

Agenda



Planning Committee

Date: Wednesday, 4 September 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 M Linton

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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 07 August 2019</u> (Pages 3 - 6)	
4. <u>Development Management: Planning Application Schedule</u> (Pages 7 - 94)	
5. <u>Appeal Decisions</u> (Pages 95 - 100)	

Contact: Lisa Davies, Governance Officer :
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Date of Issue: Wednesday, 28 August 2019

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Minutes



Planning Committee

Date: 7 August 2019

Time: 10.00 am

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

In Attendance: Joanne Evans (Senior Solicitor), Tracey Brooks (Development and Regeneration Manager), Lisa Davies (Governance Officer), Eilian Jones (Principal Planning Officer) and Lydia Burrows (Planning Officer)

Apologies: Councillors J Guy

1. **Declarations of Interest**

None

2. **Minutes of the meeting held on 03/07/2019**

The minutes of the meeting held on 03 July 2019 were submitted

Resolved

That the minutes of the meeting held on 03 July 2019 be taken as read and confirmed, subject to the following amendments

Cllr David Fouweather was not present at July's committee but gave apologies.

Cllr Richard White left the Council Chamber for the application 19/0350 and returned once the decision was taken.

Cllr Richard White is a Governor at Bassaleg School and not the Chair of Governors.

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

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 amendment 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.

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Appendix A

PLANNING COMMITTEE – 07/08/2019

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
18/1198	104/105 Lower Dock Street, Newport	Pillgwenlly	Public Speaker Mr Lloyd Jones – Agent, spoke in favour of the application.	Granted with conditions
19/0303	13 Beaufort Road	Beechwood	This item was presented to the Committee at the request of Ward Member Deb Davies, who spoke in favour of the application. Public Speaker Mr Ryan Holyoake, spoke in favour of the application, on the behalf of applicant Mrs C Munro	Refused and authority granted to pursue enforcement action
19/0095	75/76 Lower Dock Street	Stow Hill	Public Speaker Mr Robert Chichester – Agent, spoke in favour of the application.	Granted with conditions

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Report

Planning Committee

Part 1

Date: 4th September 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.

Risk	Impact of risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect?	Who is responsible for dealing with the risk?
Decisions challenged at appeal and costs awarded against the Council.	M	L	Ensure reasons for refusal can be defended at appeal.	Planning Committee
			Ensure planning conditions imposed meet the tests set out in Circular 016/2014.	Planning Committee
			Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Development 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 18/1178 Ward: **GRAIG**

Type: **FULL**

Expiry Date: **14-FEB-2019** **EXTENSION OF TIME: 30-JUL-2019**

Applicant: **CHRIS DAVIDSON**

Site: **LAND ADJACENT AND WEST FORMING PART OF , OLD ROAD, LOWER MACHEN, NEWPORT**

Proposal: **PROPOSED ERECTION OF DETACHED DWELLING INCLUDING REMOVAL OF PART OF BOUNDARY WALL AND ASSOCIATED CREATION OF NEW ACCESS AND WORKS**

Recommendation: **REFUSED.**

1. INTRODUCTION

1.1 This application seeks full planning permission for the erection of 1 (No) detached dwelling on this vacant piece of land in Lower Machen. The land, rectangular in shape, is between the Old Post, which is a Grade II Listed Building, and Cross Vale. The application site previously formed part of the curtilage of the Old Post (22 years ago).

1.2 The site is located in Lower Machen and is sited outside the Urban Boundary of Newport. The application site is located within Countryside, Parking Zone 5, Conservation Area, Special Landscape Area, Archaeologically Sensitive Area, Mineral Safeguarding and the 40% Affordable Housing Submarket as designated within the Local Development Plan. It is also directly adjacent to listed building and a Registered Park and Garden.

1.3 This application is referred to Committee since the applicant is related to a staff member of the Local Planning Authority.

Status of the Boundary Wall

1.4 Advice from the Council's Legal Officer is that the structure must have been ancillary to the listed building at the date of the listing, this is supported by Case Law (Watts v Secretary of State). The neighbouring property (the Old Post) confirmed the parcel of land was subdivided from the Old Post and the fence erected 22 years ago. The Old Post was listed on 22/8/2003. As such Case Law suggests the wall to the front of the application site is not listed. Notwithstanding this consideration will need to be given to the proposed impact on the setting of the surrounding Listed Buildings.

Non Planning Issue

1.5 The size of the plot shown with the submission is larger than the plot measures on site. The front boundary has been measured on site by Officers, following concern expressed by a neighbour, and this has confirmed that the plot width is 15m (when measured on site to the fence line). The applicant was advised of this discrepancy and has confirmed that the current submission reflects the Title and the fence line seen at site is incorrect. This remains disputed by the neighbour. This dispute is a private civil matter of land ownership and is not a planning issue. To clarify, the applicant states that they own a strip of land (approximately 3m in width) which currently forms part of the neighbour's garden. While no development is shown within the strip of land, it is within the application site hereby considered.

2. RELEVANT SITE HISTORY

92/0684	RESIDENTIAL DEVELOPMENT	Refused
04/0151	ERECTION OF A DETACHED DWELLING (OUTLINE)	Refused
10/0772	ERECTION OF ONE DETACHED DWELLING	Refused

3. POLICY CONTEXT

3.1 *Planning Policy Wales*

Paragraph 3.56 “Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area”

Local Planning Policy

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

There are a number of policies relevant to the proposed development, including:

- Policy **SP1 Sustainability** favours proposals which make a positive contribution to sustainable development.
- Policy **SP5 Countryside** limits development outside of the settlement boundary. Development in the countryside will only be permitted where the use is appropriate.
- Policy **SP8 Special Landscape Area** restricts development that may impact on the characteristics of the six designated Special Landscape Areas.
- 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 **SP10 Housing Requirement** sets the targets for housing delivery and primary and seeks to contain development within existing built up areas.
- Policy **SP13 Planning Obligations** enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.
- Policy **SP21 Minerals** sets out how the LDP will contribute to the Region demand for Minerals.
- 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 it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- Policy **GP3 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 General Development Principles – Natural Environment** states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.

- Policy **GP6 Quality of Design** states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
- Policy **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 **H6 Sub-division of Curtilages, Infill and Backland Development** states that the development of backland to existing residential properties will only be permitted where it does not represent an over development of land.
- Policy **CE4 Historic Landscapes, Parks, Gardens and Battlefields** protects such sites against the impacts of inappropriate development. They are conserved and the policy promotes enhancement where possible.
- Policy **CE6 Archaeology** states that proposals in areas known to have archaeological interest or potentially have archaeological interest will be required to undertake an archaeological impact assessment.
- Policy **CE7 Conservation Areas** sets out the criteria that development proposals within or adjacent to the conservation area must comply with in order to preserve or enhance the conservation area.
- Policy **T4 Parking** states that development will be required to provide appropriate levels of parking, within defined parking zones, in accordance with adopted parking standards
- Policy **M1 Safeguarding of Mineral Resources** states development that would be incompatible with safeguarding unrefined resources in the mineral resources area unless certain criteria are met.

3.3 Relevant Supplementary Planning Guidance

- Affordable Housing, August 2015
- Wildlife and Development, August 2015
- New Dwellings, August 2015
- Parking Standards, August 2015
- Trees, Woodlands, Hedgerows and Development Sites, Jan 2017
- Archaeology and Archaeologically Sensitive Area
- Mineral Safeguarding
- Affordable Housing SPG (August 2015)

4. **CONSULTATIONS**

- 4.1 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: We have reviewed the detailed information contained on your website and can confirm that the proposal has an archaeological restraint.

The Historic Environment Record contains information that there was a high status Roman site located at Lower Machen. From the 1920s onwards, discoveries of building materials that included high-status classical columns and industrial remains of lead smelting from the Roman period have been made during archaeological work in the area, as well as quantities of finds of Roman date. Whilst the boundaries of the Roman settlement have not been defined, an area around the modern village was designated as an Archaeologically Sensitive Area (ASA). The application area is inside the designated ASA and therefore the impact of the development on the archaeological resource is a material consideration in the determination of any application for development in this area.

You will recall that an archaeological field evaluation was undertaken in 2000 in the garden of the Old Post, which forms the current application area. The evaluation established that the Roman land horizon would have been located some 0.45m below the current ground surface

and extending for a further 0.55m below this. The results of the work show that the site was occupied in the Roman period for a sufficiently long period to allow a significant build up of archaeological deposits to occur; quantities of Roman pottery were recovered in association with a number of complex deposits including clays, gravels, rubble and a cobbled surface. It was suggested in the 2000 evaluation report that the cobbled surface may represent the edge of a yard or path and that the dumps of rubble suggest the presence of stone structures in the vicinity. Such structures might take the form of buildings, furnaces or hearths, all of which would likely be of Roman date and as a result are of considerable significance.

It is our opinion that the construction of the proposed detached dwelling, any associated services and landscaping, will have an impact on the potential buried archaeological resource, and any remains encountered will need to be investigated and recorded. Therefore, it is our recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted by your Members.

We envisage that this programme of work would take the form of a watching brief during the groundworks required for the development, with detailed contingency arrangements, including the provision of sufficient time and resources to ensure that any archaeological features or finds that are located are properly investigated and recorded; it should include provision for any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results. To ensure adherence to the recommendations we recommend that the condition should be worded in a manner similar to model condition 24 given in Welsh Government Circular 016/2014

No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

We also recommend that a note should be attached to the planning consent explaining that: *All archaeological work must meet the Standard and follow the Guidance of the Chartered Institute for Archaeologists (CIfA) and it is our policy to recommend that it is undertaken by a Registered Organisation or a MCIfA level Member within CIfA (www.archaeologists.net/ro and www.archaeologists.net/codes/ifa).*

4.2 DWR CYMRU/WELSH WATER:

SEWERAGE: We can confirm capacity exists within the public sewerage network in order to receive the foul only flows from the proposed development site.

Surface Water Drainage: The proposed development may be subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore may require approval of Sustainable Drainage Systems (SuDS) features, in accordance with national standards, and is strongly recommended that the developer engage in pre-application consultation with the Local Authority, as the relevant SuDS Approval Body (SAB). Should it be deemed that SAB consent is not required, we request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Recommended Conditions: 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.

Advisory Notes: The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the

connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

- 4.3 WALES AND WEST: Plan submitted showing pipes owned by Wales & West Utilities in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

- 4.4 NEWPORT ACCESS GROUP: No response received

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF REGENERATION AND REGULATORY SERVICES (CONSERVATION OFFICER):

[Comments 7/8/19] I remain concerned that, even with the newly proposed stone boundary wall, this development is unlikely to preserve or enhance the character of the conservation area because the neighbouring modern dwellings would still become more rather than less prominent.

The existing wall lends a particularly strong positive contribution to the character of the conservation area and the alteration is therefore undesirable in principle; I'd expect an acceptable scheme to have sufficient landscaping to screen the modern dwellings (which may not be achievable) as well as avoiding the lowered section of wall adjacent to the highway.

I have no concerns regarding the revisions to the design of the proposed house itself.

[Comments 18/1/19] I note that the current proposal is for a house with a character that would potentially fit much more happily within the village than the previous proposals. Whilst there is still concern regarding the proximity to the neighbouring dwelling, it is possible that this could be mitigated by the use of appropriate landscaping and boundary proposals. I would prefer to see more detail than the sketch drawings before us, however, and note that casement windows are suggested although the proportions seem more akin to those of vertical sliding sashes.

It is suggested that enhancement would be offered by concealing the adjacent modern dwellings from view. However, these are currently screened by the existing vegetation and boundaries which would be partly removed, and it seems that the opposite would in fact be the case. However, alternative boundary treatments (such as the replacement of boundary fences with stone walling) might be helpful.

I remain concerned by the alterations to the wall. It is stated that the proposals represent the minimum alteration, but the large gap and lowered sections do not present a traditional appearance and would in my view be significantly detrimental. There are examples around the village of how openings can be created more sympathetically, although I understand that there may be safety concerns. If a more acceptable compromise cannot be found, I consider that this alone would be sufficient to refuse the application. With regard to the listed status of

the wall, I note the land ownership was split prior to the listing of the Old Post, but as this plot has not found any new use, the wall might still be assumed to be listed. I would therefore advise the submission of a listed building consent application.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS):

[Comments – 14/5/19] Amended layout plan and amended Design and Access Statement have been submitted.

The amendments only partially address the pedestrian visibility requirements which remain inadequate. The amendments fail to address the lack of vehicular visibility and the sustainability of the location. Therefore the highway recommendation of refusal still stands.

[Comments – 31/1/19] In accordance with Manual for Streets visibility splays of 2.4 x 43m are required for a 30mph road. In addition pedestrian visibility splays of 2 x 2m must be provided. The lack of footway and existing boundary wall makes this unachievable and would result in extremely limited visibility at the detriment of highway safety.

I'm satisfied that parking would be available in accordance with the Newport City Council Parking Standards.

The property is not located in a sustainable location due to the lack of local facilities, services and public transport links. This is unlikely to encourage multi modal travel and increase the reliance on the private motor vehicle for travel.

The proposed access arrangements are considered detrimental to highway safety and I must therefore object to the application and recommend refusal.

5.3 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER):

[Comments - 30/7/19] There are issues with the plan – the best way forward is for the proposed building to be pegged out on site.

[Comments -18/4/19] Additional tree information is required to evaluate the application.

The tree information that has been submitted is fine, in as far as it goes. However, in accordance with BS5837:2012, the above ground constraints need to also be fully considered eg:-

“5.2 Eg the current and ultimate height and spread of the tree. Tree species, foliage density, aphid exudate, branch drop etc. Effect of shading from trees.

5.2.3 Working and access space needs consideration”

- Shading cast by the trees (the patio would appear to be in shade from the walnut tree until well into the afternoon-leading to concerns about repeated applications to trim the tree back and an unacceptable alteration of the tree's canopy and character)
- The anticipated growth of the retained trees and their contribution to the Conservation Area eg the future growth of the lime trees needs to be explored.
- Anticipated storm damage (trees need to be a reasonable distance away from developments)

These factors should be taken into consideration when showing the Root Protection Areas (RPAs) for the trees.

Ideally all the tree information should inform the development layout - in addition to communication with the Tree Consultant.

A plan should be submitted showing the trees to be retained, those to be felled together with revised RPAs (taking into account the “above ground constraints”).

5.4 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): No ecological information has been submitted to support the above application. However, due to the scale and nature of the site I believe it is possible to control potential risks to protected and priority species

with appropriate planning conditions. The site is a neglected plot which is over grown with scrub and has a couple of semi-mature trees. The site is highly likely to support nesting birds and also has potential to support mammals such as hedgehogs (a priority species) and rabbits (protected against unnecessary suffering). If you are minded to grant this permission, I recommend that you include a pre-commencement condition for an Ecological Construction Method Statement (ECMS). The ECMS should include details of measures to safe guard protected and priority species during site clearance and preparation, and identify persons responsible for implementation of the strategy. The strategy should be agreed by the LPA in writing prior to commencement of any site works.

- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE OFFICER): No objections. The following should be conditioned.

It is recommended that the following are provided by a professional landscape architect. The application should meet the requirements of GP5 General Development Principles – Natural Environment vi: *'the proposal includes an appropriate landscape scheme...'*.

A detailed planting plan is required to replace the frontage trees with planting that will contribute to the attractive road corridor and soften views onto the building elevation for example using evergreen hedging and small deciduous trees or specimen shrubs.

Levels and hard landscape treatment (surfacing, wall coping to frontage and any new hard boundary fencing or gate details) should be provided in detail as the setting is sensitive lying within Lower Machen Conservation Area, within Lower Machen Archaeologically Sensitive Area, directly opposite Machen House Registered Park and Garden.

- 5.6 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING CONTRIBUTION MANAGER): In accordance with the Adopted Newport Local Development Plan – Policy H4 – Affordable Housing, there is a policy requirement for sites of fewer than 10 dwellings within the settlement boundary, or fewer than 3 dwellings within the defined village boundaries, to provide a commuted sum contribution to assist the Council in meeting its on-going requirement for affordable housing. The following planning obligation is required to mitigate the impact of the development and create a sustainable development.

Affordable Housing Contribution: Commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Rural Newport, based upon a 40% target. The methodology for establishing the housing target areas and calculating the associated payments is set out within the adopted Affordable Housing SPG (August 2015) .

Based upon a net increase of 1 x4 bedroom houses, and subject to economic viability, a commuted contribution of £3,212 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

- 5.7 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING POLICY MANAGER):

Site context: The site is located in Lower Machen and is sited outside the Settlement Boundary of Newport. The application site is located within Countryside, Parking Zone 5, Conservation Area, Special Landscape Area, Archaeologically Sensitive Area, Mineral Safeguarding and the 40% Affordable Housing Submarket as designated within the Local Development Plan. It is also directly adjacent to listed building and A Registered Park and Garden. The application will also be judged against General Development Principles.

The Proposal: The site is located on a subdivided plot that was once the curtilage of the Old Post. The development would be considered infilling within an existing residential area.

SP5 Countryside: Development in the countryside will only be permitted where the use is appropriate. It will rarely be the appropriate location for development except where it is for the specific benefit of the rural economy.

SP 9 Heritage: The site is located within a conservation area and has the potential to impact on a few listed buildings and other heritage assets. The Council's Conservation Officer will provide a response on this matter.

H4 Affordable Housing: If this proposal were considered appropriate there is a requirement within Newport for any new residential dwelling to provide a commuted sum towards affordable housing, as set out in policy H4. Details of this planning contribution will be provided by the Planning Obligations Manager.

H6 Sub-division of Curtilages, Infill and Backland Development: States that the sub-division of residential curtilages, infill within existing residential areas, and the development of back land to existing residential properties will only be permitted where this does not represent an overdevelopment of land. It is key therefore that the proposal does not have a detriment to the amenity of the neighbouring properties.

The Supplementary Planning Guidance on New Dwellings sets out those aspects for consideration when proposing such back land development e.g. privacy etc. A particularly relevant point is that the garden/amenity space for the new dwelling is adequate. The SPG requires 1m² for every square metre of the units' footprint.

M1 Mineral Safeguarding Area: The application site is located within Mineral Safeguarding Areas, development in this location therefore needs to satisfy Policy M1 – Safeguarding of Mineral Resource. The Mineral Safeguarding Supplementary Planning Guidance offers further advice on the acceptability of development in such locations. As the proposal involves infill development between two existing properties, the objectives of Policy M1 are considered to be satisfied.

T4 Parking: All of the proposals are located within parking zone 5 which is considered as Countryside. A detailed response will be provided by the Council's highway officer.

GP5 Natural Environment: The site has potential for ecology value. There are also a lot of trees within the red line of the application site and it is not clear whether they will be affected directly by the proposal. The Council has an adopted Supplementary Planning Guidance document on Trees and Wildlife and New Development which sets out the required level of protection. A response from the Council's ecologist and Tree Officer will provide details as to how this should be considered as part of the application.

CONCLUSION: In this case the Planning Policy Team would support the proposal on the basis that the applicant satisfies any concerns raised by other consultees.

- 5.8 HEAD OF REGENERATION AND REGULATORY SERVICES (PUBLIC PROTECTION MANAGER): Having considered all the supportive information especially section 5 (Noise) of the submitted heritage, design and access statement as well as the proximity of the proposed development to other sensitive receptors, please be advised that we have no objection to the proposals but the following conditions should be attached to any permission granted.

Road Traffic Noise – Internal: 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.

Road Traffic Noise – External: 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.

Working Hours – Specified: No machinery shall be operated, no process shall be carried out and no deliveries accepted or despatched from the site outside the following times, 0800 and 1300 Monday to Friday, 0800 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: In the interest of residential amenities.

Construction Environmental Management Plan: Prior to the commencement of development, to include demolition, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality*, vibration, dust** and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

* The Institute of Air Quality Management <http://iaqm.co.uk/guidance/>

** The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

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

5.9 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE MANAGER): No response received

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties that share a common boundary with the application site were consulted (2No addresses).

PRESS NOTICE (Published 27 July 2019).

SITE NOTICE (Displayed 2 January 2019).

5 Letters of Objection received:

Character of the area

- Considers that the entire length of the wall is listed as part of The Old Post / Machen House. Objector's consider a new opening would not be possible due to the walls protected status.
- Walls forming part of the original garden buildings are also in existence within the plot itself, therefore assumed also protected. These walls further add to the narrowness of the plot and limit the already small area able to be built upon.
- [NB: the village is within the Lower Machen Conservation Area and the walls are included within the Conservation Area.]
- New dwelling is opposite a Grade 2* listed home.
- The stone wall is a characterful feature in the village.
- Overdevelopment of the village / site.
- The building line set by the 3 properties to the west is uncharacteristic since other properties enjoy a more staggered position and have greater separation distance.
- The property will stand out as a very modern building built in a vaguely traditional/ vernacular design. Porch detail is prosaically available in new builds. Clearly new build developments have been referenced rather than giving any proper consideration of value to the locality.
- The Lower Machen corridor is a pastoral resource for the public, to enjoy walking, visiting the local churches and pubs and is being eroded of its' character-note the oversize farm

buildings blighting the river valley on Plas Machen's land and the out of proportion extension on the Toll House, Lower Machen.

