

# Agenda



## Planning Committee

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Date: Wednesday, 1 May 2019

Time: 10.00 am

Venue: Council Chambers - Civic Centre

To: Councillors J Richards (Chair), J Guy (Deputy Chair), M Al-Nuaimi, G Berry, J Clarke, V Dudley, D Fouweather, J Jordan, C Townsend, R White and T Holyoake

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### **Part 1**

Item	Wards Affected
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meeting held on 3 April 2019</u> (Pages 3 - 6)	
4. <u>Development Management: Planning Application Schedule</u> (Pages 7 - 110)	
5. <u>Appeal Decisions</u> (Pages 111 - 118)	

Contact: Lisa Davies, Governance Officer

Tel: 01633 656656

E-mail: [democratic.services@newport.gov.uk](mailto:democratic.services@newport.gov.uk)

Date of Issue: Wednesday, 24 April 2019

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# Minutes



## Planning Committee

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Date: 3 April 2019

Time: 10:00 am

Present: Councillors J Richards (Chair), J Guy, J Clarke, C Townsend, M Al-Nuaimi, R White, D Fouweather, G Berry, J Jordan

In Attendance: Tracey Brooks (Development and Regeneration Manager), Joanne Evans (Senior Solicitor), Joanne Davidson, (East Area Development Manager) Stephen John Williams, (West Area Development Manager), Matthew McEwan (Senior Traffic Transport & Development Officer), Alun Lowe (Planning Contributions Manager), Anne Jenkins (Governance Team Leader) and Neil Barnett (Governance Officer)

Apologies: Cllrs V Dudley and T Holyoake

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### 1. **Declarations of Interest**

None

### 2. **Minutes of the meeting held on 6 March 2019**

The minutes of the meeting held on 6 March 2019 were submitted.

Item 1 – Declarations of Interest: Councillor G Berry was entered as Ward Member for St Julians' but he is a member for Beechwood Ward.

#### **Resolved**

That the minutes of the meeting held on 6 February 2019 be taken as read and confirmed, subject to the above.

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

During the Planning Committee Meeting the following Councillor left the meeting early.  
Councillor David Fouweather

#### **Resolved**

- (1) That decisions be recorded as shown on the Planning Applications Schedule attached as an Appendix A
- (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. **Appeal Decisions**

Members' attention was drawn to the Appeals Report, for information.

## Appendix A

### PLANNING COMMITTEE – 03 April 2019

#### DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
18/0996	<p><b>Site:</b> 15 Dewsland Park Road, Newport, NP20 4EF</p> <p><b>Proposal:</b> Change of use from Dwelling (C3) to an HMO (C4) Resubmission of refusal 18/0326.</p>	Stow Hill	Mr King - Agent spoke on the application	Granted with conditions
18/1117	<p><b>Site:</b> Baneswell Community Centre, Beaufort Terrace, West Street, Newport, NP20 4DH</p> <p><b>Proposal:</b> Conversion of Community Centre and Nursery to create 19No. Apartments, including the creation of new openings and a new built house in multiple occupation.</p>	Stow Hill	Mr Grant Davies - Spoke objecting to the application	<p><b>Refused</b></p> <p>The proposed development represents an over-intensification of the use of the site, resulting in an increased demand for on street parking in an area with an already high demand for parking on street, to the detriment of both highway safety and the amenities of nearby residents. This is contrary to Policies GP2, GP4 and T4 of the Newport Local Development Plan 2011-2026 Adopted Plan January 2015 and Newport City Council's Supplementary Planning Guidance Parking Standards Adopted August 2015.</p>

No	Site/Proposal	Ward	Additional Comments	Decision
19/0145	<p><b>Site:</b> Land known as Twenty Ten Golf Course, The Coldra, Newport</p> <p><b>Proposal:</b> Discharge of Condition 02 (permissive path) of Planning Permission 01/0356 for the extension of existing Golf Course onto agricultural land and development of new Clubhouse, car park, access drive and footbridge over the River Usk affecting publish footpaths 389/44A/44/53/54.</p>	Caerleon	APPLICATION WITHDRAWN	Deferred to May Committee
18/1239	<p><b>Site:</b> Land to North East of Alan R Jones &amp; Sons Ltd, Nash Mead, Newport</p> <p><b>Proposal:</b> Creation of a secure 24hr Lorry Park, canopy structure, office unit and secure compound with associated car parking, landscaping and engineering works and retention of unauthorized engineering works comprising the importation of material.</p>	Lliswerry	Councillor Fouweather left the Committee	Granted with Conditions.
18/1152	<p><b>Site:</b> Cwm Hedd Lakes, Penylan Road, Bassaleg, Newport, NP10 8RW</p> <p><b>Proposal:</b> Change of use of fishing office to holiday let.</p>	Graig		Granted with Conditions.
n19/0112	<p><b>Site:</b> Site of former public toilets, Cefn Road, Rogerstone, Newport</p> <p><b>Proposal:</b> Erection of 4No display panels with associated landscaping and public seating.</p>	Rogerstone	The Chair advised the Committee that Councillor C Evans was unable to attend Committee but supported the application.	<p>Granted subject to two additional conditions:</p> <ol style="list-style-type: none"> <li>1. Details of materials to be agreed (to ensure it was of suitable quality / durability)</li> <li>2. Maintenance Plan</li> </ol>

# Report

## Planning Committee

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### Part 1

Date: 1<sup>st</sup> May 2019

**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

**Signed**

## **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, well-being of future generations, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

## **Financial Summary**

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

## **Risks**

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



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

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

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

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

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

\* Taking account of proposed mitigation measures

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

The Council's Corporate Plan 2017-2022 identifies four themes, including the aim to be a Thriving City. In order to achieve this, the Council is committed to improving:

- jobs and the economy
- education and skills
- fairness and equality
- community safety and cohesion
- the environment, transport, culture and social well-being

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 contains the Council's Well-being Statement and well-being objectives, which contribute to the achievement of the national well-being goals. The Corporate Plan also links to other strategies and plans, the main ones being:

- Improvement Plan 2016-2018;
- Local Development Plan 2011-2026 (Adopted January 2015);

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 and considered**

- 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.

### **Comments of Head of People and Business Change**

Within each report the sustainable development principle (long term, prevention, integration collaboration and involvement) of the Well-being of Future Generations (Wales) Act has been fully considered.

From an HR perspective there are no staffing issues to consider.

### **Comments of Cabinet Member**

The Cabinet Member for Regeneration and Housing has been made aware of the report.

## 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

## Scrutiny Committees

None

## Equalities Impact Assessment and the Equalities Act 2010

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

## Children and Families (Wales) Measure

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

The Well-being and Future Generations (Wales) Act seeks to improve the social, economic environmental and cultural well-being of Wales. Public bodies should ensure that decisions take into account the impact they could have on people living in Wales, in the future. The 5 main considerations are:

- Long term: Decisions made by the Planning Committee balances the need to improve the appearance of areas as well as meeting the needs of residents in order to make places safe to live in and encourage investment and employment opportunities. Planning decisions aim to build sustainable and cohesive communities.
- Prevention: Sound planning decisions remove the opportunity for anti-social behaviour and encourages a greater sense of pride in the local area, thereby giving the City potential to grow and become more sustainable.
- Integration: Through consultation with residents and statutory consultees, there is an opportunity to contribute views and opinions on how communities grow and develop, thereby promoting greater community involvement and integration. Planning decisions aim to build integrated and cohesive communities.
- Collaboration: Consultation with statutory consultees encourages decisions to be made which align with other relevant well-being objectives.
- Involvement: Planning applications are subject to consultation and is regulated by legislation. Consultation is targeted at residents and businesses directly affected by a development, ward members and technical consultees. Engagement with the

planning process is encouraged in order to ensure that the views of key stakeholders are taken into consideration.

Decisions made are in line with the Council's well-being objectives published in March 2017. Specifically, 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.

## **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. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the consultation of these guidance documents.

## **Consultation**

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

## **Background Papers**

### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 10 (December 2018)  
Development Management Manual 2016

#### *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.

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

Dated:

## **APPLICATION DETAILS**

**No: 1**                      **18/0980**                      **Ward: GRAIG**

**Type:**                      **FULL**

**Expiry Date:**                      **03-DEC-2018**                      **EXTENSION OF TIME: 03-MAY-2019**

**Applicant:**                      **P TREASURE AND K LEADER**

**Site:**                      **27, PENYLAN CLOSE, BASSALEG, NEWPORT, NP10 8NW**

**Proposal:**                      **DEMOLITION OF EXISTING GARAGE AND CONSTRUCTION OF 2NO. DWELLINGS AND ASSOCIATED PARKING**

**Recommendation:**                      **GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE PERMISSION SHOULD THE AGREEMENT NOT BE SIGNED WITHIN 3 MONTHS OF A RESOLUTION TO GRANT PERMISSION.**

### **1. INTRODUCTION**

- 1.1 This application seeks full planning permission for the construction of 2 no. 3 bed semi-detached dwellings to the side of 27 Penylan Close, along with demolition of the existing attached single storey garage to No.27. It is proposed to create new parking areas to the front and carry out various landscaping works.
- 1.2 The application is brought before Planning Committee at the request of Councillors Williams and Cornelious.

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

None

### **3. POLICY CONTEXT**

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

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

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

Policy SP18 Urban Regeneration proposals will be favoured which assist the regeneration of the urban area, particularly where they contribute to: vitality, viability and quality of the city centre, provision of residential opportunities, and re-use of vacant land.

Policy GP1 Sustainability seeks to pursue has been developed in accordance with sustainability principles and this Policy seeks to carry that through into individual developments.

Policy GP2 General Amenity states that development will not be permitted where is 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 Service Infrastructure development will be permitted where the necessary and appropriate service infrastructure exists and that there is sufficient capacity for the development. This includes power supplies, water, means of sewage disposal and telecommunications.

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

Policy GP5 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 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 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 visual amenity.

Policy GP7 Environmental Protection and Public Health states that development will not be permitted which would cause or result in unacceptable harm to health.

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

Policy H4 Affordable Housing states that on-site provision of affordable housing will be required on all new housing sites of 10 or more dwellings within the settlement boundary, or 3 or more dwellings within the defined village boundaries. For housing sites below this threshold the Council will seek a commuted sum contribution.

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

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

### 3.2 **Supplementary Planning Guidance (Adopted)**

- Planning Obligations SPG
- Wildlife and Development SPG
- New Dwellings SPG
- Parking Standards SPG
- Trees, Woodland, Hedgerows and Development Sites

## 4. **CONSULTATIONS**

### 4.1 DWR CYMRU/WELSH WATER: The proposed development site is crossed by a public sewer. No surface water and/or land drained shall be allowed to connect directly or indirect with the public sewerage network.

To ensure the protection of the existing asset crossing the development site a condition is suggested for the applicant to submit a drainage scheme (*disposal of foul, surface and land water, and include details of proposals for the diversion of the on-site public sewer*) prior to the commencement of development (of which they would show the diversion as part of this scheme). From a planning perspective we would be satisfied that this would confirm the assets future protection as part of the development. They would then of course apply to us for a formal S185 application to divert the asset of which is outside of the planning process.



- 4.2 WALES AND WEST: No objection - Gas pipes may be present in this area, an informative recommended.

## 5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Following the amendments to the parking layout I'm satisfied that parking will be available for the proposed properties in accordance with the Newport City Council Parking Standards. The parking spaces should however be demarcated on site.

That being said, the applicant has demonstrated that parking will be provided in accordance with the standards and also that the existing level of off street parking for 27 Penylan Close will be retained. It's therefore determined that the proposal will not exacerbate the existing parking issues along Penylan Close.

I note that the applicant proposes to provide a channel drain to prevent surface water run off onto the adopted highway. This is an acceptable solution to collect surface water run off however the soakaway is located too close to the highway. A soakaway must not be located within 5m of the adopted highway.

Should the application be approved a condition will be required which states that a CEMP must be submitted and include such details as contractor parking, contractor compound, wheel wash facilities and dust suppression.

Subject to the above I would offer no objection to the application.

City Services will need to be contacted in regard to the alterations to the drop kerb and vehicle crossover.

- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No tree objections, however, the hedgerow is a valuable aesthetic boundary screen and should be retained and maintained. Conditions recommended; a scheme of hedge replanting/rejuvenation and maintained at a height of 1.5 metres.

**Comments in relation to objections (5/4/19):** As you can see from the Tree Survey (extract below) there isn't anything really worth keeping. The "hedge" is good for a boundary but has little merit in terms of its species/health and it is better to replant.

## 7. TREE SURVEY FINDINGS

- 7.1 A summary of the tree survey quality assessment findings that are relevant to the current proposals are shown in table form below:

	Total	A - High quality trees whose retention is most desirable.	B - Moderate quality trees whose retention is desirable.	C - Low quality trees which could be retained but should not significantly constrain the proposal.	D - Very poor quality trees that should be removed unless they have high conservation value.
Trees	4	-	1	3	-
Groups	1	-	-	-	1
Hedgerows	3	-	-	3	-
Total	8	-	1	6	1

- 7.2 It can be seen from the above table that the vast majority of the arboricultural resource for the site is of low quality and is comprised of both individual trees and hedgerows.

- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY OFFICER): There is no ecological information submitted with the above application but I have reviewed the plans, the arboricultural report and local species records for the area.

The proposed building is situated on an area of garden lawn and shrubs. The arboricultural report shows that the proposals will result in the loss of part of the hedge and a tree. The

hedge does not meet the criteria to be considered as priority habitat. There will be no impacts on priority habitats.

The habitats on site have limited potential to support protected species due to the type and management which results in a lack of structural diversity and suitable refuge. There are few records of protected species within 1 km of the site; no records of any common reptile species were returned, although this does not confirm absence and the site is linked to mature gardens which may be suitable to support slow worm. The hedge and trees are suitable to support nesting birds. The tree and garage that will be removed to facilitate the development do not have features suitable for bats.

If you are minded to grant this application, I recommend that it would be proportionate to the risk to protected species to include informatives with regard to the protected status of reptiles, birds and bats.

- 5.4 HEAD OF REGENERATION AND REGULATORY SERVICES (PUBLIC PROTECTION MANAGER): No objections to the proposal. I would however recommend that a standard condition be applied to any permission granted to control hours of demolition, construction and deliveries to site for example.
- 5.5 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING CONTRIBUTION MANAGER): There is a policy requirement for sites of fewer than 10 dwellings within the settlement boundary, or fewer than 3 dwellings within the defined village boundaries, to provide a commuted sum contribution to assist the Council in meeting its on-going requirement for affordable housing. The following planning obligation is required to mitigate the impact of the development and create a sustainable development.

#### **Affordable Housing Contribution**

Based upon a net increase of 2 x 3 bedroom houses, and subject to economic viability, a commuted contribution of £5,118 (£2,559 per house) would be requested for affordable housing provision.

Affordable Housing Sums will be index linked to the Retail Price Index. Payments will be staggered and directly related to occupancy rates

- 5.6 HEAD OF REGENERATION AND REGULATORY SERVICES (AFFORDABLE HOUSING): I concur with the information supplied by my planning policy colleagues.
- 5.7 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE MANAGER): No response received

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties that share a common boundary with and opposite the application site were consulted (9 no. addresses).

7 objections were received. Following submission of additional information / amended plans all properties previously consulted and those who had commented were re-consulted. Objections have been summarized below:

#### **Character of the area**

- The parking court with no landscaping relief is unsightly and completely out of character with the surrounding area.
- The loss of all the front gardens and proposed parking area is out of character with the existing houses along Penylan Close / does not maintain the appearance of the street frontage.
- Penylan Close will lose a considerable part of its character should the hedge along the site's western boundary be lost through the retaining wall works.
- The design is out of character with the rest of the street - narrower, no garage & dormers.
- Overdevelopment of the site.

### **Neighbour**

- Neighbouring gardens and houses will be overlooked and overshadowed.
- Noise and disturbance from the dwellings, parking area and extra vehicles movement.
- Loss of a (private) view from 2 Highfield Gardens.

### **Highways Safety and Parking**

- Parking space (for no.27) immediately adjacent to the proposed bin storage area is unlikely to achieve the 2x2m visibility splay required by highways.
- The road is heavily congested with on street parking, preventing access by emergency vehicle / refuse etc, more traffic will exacerbate this.
- 8 parking spaces are inadequate for three dwellings.
- Proposed parking space size is inadequate.
- The parking will extend the dropped kerb around a considerable part of the cul-de-sac. The cul-de-sac is often used for existing properties and visitor parking.
- The current tenants of no.27 have 3 cars (unlike previous occupier who had none) however only 2 spaces proposed.
- The front of the existing no.27 is of sufficient width to meet Part M access requirements.
- Traffic survey was only for 1 hour on 1 day and not adequate reflection of the area.
- The close is used by many pupils to get to Bassaleg School and I believe there is a possible danger from the increase vehicle movements and parking.

### **Ecology**

- Wildlife in the existing garden including slow worms
  - There is bat activity amongst the existing trees
- [NB the Ecologist was made aware of these objections 18/2/19]

### **Trees and Hedges**

- Development will remove / damage trees and hedges in and adjacent to the proposed site, which will be impacted by this development, both in terms of available space and available light.
- No proposed landscaping plan submitted.
- The tree report is inaccurate / inconsistent – this was a 4 part detailed objection from Mr & Mrs Price (27/3/19) [NB, the objection letter was passed to the Councils Tree Officer for comment].

### **Drainage**

- Existing flow drainage under proposed dwelling, the site layout shows the existing foul sewer being diverted to run along the 1m footpath between the existing no.27 and the proposed plot 1. This clearly continues to ignore Welsh Water's guidance note for the requirement for a 3m centre to centre easement.
- Large area of hardstanding will cause surface water to flow towards neighbouring properties.
- Soakaway in an inappropriate location (to the rear) [NB re-located to the front].

### **Waste storage**

- Exposed bins are unsightly and an environmental risk and this proposal shows an access that is also incredibly tight with just 750/800mm between the edge of the parking bay and the bins.
- An enclosed bin store would be out of keeping with the character of the area.
- Distance from the property to the bin store is too far.

### **Other**

- Concern that the dwellings' ridge height will increase from what is shown.
- More pressure on the already stretched amenities in the area e.g schools, doctors, etc. This has already proved the case with the two new housing developments near Whiteheads rugby club, and the old Alcan site.
- Various inconsistencies in the application forms, design and access statement and plans [NB these brought to the agents attention].
- No details of the height of the retaining walls [NB prior to the section being submitted].

- The application is for profit and the applicant has no intention of living there.
- Alternative use suggested for the site as a carpark (with a charge).

## 6.2 COUNCILLORS:

**Cllr Williams:** I believe that two houses on this site is not appropriate. It will create severe congestion at the bottom of Penylan Close. The parking spaces appear too small and the fact that these are three storey houses means they will overlook existing properties. The houses are not in keeping with other houses in the street and although aesthetics may not be a planning issue it is important to others who live in the street. I would like this application put before the Planning Committee with a site visit.

**Cllr Cornelious:** Penylan Close is a cul de sac and built in the early 1960's. When the close was built the expectation was that people would have one car. Now many of the residents have converted their garage to an extra living room and have two (or more) cars which means many cars are parked on the road. This causes congestion. The close is used by many pupils to get to Bassaleg school and I believe this is a possible danger. It also seems that the close is not very wide by today's standards.

## 6.3 GRAIG COMMUNITY COUNCIL: (Original submission): strongly objects to this proposal for the following reasons:

- Council believes the planning proposal submitted supplies insufficient and incorrect information. There are many mature trees surrounding the boundary of the current property, the roots of which would be undermined by any construction work and this has not been addressed. Nor has the effects on the stability of the very old high stone wall to the rear of the property which once belonged to a large country house which sat to the North. There are no surveys which looked at these issues or the effect on wildlife in the area. Council is aware there is a Slow Worm population which needs to be protected. No surveys have been performed to acknowledge any of these issues.
- The topography of the area has not been truly shown, as the site (and lower end of the Close) has many differing levels which have not been accounted for in the application.
- Should the proposed homes be built in the location on the plans, they would be set above the natural street scene and would overlook and be overbearing on neighbouring properties in Highfield Lane and Highfield Gardens.
- The area currently has an open feel, and the hedgerow which has for so many years been a part of the street scene could not be retained or would need to be severely cut back to accommodate the parking solutions proposed. This will result in the development looking as is it were shoe-horned in and the area would be cramped. The open aspect would be lost.
- The cul-de-sac end of Penylan Close has historical issues with sewer drainage in the area, as these homes are the last in the run for the road. Welsh Water has already identified issues with building in the grounds of the current property as sewer pipes run through the garden from both Penylan Close and at least one home in Highfield Lane (no.1). Any diversion of pipework to satisfy Welsh Water conditions would make the current proposals unworkable. The decision to use soakaways at the rear of the proposed properties for rainwater would be inadequate as the land runs uphill.
- Penylan Close has inadequate parking facilities which would be exacerbated by the proposed development. Access for emergency vehicles is already compromised as this is a narrow road. Cars parked at the roadside need to be parked on the pavement to allow space for vehicles to pass, and the Police are regularly called as it is impassable at times due to the number of vehicles housed in the area. The creation of the parking spaces proposed for the development are inadequate in size and layout to accommodate most vehicles, and would be set above, but extremely close to the perimeter of the properties in Highfield Lane. This layout would also lead to residents in the road being unable to park in that area as is currently the custom to accommodate the number of cars belonging to residents already living there, leading to further parking issues being experienced by the current residents.
- The site is inadequate to support a pair of semi-detached homes in addition to the home already onsite, and Council considers it overdevelopment. Additionally, the plans submitted determine that the upper floors of the proposed dwellings would have inadequate headroom for the rooms being created, and it is feared that the rooflines of

the buildings would creep above the proposed height stated to accommodate this, resulting in higher rooflines than that of the neighbouring properties.

- Council has been approached by all the surrounding residents who are unanimous in their objections to this proposal. Council is aware of, and fully supports all the resident's reasons for their objections to this application.

## **7. ASSESSMENT**

### **The Site**

- 7.1 27 Penylan Close is a semi-detached house at the end of a 1960's cul-de-sac with a large side garden (approximately 11 metres wide). The street scene has a standard format of semi-detached houses with attached flat roofed single storey garages to the side. The properties are set back from the road following the building line. There has however been various alterations including: two storey side extensions (over the garage), single storey front extensions, garage conversions and a one and a half storey dwelling opposite the application site (no.26a) was approved in 1999. All of this has altered the rhythm of the street.
- 7.2 To the rear (north) of the site are detached dwellings with shallow pitched roofs along Highfield Gardens, these are significantly higher than the application site. To the side (west) Hillside and 1 Highfield Lane are large individual designed detached dwellings set in larger plots. While glimpses of Hillside and Highfield Gardens are possible across the substantial boundary hedge and between dwellings, from the street scene the site reads as part of Penylan Close. To the south of the site a footpath connects Penylan Close to Caerphilly Road.
- 7.3 The site slopes down from rear to front and a small number of retaining walls are used in the existing site. There is a level difference of approximately 1.3-1.6 metres between the pavement and the external pathway around the existing dwelling. The large area of grass to the front of the application site and the boundary hedge creates a pleasant end to the street.
- 7.4 In terms of its designations, the site is located within the settlement boundary, as defined by the Newport Local Development Plan 2011-2026 (adopted January 2015). Otherwise, there are no other relevant site constraints or designations noted, other than a sewer crossing part of the site.

### **Proposed Development**

- 7.5 The dwellings proposed would be two storeys with box dormers to the rear. The ground floor of each property would contain a living room/kitchen/diner and WC, two bedrooms, and a bathroom at first floor level and a third master bedroom in the roof space. The 2 no. dwellings combined would measure 9.9m in width, 8.7m in depth and reach a height of 5.4m to the eaves, 8m to the ridge.
- 7.6 The scheme would necessitate the demolition of the existing garage and creation of an enlarged vehicular access to serve a parking and turning area, 8 new parking spaces turning areas and a bin store (212sqm) to serve both the existing and proposed dwellings. A series of retaining walls are proposed to allow a parking area level with the road and would cut into the front garden area. This retaining walls range from 1.6m (to the front of the dwellings) to 0.5 metres (at the new turning area) and levelling out to the existing ground level to the south of the parking area. Steps would lead up to the level of the existing and proposed dwellings. To the side of plot 2 a second retaining wall at 2m high, would provide a rear access and would continue around to enclose a lower rear patio area (0.9m), with stairs up to the rear garden.

### **The impact on the character and appearance of the area**

- 7.7 **Dwellings:** The scale mass and width of the proposed dwellings are considered appropriate to the site, responding to the existing building line, eaves and ridge heights. An attempt has been made for the proposed dwellings to replicate the form and proportions of the neighbouring dwellings, they pick up existing features of the surrounding properties. It is acknowledged the proposed dwellings are marginally narrower than the existing property (4.9m/6.3m) and would not have single storey attached garages. However the rhythm of the

street has already been disrupted by past extensions and alterations and the proposed dwellings are not considered to have a dominant impact on the host dwellings, and would ensure that the general character of the street scene is maintained.

- 7.8 The proposed dwellings would be modest, three bed properties. The design and appearance of the dwellings are considered acceptable, window proportions and positions are considered appropriate. The dormers to the rear, while large, are set marginally down for the ridge and 1 metre from the edge of the roof, and the bulk and length of the dormers would not be widely visible from any public viewpoint outside the site. They are not considered to have an impact on the character and appearance of the street scene sufficient to warrant refusal.
- 7.9 The materials proposed are red brick, with render to first floor and a brown double roan pan tile to match the materials of neighbouring properties. As such it is not considered that the proposed dwellings or removal of the garage would cause serious harm to the character and appearance of the area.
- 7.10 **Hardstanding and retaining walls:** While some properties along Penylan Close have large areas of hardstanding to the front of the individual property, short sections of retaining walls are seen (up to approximately 0.5 metres high).
- 7.11 The proposal involves the provision of off-street parking and retaining walls which would harden the appearance of the end of the cul-de-sac. The proposed hardstanding would accommodate 8 spaces, with a 1.6 metre retaining wall to the front of the 3 dwelling (approximately 18m long). This would be considerably taller than the neighbouring dwellings retaining walls (no.28) and larger than anything else within the street. The majority of grass to the front of the application site and the boundary hedge would be removed with only a small area (79sqm) of green space remaining at the end and edge of the parking area.
- 7.12 While it is acknowledged that the proposal would harden the appearance of the street, on balance the proposals are not considered to cause sufficient harm to the character of the area to refuse to the application on these grounds. Landscaping of the remaining green space would be important to soften some of the hardstanding and this is discussed in detail in paragraphs 7.27- 7.29 of this report. The part retention / replanting of the hedge would assist in minimising the visual impact of the proposals.

