

## APPLICATION DETAILS

No: 23/0387 Ward: Llanwern

Type: Discharge Conditions

Expiry Date: 18th December 2023

Applicant: Z. M. Aubrey

Site: Llanwern Village Development Site, Cot Hill, Llanwern, Newport NP18 2DP

Proposal: **PARTIAL DISCHARGE OF CONDITION 03 (DETAILS FOR THE CLOSURE OF COT HILL) OF RESERVED MATTERS APPROVAL 17/0887 IN RELATION TO ROADS & FOOTWAYS AND LANDSCAPING AROUND THE PROPOSED SURFACE WATER ATTENUATION PONDS**

Recommendation: Approved

### 1. LATE REPRESENTATIONS

1.1 Further objections are as follows (provided unabridged, with minor formatting changes):

*1. Additional reasons (past those already stated previously) as to why the alternative access/station road link **is material** to this application (underpinned by recent and legacy actions taken by the developer which contradict their own position that it is indeed immaterial).*

*The developers own recorded measurable actions thus ratifying our argument that the closure of Cot Hill is material to the Station Road link (or vice versa). In an attempt to make this easier to read, we shall try and list the points for consideration and attach abridged comments for some sections. Should you wish for further insight or information relating to anything in this document, please do not hesitate to contact us.*

*2. The developers' contradictory position in relation to the Station Road link being immaterial to the closure of Cot Hill and the important question of whether the application should be refused, regardless of whether the Station Road link/Junction is material and included in the consideration (and the subsequent logical decision making process that would likely enable any person reading it to arrive at the same conclusion that the application should be REFUSED, regardless of whether the applicant wishes to include or exclude the Station Road link/junction from consideration.)*

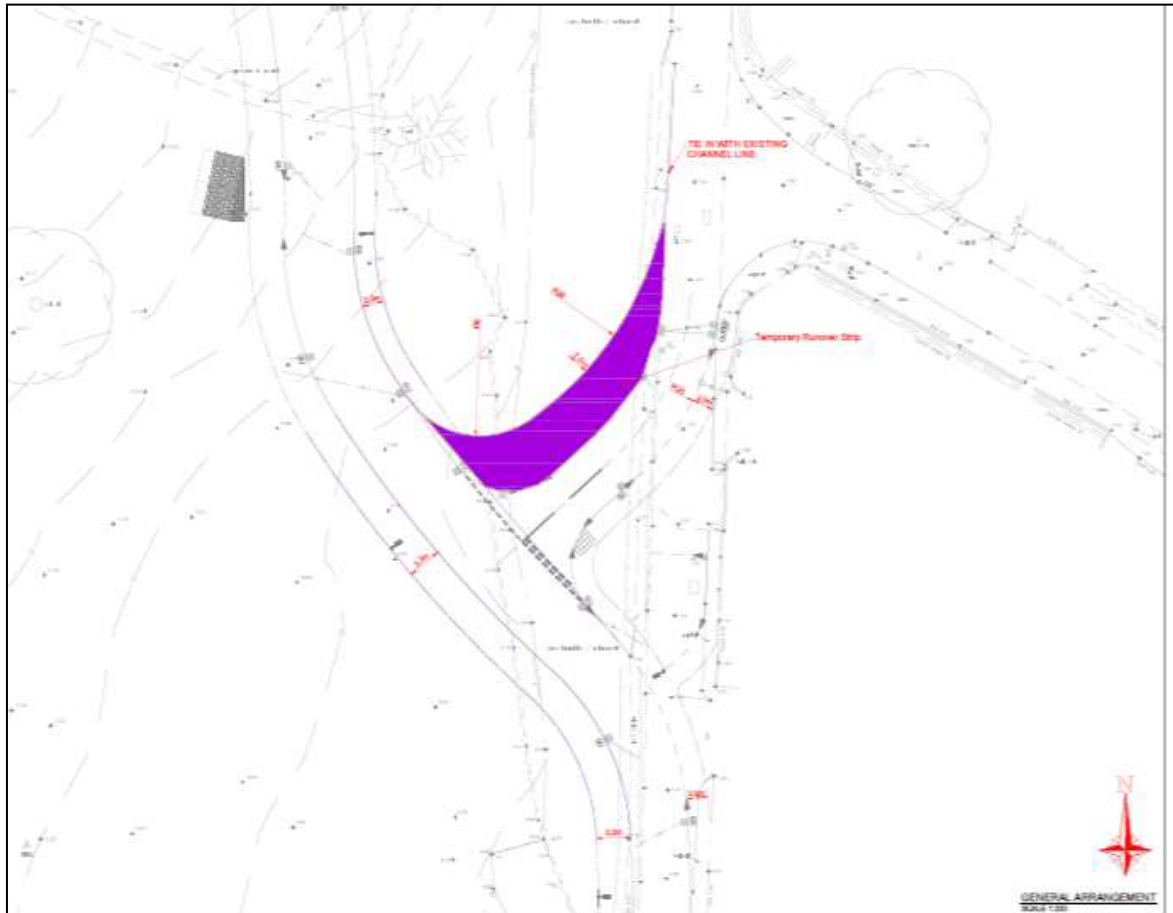
*(As an aside, the finishes plan on Cot Hill does not evidence that the tactile pavers or similar will be suitable for equestrian use. Nor is there any signage to indicate that horses will be present in the area or any provision to allow for safe crossing of horses over the junction in question).*

