL BUILDINGS**

**Recommendation: Granted with conditions**

### **1. INTRODUCTION**

- 1.1 The site comprises the grounds of the former Newport High School which closed a number of years ago and has since been demolished.
- 1.2 The application has been submitted jointly by Newport City Council and Residual lands Ltd. Residual lands is a company responsible for managing land on behalf of the successors in title to the former Lord Tredegar.
- 1.3 The site, which has an area of 4.18 hectares, borders existing housing development to the north, south and west. St Mary's Primary School is outside the application site but located in a central position to the eastern side of the proposed development. There is an open frontage between Nos. 9 and 11 Queens Hill. A children's day nursery and a 100 seat Panto Hall is located at the junction of Queens Hill and Queens Hill Crescent and the former offices of Shire Hall / County Chambers / Queens Chambers buildings are located to the south east, which have been converted into flats.
- 1.4 Outline planning permission 14/0386 was granted by Planning Committee in December 2014 for up to 92 dwellings, formation of a new access, open space, landscaping, parking for existing residents and facilities for St Marys Roman Catholic Primary School together with demolition of existing school buildings. Matters relating to appearance, landscaping, layout and scale were reserved for subsequent determination. Means of access was submitted for consideration as part of the application.
- 1.5 This current application is seeking to vary standard condition B of permission 14/0386 which states that "in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of this permission. Reason: the application is in outline only and the further details are required to ensure that a satisfactory form of development take place." In essence therefore, the application is seeking further time for the submission of reserved matters. There are no changes being proposed to the scheme previously approved.
- 1.6 The application has been reported to Planning Committee at the request of Councillor Fouweather.

## 2. RELEVANT SITE HISTORY

- 2.1 12/1067 Screening opinion request in relation to a proposed residential development with facilities, infrastructure and landscape enhancement – environmental statement not required.
- 2.2 Outline planning permission was granted by Planning Committee in December 2014 for up to 92 dwellings, formation of a new access, open space, landscaping, parking for existing residents and facilities for St Marys Roman Catholic Primary School together with demolition of existing school buildings.

## 3. POLICY CONTEXT

The adopted Newport Local Development Plan 2011-2026 (NLDP) has relevant policies:

Policy <b>SP1 Sustainability</b> favours proposals which make a positive contribution to sustainable development.
Policy <b>SP4 Water Resources</b> favours developments that minimises water consumption, incorporates SUDs and generally manages water resources and drainage effectively.
Policy <b>SP10 Housing Building Requirements</b> states that provision is made for 11,623 units within the plan period in order to deliver a requirement of 10,350 units. The plan seeks to deliver 2,061 affordable units.
Policy <b>SP13 Planning Obligations</b> states that development will be required to help deliver more sustainable communities by providing or making contributions to local and regional infrastructure in proportion to its scale and the sustainability of its location.
Policy <b>SP18 Urban Regeneration</b> supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
Policy <b>GP1 General Development Principles – Climate Change</b> 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.
Policy <b>GP2 General Development Principles – General Amenity</b> states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
Policy <b>GP3 General Development Principles – Service Infrastructure</b> 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.
Policy <b>GP4 General Development Principles – Highways and Accessibility</b> states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

Policy <b>GP6 General Development Principles – Quality of Design</b> states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
Policy <b>GP7 General Development Principles – Environmental Protection and Public Health</b> states that development will not be permitted which would cause or result in unacceptable harm to health.
Policy <b>H1 Housing Sites</b> lists the sites identified for residential development. The site known as Former Queens Hill School is listed under H62.
Policy <b>H2 Housing Standards</b> promotes high quality design taking into consideration the whole life of the dwelling.
Policy <b>H3 Housing Mix and Density</b> seeks a density of at least 30 dwellings per hectare on sites of 10 dwellings or more.
Policy <b>H4 Affordable Housing</b> requires on-site provision on all new housing sites of 10 or more dwellings within the settlement boundary. The submarket area target for the application site is 30% Rogerstone and West Newport.
Policy <b>T4 Parking</b> states that development will be expected to provide appropriate levels of parking.
Policy <b>W3 Provision for Waste Management Facilities in Development</b> states that where appropriate, facilities for waste management will be sought on all new development.

#### 4. CONSULTATIONS

- 4.1 DWR CYMRU WELSH WATER: No objection. A water supply can be made available to serve the development. A water main crosses the site.
- 4.2 WALES AND WEST UTILITIES: provides details on apparatus.
- 4.3 HEDDLU GWENT / GWENT POLICE: no objection.
- 4.4 SOUTH WALES FIRE AND RESCUE SERVICE: the developer should consider the need for the provision of adequate water supplies on the site for firefighting purposes and access for emergency firefighting appliances.

#### 5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE (HIGHWAYS): No objection.
- 5.2 HEAD OF STREETSCENE (TREE OFFICER): No objection.
- 5.3 HEAD OF STREETSCENE (ECOLOGY OFFICER): welcomes the submission of a Preliminary Ecological Appraisal. No bats were recorded using the buildings and no reptiles were recorded during the reptile survey. There is a confirmed bat roost on adjacent land and these species appear to be using existing mature trees on site to forage. Could I seek confirmation that, as stated in the report, no mature trees are to be removed?

Details of lighting will be required to ensure dark corridors are maintained for mobile species such as bats. Also, a Japanese knotweed eradication programme will be required.

- 5.4 HEAD OF REGENERATION AND REGULATORY SERVICES (PUBLIC PROTECTION): I would advise that existing condition 4 of decision notice 14/0386 remains for any extension granted. This relates to an agreed Demolition /Construction Management Plan.

I would also recommend that should a full application be received it should be supported by a report from a suitably qualified acoustic consultant to confirm noise levels at the proposed dwellings, both internally and externally, will meet the relevant target levels. The report should have regard to current relevant standards including BS4142:2014, TAN11, BS 8233:2014 and those set by World Health Organisation.

- 5.5 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING CONTRIBUTIONS MANAGER) has stated that this outline application 'indicatively' proposes up to 92 dwellings, comprising:

- a. 82 'market housing' dwellings;
- b. 10 'affordable housing' dwellings (equating to 11% of the development), plus a commuted sum of £324,400 for off-site affordable provision (which equates to the 4% provision of the development). As such, an overall provision of 15% affordable housing.

**Please Note:**

- Council policy (specified in the adopted Planning Obligations SPG) stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations;
- All figures are subject to potential inflation and indexation changes;
- The application is a joint venture project between Newport Council and Residual Lands;
- The overall planning obligation package reflects the following issues:
  1. Provision of facilities for St Mary's Primary School (estimated cost of £346,784) i.e. mini rugby pitch, hard playground/drop-off zone, outdoor gym, canteen, additional staff parking, relocation of fitness trail and possible use of the whole canteen building;
  2. Estimated 'lost' development land value of £1,304,000 for 'gifting' of land for above school facilities;
  3. 'Opportunity Cost' of not providing an additional 15% affordable housing provision would be £1,038,450;
  4. Taking into account the above three points, this represents a net community gain of infrastructure provision worth £612,334;
  5. Under the Charities Act 1993, any proceeds from the land owned by Newport Education Trust (4.033 acres) is 'ring fenced' for John Frost High School and Newport High School. This is estimated to be £3,226,400;
  6. The Council will receive 50% of the net proceeds of sale from the whole site and an apportionment of that 50% will be made between the Education Trust land and the Council owned land.

**Leisure**

Based upon the indicative scale and type of dwellings proposed, as well as taking account of the deficit of Equipped and Formal Play provision within the Alt-Yr-Yn ward, the development generates an indicative requirement of 0.45 hectares of Equipped and Formal Play provision.

The Applicant proposes an on-site provision of 0.45 hectares of open space to be maintained by a Private Management Company. The on-site open space includes one Local Area of Play (LAP) and an area of

Informal Play. Additionally, there will be provision of a commuted sum of £150,826 for off-site formal Play at Sorrell Drive and/or Glasllwch playing fields. This enables the maintenance of 0.38 hectares for 20 years. Overall, this represents a net gain of 0.38 hectare provision, over and above Council policy requirements.

All Leisure Sums will be index linked to the Retail Price Index

### **Education**

The development falls within the catchment area of John Frost High School (estimated surplus of 10 pupil places by 2021) and St Woolos Primary School (estimated deficit of 21 pupil places by 2021). Additionally, based upon the principle that there is no 'catchment guarantee', the site also falls within the 2 mile 'available safe walking route' distance rule of Crindau Primary School (estimated surplus of 26 places by 2021) and Clytha Primary School (estimated surplus of 4 places by 2021).

