

Agenda



Planning Committee

Date: Wednesday, 7 March 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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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.

Part 1

Item	Wards Affected
1. Agenda Page - Welsh Cym (Pages 3 - 4)	
2. Apologies for Absence	
3. Declarations of Interest	
4. Minutes of the meeting held on 7 February 2018 (Pages 5 - 10)	
5. Development Management: Planning Application Schedule (Pages 11 - 38)	
6. Appeal Decisions (Pages 39 - 64)	

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Date of Issue: Wednesday, 28 February 2018

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Agenda



Pwyllgor Cynllunio

Dyddiad: Dydd Mercher, 7 Mawrth, 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

Gwe-ddarllediadau Cyngor Dinas Casnewydd

Mae gwe-ddarllediadau 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 darllediadau'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. Agenda Cym
2. Ymddiheuriadau dros Absenoldeb
3. Datganiadau Diddordeb
4. Cofnodion y cyfarfod (ydd) diwethaf Pob Ward
5. Rheoli Datblygu: Rhaglen Ceisiadau Cynllunio Pob Ward
6. Penderfyniadau Apeliadau

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Minutes



Planning Committee

Date: 7 February 2018

Time: 10.00 am

Present: Councillors J Richards (Chair), J Clarke, C Ferris, Y Forsey, R White, R Mogford and C Townsend

In Attendance: T Brooks (Development & Regeneration Manager), S Williams (West Area Development Manager), G Roberts (Principal Planning Officer), E Jones (Principal Planning Officer), J Evans (Senior Solicitor – Planning & Land) and A Jenkins (Democratic Services Officer)

Apologies: Councillors J Guy, M Al-Nuaimi, M Linton and J Jordan

1. **Declarations of Interest**

Councillor Forsey declared a prejudicial interest in application 17/0953 and did not take part in the determination.

Councillor Ferris declared a prejudicial interest in application 17/1028 and did not take part in the determination.

2. **Minutes of the meeting held on 10 January 2018**

The minutes of the meeting held on 10 January 2018 were submitted.

Resolved

That the Minutes of the meeting held on 10 January 2018 be taken as read and confirmed.

3. **Development Management: Planning Application Schedule**

(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.

4. **Tree Preservation Order (TPO) - Land adjacent to Ger-y-Parc adjacent to Catsash Road**

Due to further investigation required regarding the woodland areas and whether it was accurately surveyed, this item has been deferred.

5. **Date of Next Meeting**

Wednesday 7 March 2018 at 10am in Council Chambers.

PLANNING COMMITTEE – 7 FEBRUARY 2018

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
17/0397	<p>Rothbury House, 10, Stow Park Circle, Newport, NP20 4HE</p> <p>Change of use of building to 7no. bedroom guesthouse, ground floor restaurant, orangery side extension, demolition and replacement of outbuilding, car parking and landscaping.</p>	Stow Hill	<p>Cllrs Forsey and White queried adequate parking facility. The Principal Engineer confirmed that the new parking arrangements met parking standard with the provision of 21 spaces. Staff parking had been taken into consideration.</p> <p>Cllr Mogford mentioned that the building had been derelict for 10 years and it would deteriorate further if it was not developed.</p> <p>Cllr Clarke considered that there were no further issues as the parking provision had been resolved . Cllr White referred to the Orangery which was not on the previous plans. The West Area Development Manager agreed that the Orangery was new, however there were no objections by the planning officers to this additional structure.</p>	<p>Granted.</p> <p>Public Speakers: Mrs Dunn (against), Mr Gray (Agent) and Councillor Whitcutt (Ward Member)</p> <p>Site visit proposed. Reason for site visit: To allow Members to understand amenity issues including parking and access issues which existed in the area.</p> <p>Voting: Five in favour, one against.</p>
17/0960	<p>Land To Rear of and Including 1 And 3, Llanthewy Road, Newport</p> <p>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</p>	Allt-yr-yn	<p>Cllr Ferris considered that the plans were not as aesthetically pleasing as previously proposed. Cllr White queried the dimensions on the garage which was provided as the access and egress looked narrow. The measurements however were considered acceptable.</p>	<p>Granted</p> <p>Voting: Unanimous</p>

No	Site/Proposal	Ward	Additional Comments	Decision
	11/1017 for residential development).			
17/1028	<p>Queens Hill Education Centre, Queens Hill, Newport, NP20 5XN</p> <p>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.</p>	Allt-yr-yn	<p>The West Area Development Manager reminded Committee that the officers recommendation was that the application be granted.</p> <p>Cllr Forsey queried whether the development would go ahead. The West Area Development Manager confirmed the site was allocated in the LDP.</p> <p>Cllr Mogford queried the potential problems with increased traffic which was considered a real concern. The Principal Engineer had considered the transport assessment.</p> <p>Cllr White queried the possibility of an extra condition to be put in place for the side road which was previously accessible to the primary school be re-opened to ease traffic during school drop-off and pick-up. This was outside the scope of Planning, however as it was a general concern, the matter would be forwarded to estates to voice the Committee's concerns.</p>	<p>Granted with conditions</p> <p>Public Speaking: Councillor D Fouweather (Ward Member)</p> <p>Voting: Four in favour, two against.</p>
17/0953	<p>Crindau Pill Flood Alleviation Scheme, Evans Street, Newport</p> <p>Variation of condition 01 of planning permission 15/0078 for proposed new raised flood defences to reposition sheet pile wall and engineer river bank.</p>	Shaftesbury	<p>Chair of Planning mentioned that access to the river was an aspiration to bring canals back into use. Cllr Ferris asked if the flora and fauna was affected. An appropriate assessment had been undertaken and the plans were considered acceptable.</p>	<p>Granted</p> <p>Voting: Unanimous</p>

No	Site/Proposal	Ward	Additional Comments	Decision
17/1169	<p>Underwood Community Facility, The Acorns, Llanmartin, Newport, NP18 2EQ</p> <p>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).</p>	Llanwern		<p>Refused</p> <p>Voting: Unanimous</p>

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Report

Planning Committee

Part 1

Date: 7 March 2018

Item No: Item 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.

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

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?
determination, with costs awarded against the Council			unreasonably.	Development Services Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee Development Services Manager

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

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

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

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

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

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

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

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

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

Options Available

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

Preferred Option and Why

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

Comments of Chief Financial Officer

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

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

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

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

Comments of Monitoring Officer

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

Staffing Implications: Comments of Head of People and Business Change

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

Local issues

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

Equalities Impact Assessment and the Equalities Act 2010

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

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

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

Children and Families (Wales) Measure

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

Wellbeing of Future Generations (Wales) Act 2015

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

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

Planning (Wales) Act 2015 (Welsh Language)

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

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

Crime and Disorder Act 1998

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

Consultation

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

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

PPW Technical Advice Notes (TAN):

TAN 1: Joint Housing Land Availability Studies (2015)
TAN 2: Planning and Affordable Housing (2006)
TAN 3: Simplified Planning Zones (1996)
TAN 4: Retailing and Commercial Development (2016)
TAN 5: Nature Conservation and Planning (2009)
TAN 6: Planning for Sustainable Rural Communities (2010)
TAN 7: Outdoor Advertisement Control (1996)
TAN 8: Renewable Energy (2005)
TAN 10: Tree Preservation Orders (1997)
TAN 11: Noise (1997)
TAN 12: Design (2016)
TAN 13: Tourism (1997)
TAN 14: Coastal Planning (1998)
TAN 15: Development and Flood Risk (2004)
TAN 16: Sport, Recreation and Open Space (2009)
TAN 18: Transport (2007)
TAN 19: Telecommunications (2002)
TAN 20: Planning and The Welsh Language (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)
Air Quality (adopted February 2018)

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. **Page 17**

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: 17/1124 **Ward:** ST JULIANS
Type: FULL
Expiry Date: 06-MAR-2018
Applicant: E STUDLEY
Site: 52, CORNWALL ROAD, NEWPORT, NP19 7SS
Proposal: ERECTION OF SINGLE STOREY SIDE AND REAR WRAP AROUND EXTENSION

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

1.1 This application seeks planning permission for the erection of a single storey side and single storey rear wrap around extension at 52, Cornwall Road, Newport. The property is a semi detached dwellinghouse located within the St Julians Ward of Newport. For the purpose of this application, the site lies within the urban boundary, as defined by the Newport Local Development Plan 2011-2026 (Adopted 2015).

2. RELEVANT SITE HISTORY

2.2 No relevant history.

3. POLICY CONTEXT

3.1 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (Adopted January 2015) are relevant to the determination of this planning application. The adopted Supplementary Planning Guidance (SPG) "House Extensions and Domestic Outbuildings" is also relevant to the determination of this application.

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

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

4. CONSULTATIONS

4.1 None.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS OFFICER):
The proposal will not alter or affect the parking provision and I would therefore offer no objection to the application.

6. REPRESENTATIONS

- 6.1 **NEIGHBOURS:** Common boundary and opposite properties were consulted (11 addresses) and originally one letter of objection was received. The objection was in relation to the initial proposal for a two storey side extension to be developed at the application site. The applicant has since decided to amend the proposal and as such the 11 properties were reconsulted and no further comments were received in this regard.

7. ASSESSMENT

- 7.1 This proposal seeks to erect a single storey side and single storey rear, wrap around extension. The proposed extension would measure: 5.90 metres in length and 2.30 metres in depth and would have a height of 2.50 metres to the eaves and a height of 4.00 metres to the roof ridge. The proposed rear extension would be adjoined to the proposed single storey side extension, which would measure: 3.85 metres in depth and 2.80 metres in width from the existing side elevation of the dwellinghouse. The side extension would have a height of 2.50 metres to the eaves and 4.00 metres to the roof ridge.
- 7.2 In terms of fenestration, the rear elevation would comprise of the insertion of four, floor to ceiling windows to replace a double pane window. A single window located currently on the middle of the elevation is proposed to be repositioned to accommodate internal alterations to the kitchen space. An additional window would be developed in the rear part of the side extension to serve the new utility room. Two roof lights would also be inserted into the rear elevation. In regards to the design, the proposed materials would be in accordance with the existing dwellinghouse.
- 7.3 In terms of design and impact on residential amenity, the proposed extensions would be partially visible from the highway of Cornwall Road. However, the proposed side extension would be set back from the principle elevation by 6.50 metres and would be further screened by the existing garage which is proposed to be retained as part of this scheme of works. The proposed extension will therefore only be partially visible from the immediate neighbours. Nevertheless, due to the discrete projection of the rear extension, it is not considered that the development would have an adverse impact on the adjoining dwelling; No. 50 Cornwall Road in terms of light, privacy or overbearing effect. Nevertheless, the resident of the neighbouring property originally raised concern that the proposed development would have a detrimental impact on light within his dwellinghouse. As such, both vertical and horizontal light tests have been carried out in accordance with SPG 'House Extensions and Domestic Outbuildings'. The tests demonstrate the proposed extension would not intersect the neighbouring window on the horizontal test and would also pass the vertical tests. Therefore, the development would be in accordance with the aforementioned SPG and as such, the extension would not have a detrimental impact on natural daylight, or general residential amenity at the neighbouring property. On balance, it is considered that the development would be in accordance with policies GP2 and GP6 of the Newport Local Development Plan (Adopted 2015).