- A pastiche building, suggested to be of “vernacular” and “traditional” style, into this very narrow strip of land, is a *detriment to the area* rather than a benefit, as is suggested by this application.
- The curved walls into the plot do not reflect the rest of the village, where all properties, apart from Machen House, have straight-sided openings to property

Highways

- Existing Highway issues in the area include:
 - The road is narrow and there are no footpaths at this point,
 - People drive at high speeds through the village, using the mountain road as a shortcut,
 - The 50 bus uses the village road to turn around on Sundays,
 - The village can be congested at times when events are taking place in the church.
- A new vehicle access at this point would be dangerous and lack sufficient visibility splays.
- Lower Machen House have flowering planters on their driveway in the summer restricting access, objectors have questioned if it is possible to turn into the site at this point.
- Any on road parking would further restrict traffic flow and pedestrian access.

Archaeology

- The site is within an Archaeologically Sensitive Area (ASA). Excavation for the dwelling and driveway could impact on this.

Ecology

- Removal of an established and undisturbed/ undeveloped area of land, in terms of its ecology and environmental value and the impact to this area, is unacceptable.

Neighbours Amenity

- The position of the dwelling close to Cross Vale would cause overlooking, overbearing and overshadowing.

Trees

- Loss of existing trees and Impact on the Root Protection area of trees in adjacent properties.
- Losing *mature* specimens (to front boundary) to be replaced by new vegetation which provides natural habitat?
- There are two young fruit trees located centrally in the site.
- The large Walnut Tree in the side/rear garden of The Old Post would be impacted by the proposal building and landscaping.

Flooding

- An underground stream flows from the grounds of Machen House under the village road outside this plot.

Other Matters Raised (not planning considerations)

- Alternative suggestion - Both adjoining properties have attempted to purchase and so secure the land for garden purposes only. Leaving this plot as open garden land mitigates against these concerns and provides breathing space with The Old Post.
- With regard to a new boundary wall adjacent to Cross Vale - what warranties and professional indemnity (personal injury or damage to property) in the event of issues either time of construction or later in the life of any such wall?
- Boundary Dispute with The Old Post. The existing garden boundary fence has been in place for 22 years and the application indicates a larger site. The position of the fence would reduce the site areas by approximately 60sqm.
- Concerns exist for the de-stabilisation of the adjoining walls.

- 6.2 GRAIG COMMUNITY COUNCIL: This would be an inappropriate overdevelopment of a site in a conservation area. It noted the number of objections from both neighbours and statutory consultees and felt it could not support this application.

7. ASSESSMENT

The main issues for consideration with the determination of this application are the

- Principle of Development;
- Character of the Area and Impact on Heritage;
- Impact on Highways;
- Impact on Trees and Landscaping;
- Amenity of Future Occupiers;
- Impact on neighbour amenity ;
- Impact on Ecology;
- Impact on Archaeology;
- Impact on Mineral Safeguarding Area;
- Section 106 Planning Obligation matters;

Principle of development;

- 7.1 The site is located on a subdivided plot that was once the curtilage of the Old Post. The development would be considered infilling within an existing residential area.
- 7.2 The application site is located within the village of Lower Machen and is a subdivided plot that was once the curtilage of the Old Post. No alternative use has been made of the site since the subdivision and it is considered to be previously developed land. The site and neighbouring properties within the village of Lower Machen do not have a defined settlement boundary and therefore fall within the countryside designation identified in the LDP.
- 7.3 As part of the LDP Examination a review of LDP village boundaries was undertaken and consequently the Lower Machen boundary was removed from the plan. In considering this issue the Inspector's Report states the following:

Paragraph 3.12 - During the examination the Council undertook further analysis of the characteristics of these settlements, having regard to their scale and form, facilities present and environmental constraints. Following this analysis, MAC 15.2 removes the settlement boundaries for Penhow, Lower Machen, Nash, Llandevaud, Goldcliff, Peterstone Wentlooge and Redwick. Development proposals in these small settlements will be assessed in the light of LDP and national planning policies concerning development in the countryside and other material considerations.

- 7.4 Policy SP5 -Countryside states that development in the countryside (land lying beyond the defined settlement boundaries) will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Housing development beyond the settlement boundaries will only be appropriate where they comply with national planning policy. Planning Policy Wales 10 notes at paragraph 3.56 that:

Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.

- 7.5 Both PPW and the LDP also have an overarching sustainability policy stance that seeks to locate development in sustainable locations, which in general, are considered to be urban forms within defined settlement boundaries. Brownfield land should also be used in preference to greenfield land.

- 7.6 The village of Lower Machen consists of a cluster of approximately 20 residential properties, and a church. The application site is located within the center of village, between the Old Post and Cross Vale. Lower Machen is approximately mile west of Machen (within the Caerphilly County Borough Council settlement boundary) and 1.9 miles west of Rhiwderin, and 650m north of Drathen (not within the Caerphilly County Borough Council settlement boundary), Lower Machen is served by two bus stops on the A468 which run between 7:00 and 23:30 (approximately).
- 7.7 The justification to policy SP5 makes it clear that the LDP does not support new build housing development outside the defined settlement boundaries. Nevertheless, in this case the application site represents garden land and is almost wholly surrounded by other dwellings. The integrity of the open countryside would thus be preserved.
- 7.8 Given the site's position within the village and adjoining properties, either side development of the site for residential purposes is considered to represent a form of infill development, which PPW considers may be acceptable in a countryside location if done sensitively and having regard to the character of the area and accessibility issues. The donor property (The Old Post) sits within a large plot of land and application site is comparable in width to Cross Vale (20m), The Lodge (22m) and Toll House Cottage (18m) to the west. An additional dwelling on this plot is not considered to be at odds with the densities in the neighbouring curtilages and generally within the village. As such the proposal would represent sensitive infill development in the terms set out in paragraphs 3.56 of PPW, and that there would be no conflict with the underlying objectives of Policy SP5 in this regard.
- 7.9 Policy SP1 states that proposals will be required to make a positive contribution to sustainable development, including by encouraging the co-location of housing and other uses, including employment, which together minimise the overall need to travel, reduce car usage and encourage a modal shift to more sustainable modes of transport. Policy GP4 states that, amongst other matters, development proposals should be accessible by a choice of means of transport. The village of Lower Machen consists of a cluster of approximately 20 residential properties. The application site is located centrally within the village, between the Old Post and Cross Vale. The range of services and facilities available in the village is limited to a church. Lower Machen is approximately 1 mile west of Machen (within the Caerphilly County Borough Council settlement boundary) and 1.9 miles east of Rhiwderin (within the settlement boundary), and 650m north of Drathen (not within the CCBC settlement boundary). Lower Machen is served by two bus stops on the A468 which run between 7:00 and 23:30 (approximately), however opportunities for walking and cycling to reach services and facilities elsewhere are constrained by the nature of the local rural routes, being unlit, lacking footways or verges, and with visibility limited by hedgerows. Notable key services and facilities not available within the village include a shop, pub, Post Office and primary school, and the immediate area lacks any significant employment opportunities. Thus, infill in this location is considered to contribute to unsustainable travel patterns and reliance on a private motor vehicle.
- 7.10 Policy SP10 indicates that infill and small sites will contribute to housing growth in the County. Nevertheless, this policy and its reasoned justification clearly and unambiguously direct housing to sustainable brownfield sites first and foremost. Whilst additional housing can help to support new services in rural areas, the proposal would result in an exceptionally modest increase in the local population. Thus, whilst the proposed dwelling would be sited amongst an existing cluster of houses within a village, It is considered to be an unsustainable location for new housing.
- 7.11 Given above, it is considered that the proposal would not accord with the spatial and sustainability objectives of LDP policies SP1, SP10 and GP4, and would conflict with the aim of PPW to strictly control houses outside settlements recognised in development plans.

Character of the Area and Impact on Heritage

- 7.12 The site is located in Lower Machen Conservation Area, with several Listed buildings in the surrounding area. It should be noted that conservation area designations do not seek to "preserve" the areas in its original state, but to ensure any proposed works do not harm the

special character and significance of the area and the listed buildings within it and their setting.

- 7.13 This application seeks full planning permission for the erection of an L shaped detached dwelling on this vacant piece of land in Lower Machen. The land, rectangular in shape, is between the Old Post, which is a Grade II Listed Building, and Cross Vale.
- 7.14 While there is not an adopted appraisal of the conservation area, the Conservaion Officer notes that at the centre of the village, there are two key buildings; the church of St Michael and the former rectory, Machen House (both listed grade II*) and stands in grade II registered gardens. It is surrounded by garden walls and entrance gates which are independently listed at grade II, as well as a number of outbuildings, many of which are also independently listed. Surrounding these to the East and South are a number of other listed historic buildings, which exhibit some variety of style but are mostly easily identifiable as buildings of the Machen House estate, often exhibiting characteristic gothic or Tudor detailing. A cohesive collection of stone boundary walls (sometimes enlivened with decorative ironwork) and a predominantly rural atmosphere is what completes the picture. Additional residential development has been introduced in the later half of the 20th century with varying degrees of success. Whilst some of this has had a relatively neutral impact, due to modest scale or cottage-like detailing, two modern buildings (Cross Vale and the Lodge) stand out as discordant forms of development due to their large scale, modern mock Georgian styling and tight plot spacing.
- 7.15 The site forms part of the historic curtilage of The Old Post, which was listed at grade II in 2003 as “a long vernacular range in village centre opposite entry to Machen House, with surviving features of late C18 to early C19.” It is clear from historic maps that this building stood in extensive gardens, stretching along the roadside and sharing a boundary with the garden of the Toll House (listed grade II) at the Western end of the village. It appears that the whole of the road frontage of these two buildings was bounded by substantial stone walls, though these have been altered in parts to accommodate entrances to new houses in the late 20th century. These walls match the style of the listed garden walls to Machen House opposite, thought to date from 1831, and therefore seem likely to be of a similar date, when the majority of the village fell under the control of the Machen House estate. As such, the wall forms a particularly important part of the character of the conservation area, and of the settings of these listed buildings.
- 7.16 **New dwelling:** The siting of the new dwelling would follow the building line and approximate spacing of the existing dwellings to the west and would retain a gap (approximately 17m) to the listed Old Post which is considered to help preserve the spacious setting of the property. The scale of the new dwelling, with a two storey dwelling would be approximately 1.5m lower than the adjoining Cross Vale and the layout and massing is considered appropriate, responding to the site and surrounding built form while respecting the setting of the listed buildings.
- 7.17 The Conservation Officer considered the style of the proposed house to be in keeping with the character of the village (more so than the application 10/0772). The traditional cottage design and proposed use of materials (render and slate) are considered to be appropriate in this village setting, and an attempt has been made to pick up features seen locally like low eaves with gable features over the windows and open porches (Volland Cottage and House and Corner House). With regards to external finishes, and joinery associated with these windows the details could be agreed by a planning condition.
- 7.18 It is concluded that the location, design and appearance of the proposed dwelling, would not have a detrimental impact on the character and appearance of the Conservation Area or affect the settings of the Old Post and the buildings and structures of Machen House.
- 7.19 While the property would be visible from the open countryside to the south of the site, this will be seen in the context of the existing village and it is not considered to have an impact on the character and appearance of the Conservation Areas or open countryside sufficient to warrant refusal.
- 7.20 **New Vehicle Access:** The proposals include removal of approximately 6.5m of wall to the west (closest to Cross Vale) and the trees immediately behind. The current proposal includes

the wall being rebuilt to create a curved entrance. To the east the wall would continue the height of the existing wall and to the west the new wall would be reduced in height to match that of the height of the boundary wall of Cross Vale (approximately 1.45m). The applicant considers the current proposal to be a compromise between the minimum alterations required for a vehicle and the visibility for vehicles exiting the site.

- 7.21 The Council's Conservation Officer considers the existing wall is an important aspect of the character of the conservation area and the setting of the surrounding listed buildings. As such, new entrances are generally unwelcome. While there are examples around the village of how openings can be created sympathetically, to the setting, the Conservation Officer considered the current proposal with a large gap and lowered section of wall do not present a traditional appearance would be significantly detrimental to the character and appearance of the Conservation Area.
- 7.22 Trees and vegetation cover on this front of the site in combination with the wall currently provide screening of the modern buildings (Cross Vale and the Lodge) when viewing the building from the Old Post / Machen House Gates. Several large trees to the front boundary would be removed and in combination with the new access greater views of Cross Vale and the Lodge would be possible. The Conservation Officer considers the increased exposure would be harmful to the overall character and appearance of the Conservation Area. However a new 2 metre high wall along the side boundary and forward of the building line is proposed and as further landscaping to screen the modern dwellings could be conditioned, the proposed loss of trees to the front boundary is not considered to be unduly harmful to the character and appearance of the Conservation Area or the setting of adjacent listed building and gates.
- 7.23 To summarise, the proposed access and reduction in height of the wall would have an unsympathetic impact on the setting of the listed building and the character appearance of the Conservation Area.

Impact on highways

- 7.24 The development proposal includes the provision of an area approximately 10.9m x 6.3m for off-road parking. The Highways Officer is satisfied that 3 parking spaces would be available in accordance with the Newport City Council Parking Standards SPG and in this aspect is considered acceptable.
- 7.25 The proposal includes the creation of a new access to the north west of the site. The Highways Officer stated visibility splays of 2.4 x 43m are required for a 30mph road and pedestrian visibility splays of 2 x 2m (in accordance with Manual for Streets). It is considered that the use of the entire front area of the property for visibility would detract from the appearance of the Conservation Area and the lack of footway and width of the existing boundary makes the visibility splays unachievable.
- 7.26 An amended Design and Access Statement and layout plan with a curved wall widening the access were submitted. This would partially address the pedestrian visibility requirements (but remain inadequate at approximately 2 x 1.4m). The amendments fail to address the lack of vehicular visibility (proposed approximately 2.4 x 2.8m) and would be unacceptable in highway safety terms and is recommended for refusal.

Impact on Trees and Landscaping;

- 7.27 The plot has a group of evergreen trees to the frontage along with a group of semi-mature trees and vegetation along the boundaries with the Old Post and the A468. The trees play an important part of the character and appearance of the Conservation Area and from a landscape perspective within the Special Landscape Area, it is considered these are important to retain where appropriate.
- 7.28 Limited tree information has been submitted with the application given that all trees on site are protected due to the siting being within a Conservation Area.
- 7.29 The Application was originally accompanied by a Tree Report dated June 2010 (as submitted with application 10/0772). The Council's Tree Officer and Landscape Officer requested that a full up to date tree survey to the current British Standard (BS5837:2012) be submitted (to

include trees not just in the site but close to the boundaries) with a plan showing the trees to be retained, those to be felled together with revised RPAs and taking into account the “above ground constraints”.

7.30 Despite a request, a professional tree survey and constraints plan has not been submitted. However, additional information was submitted (statement and photos from Tree Care Consulting - 15/4/19) and an amended site plan was submitted (RPA and Canopy spread of 4 trees to be retained along the boundary with The Old Post - 2/7/19). The Landscape Officer was satisfied that additional landscaping could be secured by condition. The Tree Officer, is not satisfied with the level of information provided. The tree constraints plan does not identify which tree is which, or show those trees to be felled; with no indication that the above ground constraints have been considered. The Council cannot therefore fully assess the impact on the existing landscape features and the potential impacts on those trees to be retained.

7.31 As such it is considered there is insufficient information submitted in order to consider the implications of the proposal in terms of the impact on the tree and vegetation which are an important part of the character and appearance of the Conservation Area and the application is recommended for refusal.

Impact on neighbour amenity

7.32 The application site is bounded on two sides and the comments of the objectors have been noted. The impact upon those to the east (Old Post) and the west (Cross Vale) has been considered in turn.

7.33 **Sunlight & Daylight:** The house extensions and domestic outbuildings SPG (Aug-2015) sets out tests for loss of light, this relates to neighbours' habitable rooms. 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 The Old Post:** The new dwelling will be approximately 15m away from the Old Post's side elevation. Permission was recently granted for a replacement garden room to the rear (19/0471 and 19/0472), which will have two small side windows facing the new dwelling serving the new garden room, although it is noted there are secondary windows with the main window to the southern elevation. The proposal passes both the 45° vertical and horizontal test in relation to all windows.
- **Impact on Cross Vale:** The proposed building will be 1 metre from the side boundary and project approximately 1 metre beyond the rear building line of Cross Vale. Following the Case Officers site visit (29/4/19) it was noted there are no windows to the side elevation of Cross Vale. To the rear ground floor the closest patio doors would fail the vertical test but pass the horizontal test.

7.34 Due to the distances between neighbouring properties, the proposal is not considered to have a sufficiently detrimental impact upon for loss of light to warrant refusal of the application.

7.35 **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:

- 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),*
- 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 The Old Post:** Ground floor kitchen and lounge and first floor bedroom windows all face towards the rear garden of the Old Post, which currently benefits from a high level of privacy. All windows are secondary windows to the rooms they serve. The site is separate by a 1.8m boundary fence and mature trees along the boundary both of which will offer a degree of screening, the first floor window will be only 10 metres from the boundary. However given the high level of privacy currently enjoyed by the neighbour it is considered appropriate to recommend a condition requiring obscure glazing to the master bedroom and removing permitted development rights for any additional windows in the first floor side elevation.
- **Impact on Cross Vale:** A ground floor utility door and first floor bedroom window (secondary window) and low level bathroom rooflight all face towards the centre of the blank side elevation of Cross Vale. The buildings would be 2 metres apart and separated by a boundary fence. Given the separation distance of the property it is considered appropriate to recommend a condition requiring obscure glazing to the bedroom 3 window and en-suite rooflight and removing permitted development rights for any additional windows in the first floor side elevation.

7.36 The development is not considered to cause detrimental overlooking to the neighbours. However, a condition requiring obscure glazing to the first floor side windows and removing permitted development rights for any additional windows in the first floor side elevations is recommended.

7.37 **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 The Old Post:** The side gable elevation is not blank (chimney feature) and would be approximately 15 metres from the closest window (garden room) with a substantial tree screening the new dwellings.
- **Impact on Cross Vale:** The new dwellings would be broadly in line with Cross Vale and of a similar scale, while the rear of the proposed building will project approximately 1 metre beyond the existing rear building. This is a similar situation to other dwellings to the west of Cross Vale and not considered to result in an overbearing impact on the neighbouring property.

7.38 The construction of a two storey dwelling in this location would be visible from the neighbouring properties, and change the outlook from neighbouring gardens. 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.

7.39 **Noise and disturbance:** It is accepted that there would be some increase in general noise level and traffic flow, in particular to the side garden of the Old Post, and front garden of Cross Vale where the parking area is closer. However, the site is set within an established residential environment. The addition of a residential dwelling and associated parking 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 and method statement for the construction works to reduce the impact on neighbours during construction.

7.40 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,

7.41 Any new residential development must have an appropriate standard of residential amenity for its future occupiers. The New Dwellings SPG provides guidance for desired external amenity space, for new detached dwellings this is 1 sq.m for every square metre of the units footprint.

- 7.42 The proposed dwelling has a footprint of approximately 90 sq.m. To the rear and side of the property the garden and patio measures approximately 208 sq.m, or 155 sq.m excluding the disputed land with the old Post (discussed in para 1.4 above). As such it is considered that the proposed dwellings provide ample external amenity space for the new dwellings.

Impact on ecology

- 7.43 The site is currently over grown with scrub and has a couple of semi-mature trees and hedgerows. No ecological information has been submitted and the Councils Ecologist considered the site is highly likely to support nesting birds and also has potential to support mammals such as hedgehogs (a priority species) and rabbits (protected against unnecessary suffering). A pre commencement condition is recommended for an Ecological Construction Method Statement (ECMS) in the interests of protecting European Protected Species.

Impact on Archaeology

- 7.44 The application site is designated as an Archaeologically Sensitive Area (ASA). GGAT have been consulted and consider that the proposed construction will have an impact on the potential buried archaeological resource, and have therefore recommended that a condition requiring a written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted.

Impact on Mineral Safeguarding Area

- 7.45 The application site is located within Mineral Safeguarding Areas. As the proposal involves infill development between two existing properties, the objectives of Policies SP21 and M1 are considered to be satisfied.

Section 106 Planning Obligation matters

- 7.46 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.

Service Area that requires planning obligation	Purpose of planning obligation	Planning obligation initially sought by Planning Authority	Summary Heads of Terms agreed by applicant(s)	Viability Issues?
Affordable Housing	Commuted sum payments for affordable housing	£3,212	N/A	No

- 7.47 Affordable housing contributions will be index linked to the Retail Price Index and payments would be staggered and directly related to occupancy rates.
- 7.48 The applicant has agreed in principle to the Heads of Terms (21/1/2019) associated with the legal agreement and subject to its completion, it would be considered that the proposal satisfies Policies SP1, SP13 and H4 of the LDP and Affordable Housing SPG.
- 7.49 A legal agreement would need to be completed to secure payment, though given the fundamental concerns with the scheme the legal agreement has not been prepared. If the scheme went to appeal the applicants would need to prepare a Unilateral Undertaking.