Notwithstanding the above, any potential future sum required will be dependent upon the scale and type of dwellings proposed in any related Reserved Matters planning application. As such, the following formula will be used to calculate the exact sum:

- Number of secondary pupils generated by 'open market' dwellings (at date of validation of the associated Reserved Matters application) in excess of available capacity at John Frost High School x £15,302 = Secondary Education Sum;
- Number of post 16 pupils generated by 'open market' dwellings (at date of validation of the associated Reserved Matters application) in excess of available capacity at John Frost High School x £16,427 = Post 16 Education Sum;
- Number of primary pupils generated by 'open market' dwellings (at date of validation of the associated Reserved Matters application) in excess of the aggregate available capacity at Crindau, Clytha and St Woolos Primary Schools x £16,115 = Primary Education Sum.

All Education Sums will be index linked to the BCIS

### **Highways**

- Owner/Developer to pay £20,000 to the Council to provide an intermittent 20mph speed limit along Queens Hill adjacent to the school; Sum required prior to first occupation.
- Owner/Developer to upgrade the existing "Zebra" crossing on Queens Hill to a signalised "Pelican" crossing; The Owner/Developer will be required to enter an Agreement under Section 278 of the Highways Act, 1980 to facilitate these works. Works are required prior to first occupation.
- Owner/Developer to provide alignment improvements to junction of Queens Hill and Pentonville junction; The owner/Developer will be required to enter an Agreement under Section 278 of the Highways Act, 1980 to facilitate these works. Works required prior to first occupation.
- Owner/Developer to provide a contribution towards the implementation of parking control schemes on Queens Hill and site access road (as deemed appropriate and following relevant consultations). A sum of £5000 is required to facilitate these works. Sum required prior to first occupation.

### **Affordable Housing**

The site lies within the Newport West Housing Target Area. As such, Council policy stipulates a requirement of 30% affordable housing provision.

The applicant is proposing 11% on site provision in the form of 10 two bed room apartments for applicants over 55 years of age. These units would be constructed and transferred to an RSL partner zoned for development within the city at a cost of no more than 50% of ACG and would fully comply with Welsh Government guidance i.e. DQR, Secure by Design and Lifetime Homes. The applicant is also proposing an additional commuted sum of £324,400 for off-site affordable provision within the City of Newport, which equates to the 4% provision (i.e. 4 x 2 bed (4 person) houses).

The above represents an under-provision of 15%, equivalent to a financial sum of £1,038,450. However, this is off-set by:

- the provision of facilities for St Mary's Primary School (estimated to be £346,784);
- the 'gifting' of land for St Mary's Primary school (estimated to be £1,304,000), and;
- proceeds from the land owned by Newport Education Trust (estimated to be £3,226,400)

The above represents an estimated 'net' community gain of infrastructure provision worth £3,838,734 to the Council

## **Conclusion**

The wider benefits of regeneration are important material planning considerations when determining the potential scope and scale of affordable housing provision. In this instance, it is considered that the under provision of affordable housing (by 15%) is outweighed by the regeneration benefits to education infrastructure (estimated to be £3,838,734).

- 5.6 HEAD OF EDUCATION: has no objection to the application and accepts that no education contributions are applicable on the currently proposed plans.
- 5.7 HEAD OF REGENERATION AND REGULATORY SERVICES (HOUSING): has no objection to the extension of time being sought.
- 5.8 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING POLICY MANAGER): The application site is allocated within the LDP as a housing commitment and has previously been granted permission under application 14/0386. The principle of residential development on this site is therefore well established. The views of relevant consultees should be sought to ensure there has been no change in circumstances, particularly in relation to highway capacity and access.

The Council's affordable housing policy has been updated since the determination of the existing permission. The site is located within the 30% affordable housing submarket area of Rogerstone and West. The views of the Planning Contributions Manager should be sought to establish the planning obligations triggered by the development.

The proposal is in accordance with housing allocation H1(62) – Former Queens Hill School, however, the views of the relevant consultees should be sought to ensure that there has been no change in circumstances in the acceptability of the scheme.

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

All properties within 50m of the application site were consulted, a site notice was displayed and a press notice published in South Wales Argus. Representations have been received objecting to the application as follows:

- It is unfair for the permission to be extended given the time that has passed.
- The proposed access is not suitable, the increase in traffic has not been addressed as well as the impact to homes on Queens Hill Crescent and the loss of privacy, light to the rear of the property as well as value to the property.
- The height of the property and distance from houses has not been given.
- The site should be redeveloped as a new school.
- Increase in parking problems resulting from additional accommodation in Shire Hall and the Admiral Insurance building.
- Increase in pollution.
- Issues of open space and security for existing properties.



- Noise from proposed parking areas and the construction process.
- The number of proposed houses is excessive.
- As no workable plans have been produced, does this prove that the site is unfit for housing? Should alternative uses be considered, such as a park or sports pitch?
- The scheme would disturb nesting birds.
- Did not receive a letter about the new application.

6.2 COUNCILLOR FOUWEATHER: Many residents have contacted me to express their anger that this application is still on-going even though it was given permission in 2014. They do not believe that it is right that the time limit should be extended and want the application totally withdrawn.

6.3 As I have said in the past this site is not suitable for development and therefore I will be supporting residents in their views and would like the time limit not to be extended. If this means that the application has to go back to Planning Committee then so be it. The applicants have had ample opportunity to advance this application despite being told from the start that the Queens Hill entrance was not suitable. This request for a time extension proves that the site is difficult to develop and unsuitable for residential development. The application also asks for ninety two properties. This would be too high a density and any application should be abandoned for this site. I also believe that any access from Fields Road would not be suitable.

Residents are very unhappy with this application. There will be serious issues of loss of privacy as the site is considerably higher than the houses that surround the site.

Residents on Fields Road object to any new entrance that will increase traffic volume and movement on Fields Road.

It is widely felt that the Queens Hill site should be left as green open space for residents to enjoy and for the school to use.

## 7. ASSESSMENT

7.1 Outline planning permission was granted by Planning Committee in December 2014 to develop the site for up to 92 dwellings, form a new access, provide open space, landscaping, parking for existing residents and facilities for St Marys Roman Catholic Primary School together with demolition of existing school buildings.

7.2 This application is seeking to vary a standard condition on the previous planning permission which stated that "in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of this permission. Permission 14/0386 was issued on 3 December 2014. This application was submitted prior to the application expiring (registered on 27 November 2017).

7.3 The application is not seeking to change the scheme previously approved. It is only seeking to extend the time to allow for the submission of reserved matters.

7.4 Matters relating to appearance, landscaping, layout and scale were reserved for subsequent determination, but means of access was submitted for consideration as part of the application. Means of access comprised a new vehicular access off Queens Hill and the retention of pedestrian and cycle traffic only via existing links to Fields Road and St Mark's Crescent.

7.5 The previous application was accompanied by an illustrative masterplan, which showed the following:

- 92 dwellings, including 10 affordable units. The dwellings would primarily be 2 storey in height with 2.5 storeys at key positions. The two storey dwellings would be between 7 and 8.8

metres in height and the 2.5 storey properties would be between 7 metres and 9.7 metres in height. It is envisaged to comprise 2, 3 and 4 bedroom houses and flats at a density of 30 dwellings to the hectare. However, it is important to note that as this was an outline planning application, with all matters except access reserved, these details were purely indicative.

- Two areas of open space, including a Local Area of Play (LAP)
- Internal access roads. The main spine road was envisaged to be wider than normal to allow for both on street parking and queuing during school drop off and pick up.
- On plot car parking
- Landscaping
- A parking area for existing residents (3 spaces)
- Facilities for use by St Mary's Primary School.

7.6 It was proposed to provide the following facilities for St Mary's Primary School:

- A 50 metre by 18 metre hard surfaced playground that would also be used as a dropping off and pick up area for schoolchildren and a hard surfaced games
- A 40 metre by 18 metre grass mini sports pitch
- An outdoor gym / relocation of St Mary's fitness trail
- A woodland classroom
- The retention and refurbishment of a building currently used by St Mary's as a canteen and gymnasium
- The demolition of the existing schools meals service building to be replaced by a hard surfaced playground for use by St Mary's, together with additional staff parking.
- There is an alternative masterplan which shows the option of retaining the existing schools meals service building for use by St Mary's in the event that the school requests the use of the whole building.

