

Agenda



Planning Committee

Date: Wednesday, 4 November 2020

Time: 10.00 am

Venue: Virtual Meeting

To: Councillors J Richards (Chair), J Guy (Deputy Chair), J Clarke, C Ferris, T Holyoake, G Berry, T Watkins, R White, V Dudley, J Jordan and C Townsend

Item	Wards Affected
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meeting held on 7 October 2020</u> (Pages 3 - 6)	
4. <u>Development Management: Planning Application Schedule</u> (Pages 7 - 40)	
5. <u>Appeal Decisions</u> (Pages 41 - 46)	
6. <u>View the live event</u> To view the live event please click here	

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Date of Issue: Wednesday, 28 October 2020

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Minutes

Planning Committee

Date: 7 October 2020

Time: 10.00 am

Present: Councillors J Richards (Chair), J Guy (Deputy Chair), J Clarke, T Holyoake, G Berry, T Watkins, R White, V Dudley, J Jordan, C Townsend and C Ferris

In Attendance: Tracey Brooks (Head of Regeneration, Investment and Housing), Matthew Sharp (Acting Development Services Manager), Joanne Evans (Senior Solicitor), Stephen John Williams (West Area Planning Manager), Joanne Davidson (East Area Development Manager) and Neil Barnett (Governance Officer)

1. **Declarations of Interest**

None.

2. **Minutes of the meeting held on 2 September 2020**

The minutes of the meeting held on 2 September 2020 were submitted.

Resolved

That the minutes of the meeting held on 2 September 2020 be taken as read and confirmed.

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

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

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

4. **Appeal Decisions**

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

5. **Webcast of Committee**

To view the webcast, click on this link: <https://youtu.be/ih61diQnBZs>

The meeting terminated at 12.45 pm

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Appendix A
 PLANNING COMMITTEE – 07 10 2020
 DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 20/0496</p>	<p>Site: Windmill Farm, Llanvaches</p> <p>Proposal: Ground floor wrap-around extension and first floor gable extension to existing farmhouse and its change of use to a residential care home (use class C2) for up to 6 residents including over-night accommodation for one member of staff; the construction of a detached single-storey residential annexe to be used in association with the home; the demolition of agricultural buildings to provide parking & turning areas; the widening & re-surfacing of the existing access and access track including the provision of a new gate and other associated works in relation to drainage</p> <p>Recommendation: Granted with conditions</p>	<p>Langstone</p>	<p>Presented to Committee as Council owned land.</p> <p>Sally Ann Jenkins – Applicant, spoke in support of the application.</p> <p>Councillors William Routley and Ray Mogford – Ward Members, spoke in objection to the application.</p>	<p>Granted with conditions.</p>
<p>20/0496</p>	<p>Site: 43 Yewberry Lane, Newport, NP20 6WL</p> <p>Proposal: Works of excavation and construction of retaining walls to facilitate the provision of a ground floor garage and store with the garage roof to be used as a raised patio area. conversion of existing garage. provision of a new access onto grove park drive. retention of access steps and fencing facing onto grove park drive</p> <p>Recommendation: Granted with conditions</p>	<p>Malpas</p>	<p>Presented to Committee as requested by Councillor Mayer in order for the Committee to consider the relationship between the proposed design and the street scene, in the interest of residential amenity</p>	<p>Granted with conditions</p> <p>Committee requested for an additional condition to be added – Construction Management Plan condition.</p>
<p>20/0697</p>	<p>Site: Plas Newydd, Usk Road, Caerleon</p> <p>Proposal: Certificate of Lawfulness for proposed use of dwelling house as a supported residence for up to six persons (use class C3(b))</p> <p>Recommendation: Granted</p>	<p>Caerleon</p>	<p>Presented to Committee as owners of property are close relations to Council building control officer.</p>	<p>Granted.</p>

20/0542	<p>Site: 2 Park Avenue, Newport</p> <p>Proposal: Two storey side extension, single storey rear extension , single storey side extension, front canopy , side and rear dormers</p> <p>Recommendation: Granted with conditions</p>	Gaer	Presented to Committee at request of Councillor Whitcutt	Granted with conditions
20/0640	<p>Site: Land to south east of University Of Wales Newport City Campus, Usk Way, Newport</p> <p>Proposal: Outline application (all matters reserved) for circa. 995 sq.m. of flexible floorspace of either office (class B1)/ hotel (class C1)/ education (class D1) or leisure (class D2)</p> <p>Recommendation: Seek delegated powers for the Head of Service to approve the application in the event that Natural Resources Wales confirms that they are satisfied with the outcomes of the appropriate assessment.</p>	Stow Hill	Presented to Committee as this is a Council scheme	<p>Committee agreed to grant the Head of Service delegated powers to grant planning permission in the event that Natural Resources Wales confirm that they are satisfied with the outcomes of the Appropriate Assessment.</p> <p>Councillor Watkins made comment that a detailed application should come back to the committee.</p>

Report

Planning Committee – Virtual Meeting

Part 1

Date: 4th November 2020

Subject **Planning Application Schedule**

Purpose To take decisions on items presented on the attached schedule

Author Acting Head of Regeneration, Investment and Housing

Ward As indicated on the schedule

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

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

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

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

Action by Planning Committee

Timetable Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

Background

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

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

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

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

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

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

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

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

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

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, 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
Welsh National Marine Plan November 2019

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) (updated January 2020)
House Extensions and Domestic Outbuildings (adopted August 2015) (updated January 2020)
Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)
New dwellings (adopted August 2015) (updated January 2020)
Parking Standards (adopted August 2015)
Planning Obligations (adopted August 2015) (updated January 2020)
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)
Waste Storage and Collection (adopted January 2020)
Sustainable Travel (adopted July 2020)

OTHER

“Newport City Council Retail Study by Nexus Planning (September 2019) “ is not adopted policy but is a material consideration in making planning decisions.

‘The Economic Growth Strategy (and associated Economic Growth Strategy Recovery Addendum) 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

1.

APPLICATION DETAILS

No: 20/0593 **Ward:** Langstone
Type: Full Application
Expiry Date: 29th August 2020
Applicant: Mr S Parry
Site: Sunnyside Nurseries Chepstow Road Newport NP18 2JN
Proposal: RETENTION OF LOG CABIN OUTBUILDING PROPOSED TO BE USED AS A DELICATESSEN (RESUBMISSION OF 20/0119)

Recommendation: REFUSED

1. INTRODUCTION

- 1.1 This application seeks consent for the retention of a log cabin outbuilding to be used as a delicatessen. The outbuilding is located within the site currently occupied as ‘Sunnyside Nurseries’ off Chepstow Road, Newport. Sunnyside Nurseries appears to be a horticultural enterprise or plant nursery (not a garden centre) and therefore has an agricultural use.
- 1.2 Planning permission was previously refused at this site for the retention of the log cabin to be used as a delicatessen (ref no.20/0119) for the following reason;

The proposal will cause significant harm to interests of acknowledged importance, namely the vitality and viability of sequentially preferable centres and sustainability, by reason of no sequential assessment or need being demonstrated for a use best located in a centre and its location in a less sustainable area. This is contrary to policies SP1, SP19, GP4 and R8 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