Other Issues raised

- 7.50 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 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 planning consideration.

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.

8.5 ***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.

8.6 ***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. 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 Despite it being an infill development to a cluster of existing dwellings in the countryside which PPW states can be acceptable in some instances, it is in an unsustainable location without access to any basic services, facilities or employment sites and is not served by a safe walking infrastructure. As a result of its isolated location and the poor infrastructure on offer to pedestrians and cyclists, occupiers would be reliant on the private car to access basic services and facilities - as such, it is considered to be unsustainable and contrary to policies SP1, SP5 and GP4 of the Local Development Plan, the New Dwellings SPG and Planning Policy Wales.

9.2 The proposed new access would be substandard and would result in a limited visibility which is contrary to Policy GP4 of the Local Development Plan.

- 9.3 The proposed new access with a large gap and lowered section of wall would be out of keeping with the character of the area and would be significantly detrimental to the character and appearance of the Conservation Area which is also contrary to Policies SP1, SP9, GP2 GP6, CE4 and CE7 of the Local Development Plan.
- 9.4 The application has failed to demonstrate that the development would not have an adverse impact on Trees within and adjacent to the site which are protected by the Lower Machen Conservation Area which is contrary to Policies SP1, SP9, GP2, GP6 and CE7 of the Local Development Plan and the Trees, Woodlands, Hedgerows and Development Sites SPG.

10. RECOMMENDATION

REFUSED.

01 The proposed development is located in an isolated, unsustainable location, in a village which lacks convenient access to any local services or facilities. The site is a considerable distance from the surrounding settlements with no pavements, street lighting and few passing places, which does not encourage use by pedestrians or cyclists as a sustainable form of transport. This would result in occupiers of the development being reliant on the private car. The proposal is therefore contrary to policies SP1, SP5 and GP4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015), the New Dwellings Supplementary Planning Guidance (Adopted August 2015) and Planning Policy Wales.

02 The proposed development will have a significant adverse impact upon interests of acknowledged importance, namely highway safety, by reason of the creation of a new vehicle access that would have inadequate visibility splays. This is contrary to Policy GP4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

03 The proposed new access by reason of its width and the reduction in the height of the front boundary wall, would be out of keeping with the boundary treatment within the village and would fail to preserve the setting of the neighbouring listed buildings and fail to preserve or enhance the character or appearance of the Lower Machen Conservation Area. This is contrary to Policies SP1, SP9, GP2 GP6, CE4 and CE7 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

04 The application has failed to demonstrate (for example to current British Standard BS5837:2012 containing accurate canopy spreads, root protection zones, consideration to shading and leaf fall) that the development would not have an adverse impact on Trees within and adjacent to the site which are protected by the Lower Machen Conservation Area and would fail to preserve or enhance the character or appearance. This is contrary to Policies SP1, SP9, GP2, GP6 and CE7 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and the Trees, Woodlands, Hedgerows and Development Sites Supplementary Planning Document (Jan 2017)

05 The development fails to provide a planning contribution required to secure affordable housing. This is contrary to Policies SP1, SP13 and H4 of the Newport Local Development Plan 2011-2026 (adopted January 2015) as well as the Planning Obligations and Affordable Housing Supplementary Planning Guidance (January 2017).

NOTE TO APPLICANT

01 This decision relates to plan Nos:

- Location Plan received 21 December 2018;
- Proposed Site Layout Rev C, received 2 July 2019;
- Proposed Ground and First Floor Plans Rev B, received 2 July 2019;
- Proposed Side and Rear Elevations Rev B received 2 July 2019;
- Amended Front Elevation received 7 July 2019;
- Proposed Street Elevation received received 16 April 2019;
- Application Forms;
- Heritage Design and Access Agreement (Amended) received 17 April 2019;

- Archaeological Field Evaluation dated Jan 2004;
- Email from James Pinder (Tree Care Consulting) received 16 April 2019;
- Photographs of trees received 16 April 2019;

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP5, SP8, SP9, SP10, SP13, SP21, GP1, GP2, GP3, GP4, GP5, GP6, H2, H4, H6, CE4, CE6, CE7, T4 and M1 were relevant to the determination of this application.

03 Supplementary Planning Guidance, Affordable Housing, Wildlife and Development, New Dwellings, Parking Standards, Trees, Woodlands, Hedgerows and Development Sites, Archaeology and Archaeologically Sensitive Area, Mineral Safeguarding and Affordable Housing 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.

APPLICATION DETAILS

No: 2 **19/0653** **Ward: VICTORIA**

Type: **FULL**

Expiry Date: **18-AUG-2019**

Applicant: **MATTHEW LAYTON**

Site: **27, MAINDEE PARADE, NEWPORT, NP19 8FJ**

Proposal: **CHANGE OF USE OF PROPERTY TO HOUSE IN MULTIPLE OCCUPATION FOR UP TO SIX RESIDENTS (USE CLASS C4)**

Recommendation: **Granted with Conditions**

1. INTRODUCTION

- 1.1 This application seeks consent for the change of use of property from a dwelling to a six bedroom house in multiple occupation. A house in multiple occupation is a house occupied by people who are usually unrelated and have private bedrooms but shared facilities such as kitchens and bathrooms.
- 1.2 The property is a mid-terrace property in the Victoria Ward of Newport.
- 1.3 The application is reported to Committee at the request of Councillor Rahman.

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 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.

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

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

Relevant Supplementary Planning Guidance

Parking Standards SPG

Houses in Multiple Occupation SPG

4. CONSULTATIONS

- 4.1 GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): No response received.
- 4.2 DWR CYMRU – WELSH WATER: We can confirm capacity exists within the public sewerage network in order to receive the foul only flows from the proposed development site.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): Initial comments:

In accordance with the Newport City Council Parking Standards off-street parking must be provided at the rate of 1 space per bedroom plus 1 visitor space. The existing dwelling has 2 bedrooms requiring 2 off-street parking spaces. There is no off-street parking associated with the site. Given the existing parking shortfall 5 parking spaces are required. The applicant has provided no information regarding parking which this application must address. In this respect the applicant may wish to consider any sustainability credentials of the site as set out in Appendix 5 of the Newport City Council Parking Standards. In addition some on-street parking might be available but this would require the undertaking and submission of a parking survey which must be carried out in accordance with the Lambeth Methodology. In the absence of adequate parking a recommendation of refusal will be likely to result.

Further comments received in response to parking survey: Further to my highway consultation response of 3 July the applicant has submitted a sustainability appraisal and parking survey. The survey does not strictly accord with the Lambeth Methodology in that it was carried out between 20:30 and 20:55 and not 00:30 and 05:30. However, the survey summary shows that adequate on-street parking would be available with an average peak parking stress of less than 60%. In addition, the proximity of the site to the Maindee district centre weighs favourably in terms of sustainability. Therefore I would offer no objection to the application.

- 5.2 HEAD OF LAW AND REGULATION (HOUSING): There is a lack of information regarding the waste storage and recycling facilities that will be provided to serve the future development. Therefore, either additional information is required or the following condition is recommended; Prior to first beneficial use, a scheme for the provision of waste storage and recycling shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to first beneficial use and thereafter maintained for the duration of the use. Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

In relation to sound insulation between the proposed separate residential dwellings, I have not commented. I assume that Building Control will ensure that the Building Regulations, Approved Document E is applied.

- 5.3 HEAD OF LAW AND REGULATION (LICENSING): I have no objections to this application.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: Properties within 50m were consulted (58 no properties) and a site notice was displayed. 11no responses have been received objecting to the proposals on the following grounds:

-This is a nice piece of Maindee with a mix of young and old families living here with still a bit of community, generally the type of people placed in these bedsits are of low income with problems which could upset the good feeling in this area. Secondly the people moving in could be car owners and parking here is a nightmare as it is extra vehicles could cause more problems. Thirdly once bedsits are allowed in this area more could follow and that will definitely cause a drop in house prices. Do not allow this to happen and set a precedent in Maindee parade;

-Badly managed HMOs have a negative effect on some areas. This has led to a high degree of transience in the population and a high level of anti-social behaviour and crime. As a result

areas have had a poor reputation with people unwilling to purchase properties for occupation. I do not wish this to happen in this area. It is a well known fact that owner occupiers/families take a lot more pride in their neighbourhood;

-Concerns are raised about the health impact of the HMO. Noise can cause health problems and even death;

-Where will the six people park their cars? Parking is already a problem in the area;

-There is also the potential for increased litter;

-HMO landlords are profiteering with the help of the government and local authorities while the neighbours suffer;

-Not sure planning should be granted for multiple occupation use for up to 6 residents, as there is permit parking outside the property and only 2 permits are allowed per household, parking is already a problem on this road. There are quite a few houses in the street which are multiple occupation which only adds to the parking issues.

- In this day and age, when housing is becoming a scarce resource and community almost non-existent, Maindee Parade remains a small bastion of family, of community and a place where we still care about our neighbours. Purpose built flats are commonplace and are part of our neighbourhood, as are converted bedsits. We embrace change, however, terrace houses were originally designed and built to house families and servants together then adopted and adapted to provide high-density accommodation for working class families. The message being: that terrace housing is already 'high-density', aimed at families living in close proximity, with similar financial resources and actively working together toward similar goals and ethics. By converting a mid terrace into accommodation of 6 bedsits with a possible occupancy of 12 people, this not only incurs overcrowding of a 2 up 2 down property but also places undue strain on the already perilous parking infrastructure and causing obstruction of an already congested and dangerous 1 way system. There would need to be more rubbish bins causing obstacles for pedestrians to avoid. Our area consists of elderly and disabled as well as families and is also a thoroughfare for school children and their younger siblings, all of whom would be affected by more traffic, more hazards and the potential of a high turnover of occupants mean it can fundamentally impact on the safety of our community.

-Parking is already an issue without potentially adding more vehicles. Traffic is already a concern. Community safety would also be compromised because of the inability to adequately select appropriate potential hordes of residents

Drugs have, and continue to be conspicuously apparent in our area, more strangers add to potential dangers. Our homes were built as homes for families, why pander to greedy developers, wanting, high revenue for small investment? When by keeping small pockets of society intact, for however short a time, we can still maintain our sense of family and of community.

-This part of Maindee is a community with most people owning their own homes and maintaining their properties. Many residents are elderly and want to feel safe.

-The property is a good size, why not rent it to a family?

-We have not been informed about a half-way house in the street and no.30 changing to flats or bedsits.

-Maindee parade is a two car household permit parking on the left hand side. The right hand side of the street is open parking. One street away is a busy shopping area, five pubs or clubs and numerous food outlets. This makes our street an easy target for parking. Resident parking becomes almost impossible. Maindee parade is a dangerous street, it is a through road for Chepstow road. Two residents are disabled and most of the others are old age pensioners, if we have to park further away from our properties it could increase the risk of injury from being knocked down. Two years ago my four year old grandson was knocked down in Maindee parade when his mother was picking him up. She was unable to park close to the house. Fortunately for him it was a lady driver who was adhering to the speed limit, most drivers do not stick to the speed limit. Maindee Parade is a one way street but most days a car will drive up the street the wrong way causing further danger to existing residents.

-The council recently down sized our rubbish bins. I live with my partner and we struggle to fit our rubbish in the smaller bin. How will six residents fit all their rubbish in the bin provided. If waste is not disposed of properly it will encourage rats, surely this will become an environmental issue.

-Myself and other residents have spent a lot of money and effort in ensuring our gardens are kept to a good standard, Who is going to keep the garden tidy.

- The property has one bathroom one toilet and one kitchen, this is not adequate facilities for six people this surely is not humane for these residents.
- I now feel that if six residents are housed at 27 Maindee Parade my security will be at risk. Access to the rear of my property could be reached from the back of 27 Maindee parade.
- If this application is approved it will set a precedent for future applications.
- There is a school in the area and vulnerable people.

- 6.2 COUNCILLORS RAHMAN: It is my understanding there is limit of how many HMO's can be in an area and Maindee has reached that limit. I have concerns regarding this application, especially in such an already densely populated area. Therefore, I ask that the application is put forward to the Planning Committee for full consideration.

7. ASSESSMENT

- 7.1 The area is characterised by predominantly residential properties of a dense terrace nature in a linear form. The application property has a front garden with low boundary wall and a good size back garden. The proposed layout of the property would comprise two bedrooms and a kitchen at ground floor, three bedrooms and two bathrooms at first floor and a further bedroom on the third floor.
- 7.2 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.
- 7.3 The Newport City Council Supplementary Planning Guidance on Houses in Multiple Occupation (adopted August 2015, updated January 2017) 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% within defined areas, measured within a 50 metre radius of the application property. A 50m radius captures 29no properties and of these one is an existing HMO which equates to 3.44%. Therefore, the proposed conversion does not conflict with the Council adopted SPG insofar as this threshold is concerned.
- 7.4 Notwithstanding the above, whilst the proposed change of use would not result in the number of HMO's in the area exceeding 15% it is necessary to consider whether the proposal is acceptable in respect of other material considerations. The impact of HMOs on social cohesion and community wellbeing is a material consideration. Evidence of problems associated with HMO's can include inadequate refuse storage arrangements or poorly maintained frontages, or quantified evidence of impacts on community cohesion. Properties in the vicinity have a well-kept appearance and there were no obvious signs of problems associated with a high concentration of HMO's. As noted above, the property has the benefit of a small front forecourt which provides sufficient space for recycling boxes and waste bins, as well as a rear garden which would enable residents to sit out in and dry clothes etc. All of the bedrooms are of an acceptable size and the Environmental Health Licensing section of the Council's offer no objections to the proposals. Neighbours have raised concerns that each of the rooms could be occupied by a family. However, this would not be possible as separate Licensing standards restrict rooms sizes for two person accommodation to a minimum of 11m². Only two of the bedrooms would meet this and could potentially be occupied by up to two persons. Therefore, the maximum occupant level based on room sizes provided would be 8.
- 7.5 An internal research paper (unpublished) was prepared by Newport Council's planning team as a background report to the SPG to evaluate any evidence of harm caused by concentrations of HMO's within the city (see copy of report attached as Appendix A). The number of HMO's was compared to the actual number of households within a defined geographical area, namely lower layer super output areas (LSOA), which are used for the Census. Information was pulled together relating to complaints linked to licenced HMO's and crime rates within these areas.

7.6 Maindee Parade falls within Lower Super Output Area Victoria 3 W01001692, which is shown to have the 5th highest concentration of HMO's (3.823 out of 44 Lower Super Output Areas). The paper concludes that 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 and that therefore the Council should continue to try and control the concentration of HMOs. The Council has recently refused planning permission for a HMO (18/0459 3 York Place) based on the findings of this paper which showed that in that particular instance, despite not exceeding the threshold within the SPG, the ward in which the HMO was located was shown to have the highest concentration of HMO's (7%), the highest number of complaints (33) and the highest numbers of recorded crime (1441 incidents) in the city. The paper shows that 13 complaints were received by the Council's Environmental Health department in a period of 18 months relating to HMO's in the area in which the application site is located. To give this some context, the highest number of complaints relates to the Stow Hill W01001687 lower super output area where 33 complaints were received in the same period. This decision was subject to an appeal which was recently allowed. On the matter of such data the Inspector noted that whilst local residents and the Council have genuine concerns about the potential for an increase in anti-social behaviour, there is no firm evidence to attribute this to existing HMO's within the vicinity. In any case, in this instance given that the change of use would not result in an exceedance of the 15% threshold identified in its own adopted SPG it is considered that the Council would struggle to identify harm resulting from the presence of a further HMO in the area and it is not considered that the addition of a HMO in the area would be detrimental to the character of the area and the amenity of neighbouring residents contrary to policies H8 and G2 of the Council's LDP. In short, there is no evidence to support concerns relating to social cohesion and amenity issues arising from a concentration of HMOs.

7.7 In response to the proposals the Head of City Services (Highways) has advised as follows:

In accordance with the Newport City Council Parking Standards off-street parking must be provided at the rate of 1 space per bedroom plus 1 visitor space. The existing dwelling has 2 bedrooms requiring 2 off-street parking spaces. There is no off-street parking associated with the site. Given the existing parking shortfall 5 parking spaces are required. The applicant has provided no information regarding parking which this application must address. In this respect the applicant may wish to consider any sustainability credentials of the site as set out in Appendix 5 of the Newport City Council Parking Standards. In addition some on-street parking might be available but this would require the undertaking and submission of a parking survey which must be carried out in accordance with the Lambeth Methodology. In the absence of adequate parking a recommendation of refusal will be likely to result.

....Further to my highway consultation response of 3 July the applicant has submitted a sustainability appraisal and parking survey. The survey does not strictly accord with the Lambeth Methodology in that it was carried out between 20:30 and 20:55 and not 00:30 and 05:30. However, the survey summary shows that adequate on-street parking would be available with an average peak parking stress of less than 60%. In addition, the proximity of the site to the Maindee district centre weighs favourably in terms of sustainability. Therefore I would offer no objection to the application.

7.8 The applicant has subsequently undertaken a parking survey. The Head of City Services has subsequently advised that whilst the survey does not strictly accord with the Lambeth Methodology due to the times at which it was carried out, the survey summary shows that adequate on-street parking would be available with an average peak parking stress of less than 60%. Given this an the sustainable location, the Head of Streetscene offers no objection to the proposals.

7.9 The table below is taken directly from the survey. It shows the dates and times that the survey was carried out for each street within the survey area. The survey times are

considered reasonable as by 8.30/9pm most people would be home from work and parking demand would be high. The percentage value is the parking stress (%) against the maximum allowed spaces for each type of parking (unrestricted and restricted). The survey shows the total available restricted parking spaces within 200m walking distance is 200, and the total unrestricted parking spaces is 96. The peak average parking stress (%) across the days surveyed was 54% (19th July) on restricted spaces used and 56% (18th July) on unrestricted spaces used. This means that during the peaks, there was 92 available restricted parking spaces, and 42 available unrestricted parking spaces. The survey shows that the parking shortfall of five spaces would be comfortably absorbed on street.

	17-Jul-19 20:55		18-Jul-19 20:30		19-Jul-19 20:45	
Street	No. restricted parked cars	No. unrestricted parked cars	No. restricted parked cars	No. unrestricted parked cars	No. restricted parked cars	No. unrestricted parked cars
Maindee Parade	16 (34%)	15 (65%)	13 (28%)	14 (61%)	17 (36%)	19 (83%)
Duckpool Road	26 (58%)	21 (70%)	24 (53%)	17 (57%)	27 (60%)	20 (67%)
Fairoak Terrace	10 (67%)	0 (0%)	10 (67%)	1 (100%)	10 (67%)	0 (0%)
Albert Avenue	25 (53%)	27 (64%)	23 (49%)	26 (62%)	27 (57%)	19 (45%)
Crown Street	19 (41%)	6 (0%)	24 (52%)	1 (0%)	22 (48%)	2 (0%)
Averages	19.2 (51%)	13.8 (40%)	18.8 (50%)	11.8 (56%)	20.6 (54%)	12 (39%)

- 7.10 In addition to the parking survey, it should be noted that the property is located in a highly sustainable location within a short walking distance (200m) of Maindee District Centre which has a range of shops and services and regular public transport connections. The Council's Parking SPG does not allow for a reduction below one space per bedroom for HMOs. However, an Inspector held during the consideration of an application for the change of use from a dwelling to a HMO for five residents at 41 Risca Road that a reduction of 30% of the normal requirement for the proposal as a whole would be reasonable. On this basis the parking demand for the proposed HMO can be reduced by a least one parking space (30% of 7 = 3.5).
- 7.11 Recent appeal decisions are relevant to the determination of this application. Appeal number APP/G6935/A/322697 relates to the refusal of an application for the change of use from a dwelling house to 1no one bed ground floor flat and three bed house in multiple occupation at 66 Argosy Way. There was a parking shortfall of 4no parking spaces associated with this development but despite this the Inspector held that given the sustainable location of the site and the availability of on-street parking spaces, the development would not have result in increased pressure for on-street parking. Maindee Parade is arguably in a more sustainable location than the appeal property and significant weight must be had to this appeal in the decision making process.
- 7.12 The Council has recently refused planning permission for the change of use from a 5 bed dwelling to 5 bed HMO at 5 Eveswell Park Road due to the impact of the proposals on highway safety and an appeal has subsequently been allowed (APP/G6935/A/19/3219788). In that instance the change of use resulted in a shortfall of 3 parking spaces with parking for the existing and proposed development being accommodated on-street. The Inspector gave weight to there being a likelihood of a lower level of car ownership for this type of development and also considered that significant weight should be afforded in favour of a development where the site is accessible by public transport and services by walking. The application site is arguably located in a more sustainable location in this instance being within a short walking distance of Maindee District Centre.
- 7.13 When taking account of the recent appeal decisions, the generally positive attitude of the Welsh Inspectorate to HMOs in sustainable locations irrespective of whether they have off street parking, the parking survey undertaken by the applicant and the lack of objection from the Council's Highway officer, it is considered that there is sufficient on-street capacity in the area to accommodate the additional demand that the proposed HMO would result in without

significant and demonstrable adverse effect on neighbouring amenity. Given the highly sustainable nature of the site officers recommend that there is no demonstrable harm resulting from the proposals in terms of either highway safety or neighbouring amenity.