It was proposed that the land and these facilities would be for the sole use of the school and not for the wider community.

7.7 The site was originally gifted to the Council by Lord Tredegar for educational purposes but there was a condition to the gift relating to approx. 60% of the land that in the event of the site not being required for educational purposes, it should be returned to his successors (Residual Lands Ltd). There is a covenant that relates to 39% of the land that requires the proceeds of sale to be used for education purposes in Newport. There is also a small part of the site (0.225 acres or less than 1 %) that is owned unencumbered by Newport City Council.

7.8 The site has been declared surplus to educational requirements. Residual Lands have entered into a joint venture with Newport Council and have agreed to share the net proceeds of any land sale 50:50. The majority of Newport's share of the sale proceeds is ring fenced for Duffryn and Newport High Schools.

7.9 St Mary's School is outside the application site. However, since the closure of Newport High School, St Mary's has been using some of the vacant land for a variety of purposes, through a mixture of formal and informal arrangements. This is due to the fact that St Mary's occupies a very restricted site.

7.10 St Mary's uses (or has used in the recent past):

- The vehicular access and hard surfaced area as a car park for staff, visitors and parents;
- Part of the single storey building as a canteen / classroom;
- Part of the field as a woodland classroom
- The former playing fields as a pitch to practice rugby, a tennis court and had installed an outdoor fitness trail for the children.

- 7.11 In ordinary circumstances, if the land were to be developed and disposed of, St Mary's could be asked to cease the use of the land and would lose all these facilities with a dramatic effect upon the well-being of the school and its pupils. This would include losing the ability to drive into the land when picking up and dropping off children; this would then have to happen on Queens Hill.
- 7.12 Public consultation was carried out which found that there was strong support for continuation of the part of the site for improved facilities for St Mary's and the provision of a drop off / pick up area for parents. The applicants are in this case the City Council and local landowners that are not simply developers but also have historical connections to the site and its use by the community and are sympathetic to the social benefits resulting from the continued use of St Mary's. The application therefore seeks to incorporate the requirements of St Mary's within the scheme.
- 7.13 Given that this application is seeking to extend a previous planning permission, there is a precedent in favour of the proposal. However, this application must be considered in the light of any changes to planning policy and to take account of any changes to circumstances at the site.
- 7.14 At the time of the submission of application 14/0386, the development plan comprised the Unitary Development Plan which allocated the site for education purposes. Since that approval, the Local Development Plan was adopted in January 2015. The site is allocated within the Local Development Plan as a housing commitment (allocation H1 (62)). The principle of residential development on this site is therefore well established and in fact this housing allocation has in fact strengthened the case for approving this application.
- 7.15 A number of Supplementary Planning Guidance Notes were also adopted in August 2015 that are relevant to the proposal as follows:
- Planning Obligations
  - Affordable Housing
  - New Dwellings
  - Parking Standards
  - Outdoor Play Space Provision
  - Trees, Woodland, Hedgerows and Development Sites.
- 7.16 The Supplementary Planning Guidance Notes were adopted in reaction to the adoption of the Local Development Plan, to ensure that this guidance remained a material planning consideration in the assessment of planning applications. Whilst the opportunity was taken to update and where necessary alter the guidance, the changes to these guidance notes do not materially alter the assessment of the current application compared to the Supplementary Planning Guidance Notes that were in force under the Unitary Development Plan at the time of the assessment of planning permission 14/0386.
- 7.17 One change in Supplementary Planning Guidance that is relevant relates to affordable housing, which has now set up submarket area targets for Newport. The submarket area for the application site is Rogerstone and West Newport which has a target of 30%. However, this target is the same as the target which was set out in the affordable housing policy under the provisions of the Unitary Development Plan in force at the time of the previous permission 14/0386 was determined, and so there has been no change in the actual requirement.
- 7.18 The impact of the development in terms of traffic congestion was one of the main concerns amongst residents at the time of the previous application and a number of residents have reiterated this concern as part of this application. However, these matters were very well rehearsed as part of the considerations on the previous application and it was determined by Planning Committee that the proposal was acceptable on highway safety grounds. The Council's highways engineer has confirmed that he has no objection to the extension of time being sought as part of this application.

7.19 The scheme includes an improved access, a residents parking area and a dedicated drop off and pick up area within the site, which compares to a current situation where there is no off road drop off area as the existing access has been closed. Furthermore, the scheme includes off site highway improvements agreed as part of the previous permission and still proposed as part of this renewal, namely:

- **Alignment improvements to the Queens Hill and Pentonville junction** to improve visibility to the right when exiting from Queens Hill. Cars and vans are frequently parked within the double yellow lines outside Queens Chambers. A kerbed build-out along the length of the double yellow lines will physically prevent parking in this area and ensure visibility is maximised at all times. This will allow an extension of the 'Give Way' markings, further improving visibility and improving capacity at the junction.
- **A contribution of £20,000 to the Council towards the implementation of an intermittent 20 mph speed limit along Queens Hill** which accords with the Council's Policy to provide 20mph zones adjacent to schools This means that during school drop off and pick up times, signals will indicate a 20mph speed limit, but during remaining parts of the day, the speed limit reverts to 30mph.
- **A contribution towards the upgrading of the existing 'Zebra crossing' on Queens Hill to provide a signalised 'Pelican crossing'** which would require an Agreement under Section 278 of the Highways Act, 1980. A pelican crossing will better manage pedestrian demand to cross, improving the flow of traffic and reducing congestion.
- **A contribution of £5000 towards parking control schemes on Queens Hill and site access road as deemed appropriate and following consultations.**

7.20 There have been no significant changes at the site or within the surrounding area (the only change nearby of note would be the implementation of the flats at Shire Hall) that would alter the considerations of the proposed development. Previous conditions imposed including the requirement for a Demolition and Construction Management Plan can be reimposed. The Public Protection Manager has suggested that the impact of noise from the school on residents should be considered. It is considered that a proportion of the existing residents are likely to experience a betterment, given that following development they would border residential development compared to a school as existing. A proportion of new dwellings would adjoin St Mary's but future residents moving onto a new development will be aware of this. It is not considered that noise from a school is incompatible with an adjoining residential use and normal boundary treatment should adequately mitigate for this issue.

7.21 The application remains in outline and so details of layout submitted as part of a reserved matters application would allow the assessment of amenity and privacy issues.

7.22 In relation to trees and ecology, an up to date ecological survey was submitted. These matters can be resolved by the imposition of suitable planning conditions.

### **Planning Obligation matters**

7.23 Given that the Council is joint applicant with Residual Lands, a Section 106 agreement cannot be utilised in this case, as the Council cannot enter into a legal agreement with itself. The resolution is therefore simply to grant planning permission subject to conditions.

7.24 However, the Council as joint owner has control over the site and it is proposed to draw up a Development Agreement which will need to be signed by whichever developer purchases the

site. The Development Agreement will deal with both planning related matters such as securing the provision of on site leisure space, the contribution towards improving off site open space, the provision of affordable housing, the highway related improvements and potential contributions to education; but will also deal with the non-planning related matters, such as the contributions to St Mary's Primary School.

## Education

- 7.25 The Council's policy is that the actual sum required is calculated using formulas set out in the development agreement based upon the scale and type of dwellings proposed at Reserved Matters stage and taking into account the capacity of the relevant schools at the time of submission of the reserved matters application.
- 7.26 The applicant has agreed to a clause within the Development Agreement requiring contributions for primary, secondary and post 16 education based on the scheme that comes forward and based on capacity in schools at the time of submission of reserved matters.

## Leisure

- 7.27 The applicant proposes two separate areas of on-site open space, one adjacent to the site frontage facing Queens Hill (0.13 hectares) and the other in the southern part of the site to the west of the pedestrian link to Fields Road (0.12 hectares). These areas of open space totalling 0.25 hectares would be maintained by a Private Management Company. The open space facing Queens Hill would provide a Local Area of Play (LAP) which is unequipped but introduces an element of formality in the form of benches and fencing. Additionally, there will be provision of a commuted sum of £150,826 for off-site Formal Play at Sorrell Drive and/or Glasllwch playing fields, which equates to 0.2 hectares. Provision of on and off site therefore totals 0.45 hectares. The Planning Contributions Manager has confirmed that these on and off site leisure contributions are in line with the Council's policy guidance.