2. RELEVANT SITE HISTORY

15/0498	PROPOSED ADDITIONAL RETAIL UNIT WITHIN SITE BOUNDARY	GRANTED WITH CONDITIONS
15/1160	NON MATERIAL AMENDMENT TO PLANNING PERMISSION 15/0498 TO ACCOMMODATE CHANGE TO THE POSITION AND STYLE OF WINDOWS, DOORS AND ROOF PITCH	APPROVED
17/1105	CHANGE OF USE OF RETAIL UNIT TO A3 CAFE AND SINGLE STOREY EXTENSION	GRANTED WITH CONDITIONS
20/0119	PROPOSED LOG CABIN OUTBUILDING FOR USE AS DELICATESSEN	REFUSED
20/0354	RETENTION OF SINGLE STOREY WORKSHOP TO BE USED FOR LIGHT INDUSTRY	REFUSED
20/0498	SINGLE STOREY WORKSHOP FOR LIGHT INDUSTRY (RESUBMISSION)	REFUSED

3. POLICY CONTEXT

- 3.1 Policies SP1 (Sustainability), SP5 (Countryside), SP19 (Assessment of Retail Need), SP21 (Minerals), GP2 (General Amenity), GP3 (Service Infrastructure), GP4 (Highways and Accessibility), GP6 (Quality of Design), GP7 (Environmental Protection and Public Health), T4 (Parking), T5 (Walking and Cycling), R11 (Development of Existing Out-of-Centre Retail Sites), M1 (Safeguarding of Mineral Resource) and W3 (Provision for Waste Management

Facilities in Development) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the determination of this application.

4. CONSULTATIONS

4.1 None.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF CITY SERVICES (HIGHWAYS): No objections.

5.2 HEAD OF REGENERATION AND REGULATORY SERVICES (PUBLIC PROTECTION): No objections.

6. REPRESENTATIONS

6.1 NEIGHBOURS: 1no common boundary neighbour was consulted on the application and a site notice was erected. No comments were received.

6.2 COUNCILLORS (ROUTLEY): Called application to committee if the recommendation was to refuse.

7. ASSESSMENT

7.1 The outbuilding itself has already been erected on site and is constructed of timber painted blue. The building sits between 2no other unauthorised log cabins. The building measures a depth of 5m, a width of 5.95m, an eaves height of 2.1m and a height to ridge of 2.8m. Whilst the outbuilding is already on site, the use of the building as a delicatessen has not yet commenced. There are other buildings of similar design located within the site, albeit some are unauthorised. Whilst the outbuilding is partially visible from Chepstow Road, given its scale and location, it is not considered that it would result in a harmful impact on the character of the site or surrounding area, in accordance with policy GP6.

7.2 The application site is on land designated as countryside within Sunnyside Nurseries, which immediately adjoins the settlement boundary associated with Langstone. The outbuilding is contained within the curtilage of 'Sunnyside Nurseries', on a hardstanding area and therefore does not further encroach into the countryside. The existing building is modest in size but its purpose/use is not required in this rural location. There is evident pressure for comparable units in this rural location as several have been erected without the benefit of planning permission and are subject to enforcement investigations. Allowing a retail building on this agricultural site will set an undesirable precedent for the proliferation of such cabins in a piecemeal/ad hoc fashion on this rural site and without robust justification. The proposed use is considered to be inconsistent with the policy requirements of Policy SP5.

7.3 Both Planning Policy Wales (PPW) and the Council's Local Development Plan (LDP) establish a clear hierarchical approach to the consideration of retail and uses best located within defined centres, with preference given to city/town, district centres and local centres over out-of-centre locations. Policy SP19 (Assessment of Retail Need) states that 'retail and associated uses best located in a city centre will be subject to an assessment of need if not within a defined centre, and application of the sequential test if not within the city centre.' In order to maintain and improve the retail and mix of uses on offer in the City Centre, a strong City Centre first approach will be taken. The sequential test will be strictly applied to ensure that the development proposed is appropriate for the site in relation to the retail hierarchy and if the proposal is not within the City Centre or a defined District Centre, the need will first have to be demonstrated. The proposal is believed to be an appropriate use for the city centre and it is considered that need is a fundamental aspect that must be satisfied before the sequential test is applied. The proposal has not met the requirements of policy SP19 in terms of providing a case for need. Notwithstanding this, the applicant proceeded to submit further information including a retail assessment which concluded that there were no suitable city centre locations for the proposed use. However, it is considered that this aspect cannot be dealt with in isolation and the fundamental aspect of need is yet to be satisfied. Therefore, as no overriding need has been established for its location outside of the city centre, the proposal fails to meet policy SP19.

- 7.4 The proposal will likely generate most trade by car borne traffic to this rural site which despite adjoining an urban area is not highly sustainable. This raises the issue for the expansion of non-nurseries related traffic on sustainability considerations, a key aspect of the centres first retail planning policy. Whilst it can be expected that dual trips may arise, the unit will also likely attract customers not visiting the nurseries as the two products do not naturally go together (i.e. plants and deli products). Similarly, the applicant has applied for the use in isolation, not as part of any comprehensive redevelopment or change of use of the wider nurseries site as part of any justified rural diversification for example. This lends weight to a disassociation between the two uses.
- 7.5 Policy R8 (Small Scale Retail Proposals) states ‘proposals for new local retail facilities, extension of floor space of existing retail outlets or the change of use of existing buildings to retailing outside the city and district centres, will be permitted only where: i) new residential development would be served or the provision would cater for under-provision in the area; ii) the proposal is of a scale appropriate to the locality; iii) there would be no adverse effects on the viability and vitality of any defined centre; iv) there would be no unacceptable effect on the local residential amenities or the general character of the area in terms of noise and disturbance or extra traffic generated.’ This policy applies to small scale retail proposals outside of the City and District Centres. Proposals which involve new retail provision or an extension to existing retail provision outside of these centres need to be considered on their own individual merits. Any proposal must be appropriate in scale, serve their purpose as providing for the local community and not threaten the vitality and viability of defined retail centres. In relation to criterion (i) the business does not serve a new residential development neither does it cater for an under-provision. Criterion (iii) states that there would be no adverse effect on the viability and vitality of any defined centre. The business would be located outside of any defined centre and would attract trips from these locations. It is therefore considered that the viability of the city centre would be threatened should the application be approved and an undesirable precedent will be set for additional similar diverse uses on this rural, out of centre site.
- 7.6 The information provided with this application does not change the policy stance that the proposal is considered best located in the city centre and it will attract visitors via unsustainable forms of transport. The red line of the application remains around the log cabin and the use is therefore not considered to be related to the wider use of the site and a city centre location would meet policy requirements. In addition, the legal use of the wider site is not clear and although statements have been made in the application that Sunnyside Nurseries is a garden centre this is not proven, and the LPA considers the use to be a Nurseries (agricultural).
- 7.7 The Council’s Highways Officer was consulted on the proposal and stated that it is considered that the existing parking and access arrangements on the site are acceptable and therefore offers no objection to the application.
- 7.8 With regard to residential amenity, the closest neighbouring property is located approximately 70m from the location of the log cabin. Given the nature and location of the existing site, and it being located along Chepstow Road which is a busy thoroughfare, it is not considered that the retention of the log cabin to be used as a delicatessen would result in a harmful impact on residential amenity or the general character of the area in terms of noise and disturbance. The Council’s Public Protection Noise and Neighbourhood Team were consulted on the proposal and had no objections.
- 7.9 The application site is within a grade 2 Agricultural Land Classification area. However, as the development is on an existing hardstanding area this is not considered to be of importance in the determination of this application.
- 7.10 The application site is within a designated Sand and Gravel Mineral Safeguarded Area. Policy M1 permits development within such locations subject to certain criteria including that the development constitutes limited infilling within an existing built up area. As the development is located within the existing curtilage of the nursery business, on a hardstanding area, Policy M1 is considered to be satisfied.