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

9. CONCLUSION

9.1 The proposed single storey side and rear extensions, by reasons of scale, design and location are considered to be subservient additions to the dwellinghouse which would not have a harmful impact on the appearance of the property or residential amenity. As such, the development is in accordance with policies GP2 and GP6 of the Newport Local Development Plan (Adopted 2015) and it is recommended that planning permission is granted subject to conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Plans and Elevations as Existing and Proposed, Drawing No. P01 (Revision A), (Received 10 January 2018).

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 window or door openings (other than those shown on the approved plan; plans and elevations as existing and proposed, Drawing No. P01 (Revision a), (Received 10 January 2018) shall be formed in the south-east facing side elevation of the extension hereby approved without the prior written permission of the local planning authority.

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

01 This decision relates to plan Nos: Plans and Elevations as Existing and Proposed, Drawing No. P01 (Revision A), (Received 10 January 2018).

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

03 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.

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

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APPLICATION DETAILS

No: 17/1203 **Ward:** GAER

Type: FULL

Expiry Date: 08-MAR-2018

Applicant: GARETH DRAPER, NEWPORT CITY COUNCIL

Site: MAES EBBW SCHOOL, MAESGLAS ROAD, NEWPORT, NP20 3DG

Proposal: SINGLE STOREY EXTENSION TO EXISTING SCHOOL TO PROVIDE 7NO. ADDITIONAL CLASSROOMS ALONG WITH ROAD AND CAR PARK ALTERATIONS AND DEMOLITION OF DEMOUNTABLE CLASSROOM

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks consent for the removal of an existing demountable classroom at the Maes Ebbw School and the provision of a permanent extension to the existing school. The extension would provide 7no. class rooms and various ancillary rooms. The proposal also involves alterations to the pupil drop off facilities and to provide an additional overflow car parking spaces.
- 1.2 The application is referred to Committee since the proposal is submitted on behalf of the Council.

2. RELEVANT SITE HISTORY

- [99/0012](#) EXTENSION AND REFURBISHMENT OF SINGLE STOREY SCHOOL AND ALTERATION TO EXISTING VEHICULAR ACCESS
Granted with Conditions 27/07/1999
- [99/1306](#) ERECTION OF TEMPORARY SINGLE STOREY DEMOUNTABLE CLASSROOM
Granted with Conditions 25/01/2000
- [14/0865](#) INSTALLATION OF AN EXTERNAL METAL STORAGE CONTAINER
Granted with Conditions 03/12/2014

3. POLICY CONTEXT

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

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

Policy SP4 Water Resources favours developments that minimises water consumption, incorporates SUDs and generally manages water resources and drainage effectively.
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Policy SP12 Community Facilities promotes development of new community facilities such as educational centres, 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.
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Policy SP18 Urban Regeneration supports development which assists the regeneration of
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the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
Policy GP1 General Development Principles – Climate Change states that development should be designed to withstand predicted climate change and reduce the risks and consequences of flooding, minimise energy requirements, reuse/recycle construction material and meet the relevant BREEAM or Code for Sustainable Homes Level.
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 GP3 General Development Principles – Service Infrastructure states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.
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 T4 Parking states that development will be expected to provide appropriate levels of parking.

4. CONSULTATIONS

4.1 WALES AND WEST UTILITIES

No objections to the proposal. Advised that there are utilities/apparatus within the area.

4.2 WELSH WATER

We note in section 13 of the planning application form that the developer has chosen the 'main sewer' as the method of surface water disposal. We would like to make the developer aware that there are issues of hydraulic capacity on the sewerage network downstream of the development site and under no circumstance will receive surface water flows from the proposed school extension.

We would therefore request the developer to seek other sustainable methods for surface water disposal (i.e. infiltration, watercourse, highway drainage). We have a surface water sewer mapped on our records located approximately 200 meters from the development site. We are aware this is significant distance, however, a connection to this surface water sewer will be the only option we can offer if the above sustainable disposal methods have been exhausted and proved not suitable.

For the above reasons, we would therefore request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Condition

No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system. Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment. Advisory Notes The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Water Supply

Dwr Cymru Welsh Water has no objection to the proposed development. A water supply can be made available to serve this proposed development. The developer may be required to contribute, under Sections 40 - 41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site watermains and associated infrastructure. The level of contribution can be calculated upon receipt of detailed site layout plans which should be sent to the address above.

- 4.3 FIRE SERVICE
No comments received.
- 4.4 AMBULANCE SERVICE
No comments received.
- 4.5 POLICE
No comments received.
- 4.6 WESTERN POWER DISTRIBUTION
No comments received.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS)

Whilst the number of classrooms will increase, the applicant has stated that the existing number of pupils and staff members will remain unchanged and therefore the parking requirement will not alter in accordance with the Newport City Council Parking Standards.

I acknowledge and accept the changes to the drop off area which are being proposed to limit the tailbacks/congestion which are currently being experienced.

The CEMP should include a plan which shows the location of the contractor compound and parking. Subject to this I would offer no objection to the application.

- 5.2 HEAD OF LAW AND REGULATORY SERVICES (PUBLIC PROTECTION)
No objections to the proposal subject to a condition for a Construction Management Plan (CEMP).
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER)
No objections to the proposal subject to conditions for replacement tree planting, the installation of tree protection measures and for an arborist to be present on site.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE OFFICER)
No comments received.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties within 50m of boundary of the application site were consulted (183 properties) and a site notice was displayed. 1 response letter was received:

6.2 172 MAESGLAS CRESCENT

With reference to above planning application for single storey extension to Maes Ebbw School I have a few issues about said build firstly the felling of a number of well established trees with nesting birds also as extension will be close to boundary wall noise levels will be increased especially from outside play area and in warmer climate when windows are open which is already experienced, maybe consideration could be given to noise reducing perimeter fence which could also preserve the privacy in my garden and kitchen which overlooks the boundary wall or maybe this extension could be put on the back of the existing building next to the gymnasium where there is a sizeable plot of land further away from the boundary wall which would also preserve the trees, I am happy for a planning officer to call at my premises 172 Maesglas Crescent to discuss these issues.

6.3 Ward members were consulted by no responses have been received.

7. ASSESSMENT

- 7.1 This application seeks consent for the removal of an existing demountable classroom at the Maes Ebbw School and the provision of a permanent extension to the existing school. The extension would provide 7no. class rooms and various ancillary rooms. The proposal also involve alterations to the pupil drop off facilities and to provide an additional overflow car parking spaces.
- 7.2 Maes Ebbw School is located off Maesglas Crescent which lies within the Maesglas Residential Estate situated to the south west of Newport. The site as a whole consists of two schools, the Maes Ebbw School sits within the northern most part of the site which it shares with Maesglas Primary school is located in the southern part of the site. The two schools are separated by a large grass pitch. The whole site is generally enclosed by a brick boundary wall and is surrounded on all sides by residential properties.
- 7.3 The proposed classroom would occupy a triangular parcel of land currently grassed open space. The extension would be triangular in shape but would be surrounded by landscaped verges, play areas and internal access roads serving the school. This parcel of land would be enclosed by new 1.8m high boundary treatments.
- 7.4 At its maximum dimensions the proposed extension would measure 49.8m x 34.5m. Several 2.5m projecting canopy structures would also be attached to the elevations of the new extension. The extension would be single-storey in scale involving a combination of flat roof and mono-pitched structures (roof pods). In this regard, the main roof would be flat, reaching a height of approximately 3.8m. The roof pods would be positioned within the flat roof. There would be 7 in total with one in each classroom. These structures would extend the height of the proposed extension to 6.3m.
- 7.5 In general terms the proposal makes use of an under utilised area of the site, possibly due to its odd shape and location next to roads and parking area. Utilising this space avoids impacting on the large shared recreational field that lies between the Maes Ebbw and Maesglas Primary schools, hence maintaining the sports facilities for both schools. Policy

SP1 and SP12 of the adopted Newport Local Development Plan (NLDP) supports proposals which makes sustainable use of land and those which seeks to enhance the provision of educational facilities. In this regard, it is considered that this proposal, in principle, satisfies the requirements of Policies SP1 and SP12. It is also noted that the site is within the urban area and the proposal, which seeks to enhance educational facilities on land within the curtilage of the school but is not a playing field, is considered to positively contribute to the regeneration of Newport. As such, the proposal is deemed to satisfy Policy SP18 of the NLDP.