## Affordable Housing

- 7.28 The applicant is proposing 11% on site provision in the form of 10 two bed room apartments for applicants over 55 years of age. These units would be constructed and transferred to a Registered Social Landlord at a cost of no more than 50% of ACG and would fully comply with Welsh Government guidance i.e. DQR, Secure by Design and Lifetime Homes
- 7.29 The applicant is also proposing an additional commuted sum of £324,400 for off-site affordable provision within the City of Newport, which equates to the 4% provision (i.e. 4 x 2 bed (4 person) houses). This brings the total on site and off site affordable housing contribution to 15% which is 15% short of the Council's target of 30%

## Summary

- 7.29 In accordance with Policy SP13 of the adopted Newport Local Development Plan 2011-2026 and the adopted Planning Obligations Supplementary Planning Guidance, development will be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the sustainability of the location. In this case, planning obligations are required to mitigate the impact of the development summarised in the table below.

<b>Service Area that requires planning obligation</b>	<b>Purpose of planning obligation</b>	<b>Planning obligation initially sought by Planning Authority</b>	<b>Summary Heads of Terms agreed by applicant(s)</b>	<b>Viability Issues?</b>
<i>e.g. Regeneration, Investment and</i>	<i>e.g. to provide on site affordable housing</i>	<i>e.g. 40% affordable housing units at xx ACG, etc in accordance with policy XX of</i>	<i>e.g 20% affordable housing at XX ACG</i>	<i>Yes/No? Has the developer argued</i>

<i>Housing</i>		<i>LDP or in accordance with formulae in adopted SPG, etc</i>		<i>viability? If so, elaborate in relevant section of separate text</i>
Regeneration, Investment and Housing	Affordable housing	30% target	15% (comprising 10 units on site plus £324,400 for off site provision)	No
Education Services	Improvement to local education facilities	To be calculated at time of reserved matters submission	To be calculated at time of reserved matters submission	No
Streetscene (Leisure Services)	Improvement to existing and provision of new local leisure facilities	2 areas of on-site open space (0.25ha) £150,826 for off-site improvements	2 areas of on-site open space (0.25ha) £150,826 for off-site improvements	No
Streetscene (highways)	Improvements to local highway network	Alignment improvements £20,000 speed limit Pelican crossing £5,000 parking controls	Alignment improvements £20,000 speed limit Pelican crossing £5,000 parking controls	No

The only shortfall in planning contributions relates to the under-provision of affordable housing (15% compared to a demand of 30%). However, the scheme would bring forward a range of community benefits which can be summarised as follows:

- Provision of facilities for St Mary's Primary School (estimated cost of £346,784) i.e. mini rugby pitch, hard playground/drop-off zone, outdoor gym, canteen, additional staff parking, relocation of fitness trail and possible use of the whole canteen building;
- 'Lost' development land value of £1,304,000 for 'gifting' of land for above school facilities (1.63 acres @ £800k/acre);
- It would have cost the developer £1,038,450 to provide an additional 15% of affordable housing to reach the Council's target of 30% but taking into account the 'contributions' to St Mary's Primary School stated above, this represents an indicative net community gain of £612,334; and
- Under the Charities Act 1993, proceeds from the land owned by Newport Education Trust (4.033 acres) is 'ring fenced' for Duffryn High School and the former Bettws High School (i.e. Newport High School) estimated to be £3,226,400.

The wider benefits of regeneration are important material planning considerations when determining the potential scope and scale of affordable housing provision. In this instance, it is considered that the under provision of affordable housing (by 15%) is outweighed by the regeneration benefits to education infrastructure (estimated to be £3,838,734) and so it is recommended that the application be granted.

## 8. OTHER CONSIDERATIONS

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

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

### 8.2 **Equality Act 2010**

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

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

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

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

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

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

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

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

**9. CONCLUSION**

9.1 The principle of developing the site for residential purposes has been firmly established following the granting of planning permission 14/0386. This current application is simply seeking to extend the period for the submission of reserved matters and so the focus of assessment is to establish whether there have been any significant changes to planning policy or site circumstances since the granting of planning permission 14/0386 in December 2014. Whilst the intervening period has seen the adoption of the Local Development and associated Supplementary Planning Guidance, there have been no significant changes to policy objectives that impact upon the acceptability of the scheme. Furthermore, it is not considered that there have been any significant changes to site circumstances that impact upon the acceptability of the scheme. The planning conditions imposed on permission 14/0386 are reimposed below and a development agreement will secure the necessary planning obligations.

**10. RECOMMENDATION**

**GRANTED WITH CONDITIONS**

01 Approval of the details of the layout, scale, appearance of the building(s) and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority.

Reason: To safeguard the rights of control of the Local Planning Authority in respect of the reserved matters and to comply with the provisions of Article 3(1) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

02 Details submitted in pursuance of condition 01 shall accord with the principles of the masterplan submitted with this application. This shall include the provision of two areas of open space including a Local Area of Play.

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

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

- site location plan G2827-05-100
- master plan (G2827-05-102)
- master plan (alternative version) (G2827-05-103)
- masterplan with existing properties shown (G2827-05-104)
- Existing site sections (G2827-05-101)
- Height parameter information (email dated 30 April 2014)
- Demolition plan G2827 (05) 104 received 25 June 2014
- access plans
  - 4329.001E Access Arrangement (illustrative only)
  - 4329.SK09 School Pick Up / Drop Off Arrangements (illustrative only)
  - 4329.011 Auto track Swept Path Large Refuse Vehicle received 16 July 2014
  - 4329.SK10 Existing Access Road profile received 16 July 2014
  - 4239.007C Site Access and Retaining Wall Arrangement
  - 4329.008A Access Road Retaining wall Sections
  - 4329.009 Alternative Access Road Profile received 16 July 2014
  - 4329.010 Works to Pentonville junction
  
- Manual Traffic survey counts (Queens Hill and Pentonville) received 16 July 2014
- PICADY Site Access AM Peak received 16 July 2014
- PICADY Site Access PM Peak received 16 July 2014
- Bat and reptile report 28 March 2014 undertaken by Soltys Brewster ecology
- Design and Access Statement undertaken by Powell Dobson dated April 2014
- Planning Statement undertaken by Hannaby Planning Solutions dated April 2014
- Phase 1 Habitats Study
- Transport Statement dated January 2014 prepared by Stuart Michael Associates Limited
- Tree Survey and arboricultural statement rev A received 25 June 2014
- Arboricultural Constraints Plan Sheets 1-3 NP205NX/PHI/ACP Rev a received 25 June 2014
- Visual Context Appraisal
- Proposed Enabling Works dated February 2014 undertaken by Aecom
- Justification for Affordable Housing Contribution dated 14 October 2014 by Hannaby Planning Solutions
- Updated ecology report by Wildwood ecology dated October 2017.

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

***Pre- commencement conditions***

04 No development, to include demolition, shall commence until a Demolition / Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Development works shall be implemented in accordance with the approved Construction / Demolition Management Plan. Heavy vehicular movements associated with the construction of the development shall not be permitted to arrive or depart the site between the hours of 8.00am and 9.15am and between 3.00pm and 4.15pm on any days when St Mary's School is open to pupils.

Reason: To protect the amenities of nearby residents.

05 The development of land shall proceed sequentially in accordance with a phased programme that has first been submitted to and approved in writing by the Local Planning Authority that shall



be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of any development.

Reason: In the interests of the amenities of the occupiers of the proposed dwellings and in the interests of highway safety.

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

a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.

b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.

c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

No part of the development hereby permitted shall be occupied until:

d) Following remediation a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.

e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.

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

07 No development, other than demolition, shall commence on each phase as defined under Condition 05, until full details of the layout, widths, gradients, drainage, materials and specifications, cross sections, long sections, details of retaining structures and means of construction of all carriageways and footpaths has been submitted to and approved in writing by the Local Planning Authority. With the exception of the final wearing course, the development including footways, pedestrian crossings, street lighting and drainage shall be completed in accordance with the details as approved prior to the first occupation of any building in that phase. The final wearing course shall be completed prior to the first occupation of the last building in that phase.

Reason: To ensure that the roads shall be constructed and sited to the satisfaction of the Council so far as to provide a proper means of access for traffic and to ensure that the land can be adequately drained.