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 change of use would not result in an exceedance of the threshold set out in the Council's Guidance and it is not considered that the proposals would result in a demonstrable impact to the character of the area.

9.2 Whilst the proposals would result in an increased demand for parking, the site is located within a sustainable location within close proximity to shops and services with good transport links. Furthermore, the applicant has provided information to demonstrate that the parking

associated with the development can be accommodated on street and no objection is raised by the Council's highways officers to parking or other highway safety matters. As such, it is not considered that the proposals would result in an adverse impact to highway safety or neighbouring amenity.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Existing and proposed floor plans received 24th June 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

General conditions

02 The property shall have a maximum of six bedrooms.

Reason: To protect the amenity of adjoining occupiers and highway safety.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, GP2, GP4, H8, T4 and W3 were relevant to the determination of this application.

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

03 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 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	760	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

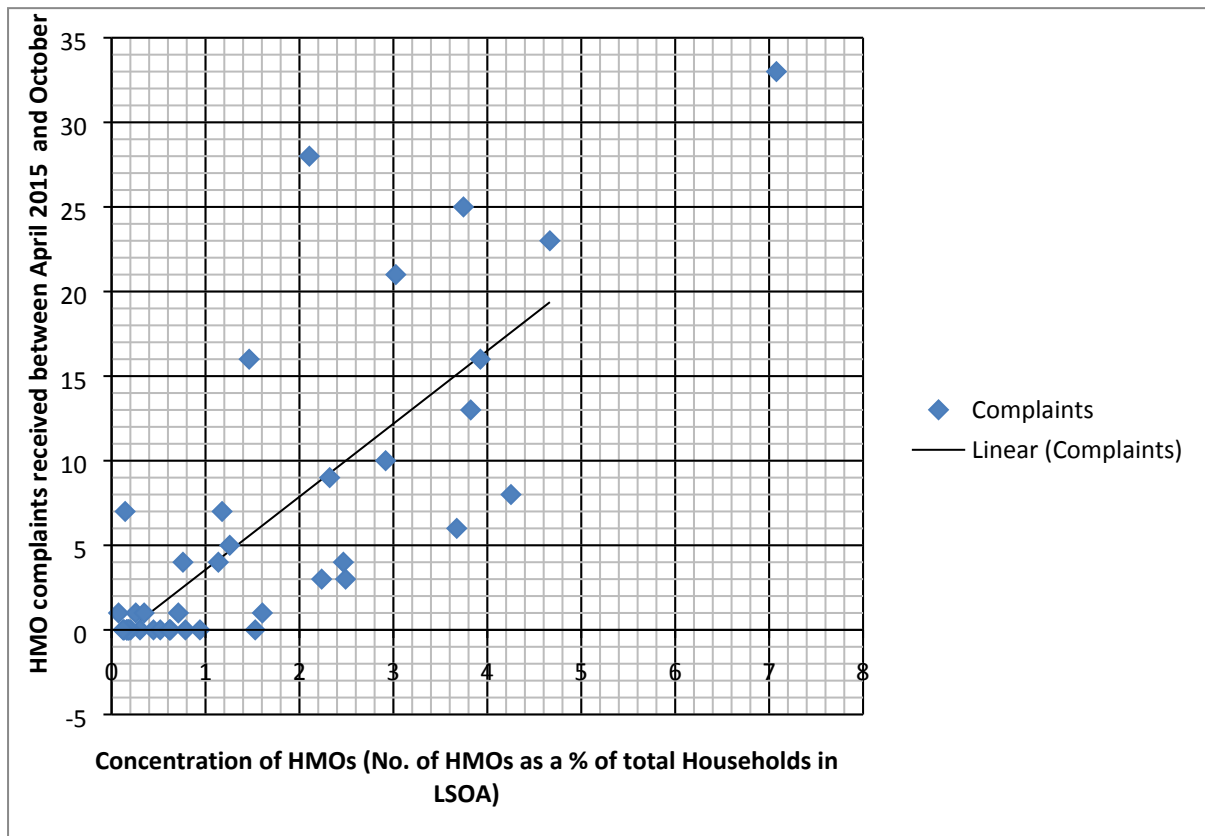
Ward	LSOA	Households	No of HMOs	% HMOs	Complaints
Stow Hill	W01001687	876	62	7.078	33
Pillgwenlly	W01001659	760	16	2.105	28
St Julians	W01001675	614	23	3.746	25
Victoria	W01001693	643	30	4.666	23
St Julians	W01001676	694	21	3.026	21
Pillgwenlly	W01001661	917	36	3.926	16
Victoria	W01001690	956	14	1.464	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	614	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

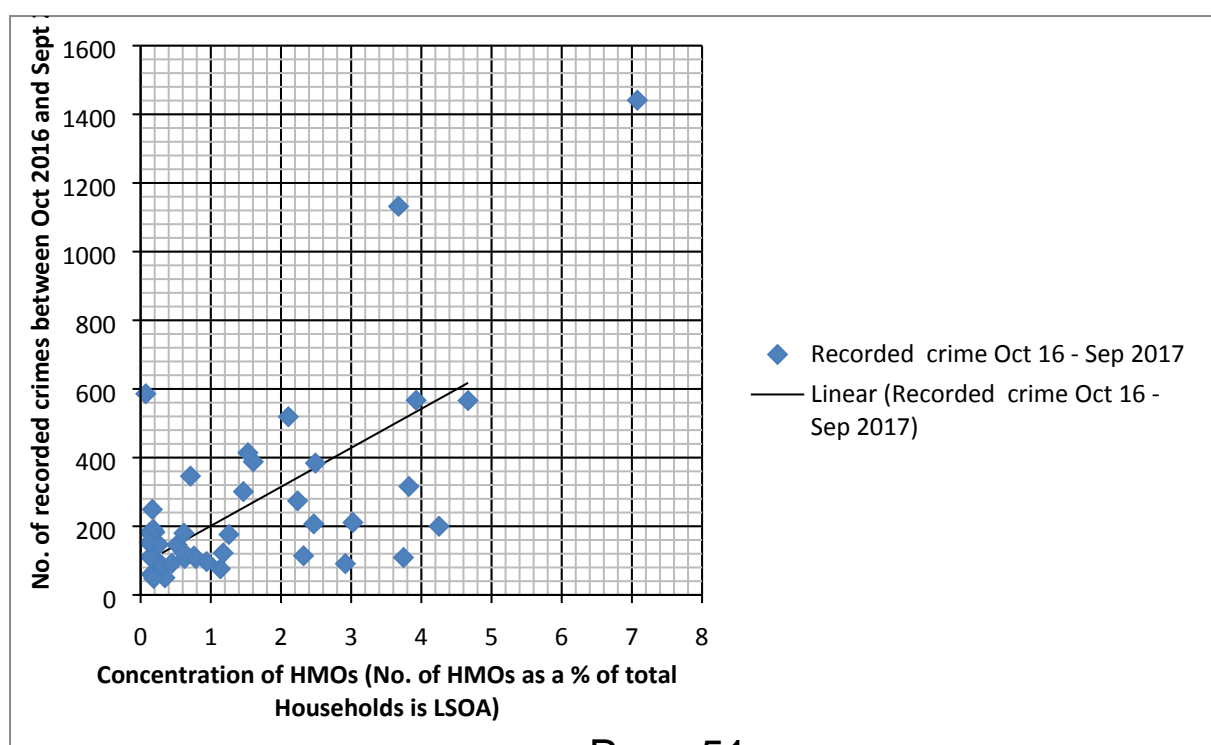
Ward	LSOA	Households	No of HMOs	% HMOs	Recorded Crime
Stow Hill	W01001687	876	62	7.078	1441
Stow Hill	W01001685	762	28	3.675	1132
St Julians	W02000351	2704	2	0.074	586
Pillgwenlly	W01001661	917	36	3.926	567
Victoria	W01001693	643	30	4.666	566
Pillgwenlly	W01001659	760	16	2.105	519
Shaftesbury	W01001681	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 12th 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: 3 **18/0756** **Ward: LLANWERN**

Type: FULL (MAJOR)

Expiry Date: 06-SEPT-2019

Applicant: M. A. WEBBER

Site: CASTLE FARM, BISHTON ROAD, BISHTON, NEWPORT, NP18 2DZ

Proposal: PROPOSED FREE RANGE EGG PRODUCTION UNIT, 3NO. SILOS AND ASSOCIATED WORKS

Recommendation: Refused

1. INTRODUCTION

- 1.1 The applicant is seeking permission for the erection of a free-range egg production unit including silos and all associated works. The unit would consist of the following:
- A building measuring 149m long, 20m wide and 6.7m high which would contain 32,000 birds, a service area, office and egg store.
 - A dedicated area of pasture for the birds which would be fenced to keep predators out.
 - 2 no. steel hoppers to store feed
 - Conveyors to move feed & manure
 - A hard apron for vehicles to park on and turn
 - The birds will be kept as a laying flock for 14 months and then totally replaced.
 - Feed deliveries will be by rigid body HGV 3 times a month
 - Eggs will be collected three times a week by 7.5 tonne lorry
 - A new access at the north west corner of the site
 - No additional labour is needed.

2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
01/0358	ERECTION OF ANIMAL & HAY STORAGE BARN	R 20 July 2001
02/0402	CONVERSION OF REDUNDANT AGRICULTURAL BUILDINGS INTO 4NO. DWELLINGS AFFECTING CART ROAD - BRIDLEWAY NO. 22 BISHTON (RESUBMISSION)	GC 21 June 2002
02/0427	ERECTION OF ANIMAL AND HAY STORAGE BARN (RESUBMISSION)	GC 31 May 2002
12/0164	CONSTRUCTION OF NEW VEHICULAR / PEDESTRIAN ACCESS AFFECTING PUBLIC RIGHT OF WAY 388/3	GC 19 April 2012
13/1190	ENVIRONMENTAL IMPACT ASSESSMENT SCREENING OPINION FOR A SINGLE WIND TURBINE UP TO 77M HIGH AND ASSOCIATED WORKS	ES required 10 December 2013
13/1220	ERECTION OF AGRICULTURAL BUILDING FOR THE STORAGE OF FODDER AND MACHINERY	PANR 12 December 2013
14/0713	ERECTION OF A 900KW (0.9MW) WIND TURBINE MEASURING UP TO 77 METRES IN HEIGHT AND ANCILLARY EQUIPMENT AND ASSOCIATED INFRASTRUCTURE (AFFECTING PUBLIC RIGHT OF WAY 388/20 BISHTON AND 388/18 BISHTON)	R 04 February 2015 Appeal G6935/A/15/3070024 dismissed
15/0725	ERECTION OF 0.9MW WIND TURBINE OF 66 METRES IN HEIGHT (TO BLADE TIP) AND ANCILLARY EQUIPMENT	R 02 December 2015

	AND ASSOCIATED INFRASTRUCTURE (AFFECTING PUBLIC RIGHT OF WAY 388/20 BISHTON AND 388/18 BISHTON) (RESUBMISSION OF APPLICATION 14/0713).	
17/0040	PRIOR NOTIFICATION FOR AGRICULTURAL DEVELOPMENT FOR THE ERECTION OF A STEEL BUILDING FOR AGRICULTURAL STORAGE	PANR 16 February 2017

3. POLICY CONTEXT

3.1 Planning Policy Wales (Edition 10) & Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)

The Welsh Assembly Government's objective is a sustainable and profitable future for farming families and businesses through the production and processing of farm products while safeguarding the environment, animal health and welfare, adapting to climate change and mitigating its impacts, while contributing to the vitality and prosperity of our rural communities. The planning system can play an important part in supporting the future sustainability of agriculture.

The TAN also notes that in view of their potentially obtrusive appearance, central grain stores should be designed and located to minimise their effect on the landscape. In considering applications for stores, planning authorities should have regard to the advantages of such stores and the demands placed on farmers of changing technology, the extent to which they blend with their surroundings and to traffic and other relevant planning considerations.

3.2 Newport Local Development Plan 2011-2026

The following LDP policies are considered to be relevant to the redevelopment of the site:

- SP1 – Sustainability
- SP2 – Health
- SP5 - Countryside
- SP9 – Conservation of the Natural and Historic and Built Environment
- GP1 – Climate Change
- GP2 – General Amenity
- GP3 – Service Infrastructure
- GP4 – Highways and Accessibility
- GP5 – Natural Environment
- GP6 – Quality of Design
- GP7 – Environmental Protection and Public Health
- T2 – Heavy Commercial Vehicle Movements
- T4 – Parking

3.3 Newport Adopted Supplementary Planning Guidance

- Parking Standards SPG – August 2015
- Wildlife and Development SPG – August 2015

4. CONSULTATIONS

4.1 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST (GGAT):

4.1.1 The supporting information includes the report containing the results of the archaeological evaluation undertaken by Trysor, dated February 2019, reference 2019/652. The report, and the fieldwork, meet current professional standards.

4.1.2 The fieldwork encountered the made ground deposits across most of the site, in the central area (north to south direction over the course of the former stream) these deposits were deeper than the proposed development works would be. To the west and east boundaries, the made ground is considerably shallower, and particularly as noted in the report, in the north western area. Here, trenching tested the likelihood of the survival of remains of two houses depicted on the Tithe Map and identified within the Historic Environment Record. Evidence of the southern house had been completely removed, the area stripped prior to the deposition of the made ground. Remains of the south eastern corner of the northernmost house were encountered, with the potential for further remains to exist.

- 4.1.3 Regarding the need for further stages of mitigation, this would depend on the final plans for the access point. As you are aware, initially the access was proposed as further south however, if as noted in the report, the access moves to the north west, this is likely to impact on the remains of the building.
- 4.1.4 In this case, if the area will be part of the development, it is our opinion that the remains identified should be recorded by a strip, map and record process, for the area of the cottage and a surrounding buffer of c2m if attainable, which should allow any adjoining features to be identified.
- 4.1.5 Therefore it is our recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted by your Members.
- 4.1.6 We envisage that this programme of work would take the form of a strip, map and record of the area of the building and a 2m buffer if attainable, with detailed contingency arrangements including the provision of sufficient time and resources to ensure that any archaeological features or finds that are located are properly investigated and recorded. It should include provision for any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results. To ensure adherence to the recommendations we recommend that the condition should be worded in a manner similar to model condition 24 given in Welsh Government Circular 016/2014:

No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

- 4.1.7 We also recommend that a note should be attached to the planning consent explaining that:
The archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), (www.archaeologists.net/codes/ifa) and it is recommended that it is carried out either by a CIfA Registered Organisation (www.archaeologists.net/ro) or an accredited MCIfA grade Member.
- 4.2 HEDDLU GWENT POLICE (DESIGNING OUT CRIME OFFICER): No objection.
- 4.3 DWR CYMRU / WELSH WATER (DCWW):
- 4.3.1 Sewerage: We acknowledge from reviewing drawing RJC-MZ194-05 that a connection to the public sewerage system will not be required and therefore have no objections regarding this application.
- 4.3.2 Catchment: The purpose of DCWW reviewing and commenting on this application is to make the applicant aware that their development is within a drinking water catchment under Article 7 of the Water Framework Directive, and that Article 7.3 requires the avoidance of deterioration in water quality where this may lead to additional purification treatment being required. We ask the developer to be mindful of this, and to refer to best practice when operating such facility to ensure water quality is not compromised.
- 4.4 GWASANAETH TAN AC ACHUB DE CYMRU / SOUTH WALES FIRE & RESCUE SERVICE:
- 4.4.1 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.
 Should the applicant require further information in relation to these matters they should contact the above named fire safety officer.

- 4.5 WALES & WEST UTILITIES: has no apparatus in the area but notes others may and safe digging practices should be used.
- 4.6 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW): No objection.
- 4.7 WESTERN POWER DISTRIBUTION: Advise of equipment in the area and safe working practices.
- 4.8 CADW: An assessment of the impact of the proposed development on the setting of the scheduled monument, prepared by Trysor, has been submitted in support of this application. The assessment follows the methodology outlined in the Welsh Government document “The Setting of Historic Assets in Wales” and concludes that there will be a very slight visual impact from the scheduled monument which will constitute a very slight, but not significant, adverse impact on the setting of the scheduled monument. We concur with this assessment.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF REGENERATION, INVESTMENT & HOUSING (PLANNING POLICY)

- 5.1.1 Countryside: Development in the Countryside will only be permitted where the use is appropriate and the development respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. It is considered that an agricultural use within a farm complex is an appropriate use of land, however its impact should be kept to a minimum through good design. The local policy is clear that proposals for rural diversification will only be considered appropriate where they comply with national planning policy (as set out above). The reuse of an existing building has been considered and ruled out for being too small.
- 5.1.2 Highways: The proposal is located within parking zone 6 which is considered as Deep Rural. Full comments on all highway issues will be provided by the Council’s highways officer
- 5.1.3 Environmental Protection and Public Health: The proposed development has the potential to impact on noise, odour and water pollution. Planning policy is clear that any development that would cause or result in unacceptable harm to health because of pollution or any other identified risk to the environment, local amenity or public health and safety will not be permitted. Comments will be provided by the Council’s Environmental Health Section and Ecologist.
- 5.1.4 Conclusion: The proposal is supported in principle subject to any comments raised by Environmental Health and the Council’s ecology officer.

5.2 HEAD OF REGENERATION, INVESTMENT & HOUSING (CONSERVATION): The site is located some 120m from Scheduled Ancient Monument MM128 Bishton Castle. A road and some trees are located between the site and the SAM. It is not considered to have an immediate impact however there is the possibility of archaeological value at the proposal site which shall be considered by GGAT.

5.3 PUBLIC PROTECTION MANAGER (NOISE): I can confirm the Noise and Neighbourhood Team have no objection to this development subject to the following conditions (outlined previously in comments from this section dated 4th February 2019):

- The noise levels for the ridge mounted and gable end extract fans referred to in Acoustics Report M1902/R01, 21st January 2019, are to be complied with and certified in writing to the Planning Authority by an appropriately qualified acoustic consultant before the use of the unit commences; or otherwise noise levels in excess of those referred to, together with mitigation measures if appropriate, submitted and approved as satisfactory by the Planning Authority.
- There shall be no movement of feed, birds and eggs to and from the site between the hours of 19:00 and 07:00 the following day other than in the event of an emergency.

- 5.4 PUBLIC PROTECTION MANAGER (ODOUR): No objection, I have considered the Dispersion Modelling Study of the Impact of Odour by AS Modelling & Data Ltd. dated 3rd January 2019 and I am satisfied with its findings.
- 5.5 PUBLIC PROTECTION MANAGER (AIR QUALITY): The capacity of the proposed poultry building is 32, 000 birds which is below the threshold that would trigger the requirement for a Pollution Prevention and Control permit.
- 5.6 HEAD OF STREETSCENE & CITY SERVICES (TREES): No objection.
- 5.7 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS):
- 5.7.1 The applicant intends to form a new access onto Bishton Road and has submitted a plan to demonstrate that visibility splays of 2.4 x 43m are achievable in both directions. This section of Bishton Road is subject to the national speed limit and therefore visibility splays of 2.4 x 215m would be required in accordance with Tan 18, which is clearly unachievable. Any reduction in the visibility requirements will require the submission of a seven day automated speed survey which demonstrates the necessary 85th percentile speeds.
- 5.7.2 Visibility must also be checked in the vertical plane to ensure that views in the horizontal plane are not compromised. Drivers must be able to see from a height of 2m down to a height of 600mm above carriage way level which I would suggest is unachievable due to the gradient of the road.
- 5.7.3 The applicant must submit further information to demonstrate that visibility splays are fully achievable in line with the above comments.
- 5.7.4 The applicant has submitted information in regard to the vehicle movements associated with the proposal. It's clear that the proposal will result in an increase in vehicle movements along Bishton Road, in particular HGV movements.
- 5.7.5 Bishton Road is a rural lane which cannot accommodate two vehicle movements for much of its length. Passing places are available however situations whereby vehicles come into conflict and have to carry out reversing manoeuvres are common. An increase in vehicle movements will exacerbate this and of particular concern is the size of the vehicles associated with the proposed use. The impact of the increased traffic is therefore considered detrimental to highway safety.
- 5.7.6 Bishton Road has no footways and therefore any pedestrians would come into direct conflict with vehicles at the detriment of pedestrian safety. Whilst this situation is existing, the increased traffic will exacerbate the issue. In addition the lack of footways along with the lack of services, facilities and public transport links in the area is unlikely to encourage multi modal travel and increase the reliance on the private motor vehicle for travel to and from site.
- 5.7.7 Parking must be provided on site and the applicant will need to submit further information in order to justify the proposed level of parking.
- 5.7.8 A swept path analysis must be submitted which demonstrates that HGV's can turn within the site and therefore access and egress the highway in a forward gear. In addition a swept path analysis will need to be submitted to demonstrate that a HGV can access and egress the proposed access onto Bishton Road.
- 5.7.9 Suitable drainage must be employed to prevent surface water run off onto the adopted highway.
- 5.7.10 Whilst the applicant may be able to address some of the points raised above, it's determined that increased vehicle movements along Bishton Road would be detrimental to highway safety. I must therefore object to the application and recommend refusal.
- 5.8 HEAD OF STREETSCENE & CITY SERVICES (PRoW): No comment, since no public rights of way are affected.