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 information submitted alongside this application has indicated that there is a demand for such a business at Sunnyside Nurseries but it is considered that a need has not been evidenced. In addition, the business is not considered ancillary or linked to the current business at the site. The proposal is therefore considered to have failed to meet policy SP19 (has not demonstrated need or satisfied the sequential test) or Policy R8, criterion ii) (it is considered the proposal would attract trips from the city centre and therefore threaten the viability of the city centre). It is accepted that a high proportion of visitors to Sunnyside Nurseries would visit the deli but there are greater footfall numbers found in the city centre. The proposal would attract most visitors via the car and this is contrary to sustainable travel principles; failing to meet the requirements of policies SP1 and GP4.

10. **RECOMMENDATION**

REFUSED

01 The proposal will cause significant harm to interests of acknowledged importance, namely the vitality and viability of sequentially preferable centres, sustainability and countryside, by reason of no sequential assessment or need being adequately demonstrated for a use best located in a centre and its location in a less sustainable, rural area. No information has been provided that mitigates this objection and the proposal will set an undesirable precedent for additional similar units/uses thereby resulting in a harmful proliferation of unjustified development on this rural agricultural site. This is contrary to policies SP1, SP5, SP19, GP4 and R8 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: Sequential Retail Assessment June 2020, Location Plan V2, Site Plan, Proposed Elevations and Floor Plan Drawing No.SP01 and Supplement Note Retail Assessment.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP5, SP19, SP21, GP2, GP3, GP4, GP6, GP7, T4, T5, R11, M1 and W3 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.

2.

APPLICATION DETAILS

No: 20/0656 **Ward:** St Julians

Type: Full Application

Expiry Date: 6th November 2020

Applicant: A Forbes

Site: Land To The Rear Of 128 To 130 Caerleon Road Newport South Wales

Proposal: DEMOLITION OF DOUBLE GARAGE/STORE AND ERECTION OF A DORMER BUNGALOW (RESUBMISSION)

Recommendation: GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE THE APPLICATION IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN 4 MONTHS OF THE DECISION

1. INTRODUCTION

- 1.1 This application seeks planning permission for the demolition of a garage and erection of a dormer bungalow at land to the rear of 128-130 Caerleon Road, in the St Julians ward.
- 1.2 The application is reported to Planning Committee at the request of Councillor Carmel Townsend who has concerns regarding the overdevelopment of the site, the impact it will cause on the residential amenity of the occupiers of 48 Annesley Road and the impact the proposal will have in relation to increasing the existing parking problem within Annesley Road.

2. RELEVANT SITE HISTORY

89/0603	Conversion of double garage to provide additional living accommodation	Refused
90/0138	Change of use of house to bed and breakfast accommodation (no. 128)	Granted with conditions
90/0895	Conversion of double garage to provide self-contained living accommodation	Refused
99/1173	Change of use to guest house together with the provision of additional car parking (no. 130)	Granted with conditions
16/0672	Change of use from guest house to 8no. bedroom house in multiple occupation (no. 128)	Granted with conditions
16/0673	Change of use to 6no. bedroom house in multiple occupation (no. 130)	Granted with conditions.
19/0151	Demolition of existing double garage/store and erection of a pair of semi detached dwellings with parking provision	Refused (Appeal Dismissed)

3. POLICY CONTEXT

3.1 The Newport Local Development Plan (NLDP) 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 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 H6 Subdivision of Curtilages, Infill Development and Backland Development states subdivision of residential curtilages, infill within existing residential areas, and the development of backland to existing residential properties will only be permitted where this does not represent an over-development of the land.

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 (Adopted August 2015)

New Dwellings SPG (Adopted August 2015)

4. CONSULTATIONS

- 4.1 DWR CYMRU WELSH WATER: No objection subject to a condition stating that no surface water from the roof of the proposed building shall be allowed to drain directly or indirectly into the public sewerage system.

5. INTERNAL COUNCIL ADVICE

- 5.1 THE HEAD OF CITY SERVICES (DRAINAGE): No response.
- 5.2 THE HEAD OF CITY SERVICES (HIGHWAYS): The site is located on B4596 Caerleon Road, a classified road with a 30mph speed limit, at the junction with Annesley Road, a residential road, with access to the site being gained from Annesley Road. Annesley Road is a one way street with kerb build outs at the junction with Caerleon Road. No entry is enforced from Caerleon Road onto Annesley Road.

A parade of local shops is located opposite the site on Caerleon Road; on street parking is provided on both sides of Caerleon Road and at the time of the site visit there were only a few available spaces. However due to the effects of Coronavirus on the retail industry, I would expect heavier parking demand under normal circumstances which would saturate the available parking spaces in this area.

The proposal site was the subject of planning application 19/0151 to provide a pair of semi-detached dwellings which was the subject of Appeal Ref: APP/G6935/A/19/3235767 which dismissed the appeal, although not on highway grounds.

The application provides 2 parking spaces which is an acceptable level for a 3 bedroom dwelling in Parking Zone 3 - Urban. Visibility requirements remain unchanged from

application 19/0151 and will be acceptable, however, the area shown as the pedestrian visibility splay should be raised to prevent encroachment of vehicles.

The dropped kerb crossing to the site would need to be extended to accommodate the proposed parking and the applicant would therefore be required to secure a license under S184 Highways Act to construct access from the highway.

5.3 THE HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH):

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.

5.4 THE HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING CONTRIBUTIONS MANAGER):

Introduction

This Draft 'Head's of Terms' relates to pre planning application 20/0656 for the construction of a 2 bedroom bungalow at land To The Rear Of 128 To 130 Caerleon Road

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

Committed sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Newport East, based upon a 20% 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 1no. two bedroom house and subject to economic viability, a commuted contribution of £835 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.

Administration Fee

In accordance with the Planning Obligations SPG (2020), an £200 administration fee is charged for monitoring the S106 agreement. This is to be paid upon signing of the legal agreement.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties with a common boundary with the application site and those located opposite were consulted (20no. properties) and 1no. objection was received by the occupants of 48 Annesley Road raising the following concerns;

- Increased number of vehicles parking within Annesley Road, which is already filled to capacity;
- The proposal will set a precedent for the building of property on any piece of garden adjoining a house or building;
- The additional noise impact resulting from the proposed dwelling combined with anti-social issues arising from the House in Multiple Occupations at 128-130 Caerleon Road will impact on their residential amenity.