08 Prior to commencement of any development, other than demolition, a scheme of landscaping and tree planting including management details which shall be carried out according to a phased planting programme shall have first been submitted to and approved in writing by the Local Planning Authority. This programme shall relate the timing of planting and seeding, by areas to the construction and occupation of dwellings, and within these areas the landscaping scheme shall be implemented by a date not later than the end of the full planting season following the occupation of the first completed dwelling in each phase. The entire scheme shall be maintained for a period of 5 years from the date of planting in accordance with the agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: To ensure the development progress logically in a form which allows for the completion of constituent parts of the development before work is carried out.

09 No development including demolition works shall take place until the new access arrangement including the widening of the carriageway and footway together with the provision of 2.4 metre by 45 metre vision splays have been completed in accordance with the plans hereby approved.

Reason: In the interests of highway safety.

10 Prior to commencement of development, notwithstanding the details submitted, full details of slab levels shall be submitted to and agreed in writing with the Local Planning Authority. The dwellings shall be constructed in accordance with the agreed details.

Reason: In the interests of visual amenities and to protect the amenities of neighbouring residents.

11 Prior to work first commencing on site, full details of the proposed methods of surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. These details shall be fully implemented in compliance with the approved scheme prior to first beneficial occupation of any dwelling hereby approved.

Reason: To ensure the provision of adequate drainage.

12 No development, to include demolition, shall commence until a Tree Protection Plan (in accordance with BS 5837:2012) has been submitted to and approved in writing by the Local Planning Authority. The Tree Protection Plan shall contain full details of the following:-

- (a) Trees and hedges to be retained/felled clearly identified and marked on a plan;
- (b) Trees and hedges requiring surgery and details of the tree surgery;
- (c) The root protection areas to be identified on plan for retained trees and hedges;
- (d) The type and detail of the barrier fencing to be used to safeguard the root protection areas;
- (e) The precise location of the barrier fencing, to be shown on plan.

The development shall be carried out in accordance with the approved Tree Protection Plan.

Reason: To protect important landscape features within the site.

13 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the root protection barrier fencing has been installed in accordance with the approved tree protection plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the root protection area. All weather notices shall be erected on Heras fencing, 1 per 10 panels, stating 'Construction Exclusion Zone No Access'. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned without the prior written approval of the local planning authority.

Reason: to protect important landscape features within the site.

14 No operations of any description, (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection within the development, until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. (The Arboricultural Method Statement shall contain full details of the following:

Timing and phasing of arboricultural works in relation to the approved development;

Construction exclusion zones;

Protective barrier fencing;

Ground protection;

Service positions;

Special engineering requirements including 'no dig construction';

Pre-construction tree works;

Approved tree removals;

Access facilitation pruning.

The development shall be carried out in full compliance with the Arboricultural Method Statement unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To protect important landscape features within the site.

15 No development, to include demolition, shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project (to perform a Watching Brief) for the duration of the development and who shall be responsible for -  
Supervision and monitoring of the approved Tree Protection Plan;  
Supervision and monitoring of the approved tree felling and pruning works;  
Supervision of the alteration or temporary removal of any Barrier Fencing;  
Oversee working within any Root Protection Area;  
Reporting to the Local Planning Authority;  
The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.  
Reason: To protect important landscape features within the site.

16 Prior to any works commencing on site, a reptile survey shall be undertaken which shall be submitted to and agreed in writing with the Local Planning Authority. If necessary, a reptile mitigation strategy and method statement shall be submitted to and agreed in writing with the Local Planning Authority.  
Reason: In the interests of ecology.

17 Prior to works commencing on site, a scheme of Japanese Knotweed eradication shall be submitted to and approved in writing with the Local Planning Authority. The scheme shall be fully implemented in accordance with a programme to be agreed as part of the scheme.  
Reason: In the interests of ecology.

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

18 Prior to construction of the main access into the site, full details of the retaining wall and batter at this access including cross sections and a method statement for its construction shall be submitted to and agreed in writing with the Local Planning Authority. The access and associated retaining structure shall be constructed in accordance with the approved details.  
Reason: To minimise disturbance to the roots of the copper beech.

19 An access and car park to serve as a temporary drop off and pick up zone to serve St Mary's Primary School shall be completed prior to the commencement of construction of any dwellings hereby approved in accordance with full details which shall have previously been submitted to and agreed in writing by the Local Planning Authority. This temporary access and school drop off area shall be retained in use until the permanent school drop off area has been completed and made available for use.  
Reason: In the interests of highway safety.

#### ***Pre –occupation conditions***

20 No house shall be occupied until roads and footpaths have been laid to provide access to them and where applicable their related garages have been completed in accordance with the plans and details hereby approved.  
Reason: To ensure that the development is carried out in a proper and coordinated manner.

21 Prior to the first occupation of any dwelling hereby approved, the existing access to the site shall be stopped up and abandoned and footway and verge crossings shall be removed and made good in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.  
Reason: In the interests of highway safety.

22 Prior to first beneficial occupation of any dwelling, refuse storage facilities shall be provided and refuse collection management procedures shall be fully operational in accordance with full details which shall have previously been submitted to and agreed in writing with the Local Planning Authority. The facilities shall be retained in the approved state and the refuse collection management procedures shall remain operational at all times thereafter.

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

### **General conditions**

23 Access roads and driveways shall be constructed with a gradient no steeper than 1:8.

Reason: In the interests of pedestrian and highway safety.

24 The extent of the work hereby approved shall be agreed on site by the Council's Tree Officer prior to any works to the trees commencing.

Reason: In the interests of the health and longevity of the tree and preserving its amenity value: To protect important landscape features within the site.

25 Notwithstanding the details submitted, the permanent school drop off and pick up area shall be constructed and made available for use in accordance with a timescale to be agreed as part of condition 5 and in accordance with details which shall have previously been submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

26 Provision shall be made within the site for garaging/parking facilities for each unit in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The garaging/parking facilities as approved shall be provided prior to the first occupation of the associated unit and shall be kept available for such use at all times thereafter.

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

27 The development shall be finished in materials in accordance with details or samples of materials and finishes that shall have previously been submitted to and approved in writing by the Local Planning Authority.

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

28 Boundary treatment shall be implemented in accordance with details which shall have first been submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory appearance that would not prejudice the amenities of adjoining occupiers.

29 Except where otherwise agreed in writing by the Local Planning Authority or where shown on the plans hereby approved, no existing trees shall be felled, topped or lopped, and no existing hedges shall be removed.

Reason: To protect existing landscape features on the site.

30 Prior to import to site, soil material or aggregate used as clean fill or capping material shall be chemically tested to demonstrate that it meets the relevant screening requirements for the proposed end use. This information shall be submitted to and approved in writing by the Local Authority. No other fill material shall be imported onto the site.

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

31 Street lighting shall be installed in accordance with details which shall have first been submitted to and agreed in writing with the Local Planning Authority. The design shall have regard to the recommendations of Bat and reptile report dated 28 March 2014 undertaken by Soltys Brewster ecology.

Reason: In the interests of ecology.

32 The pedestrian routes linking the development site to Fields Park Road and St Mark's Crescent shall be provided in accordance with details to include maintenance details which shall have previously been submitted to and agreed in writing with the Local Planning Authority. These

links shall be provided in accordance with a timescale to be agreed as part of condition 05. These links shall be maintained accordingly at all times thereafter.

*NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP4, SP10, SP13, SP18, GP1, GP2, GP3, GP4, GP6, GP7, H1, H2, H3, H4, T4 and W3 were relevant to the determination of this application.

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

03 The application has been assessed having regard to Planning Policy Wales Edition 9 November 2016 and the Technical Advice Note 12 Design.

04 Prior to the commencement of the development hereby approved, the developer should contact the Council's address management team on 01633 656656 regarding street naming and numbering.

05 To protect the amenities of existing residents, attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities -

(i) no construction work involving piling shall be carried out on the site other than between the hours of 08.00 and 17.00 Mondays to Fridays and no construction work involving piling shall be carried out on Saturdays, Sundays or Bank Holidays, where it would create noise audible at the boundary of any residential property.

(ii) Any construction work which does not involve piling shall not be carried out other than between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays, where it would create noise audible at the boundary of any residential property.