- 7.6 The new facility provides a clearly defined extension to the school that will be used for the early years element of the school. Having regard to the information provided within the submitted Design and Access Statement, it is understood that the aim of the proposal is not necessarily to increase pupil numbers but to ensure that those pupils attending the school are taught in improved facilities appropriate to their needs. The seven new classrooms and ancillary rooms would therefore provide modern, purpose-built space for teaching, learning and other educational needs.
- 7.7 The proposed single storey extension breaks with the design of the original 1950's school building and the subsequent pastiche addition granted planning permission in 1999 (99/0012 refers). Whilst the proposed extension has a rather unusual shape, design and appearance, compared to the existing school which is a conventional pitched-roof, red-brick building, the site is rather hidden from any significant public views. This is mainly due to the site being surrounded by two-storey residential properties, mostly terraced, which limits opportunities for prominent views particularly from Maesglas Road, Maesglas Crescent and Maesglas Grove. Furthermore, whilst the wider site serves two schools, the proposed extension would be limited to the north-western elevation of Maes Ebbw School and the main school building acts as a visual buffer from views from Maesglas Primary School and public areas to the south and east. Also since the proposed building is generally 3.8m in height but with roof elements reaching a height of 6.8m, it is considered that the development in this context would not be unduly prominent from public positions.
- 7.9 Having regard to the above visual analysis of the site, it is considered that there is a degree of scope for flexibility to the resultant design and appearance of the proposal. The extension is provided with a flat roof, which is penetrated by glazed roof pods located over each classroom. These maximise the amount of daylighting afforded to each classroom whilst allowing the potential for a natural cross flow ventilation strategy to be adopted during summer months rather than a mechanical extraction system. The provision of the small internal courtyard affords an area of enclosed outdoor amenity that can be safely accessed by pupils and again affords natural ventilation and day lighting to ancillary spaces and the corridor. The external finishes of painted render, large glazing, a dark roof with grey metal cladding for the roof pods would assist in reducing the impact of the development upon the visual amenity of the area. Having regard to the above, it is considered that the proposal extension would not have any significant adverse effect on the visual amenities of the area and satisfies Policy GP6 of the NLDP.
- 7.10 The proposal would also involve the removal of the demountable classroom along the north-eastern boundary. This would have a positive impact on the visual amenity of the area and remove a building which is positioned up to the boundary with a cluster of properties on Maesglas Road.
- 7.11 The proposed extension would be enclosed by 1.8m high boundary treatments. This would be positioned along the internal school road, thereby securing the landscaped grounds around the new building. Whilst the boundary treatments would not be significantly visible from public positions, limited details of this feature have been provided for consideration and it would be seen in and around the vicinity of the school access point. Therefore, it is considered necessary to impose a condition for all proposed boundary treatments to be agreed.
- 7.12 The proposed development would occupy an area of landscaping which currently contains a number of trees. Some of these trees are relatively tall and mature and the proposal would involve the removal of a group of trees. Notwithstanding this many other trees within the wider school grounds would be retained and safeguarded by protection measures

identified by the submitted Tree Protection Plan. The trees which are to be removed are not protected and can be removed at any time. Despite their height and maturity, they are not significantly visible from public positions mainly due to the built form of development surrounding the school grounds. The Council's Tree Officer has no objections to the proposal however it is considered necessary to impose a condition for the protection measures to be installed prior to the commencement of any development. A condition for the replanting of trees in other parts of the school grounds to mitigate for the removal of existing trees has also been recommended by the Tree Officer and suggested within the submitted Design and Access Statement. An informative note would be added advising the applicant/developer to seek advice from the Council's Ecologist prior to the felling of any trees since the occupier of 172 Maesglas Crescent has raised comments regarding to nesting birds which was also observed by the Case Officer during the site visit. Having regard to the above, it is considered that the proposal would not have any significant adverse effect on biodiversity and ecology, thereby satisfying Policy SP5 of the NLDP.

- 7.13 The area surrounding the extension would include external play areas and landscaping. The areas would be secure due to the inclusion of new boundary treatments. The play areas would be wet pour safety surfacing which is essentially bonded rubber shavings. This type of surface, in principle, is considered appropriate within the grounds of a school, making good use of underutilised land and would not be significantly visible from public positions. However, the product comes in a range of colours and limited details have been provided with regards to the play areas and landscaping in general. It is therefore considered prudent to impose a condition for such details to be agreed, therefore protecting the visual amenity of the area and satisfying Policy GP6 of the NLDP.
- 7.14 Whilst the proposed extension would bring the school building closer to properties on Maesglas Crescent, the nearest part of the proposed extension to the concerned boundary would be in the vicinity of classroom 6 at an approximate distance of 8m with the boundary backing onto Nos.166/168 Maesglas Crescent. The extension would also be separated by an existing internal school road with a brick boundary separating the school grounds and neighbouring properties. It is also recognised that the proposed extension would be generally 3.8m in height with taller roof structures recessed in the main flat roof. These roof structures would not serve an upper floor but rather to provide the 7 ground floor classrooms with a tall ceiling and 'open' environment. Having regard to the above, it is considered that the proposal would not result in any unreasonable loss of amenity to neighbouring properties, particularly with regard to matters of dominance and loss of outlook and light.
- 7.15 The occupier of 172 Maesglas Crescent has made representations concerning the proposal. The Case Officer also visited the property to view the development site from this position. This particular neighbouring property has built a single-storey rear extension. Approximate calculations indicate that the rear garden is 10m long with the proposed school extension being a further 12m from the rear boundary of 172, thereby giving an overall approximate distance of 22m between the two structures.
- 7.16 There is a red brick boundary wall separating properties along Maesglas Crescent and the school. This wall is approximately 1.7m high when measured from the school grounds, however properties along Maesglas Crescent are positioned in a slightly elevated position which has reduced the height of the wall from their position. It was observed that some properties have compensated this shortfall by erecting their own boundary treatments or constructed outbuildings.
- 7.17 Whilst the proposed extension would bring the school building and classrooms closer to properties along Maesglas Crescent, there would be reasonable separation distance present. In terms of privacy, whilst this proposal examines the relationship between a school and residential uses, the approximate separation distance would meet the recommended distance between dwellings, as specified within Supplementary Planning Guidance: New Dwellings (SPG: ND).
- 7.18 The new external play areas surrounding the proposed school extension would be approximately 5.5m away from the property and others from Maesglas Crescent which backs onto the site. It is considered possible that the proposal could intensify school activity

in this part of the site and that it could result in an increase in the amount of noise and disturbance to neighbouring properties.

- 7.19 The Council's Supplementary Planning Guidance: Outdoor Play Space Provision (SPG: OPSP) does not set buffer standards for school play areas, however it does set standards for public play areas and is an appropriate guide in the assessment of this proposal. In this respect, a Local Area of Play (LAP – unequipped) should have a minimum distance of 5m from the forward most part of the nearest dwelling. For a Local Equipped Area of Play (LEAP), the distance is increased to 10m from the forward most part of the nearest dwelling and 20m from the nearest habitable room façade of a dwelling.
- 7.20 This proposal would satisfy the minimum requirements of a LAP but the approximate distance of 16m between the play area and the rear elevation of 172 Maesglas Crescent would be below the recommended distance of 20m for a LEAP. There is no indication within the application that the external play areas surrounding the proposed school extension would contain purpose-built play equipment. Furthermore, the school is predominantly occupied during daytime hours only and the grounds would be enclosed to restrict unauthorised access. It is also noted that the extent of outdoor play areas associated with this proposal is rather limited and is not akin to larger recreational spaces.
- 7.21 The application has been accompanied by a noise survey which indicates that *“The site is considered suitable for development as a school and will be able to incorporate a natural ventilation strategy. Therefore, no additional acoustic mitigation measures have been identified for façade, glazing or ventilation. A maximum Rating sound level of 34 dB LAr is proposed for plant noise emissions. This is considered to result in a ‘Very Low’ impact in line with BS4142:2014 guidance, and should be achievable with standard plant noise control measures. Consequently, the results of the assessment show that the proposed development will not result in any significant adverse noise impacts.”*
- 7.22 The Head of Law and Regulatory Services (Public Protection) offers no objections to the proposal subject to a condition for a Construction Environmental Management Plan (CEMP) which will safeguard the amenity of neighbouring occupiers during the construction of the proposed development. No further noise mitigation measures have been recommended by the Public Protection Officer. Subject to the CEMP condition it is considered that the proposal would not result in an unreasonable loss of amenity to neighbouring properties, with particular regards to noise and disturbance, thereby satisfying Policies GP2, GP6 and GP7 of the NLDP.
- 7.23 The only vehicular entrance to the site is located in the northern most boundary of the site and affords access to Maesglas Crescent. This entrance is shared by the two schools. Pedestrian access to the site is afforded via dedicated pedestrian entrances provided along the eastern, western and southern boundaries.
- 7.24 According to the submitted Design and Access Statement, the pupils attending Maes Ebbw School are transported to the premises by a variety of forms of transport. Consequently there have been issues in relation to vehicle congestion at the school vehicular access, which has then created congestion on the local road network. In an attempt to remedy the existing situation this application seeks consent to alter the existing car park and road layout serving the school.
- 7.25 The proposed works would essentially involve ‘reversing’ the flow of the existing one way system currently operating within the site and that a traffic management system is adopted by the school. This will allow vehicles leaving the site to have a ‘straight on’ view of vehicles entering the site, whilst vehicles entering the site will be given priority over those leaving. The revised car parking proposals will allow a greater number of transportation vehicles to be ‘parked up’ whilst pupils alight, preventing tail backs onto the existing access road. The provision of traffic bollards at the car park exits, which will be monitored and operated by the schools site manager, will prevent vehicles leaving the site in an unmanaged manner.
- 7.26 The bulk of the trees and soft landscaping in this particular area would be retained although some changes in hard landscaping, improvements to existing internal road and highway-

related paraphernalia would be required. It is considered that this aspect of the scheme would not result in any significant adverse effect on the visual amenities of the area.

- 7.27 The Head of Streetscene and City Services (Highways) has considered the transportation implications of the proposal, inclusive of the new extension, and has no objections to the proposal subject to a CEMP. It is therefore considered that the proposal would have no significant detriment to highway safety or parking provision, thereby satisfying Policies GP4 and T4 of the NLDP.
- 7.28 The proposal would involve the construction of an extension with a relatively large footprint on an area that is currently predominantly porous. The area surrounding the extension would be laid with wet pour safety surfacing which is essentially bonded rubber shavings and can be a porous surface. There would be changes to the school access, drop-off and parking areas however this would be relatively minor in terms of surfaces.
- 7.29 Whilst the site is not within a flood risk area, it is considered that the proposal could have a material impact on the drainage system, particularly due to increased surface water run-off. The applicant has indicated that the proposal would involve discharging surface water into the main sewer. This has been acknowledged by Welsh Water which has commented that there are issues of hydraulic capacity on the sewerage network downstream of the development site.
- 7.30 This has been brought to the attention of the applicant and confirmation has been received that sustainable methods of discharging surface water would be the preferred solution. If unviable, Welsh Water has indicated that it would be possible to connect to the sewer at a much further point in the network. Whilst the latter would be an expensive solution, this is not a matter for the Local Planning Authority since an acceptable drainage solution can be secured. However it is considered prudent to impose a condition for details of surface water drainage serving the proposed development to be agreed, thereby allowing the Authority and Welsh Water to retain effective control over the matter. Having regard to the above, it is considered that the proposed development satisfies Policies SP1, SP4, GP1 and 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 (Wels*

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

The application is recommended for approval because the development complies with Council policy and guidelines. The proposal would not have any significant adverse effect on visual amenity, residential amenity, highway/pedestrian safety and parking, drainage and ecology/biodiversity.