- 5.9 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING): No objection subject to conditions.
- 5.9.1 Generally the site will be sufficiently screened from view and the LVIA submitted supports this. A planting plan should be conditioned to show extent, species mix, size, centres. Planting measures should aim to screen the proposal incorporating the existing roadside hedge but also retain the open landscape character of hedgerows and individual trees.
- 5.9.2 The existing mature trees should be plotted. These may lie at sufficient distance from the proposals so a topographic survey may not be required (a proposal overlay onto aerial photo may suffice) but there are nearby mature oak trees which are important landscape features to retain. Protection measures during construction maybe required depending on proximity to the works.
- 5.9.3 There is an existing roadside hedge which will be an important part of screening the proposal. Protection measures to ensure the roadside hedge is adequately protected during construction are required.
- 5.9.4 The turning area for egg collection and need for sufficient visibility splay may affect the existing roadside hedge depending on comments from Highways. This may open up views into the site. The planting plan should include any roadside hedge mitigation measures.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS:
No properties were consulted since none lie within 100m of the site boundary, 2 no. site notices were displayed. Twenty seven representations have been received, two in objection and twenty five in support.

Comments against are:

- The building is too large given its proximity to dwellings,
- Bishton Lane is too narrow to support the size and frequency of vehicles needed to service the unit,
- The proposed access is badly sited being on a bend at the top of a hill,
- This site floods in the winter and manure could be washed into local ditches impacting on water quality,
- North easterly winds would blow odour towards nearby dwellings and could have an adverse noise impact,
- The proposal would result in several accesses in close proximity onto a road that is narrow and lacks forward visibility,
- PRow 388/3 (on the other side of the road from the site) would be adversely affected.

Comments in support are:

- This application will allow a local farmer to diversify and meet increased consumer demand for free-range eggs,
- Increased demand for feed will secure jobs in feed mills and distribution across the wider economy at a time of reduced demand for feed in other agricultural sectors,
- Diversification will help to secure the future of family run farms in the face of market uncertainty (Brexit),
- The proposal will help to maintain the viability of this family run farm securing rural employment opportunities in the future.
- A local firm will build the shed and have a proven record in delivering good quality schemes.
- Local employment may increase.
- The proposed shed is well sited and cannot be seen from Bishton and will not impact badly on the lane.
- Local agriculture should be supported.
- There will be no adverse impact on protected landscapes and the impacts on the local landscape are small and can be mitigated by landscaping.
- The chosen site is often fly-tipped, the development will prevent this.

- Large vehicles will not need to pass through the village given the chosen location.
- The chosen site is brownfield having been 'filled' when Magor Brewery was built.
- Bishton village would not experience any noise or odour.
- The proposal aligns with future Welsh Government Policy in relation to farm payments and there will be local demand for the eggs being produced.
- Landscape & Visual impact will be very limited.
- Industrial and wind turbine developments have already occurred and the proposal will not have a greater impact than these.
- The chickens will be free range which is acceptable in animal welfare terms.

6.2 COUNCILLOR KELLAWAY: the applicant and agent appear to have carried out extensive consultations with both the experts on this subject and more importantly residents in the immediate vicinity and wider village of Bishton.

The plans put in place for Manure Management, prevention of pollution, noise management odour management, pest management all go some way to addressing the concerns I have had raised. I have also noted that welsh water do not object to the application neither the scientific officer who assesses that application falls within any trigger of control mechanism for air pollution.

Finally It is worth pointing out that this application will create a number of employment opportunities something the area is in need of and I would fully support the application based on the information presented.

6.3 BISHTON COMMUNITY COUNCIL: No comment received.

7. ASSESSMENT

7.1 The Site

7.1.2 The site lies immediately east of the lane between Bishton and Underwood adjacent to the Castle Farm site. This is approximately 350m due north of the last house in Bishton village and approximately 900m from the junction between the lane and the road into Underwood. The lane is narrow, lacks passing spaces and has limited forward visibility due to bends and changes in vertical alignment.

7.1.3 The site is currently in agricultural use being given over to rough grazing. The site perimeter is a mixed thorn hedge along the lane and there are some large trees on the site perimeter. The site is broadly flat. The existing access is via a field gate opposite the lane to Castle Farm barns.

7.1.4 The site is in the countryside for planning purposes. The predictive agricultural land classification is Grade 4 (not best and most versatile). The site is in Parking Zone 6 (deep rural). Scheduled Ancient Monument MM128 (Bishton Castle) lies approximately 185m to the south-south east.

7.2 The Proposal

As described in Paragraph 1.1

7.3 Key Issues

7.3.1 The key issues relevant to the determination of this application are:

- Scale & Appearance of the building and its impact on the rural character, landscape and visual amenity
- Tranquillity
- Noise
- Odour
- Access & Highways issues
- Manure Management
- Impact on the setting of MM128 (Bishton Castle)

- Archaeology
- Lighting
- Impact on local PRowS
- Trees
- Benefits of the Scheme

7.4 Scale & Appearance

7.4.1 The proposed shed will be of significant scale being approximately 150m long 20m wide and up to 6.7m high. There will be additional visual impacts caused by the proposed feed silos, access point, areas of hardstanding and other paraphernalia that will be needed to serve the unit. The proposed site is adjacent to Bishton lane and is currently prominent due to the low height of the hedge and the lack of tree cover. The proposed development will have a significant visual impact to users of the road and will be visible from the local public rights of way network.

7.4.2 The applicant has provided a Zone of Theoretical Visibility which shows a localised 'pocket' in which the building would be seen immediately around the site which opens out to the south onto the Levels. However the views from the south would be distant and filtered through intervening vegetation. The same is true of views from surrounding higher ground such as Wilcrick Hill and land around Llandevaud. In essence the visual and landscape impact would be limited to the immediate locality around the site and would be limited to within 1Km of the site and often less than this. However within this limited area the building and paraphernalia would be inescapably prominent.

7.4.3 Policy SP5 (Countryside) requires that:

Development in the countryside will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Housing development, rural diversification and rural enterprise uses, beyond settlement boundaries, will only be appropriate where they comply with national planning policy.

Policy GP5 (Natural Environment) requires that *there would be no unacceptable impact on landscape quality.*

7.4.4 In terms of visual amenity Policy GP2 (General Amenity) requires:

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.

7.4.5 In terms of use the proposed development is for agriculture and is appropriate in the countryside. The development will be typical of modern agricultural buildings in terms of its appearance and chosen cladding materials. In terms of scale the building is large and no other agricultural buildings in the vicinity are of a similarly large scale. The industrial buildings on the retained Llanwern Steelworks are of a larger scale still and although visible from locations near the site views are often filtered and distant. The over-riding perception of the site and its surroundings is of rurality and tranquillity although areas to the north have some breakthrough of white noise from the M4 motorway. The applicant has suggested that the profile of the building can be broken up by planting and that sufficient room exists between the building and the roadside along the site's western boundary for a significant planting belt. This would reduce the landscape and visual impact of the proposal when viewed from the lane and from the Public Rights of Way to the west of the site however information the applicant has submitted show this having a limited impact and planting will take time to develop leading to substantial disruption to the landscape and visual amenity in the interim which will not be even partially mitigated for several years. Given the scale of the development and its proximity to publically accessible locations even well-established planting will not fully screen the development and significant on-going adverse impact in visual and landscape terms will result should the development proceed. The Council's Landscape Officer does not agree with this assessment but ultimately it would be a point of

judgement and an appeal decision for a similar development has concluded planting will not always provide adequate mitigation.

- 7.4.6 The character of the site and its surrounding vicinity is rural and very pleasant with limited intrusion from man-made structures, principal amongst these being Castle Farm Barns which is a complex of converted farm buildings and Castle Farm itself which consists of a farmhouse and some more modern sheds. However none of these structures are at the scale of the proposed shed due to its length. Landmap is confirmed in Planning Policy Wales 10 (PPW10) as an important information source in terms of assessing landscape character and in informing development management decisions. PPW10 notes how Landmap can inform the identification of local landscapes of importance such as Special Landscape Areas but it also confirms all landscapes within Wales are of importance with Paragraph 6.3.3 stating:

All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places.

The application site and its surrounding area are not a Special Landscape Area but this does not mean the local landscape is inherently without merit and is not worthy of preservation although in any planning decision that desire for preservation would carry less weight than in an area benefitting from a landscape designation. Landmap's 'Visual & Sensory' layer identifies this site as falling within the Llanwern Park aspect area which is assessed as being of 'moderate' value but in 'good' condition. Overall the landscape is attractive and is described as:

Gently undulating rounded hills rising from the levels at 10m AOD to 60-80m AOD. The area is primarily pastoral and fields are small to medium scale enclosed by cut hedges and trees. Most fields have sinuous boundaries while others are rectilinear. Blocks of deciduous woodland are noticeable and give emphasis to the hillsides in places, and are prominent from the M4. Settlement is a combination of clustered villages, a relatively recent estate at Underwood, and scattered farmhouses. Llanwern Park Farm is surrounded by a parkland landscape. The M4 adjacent is a source of noise and movement in an otherwise tranquil area. This road allow views into the area making it an important approach to Newport. Views from the area to the south are dominated by the Llanwern complex. The area is generally well managed.

- 7.4.7 The development will be particularly prominent from the lane between Bishton and Underwood due to the close proximity of the building to the lane. As previously noted the appellant's information does not suggest planting will be effective in mitigating the harm down to an acceptable level. The building will remain prominent to users of the lane and to users of the public rights of way to the west of the site (see following section relating to these footpaths).
- 7.4.8 A recent 2018 appeal (G6935/A/18/3205316) at a site approximately 300m from this site (Wellsworth) was dismissed. The appeal site was closely located to this site in a field on the northern edge of Bishton so although not in the same visual envelope (due to changes in topography and intervening vegetation) the appeal site lay in the same Landmap Character Area (Llanwern Park). In that appeal the proposed agricultural shed was at a much smaller scale than the unit proposed in this application having a footprint of 14m by 5.5m and a maximum height of 3.8m (3.2m to the eaves). Like this proposal the shed was located close to Bishton lane and relied upon planting to screen it from wider views. Local Public Rights of Way would have had restricted views into this site with the main view being from Bishton lane.
- 7.4.9 In this case the Inspector noted that the site was in clear view of the lane notwithstanding 'a mature hedgerow of considerable height' between the lane and the field in question. The Inspector noted an earlier appeal Inspector had concluded the following in relation to the character of the site:

'Given the landscape qualities of the immediate area, agricultural buildings need careful siting in order to avoid any adverse visual impact. As it does not seem that any substantial landscape changes have occurred since 2016 I concur with this assessment.

The Inspector then went on to conclude the development was unacceptable in context reasoning in the following way:

The appeal building would interrupt views from the lane to the fields to the north, a characteristic it shares with the 2016 proposal. Neither the proposed beech hedges marking the widened site access, nor the heavy landscaping immediately south of the appeal building, would offer any notable visual mitigation in this regard. Nor am I persuaded that the proposed landscaping would adequately screen the visual impact of landform modifications necessary to accommodate the building's apron.

Despite being sited on a low part of the field, the appeal building would significantly limit the open views to the north which make a positive contribution to the area's character and appearance. It would also relate awkwardly to the site's prevailing topography, disrupting natural landscape features. Such factors would cause visual harm which would not be outweighed or reduced by the building's timber cladding, design or height. As the landscaping would be likely to be mainly deciduous, the resultant visual harm would be particularly apparent during winter months.

- 7.4.10 The current application bears similarities with the dismissed appeal scheme by its proximity to Bishton lane and its reliance upon intervening vegetation for screening effect. Although there would be no significant modification to the landform in this case the proposed unit would also require a significant 'service' area which would also be prominent when the site was viewed from Bishton lane, especially from the north. Both schemes would disrupt the views towards open countryside although that impact would be much greater in the case of this proposal due to the scale of the scheme. The Inspector went on to consider the utility of the appeal scheme and considers how this might outweigh the landscape and visual harms that he had identified but ultimately concluded the scheme's benefits were outweighed and dismissed the appeal.
- 7.4.11 In terms of siting, the applicant has engaged with the Council's pre-application service initially asking the Council to consider the merits of the application site and another adjacent to the existing farm complex at Castle Farm. The Council did not dismiss the application site as unacceptable but did consider that the alternative site was the better one in terms of its landscape and visual impact notwithstanding that the alternative site was slightly elevated in comparison to the appeal site. It was considered some of the impact on rural character could be mitigated by the presence of the existing farm complex and could be further reduced (but not entirely eliminated) by planting which might offer opportunities for ecological enhancement. It was advised that should the application site be advanced any landscape and visual harm over and above any alternative sites that were available would need to be shown to be outweighed by advantages that accrued on that particular site. The need for careful site selection in order to minimise harm to rural character advised by the Council reflects the stance taken by the Inspectorate at the 'Wellsworth' appeal. The applicant initially did not explain, as part of this submission, why this site was selected when it was known other sites available to him would have reduced the overall landscape and visual impact of the scheme consequently reducing harm to landscape and visual amenity. The chosen site inherently leads to a higher degree of landscape and visual harm than might otherwise have been caused by the selection of an alternative site that is available to the applicant.
- 7.4.12 Since the initial publication of this report the applicant has addressed the question as to why his chosen site is preferable to the alternative site he initially considered adjacent to the existing farm complex. The applicant is of the view that he is under no policy obligation to consider any alternative sites, this is correct. However the applicant is aware that the Council's officers have objected to the chosen site on landscape and visual impact and was anxious to demonstrate no better site was available to him where these concerns would be overcome. In effect the Council advises the Committee that the application site is unacceptable. Officers are not suggesting the site is acceptable but a better alternative exists, a point the applicant appears not to have grasped. In short he is of the view the scheme's benefits can only accrue at the chosen site and nowhere else within his holding.

The document 'Alternative Sites – Additional Information' considers the two possible sites that were initially mooted. The document initially referenced a waste facility (prior to correction) and appears to have been repurposed from another submission but it concludes that the chosen site is preferable since the site adjacent to the existing farmstead would need excavation works to produce a level platform and would be nearer dwellings in the barn conversion complex (140m from shed centre to Windsong Barn as opposed to 240m from shed centre to the Old Granary).

- 7.4.13 The assessment concludes that the farmstead location would have a greater landscape & visual impact that could not be successfully mitigated and would be more adverse if its effects on residents due to its location closer to the nearest dwelling (excluding Castle Farmhouse itself). The applicant also notes there would be greater impact on public rights of way than the chosen location.
- 7.4.14 However these conclusions are questionable. It is correct that the farmstead location would be slightly more elevated than the application site and that there is a slope to deal with. However the site is already developed and contains modern sheds although at a smaller scale than what is proposed. Also it is not clear why the applicant thinks landscaping which he judges to be entirely effective in the proposed location would be ineffective in screening the alternative site. The applicant concludes the impact on dwellings would be greater but contends noise and odour are manageable and therefore would remain so at the alternative location. In terms of visual impact, the farmstead location would be separated from the dwellings by the existing farm development so the visual link is broken and as noted could be reduced further by planting. Additionally the alternative site is not nearer public rights of way than the proposed site so no greater impact could be anticipated in relation to these. The chief benefit of the alternative site in the Council's view is in preventing the spread of significant built development onto detached parcels of land. The applicant also mentions bio-security noting it is not appropriate to mix chicken pastures with other animals but it is not clear why the applicant would not be able to relocate grazing animals onto alternative pastures just as he would in the event the proposed site was developed. In short whichever site is developed grazing animals will be precluded from some part of the landholding that is currently available to them but will be occupied by chickens in the future. This appears to be a zero sum game, some part of the holding will need to be given over exclusively to chickens whichever site came forward.
- 7.4.15 The applicant has submitted a Landscape & Visual Impact Assessment (April 2018) which considers views of the site from various locations and assesses the impacts of the scheme against a matrix of magnitude of change versus sensitivity of the receptor. The overall effect varying from Major to Imperceptible. However the LVIA does not describe how location/viewer sensitivity or magnitude of change are assessed. Inevitably such assessments will be based in professional judgement and like planning judgement that will vary between persons. In terms of the location sensitivity a wind turbine appeal at Castle Farm described this aspect area as being of medium sensitivity (page 32 of the wind turbine LVIA). This was defined as an area of moderately valued landscape having some evidence of alteration or degradation and being analogous to a Landmap 'moderate' category; for clarification, this aspect area is classified as moderate by Landmap.
- 7.4.16 However this appears to have been based on the entire aspect area which includes a much wider area. As the applicant notes this section of the aspect area is much more self-contained and visual detractors such as HT lines, solar development, the M4 and retained Llanwnnog steelworks are not prominent within this 'pocket'. There are longer views out to the Gwent Levels and there are more distant views of the Llanwnnog works but within the pocket there is limited development with the most obvious structures in the vicinity of the site being Castle Farm Barns, Castle Farm and its outbuildings and an isolated agricultural shed about 250m north of the application site. As such this part of the Llanwnnog Park Aspect Area might be categorised as being of higher landscape value than the aspect area in general terms. Arguably this part of the aspect area is of medium/high sensitivity with a lower tolerance to change and few/no existing visual detractors present. Consequently the submitted LVIA may have understated the sensitivity of this part of the Llanwnnog Park Aspect Area.
- 7.4.17 The submitted LVIA considers the Gwent Levels National Landscape Character Area which is a large landscape block running from Chepstow to the edge of urban Cardiff as the

landscape block to be assessed. The Llanwern Park Aspect Area is a much smaller part of this much larger area. The application LVIA concludes the magnitude of change to the landscape caused by the development would be moderate or less and result in a landscape impact of moderate / minor significance reducing to minor / negligible significance as the proposed planting grows. However this is predicated on medium landscape sensitivity and moderate magnitude of change. As noted there are concerns that a more focused assessment of the particular part of the landscape that is affected would conclude that it is of higher sensitivity than the applicant claims and therefore the significance of the change would be greater than assessed. Assuming a high/medium sensitivity and a magnitude of change that is also medium/high (prominent level of change to landscape elements) then the overall significance of the landscape change would be major/moderate – the proposal would be out of scale with the landscape character and noticeably alter the landscape feature. Officers conclude that the significance of the landscape change would be greater than the applicant has assessed. Consequently the resultant landscape harm would attract more weight than the applicant's assessment of a lesser degree of harm would suggest.

- 7.4.18 Officer's do not question that agricultural developments are appropriate in the countryside but it does not follow that all agricultural developments are acceptable. Nor does it follow that all large-scale sheds are unacceptable. The applicant can point to many successful applications for sheds of this scale and even larger schemes. It is clear that in the appropriate rural context such developments are acceptable. However it is equally clear that where agricultural development has significantly adverse visual and landscape (character) impacts then they may be refused and appeals dismissed. Appeal W1850/15/3129896 in Dorstone Herefordshire was for two sheds to contain 80,000 broiler chickens. In that case the appellant was of the view that the development would have a medium adverse impact on landscape but the Inspector concluded at Paragraph 15:

To my mind the development would appear isolated in this landscape and given the timescale it would take for any planting to screen the units, at least for the first few years, would be stark and severe. Set amongst flat, open farmed fields, it would have an immediate negative impact in the landscape, which would only be partially reduced by any existing and proposed landscaping. I also have concerns that the 'juniper green' cladding would fail to integrate into the landscape, particularly given the palette of colours/materials on surrounding rural buildings, adding further weight to my concerns.

In this case the proposed sheds would have been seen against the backdrop of existing large agricultural buildings and set well back from roads so arguably much better sited than this proposal. However the Inspector identified landscape harm beyond that found by the applicant and questioned the effectiveness of screening vegetation especially in the short term. This is analogous to this submission and confirms that large scale agricultural buildings can be unacceptable if ill-sited even within non-protected landscapes.

- 7.4.19 In terms of the Bishton lane the applicant's LVIA concludes that the impact on users would result in a visual impact of minor significance to motorists but this view was taken from the north of the site and predates the revisions to the scheme to move the site entrance to the northern end of the site. The argument that intervening landform and vegetation would screen the site would remain unchanged. However it is clear that the shed will be highly visible from the sections of the lane nearest to it and the proposed screening would not be effective in obscuring views of the northern end of the proposal. That said the applicant controls the fields to the immediate north of the shed and any landscaping could be conditioned to wrap around the northern end of the site reducing the impact. In terms of drivers the overall effect will be low due to the speed of movement and the limited attention that drivers can be reasonably expected to show to peripheral views (medium/low sensitivity).
- 7.4.20 However the lane is a quiet rural road and other non-motorised users can be expected. Manual for Streets stresses such places as providing functions other than just movement: walking, cycling and horse riding (Paragraph 2.2.7) can be expected. The LVIA methodology would assess such users as being of medium sensitivity, given a magnitude of change in the view that was medium/high then the significance of the effect on visual amenity for these users would be moderate which is described as being a change that is readily apparent and at variance with the existing view. This is judged a fair assessment in relation to users of the

lane who are not in motor vehicles. Clearly there would be a worsening in the view for such users of the lane would should attract moderate weight in the planning decision.