6.2 COUNCILLORS CARMEL TOWNSEND: Has concerns regarding the overdevelopment of the site, the impact it will cause on the residential amenity of the occupiers of 48 Annesley Road and the impact the proposal will have in relation to increasing the existing parking problem within Annesley Road.

7. ASSESSMENT

7.1 This application seeks to demolish a detached double garage at the rear of 128 Caerleon Road and a dormer bungalow on the site of that garage and part of the curtilage of 130 Caerleon Road.

7.2 The application site is within the urban boundary and therefore the proposed development is acceptable in principle. Owing to the size and position of the site, the impact of the proposal upon the amenity of existing and proposed neighbours poses a particular challenge to the development of this site and Policy H6 (Subdivision of Curtilages and Backland Development) (Adopted August 2015) is therefore relevant. Policies GP2 (General Amenity), GP4 (Highways and Infrastructure), GP5 (Natural Environment), GP6 (Quality of Design), H4 (Affordable Housing), H6 (Subdivision of Curtilage and Backland Development), T4 (Parking) and W3 (Provision for Waste Management Facilities in Development) are also relevant.

7.3 The application site is in the St. Julians ward and close to the defined Caerleon Road District Centre. It is occupied by a double garage and fronts onto Annesley Road. Annesley Road is a one-way street and extends uphill away from Caerleon Road and therefore the garage building is elevated above the ground level of 128 and 130 Caerleon Road, which both operate as lawful houses in multiple occupation (HMOs). There is no direct access from Caerleon Road onto Annesley Road. 48 Annesley Road is immediately adjacent to the eastern border of the site and is a large property extending two storeys along much of side boundary of the plot.

7.4 The properties of Annesley Road are formed of two-storey, bay fronted, terraced houses which are primarily constructed of a mix of red-brick and render and are fairly uniform in their appearance. The proposed dwelling replaces the existing garage which is to be demolished and has used this existing structure as a basis of its design by having similar scale and proportions. The proposed dwelling is almost square in its footprint, measuring 9.2 metres by 8.0 metres. The eastern end of the dwelling would have a gable roof, the western end would be hipped and a box dormer is proposed within the rear roof plane. The overall roof height measures 2.7 metres to eaves and 5.25 metres to the ridge. The front façade of the dwelling would contain an off centre front door, with a window and bay window feature. In the rear elevation there would be a set of bi-fold doors and window. The rear elevation would have two window openings within the dormer and a roof light. The proposed external walls are to be rendered and the roof covering would be tiled, although no specific details appear to be provided. There are 2no. parking spaces proposed to the front of the property and a side pedestrian access leading to an enclosed rear garden.

7.5 A previous planning application 19/0151 submitted at this site for “*Demolition of existing double garage/store and erection of a pair of semi detached dwellings with parking provision*” was refused planning permission in May 2019 for the following reason;

“The proposal, by reason of its size, location, layout and design is overdevelopment and will as a result have an unacceptable overbearing and unneighbourly impact upon 130 and 132 Caerleon Road, will result in a loss of privacy to 132 Caerleon Road and will provide a substandard level of amenity to future occupiers of the site to the detriment of their residential amenity. This is contrary to policies GP2, GP6, and H6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and the SPG for New Dwellings. (Adopted August 2015).”

- 7.6 Subsequently an appeal (APP/G6935/A/19/3235767) was dismissed by the Welsh Planning Inspectorate. Some of the key comments made by the Inspector in his decision letter have been noted below;

“... I saw that the height and positioning of the side elevation of No 48 and its proximity to the common boundary with the appeal site is such that from the rear garden of proposed ‘house 2’ and in views from the closest rear facing windows of the property, the outlook would be dominated by a mass of built form in a way that I consider would be overbearing and oppressive, with consequence adverse effects on the living conditions of the occupant(s) concerned.”

“...The additional scale, bulk and mass of the two-storey dwellings over the modest existing single-storey garage building on site would introduce a dominating and overbearing built form very close to the rear of No 130. This would result in views from the rear windows of No 130 being dominated by the two-storey side elevation of proposed ‘house 1’. The proximity of the proposed buildings to the rear of No 130, the height of the proposed elevations and the elevated position of the houses would all contribute to the creation of a significant and harmful sense of enclosure in relation to No 130. In my opinion, this would have a significantly overbearing impact on the outlook from the ground floor windows and the remaining small garden of No 130, which would unacceptably impact on the living conditions of those residents.”

“...The Council has also raised concerns regarding the potential overlooking of No 132 Caerleon Road and the loss of privacy within that property. Whilst I appreciate the principles of the Council’s stance, I saw that there is already a significant degree of overlooking of the rear of properties in this area, and this is not unreasonable given the urban setting of the site. The living conditions of the occupiers of No 132 are already significantly compromised by the relationship with the surrounding development. In my view, given the urban location it is not uncommon for an element of overlooking of adjoining properties to occur from first floor windows. Therefore, in this case I do not consider that the neighbouring properties would be overlooked to the degree that the occupiers’ privacy would be appreciably compromised.”

- 7.7 The appeal decision is a material consideration that is to be given significant weight in the assessment of this application. The main issues considered to form part of this assessment are the impact on parking and highway safety, residential amenity, character and appearance of the street scape and the residential amenity of future occupiers.

Residential Amenity of Future Occupiers

- 7.8 The overall internal layout of the proposed property is considered to be of a satisfactory size and layout to offer an appropriate level of amenity for futures occupiers. This would include kitchen, living and dining room, 2no. bedrooms and shower room at ground floor with stairs leading to an en-suite third bedroom at first floor. The New Dwellings SPG (adopted August 2015) states that there should be 1sqm of outdoor amenity space for every 1sqm of a proposed dwellings footprint. The dwelling has a footprint of 74sqm and the proposed site plan states the total proposed outdoor amenity space is 80sqm. This does however include the side pathway and also a portion of land located between the side elevation of the proposed dwelling and 49 Annesley Road, which is not considered to be useable amenity space. As such it is concluded that the actual useable outdoor amenity space is 63sqm, leaving a deficit of 10sqm. That being said, given the urban location of the site and the layout of the surrounding area, residents would not always expect such a large level of outdoor amenity space as you might in a suburban location. This was a view similarly taken by the Inspector previously. The site is also served by a number of local amenities and benefits from off street parking, which contributes to the overall amenity offered. In the previous application it was considered that the significant size and depth of 48 Annesley Road would result in an overbearing effect on the small garden of proposed House 2, an assessment that the Inspector concurred with when dismissing the appeal, also adding that this would also be oppressive and overbearing on the closest rear openings. It is considered that by reducing the proposal to 1no. dwelling opens up the entire rear space as extended garden area, where as previously House 2 only had half the outdoor amenity space. Whilst it is considered that no.48 would still cause an impact on the immediately adjacent area of outdoor amenity space, the proposed property would now benefit from a wider garden and space which is not adversely impacted. Furthermore, the revised layout now includes kitchen at the rear and the

dining area which is more of a habitable space moved to the front of the property to reduce the impact of the neighbouring wall. It is also proposed to provide a designated area to the front of the property, screened by the wall of no.48, for the provision of a refuse store.