10. RECOMMENDATION – GRANTED WITH CONDITIONS

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

- NPS-DR-A-(00)-003 Rev.P3 – Proposed External Arrangements
- NPS-DR-A-(00)-005 Rev.P3 – Proposed Internal Road Route
- NPS-DR-A-(00)-030 Rev.P0 – Proposed Elevations
- NPS-DR-A-(00)-020 Rev.P0 – Proposed Plan
- NPS-DR-A-(00)-021 Rev.P0 – Proposed Roof Plan

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 Prior to the commencement of development (including demolition), a Construction Environmental Management Plan shall be submitted to and agreed 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 agreed 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 amenities, residential amenity and highway safety.

03 No development shall commence until there has been submitted to and agreed in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatments to be erected. The boundary treatments shall be completed in accordance with the agreed details and in accordance with a timetable to be agreed in writing by the Local planning Authority.

Reason: In the interests of visual and general amenities.

- 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 construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with plan titled: Tree Protection Plan (Mackley Davies Associates, August 2017). The protection barrier shall also include all weather notices stating Construction Exclusion Zone – No Access. 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. The fencing shall be retained in accordance with the Tree Protection Plan for the full duration of the development.

Reason: To protect important landscape features within the site.

- 05 No development shall commence until a landscaping and tree planting scheme indicating the number, species, heights on planting and positions of all trees and shrubs scheme shall be 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. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: In the interests of biodiversity and ecology.

- 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:
- i) Supervision and monitoring of the approved Tree Protection Plan;
 - ii) Supervision and monitoring of the approved tree felling and pruning works;
 - iii) Supervision of the alteration or temporary removal of any Barrier Fencing;
 - iv) Oversee working within any Root Protection Area;
 - v) Reporting to the Local Planning Authority;

Reason: To protect important landscape features within the site.

- 07 No development shall commence until full details of the external surfacing of the external play areas have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

- 08 No development shall commence until a scheme for showing how 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 agreed scheme and implemented in full prior to the beneficial use of the development hereby approved.

Reason: To ensure that effective drainage facilities are provided for the proposed development, to ensure that flood risk is not increased.

NOTE TO APPLICANT

01 This decision relates to plan Nos: NPS-DR-A-(00)-003 Rev.P3 – Proposed External Arrangements; NPS-DR-A-(00)-005 Rev.P3 – Proposed Internal Road Route; NPS-DR-A-(00)-030 Rev.P0 – Proposed Elevations; NPS-DR-A-(00)-020 Rev.P0 – Proposed Plan; NPS-DR-A-(00)-021 Rev.P0 – Proposed Roof Plan.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP4, SP12, SP18, GP1, GP2, GP3, GP4, GP5, GP6, GP7 and T4 were relevant to the determination of this application.

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

04 The applicant/developer is advised to contact Wales & West Utilities prior to the commencement of works since there may be utilities and services located within the site which may be affected by the proposed development.

05 The applicant/developer may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer. Any connection to the public sewerage network for the first time will require an adoption agreement with Welsh Water. If the connection to the public sewer network is either via a lateral drain or via a new sewer, it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. A water supply can be made available to serve this proposed development. The developer may be required to contribute, under Sections 40 - 41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site watermains and associated infrastructure.

06 The applicant/developer is advised that the appointed Arboricultural Consultant (Condition 06) must contact the Council's Tree Officer on (01633) 210 556 and the Council's Ecologist on (01633) 210 557 prior to undertaking any works.

APPLICATION DETAILS

No: 18/0016 **Ward:** LLISWERRY

Type: FULL

Expiry Date: 16-MAR-2018

Applicant: LINDSAY HORTH

Site: CORONATION KENNELS, STEPHENSON STREET, NEWPORT, NP19 0RB

Proposal: ENCLOSURE OF AREA OF PARK AND ERECTION OF FENCING FOR PROVISION OF A DOG EXERCISE/PLAY AREA TO SERVE EXISTING KENNELS

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks planning permission for the enclosure of an area of Coronation Park and the erection of fencing for the provision of a dog exercise/play area to serve existing kennels and the general public.

The proposal seeks to erect 2.6m high green powder coated weld mesh fence panels in order to enclose approximately 9075sqm of the western area of Coronation Park for the provision of a dog exercise/play area to serve both the existing kennels and the public. The proposal includes the insertion of an access gate directly from the existing dog kennels to the proposed fenced off area. It also proposes to insert a 1000mm wide pedestrian gate and a 3000mm wide service gate for maintenance vehicles that would be located in Coronation Park to provide access to the dog exercise/play area.

2. RELEVANT SITE HISTORY

91/0684	CHANGE OF USE OF LAND AND ERECTION OF BUILDINGS TO BE USED IN ASSOCIATION WITH DOG KENNELING FACILITY	GRANTED
02/1351	ERECTION OF A 10 UNIT KENNEL BLOCK	GRANTED WITH CONDITIONS

3. POLICY CONTEXT

- 3.1 Policies GP2 (General Amenity), GP5 (Natural Environment), GP6 (Quality of Design), GP7 (Environmental Protection and Public Health), CE3 (Environmental Spaces and Corridors), T7 (Public Rights of Way and New Development) and CF1 (Protection of Playing Fields, Land and Buildings used for Leisure, Sport, Recreation and Play) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application as is the Outdoor Play Space Supplementary Planning Guidance adopted January 2017.

4. CONSULTATIONS

- 4.1 **WELSH WATER:** We would inform you that a public sewer is crossing the application site. We have attached a copy of the public sewer record indicating the location of these assets. We would therefore request that the following be included in any planning consent you are minded to grant: The proposed development site is crossed by a public sewer with the approximate position being marked on the attached record plan. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre

line. Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: We have considered the impact of the proposed work on the archaeological resource, and taking into account the details at this time conclude there will be no adverse impact from the development currently proposed. Therefore, there is unlikely to be an archaeological restraint to this proposed development. Consequently, as the archaeological advisors to your Members, we have no objections to the positive determination of this application. The record is not definitive, however, and features may be disturbed during the course of the work. In this event, please contact us.

NATURAL RESOURCES WALES: No objection. We recommend that the fence line should not be located within 3m of the current defence (bund) toe on the eastern side (Coronation Park). This is so we can maintain/conduct clearance works in the future.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (RIGHTS OF WAY AND ACCESS): As the proposed works do not affect the public right of way that is adjacent to the western boundary of the site I have no comments to make.

HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): I do not object in principle to this application.

HEAD OF LAW AND REGULATION (ENV HEALTH): No objections to this application

HEAD OF LAW AND REGULATION (ENV HEALTH SCIENTIFIC OFFICER): Our historical map archive indicates the area was subject to infilling in the 1930/50s. The composition and quantity of the material deposited is unknown. The proposed end use is relatively low risk. As a precaution, it is recommended a watching brief is maintained during any ground works associated with the proposed works. Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, 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. 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.

HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING POLICY): The acceptability of the loss of the formal play space satisfies Policies CE3 and CF1 from a play space standards perspective; however the views of the Parks Department should be sought in terms of the acceptability of the size of the dog exercising area and its impact on the frequency of use of Coronation Park and the proximity of the proposed existing uses.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within 50m with a common boundary with the application site were consulted (5no. properties) and a site notice displayed. Nine letters of support were received as follows:

- This will benefit the Coronation Kennels immensely and also the general public, to have a safe and secure area where we can hire to let our dogs run.
- An open space where they could run and play would greatly benefit the quality of life of the dogs residing at the kennels.
- It would provide a great fundraising opportunity to help Newport City Dogs Home and Friends Of The Dogs Wales continue their work.

6.2 COUNCILLORS: No objections received.

6.3 COMMUNITY COUNCIL: No objections received.

7. ASSESSMENT

- 7.1 The application site is located within the urban boundary; as such the principle of development is therefore acceptable, subject to satisfying other policy considerations of the Local Development Plan. The entire site is identified as Environmental Space in the LDP. National and local policy protects open/amenity green spaces from development unless certain criteria can be met. Policies CE3 and CF1 are relevant to the consideration of the development of this site. Policy CF1 states that 'the redevelopment for other purposes of playing fields, other land and buildings used for sport, recreation, areas of play and community uses will only be permitted where: alternative provision of the same benefit is made available in the immediate locality; or the land or building(s) is surplus to requirements.' Coronation Park contributes to formal outdoor play provision and has a number of playing pitches on the site, although the area of land in question does not appear to have any pitches located on it at present. The Assessment of Outdoor Play Provision (supporting document to the Outdoor Play Space SPG – Jan 2017) reviews outdoor play space in Newport against the National Playing Fields Association standard of 2.4 hectares per 1000 population. The Outdoor Play Space Assessment indicates that there is an overall surplus of outdoor play space in the Lliswerry ward when assessed against the Fields in Trust Standard of 2.4 hectares per 1000 population: 20.20 hectare surplus. If the proposed development was implemented, this surplus would reduce from 20.20 ha to 19.30ha. When broken down by play space categories there is a surplus of formal play provision of 25.41 ha; a deficit of informal play space of -2.39 ha; and a shortfall of -2.81ha of equipped play space. The proposed development would reduce the formal play space provision by 0.9ha resulting in a surplus in the ward of 24.50ha formal space and overall supply taking account all three categories, of a surplus 19.30 ha. The proposed development does not impact on informal and equipped provision in the locality. Policy CF1 is therefore satisfied in this respect.
- 7.2 Policy CE3 states that development will only be permitted where 'the existing or potential environmental qualities of the site will be improved or complemented; there is no adverse impact on international, European, national, regional or local nature conservation interest; and there is not a loss, without appropriate replacement, of a recreational, open space, or amenity resource for the immediate locality unless it can be demonstrated that there is an excess of provision or facilities can be enhanced through development of a small part of the site.' The proposed dog exercise/play area will enhance the availability of outdoor walking and exercise space for both the kennels and the public where dogs can be exercised and trained under supervision by either owners or staff. The site is adjacent to the River Usk, a designated Site of Special Scientific Interest and Special Area of Conservation; however, no works are taking place within the river itself or on its banks. Whilst there is not a replacement of a recreational open space, there is currently an overall surplus of outdoor play space of 20.20ha in this ward. Therefore it is considered that the proposed development is in accordance with policy CE3.
- 7.3 There are no ecological designations associated with the site itself; however, it is located within a predominantly industrial area in character, with few other green spaces in the locality. It is adjacent to the River Usk, a designated Site of Special Scientific Interest and Special Area of Conservation; however no works are taking place within the river itself or on its banks. The Council's Ecology officer was consulted on this application and no objections were raised, however, she did seek clarification as to whether any vegetation is proposed to be removed along the fence line. The applicant has confirmed that they will arrange the fence to protect the vegetation accordingly.
- 7.4 In terms of flood risk, the site is located within Flood Risk Zone C1. However, it is acknowledged that the proposed use of a dog exercising park is essentially the same as a park area in terms of them both being less vulnerable development. NRW have been consulted on this application and raised no objections. However, NRW recommends that the fence line should not be located within 3m of the current defence (bund) toe on the eastern side (Coronation Park) in order for them to maintain and conduct clearance works in the future. Amended plans have been

submitted showing that the fence will be located 3m from the toe of the bund. NRW has also suggested that the applicants be made aware of the potential flood risks and advised to install flood-proofing measures as part of the development. A note will be added informing the applicants of this and advising them of the flood risk in the area.