*Reasons why the alternative access/Station Road link **IS** material to this application.*

- i. Previously, the developer applied for a road closure in 2022 to enable them to carry out some deep drainage works on Cot Hill, which involved closing Cot Hill for a period of time to enable them to run drainage infrastructure underneath the road thus connecting the northern and southern parts of the development. An almost identical proposal in relation to the road closure to that which is before us here for assessment today – Closing Cot Hill and using the Station Road Link/junction as an alternative access.*
- Initially, this closure was REFUSED on the basis that there was no alternative access for our large HGVs should Cot Hill be closed.*
- Following on from this, the developer submitted an application (reference 22/0790)*

whereby REDROW THEMSELVES applied to WIDEN THE STATION ROAD JUNCTION (Which is one of the main points relating to our objection to this application) to ENABLE THE HORSEBOXES TO MAKE THE TURN AROUND THIS JUNCTION AS NEWPORT HIGHWAYS / HAUC STREETWORKS OFFICERS DEEMED IT UNSUITABLE/UNSAFE FOR LARGE HGV'S TO MAKE THE TURN.

- Following some consultation and work with the street works team, the developer temporarily widened the junction as per the application and drawing attached here, and installed 4-way traffic lights to enable our business to continue to operate. This closure was stopped for at least 8 weeks until these changes were made.



ake these changes, and subsequently implementing them (the temporary runover strip) in able to get consent for the temporary road closure, the developer accepted that the station road junction was indeed material to the closure of Cot Hill (albeit on a temporary basis).

**The ridiculous thing is that the developer then put the road back to the narrower alignment!**

What they are looking to do with this application is almost identical, other than the fact that the this time, the application is for a permanent closure.

Any reasonable person would likely agree that by widening the junction previously, it was indeed material at that time, and since the application is for a closure of the same road, that the junction would again be material and that unless the Equestrian Centre had closed, there would still be need to get large HGV's through, with the acceptance that to prevent large HGV's accessing our venue would cause considerable harm and hardship to ourselves. This could be considered something of an exceptional case in planning terms as our entire business is almost totally dependent on vehicular access, with a large proportion of this being large HGV's as are mentioned in this objection. Without the access for these large vehicles, the business will likely cease to function as a going concern or be unsustainable at the least. The Financial impact of this will be attributable to the local authority, both in terms of the damage to the going concern, and the effect on the property

value as a whole. Highway access for large HGV's is a right that we have enjoyed for over 23 years, and not one which should be removed, particularly without recompense.