#### **Impact on the highways and parking**

- 7.13 The development proposal includes the provision of 8 off-road parking spaces, 3 for each of the new dwellings and 2 for the existing property (replacing the existing 2 spaces). The site is located within Zone 4 parking area and parking would be provided in accordance with the Newport City Council Parking Standards SPG.
- 7.14 The Highways Engineer acknowledges the concerns raised in regard to parking along Penylan Close whereby vehicles are parking on the footways which is considered detrimental to pedestrian safety. However following submission of amended plans, the applicant has demonstrated that parking would be provided in accordance with the standards and that the existing level of off street parking for 27 Penylan Close would be retained and the Highways Engineer therefore considers that the proposal would not exacerbate the existing parking issues along Penylan Close.
- 7.15 The existing dropped kerb would be enlarged and the Highways Engineer is satisfied that adequate vehicular visibility and turning would be available within the site. As such the proposal is considered not to be detrimental to highway safety.

#### **Neighbouring amenity**

- 7.16 The application site is bounded on three sides and the comments of the objectors have been noted. The impact upon those to the north (2 Highfield Gardens), the west (Hillside and 1 Highfield Lane) as well as the host dwelling to the east (28 Penylan Close) has been considered in turn.

- 7.17 The Agent has submitted a topographical survey picking up neighbouring ridge and eaves heights and a section through the site in relation to the adjacent residential dwellings has been produced. Window positions have been approximated from the planning officer's site visit to all neighbouring dwellings
- 7.18 **Sunlight & Daylight:** The house extensions and domestic outbuildings SPG (Aug-2015) sets out tests for loss of light, this relates to neighbours' habitable rooms. In most cases, a proposal that fails the 25° test in relation to a neighbour's protected window would not receive planning permission. Similarly, a proposal that fails two or more of the 45° tests in relation to a single protected window is unlikely to be acceptable.
- **Impact on 2 Highfield Gardens:** The new dwelling would be 24 metres from the closest habitable room of no.2 and the new dwellings are significantly lower than no.2, with a substantial retaining wall separating the gardens. The proposal passes the 25° test. While the 25° test relates to habitable rooms rather than gardens, it is worth noting the new dwellings would be 12 metres from the rear garden boundary and would also pass the 25° test.
  - **Impact on 1 Highfield Lane:** The new dwelling would be 17.3 metres from the closest habitable window (conservatory) and the new dwellings are at a lower ground level than no.1, with a substantial and dense boundary hedge between (belonging to Highfield Lane). The proposal passes the 25° test.
  - **Impact on Hillside:** The north east elevation features two first floor windows, both of which serve the bathroom / toilet (non-habitable). In the north west elevation are a ground floor patio door serving the living room and first floor bedroom (both habitable). The proposal fails the 45° horizontal test in relation to both of these windows, however it passes the vertical test in relation to both. In addition it is noted that both the living room and bedroom are served by a second door/window in the south east elevation, which would be the main source of light for these rooms.  
The north west elevation patio door opens onto a small patio area, however this is already naturally shaded from the north by the substantial boundary hedge. The main garden area to Hillside is to the southeast of the dwelling, which is not impacted by the new dwelling.
  - **Impact on 28 Penylan Close:** The proposal passes both the 45° vertical and horizontal test.
- 7.19 Due to the distance between neighbouring properties, the proposal is not considered to have a sufficiently detrimental impact with regard to loss of light to warrant refusal of the application.
- 7.20 **Overlooking / privacy:** In order to preserve residents' privacy in their homes, suitable separation distances must exist between new high-level protected windows and the protected windows in neighbouring houses. The Council's SPG sets out assessment for the loss of perceived space. In relation to protected windows and separation distances;
- i) *Protected windows that face one another should be at least 21.00 metres apart (unless separated by permanent structures or evergreen trees protected by Tree Preservation Orders),*
  - ii) *Protected windows that do not face one another may be less than 21.00 metres apart.*
- and in relation to protected windows and adjacent gardens:  
*When judging whether the distance between a high-level protected window and a neighbouring garden is suitable, the Council would consider, amongst other things, the shape, size and layout of the garden and the effects of ground levels, outbuildings and boundary treatments (e.g. hedges and fences).*
- **Impact on 2 Highfield Gardens:** Ground, first and second floor (dormer) windows face towards no.2. These would be 24 metres at the closest point (25.5m to the dormer). It is noted the new dwellings are significantly lower than no.2, with a substantial retaining wall separating the gardens.
  - **Impact on 1 Highfield Lane:** One first floor side window is proposed in plot 2, this serves a bathroom and a substantial and dense boundary hedge (belonging to Highfield Lane) screens the new dwelling from no.1

- **Impact on Hillside:** The closest window to Hillside is a bedroom in plot 2, while there is only 12 metres separating it from the bedroom window of Hillside, this is at an acute angle and no direct overlooking would occur.
- **Impact on 28 Penylan Close:** No side windows are proposed facing no.28.

7.21 The development is not considered to cause detrimental overlooking to the neighbours. However, a condition requiring obscure glazing to the bathroom and removing permitted development rights for any additional windows in the side elevation would be necessary.

7.22 **Overbearing:** The Council's SPG sets out assessment for the loss of perceived space and visual amenity. It notes development that reduces the distance between a neighbouring protected window and a proposed blank two-storey elevation to less than 14 metres is unlikely to be acceptable.

- **Impact on 2 Highfield Gardens:** the rear elevation is not blank and would be 24 metres at the closest point. It is noted the new dwellings are significantly lower than no.2, with a substantial retaining wall separating the gardens.
  - **Impact on 1 Highfield Lane:** The side elevation of the new dwelling would be 17.3 metres from the closest window (conservatory) and the new dwellings are lower than no.1, with a substantial and dense boundary hedge screening the new dwellings.
- Impact on Hillside:** Hillside is orientated so the principle elevation faces to the south, and main garden area is to the southeast of the dwelling. To the north of the dwelling a small patio area is enclosed by retaining walls, which continue along the north east side of the property, with a substantial boundary hedge adjoining both 1 Highfield Lane and the application site. While at its closest point the proposed dwelling would be only 10 metres away from the closest window (living room) this is at an acute angle. When measuring at 45° angle from the protected window the proposed dwelling is 16.8 metres away.
- **Impact on 28 Penylan Close:** The new dwellings would be broadly in line with the host property with eaves and ridge height to match.

7.23 The construction of two storey dwellings with a rear dormer in this location would be visible from the neighbouring property, and change the outlook from neighbouring windows. However, in this residential setting it is considered that the locations of the dwellings and the neighbour's trees along the boundary would not result in an overbearing impact on the neighbouring property.

7.24 **Noise and disturbance:** It is accepted that there would be some increase in general noise level and traffic flow, in particular to the rear garden of Hillside where the parking area is closest. However, the site is set within the settlement boundary in an established residential environment. The addition of 2 further dwellings / 8 parking spaces within this environment would not therefore give rise to any significant increase in the noise generated and traffic flow sufficient to cause unacceptable harm. The Environmental Health Officer has recommended conditions regarding hours of work for the construction works.

7.25 Overall the proposal is not considered to result in a detrimental impact on residential amenity by way of overbearing impact, loss of light or loss of privacy in this instance and is in accordance with policy GP2.

#### **Amenity of future occupiers**

7.26 In terms of the amenity of future occupiers of the properties, it is considered that the proposed dwellings provide the facilities necessary to meet their needs, and ample internal and external amenity space for both the new dwellings and the donor property.

#### **The impact upon Trees**

7.27 The proposed new property and retaining walls would be positioned close to the boundary hedge on the south west and north west boundaries. The application has been supported by a tree report, which includes a tree survey, impact assessment and protection plan relating to the potential impact on trees. The tree survey provided has been assessed by the Tree Officer who consider the report and tree survey a fair and reasonable assessment of both the tree and hedge, condition and grades.



7.28 The proposed changes to the site have identified a number of poor quality trees for removal, mostly around the boundary, but these are lower grade value (C or U). While the presences of trees and greenery to the front of the dwellings is considered a valuable feature in the street scene, which also provides screening to the adjacent property, the existing hedge has little merit in terms of its species/health and there is scope at the site for additional landscaping and a native hedging species to complement the existing holly/thorn species such as hazel and field maple and conditions would be necessary to require appropriately located planting.

7.29 While the objector's comments in relation to the submitted tree report are noted the Council Tree Officer raises no objections subject to landscaping conditions to mitigate the loss of hedge with additional planting.

### **Ecological matters**

7.30 The Council Ecologist has been consulted on the proposals and made aware of objectors comments with regard to ecology. They have reviewed the plans, the arboriculture report and local species records for the area. While the proposal would result in the loss of part of the hedge and a tree, the Council Ecologist confirmed the hedge does not meet the criteria to be considered as priority habitat and has not objected to the proposal but has recommended that it would be proportionate to the risk to protected species to include informatives with regard to the protected status of reptiles, birds and bats.

### **Drainage and Services**

7.31 Several comments have been received from Welsh Water. While it is acknowledged that the site is crossed by a public sewer which would need to be diverted as a result of the development, the applicant is aware of this and has submitted a drainage plan. This would require separate consent (under Section 185 of the Water Industry Act).

7.32 The drainage plan indicates a soakaway within the parking area to the front of the properties and a channel drain to prevent surface water run off onto the adopted highway. Welsh Water has requested the imposition of conditions which restrict surface water being discharged into the public sewerage network. The Highways Officer notes the soakaway is located too close to the highway and a surface water drainage condition is recommended.

7.33 With regards to other utilities, Wales and West Utilities has no objections to the proposal.

### **Waste**

7.34 There is sufficient space within the site to store bins and recycling facilities with good access to the public highway. The proposal includes a bin storage area for all 3 properties at street level adjacent to the front boundary with no.28, and a condition requiring details of bin storage is considered appropriate to ensure they do not have an unacceptable impact on the character of the street scene.

### **Other Matters Raised**

7.35 The Party Wall Act is the procedure for resolving disputes between owners of neighbouring properties, arising as a result of one owner's intention to carry out works which would affect the party wall or boundary wall or adjacent to the line of junction between the two properties or excavation within certain distances of a neighbour's structure and to a lower depth than its foundations. It is a civil matter between neighbours and not a material planning consideration.

7.36 The width of the footpath to the front of no.27, would remain unchanged (0.85m) from the width of the existing concrete hardstanding.

7.37 Loss of value of neighbouring properties is not a material planning consideration.

### **Section 106 Planning Obligation matters**

7.38 In accordance with Policy SP13 of the adopted Newport Local Development Plan 2011-2026 and the adopted Planning Obligations Supplementary Planning Guidance, development would be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the

sustainability of the location. In this case, section 106 planning obligations are required to mitigate the impact of the development in accordance with the table below.

<b>Service Area that requires planning obligation</b>	<b>Purpose of planning obligation</b>	<b>Planning obligation initially sought by Planning Authority</b>	<b>Summary Heads of Terms agreed by applicant(s)</b>	<b>Viability Issues?</b>
<i>Regeneration Investment and Housing</i>	Commutated sum payments for affordable housing	£5,118	<i>Agreed in full (19/10/18)</i>	<i>No</i>

7.39 Affordable housing contributions will be index linked to the Retail Price Index and payments would be staggered and directly related to occupancy rates.

7.40 The applicant has agreed to the Heads of Terms associated with the legal agreement and subject to its completion, it is considered that the proposal satisfies Policies SP1, SP13 and H4 of the NLDP and SPG: Planning Obligations.

## **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 *Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed

off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **9. CONCLUSION**

- 9.1 It is considered that the proposed development is acceptable and in accordance with policies SP1, SP13, GP1, GP2, GP3, GP4, GP5, GP6, GP7, H2, H4, T4 and W3 of the Newport Local Development Plan 2011-2026. It is considered that amenity of neighbouring and future occupiers would be protected, there would be no harmful impacts on highway safety. The visual amenity of the street scene would be affected however on balance this is not considered to cause sufficient harm to the character of the area to refuse the application. Subject to conditions and informatives there would be no harmful impacts in terms of surface water drainage and ecology/trees.
- 9.2 It is therefore recommended that the application is granted subject to the following conditions and subject to Section 106 Legal Agreement.

## **10. RECOMMENDATION**

**GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE THE APPLICATION IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF THE DECISION**

### **Approved Plans**

01 The development shall be implemented in accordance with the following plans and documents: PL03C, PL04C, PL05A, PL07BPL08B, PL09DPL10, PL11, and PL13, PL101 (received on 22 January 2019), PL 102 and PL 103 and B/NMAPENYLANCL1/02.

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

### **Pre- commencement**

#### **Construction Environmental Management Plan**

02 No development, to include demolition, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following during development:

- Provision of contractors' parking
- Details of enclosure of working areas
- Dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities';

Development works shall be implemented in accordance with the approved CEMP.

Reason: To protect the amenities of nearby residents and in the interests of ecology including European protected species and in the interest of safeguarding the features of the Severn Estuary European sites and SSSI and the River Usk SAC and SSSI. In accordance with policy GP2 and GP4.

### **Materials – Submission**

03 No work shall be commenced on the construction of the approved scheme until details or samples of the external materials and finishes to be used in the buildings and any hardsurfacing have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings. In accordance with policy GP2 and GP6.

### **Boundary Treatment - Submission**

04 No development, other than demolition, shall commence until full details of the means of enclosure and retaining walls to be provided around and within the site have been submitted to and approved in writing by the Local Planning Authority. The means of enclosure and

retaining walls shall be constructed in accordance with the approved details prior to the first occupation of the associated dwellings and then retained thereafter.

Reason: To ensure the development is completed in a satisfactory manner and to preserve the character of the area. In accordance with policy GP2 and GP6.

### **Drainage Scheme**

05 No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul and surface water. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with 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. In accordance with policy GP2, GP3 and GP6.

### **Planting Scheme**

06 No development shall commence until a landscaping and tree planting scheme indicating the number, species, heights on planting, positions of all trees and shrubs and maintenance brief has been submitted to and approved in writing by the Local Planning Authority.

This should include a schedule of work for the bramble and other “weed” species to be removed eg laurel and cypress and the replanting of native hedging species.

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

Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner. In accordance with policy GP2, GP5 and GP6.

### **Bin Storage**

07 No development shall commence until full details of the bin storage, to include elevations and finish detail, has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented as approved and then retained thereafter in that state.

Reason: To ensure adequate bin storage is provided for the site in the interest of visual and residential amenity. In accordance with policy GP2, GP6 and W3.

### **Pre –occupation conditions**

#### **Obscure Glazing – Building**

08 Prior to the first occupation Plot 2 hereby approved, the first floor bathroom in the side elevations shall be fitted with obscure glazing and shall be retained in that state thereafter in perpetuity.

Reason: To protect the privacy of adjoining occupiers. In accordance with policy GP2.

#### **Parking and Turning – Implementation**

09 Prior to the first occupation of the dwellings hereby approved, the parking and turning areas shall be provided and surfaced as indicated on the plans hereby approved and individual parking spaces marked on the surface. Thereafter, these areas shall be retained for those purposes at all times.

Reason: To ensure that adequate off-street parking and turning provision is made in the interests of highway safety. In accordance with policy GP4.

### **General conditions**

#### **PD – Extra Windows/Doors**

10 No window or door openings (other than those shown on the approved plan) shall be formed in the south-west or the north-east (side) elevations of the dwellings hereby approved.

Reason: To protect the privacy and perceived overlooking of adjoining residents. In accordance with policy GP2.

**PD Removed – A, B, C or E**

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, no development within Classes A, B, C or E shall be carried out without the prior written permission of the Local Planning Authority.

Reason: To ensure that a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties. In accordance with policy GP2.

**Front Boundary Hedge**

12 Once the boundary hedge approved under condition 06 reaches a height of 1.5 metres it shall not be removed nor reduced in height below 1.5 metres without the prior written permission of the Local Planning Authority.

Reason: To protect valuable hedge and shrub features and the character of the area. In accordance with policy GP2 and GP6.

13 No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

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. In accordance with policies GP3 and GP7.

**NOTE TO APPLICANT**

01 This consent is subject to a legal agreement.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP13, GP1, GP2, GP3, GP4, GP5, GP6, GP7, H2, H4 and T4 and W3 were relevant to the determination of this application. The following Supplementary Planning Guidance documents were also relevant: Planning Obligations, Wildlife and Development, New Dwellings, Parking Standards and Trees, Woodland, Hedgerows and Development Sites.

03 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 networks is either via a lateral drain (i.e. a drain which extends beyond the connection 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"- 8th Edition. Further information can be obtained via the Developer Service pages of [www.dwrcymru.com](http://www.dwrcymru.com).

04 The applicant is advised that some public sewers and lateral drains may not be recorded on Dwr Cymru Welsh Water 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 Dwr Cymru Welsh Water 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.

05 The applicant/developer is advised to contact Wales & West Utilities since there are pipes in the area and such apparatus may be affected and at risk during construction works.

06 The applicant should contact the Highway Networks Section on 01633 656656 to arrange for the provision of a dropped kerb.

07 REPTILES: Please note that all reptiles are protected by the Wildlife and Countryside Act 1981 (as amended). It is illegal to intentionally kill or injure Adder, Common lizard, Grass snake or Slow worm. You are advised to remove any log piles, rubble, stone etc. currently on site by hand and clear vegetation by hand. If reptiles are found at any time

during clearance or construction, all works should cease until the reptiles have safely dispersed from the working area.

08 NESTING BIRDS: Please note that all birds are protected by the Wildlife and Countryside Act 1981 (as amended). The protection also covers their nests and eggs. To avoid breaking the law, do not carry out work on trees, hedgerows or buildings where birds are nesting. The nesting season for most bird species is between March and September.

09 BATS: Please note that Bats are protected under The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended). This protection includes bats and places used as bat roosts, whether a bat is present at the time or not. If bats are found during the course of works, all works must cease and Natural Resources Wales contacted immediately (0300 065 3000).

10 Demolition work, construction work and site deliveries should be undertaken between the hours of 8am-6pm Mon-Fri, 8am -1pm Sat, with no demolition/construction work or deliveries on Sundays or bank holidays.

11 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: 18/0980 Ward: **GRAIG**

Type: Full

Expiry Date: 03-DEC-2018 EXTENSION OF TIME: 10-MAY-2019

Applicant: **P TREASURE AND K LEADER C/O NICHOLAS MORLEY ARCHITECTS LTD**

Site: **27, PENYLAN CLOSE, BASSALEG, NEWPORT, NP10 8NW**

Proposal: **DEMOLITION OF EXISTING GARAGE AND CONSTRUCTION OF 2NO. DWELLINGS AND ASSOCIATED PARKING**

### **1. LATE REPRESENTATIONS**

1.1 Responses received in relation amended drawing - PL09 Rev D (submitted :

**26a Penylan Close** – Original objections still stand.

**28 Penylan Close** - We maintain our objection to the scheme. Inaccuracies in drawing PL09 Rev D noted.

1.2 In response to the comments from 28 Penylan Close the agent has submitted plans addressing the inconsistencies, the following drawings were submitted amended:

<b>New Reference</b>	<b>Old Reference</b>	<b>Changes</b>
PL05 Rev B	Rev A	Scale bar corrected at 2 m (all other scale bar measurements unchanged)
PL06 Rev C	Rev B	Scale bar corrected at 2 m
PL07 Rev C	Rev B	Scale bar corrected at 2 m
PL08 Rev C	Rev B	Scale bar corrected at 2 m
PL09 Rev E	Rev D	Scale bar corrected at 2 m Section SS2 – Eaves height of no. 27 corrected (+59.660)
PL11 Rev A	Rev _	Scale bar corrected at 2 m

## 2. CLARIFICATIONS

### 2.1 Inaccuracy in the report

Section 6.1 Neighbours Representations, (Page 17)

Under heading: Highways Safety and Parking, bullet point 7 the objection should read:

- The front of the existing no.27 is of **insufficient** width to meet Part M access requirements.

This has been addressed in section 7.36 (page 23) of the main report.

### 2.2 For clarity the table/extract at section 5.2 (page 15) has been reproduced below:

<b>7. TREE SURVEY FINDINGS</b>					
<b>7.1</b> A summary of the tree survey quality assessment findings that are relevant to the current proposals are shown in table form below:					
	<i>Total</i>	<i>A - High quality trees whose retention is most desirable.</i>	<i>B - Moderate quality trees whose retention is desirable.</i>	<i>C - Low quality trees which could be retained but should not significantly constrain the proposal.</i>	<i>U - Very poor quality trees that should be removed unless they have high conservation value.</i>
<i>Trees</i>	4	-	1	3	-
<i>Groups</i>	1	-	-	-	1
<i>Hedgerows</i>	3	-	-	3	-
<i>Total</i>	8	-	1	6	1
<b>7.2</b> It can be seen from the above table that the vast majority of the arboricultural resource for the site is of low quality and is comprised of both individual trees and hedgerows.					

## 3. OFFICER RECOMMENDATION

### 3.1 The recommendation remains unchanged:

**GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE THE APPLICATION IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF THE DECISION**

Condition 1 has been amended to reflect the updated drawings:

#### **Approved Plans**

01 The development shall be implemented in accordance with the following plans and documents: PL03C, PL04C, PL05B, PL07C, PL08C, PL09E, PL10, PL11A, and PL13, PL101 (received on 22 January 2019), PL 102 and PL 103 and B/NMAPENYLANCL1/02.

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

## APPLICATION DETAILS

**No: 2**                      **19/0145**                      **Ward: CAERLEON**

**Type:**                      **DISCHARGE CONDITIONS**

**Expiry Date:**                      **01-MAY-2019**

**Applicant:**                      **R PHILLIPS**

**Site:**                      **LAND KNOWN AS TWENTY TEN GOLF COURSE, THE COLDRA, NEWPORT**

**Proposal:**                      **DISCHARGE OF CONDITION 02 (PERMISSIVE PATH) OF PLANNING PERMISSION 01/0356 FOR THE EXTENSION OF EXISTING GOLF COURSE ONTO AGRICULTURAL LAND AND DEVELOPMENT OF NEW CLUBHOUSE, CAR PARK, ACCESS DRIVE AND FOOTBRIDGE OVER THE RIVER USK AFFECTING PUBLIC FOOTPATHS 389/44A/44/53/54 TO PREVENT ACCESS OVER THE FOOTBRIDGE AND BETWEEN THE FOOTBRIDGE AND BULMORE ROAD**

**Recommendation:**    **APPROVED**

### 1. INTRODUCTION

- 1.1 This application seeks to resubmit details for the discharge of condition 02 (permissive path) of planning permission 01/0356 which sought to extend the golf course onto agricultural land, construct a new club house, car park, access drive and footbridge over the River Usk.
- 1.2 The purpose of this resubmission is to deter entry of unauthorised personnel to the 2010 golf course by the retention of gates erected at either end of the 2010 bridge over the River Usk and prevent access from Bumore Road through the use of signage. It is not proposed to prevent access from Usk Road up to the bridge at this time. This represents an amendment to the originally submitted application which confirmed the closure of the entire route to public access. Supporting information submitted with this application confirms that the works to gate the bridge were necessary in the interest of security and the health & safety of Celtic Manor employees and the public.
- 1.3 There has been significant local opposition to the approval of this application as many individuals and groups in the area have enjoyed use of the route through the Celtic Manor grounds and over the bridge onto Usk Road. Many respondents did however seem to be incorrectly under the impression that a 'permissive path' has equal status to a public footpath. It does not. Furthermore, as detailed in the assessment below, the wording of condition 02 does not require implementation of the approved details by a specific point in the development of the project and does not require that public access is maintained for a period of time.

### 2. RELEVANT SITE HISTORY

01/0356	EXTENSION OF EXISTING GOLF COURSE ONTO AGRICULTURAL LAND AND DEVELOPMENT OF NEW CLUBHOUSE, CAR PARK, ACCESS DRIVE AND FOOTBRIDGE OVER THE RIVER USK AFFECTING PUBLIC FOOTPATHS 389/44A/44/53/54	GRANTED WITH CONDITIONS
04/0769	PARTIAL DISCHARGE OF CONDITIONS 02 (PERMISSIVE PATH); 03 (WETLAND HABITAT); 07 (RIVER BUND); 09 (SURFACE WATER RUN OFF); 22 (LAND FILL AND HARDCORE); 23 (FENCING AROUND RIVER BUFFER	APPROVED



	ZONE); 24 (FENCING AROUND TREES AND HEDGEROWS); 31 (LANDSCAPING SCHEME); 33 (SITE ENCLOSURE); 35 (HARD PAVED AREAS); 36 (TURNING FACILITY); 41 (FENCING AROUND SCHEDULED MONUMENTS) AND 43 (PROTECTION OF RIVER BANK) OF PLANNING PERMISSION 01/0356 FOR EXTENSION OF EXISTING GOLF COURSE	
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### 3. POLICY CONTEXT

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

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

**Policy T5 - Walking and Cycling:** promotes the creation of a network for walking and cycling, including National Cycle Networks 47, 4 and 88.

### 4. CONSULTATIONS

- 4.1 None

### 5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): No response
- 5.2 HEAD OF CITY SERVICES (PUBLIC RIGHTS OF WAY OFFICER): As the path in question is permissive Newport City Council does not have powers to insist that this is kept open for the enjoyment of the public; these can only be utilised when public rights of way are recorded on the definitive map, or ways that have been used without disruption for 20+ years are affected.

The statutory declaration submitted by the Celtic Manor Resort in 2014 confirms that they did not intend for this path to be dedicated as a Public Right of Way.