7.4.21 In conclusion Officers consider that the overall impact on the landscape character would be greater than assessed in the applicant's LVIA and would be more harmful than acknowledged by the applicant. It is acknowledged that the landscape has no protective designation but that lack although going some way to mitigate negative landscape impacts does not remove them or diminish them to the point that they would have little weight in any planning decision. PPW10 is clear that all Welsh landscapes merit protection and enhancement although the level of that protection will be tempered by the sensitivity of that landscape to change and the sensitivity of those interacting with that landscape. Officers conclude that there will be a substantially adverse landscape impact within this part of the Llanwern Park Aspect Area and adverse impact upon non-motorised users of Bishton lane contrary to Policy GP5 adverse impact on visual amenities of users of lane contrary to Policy GP2.

7.4.22 Since the initial publication of this report the applicant has also provided additional comments on landscape and visual impacts in effect confirming his stance that the landscape is of moderate sensitivity and effects are limited and likely to reduce over time as planting grows.

7.5 Tranquillity

7.5.1 Planning Policy Wales 10 (PPW10) raises the issue of soundscape¹ as an aspect of character. Rural areas generally are less noisy than areas within the urban boundary but can still experience noise from adjacent industrial areas, roads & other transport corridors, overflying aircraft or agricultural operations. In the vicinity of the site there is occasional breakthrough of noise from the M4, especially to the north of the site and from passing traffic on Bishton lane. Noise from the South Wales mainline railway and the retained Llanwern works is much less noticeable. However the soundscape is still distinctly rural featuring birdsong and the sound of farm animals (adjacent fields being pasture). The proposal will introduce greater activity in the locality including road noise from vehicles, the operation of plant on the site and sounds from the birds themselves. However the low level of traffic generation in combination with the limited noise of the proposed plant (which could be controlled by condition) and the limited operational activity within the site (other than flock change over) means that no significant harm to the local soundscape can be expected. Policy GP7 is complied with.

7.6 Noise

7.6.1 The shed would be equipped with 12 no. extraction fans that would be mounted on the roof and gable ends. These are to cool the building when there are higher temperatures. The applicant has provided a 'Plant Noise Assessment' (January 2019) for the site. The assessment makes assumptions about the fans to be installed since they have not been specified yet. However the modelled plant is typical and the reports conclude that the impact of the fans on the noise environment would be low or negligible during the day (depending on which fans are running) and negligible during the evening and night. The report notes that the ridge fans will run as needed, that is not all of them and not all of the time and that the gable mounted fans will only run when it is particularly hot. In short all the fans will run when it is particularly warm (over 23 degrees centigrade) but not otherwise.

7.6.2 The Public Protection Manager has not objected but advises conditions to control the fans installed on the unit in the interests of limiting noise and he also recommends that larger vehicles do not access the site between 19:00 and 07:00. The latter requirement is not considered necessary due to the infrequency of HGV access and the potential benefits of allowing access at times when the lane is likely to be very quiet with minimal traffic on it. The nearest dwellings are approximately 200m away so the risk of disturbance of any significance would be low and infrequent and akin to normal agricultural use of the site and the surrounding land. As such this condition is not considered necessary. Subject to a condition controlling the fan noise from the site, rural character and residential amenity can

¹ By which we mean the acoustic environment as perceived or experienced and/or understood by a person or people, in context (ISO definition)

be protected in relation to noise. Policies SP5 (Countryside) and GP2 (General Amenity) are complied with.

7.7 Odour

7.7.1 The applicant has provided a 'Dispersion Modelling Study of the Impact of Odour' (January 2019). The model concludes that odours from the site will be *below the Environment Agency's benchmark for moderately offensive odours, which is a maximum annual 98th percentile hourly mean concentration of 3.0 ouE/m3, at all residential receptors considered*. In this case consideration was given to the nearest residential properties at Castle Farm Barns.

7.7.2 The Public Protection Manager has reviewed the model and does not object to the application. As such Policy GP2i (odour) is complied with since there would be no significant adverse effect on local amenity.

7.8 Access & Highways issues

7.8.1 The proposed access is at the northern end of the site where there is an existing field access. Speed surveys show that appropriate visibility can be provided in both directions although existing hedges would need to be removed to open up the required visibility splays. The applicant has confirmed all the necessary land to provide the required visibility is within his ownership. Removal of the hedges would have an adverse impact on landscape and rural character but the conditioning regime could secure the replacement of the lost hedges and their future retention. There is no evidence that the hedge removal and replacement would be unacceptable in ecological terms. Overall suitable and safe access can be provided to the site for the vehicles that are proposed to be using the access.

7.8.2 In terms of the proposed parking and circulation area, it is clear that the proposed landscaping shown in Drawing RJC-MZ194-06 (Landscaping Plan) would be compromised by the revised access arrangements. However alternative planting can be sought under condition and there is no indication that provision of a suitable planting scheme would restrict the HGV turning area to the extent that a vehicle could not turn within the site. As such subject to conditions to deliver alternative planting arrangements and to ensure the delivery of the hardstandings, albeit in a modified form from that shown in the revised access arrangements then sufficient circulation and parking space would be available within the site whilst retaining some room for landscaping along the roadside. Policy GP4 (Highways & Accessibility) is complied with alongside Policy GP5vi (Landscaping).

7.8.3 The Head of Streetscene (Highways) has objected to the proposal as follows:

It's determined that increased vehicle movements along Bishton Road would be detrimental to highway safety. I must therefore object to the application and recommend refusal.

In this case the proposed vehicle movements that will access the site are:

- Feed delivery via HGV 3 times a month (rigid body, 6-8 wheeler);
- Egg collection via 7.5 tonne van three times a week;
- Flock removal / delivery by 2 articulated HGVs every 14 months;
- Daily movements by the workforce (no additional workers above those already on the farm are expected).
- Movement of manure (1no. covered trailer per week)

7.8.4 The applicant installed automatic traffic counters on the lane and established that the average week day movements along Bishton Lane amounts to 317 cars (this is summation of flows in both directions). This does not mean there would not be the occasional larger vehicle or farm traffic but it is clear the lane has low traffic flows and they are primarily smaller vehicles. The section of lane between the site and Underwood is narrow and lacking in forward visibility but there is a sequence of passing spaces and the lane is not so narrow as to preclude convenient passing. The proposal will add larger vehicles into the transport network but in low numbers and infrequently. Overall despite the Head of Streetscene's concerns on balance it is not considered that the impact on the highway network would be sufficiently severe or frequent to justify refusing the application. The greatest risk of traffic

conflict arises from the articulated vehicles bringing in the new flock but this is a once a year event and the impact is considered acceptable on such an infrequent basis. The applicant has offered to accept a condition that restricts HGV access to the site from the north only. This is considered appropriate. Subject to this conditional control there would not be an unacceptable highway impact if the proposal were to go ahead and Policy GP4vii (Highway Safety & Traffic Generation) is complied with.

7.9 Manure Management

- 7.9.1 Under the proposal the chickens will range outside in a controlled way moving from one pasture to another to avoid over-grazing and fouling of the pasture. As such there is no expectation of excessive manure build up on the land through the outdoor activities of the birds.
- 7.9.2 The manure in the shed will fall from the perches onto a conveyor which will be operated weekly to remove the manure to a holding trailer. The manure is to be exported from the site either to anaerobic digesters or other nearby farms where there is scope to spread the manure. The applicant has suggested a condition precluding manure spreading on the unit to ensure this happens. Initially it was proposed to spread manure on the farm alongside the export of manure.
- 7.9.3 However very shortly before the application was to be reported to the June Planning Committee an Appeal Court Decision (Case No: C1/2018/2122) was issued in relation to the issue of manure spreading from poultry units and the odour and dust that would arise from that activity. The applicant had not addressed that issue in their submission and requested the application was not reported pending their assessment of that issue. The court concluded that it was necessary to assess the amenity implications of manure spreading both on and off the unit in terms of odour and dust generation. This submission had not done this and the resultant gap in information meant that a material consideration was not adequately addressed. In the case considered by the court the Council had depended on the fact manure could be spread on land anyway and was controlled by good practice documents and in that particular case by the environmental permitting regime. The court disagreed and concluded:

Paragraph 73 - The simple point here, therefore, is that neither the Public Protection Officer's comments nor the planning officer's own appraisal – nor indeed the Environment Agency's consultation response – expressly recognized the need for a meaningful assessment, in the EIA for this development, of the likely effects of odour from the disposal of large quantities of poultry manure – some 2,320 tonnes a year on farmland outside the application site, including some 1,150 tonnes on unidentified third party land. Neither acknowledged that such an assessment was required before planning permission could properly be granted for the proposed development. Neither went beyond generalities. And neither made good the lack of assessment in the environmental statement. Ultimately there was nothing within the environmental information for this project that qualified as a proper assessment, in accordance with the EIA regulations, of the effects of odour from the storage and spreading of manure.

The Court then went on to confirm the same concerns related to dust, as well as odour.

- 7.9.4 In this case the applicant has sought to short circuit the manure spreading issue by committing to a planning condition preventing manure spreading on his holding and weekly removal of manure from the unit by covered trailer. The applicant has also shown that local anaerobic digesters would have the capacity to take the manure generated by the unit and offers this as a solution to the environmental concerns that would arise from offsite manure spreading.
- 7.9.5 Prevention of spreading on the unit would protect local amenity in terms of dust and odour from manure spreading. A requirement to dispose manure to anaerobic digestion would be neat and is currently feasible on the evidence that the applicant has provided. Officers consider that a condition requiring that manure arising from the chicken shed is sent to anaerobic digestion could be applied alongside the maintenance of a log identifying quantities of manure removed from the unit and the destination it was sent to so that a ready check could be made in the event a complaint was received that manure from the unit was

being spread on third party land, rather than being disposed of to anaerobic digestion. In the event that no manure was to be spread on the farm or any third party land then the environmental concerns related to manure spreading would not be an issue.

- 7.9.6 In terms of manure storage the submission explains that manure within the shed will be removed by a conveyor system every 4 days and then stored on site pending off-site disposal. The applicant has suggested in extreme weather the manure can be removed to a covered manure store on an impermeable base which will limit the risk of polluted run-off impacting on local water courses, however officers consider that a conditional regime would be needed to control manure storage to ensure is appropriate and risks of pollution are effectively controlled. There is no reason to think that suitable manure storage arrangements cannot be provided within the farm thereby protecting residential amenity and the wider environment from polluted run-off, odour and dust which could ensue from manure stores.
- 7.9.7 In terms of national advice units contain less than 40,000 birds are not subject to the Environmental Permitting Regime. However in June 2018 the Welsh Government wrote to Local Planning Authorities directing them to the advice held in CNC/NRW Guidance Note GN20 'Assessing the impact of ammonia and nitrogen on designated sites from new and expanding intensive livestock units'. Although it is clear that the note is primarily for the use of CNC/NRW in assessing permit applications or advising on planning applications the note goes on to say that '*It (the note) can also be used by local authority planning officers to help assess planning applications*'. Therefore it appears that this advice amounts to a material planning consideration particularly in the case where intensive agricultural units such as this one do not meet the permitting thresholds, which this one does not.
- 7.9.8 The advice is technical and is clearly intended to primarily inform the permitting process rather than planning applications that fall below the permitting threshold. The applicant has provided a dispersion and deposition model for ammonia which appears to be based on the CNC/NRW guidance. The model ambiguously concluded the following:
- Where there is a predicted exceedance of the Natural Resources Wales lower threshold percentage of Critical Level or Critical Load at a SSSI, but the upper threshold is not exceeded, the proposal may or may not be deemed acceptable, depending on the presence, or not, of other installations that may have in-combination effects, background ammonia concentrations and the sensitivity of the wildlife sites involved.*
- 7.9.9 The applicant subsequently provided an in-combination assessment that concluded there were no other intensive agricultural operations going on within 5Km of the site and no further consideration was needed in relation to in-combination effects in relation to ammonia / nitrogen. This document was provided to support an EIA screening request made to the Welsh Government following the Council's own screening that concluded the proposal was EIA development. In essence the Welsh Government has already determined that the ammonia / nitrogen production from this development proposal is unlikely to have any significant environmental effect either on its own or in-combination with other developments within 5Km in relation aerial deposition or via run-off.
- 7.9.10 In terms of consultation the Public Protection Manager notes that the proposal is below the threshold that would trigger the need for a Pollution Prevention and Control permit and does not comment further. CNC/NRW have no objection to the development noting that the ammonia dispersion model shows upper limits at statutorily protected sites (the Gwent Levels SSSIs) would not be exceeded but caveating that this assumes no in-combination effects can be expected. In a further comment to the Welsh Government made in relation to the EIA screening request CNC/NRW advise that since no in-combination effects can be identified then there is no significant risk to the Gwent Levels SSSIs. Dwr Cymru / Welsh Water advise the site is in an area which is a protected drinking water catchment but do not object to the development.
- 7.9.11 Overall no reasons can be found to object to the proposal in terms of the management of manure from the birds. No unacceptable harm can be identified in terms of ammonia / nitrogen in terms of aerial deposition and run-off. There is no objection on the basis of odour from the shed itself and a Manure Storage Plan will adequately manage the storage of manure on the farm pending offsite disposal to anaerobic digestion. The disposal to

anaerobic digestion can be conditioned as part of any approval. Policy GP5 (Natural Environment) is complied with since harm to nationally protected sites (SSSIs) will be avoided and there would be no unacceptable harm to water quality. Policy GP2 (Amenity) is met since the management of manure will not have an unacceptable impact on amenity via odour or dust nuisance.

7.10 Impact on the setting of MM128 (Bishton Castle)

7.10.1 The proposal is within 200m of the site of MM128 Bishton Castle which is described as:

The monument comprises the remains of a motte and ditch, dating to the medieval period (c. 1066 -1540 AD). The site consists of a semi-circular scarp on the E and S sides of a natural ridge. At the top of the slope the ground appears to have been levelled with two roughly rectangular level areas possibly corresponding to the location of buildings. The monument is of national importance for its potential to enhance our knowledge of medieval defensive practices. The monument is well-preserved and an important relic of the medieval landscape. It retains significant archaeological potential, with a strong probability of the presence of both structural evidence and intact associated deposits. The scheduled area comprises the remains described and areas around them within which related evidence may be expected to survive.

7.10.2 There are no surviving features above ground and CADW have responded confirming they agree with the applicant's assessment that the setting of the monument will be very slightly adversely affected.

7.10.3 Planning Policy Wales Edition 10 (PPW10) states:

The conservation of archaeological remains and their settings is a material consideration in determining planning applications, whether those remains are a scheduled monument or not.

7.10.4 Where there is a direct adverse impact on a Scheduled Monument (a site of national importance) PPW advises that permission should only be granted in exceptional circumstances. In this case there would be no direct impact and so this direction would not apply.

7.10.5 Where remains are less significant (than national importance) planning authorities are advised to weigh the relative importance of the archaeological remains and their settings against other factors, including the need for the proposed development.

7.10.6 Technical Advice Note 24 (The Historic Environment) advises at Paragraph 1.29 '*The local planning authority will need to make its own assessment of the impact within the setting of a historic asset, having considered the responses received from consultees as part of this process. A judgement has to be made by the consenting authority, on a case-by-case basis, over whether a proposed development may be damaging to the setting of the historic asset, or may enhance or have a neutral impact on the setting by the removal of existing inappropriate development or land use*'.

TAN 24 also advises that mitigation such as landscaping can overcome adverse impacts in relation to developments and the setting of historic assets.

7.10.7 The applicant has provided the document 'Bishton Castle MM128 – Impact on Setting of Historic Asset' (May 2019). This confirms intervening vegetation including mature trees forming a grown out hedgerow / small copse mean that the shed will barely be read in conjunction with the monument from publically available views and perhaps not at all since views from Bishton lane and local footpaths towards the monument are highly curtailed. This is especially the case given that the monument consists of earth ramparts and there are no above surface remains. It is likely that the gable of the shed could be viewed from the monument above the trees but very little of the shed would be visible given the maturity and thickness of the hedgerow with some slight worsening in winter when leaves have been lost. However the monument is on private land and this view will be unavailable to most people other than the residents at Castle Farm barns who may have glimpses of this view as they use their access lane. The document assesses the harm to the setting of the monument as

very low negative. Officers agrees with this due to the almost complete lack of visual connectivity between the application site and the monument. This slight negative impact is not considered to carry much weight in the planning judgement and certainly would not be determinative unto itself; however it does go against the proposal in the overall balancing of the submission.

7.11 Archaeology

- 7.11.1 The applicant has undertaken an archaeological evaluation. The Glamorgan & Gwent Archaeological Trust have considered the results and advise that subject to a condition requiring a scheme of historic environment mitigation to be agreed and then implemented. Policy CE6 (Archaeology) is complied with.

7.12 Lighting

- 7.12.1 The applicant describes highly limited lighting on the site with low intensity lights being installed on the gable ends of the shed. Lighting would only be on during working hours and during bird catching. As such the proposal will spread lighting into an area that is currently unlit. The applicant suggests the land is intensively farmed and is frequently lit at night to facilitate agricultural operations. The site visit suggest this is most unlikely and no weight can be given to this. However subject to a condition requiring the specification of the installed lights and controlling their hours of operation the harm to rural character from lighting would be very limited and would not be unacceptable. Policy SP5 (countryside) is complied with in relation to lighting.

7.13 Impact on local PRowS

- 7.13.1 No PRowS cross the site but several on the west side of the road overlook the site from an elevated position. The scale of the shed and the limited impact that the proposed planting will have will result in a significantly adverse impact on the amenity of users of these rights of way due to the unmitigated visual impact of the development.
- 7.13.2 Currently the views to the available from the footpaths west of the site (388/3/1 & 388/2/2) towards the east are across undeveloped countryside with no substantial visual intrusions from any development within those vistas. Other views encompass the converted barns at Castle Farm and that farmhouse and associated buildings but again the context is thoroughly rural with limited built development of no more than moderate scale within the immediate vicinity. There are distant views of the retained Llanwern Steelworks but these are not unduly prominent within the view.
- 7.13.3 Appeal G6935/A/15/3070024 for a 77m wind turbine at Castle Farm was dismissed in part due to the impact of the proposal on the local public rights of way network which would include the footpaths impacted upon by this development. At Paragraph 12 of that decision, the Inspector said:

I am also mindful of the network of public rights of way that lie between the village and the appeal site. It was evident from my visit that the routes are used recreationally and include sections that cross fields that abut the appeal site field. The enjoyment of these routes would be severely affected by the presence of the turbine and its sweeping blades.

It is evident that in the mind of the Inspector the scale of the proposed turbine per se (rather than just its movement) would have an adverse effect on the enjoyment of these routes and so opened up the possibility that other large structures could do likewise. This proposed shed is indisputably large in context at almost 150m long. The Inspector also confirmed the steelworks is not prominent in many views around Bishton and its environs (Paragraph 13) which is the case in relation to this site which is quite visually contained.

- 7.13.4 In terms of the submitted Landscape & Visual Impact Assessment, this concludes that the magnitude of change caused by the development to walkers in the local public rights of way network would be initially moderate reducing to slight over time. The LVIA classes walkers as of high/medium sensitivity and concludes the overall significance on the change in the

views experienced by walkers would be initially moderate and would reduce to moderate/minor over time as screening establishes.

- 7.13.5 In the previous wind turbine appeal near this site recreational walkers on this particular route were classified as medium sensitivity since the route lies outside any designated landscape. However as users of recreational facilities with a high interest in their surroundings such walkers might be more properly seen as medium-high sensitivity and in the LVIA submitted with this application the applicant has arrived at that conclusion. In terms of the magnitude of the impact anticipated this is likely to be medium-high under the terms of reference of the LVIA submitted with the wind turbine appeal since the *'Receptors would experience an apparent change to their views. The proposed development would be prominent in views or would be perceived as the determining factor within the field of view and be difficult not to notice'*. However the LVIA submitted with this appeal is not directly comparable to that LVIA since the terms used differ and in this LVIA the terms are not defined. As such in terms of this LVIA it is difficult to assess whether the magnitude of change is moderate or substantial since those terms are not qualified in any way.
- 7.13.6 Overall it is difficult to understand how the LVIA has concluded the magnitude of change is moderate rather than substantial since those terms are opaque so there is a clear risk that the overall impact on the visual amenity of users of local public rights of way could be greater than stated i.e. major/moderate and as such more harmful than assessed within the submitted LVIA. In the wind turbine LVIA² a major moderate effect was described as:

Significance of effect	Landscape character description	Visual amenity receptor description
Major	Where the proposed wind turbine would be noticeably out of scale with the character or noticeably alter a recognised landscape or landscape feature.	Where the proposed wind turbine would be uncharacteristic or would substantially alter a valued/ very important view or view of high quality.
Major-moderate	Where the proposed wind turbine would be out of scale with the character or noticeably alter a landscape feature.	Where the proposed wind turbine would be out of scale or at odds with the existing view and would noticeably alter a local view.
Moderate	Where the proposed wind turbine would be at variance with the character and/or landscape elements.	Where the proposed wind turbine would be readily apparent and at variance with existing view.