- 7.9 The Head of Law and Regulation (Scientific Officer) has not provided comments on this application, however previously requested a condition for a desk based contamination land assessment be undertaken, with further requirements included if necessary. It is considered reasonable, in the absence of updated comments, to include this condition within the conditional regime as there has been no material changes on site which would change this.

Residential Amenity of Neighbouring Properties

- 7.10 The previous application raised concerns that the introduction of a two storey building in close proximity to 2no. ground floor windows in the rear elevation of 130 Caerleon Road, when taking into account the change in ground levels would result in an overbearing impact and unacceptable impact on the residential amenity of this HMO. The Inspector also agreed with this assessment within his decision letter stating *"This would result in views from the rear windows of No 130 being dominated by the two-storey side elevation of proposed 'house 1'. The proximity of the proposed buildings to the rear of No 130, the height of the proposed elevations and the elevated position of the houses would all contribute to the creation of a significant and harmful sense of enclosure in relation to No 130."* The design in response to these concerns has been reduced to a bungalow and as 130 Caerleon Road is also under the control of the applicant the 2no. windows raised as an area of concern have been blocked up under permitted development rights. Taking into account the removal of these windows and the reduced scale of the building, which also now has a hipped roof sloping away from no.130 there is not considered to be any demonstrable harmful impact in relation to this property.

- 7.11 The previous reason for refusal also cited the overlooking of 132 Caerleon Road as a concern. However, the Inspector stated *"...The Council has also raised concerns regarding the potential overlooking of No 132 Caerleon Road and the loss of privacy within that property. Whilst I appreciate the principles of the Council's stance, I saw that there is already a significant degree of overlooking of the rear of properties in this area, and this is not unreasonable given the urban setting of the site. The living conditions of the occupiers of No 132 are already significantly compromised by the relationship with the surrounding development. In my view, given the urban location it is not uncommon for an element of overlooking of adjoining properties to occur from first floor windows. Therefore, in this case I do not consider that the neighbouring properties would be overlooked to the degree that the occupiers' privacy would be appreciably compromised."* Taking into consideration the Inspector's comments as well as considering the fact that there is now only 1no. residential unit potentially overlooking the garden of no.132, it would be considered unreasonable to refuse the application for this reason.

- 7.12 The occupiers of 48 Annesley Road have raised concerns in relation to increased noise and disturbance as a result of the new dwelling. The site is within a built up and urban area just located off Caerleon Road and the Caerleon Road District Centre, so it is anticipated that there is an existing level of background noise in any case. The occupiers site disturbance from the HMO as an existing issue and it is considered that this scheme might actually act as a buffer between the HMO and no.48. The area proposed as garden space for the new dwelling is currently garden space for 130 Caerleon Road, so in terms of how it is used this is not considered to be any different. It is not considered that the introduction of a single dwelling in this location would result in any adverse impact in terms of noise and disturbance. The Head of Law and Regulation (Environmental Health) has requested a condition requiring the submission of a Construction Environment Management Plan, which would ensure appropriate and considerate construction takes place during the development.

- 7.13 Overall, it is considered that the proposal complies with the aims of Policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

Design and Impact on Character and Appearance of the Streetscape

- 7.14 Policy GP6 encourages good quality of design and when looking at infill development and subdivision of residential curtilage Policy Ho is keen to avoid overdevelopment. The

supporting statement confirms that the design and appearance of the proposed dwelling has responded to the findings of the Planning Inspector. In this respect the scale of development has been reduced considerably from a pair of two-storey dwellings, to a single, detached, dormer bungalow. It is considered that the building now sits more comfortably within the site and shares a better relationship with neighbouring properties, as explored within the previous assessment of amenity. The proposed dwelling would now present a single-storey side elevation with a shallow-pitched hip roof to 128 and 130 Caerleon Road. In this regard its height would be significantly reduced from the appeal scheme, to the point where it would be comparable with the existing double garage on the site. The building line of the proposed dwelling has also been stepped back from the previous scheme and this is considered, along with the reduced scale, to have a lesser visual impact on the surrounding area. The front elevation has taken reference to features of the local vernacular and has incorporated a bay window, which is a common feature within the terraced houses within the area. Whilst the proposed dwelling may not be typical of the surrounding vernacular in terms of its size and appearance, it is very similar to the structure that it is replacing and as such, is not considered to be a new feature that contrasts with the surrounding area.

- 7.15 During the course of the application, it was suggested by the LPA that perhaps a more modern approach might be more appropriate within this front façade, given that the proposed dwelling is clearly very different from the surrounding character. However, the applicant has explained that they do not feel comfortable with a more modern approach as they do not consider there to be any context for a modern approach in the area and that it might look at odds with the overall form of the building. It is accepted by the LPA that the proposal has been designed to be responsive and complementary to its context and reflective of the overall form of the building. The design includes the hipped roof which is a common feature at the end of terraces in the area and is of a similar pitch with no.48 which helps integrate the building at the end of this terrace. Materials have not been specified but the drawings suggest a render system comparable to the neighbouring properties. This can be controlled by way of condition.
- 7.16 It is considered that the proposal complies with the aims of Policy GP6 and H6 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the New Dwellings SPG (adopted August 2015).
- Highways and Parking
- 7.17 According to the parking standards applicable for this location (Supplementary Planning Guidance for Parking Standards (Adopted August 2015), a 3no. bedroom dwelling should have 3no. off-street parking spaces. However, only 2no. off street parking space has been provided for each dwelling.
- 7.18 Although the existing garage has, in the past, been inside the red line drawing of applications for no. 128 Caerleon Road, it does not meet the minimum depth of 6 metres in order to comply with contemporary highways standards and therefore does not contribute towards the parking provision at the property. There is however space for the parking of 2no. cars in the space between the garage and the highway.
- 7.19 The previously refused 19/0151 application for 2no. two bedroom properties (generating a demand of 4no. spaces) concluded that there was no way of controlling that the parking to the front of the existing garage could be controlled for the use of the existing properties. Therefore, as there is no requirement to retain the parking on site in association with any existing uses, there is no displacement that can be afforded weight as part of this proposal. Following receipt of a parking survey and sustainability appraisal, there was considered to be no detrimental impact on highway safety or residential amenity in relation to parking. Within the appeal decision the Inspector did not raise any concerns in relation to the approach taken by the Local Planning Authority when assessing this application.
- 7.20 That being said, this application is materially different to the previous submission and in the interest of transparency and thoroughness, a parking assessment of the proposed scheme has been undertaken. The scheme provides only two of the 3no. off street parking spaces required as per the Council's parking standards. That being said, a sustainability appraisal

has been undertaken in accordance with the Parking Standards SPG (adopted August 2015) as demonstrated in Figure 01. As the scheme scores more than 10 sustainability points the site qualifies for a reduction of 2no. parking spaces, which means only 1no. off street parking space would be required to meet the standards. The scheme proposes to offer 2no. parking spaces and these can be secured by condition.