06 The amended Wildlife and Countryside Act 1981 protects bird species whilst nesting in the UK. This protection extends to a bird, its nest, eggs, and young until such time as the young have fledged. Vegetation clearance should proceed outside the peak bird-breeding season (generally considered to be March through August inclusive) or within the breeding season only if a preclearance survey shows no breeding birds to be present, nesting or commencing nesting within the vegetation to be affected.

07 A water supply can be made available to serve the proposed development. The developer may be required to contribute under Section 40-41 of the Water Industry Act 1991.

08 The applicant will be required to enter into an Agreement under Section 278 of the Highways Act, 1980 with the Council to facilitate the access works.

09 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.

10 A public sewer cross the site.

**APPLICATION DETAILS**

**No: 4**                      **17/1169**                      **Ward: LLANWERN**

**Type:**                      **FULL**

**Expiry Date:**                      **01-FEB-2018**

**Applicant:**                      **O LEE**

**Site:**                      **UNDERWOOD COMMUNITY FACILITY, THE ACORNS, LLANMARTIN, NEWPORT, NP18 2EQ**

**Proposal:**                      **CHANGE OF USE FROM LEISURE CENTRE TO MIXED USE COMMUNITY AND CONFERENCE FACILITY TO INCLUDE ANCILLARY RESIDENTIAL SUITES AND CARETAKER ACCOMMODATION TOGETHER WITH EXTERNAL ALTERATIONS (RESUBMISSION)**

**Recommendation:**    **Refused**

**1. INTRODUCTION**

- 1.1 This application seeks consent for the change of use from leisure centre to mixed use community and conference facility to include ancillary residential suites and caretaker accommodation together with minor external alterations.
- 1.2 The application is a resubmission following the refusal of a similar proposal which was refused for the following reasons:

*01 The site is located within the open countryside and it has not been established that there is a need for residential accommodation to support the enterprise and there is no exceptional justification for it in this rural location. The proposed residential accommodation is contrary to Policy SP5 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015).*

*02 The development has a significant adverse effect on interests of acknowledged importance, namely safety and residential amenity, by reason of the site's location in Flood Zone C2. The proposal is contrary to Policy SP3 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015) and TAN15 and no information has been provided to mitigate this objection.*
- 1.3 Whilst some changes have been made to the proposed internal layout, the proposals are fundamentally the same as the previous scheme.

**2. RELEVANT SITE HISTORY**

17/0292	CHANGE OF USE FROM LEISURE CENTRE TO MIXED USE COMMUNITY AND CONFERENCE FACILITY TO INCLUDE ANCILLARY RESIDENTIAL SUITES AND CARETAKER ACCOMMODATION TOGETHER WITH MINOR EXTERNAL ALTERATIONS	Refused
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### 3. POLICY CONTEXT

#### 3.1 **Newport Local Development Plan –**

SP1 Sustainability seeks to ensure the development takes into account sustainable development principles. The proposal is supported due to its re-use of previously developed land.

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

SP5 limits development outside of the settlement boundary.

SP12 promotes development of new community facilities such as places of worship, cemeteries, health centres, nurseries, museums, public halls, cinemas, concert halls, allotments, leisure use etc. Development that affects existing community facilities should be designed to retain or enhance essential facilities.

SP13 Planning Obligations enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.

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

GP4 General Development Principles – Highways and Accessibility: The proposal must not detrimentally affect the highway capacity. There must be adequate public access and any new roads must be compliant with the Councils design scheme.

GP6 General Development Principles – Quality of Design: All new development must ensure that they are to achieve good quality design. This is ensuring that the proposal creates a safe, accessible and attractive environment taking into account the context, scale and materials of the design.

CE3 safeguards environmental space and corridors as identified on the Proposals Map. Development of environment space will only be permitted where the existing space will be improved or complemented; there is no adverse impact on nature conservation interest; there is an appropriate replacement; or it can be demonstrated that there is an excess of environmental space.

H2 promotes high quality design taking into consideration the whole life of the dwelling.

H4 sets out the affordable housing targets for the four submarket areas within Newport. For new housing sites of fewer than 10 dwellings within the settlement boundary, and fewer than 3 dwellings within the village boundaries, a commuted sum will be sought.

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

CF1 Protection of Playing Fields, Land & Buildings Used for Leisure, Sport, Recreation and Play notes that such sites will be protected unless it can be demonstrated that they are surplus to requirements or adequate alternative provision will be provided.

CF12 Protection of Existing Community Facilities resists the loss of existing community buildings unless alternative provision is made or it is demonstrated that the building is surplus to the needs of the community.

M1 Safeguarding of Mineral Resources states the Proposals Maps identifies areas safeguarded for minerals. The areas will be safeguarded unless the developer can demonstrate that working the resource is impractical; the minerals will be extracted prior to development; the development is temporary; there is an overriding need for the developments; or the development is limited householder development or would constitute limited infilling.

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

Parking Standards Adopted August 2015

Affordable Housing Adopted August 2015

### 4. CONSULTATIONS

#### 4.1 DWR CYMRU – WELSH WATER: Request drainage conditions.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection.
- 5.2 PLANNING CONTRIBUTIONS MANAGER: Part of the proposal includes a residential suite for the caretaker. This is deemed a 'rural enterprise' (associated with the development) and, as such, is exempt from planning obligations towards affordable housing. In addition, the proposal also includes 4 residential suites. These represent temporary accommodation ancillary to the principal community use. As such, they are also exempt from planning obligations towards affordable housing.
- 5.3 HEAD OF LAW AND REGULATION (NOISE): No objection subject to conditions relating to noise insulation, opening hours, fume extraction and a construction management plan.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): I do not object in principle to this application, however if works are proposed to the roof/fascias then I would recommend that a Preliminary Ecological Appraisal of the building be undertaken to determine if it has any potential for use by bats.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties within 100m of the application site were consulted (56no properties) and a site notice was displayed. No responses have been received.
- 6.2 COUNCILLOR KELLAWAY: I have requested that this is considered by full planning and would note that the main use of the community building would continue as was the case when the council owned it. The changes proposed suggest accommodation. A caretaker would have a positive effect if only to monitor council owned facilities adjacent to it i.e. the toddlers park (constantly vandalised) the multi-use area and the sports field. I can see benefits in principle of the redevelopment of it but would want proper conditions including full mitigation of potential flooding, traffic assessment and restrictions on numbers of delegates, timing of events, and number of events each year etc. to protect privacy and amenities of adjoining properties and remove any negative impact on those residents. Residents have suggested to me that a clear condition should also be that before any accommodation related work commences (if passed) the community works must be completed first, i.e. hall play areas gardens etc.

## **7. ASSESSMENT**

- 7.1 The site is designated as countryside and adjoins the Underwood village boundary, on land meeting the definition of previously developed land. The proposal involves the change of use of the existing building with some minor external alterations and no additional development is proposed. The proposal would bring into use a vacant building, which is in a poor state of repair and has a history of attracting anti-social behaviour. In this respect the re-use of the building is welcomed in principle subject to all other relevant considerations.
- 7.2 The building is a former leisure centre and was previously a community facility in the locality. Policy SP12 (Community Facilities) of the Council's Local Development Plan is supportive of new community facilities such as places of worship, cemeteries, health centres, nurseries, museums, public halls, cinemas, concert halls, allotments, leisure use etc. Given the former use of the property as a leisure centre, the proposed re-use of the building for religious purposes excluding the residential element complies with aims of policy SP12.
- 7.3 Whilst minimal external changes are proposed, due to the poor condition of the building extensive refurbishment is required. In terms of room configuration the existing main hall would be retained albeit with a café and children's soft play area within it. The smaller hall would be utilised as a conference room and the existing squash courts would be used as meeting rooms. Toilet facilities, storage areas, offices, a reception area and prayer rooms are also proposed at ground



floor level. At first floor level residential accommodation is proposed including two suites comprising a bedroom, living room, shower room and kitchenettes and four further bedrooms for staff. These will be accommodated on part of a new mezzanine proposed to expand the first floor floorspace. The applicant advises that the residential accommodation would be ancillary to the proposed use of the building and would provide accommodation on an occasional basis for people who have travelled to the facility. Caretaker's accommodation is also proposed and would comprise a living area, kitchen, shower room, two bedrooms and a study. So, in all, six bedrooms are proposed. The proposed external alterations include additional first floor windows within the western elevation of the building.

7.4 The applicant advises that the proposals can be sub-divided into two distinct sections:

1. The rejuvenation of the leisure facilities that have ceased to operate, under the scope of a not for profit company;
2. Residential Accommodation to part of the first floor.