It is worth noting that multiple parties had initially tried to argue that the HGV's in question are "Abnormal", it has been firmly established that they are indeed standard, accepted and indeed EXPECTED vehicles to attend an Equestrian Centre of our size.

The argument from the developer was never on the basis of whether the junction was material to the closure of Cot Hill or not, it has always been on the basis that it is acceptable, often providing what they believe to be justification as to why it is acceptable. This has been apparent until the latter stages of this application whereby the developer has tried a "last chance saloon" approach of getting the application approved by trying to argue that the alternative accesses aren't material to the closure of our main access. What a ridiculous suggestion.

For context, we have also attached here an email from NCC officers pertaining to the previous road closure which supports this point. Again, please contact us if you require full details of these emails.



### Cot Hill Road Closure

7 July 2022 at 07:30

Good Morning,

Many thanks for your email, I can assure you the closure of Cot Hill for the 1<sup>st</sup> of August has been declined based on road safety as discussed with your son the other day.

I am attending a meeting with all parties to come up with a solution, this hopefully being the solution that we all require, I will update you on Tuesday morning if I may.

ii. The fact that Redrow have supplied "Horsebox Tracking" for the existing route formed part of their argument whereby they tried to justify that the new route is "no worse" than the existing route. This shows that new route WAS material in their eyes, since they tried to justify it was no worse than the existing (Although this was rebutted by highways). Since this, planning officers requested the EXACT vehicle sizes of the following vehicles;

- A "Sovereign Emperor" – 26 Tonne Rigid 40ft HGV with Twin Rear Axle
- A DAF CF (6.9m Wheelbase – 12 Metre length and 2.55m Width)
- Any standard 16.5m Articulated lorry with semi trailer

This was so that they could use the information for Swept path analysis, or "Tracking" to evidence the suitability of the new Station Road link / Junction to accommodate large HGV's. This has not happened (as far as we are aware) and we have received no further information either from the LPA or the developer in relation to this. This was in an attempt to solve the impasse by giving the developer chance to prove the suitability of the junction by providing the relevant "tracking", which evidences that the point in question around that time was around the suitability of the junction/road itself, and not whether it was material. It was always material at that point in the application, both from the developers point of view (based on what they said) and indeed the LPA's point of view (based on the information they requested). In fact, as pointed out earlier, the initial justification provided by the developer was that the new route is "No Worse" than our current, proven legacy route over Cot Hill.

We also provided footage of a 40ft Rigid 26 Tonne HGV making the turn around the corner on Lodge hill (quite easily might I add) to allay any concerns the developer or LPA might have about the existing route (WE HAVE BEEN USING IT FOR 23 YEARS AND INSIST THAT WE CONTINUE USING IT – UNLESS THERE IS A SUITABLE ALTERNATIVE).

Much of the above is precedent, and somewhat ratification on the developer and local authorities behalf (given the dispute and discussions over the suitability, and not surrounding the materiality) that the station road link/alternative access to our premises is material.

Indeed there are two other access routes into the village – Langstone Lane & Bishton Lane (through Bishton Woods). Both of these are unacceptable alternative routes for large HGV's and hence have not been suggested to be used for alternative access.

iii. Planning officers previously told us that the “planning test” for this application was that the new route could not be a “significant worsening” over the existing route. This as far as we are aware, appeared to be somewhat at the behest of the applicant/developer (The LPA will have their own full details/audit trail of this). How can you, as the applicant, argue immateriality of the new road as your primary reason for approval when previously you specifically argued that the new road was indeed relevant but that it simply could not be significantly worse than the old route?

iv. Notwithstanding the above, Highways stated the following in their objection dated 27/07/2023,

**“NCC have been asked to carefully assess whether there is no significant worsening over the existing situation”?**

**HIGHWAYS conclude that there is significant worsening over the previous network and existing layout with impacts on Highway Safety covered in the points above.”**

At this stage, the discussion was specifically surrounding the suitability of the junction, with the developer arguing that it was suitable, and “not significantly worse” (thus ratifying our stance that the junction is certainly material to the considerations given that the entire discussion was surrounding it), versus our stance that it was “significantly worse”. (Later ratified by the above highways objection.