Local Facility	Distance from Site (m)	Points
POST OFFICE – Caerleon Road Post Office, Caerleon Road	50m (refer to G1)	3
NURSERY – Archway Court Children Day Care Nursery, Caerleon Road	200m (refer to G2)	
DOCTORS SURGERY – Richmond Clinic, Richmond Road	250m (refer to G3)	2
FOOD STORE – Tesco Express, Caerleon Road	400m (refer to G4)	
CHEMIST – Mayberry Pharmacy, Durham Road	450m (refer to G5)	1
SCHOOL – Saint Joseph’s Roman Catholic Primary School, Fair Oak Ave	550m (refer to G6)	
BUS STOP – Annesley Road - Routes 26A, 26C, 27, 28, 29B and 60	35m (refer to G7)	3
BUS STOP – Christadelphian Hall - Routes 20A, 26A, 26C, 27, 28, 29B and 60	90m (refer to G7)	
FREQUENCY OF PUBLIC TRANSPORT – 5 minutes - Routes 20A, 26A, 26C, 27, 28, 29B and 60 (see separate table)	<800m	3
	TOTAL	12

** G1/G2 Etc. refers to the images below showing walking distances.

Frequency of Public Transport (image G7 shows bus stops within 800m)

Service	Stop / Distance	Frequency
20A	Christadelphian Hall - 90m	2 hours
26A	Annesley Road and Christadelphian Hall – 35m / 90m	1 hour
26C	Annesley Road and Christadelphian Hall – 35m / 90m	1 hour
27	Annesley Road and Christadelphian Hall – 35m / 90m	1 hour
28	Annesley Road and Christadelphian Hall – 35m / 90m	1 hour
29B	Annesley Road and Christadelphian Hall – 35m / 90m	45 mins

Figure 01 – Sustainability Appraisal.

- 7.21 The proposed parking layout fronting the dwellings is similar to that which currently exists and will require the extension of the dropped kerb footway crossing in order to provide access to the second parking space. The Head of City Services (Highways) accepts that required vehicle and pedestrian visibility splays can be achieved and is satisfied with the parking layout and visibility splays as shown on plan. It is however recommended that the area enclosed within the pedestrian visibility splay is raised above adjacent ground level to prevent overrunning by vehicles.
- 7.22 It is considered that the proposal complies with the aims of Policy GP4 and T4 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the Parking Standards SPG (adopted August 2015).

Air Quality

- 7.23 The site is located outside of the Caerleon Road Air Quality Zone but is within the buffer. The site currently houses a vehicle garage and external parking and it is anticipated would generate a similar number of vehicle movements to the proposed dwelling. It is not considered that there would be a material increase in traffic associated with the site that would result in any detrimental impact on air quality within the area. Although comments have not been received by the Council’s Scientific Officer, it was stated in the previous application that electric vehicle charging points should be provided on site for each dwelling to encourage the uptake of zero emission vehicles. A planning condition can be attached to control the submission of a scheme of electric vehicle charging point for one of the spaces provided.

7.24 Section 106 Planning Obligation matters

Summary

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	Commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Newport West, based upon a 20% target.	Based upon a net increase of 1no. three bedroom dwelling and subject to economic viability, a commuted contribution of £899 would be requested for affordable housing provision.	Agreed	No

Heads of Terms Agreed by Applicant

7.25 The applicant has agreed to the Heads of Terms in full.

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 proposal by reasons of its location, scale and design will offer future occupiers an adequate level of residential amenity, preserve the residential amenity of neighbouring occupiers and the character and appearance of the street scape and matters of highway safety.

9.2 The proposal is therefore in accordance with policies SP1, SP13, GP2, GP4, GP6, GP7, H6, W4 and T4 of the Newport Local Development Plan (NLDP) 2011-2026 (adopted January 2015).

9.3 Planning Permission is granted subject to Section 106 legal agreement and the following conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE THE APPLICATION IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN 4 MONTHS OF THE DECISION

01 The development shall be implemented in accordance with the following plans and documents; Drawing No. R384-06 A3 – Proposed Site Plan; Drawing No. R384-07 A1 – Proposed; Drawing No. R384-08 A1 – Proposed.

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

Pre- commencement conditions

02 Prior to the commencement of development, to include demolition, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality*, vibration, dust** and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The 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 in accordance with Policy GP2 and GP7 of the NLDP 2011-2026 (adopted January 2015).

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

- a) An appropriate full 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 full 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 full 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 full 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 in accordance with Policy GP2 and GP7 of the NLDP 2011-2026 (adopted January 2015).

04 Prior to the commencement of development, other than demolition, details/samples of materials and finishes to be used on the external surfaces to also include the rear boundary wall shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials and the rear wall constructed prior to the first occupation of the dwelling house and retained in that state thereafter.

Reason: To ensure that the development is completed in a manner compatible with its surroundings in accordance with Policy GP2 and GP6 of the NLDP 2011-2026 (adopted January 2015).

05 Prior to the commencement of development, other than demolition, details of a scheme for the installation of an electric charging point shall be submitted to and approved in writing by the Local Planning Authority. The development should be carried out in accordance with the approved details and made available for use prior to the first beneficial occupation of the dwelling house and remain in that state thereafter.

Reason: In the interest of sustainable development and air quality in accordance with Policy SP1 and GP7 of the NLDP 2011-2026 (adopted January 2015).

06 No development, including demolition, shall commence until details and plans showing the finished slab level of the building hereby approved, together with cross sections through the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of visual amenities and the amenity of neighbouring properties in accordance with Policy GP2 and GP6 of the NLDP 2011-2026 (adopted January 2015).

Pre –occupation conditions

07 Prior to the first beneficial use of the dwelling house hereby approved the parking spaces as shown on 'Drawing No. R384-06 A3 – Proposed Site Plan' shall be made available for the parking of vehicles and retained in that state thereafter.

Reason: To ensure that adequate on-site parking is retained in the interest of highway safety and residential amenity in accordance with Policy GP2 and GP4 of the NLDP 2011-2026 (adopted January 2015).

08 Prior to the first beneficial use of the dwelling house hereby approved the pedestrian and vehicular visibility splays shall be implemented as shown on 'Drawing No. R384-06 A3 – Proposed Site Plan' and retained in that state thereafter. No wall, fence, gate, hedge or other means of enclosure shall be erected or planted within the approved splays greater than 0.6 metres in height.

Reason: In the interest of public and highways safety in accordance with Policy GP4 of the NLDP 2011-2026 (adopted January 2015).

General conditions

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

Reason: To ensure that a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties and the future occupiers of the property in accordance with Policy GP2 of the NLDP 2011-2026 (adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan; Drawing No. R384-01 A3 – Site Plan; Drawing No. R384-02 A1 – Garage Plan and Elevations; Drawing No. R384- 06 – Proposed site Plan; Drawing No. R384-07 A1 – Proposed; Drawing No. R384-08 A1 – Proposed; Sustainability Assessment; Planning Statement

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP13, GP2, GP4, GP6, GP7, H6, W4 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.

3.