- 7.5 There is a residential property located approximately 50m away from the dog kennels, on Stephenson Street. In order to be compliant with policy GP2, the proposed development should not harm the residential amenity of the occupants of this property. Environmental Health were consulted on this application and raised no objections. It is considered that should the proposal be granted, it would not have a detrimental impact upon the amenity of the neighbouring property. Certainly, dog walking can and does occur within the park already. However, this development will likely intensify dog walking and exercising within the enclosed area. This will be within approximately 30m of the nearest residential premises. However, the purpose of the application is to extend the outdoor area available to a dog rescue centre that is long established. The enclosure will enhance the availability of outdoor walking and exercise space for both the rescue centre and the general public who visit the centre with dogs originally from the centre or their own dogs for training purposes. Dogs will be under supervision when using the space, either by their owners or those working at the centre. The opening hours will be conditioned as follows; Monday-Friday 08:00-20:00, Saturdays 08:00-18:00 and Sundays 10:00-18:00.
- 7.6 As there is a public right of way that runs along the western boundary of the application site, the Council's Rights of Way and Access Officer was consulted. He stated that as the proposed works do not affect the public right of way, he has no comments to make.
- 7.7 In terms of visual amenity, the proposed fence is 2.6m high and is a green powder coated weld mesh design. The proposed fencing would be adjacent to the Transporter Bridge which is listed. The Council's Historic Building Conservation Officer does not consider that the proposals would have a detrimental impact on the setting of the Transporter Bridge.

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 acceptability of the loss of the formal play space satisfies Policies CE3 and CF1 from a play space standards perspective. The proposed development by reasons of its scale, location and design would preserve visual amenities and satisfy policies GP2, GP6, CE3 and CF1 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

10. **RECOMMENDATION**

01 The development shall be implemented in accordance with the following plans and documents: Site Location Plan, Fence Details and Proposed Fencing.

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

02 The hours of operation shall be restricted to 08:00 to 20:00 Monday to Friday, 08:00 to 18:00 on Saturday, and 10:00 to 18:00 on Sundays, Bank or Public Holidays. Outside of these hours the premises shall be vacated and closed.

Reason: In the interests of the amenities of occupiers of adjoining properties.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan, Fence Details and Proposed Fencing.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP6, CE3 and CF1 were relevant to the determination of this application.

03 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.

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

05 The application site lies entirely within Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). In areas at risk of flooding, we recommend that consideration be given to the incorporation of flood resistance/resilience measures into the design and construction of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood proofing measures to the internal fabric of the ground floor, and locating electrical sockets/components at a higher level above possible flood levels.



Report

Planning Committee

Part 1

Date: 7th March 2018

Item No: Item 6

Subject **Appeal Decisions**

Purpose To inform Members of the outcome of recent appeals

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

Ward Caerleon, Beechwood, Liswerry, Stow Hill, Marshfield and Allt Yr Yn

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

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

Action by Planning Committee

Timetable Not applicable

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

Background

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

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

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

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

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

Financial Summary

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

Risks

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

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

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

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

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

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

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

Options Available

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

Preferred Option and Why

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

Comments of Chief Financial Officer

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

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

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

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

Comments of Monitoring Officer

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

Staffing Implications: Comments of Head of People and Business Change

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

Local issues

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

Equalities Impact Assessment and the Equalities Act 2010

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

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

Children and Families (Wales) Measure

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

Consultation

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

Background Papers

Not applicable

Dated: 7th March 2018

PLANNING APPLICATION AND ENFORCEMENT APPEAL

APPEAL REF: E15/0400
ENFOR REF: 16/0881
APPEAL TYPE: Hearing
WARD: Caerleon
SITE: Land at Former Penrhos Quarry, Usk Road, Caerleon, NP18 1LP
SUBJECT: Laying and formation of concrete track and the erection of gates over two metres in height
APPELLANT: James Norvill
PLANNING INSPECTOR: Mr Richard E. Jenkins
DATE OF COUNCIL'S DECISION: 3rd May 2017
OFFICER RECOMMENDATION: Issue Enforcement Notice
COMMITTEE/DELEGATED: Delegated



SUMMARY

A concrete track had been created without planning permission. A retrospective application sought the retention of the track which was refused planning permission. An Enforcement Notice was subsequently issued requiring the removal of the concrete track and debris from the land in its entirety. The appellant has appealed the refusal of planning permission and Grounds A (planning permission should be granted), C (a breach of planning control has not occurred), F (the steps required to comply with the Enforcement Notice are excessive) and G (time given to comply with the Enforcement Notice is too short) on the issuing of the Enforcement Notice.

Ground C

The appellant contended that the development constituted permitted development. Part 9, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, as amended, states that

the carrying out on land within the boundaries of an un-adopted street or private way comprises permitted development.

The Inspector noted from the evidence provided that the previous track did not comprise a hardstanding, but rather a rough track made up of two permeable rutted dirt tyre tracks with a green grass verge through its centre. The works undertaken which include the laying of a granular subbase and concrete surface, have changed the character of the private way. The Inspector therefore considered that given the scale and form of the works undertaken, that the works do not constitute 'maintenance or improvement' and rather represented a new construction. Accordingly, the appeal under ground (c) failed.

Ground A

As defined by the adopted Newport Local Development Plan (LDP) 2011-2026, the access track is located within the countryside. LDP Policy SP5 states development will only be permitted where it respects the landscape character and biodiversity of the immediate and surrounding areas and is of appropriate scale and design.

The appellant argues that the entrance gates, local topography and vegetation serve to limit views of the track from public vantage points. The Inspector acknowledges views of the track are limited, however considered the transformation from a permeable earth track to an extensive and elevated concrete construction has had an injurious impact on the character of the immediate environs.

The appellant further argued that concrete is widely used on agricultural premises. The evidence indicated that the track had been constructed to assist the appellant in accessing his land. The quarrying of the wider site has been abandoned and no information had been provided to indicate that the works are necessary as part of a wider rural enterprise scheme.

The appellant stated that the removal of the access track would be harmful to features of ecological value and be detrimental to local amenity. However, no evidence of such ecological concerns had been provided. In addition, whilst the removal of the concrete track would have inevitable implications for local amenity, such impacts would only be temporary and therefore do not merit significant weight in the planning balance.

For the reasons outlined above, the Inspector found the development to represent an unjustified form of development within the countryside that causes material harm to the character and appearance of the area; such harm cannot be effectively mitigated by the imposition of planning conditions. Accordingly, the development is contrary to policies SP5, SP9, GP2, GP5 and GP6 of the LDP and conflicts with national policy. The appeal under ground (a) therefore fails.

Ground F

The appellant has argued that the requirements of the Enforcement Notice are excessive and lesser steps could be required. No worked out lesser steps were put forward by the appellant. Considering this, the Inspector considered that the corrections to the requirements of the Enforcement Notice would not be excessive and the appeal under ground (f) should therefore fail.

Ground G

The appellant contended that the time given to comply with the requirements of the Enforcement Notice is too short. In this case, the period for compliance is four months. At the Hearing, the appellant conceded that the four month compliance period was acceptable. The Inspector therefore had no reason to dispute the agreed position and the appeal under ground (g) failed.

Conclusion

With respect to the above, the Inspector considered that the Enforcement Notice should be corrected in the interest of clarity and precision and subject to these corrections, the appeals should be dismissed.

DECISION: DISMISSED

PLANNING APPLICATION APPEAL

APPEAL REF: 17/0344
APPEAL TYPE: Written Representations
WARD: Beechwood
SITE: 23 Hove Avenue, Newport, NP19 7QP
SUBJECT: First floor extension above existing garage
APPELLANT: Mr Bevan
PLANNING INSPECTOR: Hywel Wyn Jones
DATE OF COUNCIL'S DECISION: 25th May 2017
OFFICER RECOMMENDATION: Refuse
COMMITTEE/DELEGATED: Delegated



SUMMARY

The appeal relates to a first floor extension above an existing garage. The Inspector considered the main issue in the determination of the appeal to be the effect of the proposal on the living conditions of neighbouring residents, having particular regards to outlook. This case had been referred back to the Planning Inspectorate following a successful legal challenge by the Council on the basis that the first appeal decision issued by them was flawed.

The proposed extension would add a first floor over an existing garage attached to the side of the two-storey dwelling. The gap between the garage and the mutual boundary with No. 25 tapers so that the rear corner of the garage virtually abuts the boundary fence. Facing this side boundary is the two-storey side elevation of No. 25 which contains an obscure glazed first floor window and 4 ground floor windows; the largest of these serves a kitchen. The remaining windows do not serve habitable rooms.

No. 25 is set markedly lower than the appeal property. As a consequence, the ground floor windows directly face the side boundary which comprises a high retaining wall surmounted by a timber fence. The garage is readily visible above the fence line; taking this into account, the Inspector considered the visual

impact of the proposal would not have an overbearing impact or an appreciable impact on the outlook of users of the kitchen.

With regards to loss of light to No 25 the Inspector noted the findings of the study undertaken by the appellant and was satisfied that any loss of light would be modest. In addition, the Inspector took account of the Council's SPG and did not consider the kitchen of No. 25 to be a habitable room.

In view of the above, the Inspector concluded that the proposal would not unacceptably affect the living conditions of neighbouring residents and would accord with Policy GP2 of the Newport LDP. The appeal has therefore been allowed.

DECISION: ALLOWED

PLANNING APPLICATION APPEAL

APPEAL REF: E16/0353
APPEAL TYPE: Hearing
WARD: Liswerry
SITE: Land and Buildings former Carcraft, Langland Way, Newport, NP19 4PT
SUBJECT: Erection of building without planning permission
APPELLANT: Starburst (UK) Limited
PLANNING INSPECTOR: Clive Nield
DATE OF COUNCIL'S DECISION: 14th February 2017
OFFICER RECOMMENDATION: Issue Notice
COMMITTEE/DELEGATED: Delegated



SUMMARY

The appeal relates to two industrial units in the south-eastern most corner of the site which do not benefit from planning permission. The two units form part of a larger terrace of industrial units; the remainder of the units benefit from planning permission. An Enforcement Notice has been issued requiring amongst other things, the removal of the two end units. The appellant has appealed under Ground a (planning permission should be granted for what is alleged in the Notice) and Ground f (the steps required to comply with the requirements of the Notice are excessive).