It is self-evident by means of the developers own actions (with a clear track record and trail pertaining to this application) that the Station Road Link/Junction is material or was during the previous discussions surrounding 23/0387. What has changed?

v. We had a site visit to test the spine road/junction.

This is where this application or the question surrounding materiality actually starts to go beyond the realms of what is even reasonable or sensible.

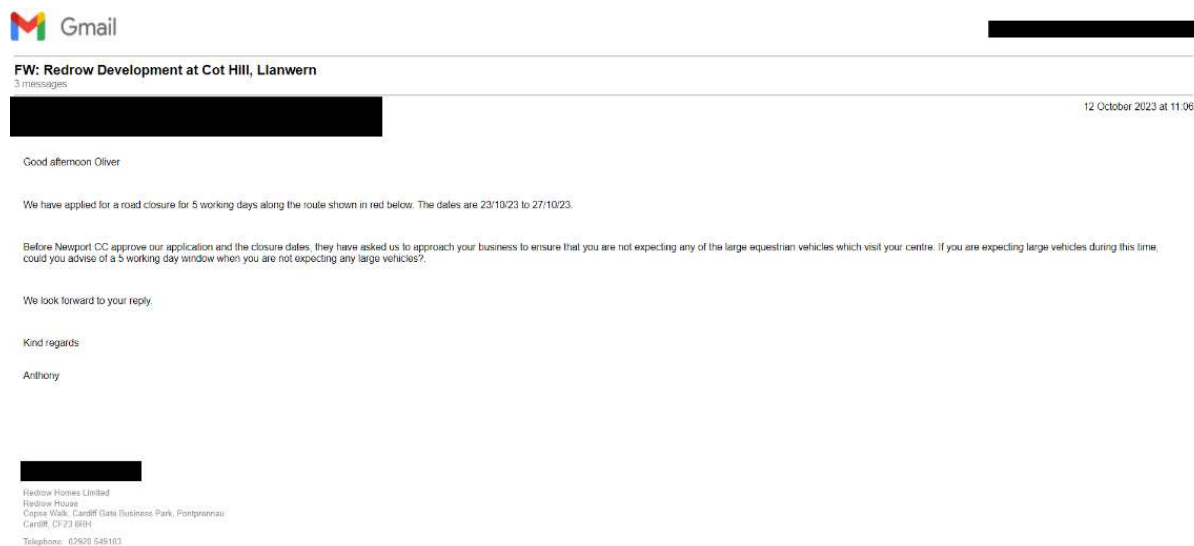
**REDROW ACTUALLY CONSENTED TO A SITE VISIT/TEST whereby the developer, ourselves and representatives, the LPA, representatives from 2 community councils, NCC Highways and others witnessed one of the aforementioned 26 Tonne HGV's drive through the site and attempt to make the turn at the disputed junction - **whereby it couldn't make the turn effectively and actually made a collision with the kerb on the bottom of the fairings of the Horsebox.** We all have videos of that.**

**If the junction isn't material to the closure of Cot Hill, why on earth did Redrow meet us there for a site visit alongside the planning officer to witness one of the vehicles (fail to) make the turn.**

**The developers actions totally contradict what they are saying in relation to this application.**

vi. The developer can't currently get a road closure, due to the HAUC streetworks team disallowing it as there is no alternative access for large HGV's.

The following email was sent as a request from Redrow to give them consent for a road closure as the streetworks team (in line with what happened in 2022 and relating to the 22/0790 application) have said that developer cannot get a road closure to install their HV cable as there is no alternative access to our business.