APPLICATION DETAILS

No: 20/0798 **Ward:** Caerleon

Type: Full Application

Expiry Date: 5th November 2020

Applicant: A Price

Site: St Omer Lodge Road Caerleon Newport NP18 3QX

Proposal: ***DEMOLITION OF EXISTING SINGLE STOREY EXTENSION, CONSERVATORY AND GARAGE TO THE REAR OF THE PROPERTY AND ERECTION OF TWO STOREY REAR EXTENSION WITH NEW ROOF, SINGLE STOREY SIDE EXTENSION AND NEW RETAINING WALL AND STEPS TO REAR GARDEN***

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks consent for the demolition of the existing single storey extension, conservatory and extension to the rear of the property, and the erection of a two storey rear extension with new roof, single storey side extension and new retaining wall and steps to the rear garden.
- 1.2 This item is presented to committee as one of the owners of the property is an employee of Newport City Council working in the planning department.

2. RELEVANT SITE HISTORY

No relevant site history.

3. POLICY CONTEXT

- 3.1 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 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 (CSS): No response.
- 4.2 WALES AND WEST UTILITIES (GAS): No apparatus effected.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE (HIGHWAYS): I refer to the above planning application ref 20/0798 received on 17September 2020. The site is located on Lodge Road, a residential access route with a 30mph speed limit. Access to the site will remain as existing and will therefore be acceptable.

The application proposes to extend the first floor to provide 4 bedrooms and to remove the existing garage at the rear of the property. The site is located in Parking Zone 3: Urban which requires that 3 parking spaces are provided to comply with Newport City Council SPG Parking Standards (August 2015) and these have been shown on Proposed Site Plan 201901-NA-XX-ZZ-DR-A-XX-0901 PO1 and are acceptable.

I would therefore offer no objection to this application on highway grounds.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All neighbours with a common boundary were consulted (4no properties) and no representations were received.

7. ASSESSMENT

- 7.1 The proposed two storey rear extension would project approximately 4.7 metres from the rear elevation of the original dwelling, and would measure 9 metres in width. It would measure approximately 5 metres in height to the eaves and 7.9 metres to the ridge. Fenestration includes 6no. grey PPC Aluminium bi-folding doors to the ground floor of the rear elevation and 1no. window and 2no. sets of grey aluminium patio doors with 2no. Juliet balconies to the first floor. There is also 1no. window proposed to the first floor of the west side elevation. The proposed side extension would measure 8.3 metres in depth and 2.4 metres in width. It would have a flat roof that would measure 2.6 metres to the eaves. In terms of fenestration there is 1no. door proposed to the front elevation and 1no. door proposed to the rear elevation. The extension walls would be rendered white to match the existing and the roof

tiles would be finished in materials to match the existing. The existing retaining wall would be moved northwards by approximately 2.2 metres so that it would be further into the rear garden, and approximately 3 metres to the north of the proposed rear elevation of the extension. It would measure approximately 0.9 metres in height to the front and 12.5 metres in width. It is also proposed to raise the height of the existing roof by approximately 0.7 metres, with a flat roof to the top and 3no. rooflights. There are a set of steps proposed to the centre of the retaining wall that would give access to the main rear garden area.

7.2 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 application. The House Extensions and Domestic Outbuildings Supplementary Planning Guidance (adopted August 2015) is also relevant to the determination of the application.

7.3 The adopted House Extensions and Domestic Outbuildings Supplementary Planning Guidance states that wherever possible extensions should be built on the rear or least important elevations of properties and the size and form should be appropriate to the main building and the space around it. The two storey rear extension is proposed to the rear of the property as such would be out of view from the public highway. The proposed side extension would be located to the east side of the property, however due to the set back of the property from the public highway of Lodge Road, the boundary treatment and as the side extension is set back from the front elevation of the property by approximately 3 metres, there would be limited views of the proposed side extension from the public highway. It is proposed to finish both extensions in materials to match the host dwelling. The SPG also states that 'roof form is an important factor in achieving a visually acceptable extension. Buildings that mix pitched and flat roofs, for instance, will lack unity. In order to achieve a coherent form of development, an extension should adopt the roof form of its parent building, replicating its pitch and architectural detailing (including external materials).' The roof form of the rear extension would match the existing property in terms of pitch, height and materials. The proposed side extension would have a different roof form as it is proposed to be flat, however due to the setback and limited views of this extension from the public highway, the extensions are considered to be sympathetic to that of the existing dwelling and would match the existing materials. It is therefore considered that the proposal accords with policy GP6.

7.4 The SPG sets out 2no. forty five degree tests to assess the impact of a proposal in terms of loss of light and overbearing impact. Proposals which fail both tests are unlikely to be acceptable. There are 2no. windows found to the first floor of the west side of the neighbouring property to the East, St Aarons. As both these windows are obscure glazed it is not considered that they serve habitable rooms or are protected windows. There are a number of windows found to both the ground and first floor on the rear elevation of the neighbouring property at St Aarons. However as the rear elevation of the extensions would only project approximately 1.2 metres beyond the rear elevation of the neighbouring property, the horizontal light test is passed from all windows. There is 1no. window to the first floor of the east side elevation of the neighbouring property to the west Dan-Y-Gaer, however this window is obscured and serves a bathroom so is not classified as a habitable room. On the rear elevation of the neighbouring property there are a number of windows and doors to the ground and first floor that serve habitable rooms. As the rear elevation of the proposed extension would be in line with the rear elevation of the neighbouring property, the proposal passes the horizontal light test. As both the rear and side extensions pass at least 1no of the light tests, the proposal accords with the SPG. There is 1no. window proposed to the first floor of the west side elevation facing the neighbouring property at St Aarons. However as this windows would serve an en-suite bathroom and is proposed to obscure glazed it is not considered that it would lead to a loss of privacy on neighbouring occupiers. Whilst it is acknowledged that the extension would protrude further into the rear garden than the existing rear elevation, it is not considered that the fenestration proposed to the rear elevation would

lead to increased level of overlooking or loss of privacy above that experienced from the existing situation. It is therefore not considered that the proposal would have a detrimental impact by means of loss of privacy, increased overlooking or by overbearing effect on the neighbouring property. In terms of size, the extension would be proportionate to the host dwelling, with an adequate amount of amenity space left undeveloped to the rear of the property. It is therefore not considered that the proposed extensions would have a detrimental impact on loss of light, privacy or by overbearing effect on any neighbouring property, therefore accords with policy GP2.

7.5 It is not considered that the proposed relocation of the retaining wall and steps would lead to a detrimental impact on neighbouring amenity by ways of loss of privacy, overbearing impact or loss of privacy. As such, the proposal would accord with policy GP2.

7.6 It is also proposed to raise the roof height of the existing roof by 0.7 metres and amend the roof type so that it would be flat on top with 3no. rooflights. As the property is detached, and as there are a variety of designs to the neighbouring properties with differing roof forms and no clear uniformity it is not considered that the proposed new roof would lead to a detrimental impact on the character and appearance of the host property or wider streetscene, therefore complies with policy GP6.

7.7 The Highways Officer has been consulted on the application and confirmed that the parking demand for the property is 3no. parking spaces, and as the Proposed Site Plan 201901-NA-XX-ZZ-DR-A-XX-0901 PO1 has demonstrated 3no. vehicles can be accommodated within the curtilage of the application site, they offer no objection to the proposal. It is therefore considered that the proposal would not have a detrimental impact on highway safety, and accord with policy GP4.