Ground a

The Inspector considered the main issues in the determination of the appeal to be the effects of the building on the street scene and the visual amenity of the area and on the amenity of the neighbouring commercial property, particularly in respect of outlook.

The appeal unit is of utilitarian design and of a substantial scale and projects considerably further forwards than other buildings of its size in the area. Two other buildings are sited close to the road further along Langland Way, but these are not of the same scale and prominence.

Characteristic of this part of Langland Way is its openness and spaciousness. Travellers along the road get this impression due to the large industrial buildings generally being set well back from the road; this being an attractive characteristic. Its importance is also increased by the fact that Langland Way is also the main arterial route in and out of the International Sports Village. The Inspector considered that this is an important aspect to consider as visitors to the International Sports Village should have a positive experience, and the openness of this part of the industrial estate contributes towards that.

Turning onto Langland Way from the Southern Distributor Road, the units are prominent and protruding much closer to the road than the other buildings in view and significantly reducing the open character of the street scene. Approaching from the opposite direction, the units extend substantially further forward than the neighbouring Euro Foods building and reduces the open character of the road.

In view of the above, the development is unacceptably harmful to the street scene and the character of the area, contrary to Local Development Plan Policies GP2 and GP6.

Turning to the effect of the neighbouring premises, Euro Foods Limited, it is argued that the disputed building is visually overbearing and dominant. Euro Foods has offices at the front with windows on the north and east elevations. Given that permission has been granted for the remainder of the industrial units, the Inspector considered the additional effect of the disputed units to be negligible. In addition, the Inspector did not consider that the disputed building had an overbearing or dominant visual impact on the office workers at Euro Foods.

Finally, the Inspector considered the benefits of retaining the disputed building. Although the disputed building benefits from general policy support, its value is limited by the modest size. The Inspector considered the benefits to be substantially outweighed by the unacceptable harm caused to the street scene and the character of the area. The appeal on Ground a is therefore dismissed.

Ground F

The appellant requested that consideration be made to the partial demolition of the disputed building, rather than full demolition. This would reduce its impact on the amenity of the neighbouring premises. However, the remaining unit would still extend significantly towards the road, occupying a prominent and harmful position. The reduction in length of the side wall alongside the road would do little to alleviate its harmful effect on the street scene and character of the area. The lesser steps would not overcome the concerns raised; appeal under ground f is unsuccessful.

Conclusion

For the reasons given above, the appeal shall not succeed and the enforcement notice is upheld.

DECISION: DISMISSED

APPEAL AGAINST ENFORCEMENT NOTICE

APPEAL REF: APP/G6935/C/17/3178565
ENFOR REF: E14/0436
APPEAL TYPE: Hearing
WARD: Marshfield
SITE: Land and stables adjacent to and North of railway, Green Lane, Peterstone Wentlooge, Newport
SUBJECT: Unauthorised change of use of land for the siting of caravans for use as a gypsy and traveller site
APPELLANT: Mr and Mrs John Janes
PLANNING INSPECTOR: Janine Townsley
DATE OF ENFORCEMENT NOTICE: 12TH May 2017
OFFICER RECOMMENDATION: Issue Enforcement Notice
COMMITTEE/DELEGATED: Delegated



Summary

The appellant appealed Ground G (time given to comply with the Enforcement Notice is too short).

The breach of planning control as alleged in the notice is without planning permission the material change of use of the land to a mixed use comprising of a gypsy traveller site and a temporary compound for facilitating works to the Green Lane rail bridge.

The requirements of the notice are to:

- i) cease the use of the land for a gypsy traveller site;
- ii) remove all caravans, structures, fences, gateways, adjacent to Green Lane, materials and equipment brought onto the Land in connection with the unauthorised gypsy traveller use, including sheds and a converted shipping container, and restore the land (including the removal of hard standings) to its condition prior to the breach having occurred and
- iii) remove the septic tank and reinstate the Land to its condition prior to the breach having occurred.

The period for compliance with the requirements was twelve calendar months.

Background

The Enforcement Notice relates to a parcel of land which is owned and occupied by the appellant and his family. Part of the site is occupied, temporarily, by Network Rail as a compound associated with works to the railway.

At the hearing, there was discussion about the wording of the notice. The Inspector was satisfied that the notice is sufficiently clear to enable the appellant to comprehend what action is required of him.

Ground G appeal

The Enforcement Notice stipulates a period of 12 months to cease the use of the site, but it is the Appellant's case that a period of two years is required. The appellant explained that the additional time for compliance sought would allow for the submission of an application for planning permission and if that were unsuccessful, it would allow for time to look for an alternative site. The appellant offered no reason why it would be necessary to await the outcome of a planning application before identifying potential alternative sites. There is no suggestion that an application for permission has already been submitted or that one is imminent. Given the lack of justification put forward, the Inspector does not consider that the appellant's reasons outweigh that harm. The Inspector states that she is satisfied that alternative accommodation could be secured within the compliance period of twelve months.

The Appellant states that he and his wife have six children and a grandchild who live with them. Those children who are old enough attend the local school and travel there by private car. The best interests of the children are to have consistent care and no lasting interference with their development. The Inspector states that she is satisfied that the 12 month period provides a reasonable opportunity to find alternative accommodation and there would be no disturbance in the care available to the children since their parents would move with them. As a result, the best interests of the children would not be compromised in this case.

The Inspector states that she recognises that the dismissal of the appeal would interfere with the Appellant's home and family life. However, this must be weighed against the wider public interest. The EN sets out that the development is an inappropriate form of development in the countryside and adversely affects the openness of the green belt. The steps required by the EN seek to remedy the breach and she considers there to be inadequate reasons to extend the period of time for compliance in these circumstances

Conclusion

The appeal did not succeed and the enforcement notice was upheld. The notice will need to be complied with by 3 January 2019.

DECISION: UPHELD

APPEAL AGAINST ENFORCEMENT NOTICE

APPEAL REF: APP/G6935/C/17/3183793
ENFOR REF: E13/0587
APPEAL TYPE: Hearing
WARD: Allt Yr Yn
SITE: Northern Hey Stables, Brickyard Lane, Newport
SUBJECT: Unauthorised change of various structures to dwellings,
gypsy/travellers site
APPELLANT: Mrs Colleen St Helena Rogers
PLANNING INSPECTOR: Hywel Wyn Jones
DATE OF ENFORCEMENT NOTICE: 7TH September 2017
OFFICER RECOMMENDATION: Issue Enforcement Notice
COMMITTEE/DELEGATED: Delegated



Summary

The appellant has appealed against C (a breach of planning control has not occurred) and G (time given to comply with the Enforcement Notice is too short)

This appeal is against an enforcement notice which required :

- i) Without planning permission and within the last four years the material change of use of four buildings on the Land (marked A, B, C and D on the attached aerial photograph) to use as single dwellinghouses.
- ii) Without planning permission and within the last ten years the material change of use of the Land through the material change in character of the mix of uses on the Land, which has come about as a result of the material change of use of four buildings on the Land (marked A, B, C and D on the attached aerial photograph) to use as single dwellinghouses and the presence of unauthorised caravans. The current mix of uses is for a gypsy and traveller caravan site facilitated by a hardstanding, use for the use keeping of horses and use for four single dwellinghouses.

The requirements of the notice were:

- i) All touring caravans in excess of 10 shall be removed, together with the area of hardstanding highlighted red on the attached aerial photograph which facilitates their presence on the Land. The resultant hardcore shall be removed from the Land and the area reinstated to its condition prior to the breach having occurred.
- ii) Cease occupation of the Land by persons other than Mr Andrew Nathan Price, Ms Coleen St Helena Rogers, Mr Reuben Rogers, Miss Lucile Olver Ada Price, Miss Michaela Lisa Julie Price, Miss Krystal Coleen Price, Miss Lucy Lorna Price, Mr Ashley Edwards, Mr Steven Podmore, Mr Leonard Moore, Mr Jason Perryman, Mr Adrian Kidman and Mr Di Greenfield and their resident dependents.
- iii) Cease the residential occupancy as a dwelling of the structure labelled "A" on the attached aerial photograph and remove the decking, former static caravan and associated extension from the Land in their entirety.
- iv) Cease the residential occupancy as a dwelling of the building labelled "B" on the attached aerial photograph and demolish the extension to the former "day room" and remove the demolition waste from the Land.
- v) Cease the residential occupancy as a dwelling of the building labelled "C" on the attached aerial photograph.
- vi) Cease the residential occupancy as a dwelling of the building labelled "D" on the attached aerial photograph.

The period for compliance with the requirements is 12 calendar months from the date that the Notice takes effect.

Background

The Inspector stated that the site has been the subject of several planning permissions over recent years associated with the use of the land as a gypsy site, the latest of which was granted on appeal in a decision dated 16 March 2017. In broad terms the effect of that decision is to permit the use of the site for the siting of a mobile home and 10 touring caravans to be occupied by named residents and their resident dependents. (Planning permission exists for the mixed use of the land for the siting of a mobile home, siting of touring caravans and the keeping of horses together with the retention of hardstandings, extension to stable block to create a utility / amenity room and the rebuilding of an ancillary building to create an amenity block).

With regard to the area of hardstanding, the appellant explained that, whilst part of the site had been re-surfaced in recent years, the area of hardstanding within the site had not been extended. In response, and after consulting aerial images spanning a period from 2010 to 2015, the Council confirmed that there was insufficient evidence to pursue the hardstanding allegation. The Inspector corrected the Notice to remove references to this from the allegation and the requirements.

The appellant's case in relation to the use of buildings B, C and D was that they are not used as dwellinghouses. Building B was granted planning permission as a day room. It was agreed that the building was subsequently extended to approximately twice its original size. At the hearing the Council accepted that the extension itself caused no harm and agreed that this requirement could be omitted from the Notice. The appellant explains that buildings B, C and D are all used in a broadly similar fashion. Each resident household is allocated the use of one of the 3 buildings as a utility/day room. This allocation is agreed in weekly residents' meetings and will alter over time according to the varying requirements of the households. The limited storage space in the caravans means that many personal items such as clothes, toiletries and medication are stored in the day rooms. This arrangement is seen as particularly convenient given the distance separating the caravans from these facilities, especially for the infirm or those caring for young children. The appellant emphasised that the bedrooms, which are only used during the day time, are used to provide rest or for particular healthcare reasons by the elderly and infirm, and by young children whilst their carers use the buildings' washing and day room facilities. The appellant confirmed that a room within building D which, at the time of the Inspectors visit, was used as a store room, had been furnished as a bedroom at the time the Notice was served when it was used during the daytime only by the appellant's mother because of her ill-health.