The applicant has undergone public consultation prior to the submission of the application including a public meeting. The applicant reports a number of matters raised by the community but these can be broadly summarised as concerns relating to the loss of the facility and the future intentions for the building.

7.5 ***Proposed Religious Retreat Use***

It is stated within the Business Plan accompanying the application that the applicant plans to operate the Centre as a charitable and community hub, providing support for families and cultural activities for local residents, as well as providing a meeting place for community groups of all ages and opportunities for diverse educational programs, social activities, and leisure activities.

7.6 The proposed use of the building for a community hub/Christian Centre and the uses described above are not considered to give rise to any concerns. As previously noted, the building is a former leisure centre and would have once been the focus of community activity in the locality. Its re-use for a continued community focused activity, albeit a more focussed community use is considered to be acceptable.

7.7 ***Residential Accommodation***

The proposals include residential accommodation for the caretaker and family and 4 further residential suites. The applicant considers the caretaker's accommodation is necessary to the existence of the building and without it the building would be vulnerable to further vandalism and break-ins and the caretaker would also provide surveillance over the adjacent Council funded play area. However, given the site's location within the countryside, the provision of a permanent form of residence is contrary to policy. No details of exceptional justification for residential accommodation in this rural area have been provided. It is acknowledged that the building has been subject to break-ins and vandalism in the past. However, this alone is not considered to be sufficient justification for permanent residential accommodation within the building and it is considered that if additional security measures to the building are not adequate to secure it, there are more suitable alternatives which have not been explored by the applicant. The unit functioned as a leisure centre facility for many years in the absence of on-site residential accommodation. The proposals conflict with Policy SP5 of the LDP. No additional justification has been provided for the proposed caretakers accommodation above that received as part of the previous application.

7.8 The proposal also includes 4 residential suites. The applicant advises that the guest accommodation would not be a permanent place of residence. The facility would be run largely by volunteers who may have come from afar given that the applicant is Korean and is expecting support from Korean Church Groups who may require overnight accommodation. The applicant wishes, on limited occasions, to hold Christian gatherings. The speakers and/or special guests

would be invited to stay in the rooms on the first floor. This element of the proposals relates to temporary accommodation and subject to it being considered ancillary to the principal community use, it could be concluded that it is acceptable in principle and consistent with the requirements of Policy SP5. However, as noted above, a considerable amount of residential accommodation is proposed. Despite their intended occasional use, the number of suites is considered to be excessive and is beyond what could reasonably be regarded as ancillary to the primary leisure/community use of the building. In terms of floor space alone, the residential suites account for most of the enlarged first floor area of the building. Officers have concerns about the nature and scale of the residential suites and do not consider this aspect to be ancillary to the main use of the building. The applicant advises that they would be open to a personal consent with regard to this aspect of the proposals which would mean that the use of the guest accommodation would have to cease if the site were to be sold. However, personal consents are rarely justified and in any case would not overcome the Council's concerns with regard to the scale of the proposed accommodation.

7.9 There is a good degree of separation between the building and neighbouring residential properties and given the fall-back use of the building as a community facility which could include ancillary events including concerts and conferences with unrestricted hours of use, it is not considered that the proposed mixed use including the residential element would result in a greater degree of noise or disturbance to neighbouring occupants or in a detrimental impact to the character of the area.

#### 7.10 **Flooding**

The application site lies partially within Zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). NRW Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability flood outlines of the Monks Ditch, which is a designated main river. Although not all the site is within C2, a large proportion of it is including the site access.

7.11 In response to the proposals NRW advise that recognising the particular nature of this application, they have no objection to the proposals. However, they advise that it is considered good practice for a Flood Consequences Assessment (FCA) to be undertaken in support of the application. This is to ensure all parties are aware of the risks to and from the proposed development and ensure that the risks and consequences of flooding are minimised as far as possible. The FCA should establish what the predicted flood risk is to the building and its access/egress routes, this will provide a better understanding of the risks and consequences of flooding.

7.12 Despite there being no objection from NRW it is the role of the Local Planning Authority to assess the proposals having due regard to local and national planning policy which is clear that highly vulnerable development, which includes all forms of residential premises, is not acceptable in flood zone C2. The applicant argues that had the building not closed, it would still be functioning within a flood risk area. However, whilst this is not disputed it is the residential aspect of the proposals which is of concern in terms of flood risk and the lawful use of the building does not include such a use.

7.13 Notwithstanding the policy objection to the permanent and occasional residential accommodation, the applicant has not provided an FCA although they do acknowledge the building being within a flood risk area. For new residential accommodation within flood zone C1 the LPA would expect for an FCA to be provided to ensure that the risks and consequences of flooding are minimised as far as possible and to assess whether the development would comply with the tolerable limits as set out in part A1.15 of TAN15. The applicant has offered some justification as to why the flood risk is acceptable and points out that not all of the site is within the flood risk area. The rear doors would act as an escape route should a flood event occur. The building has a large number of storm-water drainage gullies located across the front of the building at the edge of the car park. There is a dedicated electric pump located within and

adjacent the building which pumps water away from the building and into Monk's Ditch. The entire system will be overhauled. Further, the applicant contends that he is aware of the flood risk and will ensure that there are flood escape plans kept in visual places in the front reception area as well as on the first floor landing. The building will be connected to the NRW Flood Warning telephone service. Staff will be briefed on the Flood Emergency Plan and a number of sand bags will also be kept on site. However, as noted above, local and national planning policy is clear that new residential development is not acceptable in flood zone C2 irrespective of whether or not a FCA is provided to inform the LPA in the decision making process.

7.14 Given the fall-back use of the building as a community centre, there is no objection to the use of the building as a mixed use community and conference facility. However, the residential element of the proposals including both the caretaker's accommodation and the residential suites is unacceptable in flood risk terms. It is at risk and insufficient information has been provided to mitigate this risk.

#### 7.15 ***Environmental Space***

The northern part of the application site is allocated as Environmental Space in the LDP. However, the proposal is contained within the existing building and does not involve development on the Environmental Space. As such there are no concerns about the impact of the proposals on the Environmental Space.

#### 7.15 ***Minerals Safeguarding Area***

The northern part of the site includes land designated as a Sand and Gravel Minerals Safeguarding Area under Policy M1 of the LDP. However, the proposal is restricted to the re-use of the existing building and does not include any form of development on the designated minerals safeguarding area. On this basis, there are no concerns relating to impact on minerals.

#### 7.16 ***European Protected Species***

The Council's Ecology officer advises that whilst she does not object in principle to the application, if works are proposed to the roof/fascias then she recommends that a Preliminary Ecological Appraisal of the building be undertaken to determine if it has any potential for use by bats. However, the applicant advises that only minimal repair works are proposed. As these works could be carried out without planning permission, it would be unreasonable to require the applicant to undertake such a survey. However, it is a criminal offence to disturb a bat roost and the applicant could be advised of this by way of an informative if planning permission were forthcoming.

### **8. OTHER CONSIDERATIONS**

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

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

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

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

**9. CONCLUSION**

9.1 The re-use of the vacant community building has considerable merit. However, the proposals for permanent residential accommodation outside of the settlement boundary are contrary to policy. It has not been established that there is functional need for residential accommodation to support the enterprise and there is no exceptional justification for it in this rural area. Similarly, the proposed residential suites are considered to go beyond what can reasonably be considered ancillary to the main use of the building as a leisure/ community facility and are unacceptable.

9.2 Furthermore, highly vulnerable development, such as residential accommodation within C2 is not acceptable in principle and no information is provided to mitigate this objection.

9.3 It is recommended that the application is refused.

**10. RECOMMENDATION**

**REFUSED**

01 The site is located within the open countryside and it has not been established that there is a need for residential accommodation to support the enterprise and there is no exceptional justification for it in this rural location. The proposed residential accommodation is contrary to Policy SP5 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015).

02 The development has a significant adverse effect on interests of acknowledged importance, namely safety and residential amenity, by reason of the site's location in Flood Zone C2. The proposal is contrary to Policy SP3 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015) and TAN15 and no information has been provided to mitigate this objection.

*NOTE TO APPLICANT*

01 This decision relates to plan Nos: KD1605/1, KD1605/2, KD1605/3 and site location plan.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP12, GP2, GP4, GP6, CE3, H2, H4, T4, CF1, CF12 and M1 were relevant to the determination of this application.