In terms of the visual amenity of recreational walkers it seems very likely that the proposed shed would have major-moderate impact being out of scale with the existing view and noticeably altering a local view. The proposed shed would be noticeably out of scale with existing agricultural buildings in the vicinity and would be separated from existing building groups in a view generally lacking such isolated buildings. There is an isolated shed approximately 250m from this site but that would not generally be seen in the same view and arguably illustrates the visual harm that accrues from the development of isolated buildings in this area.

- 7.13.7 The applicant notes the benefits that mitigatory planting will bring concluding the overall effect on visual amenity will reduce over time. This is clearly correct but a submitted image showing the effect of mitigation after 5 years confirms that the roof of the building will remain visible and it would remain impossible not to notice the building in the available view even if it is not sky-lined and reads against a backdrop of gently rising ground. Even allowing for mitigation the shed will remain prominent.
- 7.12.8 Although the degree of visual impact for recreational walkers is arguably worse than assessed in the submitted LVIA there can be no doubt that the impact on visual amenity is adverse even if a lower level of impact is accepted. If the applicant's assessment of moderately significant overall adverse impact on the visual amenity of recreational walkers was accepted, it does not automatically follow that such a level of adverse impact is

acceptable within a planning decision. That impact would need to be apportioned weight and then balanced against other material considerations. In terms of Policy GP2 it is required that a proposal is not detrimental to the character or appearance of the surrounding area or to local amenity in general terms. In this instance the proposal is considered to have an adverse impact on the amenity of users of the local public rights of way network due to its prominence and resultant harm to visual amenity and that this should carry substantial weight. In this respect the proposal is contrary to Policy GP2 of the adopted Newport Local Development Plan 2011-2026 and capable of carrying significant weight in a planning decision.

7.14 Trees

7.14.1 The Tree Officer has requested information in relation to the trees on the site. The applicant has provided a tree survey which identifies that four trees will need to be removed for the scheme to go ahead. All of these trees are in retention category B meaning that they are expected to live and make a contribution for up to 40 years.

7.14.2 The trees that are to be removed are T4, a double stemmed ash, T7 a Field Maple with significant rot in the trunk, T8 an oak with significant rot in the trunk and an imbalanced crown and T9 which is a dead oak that is covered in ivy. All other trees on the site are to be retained. None of the trees are outstanding specimens but they do make a beneficial landscape contribution and offer biodiversity opportunities, for example to deadwood species. The applicant proposes replacement planting to compensate for the lost trees.

7.14.3 The loss of trees within the site is not welcomed but none of the trees is outstanding, other trees are to be retained and the planting scheme offers scope for compensation for the loss of trees. Much of the ecological value comes from the deadwood habitat the trees offer and this can be protected via an Ecological Mitigation Plan (EMP) which would retain the deadwood either on this site or within other land that the applicant has control of. The EMP can also offer enhancement in relation to roosting opportunities for birds and bats which can be conditioned as part of any approval. Planning Policy Wales (Edition 10) requires that:

Development plan strategies, policies and development proposals should be formulated to look to the long term protection and enhancement of the special characteristics and intrinsic qualities of places, be these of natural, historic or built environments, ensuring their longevity in the face of change. This means both protecting and enhancing landscapes, habitats, biodiversity, geodiversity and the historic environment in their own right as well as other components of the natural world, such as water resources or air quality. Problems should be prevented from occurring or getting worse. Biodiversity loss should be reversed, pollution reduced, environmental risks addressed and overall resilience of ecosystems improved.³

As such the EMP can be justified under up-to-date national policy.

7.13.4 Therefore subject to conditional control over tree and hedge removal the proposal would not have an unacceptable impact on vegetation in landscape terms or biodiversity within the site. Policy GP5vii (trees) is complied with.

7.15 Benefits of the Scheme

7.15.1 The scheme has undoubted merit in terms of providing farm diversification and a new income stream for this farm business. The new shed will allow the latest standards of animal welfare to be met and would allow the use of up to date technologies in terms of manure handling, flock management, ventilation and lighting. There would be a wider multiplier in the agricultural economy with increased demand for feed, transport and veterinary services which would all be beneficial. The increased demand for free range eggs could also be met catering for a growing market sector and that demand would be met within the U.K. economy to an overall general benefit.

7.15.2 In terms of broad principle the development is clearly acceptable in the sense it supports an existing farm business. Local and national policy is supportive of such developments and the benefits of the scheme would attract significant weight in any planning judgement.

³ Underlining – Officer's emphasis

7.16 Planning Balance

- 7.16.1 Officers are satisfied that the applicant has shown that issues relating to noise, traffic generation, highway safety, lighting, odour, trees, bio-diversity, manure management & manure disposal and the protection of surface waters can be acceptably dealt with. The merits of the scheme are clear and attract significant weight in the determination process. However there are significant concerns in relation to the impact of the proposal on the visual amenity of recreational walkers using local public rights of way and Bishton lane. Additionally the landscape impact of the proposal is considered to be significantly harmful. Within the site's locality views are contained within something of a visual 'pocket'. This beneficially cuts off views to the wider landscape but means the building will be highly obtrusive within the immediate vicinity. The siting of the building away from an existing farm complex pushes built development into an attractive and pleasing landscape, additionally the building will be readily visible from Bishton lane. The lane is not exclusively used by motor vehicles; foot traffic, cyclists and horse riders can all be expected within this quiet rural lane and the building will be very evident to users of this highway due to its closeness and its bulk. All of these issues could have been addressed by more careful siting. The need for such careful siting has already been identified and confirmed by the Planning Inspectorate in this landscape. There would be a very slight harm to the setting of Bishton Castle but officers afford this very little weight and do not see this as a reason for refusal unto itself but it does against the proposal in the overall balancing exercise.
- 7.16.2 Overall although finely balanced officers consider that the adverse impact on visual amenity particularly of users of the public rights of way in the area and upon the landscape character of the locality mean that the proposal should be refused permission.

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 Permission should be refused due to the proposal's unacceptably adverse impact on visual amenity for users of the local public rights of way network and an unacceptably adverse impact on local landscape character.

10. **RECOMMENDATION**

REFUSED

01 The proposed shed and ancillary structures would have an unacceptably adverse impact on the visual amenities of the users of the local public rights of way network and Bishton lane and is contrary to Policy GP2 of the adopted Newport Local Development Plan 2011-2026.

02 The proposed shed and ancillary structures would have an unacceptably adverse impact on the landscape character of the locality and would constitute prominent and atypical development in the context of the chosen site contrary to Policy GP5 of the adopted Newport Local Development Plan 2011-2026.

NOTE TO APPLICANT

01 This decision relates to the following plans & documents:

- Design & Access Statement
- Figure LV1 – Zone of Theoretical Visibility and Landscape Character
- Figure A – Zone of Theoretical Visibility of Alternative Building Location
- Unnumbered Drawing - Single Application Form (Ranging Plan)
- Viewpoint 2 – Local Road North of Site
- Viewpoints 3 & 4 – Northern Edge of Bishton & Footpath North East of Bishton
- Viewpoints 5 & 6 – Junction of Footpath & Local Road to North, Footpath North East of Bishton
- Drawing RJC-MZ194-01 – Location Plan
- Drawing RJC-MZ194-06 – Landscaping Plan
- Welsh Government Screening dated 11 December 2018
- Technical Note – Highways (27 February 2019)
- Archaeological Evaluation (February 2019)
- Arboricultural Assessment (February 2019)
- Plant Noise Assessment (21 January 2019)
- Dispersion Modelling Study of the impact of Odour (03 January 2019)
- In-combination Assessment
- A Report on the Modelling of the Dispersion and Deposition of Ammonia (07 August 2018)
- Landscape & Visual Impact Assessment (April 2018)
- Lighting Design Scheme
- Management Plan (March 2018)
- Method Statement -Pollution Prevention
- Manure Management Plan (March 2018)
- Noise Management Plan (March 2018)
- Odour Management Plan

- Pest Management
- Pre-application consultation (PAC)
- Transport Assessment
- Bishton Castle MM128 – Impact on Setting of Historic Asset Planning Application 18/0756 (Newport) (May 2019)
- Drawing SK218112-01 REV A - Revised Vehicular and HGV Access Strategy
- Drawing SK218112-03 REV A - Revised Vehicular and HGV Access Strategy _ Hardstanding Area
- Drawing SK218112-04 Rev A - 16.5m Max Legal Articulated Vehicle Left Turn Into Site
- Drawing SK218112-05 REV A - 16.5m Max Legal Articulated Vehicle Right Turn Out of Site
- Drawing SK218112-06 - Rigid Vehicle Left Turn Into Site
- Drawing SK218112-07 - Rigid Vehicle Turning Within Site
- Drawing SK218112-08 - Rigid Vehicle Right Turn out of Site
- Drawing RJC-MZ194-02 – Proposed Elevations & Floor Plan (not including access or hardstanding)
- Drawing RJC-MZ194-03 – Proposed Block Plan (not including access or hardstanding)
- Drawing RJC-MZ194-05 – Proposed Drainage Plan (not including access or hardstanding)
- Alternative Sites – Additional information
- Additional Landscape Comment (Received 23 July 2019)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP5, SP9, GP1, GP2, GP3, GP4, GP5, GP6, GP7, T2 and T4 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 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 archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), (www.archaeologists.net/codes/ifa) and it is recommended that it is carried out either by a CIfA Registered Organisation (www.archaeologists.net/ro) or an accredited MCIfA grade Member.

APPLICATION DETAILS

No: 4 **19/0587** **Ward: ROGERSTONE**

Type: **FULL**

Expiry Date: **29-JUL-2019 (EXTENDED 25-DEC-2019)**

Applicant: **PUNCH PARTNERSHIPS (PML) LIMITED**

Site: **YE OLDE OAK STAVE, RUSKIN AVENUE, ROGERSTONE, NEWPORT, NP10 0AA**

Proposal: **DEMOLITION OF EXISTING BUILDINGS AND THE ERECTION OF 6NO. 4 BEDROOM RESIDENTIAL DWELLINGS, INCLUDING ACCESS, PARKING, LANDSCAPING, BIN STORAGE AND ALL ASSOCIATED WORKS.**

Recommendation: **GRANTED WITH CONDITIONS AND SUBJECT TO A s106 AGREEMENT WITH DELEGATED POWER TO REFUSE THE APPLICATION IF THE s106 AGREEMENT IS NOT SIGNED WITHIN 4 MONTHS OF THE COUNCIL'S RESOLUTION TO GRANT PLANNING PERMISSION**

1. INTRODUCTION

- 1.1 This application seeks the demolition of existing buildings which are known as Ye Olde Oak Stave which has historically operated as a pub, although most recently known as Seasons; and also operated as a coffee shop. The site is located off Ruskin Avenue, within the Mount Pleasant estate. It is proposed to construct 6 no. detached, 4 bedroom houses, with access off the existing road which runs to the north of the application site.

2. RELEVANT SITE HISTORY

03/1726	ERECTION OF TIMBER DECK TO PROVIDE BEER GARDEN WITH DISABLED RAMPED APPROACH TO CAR PARK	Granted
16/0350	RETENTION OF FORMER SMOKING SHELTER TO OFFICE (A2) AND ASSOCIATED ALTERATIONS	Granted with conditions

3. POLICY CONTEXT

- 3.1 **Newport Local Development Plan 2011-2026 (adopted January 2015)**
- Policy **SP1 Sustainability** favours proposals which make a positive contribution to sustainable development.
- Policy **SP9 Conservation of the Natural, Historic and Built Environment** protects habitats and species as well as Newport's listed buildings, conservation areas, historic parks and gardens, scheduled ancient monuments, archaeologically sensitive areas and landscape designated as being of outstanding historic interest.
- Policy **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** supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
- Policy **GP2 General Development Principles – General Amenity** states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- Policy **GP4 General Development Principles – Highways and Accessibility** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be

detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

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

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

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

Policy **H2 Housing Standards** promotes high quality design taking into consideration the whole life of the dwelling.

Policy **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.

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

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

4. CONSULTATIONS

4.1 DWR CYMRU – WELSH WATER: No objection. The proposed development is crossed by a trunk/distribution watermain. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site. A 2m easement from the crown of the main in both directions should be observed and the ground cover above the main should not be changed.

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

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF CITY SERVICES (WASTE): We would anticipate the property will be serviced by standard kerbside and refuse collection. New roads constructed should be of a standard to accommodate heavy goods vehicles. For properties that are to be accessed from the new road the Developer will agree to indemnify Newport City Council against any damage to roads, kerbs, etc in the provision of services.

5.2 HEAD OF CITY SERVICES (TREES): No objection subject to conditions requiring the retention of any existing trees, the submission of a tree protection plan, the installation of root protection barrier fencing and the appointment of an Arboriculturalist to perform a watching brief.

5.3 HEAD OF CITY SERVICES (ECOLOGY): *Following the submission of an ecological enhancement plan:* I am satisfied that there will be no detrimental impact on ecology as a result of the proposals. If you are minded to grant this permission I recommend that you include the Ecological Enhancements Plan (produced by Ecosupport, dated 22nd July 2019) on the approved plans list. This will ensure the development is compliant with policy GP5 by providing new features to encourage biodiversity and maintaining ecological connectivity through the site.

- 5.4 HEAD OF LAW AND REGULATION (ENV. HEALTH): No objection subject to conditions to restrict the hours of construction and the submission of a Construction Environmental Management Plan.
- 5.5 PLANNING CONTRIBUTIONS MANAGER: Sets out the contributions required in accordance with policies SP13 and H4; and the Affordable Housing and Planning Obligations SPG's.
- 5.6 HEAD OF CITY SERVICES (LEISURE): No response.
- 5.7 HEAD OF CITY SERVICES (LANDSCAPE): Professional landscape architect input is required to provide a detailed planting plan which can be conditioned. There may be adjustment needed to tree positions and width/location of planting beds.
- 5.8 REGENERATION, INVESTMENT AND HOUSING (AFFORDABLE HOUSING): The application is for the development of 6 new houses and therefore within the policy of the LDP there is a requirement for a commuted sum for the delivery of affordable housing. I note the applicant has agreed to the provision of £49,536 as a commuted sum, therefore the Housing Department are content that policy has been adhered to for affordable housing.
- 5.9 HEAD OF CITY SERVICES (HIGHWAYS): No objection. Vehicular and pedestrian access would be from a private street leading off Ruskin Avenue. A new footway would be provided on the south west side of the street. Vehicle parking would be in part fronting dwellings and a parking court. The application provides 3 spaces per dwelling plus 2 visitor spaces. Cycle parking is also proposed. This is acceptable. Preference should be given to restricting the parking courtyard boundary treatment height to enhance surveillance of parked vehicles. Similar comments regarding surveillance apply to the footpath, albeit not adopted or a public right of way, flanking plot 6. I would recommend the submission of a CEMP to be approved for both the demolition and construction phases.
- 5.10 HEAD OF LAW AND REGULATION (CONTAMINATION & AIR QUALITY): The former use of the site may have contributed to contamination of the underlying soils. I therefore recommend the full contaminated land conditions are imposed. To encourage the uptake of electric vehicles that will aid a reduction in air pollution, it is advisable that a number of electric vehicle charging points are installed.
- 5.11 HEAD OF CITY SERVICES (DRAINAGE): No response.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties sharing a common boundary and opposite the application site were consulted (35 properties) and a site notice was displayed. 1 representation of support and 4 representations of objection were received.

6.2 Support

- The scheme respectfully and tastefully develops a small number of residential properties;
- Seeks reassurance regarding disruption and mess during construction.

6.3 Objection

- Overcrowding of the land;
- The well used coffee shop would be missed by the community;
- The area of Mount Pleasant has already been greatly impacted by heavy volumes of traffic using the estate as a shortcut to avoid using the M4 and other roads accessing the valleys and Newport and Cardiff. This has resulted in greater noise and air pollution from these vehicles for local residents, due to the increased traffic, as well as highlighting a road safety issue due to the speed that many of the motorists use whilst travelling through the estate;
- The proposed development of the car parks will exacerbate parking problems. This will add to the nuisance and disturbance factors for local residents. A reduction in parking areas will cause encroachment onto neighbouring roads;
- Services such as schools and doctors surgeries are at capacity;

- The road to serve the development is used for safe parking for residents, visitors and the local school;
- Concern over utilities. There is old pipework, will the development cause further problems;
- Loss of views;
- Loss of open space.

6.4 COUNCILLOR CHRIS EVANS: Request that the application is heard by Planning Committee or that it is refused by officers prior to planning committee. I request this after receiving over 20 objections from neighbours who have very real concerns about this development. They are concerned that some of the reasons offered to support the application are factually incorrect, the premises has been used as a coffee shop for over 2 years with no anti-social behaviour. Our community feels the development would cause a nuisance and disturbance to the existing community. The homes nearby may lose privacy and the added noise from extra motor vehicles will cause pollution in an area already impacted upon by heavy traffic due to the recognised failure of the 'improvements' to junction 28. There are no school places in Rogerstone with local parents having to take children to primary schools outside of Rogerstone and this development will not raise enough money to create additional schools places via section 106 contributions.

6.3 ROGERSTONE COMMUNITY COUNCIL: No response.

7. ASSESSMENT

7.1 The application site comprises a part single storey, part two storey building, which is surrounded by garden areas, in association with the use of the building, together with some hardstanding and open landscape areas. The building is currently vacant but it has historically operated as a pub/restaurant. The building is accessed by an un-named road to the north of the site, which comes off Ruskin Avenue. There is a footpath to the south of the site and beyond this there are car parking areas which are currently used informally by the building and the wider public. It is understood that these parking areas are under different ownerships and planning permission was recently granted for the construction of 3 no. houses on the eastern portion of the car park (reference 18/1013).

7.2 The proposals

7.2.1 It is proposed to construct 6 no. detached 4 bedroom houses. Three of the plots would have frontages onto Ruskin Avenue. The houses would be set back around 10m from the road/pavement and the existing strip of landscaping would be retained. Footpaths would be created to provide pedestrian access to the fronts of the houses. Vehicular access to these plots would be off the un-named road to the north of the site. A new access would be created off this road which would lead to parking court. Three parking spaces would be provided for each house, along with two visitor spaces, within this parking court. A footpath is proposed to provide rear access to the houses from the parking court.

7.2.2 The other three plots would face towards the un-named road. They would have rear gardens which back on to the existing footpath to the south of the site. Two of the houses would have a hardstanding providing three parking spaces at the front of the houses. The other house would have a hardstanding to the front and side (within the parking court), which would provide three parking spaces.

7.2.3 Each plot would be enclosed by 1.8m high close boarded fences in the rear gardens. The rear of the parking court where it forms a boundary with the footpath to the south, would have a 0.4m wall with a 1m high fence above. The side boundary of the house closest to the footpath would also have a 0.4m wall with 1.8m high fence above; and the front boundary of this house would have a 0.8m high wall along the footpath boundary. Each plot would have a bin/cycle store in the rear garden. Landscaping would be provided within the parking court, the front gardens and side boundaries of the proposed houses.

7.2.4 Two different house types are proposed. Plots 1 to 3, which face towards Ruskin Avenue would have a double fronted house measuring 7m in width, 9.4m in depth with a pitched roof at a maximum height of 8.6m. They would be finished in facing brickwork, concrete interlocking roof tiles and UPVC windows, fascias and rainwater goods. Plot 4 would have

the same house type but would have a partial hipped roof. Plots 5 and 6 would be slightly larger, with a forward projection. They would measure 8.7m in width, 8.7m in depth and 8.2m in height with a part hipped, part pitched roof. The materials would be the same as those proposed for plots 1 to 4.

7.3 Principle of development

7.3.1 The site is previously developed land within the defined settlement boundary. The building is currently vacant and it is considered that the provision of residential development within the urban area is consistent with policy SP18 of the Newport Local Development Plan and its general brownfield strategy.

7.3.2 Policy CF12 states that proposals that would result in the loss or change of use of buildings currently used for community facilities will only be permitted if:

- i) alternative provision can be made, of at least an equal benefit to the local population; or
- ii) it can be demonstrated that the existing provision is surplus to the needs of the community.

7.3.3 The building has ceased to function as a public house and is currently vacant, following a temporary spell as a coffee shop. The applicant has submitted an independent Commercial Viability Study, which states that the building is poorly located for passing trade and there are better venues with better facilities in close proximity. The public house was loss-making prior to its closure and the viability study has assessed the option of re-opening the building as a public house business. It considers the cost of refurbishment, staff costs, sales and operator profit. It concludes that the public house is commercially unviable now in and the long term.

7.3.4 The study also looks at other provision within the surrounding area. It notes that the Rogerstone area benefits from a number of public houses, many of which are in close proximity to the application site. They are within easy walking distance of the application site and they are comparable in their role and function. Overall, it is considered that the application has adequately demonstrated that the application building is surplus to the needs of the community and it is amply served by similar facilities. The proposal is considered to satisfy policy CF12.