The Council's concern was that the 3 buildings have all the facilities of a dwelling. It accepts that a utility room provision is a reasonable one for the provision of personal and clothes washing, and for food preparation as is a dayroom for leisure time. However, the presence of a furnished bedroom is considered significant in establishing that the buildings are used as dwellinghouses. The Inspector stated that whilst there are occasions when one of the rooms in each building is used as a rest room he found that there is no compelling evidence that any of the buildings have been used as a single dwellinghouse.

On the basis of the available evidence he finds that the use of the 3 buildings has been to provide facilities on a communal basis to the various family units that occupy the site. In reaching this conclusion he is mindful that the site operates as a gypsy site and the appellant's unambiguous confirmation that none of the buildings have been used to provide overnight sleeping accommodation and that neither she nor the other residents would wish to occupy a bricks and mortar dwellinghouse. Thus, whilst buildings B, C and D are all capable of being used as separate dwellings, he concludes that on the balance of probability that such use has not taken place. Accordingly the appeal succeeded and corrected the Notice to delete references to these buildings from the allegations and requirements.

Whilst the mobile home was authorised, the provision of an extension and decking along one side elevation meant that the mobile home no longer constituted a caravan but a dwelling.

The appellant contended that there has been no breach of planning control as the extension to the mobile home constitutes the creation of a twin-unit caravan which does not take the structure as a whole outside the statutory definition of a caravan. The Inspector stated that it seems that the extension, which was constructed on-site, is dependent on the original mobile home and the decking area for its structural integrity. An Engineer's Report submitted by the appellant suggests that the walls and roof are constructed in a similar way to the mobile home. Although it was suggested at the hearing that the structure that has been created is capable of being transported in one piece he does not find the evidence compelling in this respect. Indeed the Engineer's Report refers only to the ability to dismantle the addition and to transport it as a 'flat pack'. The overall width of the structure, including the sizeable overhang of the roof over the extension, measured some 6.56m which exceeds the statutory limitation⁴ on twin-unit caravans by about 0.76m. The appellant pointed out that the exceedance was caused by the roof overhang but as this is an integral part of the extension this consideration does not alter the fact that the structure significantly exceeds the statutory limitation. As there is no planning permission for the extension it constitutes a breach of planning control.

In relation to the 12 month period for compliance with the notice, the appellant argued that this is too short with specific reference to the requirement which seeks to cease unauthorised occupation of touring caravans. A period of 18 months for compliance is sought. The Council has referred to other comparable appeal decisions in the same Authority area which had found that 12 months was a reasonable compliance period. The Inspector was not persuaded that the circumstances of this site differ from those in the other appeal decisions to such an extent as to justify extending the compliance period.

The Council's Housing Officer explained that its Gypsy and Traveller site at Hartridge Farm Road is currently being developed for 9 pitches which reflects the current identified level of need. It was confirmed that, should occupiers of the appeal site present themselves as in need of pitches, arrangements could be put in place to seek funding from Welsh Government to provide additional pitches on that the site which already has planning permission. None of the occupants of the appeal site have chosen to engage with the Council to secure a pitch and, whilst he stated that this public site may not be the preferred choice of some of the residents, it offers a potential option.

The limitation on the number of touring caravan pitches was imposed by previous Inspectors because of the unsatisfactory nature of the site, particularly in terms of highway safety. The appellant suggests that not all of the additional residents own vehicles, partly because of infirmity. He was also told about the frequent visits by health care workers to attend to some of the residents.

However, in line with the aforementioned appeal decisions the Inspector found that the stipulated 12 month period provides sufficient opportunity for alternative accommodation to be sought. It also provides ample time for the submission of the planning application which the appellant's agent confirmed would be submitted soon to permit more touring pitches on the site.

Conclusions

The ground (b) appeal is allowed in relation to buildings B, C and D. The enforcement Notice is corrected in this regard. However, the appeal was dismissed and the enforcement notice was upheld.

The requirements of the notice are that

- i) All touring caravans in excess of 10 shall be permanently removed from the Land.
- ii) Cease occupation of the Land by persons other than Mr Andrew Nathan Price, Ms Coleen St Helena Rogers, Mr Reuben Rogers, Miss Lucile Olver Ada Price, Miss Michaela Lisa Julie Price, Miss Krystal Coleen Price, Miss Lucy Lorna Price, Mr Ashley Edwards, Mr Steven Podmore, Mr Leonard Moore, Mr Jason Perryman, Mr Adrian Kidman and Mr Di Greenfield and their resident dependents.
- iii) Remove the extension to the mobile home labelled "A" on the attached aerial photograph from the Land in its entirety and reinstate the roof of the caravan to its condition before the development of the extension took place."

These requirements have to be implemented by 5 January 2019.

DECISION: UPHELD

PLANNING APPLICATION APPEAL

APPEAL REF: 17/0798
APPEAL TYPE: Written Representations
WARD: Marshfield
SITE: 35 Mallards Reach, Newport, CF3 2NN
SUBJECT: Erection of part first floor, part two storey side extension (resubmission following refusal of 16/1299 and dismissal of associated appeal)

APPELLANT: R Dobbins
PLANNING INSPECTOR: Nicola Gulley
DATE OF COUNCIL'S DECISION: 5th October 2017
OFFICER RECOMMENDATION: Refuse
COMMITTEE/DELEGATED: Delegated



SUMMARY

The Inspector considers the main issue to be the impact of the proposed development on the character and appearance to the host dwelling and the surrounding area. The property has been the subject of a previous appeal against the refusal of planning permission for a first floor side extension which was dismissed. This is referred to as the earlier proposal.

The development proposes the construction of a part first floor and part two storey side extension. Unlike the earlier proposal, the first floor extension would be located above the existing annex, set back some 1.2 metres from the front elevation of the property, measure approximately 2.5 metres wide by 6.5 metres long and have a pitched roofline which would be set below that of the host dwelling. The proposed two storey extension would be located at the rear of the host dwelling and would be approximately 2.75 metres wide, 2.5 metres long and have an overall height of 6.3 metres from ground level to the apex of the gable roof. The Inspector agrees with the Council in that no objection is raised to the two storey rear extension on the basis of its impact upon residential amenity and agrees that this

element of the proposal would not adversely impact upon the living condition of the occupiers of nearby properties.

With regard to visual amenity, the Council considered that the scale of the proposed development and the loss of the void space above the annex would have an adverse impact on the character and appearance of the host dwelling and surrounding area. The Inspector considers that the positioning of the first floor extension, which would be set back from the front elevation of the property, coupled with its height, set below the ridge height of the host dwelling, would ensure that the development would appear subservient and respect the modest proportions of the appeal property. Moreover, the level of separation between the development and the shared boundary with No. 37, approximately a metre, together with the staggered arrangement of the building line along this part of Mallards Reach would ensure that the detached character of the dwellings would remain easily distinguishable when viewed in the streetscene.

The proposed development would not have an adverse impact on either the character or appearance of the host dwelling or the surrounding area and would comply with the objectives of Policies GP2 and GP6 of the LDP and Adopted Household Extensions SPG.

Conclusion

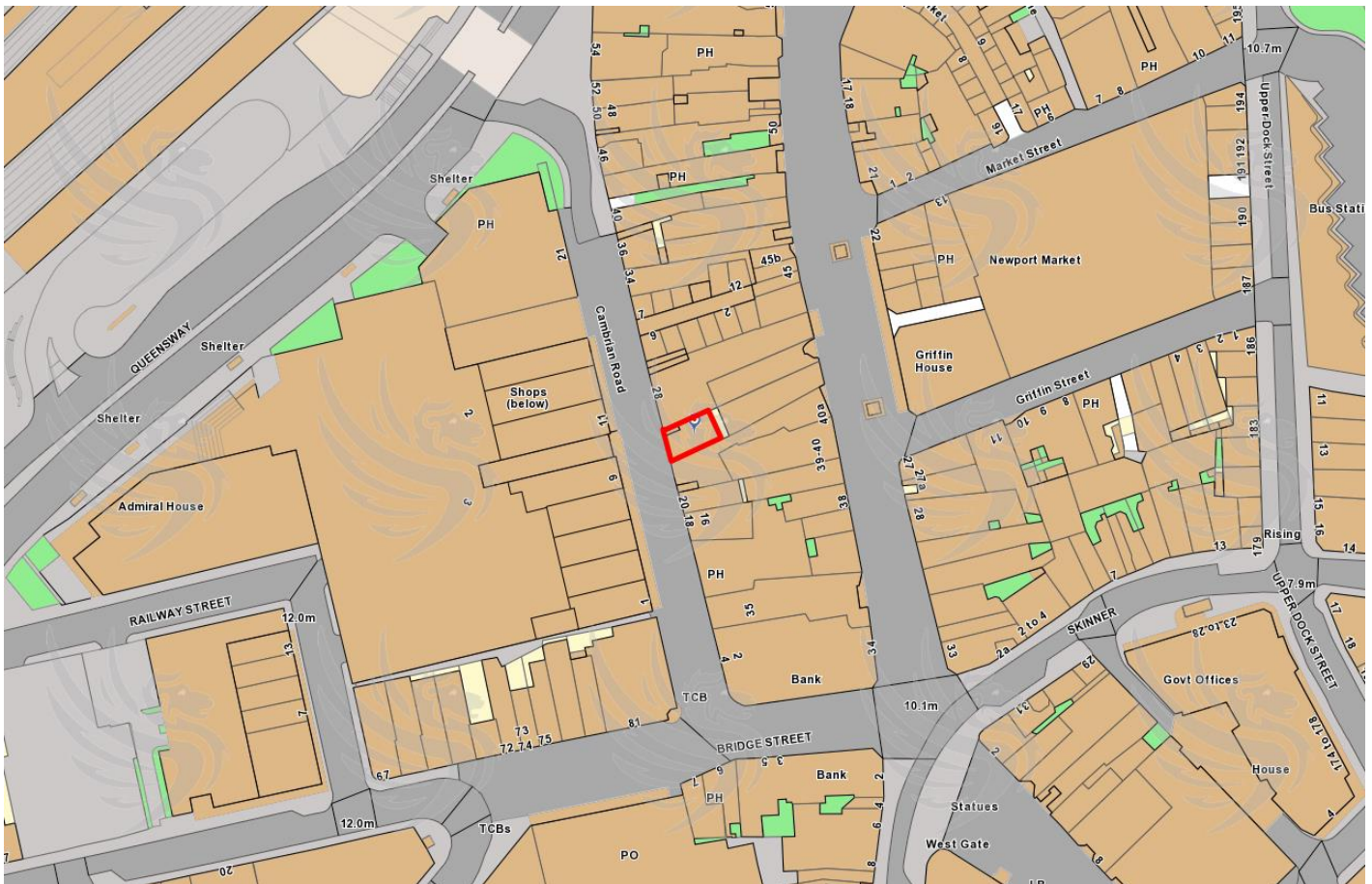
The appeal is allowed subject to conditions.