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 proposal by reason of its location, scale and design would preserve visual amenities, access to daylight and privacy to neighbouring occupiers and would preserve the character and appearance of the property. The proposal is therefore in accordance with policies GP2, GP4 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the adopted House Extensions and Domestic Outbuildings Supplementary Planning Guidance (adopted August 2015).

9.2 It is recommended that the application be granted subject to the following conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Site Location Plan, Existing Site Plan - 201901-NA-XX-ZZ-DR-A-XX-0900, Proposed Site Plan 201901-NA-XX-ZZ-DR-A-XX-0901 PO1, Existing Ground, First Floor & Roof GA Plans - 201901-NA-XX-ZZ-DR-A-1000, Proposed Ground, First Floor & Roof GA Plans - 201901-NA-XX-ZZ-DR-A-1011, Existing Elevations - 201901-NA-XX-ZZ-DR-A-2100 and Proposed Elevations - 201901-NA-XX-ZZ-DR-A-2100.

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

02 The external surfaces of the extensions hereby permitted shall only be of materials to match those of the existing building.

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

03 No window or door openings (other than those shown on the approved plan) shall be formed in the first floor of the east or west side elevation of the extension hereby approved without the prior written permission of the Local Planning Authority.

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

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan, Existing Site Plan - 201901-NA-XX-ZZ-DR-A-XX-0900, Proposed Site Plan 201901-NA-XX-ZZ-DR-A-XX-0901 PO1, Existing Ground, First Floor & Roof GA Plans - 201901-NA-XX-ZZ-DR-A-1000, Proposed Ground, First Floor & Roof GA Plans - 201901-NA-XX-ZZ-DR-A-1011, Existing Elevations - 201901-NA-XX-ZZ-DR-A-2100 and Proposed Elevations - 201901-NA-XX-ZZ-DR-A-2100.

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

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

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APPLICATION DETAILS

No: 20/0656 Ward: **St Julians**
Type: Full Application
Expiry Date: 6TH NOVEMBER 2020
Applicant: **A FORBES CAERLEON INVESTMENTS LTD C/O AGENT**
Site: **Land To The Rear Of 128 To 130 Caerleon Road Newport South Wales**
Proposal: **DEMOLITION OF DOUBLE GARAGE/STORE AND ERECTION OF A DORMER BUNGALOW (RESUBMISSION)**

1. LATE REPRESENTATIONS

1.1 NEIGHBOUR RESPONSE (48 ANNESLEY ROAD): A letter has been received raising the following;

- Raises the question why Councillors Carmel and Holly Townsend are unable to speak at Planning Committee. The fact that the daughter/sister of the Councillors lives on the street means they have a good understanding of the situation and problems faced;
- Raises concerns that the 'carer's room' means that the building will be a disabled care home with regular vehicle movements. The street is already overfilled with cars to the point that it cannot be cleaned properly;
- The granting of this bungalow opens up the doorway for a 'change of use' application, to request the building of a multi-storey/roomed building that will set a precedent for anyone to apply in their garden area to increase their property value.

1.2 COUNCILLOR HOURAHINE: Objects to the proposal based on;

- Overdevelopment of this very small plot;
- Additional parking on this already overcrowded road;
- Queries whether planning permission would be specific to a care facility and any change of use would be subject to a new application.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 The first matter raised in relation to public speaking at the Planning Committee is not considered pertinent to the determination of this application by the Planning Committee. However, a written response will be provided by the case officer to the objector explaining protocol.

2.2 The planning permission sought is for a residential property and this is the basis on which the application has been assessed. The proposed layout plans label the third bedroom as a 'Carer Bedroom', however this is of no implication to the determination or assessment of the application. It is not uncommon in a residential situation for there to be a 'live in' carer or for a resident to receive visits from relevant professionals and this would not necessarily have any planning implications. If the proposal is granted planning permission and the property were to be used for any reason other than as a dwelling house, then planning permission would be required and this would be a matter for Planning Enforcement to investigate.

2.3 Concerns are raised in relation to setting a precedent for anyone to submit planning applications for development within their gardens or for a further different application to be submitted at this site. Any future planning application either at this site or another site would be assessed on a case by case basis and on the scheme's own merits, against the relevant Local Development Plan policies and guidance.

2.4 The concerns regarding parking and overdevelopment have been addressed in the planning officer's committee report.

3. OFFICER RECOMMENDATION

3.1 GRANTED WITH CONDITIONS



Report

Appeal Decisions

Part 1

Date: 4th November 2020

Item No: Insert item number here

Subject **Appeal Decisions**

Purpose To record the outcome of recent planning appeals

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

Wards Liswerry, Stow Hill and Victoria

Summary In consultation with the Chair or Deputy Chair of Planning Committee, the Acting Head of Regeneration, Investment and Housing has delegated powers to determine planning applications previously determined by Planning Committee. The following planning appeal decisions are reported to help inform future decisions.

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

Action by Development and Regeneration Manager

Timetable Not applicable

This report was prepared without consultation because it is a record of recent planning appeals to help inform future decisions.

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 an application is refused against Officer advice, during this interim arrangement, the Acting Head of Regeneration, Investment and Housing, along with the Chair/Deputy Chair of Planning Committee 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 major developments, which often require 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 Head of RIH/Chair/Deputy of Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.</p> <p>Ensure appeal timetables are adhered to.</p>	<p>Head of RIH with Chair/Deputy of Planning Committee</p> <p>Head of RIH with Chair/Deputy of 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 a record 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.

Preferred Option and Why

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

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. The costs of defending decisions and any award of costs must be met by existing budgets.

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 a record 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 a record of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Consultation

Not applicable. This report is a record of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Background Papers

Not applicable

Dated: 4th November 2020

Non-Determination Appeal

Reference	20/0213
Address	38 Brynderwen Road, Newport, NP19 8LQ
Development	Proposed change of use of 5 bedroom dwelling to create 10 bedroom house in multiple occupation
Appellant	Mr S Bell
Officer Decision	N/A
Committee Decision	N/A
Appeal Decision	Allowed

Planning Application Appeal

Reference	20/0228
Address	Land North of The Villa, Somerton Lane, Newport, NP19 0HZ
Development	Proposed erection of 5 affordable dwellings with associated access and parking
Appellant	Mr N. Taylor
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

Planning Application Appeal

Reference	20/0181
Address	Land Norther East of Roundabout at Junction of Spytty Road, Nash Road, Newport
Development	Proposed illuminated 48-sheet digital advertisement display
Appellant	Alight Media Ltd
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

Planning Enforcement Appeal

Reference	E19/0118
Address	Landat Holly Cottage, Broad Street Common, Nash, Newport, NP18 2AZ
Breach of planning control	Without planning permission and within the last ten years, the material change in use of the land to domestic use including the storage of domestic paraphernalia, the erection of outbuildings and the creation of a hardstanding
Appellant	Mrs M. Griffiths
Officer Decision	Issue Enforcement Notice
Committee Decision	N/A
Appeal Decision	Notice upheld

Non-Determination Appeal

Reference	20/0214
Address	12 Caerau Road, NP20 4HL
Development	Change of use of 2 flats to an 8-bedroom House in Multiple Occupation (HMO) (sui generis use)
Appellant	Mr S Bell
Officer Decision	N/A
Committee Decision	N/A
Appeal Decision	Allowed