That being said it is recognised that this path has been enjoyed by the public since its opening and thus has significant amenity value that compliments the network of public rights of way in the area. The abrupt closure of the path has raised a significant level of concern and confusion amongst regular users which has emphasised this use by the public. For these reasons a more collaborative approach would be supported in which the antisocial behaviour could be mitigated whilst continuing to allow access to the public.

With regards to any problems with routes through Celtic Manor the Council currently have one report of a blocked footpath between Priory Wood and Catsash road. I've asked the wardens to investigate this as it's not clear from the complaint whether it's deliberate or overgrown/fallen vegetation etc. The other routes will also be looked at to check there are no issues. The majority of these are checked and cut back annually as they are fairly well used.

Footpaths 389/40 and 389/45 have effectively been cut off as a result of the construction of the A449 as no diversion or provision for crossing it was made.

In terms of legal diversions in the Celtic Manor area;

Footpath 389/44A was diverted in 2006 and then again in 2016

Footpath 389/53 was diverted in 2008

Footpath 389/43 through Priory Farm was subject to a modification order in 1999

## 6. REPRESENTATIONS

6.1 NEIGHBOURS: As this is an application to discharge a condition, neighbours were not consulted and this accords with the correct Council procedure. However, approximately 102 objection letters were received in respect of this application. The issues made are summarised below:

- the general public currently has lawful access to use these footpaths on a Permissive basis, and this planning application is designed to remove these rights;
- currently offers benefits of safe (traffic-free) recreation on the paths within this locality;
- walkers, runners and Caerleon running club make extensive use of the 2010 pathways and river bridge;
- the beautiful scenery is invaluable to ones mental and physical well-being. Being a safer path to take away from traffic is surely a better option than the Old Usk road which often sees speeding cars;
- it is understood that the routes through the course were envisaged pre-2010 as being an extension of the cycle networks and public use was a positive consideration encouraged by the Celtic Manor;
- people would welcome the opportunity to work with the Celtic Manor to agree a mutually agreeable arrangement, which offers no liability or risk to the Resort;
- As an active participant in meeting the goals of the Well-being of Future Generations (Wales) Act, Caerleon running club's members voluntarily assist in programmes to help people improve their health (physical and mental), fitness and confidence by offering programmes such as Couch 25K, which takes complete beginners through a nine week course that prepares them to be able to run 5 kilometres or further. At least three hundred people join this course each year and we commit to guiding them in running in safe areas of Caerleon. If they can no longer use this site, options will become very limited for future programmes;
- Harassment experienced by users from intimidating Estate Warden;
- The bridge was opened by Carwyn Jones, first minister for Wales as part of our national pride to host the Ryder Cup;
- The bridge forms a circle from the Usk road to the Bulmore road and back into Caerleon, giving a really nice route for walkers to see such beautiful countryside;
- villagers put up with months of trucks carrying mud and dirt to build up the area for the golf course. The access across the bridge was a reward but this is now being taken away;
- Perhaps increasing Security in the area (which there is never any sign of) or introducing some CCTV would resolve problems experienced;
- Suggest netting is used to prevent ball strikes of public;
- Query as to why no neighbour consultation was carried out;
- The path has allowed an increase in the valuable recreational and health giving "free" activity of walking, opening up access to the river corridor and picturesque views of the Usk valley, and sightings of the varied bird life;
- a wonderful place for local people to escape the village tourism and meet their health needs without having to run too far (cycle path) or by the road side;
- Proposal does not promote a good relationship between the public and the Golf Club;
- Allows mental health goals to be achieved;
- The benefits of the bridge were also a fundamental part of the public funding that was provided via Transco and the ambition to continue the cycle path through to Wentwood Forest;
- Taking away the rights to access these routes are in opposition to promoting health and well being of your residents;
- Proposal is contrary to key principles of Planning Policy Wales 10 (PPW10) and the Newport Local Development Plan (LDP) It is essential that decisions are not made that would, effectively reduce the amount of accessible safe recreational facilities that contribute directly to the health and well-being of Newport's citizen;

- the removal of poorly managed 'controls' in the way of signs, gates, fences etc. would actually encourage more users which, in turn would reduce the levels of anti-social behaviour through natural surveillance;
- Clarification sought as to why the gate has been erected to stop access when it is understood that currently public access has not yet been revoked and this represents a breach of planning control;
- Few other walks within reasonable distance are as pollution free as this. Users will now be forced to endure the poor air quality of the streets in Caerleon which will have an impact on health and Belmont Hill which is dangerous;
- With the university campus now closed and the cycle path being blighted with street-lighting switched off or not working, the only option is take running groups onto estate roads and footpaths, or abandon classes altogether due to the inherent risks;
- All of the incidents referred to in 2018/19 by the Director of Security relate to transgressions by 'young persons'. Sadly, this is a reflection of modern times and describes scenarios which are not only confined to Celtic Manor grounds, and a wholesale 'ban' on everyone would be counter-productive;
- Many respondents cannot recall any golfing activity taking place;
- Public money was used to build the bridge and so in my eyes it should be available for public use;
- the gates are unsightly and should be removed as soon as possible so the people of Caerleon can enjoy the countryside;
- people who regularly visit the location are highly responsible and respectful and these people range from walkers, joggers, cyclists, young families with children who can safely use scooters or pedal cars, nature lovers, berry pickers, nut pickers, dog walkers etc.

## 6.2 WARD COUNCILLORS:

COUNCILLOR GILES: has requested that this application is referred to Planning Committee on the grounds of the detrimental effect on hundreds of people and the community and has requested to speak at committee. Councillor Giles' objections are summarised below:

- The path and bridge have been available to the community for over eight years, as far as I am aware, without any adverse effects or issues. This indicates the value placed on this amenity and the consistent respect with which it has treated;
- Over the years, hundreds of people and various groups, including Caerleon Running Club and the Breeze Women's cycling group, have enjoyed the use of the path as a safe and traffic free route;
- Access has not only provided pleasure but also contributed to health and wellbeing. This is particularly important given the significantly limited access to open space and countryside in the Caerleon ward;
- In addition, Caerleon Running Club runs programmes assisting people to improve their health (physical and mental) and confidence through programmes such as Couch 25K, which takes complete beginners through a nine week course that prepares them to be able to run 5 kilometres or further. At least three hundred people join this course each year and includes running in safe areas of Caerleon;
- There has never been any issue with the safety of cyclists as the driving range, when in use, does not face the cycle track. Cyclists have caused no nuisance to golfers, as they follow the path. It was understood that the path was part of the cycle network
- access has been blocked without first obtaining permission;
- no anti-social behaviour has been experienced by users of the path;
- The alternative is an unsafe route which will have an adverse impact on the running and cycling clubs and their ability to run their programmes, and
- Residents are willing to work with the Celtic Manor to reach an agreeable arrangement

COUNCILLOR HUGHES: Requests that the application is refused and has objected to the application for the following reasons:

- People, including myself, are therefore bemused as to why such a popular amenity, which has been available for many years without incident, and provides benefit to hundreds of people and our community as a whole, has been so suddenly removed;
- The original application noted the important contribution the path and bridge would have as a public amenity for local people and it was suggested strongly at the time that this would be part of the long term legacy of the application and Ryder Cup on the local community;
- The path provides an important facility for the community in accessing a safe route into the countryside and several running and cycling groups use the path on a regular basis;
- Caerleon has a recognised traffic and pollution issue and being able to access safe open spaces is important and promotes the local health and well-being of the community;
- Safety has been cited as a reason for removing this facility yet as far as I am aware there has been no reported incidents involving local residents. Most research points out that areas used frequently by the public are likely to face less not more incidents of vandalism.
- It is disappointing that the Celtic Manor have not sought to find local solutions to any concerns they may have and work with local groups. Removing the amenities without consultation or planning shows a lack of understanding as to the importance of the path locally and shows a disregard for the local community. It has had a profound negative response locally and has left many genuinely disappointed.

COUNCILLOR WATKINS: Fully endorses the comments made by Cllr Hughes. This bridge is widely used by the public for recreational and access reasons and Councillor Watkins is personally unaware of any vandalism issues in the area as cited by the Celtic Manor. She states that the Celtic Manor could put better security arrangements in place. Furthermore, Caerleon is blighted by serious air pollution and so far there has been no progress in addressing that, this bridge therefore must be retained for public use. Objects to the proposal.

- 6.3 CIVIC SOCIETY: The Civic Society strongly regrets that the Celtic Manor wishes to revoke permission for public access to the current permissive path between the Usk Road and Bulmore Road, including the footbridge over the River Usk.

Many genuine people regularly use the path with no intention of causing damage, with only a small minority abusing the trust the Celtic Manor have placed in the public.

It seems unreasonable that the Celtic Manor cannot do more to protect their property. Flags, bunker rakes, markers and unfixed equipment should be safely stored when not in use. Golf buggies, if stored correctly, would never suffer damage

## 7. ASSESSMENT

### Status of the Path

- 7.1 Condition 02 of planning permission 01/0356 was attached primarily to ensure that the interests of nature conservation were protected in the construction of the permissive path. It states:

*02 Notwithstanding the information accompanying the planning application before any work is started pursuant to this permission full details of the permissive path, including its alignment, construction, landscaping, management, and controls over its usage shall be submitted to and approved in writing by the Local Planning Authority, and the development shall then be implemented fully in accordance with the details as agreed.*

*Reason: To ensure that details of the development are satisfactory, and in the interests of nature conservation.*

- 7.2 This condition was partially discharged on 1 October 2004 under application 04/0769. The officer report considers the information submitted, which includes a plan of the route of the path and states:

*(Condition) No 02 requires that details of the permissive path be submitted for approval. The submitted drawings indicate this footpath/cycleway running from Usk Road across the river via the new bridge, then running parallel with the river towards Bulmore Road, and then alongside Bulmore Road to the rear of the gardens of the residential properties located along this road, to emerge onto Bulmore Road near Abernant Farm. This will be 4m in width of crushed limestone construction. A number of directional signposts and markers will be located along the length of this permissive path, with standard field gates provided at each end. Because it is a permissive path, the applicant will be able to control access along its length, and there will be no right of public access. However, it is envisaged that apart from tournaments and maintenance, it will remain open throughout the year.*

- 7.3 The 'permissive path' referred to in condition 02 was proposed by the applicant i.e. the Celtic Manor, in supporting information accompanying application 01/0356 it was not requested or required by the Local Planning Authority. The submitted Environmental Statement refers to the proposed path and reveals:

*'A new permissive path for pedestrians and cyclists is proposed from Caerleon Road, where the site abuts the road, through to Bulmore Road. The path runs to the north of the Practice Area and crosses over the River Usk via the new bridge. The path runs parallel with the bank of the Usk for a short distance before turning north-east and parallel to Bulmore Road through most of the length of the site. In total, the new path would be some 1.35km in length and when its landscaped setting has matured, it would have an attractive parkland character'.*

- 7.4 The officer report for 01/0356 reveals the aspiration of the path to link in with the Sustrans national cycle network. This aspiration was not realised and the section of path identified in this submission does not enjoy the same legal protection as a public right of way. The Head of City Services (Public Rights of Way) has confirmed this. There was no legal agreement made or condition imposed at the time of the original consent which specified that the permissive route should be provided for a minimum period or kept available at all times for the public to pass and re-pass. Furthermore, the wording of the condition does not specify a time for the completion of the proposed path or indeed that any path which is completed should be retained for public use for any length of time or even that the route should allow access over the River Usk. The wording of the condition does not require the long term protection of the pathway and whilst the management details previously agreed by the Council in discharging the condition stated that it would likely remain open most of the year for public use, this was a likelihood not a certainty. Nonetheless, the current closure of the route is a clear contradiction of the information previously supplied to and agreed by the Council, hence this submission.

#### **Justification for Ceasing Public Access**

- 7.5 As identified above, when details of a 'permissive path' were originally proposed as part of application 01/0356, the intention was to allow public access and for the path to potentially become part of the Sustrans cycle network. However, it has always been at the discretion of the landowner and the route from Bulmore Road and across the bridge is not a public right of way. There are no public legal rights to travel along the identified route from Bulmore Road and pass over the bridge.
- 7.6 Several statements have been submitted with this application, including those from Celtic Manor Employees and a local resident, which provide the justification for seeking to alter the details originally approved under application 04/0769 by blocking access over the 2010 suspension bridge through the erection of gates at either end. Signs and warnings displayed at various locations have not proved to be a sufficient deterrent. A risk assessment has also been carried out and a schedule confirming that there have been 12 separate security incidents in the last 12 months which can be attributed to unauthorised access to the golf course by people and vehicles. There are reported incidents of anti-social behaviour, criminal damage, theft and a tournament was suspended on one occasion. The resort is also experiencing problems with dog walkers not cleaning up after their dogs and there is a general health and safety concern for both staff and members of the public. The gates which have been erected either end of the bridge are identified as an essential control within the submitted risk assessment. Whilst the restriction to public access from Bulmore Road and over the bridge itself may not address risks identified in other areas of the pathway, the Local

Planning Authority has not been asked to consider the closure of the entire route as part of this updated submission.

### **Public Amenity and Representations Received**

- 7.7 There is no doubt that since its creation, the permissive path has provided a significant benefit to its public users and is highly valued by many, including dog walkers, running and cycling groups and residents of the surrounding area. There are public footpaths which provide access over the Celtic Manor estate between Catsash and Bulmore Road but the overriding advantage that the permissive path has over these other routes is that it provides access from Bulmore Road to Usk Road with a crossing over the River Usk. Without this, pedestrian thru-access has to be through Caerleon village.
- 7.8 Over 100 representations have been received objecting to this application. Caerleon Civic Society and the Local Councillors have also objected on the basis of the loss of the route. Many respondents are, as identified above, incorrectly under the impression that they have a right to use the existing permissive path over the bridge. Many cite the advantages to public amenity and vitality that the route provides and this is acknowledged. Other representations identify how gates have been erected without having first applied for planning permission and have looked to the Local Authority to confirm that they can still access the land. Respondents state that they have not experienced any anti-social behaviour or health and safety issues through their regular use of the path, despite the supporting information submitted by the applicant. Beyond the cessation of a popular and well-enjoyed route, there is general annoyance that the applicant has not sought a resolution to their concerns with the local community.

### **Discharge of Condition 02**

- 7.9 Ultimately, the purpose of this submission is to consider whether the information submitted to re-discharge condition 02 is acceptable or not. The condition has previously been discharged and there is nothing to prevent any developer seeking approval of the Local Planning Authority to amended details related to a condition. The reason for the condition was to safeguard ecological interests and ensure details are satisfactory and there is no intention to alter the construction or route of the pathway, only to restrict those using part of it. There are considered to be no nature conservation considerations arising from this so it therefore must be considered whether the new details of the pathway are satisfactory. In planning terms, the permissive path was considered a merit of the 2001 project but even then, a right of public access was not confirmed or assumed. Whilst information to originally discharge the condition said it 'envisaged' the path would be open apart from tournaments and maintenance requirements. There was nothing to prevent the landowner from ceasing access along the route from Bulmore Road and over the bridge for maintenance and tournaments for the majority of the year. Control over who can access the path (from Bulmore Road) and bridge and when ultimately rested with the landowner both legally and in planning terms.
- 7.10 No objections have been received from external statutory consultees and the approval of application 01/0356 does not rely on provision of this permissive path albeit that it is considered a merit of the project.
- 7.11 The current proposal has no implications in terms of nature conservation and there are no proposals to physically remove the approved track. The gates across the suspension bridge are not visible from outside of the site and are not considered to have an adverse impact upon the character and appearance of the area when viewed in the context of the structure of the bridge. The effect of the path closure from Bulmore Road and bridge closure is regrettable but having regard to the above and the reason stated for the condition in the first instance, there is no robust reason to refuse the discharge of the condition. On this basis, the information submitted in respect of condition 02 of planning permission 01/0356 is considered acceptable.

## **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 ***Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. Whilst the impact of the partial route closure has been noted and considered above, the fact remains that this part of the pathway is provided at the discretion of the landowner and only with landowner permission can it be used by the public. Such permission can be retracted at any time in legal terms and in planning terms no right of public access has been or can be assumed. It is considered that whilst the blockage of the route may have an adverse impact upon the public enjoyment of this area, other public routes do exist within the locality and pleasant local landscape can still be enjoyed by the existing public rights of way and other public routes over which the public have legal rights to pass and re-pass. Furthermore, on the basis this submission relates only to the path from Bulmore Road and to the bridge, parts of the permissive path currently remain passable albeit that there is no through route between Usk Road and Bulmore Road. Consequently, 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 information submitted in respect of condition 02 of planning application 01/0356 is considered acceptable and it is recommended that the details are therefore approved.

## 10. **RECOMMENDATION**

**APPROVED**

*NOTE TO APPLICANT*

01 This decision relates to plan Nos: photo of gates across bridge, site plan showing route at bridge to be restricted email from Russell Phillips to Sophie Berry dated April 2019 confirming nature of application, risk assessment matrix, Health and Safety Matrix, Security Statement, Estates Statement, Estate Warden Statement, Resident Statement.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP7 and T5 were relevant to the determination of this application.

03 As consideration of this request did not raise significant additional environmental matters over and above those previously considered as part of the original application, 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: 3**                      **18/0711**                      **Ward: ALLT-YR-YN**

**Type: FULL**

**Expiry Date: 18-SEP-2018**

**Applicant: MATHISON AND BELL LTD**

**Site: 28, LUCAS STREET, NEWPORT, GWENT, NP20 5FB**

**Proposal: CHANGE OF USE OF 4NO. BEDROOM DWELLING TO 4NO. BEDROOM HOUSE IN MULTIPLE OCCUPATION**

**Recommendation: GRANTED WITH CONDITIONS**

### **1. INTRODUCTION**

- 1.1 This application seeks planning permission for the conversion of a four bedroom dwelling to a four bedroom house in multiple occupation (HMO) at 28 Lucas Street . The property is a mid terrace property. The rear portion of the rear garden abuts Rose Street.
- 1.2 The main considerations of this application are the potential impacts of the change of use on parking provision and highway safety as well as the impact on the character and amenity of the surrounding area and neighbouring properties.
- 1.3 The application is reported to Committee at the request of Councillor Evans and Councillor Ferris.

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

None.

### **3. POLICY CONTEXT**

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

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

Policy GP4 ‘General Development principles – highways and accessibility’ states that development proposals should make adequate provision for car parking and ensure that development would not be detrimental to highway or pedestrian safety.

Policy H8 Self Contained Accommodation and Houses in Multiple Occupation sets out the criteria for subdividing a property into self-contained flats. The scheme must be of appropriate scale and intensity not to unacceptably impact on the amenity of neighbouring occupiers and create parking problems; proposals must not create an over concentration in any one area of the city; and adequate noise insulation is provided and adequate amenity for future occupiers.

#### ***Supplementary Planning Guidance (SPG)***

Houses in Multiple Occupation (HMOs) updated January 2017

Newport City Council's Parking Standards 2015

#### **4. CONSULTATIONS**

- 4.1 HEDDLU GWENT POLICE: Consulted but no comments received.

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

- 5.1 HEAD OF LAW AND REGULATION (ENV.HEALTH): No objection.
- 2.2 HEAD OF LAW AND REGULATION (ENV.HEALTH LICENSING): No objection. There would need to be suitable fire safety precautions implemented and there would need to be suitable kitchen facilities provided. These can be determined upon inspection of the property. If it is intended for the dwelling to be converted into a House in Multiple Occupation under the Housing Act 2004, Part 2, where it will be occupied by more than two households, the most appropriate person (usually the landlord/owner of the property) should apply to the Environmental Health Housing Team for a HMO License. In addition to HMO Licensing, private landlords are required by the Housing (Wales) Act 2014 to be registered. Also private landlords who undertake letting and management activities or their managing agents, will need to obtain a licence from Rent Smart Wales and undergo training.
- 2.3 PLANNING POLICY MANAGER: There does not appear to be many other HMOs within the 50m radius of this property. Therefore it would be difficult to demonstrate an over concentration of HMOs in this area.
- 2.4 HEAD OF CITY SERVICES (HIGHWAYS): The existing property as a single unit requires 3 off street parking spaces. The proposed use for 4 beds requires 1 off street parking space per bed together with 1 visitor space resulting in a total of 5 spaces an increase of 2 spaces over existing. The applicant has confirmed that no off street parking is available. A parking survey will, therefore, be required to confirm that the additional parking can be safely accommodated.

The applicant has submitted a parking survey in order to demonstrate that on street parking is available to accommodate the additional parking demand generated by the proposed change of use. Parking is heavily controlled in this area including the provision of permit parking and limited waiting on Lucas Street and the surrounding residential streets. Due to the way that parking permits are issued no further parking permits would be issued for the property as a result of the change of use and therefore the additional parking demand would rely on the availability of unrestricted parking in close proximity to the site.

The parking survey demonstrates that parking is readily available along Factory Road during the night and following a site visit I have no reason to dispute this. It's therefore accepted that during the night there is sufficient parking available to accommodate the additional parking demand.

A daytime survey has been carried out at 4.30pm which demonstrates that there is an element of unrestricted street parking in this area. There have however been ongoing concerns in regard to incidents of illegal or obstructive parking in this area. As a result I've carried out further site visits which identified a number of issues. Whilst spaces were available within the permit parking areas it's determined that these could not be used for long term parking as additional permits would not be issued. Unrestricted parking is available along Factory Road. This area was considered to be at capacity during the day and therefore additional demand could not be accommodated. It was also clear that demand is greater than supply as many vehicles were parked illegally including partially or fully on the footway causing obstruction at the detriment of highway safety.

Given the existing parking problems which are evident in this area during the day I must object to the application as it's considered that any additional demand will exacerbate the existing parking issues to the detriment of highway safety and the free flow of traffic.

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

All properties within 50m with the application site were consulted (102 properties), and a site notice displayed. 4 letters of objection have been received stating:

- increased vehicular traffic is a major concern.
- parking is already a problem, although it's a permit zone, sometimes we still can't park in this area,
- the introduction of loud music from social events that they may have. The noise, especially at night, is bad enough as the sounds echo through the area disrupting our sleep.
- An increase to the amount of rubbish / recyclables to the area as the property is not equipped for multiple bins. This will cause a decrease of available walking space on the walkways/sidewalk.
- The area in and around Lucas Street is a quiet residential area, with the majority of residents living here for many years.
- There is a struggle daily for places to park our own vehicles, having to deal with people who don't even live in the neighbourhood/ commuters.
- have to deal with people parking all over the road as they use this area to drop off and pick up their children who attend St Mary's Primary School.
- At night, you can find cars/vans parked on yellow lines, on the corners, sometimes in front of our driveway blocking our access and there is already a great deal of illegal parking on the area.
- there are families with young children living in the area, but as there are no speed limit signs posted, most of the vehicles drive through like it is a racetrack, day and night, even cutting the corners and not stopping at the stop signs. It is only a matter of time before there is a major accident
- the proposed application, you could potentially increase vehicle parking by 12 vehicles. There is literally not enough space.
- People living in the flats on Queens Hill also park their vehicles on our street and most do not have permits.
- There are already a number of rented properties in this street, and this would cause further devaluation of our property
- there are two larger developments that are pending or recently approved for planning. These are the development of housing on Queens Hill and the old sorting office redevelopment on Mill Street. I feel this development will add to parking pressure even more.
- it would result in the removal of a quality family property from the housing stock
- too many people in a small space with lack of fire escapes
- it will add to the problem with rubbish in the area
- there is already an excess of HMOS in the area.

**6.2 COUNCILLOR EVANS:** Objects to this application to change a 4 bedroom house to a 4 bedroom house in Multiple Occupation on Lucas Street. Parking is already a concern in the area and this will do nothing to improve or enhance it. Should you minded to approve it I would like it to be determined by the Planning Committee.

**6.3 COUNCILLOR FERRIS:** Objection to the proposal to change the use of the property to a HMO on the grounds that there is insufficient parking provision for the property and that area has a parking problem at present.

## **7. ASSESSMENT**

**7.1** This application seeks planning permission for the conversion of this mid terrace four bedroom house into a four bedroom house in multi occupation. The conversion would result in a kitchen, bathroom, communal living room and one bedroom on the ground floor and three bedrooms, two of which are en-suite rooms on the first floor.

**7.2** In February 2016 a new use class (C4) for houses in multiple occupation was introduced to the Town and Country Planning (Use Classes) Order 1987 through the Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2016 to bring the definition of a HMO in line with that under the Housing Act 2004. In broad terms, a C4 use occurs where tenanted living accommodation is occupied by up to 6 people, who are not related and who share one or more basic amenities, as their only or main residence. Prior to this recent change, the

proposal may have been considered as a single dwelling house so long as the unrelated occupants formed a 'single household' akin to a family grouping.