*It is worth noting that in the spirit of being reasonable, and in an attempt to help the site team, we did consent to the closure IF the developer would widen the disputed junction on Station Road (albeit temporarily if they wish) to try and assist them with their operations. They declined to respond. This again proves that Cot Hill cannot close unless there is an alternative access route, thus making the Station Road Link Material.*

*Given the above information, how could the local authority planning department contradict the highways and streetworks teams, especially given that the application is almost wholly relating to the public highway and the closure therein.*

*The list of Statutory consultees and indeed residents and other stakeholders that feel the station road junction is material to the closure of Cot Hill is fairly substantial. The only people in this process that do not seem to think the station road link/junction is material is the developer themselves.*

**2. The developers' contradictory position in relation to the station road link being immaterial to the closure of Cot Hill and the important question of whether the application should be refused, regardless of whether the Station Road link/Junction is material and included in the consideration**

*The application before officers for consideration is for the details for the closure of the main road into Llanwern Village, that road being Cot Hill. Perhaps the most important aspect of any application relating to the closure of a road or public highway is the effect that it will have on the surrounding highways network. How far you assess this in terms of scope and scale is naturally open for debate, but when statutory consultees (particularly highways) are objecting to an application, specifically on the basis of the harm it will cause to the local transport network, then it is definitely material. Closing the main access route into a busy village in the eastern expansion area of Newport though (without a suitable alternative), WILL cause measurable harm and is certainly material to this application. On the same basis as the developer is reasoning now, we could argue that if we were to close off Llanwern village entirely from the Southern Distributor Road (thereby sending all traffic for the new development through Langstone Lanes or Wilcrick moors/ Bishton Road) then the inadequacy or unsuitability of these other accesses would be irrelevant or immaterial to*

*closing of the village to the SDR, since they are already approved or legacy?.. I'm sure all parties would agree that it would be a nonsensical approach to take, nevertheless, this mirrors the developers current stance in relation to this application.*

*Notwithstanding the previous paragraph, I would hope all or most of the aforementioned in section 1, relating to the materiality question to the application should be enough to reason that the spine road/junction is indeed material to the closure of Cot Hill, However I would like to make the final point (which is the purpose of this 2nd section), the point being the following which should be enough in itself to refuse this application;*

*If there is no alternative access route for our Large HGV's to the village (aside from Cot Hill), then any reasonable person would agree that the application should be refused, given that it will likely close our business and impact highway safety (as confirmed by highways).*

*Given the above statement, the only reasonable or morally correct decision to Close Cot Hill, would be if there was a suitable alternative access route. If there developer wishes to suggest there is an alternative access, then they themselves are including it as part of the proposal, and thus it is material.*

*So we ask that the developer and LPA "pick a lane"...*

*Quite simply*

**Is there a suitable and safe alternative access to Cot Hill for Large HGV's or not?**

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

- 2.1 The additional comment is lengthy but in essence makes two assertions:
  - i. The performance of the Spine Road / Station Road junction is material to this consideration.
  - ii. That performance of that junction is so poor that the partial closure of Cot Hill would amount to 'transport severance' sufficiently severe to warrant refusal of the discharge of conditions application that is before the Planning Committee.
- 2.2 Both of these issues have been addressed in the original Officer's Report. The Planning section is advised by King's Counsel (experienced planning barrister) that the performance of the spine road / Station Road junction is not material to the narrow decision that the Committee is required to address. That is whether the submitted details are sufficient to discharge the condition. Committee members are reminded that the details provided have attracted no objection from the Highways Section and in technical terms are sufficient to safely and effectively close Cot Hill and as such the requirements of the condition are fulfilled.
- 2.3 In terms of the second point, this would be the normal 'weighting exercise' required of planning decision makers. This lies with the decision maker subject to the rationality test. You will note Officers have advised that the matter (if material) would attract very little weight and the late representation has not changed that view.

## **3. OFFICER RECOMMENDATION**

- 3.1 That Condition 03 (details for the closure of Cot Hill) of Reserved Matters approval 17/0887 is partially discharged.