DECISION: ALLOWED

ENFORCEMENT APPEAL

APPEAL REF: E16/0117
APPEAL TYPE: Written Representations
WARD: Stow Hill
SITE: 24 Cambrian Road, Newport, NP20 4AB
SUBJECT: Unauthorised new aluminium shopfront and illuminated signage

APPELLANT: Mr. Nurretin Gundogdu
PLANNING INSPECTOR: Hywel Wyn Jones
DATE OF COUNCIL'S DECISION: 7th August 2017
OFFICER RECOMMENDATION: Issue Enforcement Notice
COMMITTEE/DELEGATED: Delegated



SUMMARY

This appeal is against Ground (g) which relates to the compliance period of the notice.

This appeal is against an enforcement notice which required :

The removal of the unauthorised shopfront and reinstatement of the façade to its condition prior to the unauthorised works being undertaken in accordance with the attached photograph.

The period for compliance with the requirements is: Six months from the date the Notice took effect.

The unauthorised shopfront was the subject of an unsuccessful appeal. The appellant has requested that the period for compliance be increased to 12 months to allow sufficient time for an appropriate planning permission and funding to be secured. The Inspector noted that the Council was not opposed to extending the compliance period however they maintained that 6 months was sufficient time to allow a

new planning application to be determined and an acceptable shopfront to be installed. As it appeared that there was need for further discussion between parties on an acceptable scheme, a modest extension of the time period is considered reasonable. The 12 months sought is not justified and thus the period was extended to 9 months. To this extent the ground (g) appeal succeeds.

DECISION:

The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of "Six calendar months" and the substitution of "Nine calendar months" as the period for compliance. Subject to this variation the enforcement notice is upheld.

DECISION: ALLOWED

PLANNING ENFORCEMENT APPEAL

ENFOR REF: E16/0473
APPEAL TYPE: Written Representations
WARD: Stow Hill
SITE: Land at 184 Upper Dock Street , Newport, NP20 1DG
SUBJECT: Replacement of timber framed shopfront with aluminium framed shopfront
APPELLANT: Mr Muhmmmed Asif
PLANNING INSPECTOR: Mr Hywel Wyn Jones
DATE OF COUNCIL'S DECISION: 14th July 2017
OFFICER RECOMMENDATION: Issue Enforcement Notice
COMMITTEE/DELEGATED: Delegated



Summary

This appeal is against an enforcement notice which required that the previous timber framed shopfront be reinstated in accordance with the drawings and photographs. The Inspector states that the main issue is whether the shopfront preserves or enhances the character or appearance of the Town Centre Conservation Area.

The appeal site occupies the ground floor of a mid-terrace property, whilst the imposing four storey Victorian Terraces that front this side of the street are in need of some renovation. The brick faced upper floor retain much of the original detailing. The commercial frontages at ground floor level are mostly shopfronts. The overall impression is a diversity of facades. The Inspector states that the black coloured frontage of the appeal building represents a simple and relatively elegant appearance which is framed by decorative masonry pilasters. The use of slim aluminium frames to the opening is not harmful to the streetscene given the more prominent timber detailed features of the same colour, such as stallrisers and mullions.

The notice required the reinstatement of the previous shop front which was timber. However the Inspector states that whilst the frame work of the previous shopfront was timber, photographic evidence indicates that shopfront's contribution was not positive. Setting aside its garish painting scheme, the prominent transom bar that extended across the frontage at the height of the top of the door, creating lights above it, together with timber panels above a masonry stall riser, represented horizontal features

at odds with the overall rhythm of the shopfronts along the street. In addition to this the fascia board created an unsightly gap between it and the brickwork face above.

On the main issue the Inspector concludes that the scheme would enhance the Conservation Area thus it would accord with policy CE7 and protect the character of the area in accordance with policies GP2, GP6 of the adopted Newport Local Development Plan (LDP)

Conclusion

The effect of the new shopfront is acceptable and thus allow the ground A appeal, grants planning permission and quashes the enforcement notice.

DECISION: ALLOWED

PLANNING ENFORCEMENT APPEAL

ENFOR REF: E16/0137
APPEAL TYPE: Written Representations
WARD: Stow Hill
SITE: Land at Ellesmere House, 2 Stow Park Avenue, Newport, NP20 4FH
SUBJECT: Retention of removal of existing chimney stack, front sliding gate and erection of feather edged fencing to rear garden
APPELLANT: Mr Sean Jolley
PLANNING INSPECTOR: Mr Declan Beggan
DATE OF COUNCIL'S DECISION: 16th February 2017
OFFICER RECOMMENDATION: Issue Enforcement Notice
COMMITTEE/DELEGATED: Delegated



Summary

Two Chimney stacks have been removed and a timber sliding gate erected without planning permission. A retrospective application sought the removal of one stack and the retention of the sliding gate which was refused planning permission. An Enforcement Notice was subsequently issued requiring the rebuilding of the two chimney stacks, removal of the timber sliding gate in its entirety and any associated fixtures and fittings. The appellant has appealed the enforcement notice on Grounds A (planning permission should be granted) and F (the steps required to comply with the Enforcement Notice are excessive).

Ground A

At issue is the effect of the development on the character and appearance of the host building, and in particular whether it would preserve or enhance the character or appearance of the Stow Park Conservation Area (CA) taking account of policies GP2, GP6 & CE7 of the adopted Newport Local Development Plan (LDP), and advice contained within Planning Policy Wales Edition 9 (PPW), and Technical Advice Note 24: The Historic Environment (TAN 24).

The appeal property which faces onto Stow Park is a large semi-detached Victorian dwelling which is located within the CA. It's varied slate roofline, architectural detailing and overall proportions make it pleasing to the eye when viewed from the road. The area in which the site is located is known as the Stow Park Estate and dates from 1870 and is a development of suburban villas set within generous plots, with the properties built in a variety of styles and materials, and where many exhibit high levels of ornamentation that is characteristic of the Victorian era; a significant number of the properties survive and retain their original features such as chimneys, gateposts, ornate dormer features and timber sash windows.

The boundary treatment to properties along Stow Park varies in form and appearance which results in varying degrees of screening from the public realm, nonetheless, in general terms the majority of properties and their features can be readily appreciated from the road. In terms of boundary openings these tend to be low level or allow for a more open appearance. The appeal property has retained a historic ornamental gatepost which makes for an attractive addition to the street scene; this feature is evident at a significant number of properties within the CA. The appeal property is typical of the type of buildings found in the CA and reflects the prevailing residential Victorian character of the area, notwithstanding any modern interventions in the wider area. The appeal property makes a positive contribution to the character and appearance of the CA.

As indicated in the appeal submissions, the chimneys that were demolished were typical of the Victorian period with their ornamented brickwork and size; they made a significant contribution in visual terms to an already varied and interesting roofline, and complemented the existing stack that still serves both properties that form the semi-detached block; the Inspector states that the removal of these features has had a significant and detrimental visual impact on the property itself and the CA.

The Inspector acknowledges that the appellant has sought to renovate this previously poorly maintained property but this does not justify the harm caused by the removal of the chimneys. The appellant states that many other properties in the area have removed their chimneys. The Inspector states that this only serves to demonstrate the visual harm that can be caused to the character of the area, and therefore reject these examples in the immediate area as providing justification for development that clearly harms the CA and further erodes its special qualities. The appellant refers to the chimneystacks having to be removed due to structural instability, however he has provided no substantive evidence to support this statement.

The Inspector states that whilst the black metal gates that have been removed had no historic value, they did reflect the style of gates on nearby properties which are open in appearance and sit comfortably within the masonry gateposts. He states that the same can't be said for the gate subject to this appeal due to its solid appearance, height of 2 metres, and relationship with the existing stone boundary wall and masonry gate post which appears awkward and contrived. The overwhelming majority of properties within the CA that have gates are black metal in appearance with a degree of alignment and ornamentation that you would expect to find fronting a property from the Victorian period.

The gate to be retained would therefore not reflect the character and appearance of gates in the area and because of its appearance neither preserves or enhances the character or appearance of the host building or the CA. Whilst some weight is given to security, the Inspector argues that security need could be met by the use of electronic surveillance systems and the risk does not outweigh the harm caused by the unauthorised gates. The proposal therefore does not accord with policies GP2, GP6 & CE7 of the LDP, and advice contained within PPW, and TAN 24, which collectively seek to protect visual amenity and heritage assets. For the reasons given above, I conclude that the demolition of two chimney stacks and installation of a sliding gate the subject of this appeal is detrimental to the host property and fails to preserve or enhance the character or appearance of the CA. The ground (a) appeal and deemed application therefore fails.

Ground F

The appellant argued that should the Enforcement Notice be upheld, its requirements should be reduced. The appellant argues that as all the materials used in the original construction of the chimneys

have been removed from the site it would prove extremely difficult to source replacements. It is also argued that as the house is now painted white there is no reason why the chimneys should not be built as close as possible in shape and form to match the rest of the house using modern materials to reflect those previously in situ. The Inspector states that whilst it may prove difficult to source replacement materials, it is highly likely that suitable materials would be forthcoming that would match those that have been removed. In addition to this it is not unusual within the CA for properties to have different materials or colours on chimneys as opposed to the exterior walls. He is also not convinced that the use of more modern materials would adequately replicate the shape, form or appearance of those that have been removed. The requirements of the notice are clear that it is directed at remedying the breach of planning control, rather than any lesser steps where the purpose might be only to remedy the injury to amenity. No lesser steps than those set out would achieve the purpose of remedying the breach of planning control. The requirements of the notice are not excessive and the appeal fails on ground F.

Conclusion

The enforcement notice is upheld and planning permission is refused on the application for deemed to have been made under S177(5) of the 1990 Act amended.

DECISION: DISMISSED

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