- 7.3 The main considerations in this application are the impact of the proposal on parking demand and whether the proposal will harm the character of the area and amenity of neighbouring occupiers. Policy GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) states that development will be permitted where there will be no significant adverse effect on amenity and provides adequate amenity for future occupants. Policy H8 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) states that applications to convert buildings within the defined settlement boundary into HMOs will only be permitted if:
- i) the scale and intensity of use does not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on-street parking problems;
  - ii) the proposal does not create an over concentration of HMOs in any one area of the city which would change the character of the neighbourhood or create an imbalance in the housing stock;
  - iii)adequate noise insulation is provided;
  - iv) adequate amenity for future occupiers.
- 7.4 The Supplementary Planning Guidance on Houses in Multiple Occupation (adopted August 2015) seeks to avoid clusters of HMOs as they can alter the composition of a community and detract from local visual amenity. It also states that the Council will not support a planning application that would take the number of HMOs above 15% in defined areas.
- 7.5 Within a 50m radius of the property there are 50 residential units. Calculations indicate that there are no HMOs within a 50m radius of the property as defined by the methodology set out in the approved SPG. There are HMOS in Queens Hill and in Locke Street but the front elevations of these properties are not within the 50m radius of the site and cannot be included in the calculations. If the application is approved it would result in 2% of properties within a 50 metre radius of the site being occupied as a HMO. Therefore this proposal would not cause an exceedance of the 15% threshold specified within the SPG.
- 7.6 Having regard to the above, it is considered that this proposal would not result in an over-concentration of HMOs in the area nor does it unduly harm the character of this particular part of Queens Hill, or create an imbalance in the housing stock. In this respect but excluding amenity and parking matters, the proposal satisfies criterion i. and ii. of Policy H8 and GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and guidelines within the SPG. The comments of neighbours are noted.
- 7.7 In accordance with the Council's Supplementary Planning Guidance: Parking Standards, the existing house generates a demand for 3 off-street parking spaces. The proposed HMO would generate a demand of 4 spaces at a ratio of 1 space per bedroom within the unit. As less than 5 bedrooms are proposed, there is no requirement for a visitor space. The shortfall in parking at the property would therefore increase from 3 to 4, a worsening of 1 space.
- 7.8 At the request of the Council's highways officer, the applicant has submitted a detailed parking survey which has assessed the on street parking stress/capacity in the area. The parking survey follows the Lambeth Methodology as required by the highways officer and was undertaken on two week day evenings between the hours of 12:30 am and 00.56 am at 4:30 on a weekday in March 2019 and found the following:
- The total number of on road parking spaces within 200 metres of the site (walking distance) is 146 spaces. The majority of these are restricted during the day with the exception of lengths of Factory Road, but all areas are unrestricted from 8pm onwards.
  - The average availability at 4:30 pm was 36.6% (or 53 spaces)
  - The average availability after 8pm, when all spaces are unrestricted was 39% (or 58 spaces).
- 7.9 The Head of City Services Highways Officer has objected to the proposal on the basis that whilst adequate parking would be available in the evening he had concerns about parking

in the daytime. There have been reported incidents of illegal or obstructive parking in this area. The Highways Officer carried further site visits (am 14<sup>th</sup> March) which identified a number of issues. Whilst spaces were available within the permit parking areas it's determined that these could not be used for long term parking as additional permits would not be issued. Unrestricted parking is available along Factory Road but this area was considered to be at capacity during the day and therefore additional demand could not be accommodated. The Highways Officer has stated that it was also clear that demand is greater than supply as many vehicles were parked illegally including partially or fully on the footway causing obstruction at the detriment of highway safety.

- 7.10 In response to this Appendix 5 'Sustainability' of the Council's Parking Standards sets out sustainability criteria, such as proximity to local facilities and public transport, which depending on the number of points a scheme can score, will result in a reduction in the parking requirement.
- 7.11 The level of sustainability of the property has been assessed as follows:
- School within 200m – 3 points
  - Shops and Health clinic within 400m – 2 points
  - Train station within 800m – 1 point
  - Bus stop (Queens Hill) within 200m – 3 points
  - Frequency of public transport – railway station within 800m with a service which operates consistently between 7 am and 7 pm trains call at intervals of 5 minutes – 3 points
  - TOTAL = 12 points
- 7.12 In relation to a residential use, where a scheme scores 10 points or more (as in this case), the parking requirement of a single dwelling can be reduced by 2 spaces. Therefore, a dwelling with a standard 3 space requirement can be reduced to 1. Residents have the right to apply for up to 2 parking permits, so the property currently has an excess provision of parking available to residents by 1 space.
- 7.13 In relation to HMO's, the Council's highways team has the approach that each bedroom, for the purposes of calculating parking requirements, constitutes a dwelling unit. The Parking Standards state that other than for Zone 1 City Centre locations, the reduction in the parking requirement for residential development shall not result in less than one parking space. As the property is located in Zone 3, the highways team consider that the parking requirement should therefore not be reduced to less than 1 space per bedroom, resulting in the parking requirement being 4 spaces for a 4 bed HMO. This approach is not disputed; in the appeal relating to 41 Risca Road (10/0845), the Inspector accepted that the parking requirement for a HMO should be based on the number of bedrooms. However, in that appeal, the Inspector went on to adopt a part of the Parking Standards which relates to non-residential development, which allows for a 30% reduction in the parking requirement to the building as a whole to be applied where a scheme scores 10 points.
- 7.14 If the approach adopted by the Inspector in that appeal is applied, the standard parking demand of a 4 bed HMO can be reduced by 1 space to 3 spaces (30% of 4 = 1.2). Residents have the right to apply for up to 2 parking permits, so there is a shortfall of 1 space. The parking restrictions in this area allow for 1 hour parking within Lucas Street, Rose Street and Locke Street.
- 7.15 The parking demand and availability for both the existing and proposed uses have been summarised in the table below.

Unit type	Standard parking demand	Demand factoring sustainability	Parking availability	Excess / shortfall
Single dwelling	3	1	0 off-road but 2 parking permits)	+1
4 bed HMO	4	3	0 off-road but 2 parking permits)	-1

- 7.16 The Council's highways officer does not take into account the issue of sustainability, and does not apply the 30% sustainability reduction. Despite this being the approach of the Inspector in the appeal at 41 Risca Road, the Council's highways officer maintains that he disagrees with that approach, because this 30% reduction within the Parking Standards applies to non-residential uses and the Parking Standards are 'quiet' on the issue of HMO's. The appeal decision at 41 Risca Road is a material consideration and should be taken into account. Furthermore, there is no logical reason to make HMO's exempt from the issue of sustainability. Planning Policy Wales has sustainability at its core; it encourages development to be located where there is good access to public transport and encourages walking and reduced reliance on the private motor car. Not all occupants, particularly given the nature of accommodation, will necessarily own cars. The property is within very close proximity to the City Centre with all the facilities and public transport services that it has to offer.
- 7.17 A recent appeal decision at 3 York Place, is considered to be material as this focussed on parking issues. 3 York Place had no off road parking availability. There are double yellow lines along the entire stretch of the eastern side of York Place, resulting in very limited parking availability within that road. In contrast, the parking survey has shown availability of parking within Lucas Street, Rose street and Locke Street (albeit restricted) and site visits undertaken by planning officers in both the afternoon and evening have confirmed availability of parking within these streets and in Factory Road in the evening. The Inspector in relation to 3 York Place came to the conclusion that given the site's accessible location and availability of on street parking in the surrounding area, the change of use was unlikely to exacerbate existing parking pressures. This is considered relevant as Lucas Street is also closely sited to public services and the City Centre. It is acknowledged that Factory Road is heavily trafficked in the day time. The parking survey has demonstrated that stress levels are 60.5%. If the 3 spaces required for the development are parked in the area, then the available spaces would reduce and the stress level would increase to 62.4% which is not significantly high. It is concluded that the parking demand can be accommodated in this instance. It is also acknowledged that some of the day time parking in Factory Road is due to displaced parking whilst works are taking place along side the railway line at Queens Hill. It would appear that these works are due to be completed and that these spaces will become available.

## 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 Newport's Well-Being Plan 2018-23**

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have 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 applicant has undertaken a parking survey which demonstrates that sufficient on road parking spaces are available within the area that can accommodate any increased demand for parking. The proposal would not result in an over concentration of HMO's in this part of Allt-yr-yn and as such there would not a harmful impact on community cohesion. It is not considered that there would be a harmful impact on highway safety or residential amenity. The proposal would be in accordance with policies GP2, GP4, H8 and T4 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the Houses in Multiple Occupation SPG (adopted January 2017). It is recommended that planning permission is granted with conditions.

**10. RECOMMENDATION**

**GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents KD1671/2

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 first occupation of the property as a House in Multiple Occupation, refuse storage facilities shall have been provided in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The refuse storage facilities shall be retained at all times thereafter.

Reason: To protect the amenities of neighbouring residents.

**NOTE TO APPLICANT**

01 This decision also relates to: Parking Survey Report.

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

03 The Houses in Multiple Occupation Supplementary Planning Guidance (Adopted January 2017) was relevant to the determination of this application.

04 Newport Council Parking Standards Supplementary Planning Guidance (Adopted 2015) was relevant to the determination of this application.

05 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.

## **Appendix A**

### **HOUSES IN MULTIPLE OCCUPATION**

#### **EVIDENCE TO SUPPORT THE COUNCIL'S HMO THRESHOLD STANCE**

##### **Introduction**

The Council understands the contribution HMOs make to housing provision in Newport. They can provide accommodation for a wide range of groups, including young professionals, students, migrants and persons on low income. In clusters, however, they can detract from the character and appearance of an area and potentially lead to social and physical problems.

The Welsh Government's publication 'Houses in Multiple Occupation: Review & Evidence Gathering – April 2015' states that the problems associated with high concentrations of HMOs are generally accepted to be:

- Damage to social cohesion with higher levels of transient residents and fewer long term households and established families; leading in the long term to communities which are not balanced and self-sustaining;
- Access to the area for owner occupiers and first time buyers becoming much more difficult because of increased house prices and competition from landlords, with a reduction in the number of family homes;
- Increases in anti-social behaviour, noise, burglary and other crime;
- Reduction in the quality of the local environment and street scene as a consequence of increased litter, refuse and fly tipping, increased levels of disrepair and prevalent letting signs.
- A change of character in an area through tendency for increased numbers of takeaways, discount food stores, letting agencies and so on;
- Increased pressure on parking;
- Reduction in provision of community facilities for families and children in particular pressure on schools through falling rolls.

(Houses in Multiple Occupation: Review & Evidence Gathering – April 2015, pages 5 and 6)

This Council already has a threshold guideline set out in its adopted SPG in order to avoid concentrations of HMOs. This paper examines the relationship between concentrations of HMOs and some of the problems outlined above and aims to establish whether quantitative evidence exists which would prove or disprove a correlation.



## Methodology

### Is there a correlation between high concentrations of HMOs and recorded complaints?

The Council records all complaints made regarding HMO properties. Complaints are usually received by the Council's Contact Centre and are then forwarded to the relevant Council department. All complaints relating to HMOs are sent to Environmental Health. Officers in Environmental Health then take appropriate action. Environmental Health record all complaints relating to HMOs in a specific database. The complaints are categorised and cover the following issues:

- Anti-social behaviour
- Harassment complaints
- Nuisance complaints
- Rogue landlords referral
- Issues with poor maintenance of services – poor living standards
- Emergency repairs required
- Structural issues
- Filthy and verminous – poor living conditions
- Alleged pest/rodent infestation
- Dumping of rubbish
- Parking problems
- Overgrown garden
- Suspected Illegal eviction
- Suspected illegal immigration problems
- Overcrowding

For the purposes of the evidence gathering, complaints/enquiries which relate to HMO licensing, inspection requests and alleged unlicensed properties have all been removed from the research. Therefore only 'negative' complaints covering the above issues, which are linked to **licensed** HMO properties, have been considered in this paper. In order to acquire a meaningful level of data, complaints dating back for the last 30 months have been considered (April 2015 – October 2017). In total, 250 complaints have been recorded against 466 licensed HMO properties.

Each complaint can be attributed to an individual HMO property, with an address. Therefore it is possible to identifying the location of the HMOs and the complaints linked to them. The evidence will unveil whether there is a link between high concentrations of HMOs and high levels of complaint.

In order to establish the locations of the high concentrations of HMOs, the number of HMOs must be compared to the actual number of households within a defined geographical. Lower layer super output areas (LSOA) are considered an appropriate geographical area to base the research on. These are geographical areas identified by The Office of National Statistics and are used for the Census. LSOAs are relatively confined areas typically containing approximately 600 homes.

The location of each licensed HMO will be placed within its relevant LSOA. Then the percentage of HMOs can be established when compared to the overall number of households in that specific LSOA (as determined by the 2011 Census). For example, if LSOA 1 contained 600 households and 30 of these were HMOs, then the concentration of HMOs would be 5%.

The complaints for individual HMOs will also then be attributed to specific LSOAs. A picture will emerge as to whether high concentrations of HMOs also attract high numbers of complaints.

### Is there a correlation between high concentrations of HMOs and recorded crime?

In addition to the evidence collected on complaints, the Welsh Government publication also states that 'anti-social behaviour, noise, burglary and other crime' are associated with high concentrations of HMOs. The website [www.ukcrimestats.com](http://www.ukcrimestats.com) allows the user to extract crime figures at a LSOA level. In order to see whether there is any evidence linking higher crime rates with higher concentrations of HMOs, this website will be used to record crime number for the past 12 months in each LSOA (1 October 2016 to 30 September 2017). Figures for shoplifting will be excluded from the evidence as not all LSOAs will contain shops. Therefore for the purposes of evidence gathering, recorded crimes will include:

- Bike theft
- Theft from a person
- Other theft
- Possession of weapons
- Public order
- Other crime
- Anti-social behaviour
- Burglary
- Robbery
- Vehicle crime
- Violent crime
- Drugs
- Criminal damage and arson

The evidence collected on concentrations of licensed HMOs will be compared to crime numbers in that specific LSOA. Again, a picture will emerge as to whether high concentrations of HMOs are also associated with higher levels of crime.

### **Concentrations of Licenced HMOs – The Evidence**

As of November 2017, the Council has 466 licenced HMO properties. Each HMO has been placed within its geographical LSOA. Table 1 below identifies the location of HMOs within specific LSOAs and ranks these in terms of their concentration.

**Table 1: Location and concentration of licenced HMOs in Newport**

Ward	LSOA	Households	No of HMOs	% of HMOs
Stow Hill	W01001687	876	62	7.078
Victoria	W01001693	643	30	4.666
Allt-yr-yn	W01001603	588	25	4.252
Pillgwenlly	W01001661	917	36	3.926
Victoria	W01001692	837	32	3.823
St Julians	W01001675	614	23	3.746
Stow Hill	W01001685	762	28	3.675
St Julians	W01001676	694	21	3.026
Allt-yr-yn	W01001605	617	18	2.917
Stow Hill	W01001686	562	14	2.491
Victoria	W01001691	770	19	2.468
Beechwood	W01001612	603	14	2.322
Pillgwenlly	W01001660	626	14	2.236
Pillgwenlly	W01001659	665	16	2.105

Pillgwenlly	W01001662	623	10	1.605
Shaftesbury	W01001681	654	10	1.529
Victoria	W01001690	956	14	1.464
Allt-yr-yn	W01001601	636	8	1.258
St Julians	W01001680	510	6	1.176
Beechwood	W01001613	616	7	1.136
Shaftesbury	W01001684	638	6	0.940
Caerleon	W01001628	509	4	0.786
Caerleon	W01001623	658	5	0.760
Liswery	W01001644	1126	8	0.710
Always	W01001608	638	4	0.627
Shaftesbury	W01001683	486	3	0.617
St Julians	W01001677	649	4	0.616
Caerleon	W01001626	579	3	0.518
Allt-yr-yn	W01001602	673	3	0.446
Caerleon	W01001625	577	2	0.347
Allt-yr-yn	W01001600	661	2	0.303
Beechwood	W01001614	777	2	0.257
Bettws	W01001618	492	1	0.203
Langstone	W01001641	536	1	0.187
Marshfield	W01001913	551	1	0.181
Liswery	W01001643	563	1	0.178
Bettws	W01001619	599	1	0.167
Beechwood	W01001616	619	1	0.162
Caerleon	W01001627	629	1	0.159
Ringland	W01001663	692	1	0.145
Ringland	W01001665	745	1	0.134
Liswery	W01001642	779	1	0.128
Rogerstone	W01001671	822	1	0.122
St Julians	W02000351	2704	2	0.074

Stow Hill LSOA W01001687 has the highest concentration of HMOs in Newport. It is worth noting that the above table is not a complete list of all LSOAs in Newport. It is only a list of LSOAs which contain at least one HMO. As the purpose of this research is to understand whether there is a link between high concentrations of HMOs and complaints/crime, then it was considered that there would be no point in recording data on LSOAs which contained no HMOs.

#### Is there a correlation between high concentrations of HMOs and recorded complaints?

Now the locations of the high concentration of HMOs have been identified, the data collected on complaints held by Environmental Health can be added to the sample.

Table 2 ranks the LSOAs by number of complaints received over an 18 month period.

**Table 2: HMO areas ranked by complaints received in 18 month period**

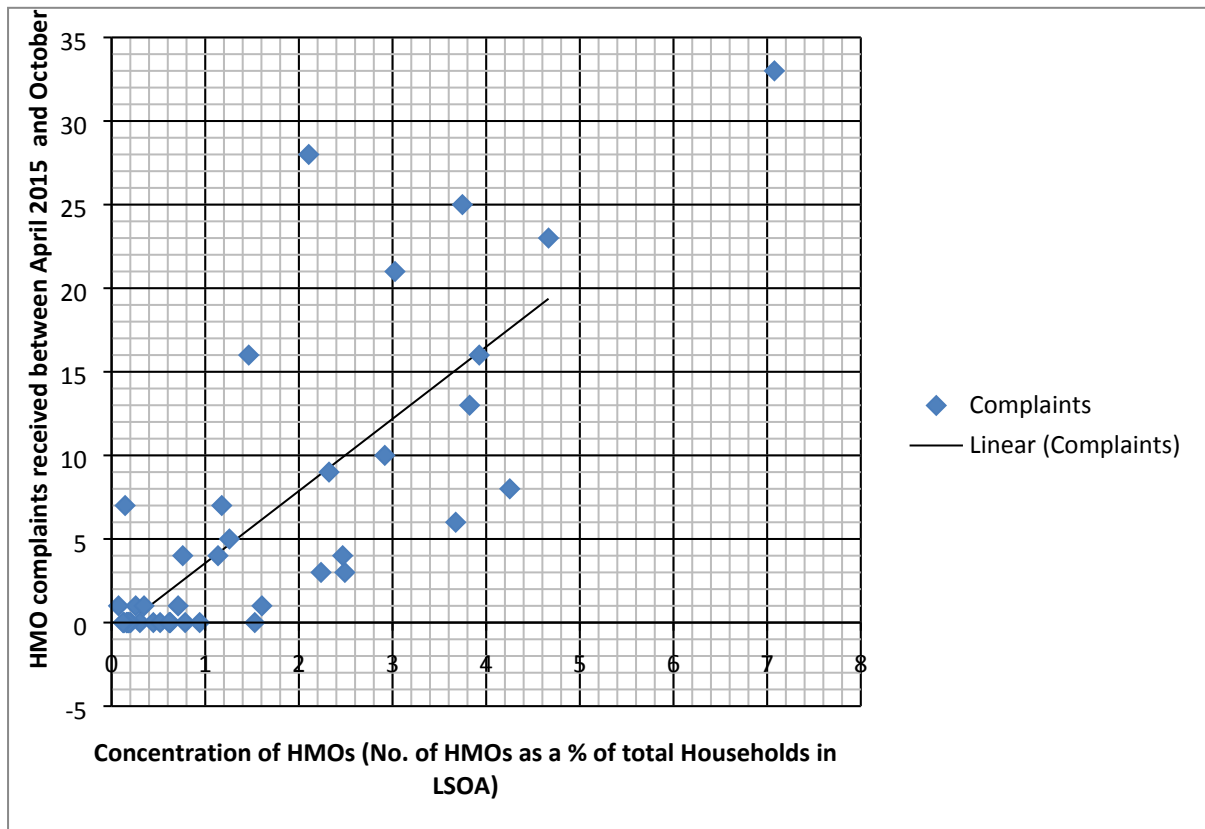
Ward	LSOA	Households	No of HMOs	% HMOs	Complaints
Stow Hill	W01001687	876	62	7.078	33
Pillgwenlly	W01001659	760	16	2.105	28
St Julians	W01001675	614	23	3.746	25
Victoria	W01001693	643	30	4.666	23
St Julians	W01001676	694	21	3.026	21

Pillgwenlly	W01001661	917	36	3.926	16
Victoria	W01001690	956	14	1.464	16
Victoria	W01001692	837	32	3.823	13
Allt-yr-yn	W01001605	617	18	2.917	10
Beechwood	W01001612	603	14	2.322	9
Allt-yr-yn	W01001603	588	25	4.252	8
Ringland	W01001663	692	1	0.145	7
St Julians	W01001680	510	6	1.176	7
Stow Hill	W01001685	762	28	3.675	6
Allt-yr-yn	W01001601	636	8	1.258	5
Beechwood	W01001613	616	7	1.136	4
Caerleon	W01001623	658	5	0.760	4
Victoria	W01001691	770	19	2.468	4
Pillgwenlly	W01001660	626	14	2.236	3
Stow Hill	W01001686	562	14	2.491	3
Beechwood	W01001614	777	2	0.257	1
Caerleon	W01001625	577	2	0.347	1
Liswery	W01001644	1126	8	0.710	1
Pillgwenlly	W01001662	623	10	1.605	1
St Julians	W02000351	2704	2	0.074	1
Allt-yr-yn	W01001600	661	2	0.303	0
Allt-yr-yn	W01001602	673	3	0.446	0
Always	W01001608	638	4	0.627	0
Beechwood	W01001616	619	1	0.162	0
Bettws	W01001618	492	1	0.203	0
Bettws	W01001619	599	1	0.167	0
Caerleon	W01001626	579	3	0.518	0
Caerleon	W01001627	629	1	0.159	0
Caerleon	W01001628	509	4	0.786	0
Langstone	W01001641	536	1	0.187	0
Liswery	W01001642	779	1	0.128	0
Liswery	W01001643	563	1	0.178	0
Marshfield	W01001913	551	1	0.181	0
Ringland	W01001665	745	1	0.134	0
Rogerstone	W01001671	822	1	0.122	0
Shaftesbury	W01001681	654	10	1.529	0
Shaftesbury	W01001683	486	3	0.617	0
Shaftesbury	W01001684	638	6	0.940	0
St Julians	W01001677	649	4	0.616	0

LSOA Stow Hill W01001687 is again at the top of the table. This LSOA has the highest concentration of HMOs and also has the highest number of received complaints. The fact that this LSOA appears at the top of both tables would suggest there is a link between high concentrations of HMOs and high numbers of complaints. However, in comparison, LSOA Shaftesbury W01001683 contains 10 HMOs and has a concentration of 1.529%, but has received no complaints in the last 18 months.

In order to understand the relationship better, the data has been plotted on a scatter graph (see below).

Figure 1: Relationship between concentrations of HMOs and complaints received



The above graph demonstrates that there is a correlation between high concentrations of HMOs and higher numbers of complaints. A linear trendline has been added to the scatter graph, creating a 'Goodness-of-Fit Linear Model'. In general, it is relatively clear that as the concentration of HMOs increases, so does the number of complaints received.

The scatter graph shows a cluster of LSOAs with HMO concentrations of less than 1% which have received no complaints in the last 18 months, or just one complaint. However, the graph evidently shows that once the concentration of HMOs in a LSOA goes above 1%, then the number of complaints increases. Therefore underlining the fact a clear correlation exists.

The R-squared value of the linear trendline is 0.6412. R-squared is a statistical measure of how close the data are fitted to the trendline. R-squared is always between zero and one. Zero indicates that there is no relationship between the data, where one indicates there is a perfect relationship and the trendline passes through all of the plotted points. The higher the R-squared value, the better the model fits the data.

There are varying interpretations of what represents a strong R-squared value. In the field of physics and engineering, a high R-squared value of 0.9 would be considered substantial, however, in more real world examples, academics have suggested the following:

- Less than 0.25 = no relationship
- 0.25 to 0.5 = weak relationship
- 0.5 to 0.75 = moderate relationship
- 0.75 to 1 = substantial relationship

With a value of 0.6412, the relationship between high concentrations of HMOs and high numbers of complaints sit comfortably within the 'moderate relationship'.

Is there a correlation between high concentrations of HMOs and recorded crime?

Table 3 below ranks the HMO areas by the recorded crime figures captured over the last 12 months. As noted in the methodology, figures for shoplifting have been excluded as not all LSOAs will include shops, therefore the inclusion of shoplifting data could have unfairly skewed the evidence.