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

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# Report

## Planning Committee

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### Part 1

Date: 11 January 2017

Item No: 6

**Subject** TPO 10 of 2017 land adjacent to Ger y Parc adjacent to Catsash Road

**Purpose** To request the authorisation of Planning Committee to confirm a Provisional Tree Preservation Order (TPO) with modifications to the plan and schedule.

**Author** Tree Officer (TPOs and Private Land)

**Ward** Langstone

**Summary** Tree Preservation Order 10 of 2017 was made as a Provisional Order with immediate effect and the woodlands will be unprotected unless the TPO is confirmed . As one formal objection has been made to the TPO , the details are reported for consideration.

**Proposal** That Tree Preservation Order 10 of 2017 land adjacent to Ger y Parc Catsash Road is confirmed.

**Action by** Head of Regeneration, Investment and Housing

**Timetable** Immediate

This report was prepared after consultation with:

- Chief Financial Officer
- Monitoring Officer –Law and Standards
- Head of People and Business Change
- Cllr Ray Mogford and Cllr William Routley

**Signed**

## Background

The order was made on 15 December 2017 to protect a woodland areas within a parcel of land adjacent to Ger y Parc Newport .

One objection has been received:-

- Mr Jon Straw Brooklyn Farm Llandevaud Newport NP18 2AE

The main reasons stated with rebuttal are as follows:-

1. Alleged that that the TPO was issued out of “malice” and not to protect trees.

***The Tree Preservation Order (TPO) has been made in accordance with the procedure followed by the Council as set out in The Town and Country Planning (Tree) Regulations 1999 which still apply in Wales.***

***There was evidence on site that a number of trees had been felled and a series of emails from local residents believed that the woodland trees were under threat and that more felling work was to take place over the Christmas Holiday period.***

2. That the TPO map is inaccurate regarding the position of the woodland areas.

***The woodland areas outlined on the TPO were taken from aerial photographs so it is believed that the woodland areas on the TPO plan are accurate. Mr Straw has been asked to submit mapped evidence to the contrary and if received it will be assessed and amended accordingly.***

***Newport City Council welcomes proactive management of trees and woodland and positively supports TPO applications to this effect.***

## Financial Summary

- The costs and financial implications: You must discuss financial implications with the Head of Finance and the report must identify from where your proposals will be funded, together with any impact on budgets or any opportunity costs

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs (Income)					na
Net Costs (Savings)					
Net Impact on Budget					

## Risks

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?
Tree being			Provisional TPO on tree which	Tree



felled if TPO is not conformed.	H	H	now needs to be confirmed.	Officer(TPOs and Private Land)

### Links to Council Policies and Priorities

In accordance with the Town and Country Planning Act 1990.

### Options Available and considered

To confirm the TPO  
Not to confirm the TPO

### Preferred Option and Why

To confirm the TPO to ensure the tree is protected.

### Comments of Chief Financial Officer

As noted within the report there are no financial implications to the Council from the issuing of a TPO.

### Comments of Head of Law & Standards – Monitoring Officer

A Local Planning Authority may make a TPO if it is expedient in the interests of amenity to make provision for the preservation of trees or woodland. Trees may be preserved for their intrinsic beauty or contribution to the landscape. There should be a reasonable degree of public benefit and TPOs should only be used to protect trees where their removal would have a significant impact on the environment or upon its enjoyment by the public. Before deciding whether or not to confirm a TPO the Local Planning Authority must consider any objections or representations duly made. An Order may be confirmed with or without modification.

### Comments of Head of People and Business Change

The report refers to a Tree Protection Order so there are no staffing implications. TPO's are relevant in meeting the commitment in the Council's wellbeing objectives "To promote economic growth and regeneration whilst protecting the environment." The objections that have been received must be considered before the TPO is confirmed, however the decision is a matter for the Planning Committee to determine

### Local issues

Not applicable

### Scrutiny Committees

Not applicable

### 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.

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

Not applicable

### **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.

### **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.

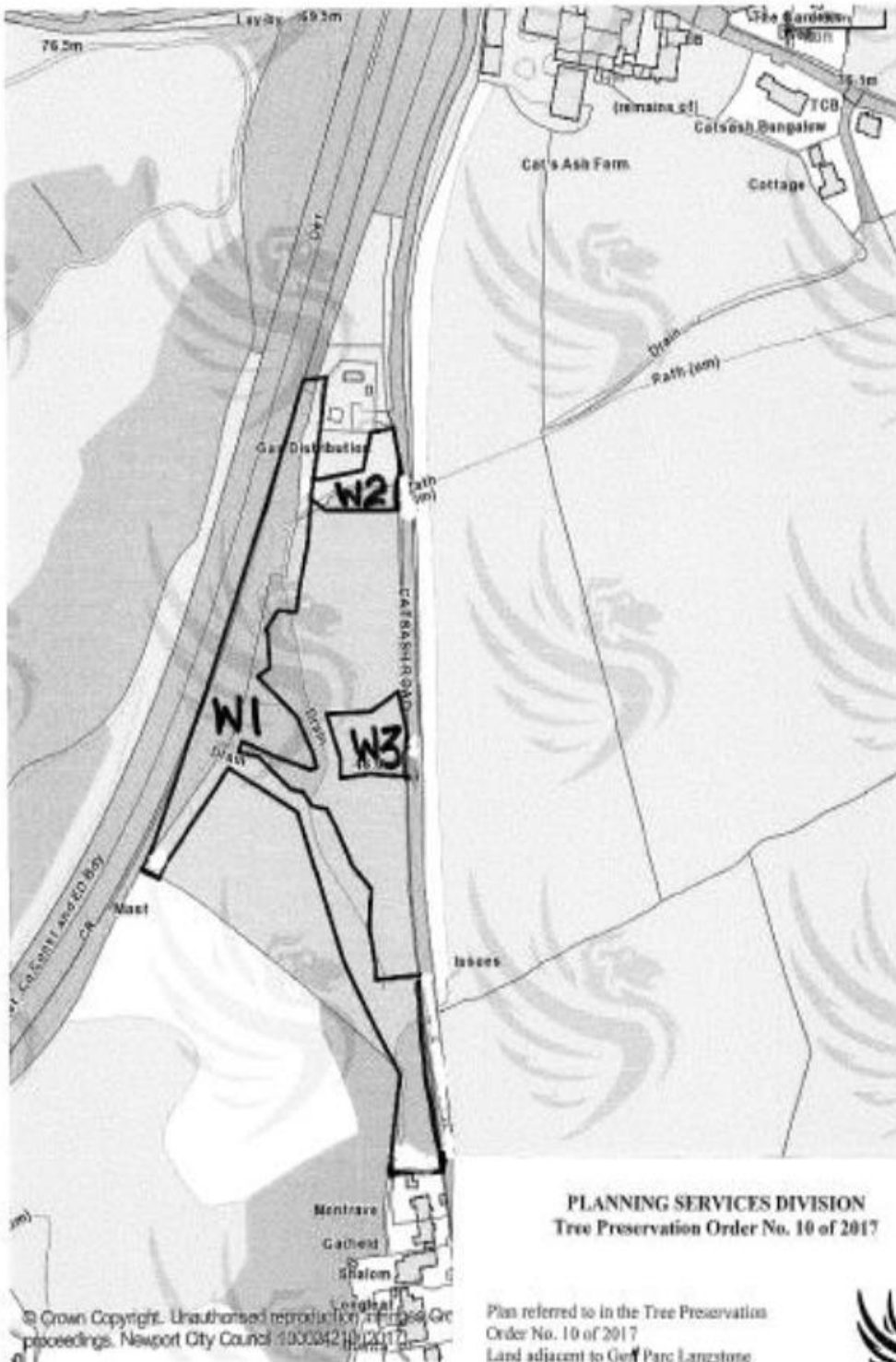
### **Consultation**

Cllr Ray Mogford – no comment received

Cllr William Routley – no comments received

### **Background Papers**

n/a



**PLANNING SERVICES DIVISION**  
**Tree Preservation Order No. 10 of 2017**

Plan referred to in the Tree Preservation Order No. 10 of 2017  
 Land adjacent to Golf Parc Langstone  
 Deposited and sealed by the Newport City Council, this 15<sup>th</sup> day of December 2017

Scale 1:2500  
 Signed: *G. Alice*



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