7.4 Existing and future residential amenity

7.4.1 Two house-types are proposed with internal floor areas of 110sq.m and 119sq.m. The Council's Supplementary Planning Guidance: New Dwellings does not set internal space standards for dwellings but it is noted that 4-bed flats are required to have a gross internal floor space of 100 sq.m, which is considered to be a useful bench mark. All of the proposed houses would exceed this standard.

7.4.2 The New Dwellings SPG does provide guidance on outdoor amenity areas and it advises that a new house has 1 square metre of private amenity space for every square metre of the unit's footprint; and this should ideally be located to the rear of the house. All of the houses would exceed this standard and the amenity space would be private; and to the rear of the houses.

7.4.3 There is existing residential development to the north and south east of the site. There is also planning permission for three houses to the south west of the site. The New Dwellings SPG advises that there should be a separation distance of 21m between habitable windows, 10m between high level habitable windows and neighbouring rear gardens and no less than 14m between a habitable window and a blank two storey elevation. These standards are to protect existing and future residential amenity, in terms of privacy, loss of light and overbearing impact. All of these standards are met when considering the relationship with the existing neighbouring properties; and from within the site itself. The development approved by planning permission 18/1013, which is to the south of the site, has also been considered and the separation standards are met. There is one instance where plot 6 would be within 4m of a side window of no 80. Squires Gate. This window would face towards a blank two storey elevation of plot 6 however; given the likely internal configuration of the neighbouring property, it is likely that this window serves a landing and not a habitable room.

7.4.4 Overall it is considered that the proposed development would adequately protect existing residential amenity and the standard of future amenity is considered to be acceptable.

7.4.5 The Head of Law and Regulation (Environmental Health) has no objection to the proposed development subject to conditions requiring the submission of a construction environmental management plan (CEMP) and a restriction on the hours of construction. The CEMP condition is recommended however, it is not considered necessary to restrict the hours of construction through a condition, as there are more effective controls of any nuisance generated through construction through the Control of Pollution Act 1974.

7.4.6 The Head of Law and Regulation (Contamination) has no objection subject to a condition to secure a full contamination investigation given the former use of the site. This condition is duly imposed. It is also advised that electric vehicle charging points should be fitted to at least some of the properties. A condition to secure a scheme for electrical charging is also recommended.

7.5 **Design and visual amenity**

7.5.1 It is not considered that the existing buildings forming the Olde Oak Stave have any significant design merit and in visual terms, they do not have sufficient quality to warrant their retention. The surrounding area is residential and buildings are two storey in scale. There is variety in design with a mix of materials. The proposed development is compatible with the two storey scale of the surrounding area and the proposed materials would not be at odds with the general character of the area. It is considered that the proposed development represents good quality design, it would provide an active frontage onto Ruskin Avenue and would retain the attractive strip of landscaping, which contributes to an open feel to the development, and surrounding area, it also softens the hard edge of development onto Ruskin Avenue.

7.6 **Landscaping and trees**

7.6.1 As previously mentioned it is proposed to retain the landscaping strip along the frontage to Ruskin Avenue. This area is currently covered by grass and it is proposed to plant shrubs and three new trees in this area. A further tree is proposed in the side garden of plot 1 and another in the front garden of plot 4. Shrub planting is also proposed along the boundaries with the surrounding footpaths and within the parking court. A detailed landscaping plan has not been provided at this stage and it is considered necessary to impose a condition requiring such a detailed plan. Subject to the imposition of this condition the general principles of the proposed landscaping is considered to be acceptable.

7.6.2 The Councils Tree Officer has no objection to the proposed development subject to conditions requiring the retention of any existing trees, the submission of a tree protection plan, the installation of root protection barrier fencing and the appointment of an Arboriculturalist to perform a watching brief. It is recommended that these conditions are imposed.

7.7 **Protected species and ecological enhancement**

7.7.1 The applicant has undertaken a bat survey, which reports that a few individual bats were recorded foraging and commuting across the site, but overall the activity is considered low. No roosting bats were recorded emerging from the building and the report concludes that the existing building has low bat roost potential.

7.7.2 The applicant proposes the following ecological enhancements across the site:

- bat bricks integrated into the gable ends of plots 1, 3, 4 and 6;
- swift bird bricks integrated into the gable ends of all the house;
- 13cm x 13cm gaps in the garden boundary fences to allow for the movement of hedgehogs.

7.7.3 The Councils Ecology Officer is satisfied with both the bat survey and the proposed ecological enhancements.

7.8 **Highways**

7.8.1 The application site is located in parking zone 4. In accordance with the Parking Standards Supplementary Planning Guidance, 1 parking space per bedroom (with a maximum provision of 3 spaces) and 1 visitor space per every 5 units is required. This quantum of parking provision is proposed and is considered to be acceptable.

7.8.2 The Council's Highways Officer is satisfied with the proposed parking provision. They are also satisfied with the new access and cycle storage provision. The Officer suggests that lower boundary treatments surrounding the parking court would be more preferable to increase surveillance. This preference is understood however, this needs to be balanced against the need to provide adequate privacy within the rear gardens of the houses. The parking court would be open at its entrance and there would be a low boundary treatment along its boundary with the southern footpath. It is considered that this provides adequate visibility through this part of the site when balanced against the need to provide private amenity space.

7.8.3 A similar preference is raised in relation to the 1.8m high boundary treatment, which forms the side and rear of plot 6. This would be adjacent to the southern footpath and the Highways Officer suggests that a lower boundary treatment would enhance surveillance here. Again, this preference needs to be balanced against the need to provide adequate private amenity space. In this instance, there is an existing low boundary treatment along part of the Squires Gate boundary, which would allow for surveillance from that side. There are currently open views towards the footpath from the car parking areas. Should the neighbouring development of 3 houses be implemented there would be greater lengths of the footpath enclosed by the developments however, it is considered that there would still be sufficient views from the parking area of the approved house granted under permission 18/1013.

7.8.4 The Highways Officer also recommends a condition is imposed requiring a Construction Environmental Management Plan, which is imposed.

7.9 Foul and surface water drainage

7.9.1 There are separate foul and surface water sewers, which run along Ruskin Avenue. It is proposed to discharge foul drainage to the existing foul drainage sewer and it is proposed to discharge surface water run-off to the existing surface water sewer, with on-site attenuation to reduce the discharge rate. Welsh Water has no objection to the proposals. Separate SUDs approval will also be required prior to development commencing to ensure the most sustainable method of surface water disposal is proposed.

7.9.2 Welsh Water has advised that the proposed development is crossed by a trunk/distribution watermain. They state that it may be possible to divert the watermain and a separate agreement to do this would be required under the Water Industry Act 1991.

7.10 Waste and Recycling

7.10.1 Bin storage is proposed within the rear gardens of the proposed houses. The Council's waste and recycling team has commented that standard kerbside collections would take place. They also comment that new roads should be of a standard to accommodate heavy good vehicles and for properties that are to be accessed from the new road the applicant would need to indemnify the Council against any damage to roads, kerbs, etc in the provision of services. An informative is added to advise the applicant of this.

7.11 Section 106 Planning Obligation matters

7.11.1 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 Heads of Terms agreed by applicant(s)	Viability Issues?
Regeneration, Investment and Housing	To provide an on-site provision of affordable housing or a commuted sum.	30% affordable housing to be provided through a commuted sum of £49,536 in accordance with policy H1 of the LDP	£49,536 agreed	No

Education	For the provision and/or improvement of facilities at Mount Pleasant Primary School and Ysgol Gymraeg lfor Hael.	A contribution of £32,230	£32,230 agreed	No
Education	For the provision and/or improvement of facilities at Bassaleg Comprehensive School	A contribution of £18,587	£18,587 agreed	No
Leisure	To contribute towards the deficit of “Equipped”, “Informal” and “Formal” play in the Rogerstone ward.	£52,146 to upgrade and maintain off-site “Equipped” and “Formal” play at Cefn Wood.	£52,146 agreed	No

7.11.2 The applicant has agreed to the Head of Terms as set out above. The proposal would deliver a total of £152,499 in contributions towards affordable housing, education and leisure provision. It is considered that the proposed development would provide sustainable development which satisfies the requirements of policies SP1, SP13 and H4.

7.12 Other matters

7.12.1 Concern has been raised regarding increased traffic volumes as a result of the proposed development and its impact on the surrounding highway network, which already experiences congestion during peak times. There are also concerns about air pollution in association with greater vehicle movements. The applicant has submitted a Transport Statement which concludes that the proposed development would generate 3 two-way trips during the AM and PM peak periods; and as such the proposal would not have a substantial impact on the existing highway network and the level of vehicle trips generated by the proposed scheme and would fall well within daily fluctuations of background vehicle flows. The Councils Highway Officer has not raised any concerns in relation to the impact on the local highway network.

7.12.2 In terms of air quality, the application site is not within an air quality management area and the Councils Environmental Health Officer, dealing with air quality, has not raised any concerns, subject to a condition requiring the submission of electric vehicle charging infrastructure.

7.12.3 Concern has also been raised that the proposal would result in the loss of parking which is currently used by existing residents, visitors and the local school. The proposed development does not involve the car parking areas to the south of the site and there would be no changes to these areas as a result of this proposal.

7.12.4 There is concern that the surrounding area is already lacking in services such as schools and doctors surgeries. In accordance with policies SP13 and H4 the applicant has agreed to provide financial contributions towards affordable housing, education and leisure provision. The contributions delivered would be spent on local schools and local leisure facilities. It is considered that these contributions ensure that a sustainable development is provided. The provision of doctors surgeries is not a matter that the applicant nor the Council can control.

7.12.5 There is concern that the surrounding area is served by old gas pipework which has recently required upgrade in other parts of the estate, which caused disruption. Wales and Wales Utilities were consulted on this application and they have not raised any concern over the proposals.

7.12.6 Concerns are raised that some of the supporting information is factually incorrect and the premises has been used as a coffee shop for over 2 years with no anti-social behaviour. The applicants have addressed this concern and state that the building was used as a coffee shop for around 1 year and this operation ceased in July 2019. They state that the previous pub use did generate anti-social behaviour and they note that the Head of Law and Regulations and neighbouring residents have previously commented that noise and disturbance was often generated by the pub, particularly when live music events took place. They note that the representation in support of the application raises that the car park to the south of the site currently attracts anti-social behaviour and gatherings. They consider that with the pub now vacant, more anti-social behaviour may increase and in-time the building would be susceptible to vandalism and deterioration, to the detriment of visual and residential amenity. It is considered that the re-use of this site would be beneficial to the amenities of the surrounding area.

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 is considered to be acceptable and in accordance with policies SP1, SP9, SP13, SP18, GP2, GP4, GP5, GP6, GP7, H2, T4 and W3 of the Newport Local Development Plan. It is not considered that the proposed development would have a harmful impact on existing or future residential amenity, highway safety, the character and appearance of the surrounding area or on protected species. It is considered that the proposal would deliver sustainable development through financial contributions towards affordable housing, education and leisure provisions; and ecological enhancements would be delivered across the site. It is recommended that planning permission is granted subject to conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS AND SUBJECT TO A s106 AGREEMENT WITH DELEGATED POWER TO REFUSE THE APPLICATION IF THE s106 AGREEMENT IS NOT SIGNED WITHIN 4 MONTHS OF THE COUNCIL'S RESOLUTION TO GRANT PLANNING PERMISSION

01 The development shall be implemented in accordance with the following plans and documents: 19.3134.100 P4, 19.3134.101 P2, 19.3134.102 P2, 19.3134.103 P2, 19.3134.104 P2, 19.3134.105 P3, 17.3134.106 P2, 17.3134.107 P2, 19.3134.108 P1, ENC/270319/2FF7/Top, ENC/270319/2FF7/Elev and Preliminary Ecological Appraisal (Ecosupport, 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

Pre-commencement conditions

02 No development, to include demolition and site preparation, 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:

- a) dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities';
- b) wheel wash facilities;
- c) noise mitigation measures;
- d) measures to minimise the impact on air quality;
- e) details of temporary lighting;
- f) details of enclosure of working areas;
- g) details of contractor parking areas and construction site accesses;
- h) pollution prevention and contingency measures.

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

Reason: In the interests of amenities and highway/pedestrian safety; and in accordance with policies GP2, GP4 and GP7.

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

- a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.
- b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.
- c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

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

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

e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing. Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

04 No development, other than demolition, shall commence on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.

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

05 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, in accordance with policy GP5.

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

Reason: To protect important landscape features within the site, in accordance with policy GP5.

07 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, in accordance with policy GP5.

08 No development, other than demolition, shall commence until a landscaping and tree planting scheme (indicating the number, species, heights of planting and positions of all trees and shrubs) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall also include a five maintenance and management 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 the approved 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 GP5.

Pre –occupation conditions

09 Prior to the occupation of the development hereby approved a scheme for electric vehicle charging points serving the parking spaces shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the occupation of the development and the charging points shall be retained thereafter in perpetuity.

Reason: In the interests of sustainability and air quality; and in accordance with policies SP1 and GP7.

10 Prior to the occupation of the development hereby approved the boundary treatments shall first be constructed in accordance with drawing 19.3134.100 P4. They shall be retained as such in perpetuity.

Reason: In the interests of residential amenity, in accordance with policy GP2.

11 Prior to the occupation of the development hereby approved the parking areas shown on drawing 19.3134.100 P4 shall be implemented and available for use thereafter. The parking areas shall be retained in accordance with the approved details.

Reason: To ensure adequate parking is provided on site in the interests of highways safety and in accordance with policies GP4 and T4.

12 Prior to the occupation of the development hereby approved the ecological enhancements as shown in the approved drawing titled “Ecological Enhancements Plan” (Ecosupport 22 July 2019) shall be implemented and retained as such in perpetuity.

Reason: In the interest of ecology and sustainability, in accordance with policies SP1 and GP5.

General conditions

13 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 at the front of the dwellings hereby approved.

Reason: In the interests of the visual amenities of the area; in accordance with policies GP2 and GP6.

14 No existing trees shall be felled, topped or lopped, and no existing hedges shall be removed.

Reason: To protect existing landscape features on the site, in accordance with policy GP5.

NOTE TO APPLICANT

01 This decision also relates to: Phase II Bat Survey (Ecosupport, July 2019), Transport Statement (TPA, May 2019), Drainage Strategy (Vale Consultancy, May 2019), Planning, Design and Access Statement (WYG, June 2019) and Viability Study (Savills, May 2019).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP9, SP13, SP18, GP2, GP4, GP5, GP6, GP7, H2, H4, T4 and W3 were relevant to the determination of this application.

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

04 New roads constructed should be of a standard to accommodate heavy goods vehicles associated with refuse collection. Where the houses would be accessed from the new road for refuse collection the applicant is advised to contact the Councils City Services (Waste)

department to discuss indemnity against any damage to roads, kerbs, etc. in the provision of waste services.

05 To protect the amenities of existing residents, the following recommendation with regards to construction times should be attached to any permission to draw attention to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities -

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

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

Prior approval will be required for any construction to take place outside permitted times and on Sundays and Bank Holidays, where it would create noise audible at the boundary of any residential property.

APPLICATION DETAILS

No: 5 **19/0655** **Ward: CAERLEON**

Type: FULL

Expiry Date: 06-SEP-2019

Applicant: SAM HILL, NEWPORT NORSE

Site: CAERLEON LODGE HILL PRIMARY SCHOOL, ROMAN WAY, CAERLEON, NEWPORT, NP18 3BY

Proposal: REPLACEMENT OF EXISTING FENCE WITH NEW 2.4M HIGH WELD MESH FENCE AND GATES

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks planning permission for the replacement of the existing fence with new 2.4m high weld mesh fencing and gates at the former Lodge Hill Infants School, Caerleon.

2. RELEVANT SITE HISTORY

08/0207	PROPOSED DISPLAY OF POLE MOUNTED 'ECO SCHOOL'S GREEN FLAG', CAERLEON LODGE HILL INFANT AND NURSERY SCHOOL	GRANTED
09/1213	ERECTION OF EXTERNAL CANOPIES FOR EXTERNAL PLAY	GRANTED
10/1211	ERECTION OF EXTERNAL CANOPY FOR OUTDOOR PLAY	GRANTED
12/0515	ERECTION OF CANOPY	GRANTED

3. POLICY CONTEXT

- 3.1 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 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 CAERLEON CIVIC SOCIETY (CCS): No comments received.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): No comments received.
- 5.2 HEAD OF CITY SERVICES (TREES): No objection.
- 5.3 CHIEF EDUCATION OFFICER: No comments received.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties with a common boundary and opposite the application site were consulted (43no properties) and no comments have been received.

7. ASSESSMENT

- 7.1 The proposal seeks to erect 2.4m high weld mesh fencing powder coated green (RAL 6055). The replacement fencing will run along the front (north), side (east), and part of the rear (south) of the site for a length of 57m. The replacement fencing will link into the existing fencing that is to remain at the south and west of the site. There will also be new vehicular and pedestrian gates inserted into the fencing at the front of the school off Hadrian Close. The vehicular gate will measure a height of 2.4m and width of 4m, and the pedestrian gate a height of 2.4m and width of 1.8m. The existing fencing is of a pedestrian guardrail design and measures a height of 1m and runs for a length of 57m.
- 7.2 There are a number of properties of which the rear gardens back onto the east of the site. Whilst these are in reasonably close proximity (3m) to the location of the replacement fencing, there is existing fencing to the rear of the properties and extensive vegetation which acts as screening. To the front of the site, there are residential properties located at least 15m away. There is a hedge located along the front of the site that is to be removed and replaced with the fencing. The south of the site backs onto Caerleon Lodge Primary School. The fencing will only be partially visible from the public highway, with the majority of fencing being within the site. Both the fence style and height would alter. The fencing will increase from a height of 1m to 2.4m. As the school is currently closed, they have experienced a number of issues such as anti-social behaviour and vandalism. As such, it is considered that increasing the height of the fence to 2.4m will assist in preventing such unwanted activity. Despite the increase in height of the fencing, it is considered that by reasons 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.
- 7.3 There are a number of trees on site, whilst none are to be removed, they are in close proximity to the fencing. As such, the applicant has employed an arborist to undertake a survey in order to review the potential impact of trees in regard to the proposed installation

of replacement fencing. A tree constraints plan and technical advice note have subsequently been submitted. The findings have suggested that the proposed fencing will conflict with the root protection area of many trees, hedges and groups providing a constraint along its full length. In order to minimise the potential damage to tree roots, the arborist has suggested the following protection measures; appoint a project arborist to supervise the works, offset the fence line or if not achievable the post location to avoid mechanical effective rooting radius and operational requirements 1-11 as detailed in the technical advice note that must be adhered to when working in the root protection area of trees and hedges. The Council's Tree Officer has been consulted on the application and has no objection to the application, however, the exact siting will need to be overseen on site by a bona fide Tree Consultant and in association with the information submitted by Steve Ambler July 2019.

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: Site Plan 002, Fence Panel Drawing 001, Proposed Fencing and Gates 003, Detailed Drawing 000, Proposed Fencing and Gates 005, Fencing East Elevation 004, Technical Advice Note at Lodge Hill Infants School July 2019 and Tree Constraints Plan SAAC.19.023.

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

Reason: To protect existing landscape features on the site.

03 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) Overseeing work within any Root Protection Area;
- (b) Reporting to the Local Planning Authority;
- (c) 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.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Plan 002, Fence Panel Drawing 001, Proposed Fencing and Gates 003, Detailed Drawing 000, Proposed Fencing and Gates 005, Fencing East Elevation 004, Technical Advice Note at Lodge Hill Infants School July 2019 and Tree Constraints Plan SAAC.19.023.

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

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

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



Report

Planning Committee

Part 1

Date: 4th September 2019

Item No: Insert item number here

Subject **Appeal Decisions**

Purpose To inform Members of the outcome of recent appeals

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

Wards Victoria, Beechwood and Langstone

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

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

Action by Planning Committee

Timetable Not applicable

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

Background

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

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

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

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

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

Financial Summary

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

Risks

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

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

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

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

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

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

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

Options Available

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

Preferred Option and Why

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

Comments of Chief Financial Officer

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

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

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

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

Comments of Monitoring Officer

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

Staffing Implications: Comments of Head of People and Business Change

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

Local issues

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

Equalities Impact Assessment and the Equalities Act 2010

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

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

Children and Families (Wales) Measure

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

Consultation

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

Background Papers

Not applicable

Dated: 4th September 2019

Planning Application Appeal	
Reference	18/1067
Address	66 Argosy Way, Newport, NP19 0DH
Development	Change of use from dwelling house to a HMO and a ground floor flat
Appellant	Mr Pierre
Delegated Decision	Refuse
Committee Decision	N/A
Appeal Decision	Allowed
Appellants application for an award of costs	Refused

Planning Application Appeal	
Reference	18/1161
Address	221 Chepstow Road, Newport, NP19 8GX
Development	Change of use of dwelling to 6 bed HMO
Appellant	Mr Aboboto
Delegated Decision	Refuse
Committee Decision	N/A
Appeal Decision	Allowed

Planning Application Appeal	
Reference	19/0007
Address	Seymour Cottage, Caerlicken Lane, Langstone, Newport, NP18 2JZ
Development	Two storey side and front extension
Appellant	Mr & Mrs Aitken
Delegated Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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