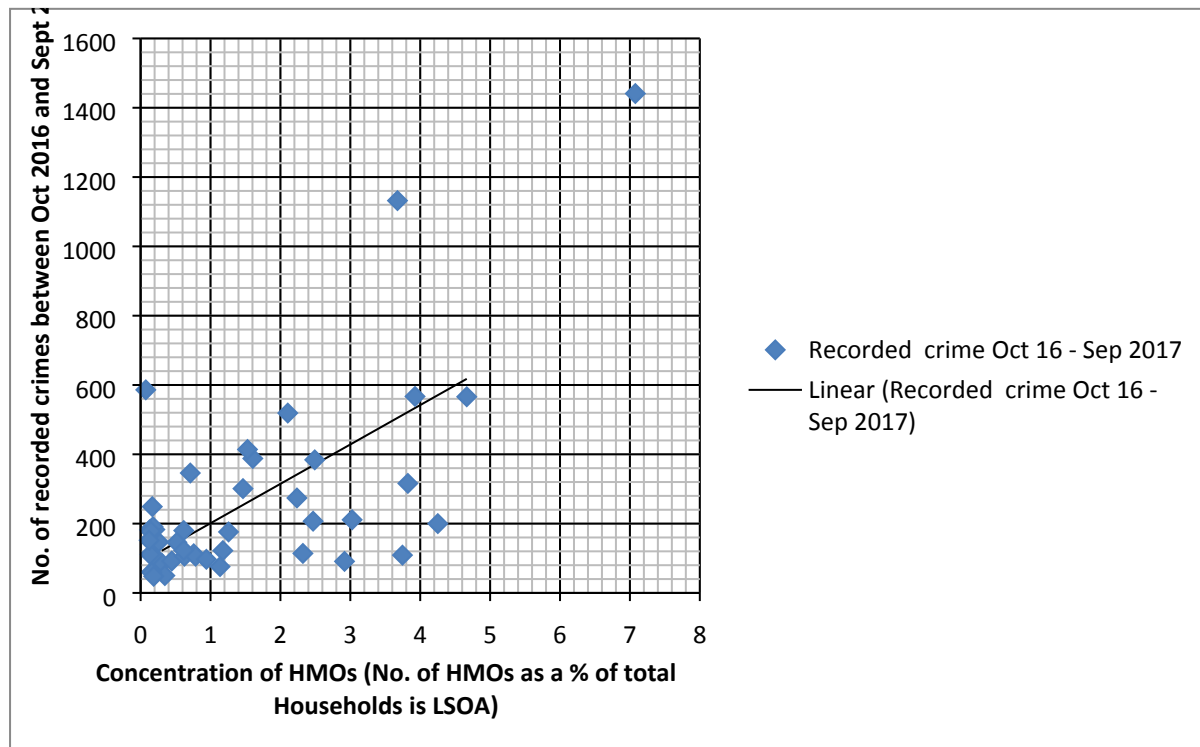
**Table 3: HMO areas ranked by recorded crime over a 12 month period**

Ward	LSOA	Households	No of HMOs	% HMOs	Recorded Crime
Stow Hill	W01001687	876	62	7.078	1441
Stow Hill	W01001685	762	28	3.675	1132
St Julians	W02000351	2704	2	0.074	586
Pillgwenlly	W01001661	917	36	3.926	567
Victoria	W01001693	643	30	4.666	566
Pillgwenlly	W01001659	760	16	2.105	519
Shaftesbury	W01001681	654	10	1.529	414
Pillgwenlly	W01001662	623	10	1.605	388
Stow Hill	W01001686	562	14	2.491	384
Liswery	W01001644	1126	8	0.710	346
Victoria	W01001692	837	32	3.823	316
Victoria	W01001690	956	14	1.464	301
Pillgwenlly	W01001660	626	14	2.236	274
Bettws	W01001619	599	1	0.167	249
St Julians	W01001676	694	21	3.026	211
Victoria	W01001691	770	19	2.468	207
Allt-yr-yn	W01001603	588	25	4.252	200
Liswery	W01001643	563	1	0.178	191
Bettws	W01001618	492	1	0.203	183
Liswery	W01001642	779	1	0.128	182
Shaftesbury	W01001683	486	3	0.617	180
Ringland	W01001663	692	1	0.145	178
Allt-yr-yn	W01001601	636	8	1.258	176
Rogerstone	W01001671	822	1	0.122	152
Beechwood	W01001614	777	2	0.257	147
Caerleon	W01001626	579	3	0.518	146
St Julians	W01001677	649	4	0.616	123
St Julians	W01001680	510	6	1.176	122
Beechwood	W01001612	603	14	2.322	114
Caerleon	W01001623	658	5	0.760	113
Ringland	W01001665	745	1	0.134	111
Marshfield	W01001913	551	1	0.181	109
St Julians	W01001675	614	23	3.746	109
Always	W01001608	638	4	0.627	106
Caerleon	W01001628	509	4	0.786	106
Shaftesbury	W01001684	638	6	0.940	97
Allt-yr-yn	W01001602	673	3	0.446	92
Allt-yr-yn	W01001605	617	18	2.917	91
Allt-yr-yn	W01001600	661	2	0.303	86
Beechwood	W01001613	616	7	1.136	76
Beechwood	W01001616	619	1	0.162	62
Caerleon	W01001627	629	1	0.159	59
Caerleon	W01001625	577	2	0.347	50
Langstone	W01001641	536	1	0.187	48

There is a common theme occurring with Stow Hill W01001687 sitting at the top of the table again. Recorded crime in the two Stow Hill LSOAs is significantly more than all other LSOAs. The higher levels of recorded crime reflect their inner city locations.

As with the complaints data, the recorded crime data has been plotted on a scatter graph below.

**Figure 2: Relationship between concentrations of HMOs and recorded crime**



A linear trendline has been added to this scatter graph. There does appear to be a correlation between the concentration of HMOs and recorded crime, however the relationship does not appear as strong as the correlation between HMOs and complaints. The R-squared value is 0.4485 which confirms a weak relationship, but nevertheless, a relationship exists.

There are obviously numerous factors that cause crime, but in accordance with the Welsh Government publication, the evidence from Newport does suggest that there is a relationship between higher concentrations of HMOs and higher numbers of recorded crime.

## CONCLUSION

The evidence collected does demonstrate that there is a correlation between high concentrations of HMOs and negative complaints made to the Council, and recorded crime. Therefore the Council should continue to try and control the concentration of HMOs.

The Council seeks to control the concentration of HMOs through its two-tier threshold approach set out in the adopted SPG. This approach limits the number of HMOs to 15% within a 50m radius within a defined area of Newport (as per the SPG), and 10% in all other areas of the City.

With regard to the correlation between high concentrations of HMOs and number of complaints, there does appear to be a pattern which suggests that LSOAs which have a HMO concentration of 1% or lower, record a very low number of complaints. Once the HMO concentration of a LSOA exceeds 1%, there is a clear increase in the number of complaints received. Therefore there is an argument to suggest that 1% is the 'tipping

point' where the number of HMOs goes from acceptable to unacceptable. Then again, if the linear trendline of Figure 1 is followed, then a HMO concentration of 2% would result in 8 complaints being received over an 18 month period. There is an additional argument to suggest that 8 complaints would be a manageable level. Similarly, 4% would result in 16 complaints. Therefore defining the 'tipping point' is a difficult task.

In addition, it would be difficult to define a 'tipping point' using LSOAs as the geographical area. For example, if a tipping point of 2% was applied, a LSOA consisting of 600 households would be acceptable with 11 HMOs, but a planning application for a 12<sup>th</sup> HMO would hit the 2% concentration level. All 12 HMOs could be neighbouring properties, or all 12 could be evenly dispersed around the LSOA. Therefore a tipping point based on the concentration of HMOs within a LSOA is not considered appropriate.

Also, the relationship between HMO concentrations and recorded crime is weaker, and the pattern identified is not as strong and consequently it is even less obvious where a tipping point would be.

Therefore in conclusion, this research has demonstrated a correlation between high concentrations of HMOs and complaints and recorded crime. As a result, it is considered that the Council is justified in trying to control the concentrations of HMOs. The mechanism used to control concentrations of HMOs is set out in the adopted SPG. It applies a 50m radius to a HMO planning application site and establishes the percentage of HMOs within that radius. Within the SPG defined area, the percentage of HMOs should not exceed 15%, and outside of the defined area, the percentage of HMOs should not exceed 10%. This threshold approach has the benefit of controlling HMO concentrations. Whereas it is acknowledged that the 15% and 10% are arbitrary figures, it is argued that they are reasonable figures and appropriate figures which will help the Council in controlling the concentration of HMOs. If the threshold figures were higher, then the evidence would suggest that this would result in more negative complaints and higher recorded crime. Consequently, it is considered that the need for a threshold is necessary.

The evidence in this report has established that there is a relationship between high concentrations of HMOs and complaints and recorded crime. As a result, the Council is justified in trying to control and limit concentrated areas of HMO properties. It is considered that the most effective and most reasonable way of doing this is through a threshold approach, as set out in the Council's adopted HMO SPG.



## APPLICATION DETAILS

No: 18/0711 Ward: **ALLT-YR-YN**

Type: Full

Expiry Date: 18-SEP-2018

Applicant: **MATHISON AND BELL LTD 101, MYRNA CLOSE, LONDON, SW19 2HN**

Site: **28, Lucas Street, Newport, Gwent, NP20 5FB**

Proposal: **CHANGE OF USE OF 4NO. BEDROOM DWELLING TO 4NO. BEDROOM HOUSE IN MULTIPLE OCCUPATION**

### 1. LATE REPRESENTATIONS

- 1.1 The parking survey / report calculations undertaken by the applicant's agent were based on a parking space being 5 metres in length. However, the Council's highways team consider that calculations should be based on a parking space being 6 metres in length. The agent was therefore requested to revise his findings based on 6 metre length parking bays. The agent has therefore submitted the following revised figures, which supersede the information contained within paragraph 7.8 and 7.17 of the officer report.
- 1.2 The revised information is therefore included below:

28 LUCAS STREET, NEWPORT – PARKING SURVEY RESULTS - 04.03.2019 4.30pm KJC (occasional showers)				
	Total length (m) parking spaces	No. of RPH parking spaces (6m)	No. of cars parked in RPH bays	RPH parking stress (%)
<b>Controlled parking zone (CPZ)</b>				
Lucas Street East disabled	21	3	3	100 %
Lucas Street East other	57	10	9	90%
Lucas Street West / North	36	6	7	100%
Lucas Street West / South	32	5	6	100%
Rose Street North	45	8	9	100%
Rose Street South	36	6	7	100%
Locke Street West / South	67	11	13	100%
Locke Street East / South	46	8	9	100%
	Total length (m) parking spaces	No. of unrestricted spaces	No. of cars parked at kerb side	Unrestricted parking Stress
<b>Unrestricted Parking</b>				
Factory Road North Between Locke Street	15	2	3	100%
Factory Road North	142	23	8	34%
Locke Street West / North	23	4	2	50%
Locke Street East / North	27	4	2	50%
<b>Part Restricted Parking</b>				
Queen's Hill	46	8	9	100%
Factory Road South	81	13	6	46%
<b>Sub total</b>		<b>111</b>	<b>93</b>	<b>83.78%</b>

28 LUCAS STREET, NEWPORT – PARKING SURVEY RESULTS - 05.03.2019 12.30am KJC (occasional showers)				
	Total length (m) parking spaces	No. of RPH parking spaces (6m)	No. of cars parked in RPH bays	RPH parking stress (%)
<b>Controlled parking zone (CPZ)</b>				
Lucas Street East disabled	21	3	3	100 %
Lucas Street East other	57	10	10	100%
Lucas Street West / North	36	6	8	100%
Lucas Street West / South	32	5	7	100%
Rose Street North	45	8	12	100%
Rose Street South	36	6	11	100%
Locke Street West / South	67	11	13	100%
Locke Street East / South	46	8	9	100%
	Total length (m) parking spaces	No. of unrestricted spaces	No. of cars parked at kerb side	Unrestricted parking Stress
<b>Unrestricted Parking</b>				
Factory Road North Between Locke Street	15	2	1	50%
Factory Road North	142	23	0	0%
Locke Street West / North	23	4	2	50%
Locke Street East / North	27	4	3	50%
<b>Part Restricted Parking</b>				
Queen's Hill	46	8	9	100%
Factory Road South	81	13	0	0%
<b>Sub total</b>		<b>111</b>	<b>88</b>	<b>79.27%</b>

28 LUCAS STREET, NEWPORT – PARKING SURVEY RESULTS - 06.03.2019 00.56 am RC (occasional showers)				
	Total length (m) parking spaces	No. of RPH parking spaces (6m)	No. of cars parked in RPH bays	RPH parking stress (%)
<b>Controlled parking zone (CPZ)</b>				
Lucas Street East disabled	21	3	3	100 %
Lucas Street East other	57	10	11	100%
Lucas Street West / North	36	6	7	100%
Lucas Street West / South	32	5	4	80%
Rose Street North	45	8	13	100%
Rose Street South	36	6	12	100%
Locke Street West / South	67	11	11	100%
Locke Street East / South	46	8	9	100%
	Total length (m) parking spaces	No. of unrestricted spaces	No. of cars parked at kerb side	Unrestricted parking Stress
<b>Unrestricted Parking</b>				
Factory Road North Between Locke Street	15	2	2	100%
Factory Road North	142	23	4	17%
Locke Street West / North	23	4	2	50 %
Locke Street East / North	27	4	2	50%
<b>Part Restricted Parking</b>				
Queen's Hill	46	8	9	100 %
Factory Road South	81	13	0	0%
<b>Sub total</b>		<b>111</b>	<b>89</b>	<b>80.18%</b>

1.3 The agent has also made the following comments:

*'Following the submission of the application, the Highways officer raised an objection to the proposed change of use of the dwelling to the 4 bedroom HMO.'*

*The highways officer clearly advised that the only way to prove that there was sufficient off-street parking capacity within the area for two additional vehicles was to undertake a detailed parking survey inline with the 'Lambeth Method'.*

*C2J, a chartered Town Planning practice, were engaged at this point in the application to act as agent and undertake the parking survey inline with the 'Lambeth Method'.*

*At significant expense, the applicants undertook the parking survey in line with the strict guidance provided for the 'Lambeth Method'.*

*The requested survey clearly provided technical evidence that there is sufficient capacity to accommodate the potential two additional vehicles created by the change of use.*

*Notwithstanding the above, the Highways officer has retained his objection to the proposal.*

*When considering the evidence in front of the committee members, the Parking Survey provides clear technical evidence that there is capacity within the area. No evidence has been produced by the Highways officer in rebuttal to the Survey produced, as such, their position is considered unreasonable / untenable.*

*In light of the above, and taking into considered the sustainable location of the application site and the clear technical evidence which has been reviewed by a Highways Engineer, we would respectfully request that Members support the professional officers recommendation in approving this application.*

## **2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

2.1 The findings can be summarised as follows:

- In the daytime (4.30pm 4 March 2019), parking levels in Lucas Street are very high but there are unrestricted parking bays available nearby in Factory Road and Locke Street).
- At night time (12.30am 5 March 2019 & 00.56am 6 March 2019), parking levels in Lucas Street are very high but there is plentiful unrestricted parking nearby in Factory Road).

2.2 These revisions have made a noticeable difference to the levels stated in the officer report. However, given the available parking in Factory Road in particular, and the relatively small increase in parking demand (2 spaces), it is considered that the proposal remains acceptable.

## **3. OFFICER RECOMMENDATION**

3.1 The recommendation remains to grant with conditions.



## **APPLICATION DETAILS**

**No: 4**                      **18/1123**                      **Ward: CAERLEON**

**Type: FULL**

**Expiry Date: 03-MAY-2019**

**Applicant: SAM HILL, NEWPORT NORSE**

**Site: CAERLEON COMPREHENSIVE, COLD BATH ROAD, CAERLEON, NEWPORT**

**Proposal: ERECTION OF WELDMESH FENCE UP TO 2.4 METRES**

**Recommendation: GRANTED WITH CONDITIONS**

### **1. INTRODUCTION**

- 1.1 This application seeks planning permission for the erection of fencing around part of the Caerleon Comprehensive site. There is a small fence currently on site that runs along the boundary with the Scheduled Ancient Monument. This fence is going to remain in place and the new fence is going to be set in front of it.
- 1.2 The proposal seeks to erect weldmesh fencing up to 2.4m in height and coloured green (RAL 6005) to the rear of part of the Caerleon Comprehensive site. There are two sections of fencing, the first set of fencing begins at a container located in the field and continues around the field to the north. This section of fencing will be 2m high for a length of 381m. The second section of fencing will start where the first section ended and continue north east along the boundary of the site shared with the cemetery for a length of 56m. This fencing will be 2.4m high.

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

No relevant site history.

### **3. POLICY CONTEXT**

- 3.1 Policies GP2 (General Amenity), GP6 (Quality of Design), SP5 (Countryside), CE6 (Archaeology) and CE7 (Conservation) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 3.2 Policy GP2 (General Amenity) states: development will be permitted where, as applicable:
- i) There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
  - ii) The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
  - iii) The proposal seeks to design out the opportunity for crime and anti-social behaviour;
  - iv) The proposal promotes inclusive design both for the built development and access within and around the development;
  - v) Adequate amenity for future occupiers.
- 3.3 Policy GP6 (Quality of Design) states: good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment. In considering development proposals the following fundamental design principles should be addressed:
- i) Context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
  - ii) Access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;

- iii) Preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. The designer is encouraged to display creativity and innovation in design;
- iv) Scale and form of development: new development should appropriately reflect the scale of adjacent townscape. Care should be taken to avoid over-scaled development;
- v) Materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. Detailing should be incorporated as an integral part of the design at an early stage;
- vi) Sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. Where existing buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.

#### **4. CONSULTATIONS**

- 4.1 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST (GGAT): No objection.
- 4.2 CAERLEON CIVIC SOCIETY (CCS): No objection.
- 4.3 CADW (ANCIENT MONUMENT): No comments received.

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

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): No objection.
- 5.2 HEAD OF REGENERATION AND REGULATORY SERVICES (CONSERVATION): The proposals will have a negligible impact on the character of the Caerleon Conservation Area. As long as Cadw raise no concerns regarding the setting of Scheduled Ancient Monuments, I have no objection to the positive determination of this application.

#### **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All neighbours with a common boundary and opposite were consulted (27no properties) and no comments were received. A site notice was erected at the site on 14/02/2019 and a publicity notice was displayed on 16/02/2019.

#### **7. ASSESSMENT**

- 7.1 Due to the siting of the fence, it would not be visible from a public highway or from any residential properties. It is considered that by reason of its design, scale and location, the proposed fencing is not considered to have a detrimental impact on residential amenity. It is considered that the proposed fencing would provide a safe and secure boundary treatment for the school, and it is not considered that the fencing would have a harmful impact on the appearance of the school and the wider streetscene. Fencing is a common feature at schools. The proposed fencing is considered a suitably designed security measure that will result in both a visual and security improvement. Therefore, it is considered that the proposed development is in accordance with policies GP2 and GP6.
- 7.2 The site is located in an archaeologically sensitive area. GGAT were consulted on the application and stated that the proposed application is of a small scale with limited ground intrusion and consequently on this occasion it is considered that the works will not have a detrimental impact upon the archaeological resource. As a result there is unlikely to be an archaeological restraint to this proposed development and consequently, as the archaeological advisors, they offer no objection to the positive determination of the application.
- 7.3 The site is located adjacent to the Caerleon Conservation Area, as such, the Council's Conservation Officer was consulted on the application and stated that the proposal will have a negligible impact on the character of the Caerleon Conservation Area and has no objection to the positive determination of the application. By reasons of its location, scale and design

it is considered that the proposed fencing preserves the character and appearance of the conservation area.

- 7.4 Part of the site is adjacent to the Caerleon Civil Settlement Scheduled Ancient Monument. CADW were consulted on the application, however, comments have not been received. It is considered that given the distance from the Scheduled Ancient Monument and the small scale work that is to be undertaken, the proposed development will not result in a harmful impact.

## **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 *Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **9. CONCLUSION**

- 9.1 The proposed development by reasons of its scale, location and design would satisfy policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).



## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: Fence Details Rev P2 Received 27/02/2019, Fencing Details 2 Rev P1 003 and Fencing Details 2 Rev P1 002.

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

#### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Site Location Plan, Fence Details Rev P2 Received 27/02/2019, Fencing Details 2 Rev P1 003 and Fencing Details 2 Rev P1 002.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP6, SP5, CE7 and CE6 were relevant to the determination of this application.

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

03 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: 18/1123 Ward: **CAERLEON**

Type: Full

Expiry Date: 03-MAY-2019

Applicant: **SAM HILL, NEWPORT NORSE COLD BATH ROAD, NEWPORT, NP18 1NF**

Site: **Caerleon Comprehensive, Cold Bath Road, Caerleon, Newport**

Proposal: **ERECTION OF WELDMESH FENCE AND GATES UP TO 2.4 METRES**

### **1. LATE REPRESENTATIONS**

- 1.1 CADW: The scheduled monuments identified are located inside 175m of the proposed fences. Similar fences are already installed at Caerleon Comprehensive and the introduction of these two new ones will not alter the manner in which the scheduled monuments are experienced, appreciated and understood. Consequently it is our opinion that the proposed fences will not have any impact on the setting of any scheduled monument. Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monuments.

### **2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

- 2.1 CADW have offered no objections to the proposed development.

### **3. OFFICER RECOMMENDATION**

- 3.1 This response does not alter the evaluation of officers. It is recommended that the application is granted with conditions.



## **APPLICATION DETAILS**

**No: 5**                      **18/1211**                      **Ward: RINGLAND**

**Type: FULL (MAJOR)**

**Expiry Date: 8-MAY-2019**

**Applicant: MR DE SILVA, NEWPORT CITY HOMES**

**Site: 1, MOUNTBATTEN CLOSE, NEWPORT, NP19 9GU**

**Proposal: DEMOLITION OF APARTMENT BUILDING AND CONSTRUCTION OF 12NO. FLATS AND 12NO. HOUSES WITH ASSOCIATED EXTERNAL AMENITIES AND PARKING**

**Recommendation: GRANTED WITH CONDITIONS SUBJECT TO A S106 AGREEMENT WITH DELEGATED AUTHORITY TO REFUSE PERMISSION IF THE LEGAL AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF ANY RESOLUTION TO GRANT PERMISSION.**

### **1. INTRODUCTION**

- 1.1 This application seeks to demolish an existing 4-storey maisonette building containing 12no. flats and construct a new 12 unit apartment block and 12 no. houses on this site at Mountbatten Close in the Ringland Estate and located west of the Southern Distributor Road (SDR). The development is to comprise 100% affordable housing.
- 1.2 The Ringland area of Newport is a large residential estate built during the 1950s and 60s with local facilities including a library, health centre, public house, community hub and local schools. There are also a number of retail shops within walking distance at the Ringland Centre. Parts of the area, and near to the site, have been subject to regeneration in recent years and the intention is for this application to form part of the wider regeneration of the Ringland Centre area by Newport City Homes. Recent applications granted include 17/0894 for the erection of 56no dwellings at Cot Farm Walk and 18/1069 for refurbishment works to the community centre building. On 6<sup>th</sup> March 2019 Planning Committee resolved to grant application 18/1181 for outline permission for the demolition of Ringland Centre and erection of approximately 170no. homes and 1700 square metres of a1/a2/a3 floor space subject to a Section 106 agreement
- 1.3 The main parcel of the application site comprises open space which is currently vegetated with grassland and a band of mature trees. It is designated environmental space within the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). The existing open space is overlooked by the existing maisonettes and some properties on Mountbatten Close although doesn't provide any formal amenities such as play areas or sport facilities. This area is bound to the north by the roundabout at Beatty Road onto the SDR, by no. 25 Mountbatten Close to the east with the SDR beyond and Mountbatten Close to the south and west. As the development is for 100% affordable housing, Policy H5 (Affordable Housing Exceptions) is considered to be of relevance in the consideration of this scheme. Policy H5 states that favourable consideration will be given to proposals for the provision of affordable housing on sites in or adjoining settlements that would not otherwise be released for development provided that there is a local need and arrangements are in place to secure it as affordable housing for subsequent occupants. The provision of affordable housing is therefore considered to be a material consideration in weighing up the merits of the development against the loss of open space.
- 1.4 The primary issues for consideration in this application are: The loss of a designated environmental space; the design of the proposed dwellings and their layout and impact upon residential amenity; parking provision and movement along Mountbatten Close; the impact

of the loss of the existing maisonettes, and any regeneration and housing supply benefit of the construction of 12 additional (24 in total) affordable units in the area.

## 2. RELEVANT SITE HISTORY

04/1369	Residential Development (Outline)	Withdrawn
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## 3. POLICY CONTEXT

- **SP1 (Sustainability)** favours proposals which make a positive contribution to sustainable development.
- **SP13 (Planning Obligations)** enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.
- **SP18 (Urban Regeneration)** supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
- **GP2 (General Amenity)** states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- **GP3 (Service Infrastructure)** states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.
- **GP4 (Highways & 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.
- **GP5 (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.
- **GP6 (Quality of Design)** states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
- **GP7 (Environment and Public Health)** states that development will not be permitted which would cause or result in unacceptable harm to health.
- **CE3 (Environmental Spaces and Corridors)** safeguards environmental space and corridors as identified on the Proposals Map. Development of environment space will only be permitted where the existing space will be improved or complemented; there is no adverse impact on nature conservation interest; there is an appropriate replacement; or it can be demonstrated that there is an excess of environmental space.
- **H2 (Housing Standards)** promotes high quality design taking into consideration the whole life of the dwelling.
- **H3 (Housing Mix & Density)** seeks a density of at least 30 dwellings per hectare on sites of 10 dwellings or more.
- **H4 (Affordable Housing)** sets out the affordable housing targets for the four submarket areas within Newport. For new housing sites of fewer than 10 dwellings within the settlement boundary, and fewer than 3 dwellings within the village boundaries, a commuted sum will be sought.
- **H9 (Housing Estate Regeneration)** favours the regeneration or improvement of housing areas.
- **T4 (Parking)** states that development will be expected to provide appropriate levels of parking.

- **CF1 (Protection of Playing Fields, Land & Buildings Used for Leisure, Sport, Recreation and Play)** notes that such sites will be protected unless it can be demonstrated that they are surplus to requirements or adequate alternative provision will be provided.
- **CF2 (Outdoor Play Space Requirements)** states that when development results in the loss of open space or there is a requirement for additional open space, provision in accordance with the Fields in Trust Standard will be sought.

#### 4. CONSULTATIONS

- 4.1 WALES AND WEST UTILITIES (WWU): Wales & West Utilities has pipes in the area. Apparatus may be affected and at risk during construction works. Should the planning application be approved then the developer should contact WWU to discuss requirements. WWU plant must not be enclosed or built over.
- 4.2 SOUTH WALES FIRE AND RESCUE SERVICES (FIRE PREVENTION OFFICER): The developer should consider the need for the provision of:-  
a) adequate water supplies on the site for firefighting purposes; and  
b) access for emergency firefighting appliances.
- 4.3 GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): No response.
- 4.4 DWR CYMRU WELSH WATER: Adequate capacity exists within the public sewerage system to accept the foul only flows from the proposed development site.

The developer proposed to connect surface water to the existing public surface water sewer. However, infiltration tests have yet to be conducted and these should be carried out to determine if soak ways will be an appropriate method of surface water disposal. The applicant states that little area is available for a large soak away, however, no justification has been provided to demonstrate this. All methods of surface water disposal outlined in the Welsh Government 'Statutory Standards for Sustainable Drainage' need to be exhausted before Dwr Cymru Welsh Water consider an attenuated connection of domestic surface water with the public sewerage system. Therefore, Dwr Cymru request that a condition requiring the submission of a drainage scheme and that advisory notes are attached to any planning permission granted to ensure no detriment to Dwr Cymru Welsh Waters assets. No problems are envisaged with Waste Water Treatment Works for the treatment of domestic discharges from the site and a water supply can be made available.

#### 5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF CITY SERVICES (DRAINAGE): Object to the application as no Flood Consequence Assessment has been submitted and no details supporting a drainage strategy have been provided.
- 5.2 HEAD OF CITY SERVICES (HIGHWAYS): In regard to parking, disputes the way in which the points have been calculated for the sustainability assessment. That being said, when taking into consideration the existing parking demand associated with the 12no. 3 bed apartments it's determined that the proposed scheme will reduce the demand for on street parking in the area.

In the interest of pedestrian visibility the perpendicular spaces which abut directly onto Mountbatten Close should be set back a minimum of 1m from the back edge of the footway.

A swept path analysis demonstrates that a refuse vehicle can utilise the proposed turning head. The vehicle used is only 7980mm long however a Council refuse vehicle is 9190mm in length. It should also be noted that the proposed access road would not be considered for adoption given that it only provides access to limited properties and a parking forecourt. It therefore does not offer sufficient public utility to be maintained at public expense.

Should the application be approved a condition must be attached which states that a CEMP must be submitted and include such details of wheel wash facilities, dust suppression,

contractor parking and contractor compound. In addition construction vehicles movements must be restricted so that they do not conflict with the drop off and collection times associated with the local school.

The applicant must also note that any works within the adopted highway will require the applicant to apply to the City Services for a s.111 agreement. No works can take place within the highway until the agreement is in place and final approval has been given by the highways authority.

- 5.3 HEAD OF CITY SERVICES (ECOLOGY): Newport City Homes has agreed to provide replacement trees off-site with the Tree Officer. The character of the area lost does not meet the criteria to be considered priority woodland habitat. No further information is required with regards to trees.

Surveys have confirmed that the building is used as an occasional day roost by soprano pipistrelle bats. The mitigation proposed is acceptable but although the mitigation in the report is not written in enforceable language, or shown on a plan suitable for approval, an EPS licence will be required for the site, and therefore we can be confident that appropriate mitigation will be secured through the licencing process and no further information is required at this stage. In line with guidance from WG, if the Local Planning Authority are minded to grant this permission please include an information note informing the developer of their responsibility.

- 5.4 HEAD OF CITY SERVICES (TREES): No objections but recommends the use of planning conditions requiring the submission of a tree protection plan, details of a root protection barrier and the appointment of an Arboriculturalist.

- 5.5 HEAD OF CITY SERVICES (LANDSCAPE): The proposal will see the loss of the informal recreation open space and mature trees. With the density of development, associated gardens and car parking, there are very few opportunities for mitigation. This needs to be acknowledged in the submitted documents.

The ecological survey submitted is preliminary and has not been updated to incorporate the proposals so the impact of the green space and tree losses have not been assessed from an ecological view point.

The simplified GI Strategy (requested at pre-application stage) should quantify the tree and native shrub area losses, the area of green space loss, and state what mitigation planting and green space area is proposed. Trees may be assessed by an arboricultural consultant as low or moderate quality but this is not necessarily the same as the landscape or ecological viewpoint, and assesses individual trees or groups rather than the contribution the 'whole site' makes to amenity or ecology.

The Strategy concludes that 'overall GI value will not be adversely affected' however in addition to the loss of green space area, there are quantifiable losses which include 5 mature ash, 2 mature field maple, 1 mature oak, 1 early mature wild cherry, 3 mature hawthorn, plus group losses, accepting some are in poor condition. Replacement tree planting is proposed as 2 silver birch, 2 field maple.

A specification for species rich turf in gardens is required. Tree planting is shown within the Welsh Water easement which may be a constraint to tree planting. Ornamental and native tree size is specified as 12-14cmg which given the density of development and tree losses will not make much visual impact. Larger tree size should be considered at 18-20 or 20-25cmg so there is some immediate mitigation.

Existing topsoil may be a good ecological resource. The Maintenance Plan indicates storage at 4m high (see extract below), the acceptable norm is 2m to avoid topsoil compaction and comply with BS3882:2015. The location for topsoil storage needs consideration as the site is very tight.

- 5.6 HEAD OF REGENERATION, INVESTMENT AND HOUSING (HOUSING DEVELOPMENT MANAGER): The Housing Department supports the development. Newport City Homes work in partnership with the City Council to address the prevailing housing need. The existing

maisonette block does not provide the appropriate, modern housing provision that is required today, and the proposed redevelopment will see the provision of properties which address the current needs. All the properties will be affordable housing of neutral tenure, built to Welsh Government standards and allocated through the Common Housing Register. This development sees the continuation of the redevelopment of areas of Ringland which will be a benefit to both new occupants and the existing community.

- 5.7 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING CONTRIBUTIONS MANAGER): Should the developer decide to sell or rent the properties on the open market there would be a requirement for 20% affordable housing provision on-site (mix and type to be agreed with the Council). Alternatively, in exceptional circumstances, an off-site commuted sum could be agreed (in accord with the most up-to-date Affordable Housing SPG) for the provision of affordable housing for the City of Newport.

#### Education

The development falls within the catchment area of Llanwern High School and Milton Primary School and Ysgol Gynradd Gymraeg Casnewydd. Whilst it is recognised that no education contribution is requested for affordable housing, it is necessary to build-in safeguards to ensure that if any of the dwellings are sold or rented on the open market, the following formula will be applied:

- Number of secondary pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at Llanwern High School x £15,302 = Secondary Education Sum;
- Number of post 16 pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at Llanwern High School x £16,427 = Post 16 Education Sum;
- Number of primary pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at Milton Primary School and Ysgol Gynradd Gymraeg Casnewydd x £16,115 = Primary Education Sum.

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

All Education Sums will be index linked to the BCIS and paid in instalments (to be agreed)

#### Leisure

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

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

- Number of one bed 'open market' apartments (prior to commencement of development) x £1,821;
- Number of two bed 'open market' apartments (prior to commencement of development) x £3,816;
- Number of two bed 'open market' houses (prior to commencement of development) x £3,816;
- Number of three bed 'open market' houses (prior to commencement of development) x £5,724

- 5.8 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING POLICY MANAGER): The proposed housing development is situated within the settlement boundary,



in a sustainable location and within a well-established residential area. It would provide additional and upgraded affordable housing, the provision of which is favourably considered in terms of urban and housing estate regeneration objectives. These benefits, however, have to be balanced against the loss of Environmental Space and trees. The loss of the informal play space satisfies Policies CE3 and CF1 from an informal play space standards perspective, when measured against the Fields in Trust Standard, but worsens the overall deficit of play space in Ringland, particularly in the north eastern section of the ward. Satisfactory comments are also required from the ecologist and landscape officer with regards to the development providing enhancements to the sites setting and environmental qualities to fully satisfy Policy CE3 criterion i) and Policy H9 criterion ii).

## 5.9 HEAD OF LAW AND REGULATION (PUBLIC PROTECTION):

The Noise Survey reference 4479/ENS1 carried out on the 8<sup>th</sup> October 2018 has been appraised. The report quotes the following condition that is used by Newport City Council on similar developments which have the potential to be impacted on by noise from road traffic;

*“No development, other than demolition, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external road traffic noise in excess of 55 dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45 dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.*

*Reason: To ensure that the amenities of future occupiers are protected*

The report also acknowledges Technical Advice Note (Wales) 11 and categorises this development as falling within recommended noise exposure category A (Section 5.0). Having considered the acoustic report findings, it is requested that acoustic attenuation measures that will be implemented achieve the outdoor design 50dB LA<sub>eq16hr</sub> criteria rather than 55dB LA<sub>eq16 hr</sub> criteria, in line with the WHO guidelines for community noise for proposed garden areas.

The report concludes that dwellings located in close proximity to the local roads are indicated to fall above the trigger levels. Additional sound insulation measures are therefore indicated to be required. It is therefore recommended that planning conditions requiring internal sound insulation measures to ensure a maximum internal noise level is achieved and to require the submission of a scheme providing that external maximum noise levels shall not be exceeded.

HMO licensing: No objection

Air quality and contamination:

### **Air Quality**

To encourage the uptake of electric vehicles in an effort to improve air quality and reduce carbon emissions it is recommend that a number of electric vehicle charging points are installed, with cabling installed to an additional number to allow for additional charging points to be installed in the future.

### **Contaminated Land**

Having reviewed the contaminated land report submitted with the application, it is agreed in that the findings and recommendations of the report identify that there unlikely to be any significant risks to human health. To ensure there is some safeguard in case unexpected contamination is encountered during the ground works it is recommend a watching brief condition is implemented.

## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: 67 Neighbours within 50 metres of the application site and a site notice was displayed on Mountbatten Close. 3 letters have been received (1 no. letter of support and 2no. letters of objection). The comments are summarised below:
- It will be a relief to see the existing flats demolished as they are an eyesore;
  - Consideration should be given to improving parking for existing residents and the impact that construction works will have on them;
  - The families in the current flats should be offered one of the new houses;
  - The site is not big enough to accommodate the proposal,
  - A beautiful greenspace and trees will be destroyed
- 6.2 COUNCILLORS: No comments.

## 7. ASSESSMENT

### 7.1 The Proposal

- 5.1 The proposal involves the demolition of the existing 3 storey maisonette building (containing 12 x 3 bedroom units) and the erection of 12no. two-storey, 2-3 bedroom, semi-detached houses and a 3-storey apartment block containing 12no. 1 and 2 bedroom flats. 8 of the proposed houses are to front onto Mountbatten Close and separated from it by the pavement, parking spaces and a small front garden. The apartment block is to be located in the north-eastern part of the site with communal gardens to its rear. 4no. further houses are to be located south of this building and east of no. 25 Mountbatten Close, fronting onto the new highway which is to provide access into the site and to its parking areas. Areas of landscaping are proposed along the southern boundary with tree planting at the western boundary and within the site itself. An existing band of trees and acoustic fence are to be located to the northern and eastern parts of the site although a number of mature trees are to be removed from the interior. The layout of the proposed development is largely dictated by the position of Dwr Cymru Welsh Water sewer, and its associated easements, which runs from Mountbatten Close in the South to the SDR in the North.

### Principle of development and demolition of maisonettes

- 5.3 The site is largely greenfield, with only the maisonettes and their immediate curtilages considered to meet the definition of previously developed land. The rest of the site is considered to be greenfield. The site is however, located within the defined settlement boundary of Newport, within which the principle of development is considered to be acceptable and sustainable.
- 5.4 The existing maisonettes were built in the 1960's and it is stated within the submitted Design and Access Statement that the building has come to the end of its designed life. It is in poor condition, uninsulated and inefficient and its design does not contribute to the character of the area and on this basis their demolition would not be resisted. There are however other material matters to consider.
- 5.5 Surveys have confirmed that the building is used as an occasional day roost by soprano pipistrelle bats. The Head of City Services (Ecology) has confirmed that the mitigation proposed is acceptable and a plan has been submitted which confirms bat and bird boxes or to be installed to properties and trees throughout the site as a form of ecological enhancement. The Head of City Services (Ecology) is satisfied that the EPA licensing stage will satisfactorily address mitigation, however, a condition will be attached to any permission granted to require the implementation of the proposed mitigation measures..
- 5.6 The Head of Law and Regulation (Public Protection) has recommended that a condition requiring the submission of a Construction and Environmental Management Plan (CEMP) is attached to any planning permission granted to ensure that the development, including demolition, protects the amenities of existing residents.
- 5.7 Recent case law *R (Buckley) v Bath and North East Somerset Council* held that it was necessary to consider equality duties in relation to planning applications for the redevelopment of areas of social housing where the decanting of the existing population meant

that existing residents with particular protected characteristics might be left at risk of being prejudiced. The judgement held at Paragraph 31 that:

*“The fact that the application is for outline planning permission and that certain reserved matters are to be considered at a later stage in the process may affect the content or scope of the duty in particular cases but that does not prevent the duty applying. By way of example, approval of reserved matters such as layout and access may, depending on the circumstances, raise specific equality considerations. Those matters may require little or no consideration at the outline stage but may need to be considered carefully at the stage when those matters come to be considered for approval. Similarly, the fact that the grant of outline planning permission is one stage in a process which has a number of different stages before the development is finally completed may affect the scope of the duty. Again, by way of example, demolition of a dwelling adapted for use and occupied by a disabled person may result in the need to have due regard to the possibility of providing suitable alternative accommodation for that person. The suitability of the actual provision for particular tenants may be better assessed at a later stage in the overall process of development. The impact of demolition of existing homes and adapted dwellings on elderly and disabled persons who occupy them may, however, need to be considered at the time when outline permission is granted.”*

- 5.8 The circumstances of this case are similar to the Bath example since the demolition of the existing housing stock (to allow a densification process on re-building) means that residents will lose their homes. On its face this is not a planning matter since it will fall to the relevant landlord and their tenants to resolve contractual arrangements – it is a civil law matter and falls outside of planning. However the Bath case was concerned with the application of equality duties which is ‘global’ requirement in public decision making. The Council needs to be confident that a decision to demolish someone’s home does not impinge on any protected characteristic.
- 5.9 The applicant, Newport City Homes, has confirmed that the existing maisonette residents will be re-homed in the development at Cot Farm, which was approved under application 17/0894 and have been consulted and the ‘passport’ process to facilitate their relocation has commenced. Residents will therefore be staying on the same estate and any children attending local schools can continue to do so. As such, there is no reason to think successful decanting cannot be achieved but there would be a need to control this process in order to ensure no prejudice subsequently arises.

#### Provision of affordable housing and housing estate regeneration

- 5.10 Policy SP18 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) states that proposals will be favoured which assist the regeneration of the urban area. The proposed development involves the replacement of 12 flats/maisonettes with 24 affordable units made up of 12 flats and 12 houses as part of an upgrading and replacement programme within Ringland and is consistent with the objectives of policy SP18. Policy H5 states that favourable consideration will be given to proposals for the provision of affordable housing on sites in or adjoining settlements that would not otherwise be released for development provided that there is a local need and arrangements are in place to secure it as affordable housing for subsequent occupants. The Head of Regeneration, Investment And Housing (Housing Development Manager) has confirmed that the existing maisonette block does not provide the appropriate, modern housing provision that is required today, and the proposed redevelopment will see the provision of properties which address the current needs.
- 5.11 The upgrade and provision of higher quality affordable units that address a specific affordable housing need in the area also assists in contributing to the affordable housing land supply requirement in Newport set in SP10 (House Building Requirements) by contributing a net gain of 12 units.
- 5.12 Policy H9 (Housing Estate Regeneration) also favourably considers the regeneration or improvement of housing areas where they are undertaken in a comprehensive manner, protect open space and the setting of the estate, widen tenure options where they are limited and encourage the development of community use where appropriate. The supporting text specifically refers to the housing stock transferred to Newport City Homes and the

requirement to undertake substantial upgrading over the plan period. The proposal represents a form of housing estate regeneration and housing stock upgrading and therefore offers considerable benefit, however as noted above these benefits need to be weighed up against the loss of the informal play space, which the policy seeks to retain and to ensure compliance with Policies CF1 and CF2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

## Section 106 Planning Obligation matters

### Summary

- 5.13 In accordance with Policy SP13 of the adopted Newport Local Development Plan 2011-2026 and the adopted Planning Obligations Supplementary Planning Guidance, development will be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the sustainability of the location. In this case, section 106 planning obligations are required to mitigate the impact of the development in accordance with the table below.

Service Area that requires planning obligation	Purpose of planning obligation	Planning obligation initially sought by Planning Authority	Summary of Heads of Terms agreed by applicant(s)	Viability Issues?
<i>Regeneration, Investment and Housing</i>	<i>To provide on-site affordable housing</i>	<i>Provide 20% affordable housing on-site (mix and type to be agreed with the Council). Alternatively, in exceptional circumstances, an off-site commuted sum could be agreed (in accord with the Affordable Housing SPG) for the provision of affordable housing for the City of Newport.</i>	<i>As requested</i>	<i>No</i>
Education	<i>To mitigate for the impacts of increased rolls on local schools</i>	<p>The development falls within the catchment area of Llanwern High School and Milton Primary School and Ysgol Gynradd Gymraeg Casnewydd. Whilst it is recognised that no education contribution is requested for affordable housing, it is necessary to build-in safeguards to ensure that if any of the dwellings are sold or rented on the open market, the following formula will be applied:</p> <ul style="list-style-type: none"> <li>Number of secondary pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at Llanwern High School x £15,302 = Secondary Education</li> </ul>	As Requested	No

		<ul style="list-style-type: none"> <li>Number of post 16 pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at Llanwern High School x £16,427 = Post 16 Education Sum;</li> <li>Number of primary pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at Milton Primary School and Ysgol Gynradd Gymraeg Casnewydd.x £16,115 = Primary Education Sum.</li> </ul> <p>Prior to commencement of the development, the Owner and/or developer will notify the Council in writing of the number and type of dwellings which are to be 'open market' dwellings</p> <p>All Education Sums will be index linked to the BCIS and paid in instalments (to be agreed)</p>		
Leisure	<i>To mitigate for the increased demand for public open space and play facilities</i>	<p>There is a deficit of equipped and formal play provision within the Ringland Ward.</p> <p>Whilst it is recognised that no leisure contribution is requested for affordable housing dwellings, it is necessary to build-in safeguards to ensure that any dwellings sold or rented on the open market, will be subject to leisure planning obligation contributions. As such, any 'open market' dwellings will be subject to a financial leisure contribution, based on the following formula:</p> <ul style="list-style-type: none"> <li>Number of one bed 'open market'</li> </ul>	As Requested	No

		apartments (prior to commencement of development) x £1,821;  <ul style="list-style-type: none"> <li>• Number of two bed 'open market' apartments (prior to commencement of development) x £3,816;</li> <li>• Number of two bed 'open market' houses (prior to commencement of development) x £3,816;</li> <li>• Number of three bed 'open market' houses (prior to commencement of development) x £5,724</li> </ul>		
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#### Heads of Terms Agreed by Applicant

- 5.14 The applicant has agreed the heads of terms in full in the event that any of the intended affordable units are sold on the open market.

#### Loss of Open Space

- 5.15 A large proportion of the site is allocated as Environmental Space in the LDP. National and local policy protects open/amenity green spaces from development unless certain criteria can be met. PPW and policies CE3 and CF1 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the consideration of the development of this site. Policy CF1 states that the redevelopment of playing fields/recreation areas will only be permitted where alternative provision is proposed or the land is surplus to requirements. Policy CE3 states that development of environmental spaces will only be permitted where:
- i) the environmental qualities of the site will be improved or complemented;
  - ii) there is no adverse impact on nature conservation interests, and
  - iii) There is not a loss, without appropriate replacement of amenity space unless it can be demonstrated that there is an excess of provision or facilities can be enhanced through the development of a small part of the site.
- 5.16 The Environmental Spaces Background Paper (June 2013) identifies the reasons for designation in this instance being supported by the Assessment of Outdoor Play Provision and its contribution to Accessible Natural Greenspace. The site is also considered to contribute the Countryside Council for Wales localised standard of no person should live more than 300m from their nearest area of natural greenspace.
- 5.17 The Assessment of Outdoor Play Provision indicates that there is an overall deficit of open space in the Ringland ward when assessed against the Fields in Trust standard of 2.4 hectares per 1000 population: -2.21ha shortfall. When broken down by play space categories there is a shortfall of formal play provision of -7.86 ha; a surplus of informal open space of +7.41 ha; and a shortfall of -1.76ha of equipped play space. Planning application 17/0894 for the demolition of existing flats and replacement with 56 flats on land at Cot Farm Walk was approved in February 2018 and also involved the loss of 0.59ha of informal play space. This reduces the level of informal play space from +7.41ha to +6.82ha and therefore the overall shortfall increases to -2.8ha for the ward of Ringland. The applicant's assessment of informal play space provision is incorrect and seems to be based on different area measurements for the same pieces of informal play space and therefore do not form part of the consideration for the purposes of determining this application.

- 5.18 The Council has a surplus of informal play space in the Ringland ward that this loss of space and additional population will not turn to a deficit. Opportunities for enhanced formal or equipped play space in the Ringland ward may be explored as part of other schemes but are not part of this proposal, and in development management terms, the loss of equipped or formal play space in Ringland as part of other future applications in the ward is likely to give rise to planning policy concerns.
- 5.19 The assessment of Accessible Natural Greenspace shows good coverage for the ward of Ringland, with 94% coverage but this will be reduced, albeit not significantly, when the development proposed under 17/0894 is implemented. The site currently contributes to this coverage but owing to its position its effect is rather localised to Mountbatten Close and so its loss will not be a significant one to the wider estate. Furthermore, there is a smaller but more publically visible piece of environmental space on the opposite side of Mountbatten Close. Criterion (iii) of policy CE3 refers to each type of public open space, i.e. formal, informal and equipped and does not require the supply of these to be aggregated in any assessment of development on public open space. Therefore, it is acceptable to assess the loss of informal open space upon the supply of informal open space in the ward rather than assess the loss of informal space on the entire (formal, informal, equipped) open space provision for the ward. The former results in a marginally reduced but still notable surplus of informal open space provision for the ward population, the latter results in a larger deficit of overall provision for the ward as both formal and equipped area are less well provided for. During recent site visits, it was noted that the application site serves no obvious recreational purpose but has local visual amenity and wellbeing merits. Notwithstanding this, owing to its position between the SDR and existing maisonettes, the space does not offer a significant level of surveillance and is only directly overlooked by a relatively small number of properties compared to other areas of open space elsewhere within the ward which offer a greater degree of surveillance and therefore safer areas of play. Enhancements to the landscape setting and amenity space within the site should be incorporated into the site in order to fully satisfy the requirements of Policy CE3. These aspects will be discussed below.
- 5.20 There are no ecological designations for the site and when assessed against the Fields in Trust informal play space standards the Ringland ward has a surplus of provision (+6.82ha), but an overall deficit of -2.8ha (accounting for the Cot Farm approval). The application site accounts for 0.27ha of the informal play provision in the ward, leaving a surplus of 6.55ha in the ward, but increasing the overall shortfall to -3.07. Whilst a surplus remains of this particular type of play space, the availability of other protected areas of informal play space are limited in this part of Ringland. Policy CF1 and criterion iii) of CE3 are satisfied in respect of the quantitative provision of informal play space in Ringland, however, the overall deficit in the locality and lack of other protected areas in this part of Ringland are relevant. TAN 16, paragraph 3.8 notes that some forms of development, for example housing, may affect the use of remaining playing areas, and the possible benefits offered by such development should be weighed against the possible effects on open space.
- 5.21 The proposal will result in the loss in a number of trees currently present on site. The band of trees forming the northern boundary form part of a continuous line of trees forming a buffer between the residential area and the SDR, a large part of which are to remain. A number of other trees through the site are however to be felled to make room for the development. As discussed in further detail below, the Head of City Services (Trees) has not objected to the loss of these trees on the basis that alternative compensatory planting is to be made elsewhere. The Head of City Services (Landscaping) does not support the proposed landscaping scheme and has recommended that mature trees should be used in place of some of the more ornamental trees proposed. A condition requiring the submission of a detailed landscaping plan will be attached to any permission granted and will require that such trees are included.

#### Noise and public protection

- 5.22 It has already been identified above that the Head of Law and Regulation (Public Protection) has requested that a condition requiring a CEMP to be submitted for approval is attached to any permission granted to protect the amenities of nearby residents.

- 5.23 Any existing acoustic fence is sited along the northern and eastern boundaries of the site. It is proposed to retain this fence, however, owing to the proximity of the SDR, it was considered necessary to carry out a noise assessment. It is requested that acoustic attenuation measures that will be implemented achieve the outdoor design 50dB LA<sub>eq16hr</sub> criteria rather than 55dB LA<sub>eq16hr</sub> criteria, in line with the WHO guidelines for community noise for proposed garden areas.
- 5.24 The report concludes that dwellings located in close proximity to the local roads are indicated to fall above the trigger levels. Additional sound insulation measures are therefore indicated to be required. It is therefore recommended that planning conditions requiring internal sound insulation measures (to ensure a maximum internal noise level is achieved) and to require the submission of a scheme providing that external maximum noise levels shall not be exceeded.
- 5.25 To encourage the uptake of electric vehicles in an effort to improve air quality and reduce carbon electric vehicle charging points should be installed, with cabling installed to an additional number to allow for additional charging points to be installed in the future. This is in accordance with Planning Policy Wales 10.
- 5.26 The Head of Law and Regulation (Public Protection) agrees with the findings of the submitted contaminated land report in that there is unlikely to be any significant risks to human health. To ensure there is some safeguard in case unexpected contamination is encountered during the ground works it is recommend a watching brief condition is attached to any permission granted.

#### Trees, ecology and landscaping

- 5.27 Policies CF1 and CE3 only allow the development of amenity areas/environmental spaces in the event that enhancements are made within the site or elsewhere.
- 5.28 A large number of trees are to be removed from the site in order to reduce the number of constraints to developments. The Tree survey and constraints report identifies the trees to be removed as low to moderate quality with some in a dangerous condition. A band of trees (low to moderate condition) is to be retained along the north-eastern boundary of the site at the boundary with the SDR. Despite the claims with regards to the desirability of the retention of the trees, they undoubtedly contribute to the pleasant appearance and quality of the environmental space.
- 5.29 The Head of City Services (Trees) has not objected to the removal of the trees but has recommended that planning conditions are attached to any permission granted to require the submission of a tree protection plan, details of a root protection plan and the appointment of an Arboriculturalist.
- 5.30 The Head of city Services (Ecology) considers that the character of the area lost does not meet the criteria to be considered priority woodland habitat. The submitted ecological survey confirms that the maisonette building is used as an occasional day roost by soprano pipistrelle bats. The mitigation proposed is acceptable and a plan has been submitted which confirms the location of bat and bird boxes throughout the site to provide a degree of ecological enhancement.
- 5.31 The density of development, location of constraints and associated gardens and car parking provides limited opportunities for mitigative landscaping and planting within the site and the Head of City Services (Landscape) has stated that although trees may be assessed by an arboricultural consultant as low or moderate quality, this is not necessarily the same as the landscape viewpoint, and the submitted tree survey assesses individual trees or groups rather than the contribution the 'whole site' makes to amenity. The geo-environmental strategy concludes that 'overall GI (green infrastructure) value will not be adversely affected' however in addition to the loss of green space area, there are quantifiable losses which include 5 mature ash, 2 mature field maple, 1 mature oak, 1 early mature wild cherry, 3 mature hawthorn, plus group losses, accepting some are in poor condition. Replacement tree planting is proposed as 2 silver birch, 2 field maple. The Head of City Services (Landscape) has not subsequently objected to the proposal but has stated that the proposed



ornamental trees should be of a more robust nature to provide immediate mitigation. This will be factored into a landscaping condition attached to any permission granted.

- 5.32 The retained trees and communal gardens will make a positive contribution to the proposal as will the landscaped areas at the northern and southern peripheries of the site and further details required through planning condition will be required to ensure that these areas are of an acceptable standard.
- 5.33 The formal communal gardens serving the proposed apartment buildings will provide, to some degree, enhanced provision in part of the site. The proposal is therefore considered to comply with Policy CE3 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

#### Design and layout

- 5.34 Following the demolition of the existing maisonettes which it is acknowledged are of no architectural merit, the remaining properties overlooking the site are characteristically 2 storey terraced and semi-detached houses with front and rear gardens. Brick and render, both smooth and sparred, are the most commonly used materials.
- 5.35 The proposal comprises a row of semi-detached properties fronting Mountbatten Close with a T-junction running centrally into the application site. This provides access to 4 further dwellings, the proposed apartment block and parking forecourt. The proposed apartment block will be 3 storeys in height with balconies to the front and rear and first and second floors. It will be constructed of beige brickwork with red and dark brickwork detailing and a grey slate roof with grey PVC casement windows and stone window surrounds. The building design is not identical to anything else in the area and owing to its position will not have a significant impact upon the appearance and character of the area. However, its design represents a significant improvement when compared to the existing maisonette building and it is considered to comply with Policy GP6 in this respect.
- 5.36 The proposed dwellings will be similarly constructed from beige brickwork with grey coloured weatherboard panels to some properties with grey slate roofs and grey PVC windows with low boundary walls and railings enclosing the small front gardens. The design is different but complementary to the existing residential properties in the area and adopts a similar palette of materials to that approved under application 17/0894.
- 5.37 Policy H3 (Housing Density and Mix) states that residential development should provide a mix of housing and be built at a density of at least 30 dwellings per hectare. The proposal has a density of approximately 63 dwellings per hectare and provides a mix of 1 and 2 bedroom flats and 2 and 3 bedroom houses with the composition shown in the table below and therefore complies with Policy H3.

<b>Affordable housing</b>		<b>Internal Size</b>	<b>External Amenity space</b>
2 Bed	8	83.7m <sup>2</sup>	40.2m <sup>2</sup> to 63m <sup>2</sup>
3 bed	4	95m <sup>2</sup>	65.6m <sup>2</sup> to 124.8m <sup>2</sup>
<b>Affordable flats</b>			
1 bed	6	42.5m <sup>2</sup> to 46.1m <sup>2</sup>	Balcony 1.3 x 2m (floors 1 and 2) + communal garden
2 bed	6	68.5m <sup>2</sup>	Balcony (floors 1 and 2) 1.3 x 2m + communal garden
<b>Total</b>	24		

- 5.38 The above table also compares the size of internal and external amenity space. Within the New Dwellings SPG there is a requirement for new flats to have minimum internal sizes of 50 and 65 square metres for 1 and 2 bedroom flats respectively. There is also a requirement

to provide one bedroom flats with balconies with a minimum size of 1.5 x 1.5m and 2 bedroom flats with balconies measuring 1.5m x 2m, with 15 square metres per person of communal space. Dwelling houses should have external amenity space which is equivalent to at least the size of the footprint of the building and have a depth of at least 10m with 21m between protected windows.

- 5.39 The table shows that although all 2 bedroom flats exceed the minimum size requirements, 1 bedroom flats are below the required size in all instances. However, each flat has a kitchen/living area with windows overlooking the communal garden with a double bedroom and bathroom. The arrangement of the space and the provision of either a balcony or direct access to the communal garden via a private access. The proposed flats are therefore considered to offer a sufficient level of amenity for future occupants.
- 5.40 The external amenity space for each dwelling house is either very close to or exceeds the footprint of the dwelling to which it relates, with plots 1, 8, 9 and 12 being particularly generous given the size of the property. Many garden depths do not achieve the minimum required SPG depth of 10m. However, 11 of the 12 plots do not directly adjoin neighbouring gardens and therefore will have the benefit of an enhanced sense of privacy. Furthermore, the overall size of the gardens is SPG compliant and they are therefore considered to offer an acceptable level of amenity for their occupiers. The distances between protected windows of the rear of the new houses fronting Mountbatten Close and the apartment building exceed 21 metres. It is however necessary to require the installation of privacy screens to the balconies of flats 7, 8, 11 and 12 to prevent overlooking of plot 12 and the rear garden of no 25 Mountbatten Close and a condition will be attached to any permission granted to require the submission of details for such screens. The windows of plot 12 will be within 14m of a window to the side of no. 25 Mountbatten Close, however, this appears to serve a hallway rather than a habitable room and the proposal will therefore not have an adverse impact on amenity in terms of overlooking or loss of privacy.

#### Highways and parking

- 5.41 A Transport Statement and subsequent Transport Note (TN01), to address initial comments by highways officers, have been submitted by the applicant.
- 5.42 The proposal is located within parking zone 4, as identified within the Newport Local Development Plan (Adopted January 2015). There are currently 12 three bedroom maisonettes in the existing building on the site. Taking into account the adopted parking standards within the SPG, this results in a requirement for up to 39 parking spaces, including visitor spaces, not taking into account sustainability criteria. There is no allocated off-street parking serving these units and all parking is on-street. The proposed units have a parking requirement of 51no. spaces, which includes 5no. visitor spaces. The proposal provides 34no. spaces which falls short of the required number of spaces by 17.
- 5.43 The applicant has considered the sustainability of the location of the site in the submitted transport assessment and has concluded that given the achievable sustainability score of 8, the development qualifies for a one space per dwelling reduction, thereby reducing the requirement to 27 spaces (51 spaces less 24). Considering this, the proposal meets the parking requirements of the SPG. However, The Head of City Services (Highways) disputes the way in which the points have been calculated for the sustainability assessment but confirms that, when taking into consideration the existing parking demand associated with the 12no. 3 bed apartments, the proposed scheme will reduce the demand for on street parking in the area. The table below compares the existing and proposed parking requirements and shows the level of parking provided to be acceptable without having to consider the adjustment for sustainability.

#### The parking break-down

##### **Existing**

Dwelling Type	No.	Maximum	Sustainability reduction	Sustainability adjustment
3 Bed Maisonette	12	36	12	24

<b>Visitor</b>	1 space per 5 dwellings	7	N/A	7
<b>Total</b>	<b>12</b>	<b>43</b>	<b>N/A</b>	<b>31</b>

### Proposed

<b>Dwelling Type</b>	<b>No.</b>	<b>Maximum Provision</b>	<b>Sustainability reduction</b>	<b>Sustainability adjustment</b>
<b>1 Bed</b>	6	6	N/A	6
<b>2 Bed</b>	14	28	14	14
<b>3 Bed</b>	4	12	4	8
<b>Visitor</b>	1 space per 5 dwellings	5	N/A	5
<b>Total</b>	<b>24</b>	<b>51</b>	<b>24</b>	<b>27</b>

### Proposed vs Existing

<b>Total parking required in accordance with SPG(A)</b>	<b>Taking into account sustainability adjustment</b>	<b>Total existing parking demand removed by demolition of existing units (B)</b>	<b>Taking into account sustainability adjustment</b>	<b>A - B</b>	<b>A-B taking into account sustainability adjustment</b>	<b>Parking proposed as part of this application (excluding on street unallocated spaces)</b>
<b>51</b>	<b>27</b>	<b>43</b>	<b>31</b>	<b>8</b>	<b>-4</b>	<b>34 (i.e.&gt;8)</b>

- 5.44 The proposed development site will be accessed via a new priority T-junction on Mountbatten Close. The access will be 5.5m wide with a single 2.0m wide footway on the eastern side. On the western side, a 2.0m wide footway is proposed up to the end of the entry radius, a distance of approximately 8m into the development site. The access road will be perpendicular to Mountbatten Close for the first 25m or so before the horizontal alignment gently curves towards a turning head at the northern end, the access road terminates approximately 50m from Mountbatten Close. The Head of City Services (Highways) has not objected to the proposal but does state the perpendicular spaces which abut directly onto Mountbatten Close should be set back a minimum of 1m from the back edge of the footway in the interest of pedestrian visibility. They are however only set back 0.5m and there is no scope to increase this. Despite this shortfall, the provision of off-street parking spaces and increase in parking provision in this locality will reduce the potential for on-street parking in this part of Mountbatten Close and will subsequently increase highway safety as a result. It is considered that adequate visibility will be provided along Mountbatten Close but a condition will be attached to any permission granted to prevent boundary treatments being erected forward of these dwellings to ensure visibility is maintained and for amenity sake.
- 5.45 A swept path analysis demonstrates that a refuse vehicle can utilise the proposed turning head but the size of the vehicle used is smaller than the Council refuse vehicles. In any instance, the Head of City Services (Highways) has confirmed that the proposed access road would not be considered for adoption and on this basis council vehicles would be unlikely to enter onto the land. The housing plots are close enough to the junction with Mountbatten Close to be reasonably expected to move their refuse bins to the main highway to be collected. The submitted site plan and plan PL2 02 09A confirm that the area south of flat 4 will be used for the storage of waste for the plots. However, alternative arrangements will have

to be made for refuse collection for the apartment block and a condition will be attached to any permission granted to ensure that a scheme for the management of waste is submitted for consideration. As the highway will not be adopted a condition will also be attached requiring that the highway is finished to a suitable condition prior to the occupation of any of the units it serves.

- 5.46 The Head of City Services (highways) has also recommended that should the application be approved a condition must be attached which states that a CEMP must be submitted and include such details of wheel wash facilities, dust suppression, contractor parking and contractor compound. In addition construction vehicles movements must be restricted so that they do not conflict with the drop off and collection times associated with the local school.

#### Drainage

- 5.47 The site is crossed by a sewer and this has created a significant constraint in terms of the location of development. A drainage strategy been submitted and it is proposed to connect surface water to the existing public sewerage system. However, Dwr Cymru Welsh Water has confirmed that, although capacity exists within the public sewerage system to accept foul flows, all alternative avenues must be exhausted before it considers an attenuated connection of domestic surface water to the sewerage system. It is therefore recommended that a condition is attached to any planning permission granted requiring the submission of a drainage scheme for consideration.
- 5.48 The Head of City Services (Drainage) has also responded to the application and has objected on the basis of insufficient information. The development is not in a Flood Risk Area and therefore, contrary to the comments made by the Head of City Services (Drainage), a flood risk assessment is not required. It is considered that the requirement to submit a drainage scheme for approval prior to the commencement of development will allay concerns with regard to the lack of drainage information submitted.

## **6. OTHER CONSIDERATIONS**

### **6.1 *Crime and Disorder Act 1998***

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

### **6.2 *Equality Act 2010***

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

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

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

- 6.4 The above duty has been given due consideration in the determination of this application and attention is drawn to paragraphs 5.7 – 5.9 relating to decanting. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this

application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

**6.6 Newport's Well-Being Plan 2018-23**

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. Whilst the proposal does involve the loss of an area of environmental space, it does offer some well-being improvements in terms of improved housing quality and availability and the provision of communal gardens for flat residents. Furthermore, the proposal would maintain a surplus of informal open space in the ward and 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.

**7. CONCLUSION**

- 7.1 The proposed development fulfils a regeneration and affordable housing need within the Ringland Area and forms the initial phase in the wider regeneration of the area. The loss of the public open space is justified by the fact that the area has a large surplus of this type of open space (i.e. informal) and so its loss will not have a significant adverse effect on local community wellbeing and health. Furthermore, the proposal will provide affordable units required as part of the wider regeneration proposals and will help meet the needs of the community in terms of affordable housing provision which is supported by the Council's own housing service.
- 7.2 Whilst the loss of green space is regrettable in principle, the space lost offers no formal or equipped play provision, a lack of which exists to serve the community at present. Instead it occupies land serving as informal open space or accessible green space that is a valuable local commodity but not under supplied for the local population according to the Council's records. In fact, even with the loss of this space, a notable surplus will remain and may well, in future, help to mitigate the current shortfalls in equipped and formal provision. Ecological enhancements are proposed and the mix of hard and soft landscaping, particularly in the form of a communal garden, will make for a positive environment for users.
- 7.3 The proposed residential properties will offer a sufficient level of residential amenity for their future occupiers and will not have an adverse impact on existing residential properties through overlooking or overbearing impact subject to appropriate conditions. The proposed dwellings are also considered to make a positive contribution to the built character and appearance of the area, particularly when compared to the design of the existing maisonette building. The proposed level of parking is deemed to be acceptable as is the level of visibility. The new highway will not be adopted but it is considered that acceptable waste management arrangements can be achieved through the submission of a waste management scheme. It is therefore recommended that planning permission is granted subject to the following conditions.

**8. DECISION**

**GRANTED WITH CONDITIONS SUBJECT TO A S106 AGREEMENT WITH DELEGATED AUTHORITY TO REFUSE PERMISSION IF THE LEGAL AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF ANY RESOLUTION TO GRANT PERMISSION.**

01 The development shall be implemented in accordance with the following plans and documents: Design and Access Statement, Site Plan (Rev C), pl02 01B bat and bird boxes 1359 PL2 09A – bin/cycle storage, 1359 PL2 03A – Flat Street elevations, 1359 PL2 04 – House Type A Floor Plans, 1359 PL2 05 – House Type B Floor Plans, 1359 PL2 06 – House

Type C Floor Plans, 1359 PL2 Street Elevations, 1359 PL2 08 Street Elevations, 1359 PL2 202 Floor Plans, 1359 PL2 03 Flat Street Elevations,

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

***Pre- commencement conditions***

02 Prior to the commencement of development (to include demolition) details of an appropriately qualified ecologist appointed to oversee the development and associated ecological mitigation works, shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be carried out in accordance with the ecological mitigation set out in the approved Ecological Survey carried out by Ecological Services Ltd and shown in plan PL02 01B

Reason: In the interests of safeguarding European Protected species and birds and to ensure compliance with Policy GP5 of the Newport Local Development Plan 2011 -2026 (Adopted January 2015)

03 No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Therefore the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with 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 or detriment to the environment

04 No development, other than demolition, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external road traffic noise in excess of 55 dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45 dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected and to ensure compliance with Policy GP7 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

05 No development, other than demolition, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the maximum day time noise level in outdoor living areas exposed to external road traffic noise shall not exceed 50 dBA Leq 16 hour [free field]. The scheme of noise mitigation as approved shall be constructed in its entirety prior to the first occupation of any dwelling and shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected and to ensure compliance with Policy GP7 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

06 Prior to the commencement of development (including piling, excavation or construction works), 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. It shall include details of a wheel wash facility, contractor parking and contractor compound. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. Vehicles movement must be restricted so that they do not conflict with the drop off and collection times associated with the local school. 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 protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities and to ensure compliance with policy GP7 of the Newport Local Development Plan 2011 – 2026 (adopted January 2015

07 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 being 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 and to ensure compliance with Policy GP7 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

08 Prior to the commencement of development a scheme for the installation of electric charging points to parking spaces shall be submitted to and approved in writing by the local planning authority. The scheme shall then be implemented as approved prior to the first occupation of the development and be retained in a usable condition in perpetuity.

Reason: In the interest of promoting low emission forms of travel and to ensure compliance with Policy GP7 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

09 Prior to the beneficial use of any building hereby approved, a waste and recycling strategy for the site shall be submitted to and approved in writing by the local planning authority. Thereafter, the recommendations of the strategy shall be implemented and retained in perpetuity

Reason: In the interest of residential amenity and to ensure compliance with Policy W3 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

10 Before the development, other than demolition, is commenced, written approval of the Local Planning Authority is required to a scheme of hard and soft landscaping and tree planting for the site (indicating the number, species, heights on planting and positions of all trees and shrubs). Notwithstanding the details submitted, the scheme shall include the provision of at 18-20 or 20- 25cmg to replace ornamental trees shown on the approved site plan. The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner and to ensure compliance with Policy GP2, GP6 and GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

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

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

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

Reason: To protect important landscape features within the site and to ensure compliance with policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

12 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To protect important landscape features within the site and to ensure compliance with policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

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

- (a) Supervision and monitoring of the approved Tree Protection Plan;
- (b) Supervision and monitoring of the approved tree felling and pruning works;
- (c) Supervision of the alteration or temporary removal of any Barrier Fencing;
- (d) Oversee working within any Root Protection Area;
- (e) Reporting to the Local Planning Authority;
- (f) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.

Reason: To protect important landscape features within the site.

14 Prior to the commencement of development (other than demolition), full details of all permanent lighting serving the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the



details approved and retained thereafter.  
Reason: In the interests of visual and residential amenity and ecological interests and to ensure compliance with policies GP2 and GP7 of the Newport Local Development Plan 2011 - 2026

15 No occupied dwelling or flat shall be demolished until a programme of decanting has been submitted to and agreed in writing by the Council. The programme shall clarify how existing tenants will be rehoused and how the Public Sector Equality Duty will be met in relation to all relevant protected characteristics including age and disability and identify any phased approach that may be taken. Following the Council's written agreement the decanting programme shall be carried out as agreed prior to the demolition of any dwelling or prior to any phase of demolition if relevant.

Reason: to ensure that this decision complies with the Equality Act 2010.

### ***Pre –occupation conditions***

16 Prior to the occupation of any unit, space for the parking of vehicles shall be provided to serve the unit in accordance with the details shown on Drawing 3609-PA-004J. Thereafter, the parking spaces shall be kept available for such use at all times.  
Reason: To ensure that adequate off-street parking provision is made in the interests of highway safety and to ensure compliance with Policy GP4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

17 No house shall be occupied until roads and footpaths have been laid to provide access to them and where applicable their related garages have been completed in accordance with the plans and details hereby approved.

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

18 Prior to the occupation of flats 7, 8, 11 and 12 details for the installation of privacy screens to the balconies of these units shall be submitted to and approved in writing by the local planning authority and installed in accordance with the approved details prior to the first beneficial use of those units and shall be retained in perpetuity.

Reason: In the interest of preserving residential amenity and to ensure compliance with policy GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

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

Reason In the interests of visual and residential amenity and highway safety and to ensure compliance with policies GP2, GP6 and GP4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

### ***General conditions***

20 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking or re-enacting that order), schedule 2, part 2, class A, no wall, fence, gate, hedge or other means of enclosure shall be erected or planted forward of the front wall of the dwelling(s) hereby permitted without the prior written permission of the local planning authority.  
Reason: In the interests of the visual amenities of the area and to ensure compliance with policies GP2 and GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

21 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, no development within Classes A, B, C, D, or E shall be carried out at plots 3-7, 10 and 11 as shown on the site layout plan hereby approved without the prior written permission of the Local Planning Authority.  
Reason: To ensure that a satisfactory form of development takes place and to protect the

amenities of occupiers of adjoining properties and to ensure compliance with policies GP2 and GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

#### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Design and Access Statement, Site Plan (Rev C), p102 01B bat and bird boxes, 1359 PL2 09A – bin/cycle storage, 1359 PL2 03A – Flat Street elevations, 1359 PL2 04 – House Type A Floor Plans, 1359 PL2 05 – House Type B Floor Plans, 1359 PL2 06 – House Type C Floor Plans, 1359 PL2 Street Elevations, 1359 PL2 08 Street Elevations, 1359 PL2 202 Floor Plans, 1359 PL2 03 Flat Street Elevations, site location plan, Tree Protection plan, tree loss and retention, drainage layout, Green Infrastructure Plan, Detailed Soft Landscape Proposals, Detailed Soft Landscape Proposals, Tree constraints Plan, 16 April 2019 email from Ceri Griffiths confirming rehousing of residents, TN01 Transport Note, Transport Statement, Arboricultural Method Statement, Tree Survey, Categorisation and Constraints Report, Drainage Strategy, Environmental Noise Survey, Landscape Specification and Management Plan, Preliminary Ecological Survey, Geotechnical and Geo-environmental report, pre-application consultation report, public open space assessment.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP13, SP18, GP2, GP3, GP4, GP5, GP7, CE3, H2, H3, H4, H9, T4, CF1 and CF2 were relevant to the determination of this application.

03 The Adopted Supplementary Planning Guidance documents for New Dwellings, Affordable Housing, parking Standards, Planning Obligations, Wildlife and Development, Outdoor Play Space Provision, Trees, Woodland, Hedgerows and Development Sites, Air Quality (Feb 2018) were relevant to the determination of this application.

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

05 The proposed development site is crossed by public sewers with the approximate location shown on the Statutory public Server Record. The position shall be carried out within 3 metres either side of the centreline of the public sewers.

06 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 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 confirm to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral, and confirm with the publication “sewers for Adoption” – 7<sup>th</sup> Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

07 The applicant can contact Dwr Cymru Welsh Water to establish the location and status of public sewers and lateral drains which may not be recorded on maps. Under the Water Industry Act 1991 Dwr cymru Welsh Water has rights of access to its apparatus at all times.

**08 Warning: A European protected species (EPS) Licence is required for this development.**

This planning permission does not provide consent to undertake works that require an EPS licence. It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine. To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>

**APPLICATION DETAILS**

No: 18/1211 Ward: **RINGLAND**

Type: Full (Major)

Expiry Date: 26-FEB-2019

Applicant: **MR DE SILVA, NEWPORT CITY HOMES NEXUS HOUSE, MISSION COURT, NEWPORT, NP20 2DW**

Site: **1, Mountbatten Close, Newport, NP19 9GU**

Proposal: **DEMOLITION OF APARTMENT BUILDING AND CONSTRUCTION OF 12NO. FLATS AND 12NO. HOUSES WITH ASSOCIATED EXTERNAL AMENITIES AND PARKING**

**1. LATE REPRESENTATIONS**

- 1.1 HEAD OF CITY SERVICES (WASTE): The site plan shows a bin store - please confirm bin store dimensions and whether it is the intention of the developer for the bin store to house both recycling and waste bins?

Recycling facilities should be provided in line with the attached guidance.

120 litre capacity for general waste should be provided for each flat, totalling 1440 litres. This could be offered as a 1100litre (chargeable to the development management) and a 360litre bin.

The bin store is located at a distance potentially more than the maximum 10 metre distance from the highway where bins would be collected - again please can the detail and distance be confirmed.

The bin store is sited within the boundary of the development, and we would ask for an indemnity to be agreed to ensure against damage where roads and developments are unadopted.

We would collect waste and recycling from the kerbside of the houses on Mountbatten Close.

- 1.2 HEAD OF CITY SERVICES (ACTIVE TRAVEL):

- 1) The cycle parking requirements have been noted incorrectly. The requirement outlined in Newport's Parking Standards SPG is to provide 1 cycle stand per 5 bedrooms (rather than space). Please adjust this accordingly.
  - a. As for the houses with secure sheds in the rear gardens, can you please elaborate on what the access to these sheds will be like? Will residents be able to access the sheds directly from a secure back lane? Or are residents expected to carry their cycles through their home each time they wish to access and use their cycles?
- 2) The developers must ensure all residential developments are accessible by cycles, as per Newport's Parking Standards SPG.

- 3) To encourage the use of cycles and active modes of transportation, the developers must provide safe routes for residents and visitors to actively travel (walk and cycle) within and beyond the boundaries of the site to access the site itself, services, facilities, schools, workplaces, public open spaces, green spaces, the wider natural environment and other destinations. Such routes should connect with, but not be limited to, existing and future active travel routes (outlined in Newport City Council's Existing Route Maps and Integrated Network Maps). Such requirements are in accordance with Newport's Local Development Plan, the Active Travel (Wales) Act and Newport's Well-being Plan. As such, the developers should:
  - a. Provide a comprehensive assessment, including a costs breakdown, of suitable active travel (walking and cycling) routes that connect the site to key destinations surrounding the site (local businesses, services, facilities, parks, green spaces, etc.).
  - b. Contribute to section 106 to enhance connectivity for walkers and cyclists to key destinations including, but not limited to nearby schools, businesses, services, facilities, public open spaces and green spaces.

## 2. OFFICER RESPONSE TO LATE REPRESENTATIONS

### WASTE

- 2.1 Details of the location of a bin store and the size of its footprint have been submitted and the details considered as part of the assessment of the application in the officer report. The submitted details confirm the dimensions of the proposed bin store and that it will provide for both recycling and waste bins. The bin store is proposed to measure approximately 6m by 3.7m in width with a maximum height of 2m and will be formed of a close-boarded fence enclosure. These details have been assessed as acceptable within the officer report and a condition will be attached to any permission granted to require the bin store to be implemented as approved.
- 2.2 The bin store is to be located further than 10m from the highway at Mountbatten Close and the Head of City Services (highways) had previously confirmed that the road would not be adopted and therefore it is proposed to attach a condition to any permission granted to require the submission of a waste and recycling strategy for consideration to ensure that appropriate waste collection arrangements are put in place and to ensure an adequate level of amenity for future occupiers. It has been confirmed that the Council waste service will collect waste and recycling from the kerbside of the houses on Mountbatten Close and the proposal has already been assessed on this basis.
- 2.3 It is considered that the comments of the Head of City Services (Waste) have already been satisfactorily addressed within the officer report and no further information is required.

### ACTIVE TRAVEL

- 2.4 The SPG for parking standards requires '1 cycle stand per 5 bedrooms' for residential apartments. The submitted Design and Access Statement states that 4 spaces in the form of 'Sheffield hoop' stands have been provided in the cycle store in line with the requirement for 1 space per 5 bedrooms. It is unclear whether the applicant's referral to a "space" is actually intended to mean a "stand". On the basis that a "stand" is equivalent to a "space", the 4 hoops provided comply with the SPG standard.
- 2.5 Plan 1359 PL2 09A shows that there is to be no pedestrian access from the rear of plots 2 – 7 into the parking forecourt. Details have not been provided for plot 8. However, access onto Mountbatten Close will be available via the side of each property and therefore occupants will not have to carry bicycles through their home.
- 2.6 The Transport Statement submitted and already considered includes an assessment discussing cycle opportunities and the Design and Access Statement addresses existing cycle and pedestrian routes and movement to and from the site. The Head of City Services (Active Travel) has requested a comprehensive Assessment of suitable active travel routes and a S106 contribution to enhance connectivity to key destinations. However, legal agreement contributions are not currently required within any adopted Supplementary Planning Guidance document or policy within the

development plan. In any instance, the proposal is for 100% affordable housing and is exempt from such contributions. The Council is currently in the process of drafting a sustainable travel SPG for future adoption and therefore the situation may change in future.

- 2.7 No further action is required in respect of the comments of the Head of City Services (Active Travel).

### **3. OFFICER RECOMMENDATION**

- 3.1 GRANTED WITH CONDITIONS SUBJECT TO A S106 AGREEMENT WITH DELEGATED AUTHORITY TO REFUSE PERMISSION IF THE LEGAL AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF ANY RESOLUTION TO GRANT PERMISSION.

## **APPLICATION DETAILS**

**No: 6**                      **18/1182**                      **Ward: STOW HILL**

**Type: FULL**

**Expiry Date: 10-APR-2019**

**Applicant: SAM HILL, NEWPORT NORSE**

**Site: ST WOOLOS JUNIOR AND INFANT SCHOOL, STOW HILL, NEWPORT, NP20 4DW**

**Proposal: NEW GATE TO THE FRONT OF THE SCHOOL**

**Recommendation: GRANTED WITH CONDITIONS**

### **1. INTRODUCTION**

- 1.1 This application seeks planning permission for the erection of a new pedestrian gate within the grounds of St Woolos Junior and Infant School, Stow Hill. The school building has a frontage along Stow Hill including a portion of the playground which continues to the side of the building and to its rear. The building is Grade II listed
- 1.2 Permission is required as the gates are over 2 metres high and within the curtilage of a listed building, however the gate will not be physically attached to the buildings or wall and Listed Building Consent is therefore not required.
- 1.3 The application is brought before Planning Committee as it relates to a Council owned site.

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

11/0822	Installation of a flag with flag pole	Granted
07/1400	Removal of window and creation of enlarged opening to provide a doorway and erection of glazed canopy.	Granted with Conditions
07/1310	Listed Building Consent for the removal of window and creation of enlarged opening to provide a doorway and erection of glazed canopy.	Granted with Conditions
03/1107	Erection of ball-stop fencing to play yard boundary walls.	Granted with Conditions
01/0798	Listed Building Consent application for removal of spikes from railings.	Refused

### **3. POLICY CONTEXT**

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

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

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

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

#### **4. CONSULTATIONS**

4.1 None

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

5.1 HEAD OF REGENERATION AND REGULATORY SERVICES (CONSERVATION OFFICER): I consider that the gates have been sensitively designed to match the original entrance gates and that they are unobtrusively located. As such, I do not consider that they would adversely affect the setting of this grade II listed school building and I have no objection to the positive determination of this application.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS:  
All properties within a common boundary with the application site were consulted (30 properties), a site notice was displayed (27 February 2019) displayed, and a press notice published in South Wales Argus (9 March 2019). No representations received.

#### **7. ASSESSMENT**

7.1 This application seeks full planning permission for the installation of a new set of gates. The gates would be 2.2 metres high and 2.2 metres wide, they would be made of galvanised steel and painted dark red to match the existing metal railings and gate. They would be sited perpendicular to the front of St Woolos School and Stow Hill, and would be located between the existing pillar on the front wall and the front face of the school building. The gates would be used in conjunction with the existing gates onto the footpath at Stow Hill.

7.2 The proposed gates have taken the shape and proportion of the existing gates with vertical emphasis, a curved top and cross bracing. The Conservation Officer consider that they would not adversely affect the setting of this grade II listed school building. The design has been simplified in comparison to the existing gate, signifying the hierarchy of the gates and is considered appropriate to the character and setting of the Listed Building.

7.3 The gates would help the school maintain the safety and security of pupils and the school.

#### **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 ***Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have 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 Having regard to policies SP9, GP2 and GP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015), it is considered that the proposed gates would be acceptable in terms of its size, design and impact on the character of the local area and the setting of the Listed Building. It would help the school maintain the security and safety of pupils. It is recommended that planning permission is granted with conditions.

## 10. RECOMMENDATION

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents NPS-00-00-DR-B-(00)-005-P1, NPS-00-00-DR-B-(00)-006-P1, NPS-00-00-DR-B-(00)-003-P1 and NPS-00-00-DR-B-(00)-002-P1

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 gates shall be colour coated in a colour to match the existing gates and railings situated along the frontage with Stow Hill..

Reason: To ensure the development is completed in a manner compatible the character and appearance of the listed building, in accordance with policies SP9, GP2, and GP6.

### **NOTE TO APPLICANT**

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP9, GP2, and GP6 were relevant to the determination of this application.



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

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## **APPLICATION DETAILS**

**No: 7**                      **19/0138**                      **Ward: ROGERSTONE**

**Type: FULL**

**Expiry Date: 24-APR-2019**                      **EXTENSION OF TIME: 13-MAY-2019**

**Applicant: LOUISE QUATERMASS, NEWPORT CITY COUNCIL**

**Site: 12, ST JOHNS CRESCENT, ROGERSTONE, NEWPORT, NP10 9EY**

**Proposal: DEMOLITION OF EXISTING CONSERVATORY AND THE CONSTRUCTION OF A NEW SINGLE STOREY EXTENSION, NEW PORCH, ALTERATIONS TO OPENINGS ON VARIOUS ELEVATIONS AND CREATION OF A PATIO AND RAMP**

**Recommendation: GRANTED WITH CONDITIONS**

### **1. INTRODUCTION**

1.1 This application seeks planning permission for the removal of the existing open porch and creation of an enclosed porch to the front elevation to create a level access; the demolition of an existing conservatory and the construction of a new single storey side extension (south) with a patio and ramp to create a level access to the garden; and the infilling of 4 windows.

1.2 12 St Johns Crescent is a detached property used as a children's care home in the Rogerstone Ward.

1.3 The application is brought before Planning Committee as it relates to a Council owned site.

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

05/0142	ERECTION OF SINGLE STOREY REAR EXTENSION WITH NEW PITCHED ROOF OVER EXISTING FLAT ROOF AND CONSERVATORY	Granted
94/0242	SINGLE STOREY EXTENSION TO DWELLING (RESPITE HOME FOR CHILDREN WITH LEARNING DIFFICULTIES)	No Objection
94/0193	PROPOSED ALTERED VEHICULAR ACCESS AND NEW CAR PARKING AREA	Permitted Development
90/0224	ERECTION OF A DETACHED DWELLING	Refused

### **3. POLICY CONTEXT**

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

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

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

#### **4. CONSULTATIONS**

4.1 None

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

5.1 HEAD OF REGENERATION AND REGULATORY SERVICES (HOUSING OFFICER): No comment received to date.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties within a common boundary and opposite the application site were consulted (30 properties). No representations received.

6.2 ROGERSTONE COMMUNITY COUNCIL: No representations received.

#### **7. ASSESSMENT**

7.1 This application seeks full planning consent for the erection of a single storey side extension and porch at this large property used as a children's care home. The works are required for security, to create a more useable building and improved disabled access. The application site is a detached dwelling on a large corner plot in a residential area. The dwelling is set back from the road behind a brick wall, the main garden area is situated to the side (south) of the property and enclosed by the wall and timber fence approximately 2 metres high with trees along the boundary.

7.2 The side extension will be L shaped, situated on the southern elevation of the property. It will have a maximum width of 7.6m and a maximum depth of 4m. It will have a flat roof with a height of 3.15m, a new patio area and ramp are proposed to provide level access from the building to the garden, where the various pieces of accessible play equipment will be retained. The porch extension will be situated on the western elevation of the property. It will measure 2.3m wide, 1.9m deep. It will have a mono pitched roof with a maximum height of 3.5m. This will create a secure and level access into the building. The plans include infilling of 4 existing ground floor windows to create a sensory room, and internal alterations to create a more useable building. Materials would be to match the existing dwelling, a window and door are proposed to the front elevation

7.3 With regards to the impact of the proposal on neighbouring amenity; the property is detached. The extensions will be 10.5m away from the closest neighbouring property (the corner of 1 Wern Terrace), and it would not have an overbearing impact or lead to a loss of light or privacy and is in accordance with policy GP2.

7.4 In terms of design the development would be of a modest scale which would be of a sympathetic design to the host dwelling. The application forms specify that the walls and roof will match the existing dwellings. While it is unfortunate to lose the original glazed awning, the proposal is considered to preserve the overall character and appearance of the area. Therefore it is considered that the proposed development is proportionate and subservient to the host dwelling and is in accordance with policy GP6.

7.5 There are no alterations to the vehicle access or parking layout and the extensions would not increase the parking demand. As such it is compliant with the Parking Standards.

#### **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 ***Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have 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 extensions and alterations by reasons of their location, scale and design would preserve visual amenities, access to daylight and privacy to neighbouring properties and would preserve the character and appearance of the property and the area. The proposal is therefore in accordance with policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

## 10. **RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents R408-09, R104-10, R408-12 and R408-13 received 16 April 2019.

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 external surfaces of the extension hereby permitted shall only be of materials to match those used in the existing building.

Reason: To ensure the development is completed in a manner compatible the character and appearance of the listed building and the Conservation Area. In accordance with policies GP2, and GP6.

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

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

## APPLICATION DETAILS

**No: 8**                      **19/0300**                      **Ward: ST JULIANS**

**Type: ADVERT CONSENT**

**Expiry Date: 19-MAY-2019**

**Applicant: POBL GROUP**

**Site: LAND TO WEST OF, MORGAN STREET, NEWPORT**

**Proposal: RETENTION OF 2NO. FLAG ADVERTISEMENTS AND PROPOSED HOARDING**

**Recommendation: GRANTED WITH CONDITIONS**

### 1. INTRODUCTION

- 1.1 This application seeks advertisement consent for the retention of 2no flag advertisements and the removal of the existing hoarding sign and the erection of a new hoarding sign at land to the west of Morgan Street. The land forms part of a site which gained planning permission for the development of a residential site.
- 1.2 The adverts are subject to an enforcement case (ref no.E18/0254) of which approval was sought from Planning Committee in December 2018 for the closure of the case as it was considered to be not expedient to pursue prosecution. Planning Committee voted to reject the officer recommendation. Members confirmed that they were not inclined to prosecute the developer but would rather officers seek to negotiate the removal of the unauthorised adverts within 28 days. Members confirmed that they agreed that officers could resolve the matter under delegated powers. Since the Committee meeting, following pre application discussions with the LPA, the applicant agreed to and subsequently removed 3no of the flags and proposed to remove the current hoarding sign and relocate it further from residential properties. The 2no remaining flags that do not benefit from deemed consent, and the erection of the hoarding sign are being applied for as part of this application.

### 2. RELEVANT SITE HISTORY

13/1279	DEVELOPMENT OF 251 DWELLINGS AND ASSOCIATED WORKS INCLUDING BOUNDARY TREATMENTS, RETAINING WALLS, VEHICULAR ACCESS, PARKING, PATHWAYS AND LANDSCAPING AFFECTING PUBLIC RIGHT OF WAY 407/1	GRANTED WITH CONDITIONS
18/0293	DEVELOPMENT OF 195NO. RESIDENTIAL UNITS, INTERNAL ROAD NETWORKS, PARKING, LANDSCAPING AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHT OF WAY 407/1	GRANTED WITH CONDITIONS

### 3. POLICY CONTEXT

- 3.1 Policy GP2 (General Amenity) of the Newport Local Development Plan 2011-2026 (Adopted January 2015) as well as Technical Advice Note (TAN) 7: Outdoor advertisement control are of relevance to the determination of this application. TAN 7 states that applications for advertisement consent can only consider amenity and public safety.
- 3.2 Policy GP2 (General Amenity) states: development will be permitted where, as applicable:
- i) There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
  - ii) The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or appearance of the surrounding area;

- iii) The proposal seeks to design out the opportunity for crime and anti-social behaviour;
- iv) The proposal promotes inclusive design both for the built development and access within and around the development;
- v) Adequate amenity for future occupiers.

#### **4. CONSULTATIONS**

4.1 None.

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

5.1 HEAD OF CITY SERVICES (HIGHWAYS): No comments received.

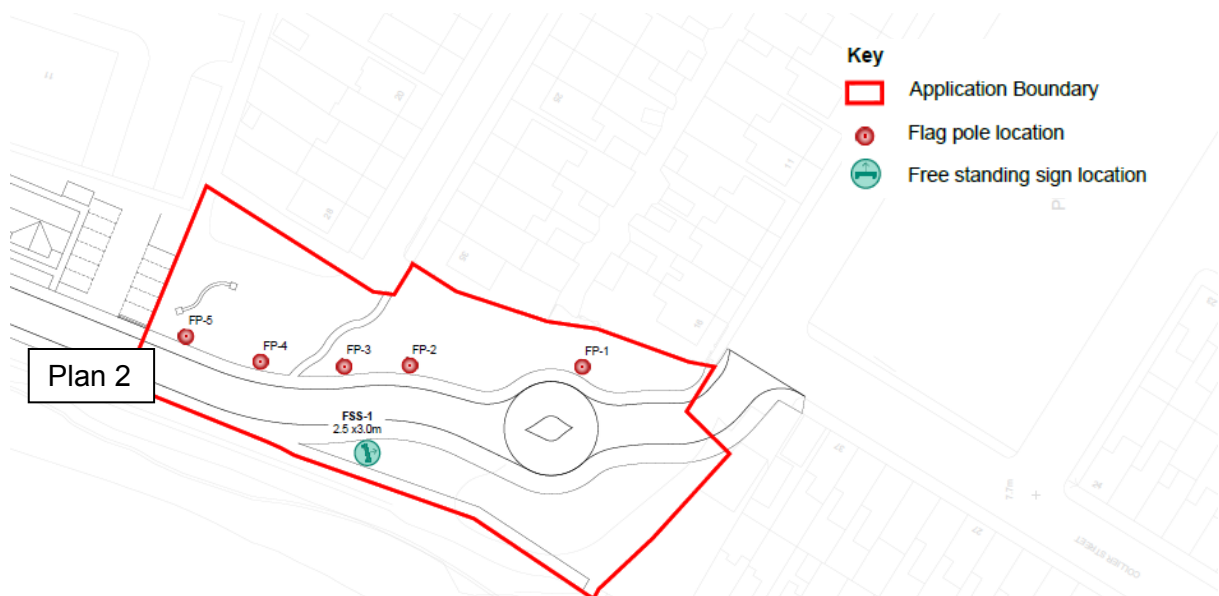
#### **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: Comments were received from 1no neighbour stating; I would like to express my annoyance with how this company have been able to flout the rules so blatantly. Given that there was no permission for the hoarding and excess flags. And have not fulfilled their promises of removing these as agreed. The committee decided in December to decline the additional flags and oversized hoarding. It is my opinion that the application should be rejected as their compliance to date has been non existent. They show very little respect or care for their neighbours by not complying and so far to date caused only a nuisance. The flags are a huge annoyance, I think the 3 they are allowed without planning is more than enough. The area is so far away from the main roads line of sight, they do nothing to draw people in. I would hope the precedence of the decision by the committee to remove the flags and hoarding should be upheld. My main issue and complaint is having a chorus of flags that all cause considerable noise.
- 6.2 COUNCILLOR (HOURAHINE): I would be grateful if you would request the Chair of the Committee to call this application in and allow me to speak to it. My principle reasons for objecting are:
1. Visual intrusion, that does little to advertise the development due to the isolated location of the site.
  2. The noise caused by the flags that annoys the neighbours.

#### **7. ASSESSMENT**

- 7.1 The applicants, POBL, originally erected 8no flag adverts and a hoarding sign at the entrance of the site. Following complaints being received from a local resident, the applicants agreed and subsequently removed 3no of the flags. As such, there are currently 5no flags remaining on site, 3no of which benefit from deemed consent under the Advertisement Regulations (Class 7b). Therefore, the applicant is applying for the retention of the 2no other flags. Under deemed consent, one of the conditions states that the 3no flags would need to be removed at the end of one year after construction of the last house is completed, as such, these are not permanent adverts. The application also includes the removal of the existing hoarding sign and the provision of a new hoarding sign. The applicants consider that the adverts are necessary in order to promote the development.
- 7.2 The current hoarding is located on the side of the roundabout closest to the nearby residential properties. It is proposed to remove this hoarding and erect a new one on the other side of the road, further into the site, approximately 15m further away from residential properties. The hoarding will measure an overall height of 3.8m and width of 2.5m and has been subject to pre application discussions with the LPA. The LPA included the objector and Councillor Hourahine in the pre application discussions in an effort to mitigate ongoing concerns regarding both the flag poles and hoarding sign. The flag poles measure a height of 4.6m and the flags measure a width of 0.9m and height of 1.5m. The flag adverts are located at least 12m from the nearest residential properties. During pre application discussions, the objector stated a preference of which 3no flags they would like to see removed. The applicant has subsequently removed the 3no flags that the objector considered had the most impact. The plans below show the positioning of the flags and hoarding when the case was made to Planning Committee in December (Plan 1) and the

positioning of the flags currently on site and the proposed location for the new hoarding sign (Plan 2).



- 7.3 Tan 7 states that applications for advertisement consent can only consider amenity and public safety. The term 'amenity' is not exhaustively defined in the Town and Country Planning (Control of Advertisements) Regulations. However, in relation to amenity, Tan 7 states that care should be taken to ensure that signs are designed and sited to harmonise with their setting. This typically refers to visual amenity, considering the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. With regard to considerations of public safety, Tan 7 states that in assessing an advert's impact on public safety, local planning authorities should have regard to its effect upon the safe use and operation of any form of traffic or transport on land, including the safety of pedestrians, including the likely behaviour of vehicle drivers



who will see the advert, possible confusion with any traffic sign or other signal, and possible interference with a navigation light.

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- 7.4 Given the setting and number of adverts, it is considered that they would have an acceptable impact on visual amenity. They are located at least 12m from the nearest residential properties. The adverts are considered to be appropriately scaled in relation to its surroundings and do not appear unduly dominant or incongruous. The proposed hoarding is now further from residential properties than the existing unauthorised board. With regard to public safety, it is considered that the adverts do not pose any safety issues for pedestrians using the adjacent pavement, or users of the road. It is not considered that the adverts obscure the ready interpretation of any road traffic sign. On balance it is considered that the proposal complies with policy GP2 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).
- 7.5 Concerns have been raised by a local resident regarding the volume of noise created by the flags. It is possible that during windy periods, the movement of the flags will cause some associated noise, however, it is considered that this will not be excessive or unusually loud and intrusive. The area is mixed residential and industrial/commercial and so some background noise can be expected. Notwithstanding this, the general view taken by the local planning authority is that the impact of noise generated from adverts is not a material factor when assessing the acceptability of adverts as part of an advertisement consent application.

## 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 Newport's Well-Being Plan 2018-23**

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have 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 On balance, it is considered that the retention of the 2no flag adverts and the erection of the hoarding sign is acceptable in terms of amenity and public safety and therefore it is recommended that they are granted advert consent.

**10. RECOMMENDATION**

**GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: Signage Application SA-01 Rev A.

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

*NOTE TO APPLICANT*

01 This decision relates to plan Nos: Site Location Plan SALP-01 and Signage Application SA-01 Rev A.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policy GP2 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: 19/0300 Ward: **ST JULIANS**

Type: Advert Consent

Expiry Date: 19-MAY-2019

Applicant: **POBL GROUP POBL GROUP, EXCHANGE HOUSE, THE OLD POST OFFICE, HIGH STREET, NEWPORT**

Site: **Land To West Of, Morgan Street, Newport**

Proposal: **RETENTION OF 2NO. FLAG ADVERTISEMENTS AND PROPOSED HOARDING**

### **1. LATE REPRESENTATIONS**

#### **1.1 COUNCILLOR HOURAHINE:**

Please accept my apologies for:

1. Not being here in person to present my objections, I have Deputy Mayoral duties that prevent it. I did request a deferral of this matter, which was not granted ref Ms Davidson's e-mail of 17<sup>th</sup> April.
2. Having to ask you again to consider these points that you determined on at your December Planning meeting.
3. I would also ask the planning committee to consider Mrs Hodge's letter, which was deemed inadmissible last time owing to possible Data Protection Issues. I have her permission to cite it and would ask officers to obtain any further permission if necessary.

My objections to the application are that the flags are:

1. Sited so far away from a main traffic route that they are of very little use in attracting potential purchasers to the development.
2. A visual intrusion from both sides of the river Usk.
3. Adjacent to a wildlife conservation area and can do little to achieve the Council's aims of achieving a tranquil environment.
4. Going to be in place for a number of years to the annoyance of walkers and residents.
5. Of course in breach of planning guidelines that should be adhered to.

### **2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

- 2.1 The successful nature of the flags in attracting potential purchasers is not a material planning consideration.
- 2.2 Whilst the River Usk is a site of special scientific interest and a special area of conservation, it is not considered that the retention of the 2no flags would have a harmful visual impact upon these due to their location and scale.
- 2.3 Applications for advert consent can only consider amenity and public safety. Due to the scale and location of the adverts, it is not considered that they would result in a harmful impact on visual and residential amenity. The adverts do not appear unduly dominant or incongruous in the streetscene.

- 2.4 This application seeks consent for the retention of the 2no flags. It is accepted that these were erected prior to gaining the relevant advertisement consent, however, applicants are able to submit retrospective applications in an attempt to regularise development.
- 2.5 The Councillor refers to a letter from the objector. The objector has raised the following issues in emails to officers but no letter has been received in relation to this application:

*It is my opinion that the application should be rejected as their compliance to date has been non existent. They show very little respect or care for their neighbours by not complying and so far to date caused only a nuisance.*

*The flags are a huge annoyance, I think the 3 they are allowed without planning is more than enough. The area is so far away from the main roads line of sight, they do nothing to draw people in.*

*I would hope the precedence of the decision by the committee to remove the flags and hoarding should be upheld.*

- 2.6 The matters raised by the objector have been considered in the officer report and do not alter the officer recommendation.

### **3. OFFICER RECOMMENDATION**

- 3.1 It is recommended that the application is granted with conditions.



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# Report

## Planning Committee

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### Part 1

Date: Wednesday 1<sup>st</sup> May 2019

Item No: Insert item number here

**Subject** **Appeal Decisions & Prosecution Report**

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

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

**Wards** Llanwern, Caerleon.

**Summary** The following planning appeal decisions and prosecution outcomes 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: 6<sup>th</sup> March 2019

Planning Application Appeal	
Reference	18/0959
Address	3 Penrhos Farm, Usk Road Caerleon
Development	Retrospective Planning Application for the Replacement and Enhancement of Pre Existing Raised Decking Structure to Rear and Side of Dwelling
Appellant	R Johnstone
Officer Recommendation	Refused
Committee Decision	N/A
Appeal Decision	Allowed
Costs Decision	N/A

Planning Application Appeal	
Reference	18/0878
Address	Green Street Farm, Green Street, Redwick
Development	Demolition of Existing Outbuilding and Erection of Detached Two Storey Garage and Hobby Room
Appellant	D Williams
Officer Recommendation	Refused
Committee Decision	N/A
Appeal Decision	Dismissed.
Costs Decision	N/A

Planning Application Appeal	
Reference	18/0257
Address	5 Beacons Close, Rogerstone
Development	Variation of condition 02 (obscure glazing) of planning permission 02/0659 for the erection of a first floor rear extension
Appellant	M Sparrey
Officer Recommendation	Refused
Committee Decision	N/A
Appeal Decision	Dismissed
Costs Decision	N/A

Planning Application Appeal	
Reference	18/0707
Address	30-31 Clytha Park Road
Development	Change of use of A1 (shop) to A3 (restaurant)
Appellant	I F Ismail
Officer Recommendation	Refused
Committee Decision	N/A
Appeal Decision	Dismissed
Costs Decision	N/A

Enforcement Prosecution	
Reference	E17/0423
Address	Land to the west of Catsash Road, Langstone, Newport
Breach	Without planning permission, the tipping of material, engineering works (including creation of makeshift tyre tracks and stream crossing points), creating of new

	vehicular access and widening of existing vehicular access.
<b>Fine</b>	£4,576.90

#### Enforcement Prosecution

<b>Reference</b>	E16/0049
<b>Address</b>	The Sycamores, Usk Road, Caerleon, Newport, NP18 1LP
<b>Breach</b>	Breach of Condition 10 (prior to occupation of the dwelling hereby approved, all existing buildings and structures on site shall be cleared/demolished in their entirety) of planning permission 11/0939
<b>Fine (Defendant one)</b>	£741.50
<b>Fine (Defendant two)</b>	£741.50

#### Enforcement Injunction

<b>Reference</b>	E12/0189
<b>Address</b>	Mobile Home, Ton-y-pill Farm, Broadstreet Common, Peterstone Wentlooge, Cardiff, CF3 2TN
<b>Breach</b>	Without planning permission and in breach of the injunction the occupation of land for residential purposes.
<b>Sentence</b>	4 month custodial sentence, suspended for a period of 12 months, with the requirement that the caravan and adjoining buildings are removed within 6 weeks
<b>Costs</b>	£1246.50

#### Enforcement Prosecution

<b>Reference</b>	E13/0070
<b>Address</b>	39 Commercial Road, Newport, NP20 2PE.
<b>Breach</b>	Non-compliance with a s.215 notice requiring: <ul style="list-style-type: none"> <li>• Repoint all brickwork,</li> <li>• Repair the roof of the property,</li> <li>• Remove all vegetation from the property and clear all resultant debris from the land,</li> <li>• Repair and repaint the front door,</li> <li>• Repair or replace rainwater goods, and</li> <li>• Repaint the fascia sign the same colour as the roller shutter door.</li> </ul>
<b>Fine</b>	£200.00
<b>Victim surcharge</b>	£30.00

#### Enforcement Prosecution

<b>Reference</b>	E18/0043
<b>Address</b>	Land to west of Berryhill Cottage, Cardiff Road, Newport, NP10 8UD
<b>Breach</b>	Non-compliance with an enforcement notice requiring: <ul style="list-style-type: none"> <li>i) Cease the unauthorised use comprising a mixed use of residential caravan site and non-agricultural activities including storage and the burning of waste.</li> <li>ii) Remove all caravans, materials and equipment brought onto the land in connection with the unauthorised residential use and non-agricultural activities and restore the Land to its condition prior to the breach having occurred.</li> </ul>
<b>Fine</b>	£800.00
<b>Victim surcharge</b>	£80.00

Costs	£814.50
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